

CASE AUTH/3717/12/22

MEMBER OF THE PUBLIC v NOVO NORDISK

Allegations about the promotion of weight loss medication in the media

CASE SUMMARY

This case was in relation to five media articles on weight loss which all allegedly promoted Novo Nordisk's weight loss medication. Novo Nordisk accepted the Panel's rulings of breaches of the Code. The complainant appealed the Panel's rulings of no breaches of the Code.

In relation to four of the five articles, Novo Nordisk was found not to be responsible for these by the Panel and the Appeal Board and the outcome under the 2021 Code was:

No Breach of Clause 5.1 (x4) [4 x Panel's no breach rulings upheld at appeal]	Requirement to maintain high standards
No Breach of Clause 6.1 (x4) [4 x Panel's no breach rulings upheld at appeal]	Requirement, amongst other things, that information and claims are not misleading
No Breach of Clause 26.1 (x4) [4 x Panel's no breach rulings upheld at appeal]	Requirement to not promote prescription only medicines to the public
No Breach of Clause 26.2 (x4) [4 x Panel's no breach rulings upheld at appeal]	Requirement that information about prescription only medicines which is made available to the public must be factual, balanced, must not raise unfounded hopes of successful treatment and must not encourage the public to ask their health professional to prescribe a specific prescription only medicine.

In relation to one of the five articles, based on an interview with a Novo Nordisk global senior leader, the outcome under the 2021 Code was:

Breach of Clause 2 [Panel's no breach ruling overturned at appeal]	Bringing discredit upon, and reducing confidence in, the pharmaceutical industry
Breach of Clause 5.1	Failing to maintain high standards
Breach of Clause 6.1 [Panel's no breach ruling overturned at appeal]	Providing misleading information
Breach of Clause 26.1	Promoting a prescription only medicine to the public
Breach of Clause 26.2	Providing unbalanced information and encouraging members of the public to ask their health professional for a specific prescription only medicine

**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 complainant who was a member of the public about Novo Nordisk Ltd. The case preparation manager decided that certain aspects of the complaint did not satisfy the relevant requirements of the Constitution and Procedure and were not proceeded with. Five articles were proceeded with as part of the complaint.

COMPLAINT

The complaint derived from a series of emails including responses to questions raised by the case preparation manager.

The case preparation manager confirmed with the complainant that their allegation was that Novo Nordisk was advertising its prescription only medicines to the public as a safe way to lose weight without risks and that the articles that were the subject matter of complaint were as follows:

1. 'Weight-loss jabs on the NHS to curb appetite and cut obesity using drug Wegovy, The Times, Tuesday February 08 2022'
2. 'Can't get Wegovy, the slimming wonder pill? Here are your options, The Times, Monday August 08 2022'
3. 'Hollywood stars turn to Ozempic diabetes drug to achieve weight loss, The Times, Friday September 23 2022'
4. 'Novo Nordisk boss [named global senior leader]: We bring hope in the war on obesity, The Sunday Times, Sunday August 07 2022'
5. 'Give it a Shot, Family Digest – a Jewish Woman's Weekly magazine, 23 November 2022'

RESPONSE FROM THE COMPLAINANT TO QUESTIONS ASKED BY THE CASE PREPARATION MANAGER

The complainant stated that from the main part of The Mispacha Magazine, the 'family first' section, aimed at females, had a UK price in £ and was printed in the UK and aimed at the general public not medical professionals.

They therefore felt it was likely to come under Clause 26: Relations with public, including Patients and Journalists.

The complainant stated that this was further reinforced by the Netflix documentary released last week 'Take your pills: Xanax' where one doctor said to paraphrase 'patients come in demanding medication thanks to the FDA [Food and Drug Administration] relaxation on direct marketing to patients. Physicians are then rated online and if they don't prescribe drugs they get lower rankings and lose money.'

When writing to Novo Nordisk, the Authority asked it to consider the requirements of Clauses 2, 5.1, 6.1, 26.1 and 26.2 of the Code.

