

CASE AUTH/3741/2/23

COMPLAINANT v PFIZER

Promotional Use of Twitter

CASE SUMMARY

This case concerned a complaint received in February 2023 about a tweet posted by a US employee of Pfizer, and re-tweeted by a senior UK employee in November 2020. The tweet, which was still visible on their Twitter feed, related to a Pfizer and BioNTech press release announcing the conclusion of the Phase 3 Study of Pfizer's COVID-19 vaccine candidate, which had met all primary efficacy endpoints. The complainant alleged the tweet included relative efficacy rates without any information about absolute efficacy rates and that no safety data or safety information was provided, and therefore that Pfizer had misleadingly and illegally promoted its COVID-19 vaccine.

The Panel ruled a breach of the following Clauses of the 2019 Code:

Breach of Clause 2	Bringing discredit upon, and reducing confidence in, the pharmaceutical industry
Breach of Clause 3.1	Promoting an unlicensed medicine
Breach of Clause 7.2	Making a misleading claim
Breach of Clause 7.9	Making claims that did not reflect the available evidence regarding possible adverse reactions
Breach of Clause 9.1	Failing 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

A complaint was received from a contactable member of the public about Pfizer.

COMPLAINT

The complainant stated that they had written to the PMCPA on numerous occasions to complain about Pfizer's misuse of social media to misleadingly and illegally promote their covid vaccine. The complainant further stated that in some previous cases Pfizer had attempted to defend or mitigate their offences by reference to their desire to maintain high standards and also citing the various processes, procedures and training they had in place to prevent such occurrences.

However, the complainant alleged that it turned out that such misbehaviour was even more widespread than they had thought, extended right to the top of their UK operation and was apparently continuing to this very day.

It had just been brought to the complainant's attention that the attached tweet was re-tweeted by a Pfizer senior employee. It was re-tweeted using their Twitter account, the profile of which described the employee as a senior Pfizer UK employee.

Two claims were made regarding the efficacy of their vaccine, both of which referred to relative efficacy rates without any information about absolute efficacy rates. The complainant stated the PMCPA had found such omissions relating to public discussion of covid vaccine efficacy to be in breach of the code on several previous occasions and so they thought it was clear that similar breaches had also taken place here.

Furthermore, there was no mention of, or reference to, any safety data or safety information relating to this vaccine. They therefore thought that previous PMCPA findings of breaches relating to lack of balance and lack of safety information were relevant for this case too.

The complainant stated that they realised that this tweet and re-tweet occurred over two years ago but felt it was still important to complain about it for two main reasons:

1. It was a tweet posted by a very senior member of the Pfizer development team which was then re-tweeted by a senior Pfizer UK employee. Previous claims by Pfizer that high standards were always maintained, that there was adequate training to prevent such occurrences, and that previous offences were just one-offs, were not supported by the behaviour demonstrated here. The complainant reminded the PMCPA that one of the previous cases of similar breaches involved a senior employee in Pfizer's vaccine business.
2. The PMCPA had previously used the phrase 'unique circumstances' to describe the conditions prevailing during the pandemic as an excuse to mitigate findings against Pfizer. The complainant's response had been to say that in such circumstances the public had a right to expect higher, not lower, standards from the pharmaceutical industry. This case illustrated yet again, not only the low standards prevailing at that time, but when viewed in the context of the previous findings against Pfizer, suggested a determined, coordinated and concerted effort to use the internet and social media to actively promote their covid vaccine misleadingly and in advance of the issue of any licence or approval.

Furthermore, although the post was tweeted and re-tweeted over two years ago, it was still available to read on the Pfizer UK senior employee's twitter feed. Since that time there had been numerous findings against Pfizer (and AstraZeneca) for misuse of the internet and social media to promote covid vaccines. In the circumstances the complainant thought that the British public had the right to expect Pfizer UK to have conducted some sort of audit of its social media accounts (at least of its significant accounts, amongst which they would include its UK senior employees) to ensure that anything which was similarly in breach of the code was removed - even to the extent of deleting accounts if necessary. This clearly was not done. Therefore, in light of all of the above, they thought the Panel would also agree that all these acts of commission and omission with regard to the code justified further findings of failure to maintain high standards (Clause 5.1) and also bringing discredit upon your industry (Clause 2).

