

CASE AUTH/3272/10/20

COMPLAINANT v VIIV HEALTHCARE

Company website

A complainant who described him/herself as a concerned UK health professional, complained about a ViiV Healthcare website, the ViiV Exchange (uk.viivexchange.com).

The complainant noted that there was nothing on the website to delineate between the general public, patients and health professionals before an individual went on to the website. The complainant alleged that this would encourage patients, and especially the general public, to use resources that should be restricted to health professionals.

The detailed response from ViiV is given below.

The Panel noted that those accessing the ViiV Exchange website immediately accessed the landing page of a website which was aimed at health professionals. Less prominently on the landing page, in the top right-hand corner, was one small, white tab marked 'Healthcare Professionals' and two small, grey tabs marked 'I am a patient' and 'Public site'. In the Panel's view, although tabs were available to direct patients and the public to information designed for them, given their size and colour, the tabs were indistinct in comparison to the rest of the landing page and, in that regard, would not be immediately obvious to the viewer. The Panel noted that instead of patients/public proactively being invited to access information designed for them, they had, instead, to navigate their own way off the website by using the unobtrusive tabs in the top right-hand corner. There was no pop-up or the like advising readers of which path through or off the website was intended for them. If members of the public or patients had proceeded to access the ViiV Exchange website, they would have accessed promotional material for prescription only medicines. The Panel considered that, given the prohibition on advertising prescription only medicines to the public, it was beholden on companies to make their best endeavours to ensure that websites designed for health professionals were not accessible by patients/public unless they made an informed and conscious effort to do so.

The Panel noted its comments above and considered that the format and presentation of the website in question was such that members of the public/patients would, on the balance of probabilities, be likely to access promotional material; they had not been encouraged to access material aimed at them. A breach of the Code was ruled.

A complainant who described him/herself as a concerned UK health professional, complained about a ViiV Healthcare website, the ViiV Exchange (uk.viivexchange.com).

COMPLAINT

The complainant noted that there was nothing on the website to delineate between the general public, patients and health professionals before an individual went on to the website. The complainant alleged that this would encourage patients, and especially the general public, to use resources that should be restricted to health professionals.

When writing to ViiV, the Authority asked it to consider the requirements of Clause 28.1 and its supplementary information.

RESPONSE

ViiV rejected the allegation and noted that regulations did not prohibit patients and members of the public accessing information about prescription only medicines on the Internet providing certain criteria were met. In that regard, Clause 28 and its supplementary information did not oblige companies to limit access to promotional material about prescription only medicines to health professionals. The supplementary information to Clause 28.1 stated 'Unless access to promotional material about prescription only medicines is limited to health professionals and other relevant decision makers, a pharmaceutical company website or a company sponsored website must provide information for the public as well as promotion to health professionals with the sections for each target audience clearly separated and the intended audience identified'. The supplementary information concluded with a reference to the Medicines and Healthcare products Regulatory Agency (MHRA) Blue Guide which stated that the public should not be encouraged to access material which was not intended for them.

ViiV further noted that the MRHA Blue Guide stated in Section 6.3 'Advertising on the Internet' that 'Sections of a website aimed at healthcare professionals and containing promotional material should ideally be access restricted. If no restriction is applied and websites provide both information for consumers and information aimed at healthcare professionals that includes advertising, the sections for each target audience should be clearly separated and clearly marked for the target audience'.

ViiV submitted that, in its view, none of the above requirements prohibited patients and members of the public accessing information about prescription only medicines over the Internet, provided as indicated, that sections targeted to different audiences were clearly separated and the intended audience identified.

ViiV noted that the homepage of the ViiV Exchange website did not contain any promotional claims or information about ViiV products. While access to the website was not limited to health professionals, it was clearly marked as being directed at health professionals, stating 'Welcome to ViiV Exchange for UK Healthcare Professionals' in large titled font and having three clearly marked tabs in the top right-hand corner. These tabs identified the separate area for health professionals, patients on ViiV treatments and the public and clicking on them directed those who were not health professionals to areas that were appropriate for them.

These tabs appeared on every page of the health professional section of the website, ensuring that visitors were always aware when they were in the health professional section as that tab was visually distinct (bold black print on a white background) from the two other areas which were non-bold and greyed out, but displayed active hyperlinks when hovered over – this, again, reinforced the separate nature of the various sections of the website.

ViiV considered that the ViiV Exchange website complied with the requirements discussed above.

The company stated that it did not advertise the existence of the ViiV Exchange websites to patients or members of the public through search-engine advertising or any other way in the UK. Instead, the company drove traffic to the website via email campaigns specifically targeted at health professionals who had elected to receive such information.

ViiV considered that it had acted to minimise the likelihood that patients or members of the public were directed to a website intended for health professionals. In addition, as noted above, such arrivals were managed appropriately.