RESPONSE

Novo Nordisk stated that the complainant alleged that Novo Nordisk had involvement in the following articles:

1. Weight-loss jabs on the NHS to curb appetite and cut obesity using drug Wegovy, The Times, Tuesday February 8 2022.

Novo Nordisk stated that it was not involved in the development of this article, had no input into the content, nor review of the article before it was published.

The journalist contacted Novo Nordisk UK before the article was published to request contact details of a patient so that a patient case study could be included in the article. Novo Nordisk's communications agency contacted a patient to understand whether they would be willing to participate, but they declined, therefore a patient case study was not included in the final article. Novo Nordisk had included the email regarding the enquiry from the journalist.

2. Can't get Wegovy, the slimming wonder pill? Here are your options, The Times, Monday August 8 2022.

Novo Nordisk stated that it was not involved in the development of this article, had no input into the content, nor review of the article before it was published.

Once published, Novo Nordisk UK saw a number of factual errors in the article and contacted the journalist to request that these were corrected. For example, the article referred to NICE guidance which should have been draft guidance and a request to remove reference to off-label use of Ozempic. No amendments were made as a result of this request. Novo Nordisk had enclosed two emails regarding the requested changes post publication.

3. Hollywood stars turn to Ozempic diabetes drug to achieve weight loss, The Times, Friday September 23 2022.

Novo Nordisk was not involved in the development of this article, had no input into the content, nor review of the article before it was published. Novo Nordisk had enclosed an email sent to relevant Novo Nordisk employees alerting them to the article post publication.

4. Novo Nordisk boss [named global senior leader]: We bring hope in the war on obesity, The Sunday Times, Sunday August 7 2022.

Novo Nordisk's Global Communications team were approached by a named journalist at the Sunday Times requesting an interview with the global senior leader of Novo Nordisk. The interview was planned as part of an article to appear in The Sunday Times. The Global Communications team provided the Novo Nordisk global senior leader with a verbal briefing prior to the interview (based on the brief provided). The briefing document makes it clear that prescription only medicines could not be promoted to the public.

The UK affiliate communications team were informed that the interview would be taking place and had the opportunity to view the document on which the verbal briefing would be based. The brief was not shared with any other functions within Novo Nordisk UK and it was not put through any approval process.

Before the interview took place, Novo Nordisk's Global Communications team also sent to the named journalist links to certain background information on Novo Nordisk, the company therapy areas and the global senior leader of the company.

The interview took place in Denmark on 4 August 2022. Shortly before publication, the Novo Nordisk Global Communications team asked for two amendments in relation to the responses that had been provided during the interview, to which the journalist agreed. A request was also made for a copy of the article prior to it being published however the named journalist stated that they were not able to share articles before publication.

Novo Nordisk acknowledged that there were positive statements in the article e.g. 'The most important thing is that now there is finally hope for people living with obesity — that you can get help to lose weight and avoid some of the complications' and may Positive statements in the article that might lead to enquiries by members of public to health care professionals about Wegovy. Novo Nordisk therefore acknowledged a breach of Clauses 26.1 (promotion of a prescription only medication to the public) and 26.2 (statements must not be made to encourage members of the public to ask their HCP to request a specific medicine). Further Novo Nordisk acknowledged that certain statements might imply that Wegovy was suitable for all obese patients, which was not the case, and Novo Nordisk acknowledged a breach of Clause 6.1 (material must not mislead the reader).

Novo Nordisk stated that despite the article being facilitated by the Global Communications team, given the above, Novo Nordisk considered that it did not maintain high standards and acknowledge a breach of Clause 5.1. Novo Nordisk acknowledged that the Panel might want to consider the requirements of Clause 2 in relation to this matter.

The UK affiliate communications team would ensure any future briefings will be assessed by a UK signatory or a member of the compliance team. Additionally, they would undergo further training on the Code.

5. Give it a Shot, Family Digest – a Jewish Woman's Weekly magazine, 23 November 2022

Novo Nordisk submitted the publication listed its offices as being in Israel and the United States; therefore Novo Nordisk did not consider that such a publication would fall within the scope of the UK Code. That said, Novo Nordisk had no involvement in the article.