When writing to Pfizer, the Authority asked it to consider the requirements of Clauses 2, 5.1, 6.1, 6.4 and 11.1 of the 2021 Code.

RESPONSE

Pfizer stated that it took its commitment to the Code extremely seriously and had conducted a thorough investigation and its response to the complainant's allegations was set out below.

Background information on the original tweet and re-tweet:

Pfizer stated that the original post that had been identified by the complainant was posted in November 2020 by a Pfizer colleague based in the US. The US Pfizer colleague was now retired but at the time of issuing the tweet was employed within the area of Pfizer responsible for the clinical development of Pfizer's pipeline and regulatory affairs in respect of such pipeline. They posted the Tweet on the day that Pfizer and BioNTech issued a press release announcing the conclusion of the Phase 3 Study of Pfizer's COVID-19 vaccine candidate, which had met all primary efficacy endpoints.

The original purpose of the tweet was therefore to recognise an important step in Pfizer and BioNTech's efforts to bring forward a potential COVID-19 vaccine. It was not intended to be promotional in nature. It contained a statement of fact of the efficacy endpoints of the study. It made clear that the data would then be submitted to the health authorities and did not make any suggestion or inference about future availability for the general public or potential impact of the vaccine on the course of the pandemic. It expressed gratitude to the clinical trial volunteers and all others who were fighting the pandemic.

The original post was not specifically directed at a UK audience and did not make any reference to the availability or use of the Pfizer vaccine candidate in the UK and was therefore not in scope of the ABPI Code of Practice. As highlighted by the complainant, a Pfizer UK colleague then re-tweeted the post creating a UK nexus thus bringing the re-tweet into scope of the ABPI Code of Practice (copy provided).

The colleague whose re-tweet was the subject of this complaint was an infrequent user of Twitter having made only 21 tweets and replies and 31 likes since opening their account in June 2019. As of today, the colleague had 321 followers the majority of whom are professional individuals involved in, or with an interest in, the UK healthcare and research sector. The colleague's followers are not however, limited to only UK health professionals and other relevant decision makers.

Accuracy and balance of claims (Clauses 6.1, 6.4) and promotion prior to marketing authorisation (Clause 11.1)

Pfizer stated that in re-tweeting the post, there was no intent by the UK colleague to promote or to advertise the Pfizer/BioNTech vaccine candidate. On being made aware of the complaint the colleague had no recollection of re-tweeting the post and could only assume that they had posted the re-tweet in error. Notwithstanding the original purpose of the tweet or the circumstances of the re-tweet both the colleague and Pfizer recognised that the re-tweet did not meet the requirements of the Code and as such Pfizer accepted breaches of Clauses 6.1, 6.4 and 11.1.

Maintenance of high standards (Clause 5.1)

Contrary to the complainant's allegation, this Twitter post was re-tweeted in error and was absolutely not part of a coordinated effort by Pfizer UK to use social media to actively promote the Pfizer BioNTech vaccine. Pfizer UK had a comprehensive policy on personal use of social media in relation to Pfizer's business (copy provided) which prohibited colleagues from interacting with any social media related to Pfizer's medicines and vaccines. The policy was supported by an interactive training module including a knowledge check (copy provided) and a one-page quick reference guide (copy provided). The colleague whose re-tweet was the subject of this complaint had completed the social media training module in October 2019. Throughout the pandemic Pfizer also ensured that briefings to colleagues informing them of newsworthy company updates related to the vaccine also included a reminder of the key elements of the Pfizer UK social media policy (copy provided).

Subsequent to the Twitter activity that was the subject of this complaint, Pfizer received three complaints and associated rulings of breaches of the Code for individual colleagues' use of LinkedIn in relation to Pfizer's COVID-19 Vaccine trial results and the UK regulatory approval of the vaccine. As part of Pfizer's corrective and preventative action plan associated with those complaints, the social media policy and training was further enhanced to provide additional clarification and all colleagues completed the enhanced training in September 2021. Pfizer's one-page quick reference guide was refreshed and a COVID-19-specific one-page quick reference guide was also created (copy provided). In parallel with the retraining, all UK based colleagues were instructed to review any social media posts that they might have issued, shared or liked that related to Pfizer's business and to remove any activity that they were not confident met all the requirements of Pfizer's social media policy and therefore the Code (copy provided). Pfizer believed that these interventions, taken at a time when there was significant interest amongst the media and general public regarding Pfizer and BioNTech's efforts to develop a vaccine, represent a responsible and comprehensive approach to social media.

Pfizer stated that it was therefore disappointed to learn of this re-tweet and to also find on further investigation that four other Pfizer UK colleagues, including another senior colleague in the UK organisation, had re-tweeted the same post. Pfizer's investigation also identified a further four UK based colleagues who had liked the tweet. However, the action of liking a tweet did not appear to cause the liked tweet to be displayed in the individuals' Twitter feed and Pfizer consequently does not believe that these likes resulted in further UK dissemination of the original tweet.

This Twitter activity was contrary to Pfizer UK's social media policy and should have been identified and removed by the colleagues as part of the corrective and preventative action plan described above. Pfizer regretted that this was not the case. Pfizer recognised that the social media activity of these colleagues and their failure to identify and remove the erroneous activity, did not meet the standards expected of our industry and Pfizer therefore accepted a breach of Clause 5.1.

Upholding confidence in the industry (Clause 2):

Pfizer stated that the personal use of social media by pharmaceutical industry employees in relation to company business had long been acknowledged as a unique and challenging area for pharmaceutical companies. The Pfizer UK organisation recognised the responsibilities it had

to ensure appropriate use of social media by its employees, and Pfizer believed that it had taken all of the appropriate steps that could reasonably be expected of a pharmaceutical company in this area.

Further to the extensive measures described above implemented by Pfizer UK to support colleagues' appropriate personal use of social media, Pfizer also wished to highlight the following further measures that Pfizer had implemented on receipt of this complaint:

- the Pfizer colleagues have deleted the re-tweets;
- a further UK company-wide instruction was issued for all colleagues to check their social media accounts to ensure their activity complied with the Pfizer social media policy and the requirements of the Code and
- a review would be undertaken by experienced members of the Pfizer Code Approval Team to check samples of employees' social media for consistency with Pfizer's UK policy and the Code.

Notwithstanding the extensive measures described in this letter, Pfizer's investigations had shown that four other UK colleagues re-tweeted the US Global colleague's tweet, including a second senior colleague from within the UK organisation. Pfizer accepted that these colleagues acted in error and these errors regretfully were likely to have resulted in the promotion of an unlicensed vaccine to the UK public in a manner that was not consistent with the requirements of Clause 2. Pfizer therefore accepted a breach of Clause 2 of the Code.

Pfizer stated that it believed that throughout the pandemic the extensive measures that it had put in place around the personal use of social media represented a comprehensive and responsible approach to social media. Pfizer wished to emphasise that contrary to the complainant's allegations, Pfizer had no such 'determined, coordinated and concerted effort to use social media to actively promote our COVID-19 vaccine misleadingly and in advance of its approval'.

PANEL RULING

The Panel noted the complaint was about a tweet and re-tweet on the social media platform Twitter, now known as X, regarding a potential COVID-19 vaccine. The complainant alleged, among other things, that claims were made which were not sufficiently complete and which failed to provide safety information.

The Panel noted the original tweet was posted by a Pfizer US Global employee in November 2020, that same day this was re-tweeted by a senior UK employee which brought the tweet into the nexus of the ABPI Code, as acknowledged by Pfizer.

The Panel noted that the case preparation manager had requested Pfizer consider the requirements of Clauses 2, 5.1, 6.1, 6.4 and 11.1 of the 2021 Code. The Panel noted the tweet and re-tweet, which were the subject to the complaint, had been made in November 2020, therefore the matters would be considered in relation to the requirements of the 2019 Code which was in place at that time. In this regard Clauses 2, 9.1, 7.2, 7.9 and 3.1 of the 2019 Code applied. Further the Panel noted the social media platform now X was known as Twitter at the time of the complaint and would therefore use the terminology Twitter, tweet and re-tweet for the purpose of this complaint.

Pfizer submitted that the original purpose of the tweet was to recognise an important step in Pfizer and BioNTech's efforts to bring forward a potential COVID-19 vaccine. It was not intended to be promotional in nature. It contained a statement of fact of the efficacy endpoints of the study. It made clear that the data would then be submitted to the health authorities and did not make any suggestion or inference about future availability for the general public or potential impact of the vaccine on the course of the pandemic. It expressed gratitude to the clinical trial volunteers and all others who were fighting the pandemic.

In the Panel's view, in principle, it was not necessarily unacceptable for a company to refer, in very general terms, to its pipeline or work it was doing in response to a pandemic. However, language, context, location, layout, intended audience and overall impression were important factors. The Panel queried whether a social media platform, such as Twitter was the appropriate forum to share such information. The Panel noted that understandably there would be much interest in the work being done by pharmaceutical companies and others to investigate possible vaccines and treatments for COVID-19. However, companies must ensure that materials and activities complied with the Code.

The Panel noted the original tweet stated 'Our vaccine candidate is 95% effective in preventing COVID-19, and 94% effective in people over 65 years old. We will file all of our data with health authorities within days. Thank you to every volunteer in our trial, and to all who are tirelessly fighting this pandemic'. The Panel noted the tweet contained limited information regarding the efficacy of the vaccine candidate with no safety information provided.

The Panel noted Pfizer's submission that on further investigation into this complaint four other Pfizer UK colleagues, including another senior colleague in the UK organisation, had re-tweeted the same post. Pfizer's investigation also identified a further four UK based colleagues who had liked the tweet. However, the action of liking a tweet did not appear to cause the liked tweet to be displayed in the individuals' Twitter feed and Pfizer consequently did not believe that these likes resulted in further UK dissemination of the original tweet.

The Panel noted Pfizer's submission that the senior UK employee's Twitter account, which was opened in June 2019 had, at the time of their response, 321 followers the majority of whom were professional individuals involved in, or with an interest in, the UK healthcare and research sector, they were not however, limited to only UK health professionals and other relevant decision makers. The Panel noted Pfizer provided no information on the followers of the other four UK employees who had also re-tweeted the US Global colleague's tweet. On the balance of probabilities, it was likely that the Pfizer UK employee's connections would include UK members of the public as well as UK health professionals.

The Panel noted that when a tweet was re-tweeted it looked like an original authored tweet, with the original author's name and username and in smaller text above the post, the name of the individual who re-tweeted the post, this would be pushed as a notification to all the re-tweeter's connections in their twitter feed.

The Panel noted that the tweet clearly referred to the outcome of the Pfizer and BioNTech's vaccine being developed to protect against COVID-19. The Panel noted that Clause 3.1 prohibited the promotion of a medicine prior to the grant of its marketing authorisation. The vaccine was not classified as a prescription only medicine or been granted temporary emergency use authorisation to supply in the UK by the Medicines and Healthcare products Regulatory Agency (MHRA) under Regulation 174 of the Human Medicines Regulation when

the tweet was made by the US Global Pfizer employee and re-tweeted by the senior UK employee and the other four UK employees one of which was a senior employee. The Panel noted the content of the re-tweet and that it was visually similar to an original authored tweet, on the balance of probabilities, its proactive dissemination to all five of the UK Pfizer employees' connections, as a result of their re-tweet, constituted promotion of an unlicensed medicine and a **breach of Clause 3.1 of the 2019 Code** was ruled as acknowledged by Pfizer.

The Panel noted Clause 7.2 of the 2019 Code stated, Information, claims and comparisons must be accurate, balanced, fair, objective and unambiguous and must be based on an up-to-date evaluation of all the evidence and reflect that evidence clearly. They must not mislead either directly or by implication, by distortion, exaggeration or undue emphasis. Material must be sufficiently complete to enable the recipient to form their own opinion of the therapeutic value of the medicine. The Panel noted the content of the tweet which had provided limited information regarding the efficacy of the vaccine candidate with no safety information regarding the Pfizer and BioNTech's vaccine candidate. The Panel considered the re-tweet was not balanced and ruled a **breach of Clause 7.2 of the 2019 Code** as acknowledged by Pfizer.

The Panel noted Clause 7.9 stated, among other things, that 'Information and claims about adverse reactions must reflect available evidence or be capable of substantiation by clinical experience. It must not be stated that a product has no adverse reactions, toxic hazards or risks of addiction or dependency. The Panel noted the tweet made no reference to adverse events and was therefore concerned that important safety information relating to the vaccine candidate was not provided and ruled a **breach of Clause 7.9 of the 2019 Code** as acknowledged by Pfizer.