In response to a request for further information and clarification as to how health professionals logged in or registered in order to view the content of the website aimed at them, ViiV explained that they were given the option to register to access additional material and grant email consent. This allowed additional materials to be sent by email rather than provide access to a restricted part of the UK ViiV Exchange website materials such as e-prints, where a certain number of licenses had been purchased, needed to be tracked. This feature could potentially permit restricted access to additional website content but had not been enabled.

ViiV stated that in November 2019, when it provided its response above, no registration or login was required in order to view any of the content of the website aimed at health professionals.

ViiV further explained that when the complaint was submitted, all content aimed at health professionals, patients prescribed a ViiV medicine, and the public website were freely accessible, and did not require any type of registration or log in/password protection. However, each section of the website was clearly separated and marked as to the intended target audience (a downloaded copy of the ViiV Exchange landing page was provided), and the ViiV Exchange website was only advertised to UK health professionals as set out above.

ViiV noted that it had also outlined above the rationale for not requiring registration, as neither the Code nor the MHRA Blue Guide mandated that. ViiV reiterated the MHRA's statement that regulations did not prohibit patients and members of the public from accessing information about prescription only medicines over the Internet providing certain criteria were met.

ViiV noted that the Blue Guide explicitly stated in that regard 'If no restriction is applied and websites provide both information for consumers and information aimed at healthcare professionals that includes advertising, the sections for each target audience should be clearly separated and clearly marked for the target audience'.

ViiV provided copies of the content of the two clearly demarcated sections of the ViiV Exchange website (downloaded copies of relevant pages were provided) and LivLife.com (downloaded copy provided) which was the website to which users who were interested in the public website were directed if they made that selection. The information provided showed what could be viewed when the complaint was submitted in October 2019. As noted above, all three options were accessible with no need to log in or register.

ViiV explained that if readers selected the option marked 'I am a Patient', they were directed to a page that contained a list of ViiV products and hyperlinks to the Electronic Medicines Compendium (eMC) website and the relevant digital patient information leaflet. The purpose of

that section of the website was to provide information on ViiV medicines to patients who had been prescribed them and specifically stated on the page (downloaded copy provided). The page had no other information or claims on any of ViiV's medicines.

ViiV further explained that if readers selected the option marked 'Public Site' they were taken to a different ViiV-sponsored website <https://livlife.com/en-gb/>. The content and layout in October 2019 was provided; it included a landing page which linked to 28 video clips and eight articles. That website aimed to inform those interested in, affected by, or living with, HIV. The website had a series of video stories sharing the personal accounts from advocates living with HIV on topics related to their own emotional reactions to an HIV diagnosis and managing their HIV including managing their general health, psychosocial concerns, relationships and adherence to treatment. The content was non-promotional and did not contain specific information or claims about any medicine.

PANEL RULING

The Panel noted that Clause 28 covered the Internet and other digital platforms, its supplementary information, Access, stated that unless access to promotional material about prescription only medicines was limited to health professionals and other relevant decision makers, a pharmaceutical company website or a company sponsored website must provide information for the public as well as promotion to health professionals with the sections for each target audience clearly separated and the intended audience identified. This was to avoid the public needing to access material for health professionals unless they chose to. It was noted in the supplementary information that the MHRA Blue Guide stated that the public should not be encouraged to access material which was not intended for them.

The Panel noted that those accessing the ViiV Exchange website, be they health professionals, patients or members of the public, immediately accessed the landing page of a website which was aimed at health professionals. A prominent red bar ran close to the top of the landing page and below that it was clearly stated 'Welcome to the ViiV Exchange for UK Healthcare Professionals' ('Welcome to the ViiV Exchange' was also in red and thus drew the reader's eye down the page to colourful 'boxes' inviting them to access more information) with the option to login or register (although ViiV had submitted that when the complaint was submitted there was no need for anyone to log in or register in order to access the website content). Less prominently on the landing page, and above the red bar in the top right-hand corner, was one small, white tab marked 'Healthcare Professionals' and two small, grey tabs marked 'I am a patient' and 'Public site'. In the Panel's view, although tabs were available to direct patients and the public to information designed for them, given their size and colour, the tabs were indistinct in comparison to the rest of the landing page and, in that regard, would not be immediately obvious to the viewer. Given the layout and presentation of the landing page to a website clearly aimed at health professionals, the Panel noted that instead of patients/public proactively being invited to access information designed for them, they had, instead, to navigate their own way off the website by using the unobtrusive tabs in the top right-hand corner. There was no pop-up or the like advising readers of which path through or off the website was intended for them. If members of the public or patients had proceeded to access the ViiV Exchange website, they would have accessed promotional material for prescription only medicines. The Panel considered that, given the prohibition on advertising prescription only medicines to the public, it was beholden on companies to make their best endeavours to ensure that websites designed for health professionals were not accessible by patients/public unless they made an informed and conscious effort to do so.

The Panel noted its comments above and considered that the format and presentation of the website in question was such that members of the public/patients would, on the balance of probabilities, be likely to access promotional material; they had not been encouraged to access material aimed at them. A breach of Clause 28.1 was ruled.

Complaint received **25 October 2019**

Case completed **5 October 2020**