PANEL RULING

The Panel noted that the original complaint comprised a number of matters raised over a series of emails. It appeared that the case preparation manager had transferred 5 articles to the Panel for consideration. The Panel noted that the Constitution and Procedure set out the process to be followed in relation to those matters not so transferred. The Panel accordingly considered the allegations in relation to those 5 articles identified by the case preparation manager.

The Panel noted the very general nature of the allegations. The Panel noted that the complainant had to establish their case on the balance of probabilities. It was not for the Panel to infer reasons on behalf of the complainant. The Panel considered that the complainant's

overarching concern appeared to be that Novo Nordisk was advertising its prescription only medicines to the public as a safe way to lose weight.

The Panel noted that complaints about articles in the media were judged on the information provided by the pharmaceutical company to the journalist. It firstly had to decide whether Novo Nordisk had a responsibility for each article by virtue of having provided information via a press release, interview or similar, or had some other meaningful opportunity to influence the article. In this regard, the Panel noted that any information provided by Novo Nordisk to a journalist or similar would have to comply with the relevant requirements of the Code.

The Panel noted Novo Nordisk's investigation revealed that the last press release issued by Novo Nordisk UK in February 2022 was part of its 'Break Free' campaign which featured celebrities discussing weight management. The Panel did not have a copy of this press release but there was no evidence before it that this press release referred to specific medicines.

The Panel also bore in mind that the complainant bore the burden of proof and had to establish their case on the balance of probabilities.

The Panel addressed each article in turn.

1. Weight-loss jabs on the NHS to curb appetite and cut obesity using drug Wegovy, The Times, Tuesday February 08 2022.

The Panel noted the article at issue focused on the patient populations in which Wegovy (semaglutide) could be used and that the National Institute for Health and Care Excellence's (NICE) draft recommendations were in consultation, with it 'expected to approve' the medicine. Quotes attributed to the lead researcher for the trial included that the drug was 'a major breakthrough' and 'game changer'. A quote from a senior employee at NICE was also included in the article, along with a quote from a senior leader at Novo Nordisk UK : 'We are hopeful that Wegovy being made available on the NHS in England will help thousands of people living with obesity'.

The Panel based its ruling upon the information provided to the journalist by Novo Nordisk, rather than the final published article itself.

The Panel noted Novo Nordisk's submission that it was not involved in the development of this article, had no input into the content, nor did it review the article before it was published. Novo Nordisk submitted its communications agency had asked a patient to participate in a case study in response to a request from a journalist but that as the patient declined, a patient case study was not included in the article. From emails provided, there appeared to have been a telephone conversation within the context of this request between the communications agency and the journalist, however there was no evidence before the Panel that Novo Nordisk had provided any information or otherwise influenced the content of the article. Novo Nordisk's investigation on receipt of this complaint revealed that the quotation from the UK senior leader that appeared in the article originated from a quotation given to the Telegraph in relation to a positive NICE recommendation on 7 February 2022.

On the evidence before it, the Panel considered it had not been established that Novo Nordisk had provided any information for or had otherwise influenced the content of the Times article and the Panel therefore ruled **no breach of Clauses 5.1, 26.1 and 26.2.**

2. Can't get Wegovy, the slimming wonder pill? Here are your options, The Times, Monday August 08 2022.

The Panel noted the article provided information on how semaglutide worked and made reference to side effects and trial results compared to placebo; the article went on to discuss access to the medicine in the UK from specialist clinics (as Ozempic) in the wait for its approval to be prescribed on the NHS. The article then made reference to alternative medicines including orlistat which was positioned less favourably along with brief reference to medicines that had been withdrawn.

The Panel noted Novo Nordisk's submission that it was not involved in the development of this article, had no input into the content, nor review of the article before it was published. The Panel further noted Novo Nordisk's submission that after the article had been published it unsuccessfully tried to correct factual errors in relation to the type of NICE guidance and reference to off-label use of Ozempic. The Panel did not consider that, in the circumstances, these post publication emails to the journalist rendered Novo Nordisk responsible in any way for the content of the article. The Panel decided that it had not been established that Novo Nordisk had provided any information for or had otherwise influenced the content of the article and the Panel therefore ruled **no breach of Clauses 5.1, 26.1 and 26.2.**

3. Hollywood stars turn to Ozempic diabetes drug to achieve weight loss, The Times, