

CASE AUTH/3843/11/23 and AUTH/3844/11/23

COMPLAINANT v NOVARTIS PHARMACEUTICALS UK LIMITED

Alleged promotion of a medicine on LinkedIn

CASE SUMMARY

This case related to two complaints regarding a Novartis UK based employee 'liking' two LinkedIn posts which each made reference to Novartis' medicine, Cosentyx (secukinumab) and its use in hidradenitis suppurativa.

The outcome under the 2021 Code was:

Breach of Clause 26.1	Advertising a prescription only medicine to the public
No Breach of Clause 5.1	Requirement to maintain high standards

**This summary is not intended to be read in isolation.
For full details, please see the full case report below.**

FULL CASE REPORT

Two complaints were received from anonymous, non-contactable complainants about Novartis.

COMPLAINT

Two complaints were received about Novartis which the case preparation manager decided to amalgamate. The complaint wording for the first post is reproduced below:

An employee of Novartis, [name], resident in the UK, has liked a LinkedIn post which includes a product name (secukinumab) and mentions its approval in a new therapy area (HS [hidradenitis suppurativa]), stating that this is a 'win for patients' and that it 'raises the bar' in terms of therapeutic response. This constitutes as promotion to the public, as the act of liking the post shares it on [their] LinkedIn feed so that it is visible to all [their] connections.

The complaint wording for the second post is reproduced below:

An employee of Novartis UK, [name], has liked a LinkedIn post containing information about the approval of secukinumab in HS [hidradenitis suppurativa]. This constitutes as promotion to the public.

When writing to Novartis, the PMCPA asked it to consider the requirements of Clauses 26.1 and 5.1 of the Code in relation to each complaint.

NOVARTIS' RESPONSE

The response from Novartis is reproduced below:

Thank you for your two letters dated 6 November 2023, which detail complaints (the "**Complaints**") brought by the Prescription Medicines Code of Practice Authority ("**PMCPA**") on behalf of an anonymous complainant. As noted in your letter re case (ii), these two Complaints are incredibly similar. Novartis has therefore taken the decision to respond to cases (i) and (ii) in this one letter. The Complaints allege that Novartis Pharmaceuticals UK Limited ("**Novartis**") has committed a number of breaches of the ABPI Code of Practice for the Pharmaceutical Industry 2021 (the "**Code**") in the context of the promotion of a prescription only medicine on the LinkedIn platform, the allegations of which we address in our response under the headings below. You have asked us to consider (twice) clauses 26.1 and 5.1 of the Code in our response.

Novartis understands the risks around the personal use of social media by associates and believes that we are doing the utmost to manage these risks and ensure social media is used correctly. As explained below, Novartis has clear and unequivocal policies in place, as well as regular training and communications (including company-wide emails) on social media use for all of our associates. We are therefore deeply disappointed to receive these Complaints in light of the numerous steps we have taken to address the appropriate use of personal social media by associates.

The Complaints relate to the actions of a current employee of Novartis, [name, job title] (referred to as "**Employee**"). The Employee is in a global role, based in the UK since June 2021 and as such, [their] actions fall within the scope of the Complaints. The Employee was contacted by Novartis as soon as the Complaints were received and instructed to 'unlike' the two posts. We confirm that these steps were taken immediately on the same day Novartis received the PMCPA's two letters.

1. Clauses 26.1

The Complaints focus on the conduct of the Employee in relation to two posts on LinkedIn, one by [name of university academic, United States] (Director of Hidradenitis Suppurativa Program at [university] in the United States) ("**Post 1**") and the other by [named news outlet] (a global news and analysis service for the pharmaceutical industry) ("**Post 2**").

The Employee 'liked' both Post 1 and Post 2 which then appeared on the feed of the complainant.

In both cases, there was no intent or instruction from Novartis for the Employee to like the Posts. The Employee interacted with the Posts entirely of [their] own volition and such conduct is not associated with any activity endorsed by Novartis. We recognise however, that this conduct is subject to the Code. By liking or commenting on the Posts which mention a medicine and indication, the Employee has inadvertently made the Posts visible to [their] individual network which has resulted in promotion to the public. This regrettably amounts to a breach of clause 26.1 of the Code.

Novartis is disappointed that the Employee has failed to comply with Novartis' policies and instructions on this specific occasion. However, Novartis strives for its employees throughout

our organisation to take a consistent and compliant approach on social media use as described below.

2. Clauses 5.1

We disagree that Novartis has breached clause 5.1 by failing to maintain high standards. As an organisation, we set and expect extremely high standards of our associates to comply with the Code, and we do not believe that the conduct of the Employee amounts to a failure by Novartis to maintain high standards in light of the points we set out below.

- Novartis shares policies and learning tools which have been developed to address the risks associated with the personal use of social media. These resources are hosted on [link provided] and include:
 - Personal Use of Digital Engagement Platforms (Novartis Global) Policy effective from 11th May 2023
 - Novartis UK Social Media Engagement Decision Tree copy provided
 - Principles of Social Media at Novartis copy provided dated May 2023
- Novartis reinforces the rules and principles of the above policy through extensive online, face-to-face and live training to associates. This is provided to existing associates and new joiners.

Most recently, on 14th July 2023, a training session titled “IM UK Mandatory Training – All UK Associates” took place. The meeting invitation was sent to all UK associates, including global associates based in the UK. A meeting recording was made available to associates who could not attend the live session and sent to them for completion via the [Novartis learning platform]; the completion rate of this training is 96% which includes those trainings ‘in progress’. A redacted list of Novartis associates together with completion dates is provided to further illustrate the scope and outreach of our internal training programme on this topic copy provided. The slide deck for this session is provided copy provided and is available to all associates for reference on the Novartis UK intranet.

The Employee accepted the meeting invitation, copy provided, and the records from [Novartis’ Learning platform] confirm the Employee also completed the following components:

- UK Novartis Social Media
- UK Novartis Social Media 2023 Deck
- UK Novartis Social Media Video 2023

Evidence of completion is provided

- Novartis disseminates numerous internal communications on the appropriate personal use of social media. An example email communication to the UK business dated 17th July 2023 is provided.

Novartis believes that the above multifaceted approach to messaging around the risks of social media has deeply embedded the Social Media Policy in our culture and working practices.

In light of this, it is our submission that we have effective measures in place to address the risks associated with the personal use of social media by associates. We believe that a reasonable assessment of the approach would determine that the thorough and diligent efforts that Novartis has taken (as set out above and in the enclosures) copies provided would be regarded as maintaining high standards. Clearly in this instance, Novartis had been let down by the isolated actions of one employee acting of their own volition and in contravention of Novartis' clear policies, training and procedures in this area. We do not believe that the conduct of the Employee in these Complaints brings discredit upon or reduces confidence in our industry sufficiently to warrant express censure.

3. Conclusion

The isolated actions of one single Employee who has failed to follow their training and ignored our policies and procedures does not, and should not, reflect the diligent efforts that Novartis and its associates conduct to comply with the Code. In this response, Novartis has demonstrated that it is committed to maintaining high standards and appropriate engagement in this area.

PANEL RULING

This case related to two complaints regarding a Novartis UK based employee 'liking' two LinkedIn posts which each made reference to Novartis' medicine, Cosentyx (secukinumab) and its use in hidradenitis suppurativa.

The employee in question, who did not appear to be a senior employee from their job title, was based in the UK, in a global role, and as such, the Panel considered their actions fell within the scope of the Code as acknowledged by Novartis.

The Panel noted that LinkedIn was different to some other social media platforms in that it was a business and employment-orientated network and was primarily, although not exclusively, associated with an individual's professional heritage and current employment and interests; its application was not limited to the pharmaceutical industry or to healthcare. Material could be disseminated or highlighted by an individual on LinkedIn in a number of ways, by posting, sharing, commenting or liking. The Panel understood that if an individual 'liked' a post, it increased the likelihood that the post would appear in their connections' LinkedIn feeds, appearing as '[name] likes this'. In the Panel's view, activity conducted on social media that could potentially alert one's connections to the activity might be considered proactive dissemination of material. Whether the Code applied would be determined on a case-by-case basis, taking into account all of the circumstances including, among other things, content and distribution of the material. If an employee's personal use of social media was found to be in scope of the Code, the company would be held responsible.

First LinkedIn post

The first LinkedIn post at issue, posted by an academic from a university in the United States and 'liked' by the employee stated:

"The approval of secukinumab is a win for HS [hidradenitis suppurativa] patients. Patients now not only have a second option for approved therapy for HS, but also an option that raises the bar for what we can expect from therapeutic response. I am

excited to see a novel therapy that improves HS disease and quality of life for patients make it through the regulatory pipeline!”

This was followed by a link to an article titled “FDA approves Novartis Cosentyx as the first new biologic treatment option for hidradenitis suppurativa patient in nearly a decade”.

Second LinkedIn post

The second post at issue originated from a news outlet for the pharmaceutical industry and stated:

“Novartis announced that the FDA has approved an expanded label for #Cosentyx (secukinumab) to include treating moderate-to-severe hidradenitis suppurativa (HS) in adults.”

This was followed by a picture of the Cosentyx injection and a link to an article titled “Novartis’ Cosentyx gets US nod for hidradenitis suppurativa”.

The Panel considered the contents of each LinkedIn post and noted both were linked to press releases about Cosentyx and included reference to secukinumab and its use in hidradenitis suppurativa; the first post also included promotional language such as “a win for patients” and “novel therapy that improves HS disease and quality of life”.

The Panel considered that in ‘liking’ the two LinkedIn posts, the employee had, on the balance of probabilities, proactively distributed the information to their connections on LinkedIn which, in the Panel’s view, could not be seen as anything other than promotion. The Panel considered the employee’s connections would likely include UK based individuals who did not meet the Code’s definition of a health professional or other relevant decision maker, and therefore promoted Cosentyx, a prescription only medicine, to the public. **A breach of Clause 26.1 was ruled** in relation to each LinkedIn post, as acknowledged by Novartis.

In relation to high standards, the Panel took account of Novartis’ remedial actions and considered Novartis had been let down by the employee, who did not appear to be senior, despite the company’s social media policies and training; the incidents appeared to be isolated to the one individual. The Panel considered in the particular circumstances of this case, its breach rulings above adequately covered the matters at issue and that it had not been established that Novartis had failed to maintain high standards. The Panel ruled **no breach of Clause 5.1** in relation to each post.

Complaint received **02 November 2023**

Case completed **03 January 2025**