

COMPLAINANT v JOHNSON & JOHNSON

Allegation about a promotional email

CASE SUMMARY

This case was in relation to an error in the subject line of a promotional email sent by Johnson & Johnson for Tecvayli (teclistamab), a treatment for relapsed and refractory multiple myeloma after three or more treatments.

The outcome under the 2021 Code was:

Breach of Clause 6.1	Making a misleading claim
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**This summary is not intended to be read in isolation.
For full details, please see the full case report below.**

FULL CASE REPORT

A complaint about Johnson & Johnson was received from an anonymous, contactable complainant who described themselves as a health professional.

COMPLAINT

The complaint wording is reproduced below:

“Promotional email for Teclistamab states that there is now a FINAL draft guidance in their email header. This is factually incorrect as it is actually a draft guidance. I pointed out the mistake but they’ve still sent the promo email out again with an incorrect header title.”

When writing to Johnson & Johnson, the PMCPA asked it to consider the requirements of Clauses 6.1 of the 2021 Code.

JOHNSON & JOHNSON'S RESPONSE

The response from Johnson & Johnson is reproduced below:

"I was disappointed to receive your letter of 1st August 2024 outlining a complaint from a healthcare professional in relation to a J&J promotional email. Johnson & Johnson Innovative Medicine (J&JIM) takes this complaint very seriously and strives to adhere to both the letter and the spirit of the Code.

Specifically, the complainant points out an inaccuracy in the subject line of the email referring to NICE FINAL draft guidance when in fact the guidance from NICE was draft guidance. The complainant is correct; however, it is important to note that this inaccuracy was not with intent to deceive or to misdirect the audience:

- There was a point in the development of the email that referring to FINAL Draft guidance was justified
- Furthermore, the body of the email makes 5 separate references to NICE DRAFT guidance. This includes a very prominent mention in the banner of the email.

Nevertheless, J&J accepts responsibility for the error in the subject line and a breach of clause 6.1 of the Code.

The complainant stated that they had pointed out the mistake to J&JIM and despite this we sent the email out with the incorrect header in the title. It would be helpful to understand how the complainant informed J&JIM of this so that we are able to investigate and accurately respond to this specific point; Who at J&JIM was informed? When were they informed, and was it by email or verbally?

J&JIM can confirm that it had been informed by a healthcare professional of an error in its original email. As the complainant to the PMCPA is anonymous to us, we cannot be sure that the description of events outlined below is relevant to this complaint. It does however demonstrate that this was a genuine error with no intent by J&J to misdirect the audience nor to ignore concerns raised by our customers.

Sequence of events:

Monday 22nd July – 10:01am

FIRST Sales Force Marketing Cloud (SMFC) email sent out

Monday 22nd July – 6:16pm

An Email was received by member of a J&JIM sales team from an HCP flagging two inaccuracies in a Teclistamab NICE Draft Guidance Announcement promotional email:

- (i) 'The title of the email is 'Final draft guidance' but teclistamab is currently only Draft Guidance'
- (ii) 'The link in the reference opens to a terminated appraisal which doesn't line up with the message in the promotional email'.

This email was forwarded on to a J&JIM Senior Employee who read it on Tuesday 23rd July at around 8:00am.

Tuesday 23rd July – 1:33pm

The J&JIM Senior Employee emailed a signatory to notify them of the need to be on standby to urgently reapprove an email to correct an erroneous link on a prior email following notification by an HCP. This email also confirms that the J&JIM team were working at pace to issue a correction by close of day.

Tuesday 23rd July – 16:53

CORRECTED SFMC email sent out

Wednesday 24th July

The marketing team identified that the amended email had a corrected link but that the word "final" had not been deleted from the subject line. This was missed by the reviewer, the focus of attention being on correcting and checking the link.

The need for additional external facing corrective actions was discussed by the cross-functional team and following consultation with the Senior Medical Employee, it was agreed that a 3rd email was likely to only cause inconvenience and further confusion to the recipients. In addition, the body of the email was considered sufficiently clear in articulating the NICE guidance being DRAFT (mentioned 5 times) and the updated link now directed to the correct NICE pages.

The TAD requested that the Medical Lead contact the HCP that identified the error to thank them for making J&JIM aware and to explain the situation and actions taken. To respect the confidentiality and sensitivity of the communications between J&JIM and NICE, it was also agreed that no reference to NICE changing its stance was to be shared with the HCP.

Thursday 25th – Friday 26th July

The Medical Lead emailed the HCP to request a phone call which was arranged for, and conducted between 2-3pm on Friday 26th July

J&JIM takes its responsibility to comply with the Code of Practice very seriously. Regretfully, we accept that the subject line in the promotional email was inaccurate and acknowledge a breach of clause 6.1 of the Code.

This situation arose because of human error in the context of a rapidly evolving series of events. Nevertheless, J&JIM will use this example in its Code & Signatory forums to raise awareness and to reduce the likelihood of a recurrence.”

PANEL RULING

This case was in relation to an error in the subject line of a promotional email sent by Johnson & Johnson (“J&J”) for Tecvayli (teclistamab), a treatment for relapsed and refractory multiple myeloma after three or more treatments.

On 22 July 2024, the complainant received a promotional email from J&J. The subject line of the email was “TECVAYLI®▼ (teclistamab) NICE Final Draft Guidance now available”. This subject line contained an error because the guidance was still a draft, and was not “final”.¹ In addition, the link contained in the email, which was supposed to lead to the guidance, opened a redundant page. The complainant contacted J&J that same day to point out these two errors. A further email was sent out the following day which corrected the link issue, but still contained the error in the subject line.

The Panel considered J&J’s response, which set out the following timeline of events:

- 22 July 2024: the initial promotional email was sent out at around 10.00. At around 18.00, the sales team received an email from a health professional flagging two inaccuracies in the email:
 - the email title containing the words, “Final Draft Guidance”, and
 - the link in the email opening a “terminated appraisal” which didn’t reflect the message in the promotional email.
- 23 July 2024: J&J attempted to correct the email and it was resent.
- 24 July 2024: the marketing team noticed the link contained in the email had been corrected but the word “Final” in the subject line had not been deleted.

J&J submitted that the error in the subject line remained because the person reviewing the email had only focused on correcting the redundant link in the body of the email.

J&J’s explanation for not subsequently correcting the subject line was that it considered that sending a third email would likely cause inconvenience and further confusion. J&J concluded

¹ The Panel recognised that “Final Draft Guidance” is terminology that is used by NICE, but in July 2024, NICE had not issued the “Final Draft Guidance”.

that the body of the email was clear because it referred to the NICE guidance being in “draft” five times.

Clause 6.1 of the 2021 Code stated, amongst other things, that information, claims and comparisons must be accurate. The Panel was of the view that when sent initially, the subject line of the promotional email was an inaccurate reflection of the fact that the NICE guidance was in draft form. When J&J was alerted to the error, it had the opportunity to rectify the email subject line but had failed to do so. The promotional email was therefore sent out a second time and again misleadingly referred to the guidance being “final”. The Panel considered that a busy health professional receiving the promotional email may only read the subject line and may not have an opportunity to open the email to see the references to the guidance still being in draft. In the Panel’s view, there was a risk that a health professional may mistakenly assume that the guidance was in final form, when that was not the case. The Panel therefore ruled a **breach of Clause 6.1**, as acknowledged by J&J.

Complaint received **27 July 2024**

Case completed **13 May 2025**