The Panel noted Pfizer's submission that Pfizer UK had a comprehensive policy on personal use of social media in relation to Pfizer's business (copy provided) which prohibited colleagues from interacting with any social media related to Pfizer's medicines and vaccines. Pfizer had also submitted that following three previous complaints and associated rulings of the Code, as part of Pfizer's corrective and preventative action plan, the social media policy and training had been further enhanced to provide additional clarification. The policies were supported with interactive training and knowledge checks.

The Panel further noted Pfizer's submission that the Twitter activity, subject of this complaint, was contrary to Pfizer UK's social media policy and should have been identified and removed by the colleagues as part of the corrective and preventative action plan, which had taken place following three previous complaints and associated rulings of breaches of the Code. The social media policy submitted to the Panel had an effective date of 1 October 2021 and since the re-tweet in November 2020 there had been two updates to the policy. The policy in place at the time of the re-tweet was not before the Panel.

The Panel noted Pfizer stated that the senior employee whose re-tweet was the subject of this complaint had completed the social media training module in October 2019. Further, Pfizer submitted that throughout the pandemic Pfizer also ensured that briefings to colleagues informing them of newsworthy company updates related to the vaccine also included a reminder of the key elements of the Pfizer UK social media policy. The Panel noted the example briefing submitted by Pfizer in this regard was issued by a senior Pfizer UK employee seven days before the re-tweet was made and among other things stated, don't share content from other Pfizer accounts such as Pfizer Inc, as it has not been approved for a UK audience. The policy submitted, effective date 1 October 2021, provided information on interacting with social media

and stated among other things, that for 'Pfizer Social Media Channels located outside the UK: Pfizer Inc Twitter, Facebook and LinkedIn – do not interact', and each of the other example communications regarding Pfizer requirements on social media activities provided similar information for employees, contractors etc.

The Panel noted the work undertaken by Pfizer UK organisation and their recognition of the responsibilities it had to ensure appropriate use of social media by its employees, including the additional measures implemented on receipt of this complaint.

The Panel noted the sensitivities including heightened public interest at the time of the re-tweet around COVID-19, vaccines to protect against it as well as medicines for its treatment and considered it was particularly important that all staff and particularly senior employees complied with relevant rules and regulations. The Panel considered that the corrective and preventative actions taken following previous breaches of the code with respect to employee activity on social media had not been implemented to the standard which was expected or required. Activity which was clearly outside of company policy had not been taken down or deleted. It was unfortunate that Pfizer had been badly let down not only by the senior UK employee whose re-tweet was the subject of the complaint but by the four other Pfizer UK colleagues, including another senior colleague, who had also re-tweeted the same tweet made by a Pfizer US Global colleague; an action that resulted in the tweet for an unlicensed medicine being proactively disseminated on Twitter to health professionals and members of the public in the UK. In that regard high standards had not been maintained. A **breach of Clause 9.1 of the 2019 Code** was ruled, as acknowledged by Pfizer.

The Panel considered that the five employees, which included two senior employees, had failed to recognise the impact re-tweeting the US Global employee's post would have, given the tweet was regarding an unlicensed medicine, at a time when there was heightened public interest in potential vaccines for COVID-19, and would be viewed by health professionals and the public. Further, the two senior employees, due to their seniority, bore the responsibility of leading by example; their Twitter accounts were likely to be followed by many other Pfizer UK employees. Senior employees' adherence to internal policies and procedures was an essential element of company compliance; non-adherence was a serious breach of governance. The Panel noted that a ruling of a breach of Clause 2 was seen as a sign of particular censure and reserved for such and promotion prior to the grant of a marketing authorisation was an example of an activity likely to be in breach of Clause 2. Noting its comments and rulings above, the Panel considered that the Pfizer UK employees, including two senior employees, retweeting on their personal Twitter accounts about the company's COVID-19 potential vaccine prior to the grant of its marketing authorisation, meant that Pfizer had brought discredit upon and reduced confidence in the pharmaceutical industry. The Panel ruled a **breach of Clause 2 of the 2019 Code**, as acknowledged by Pfizer.

Complaint received **15 February 2023**

Case completed **1 March 2024**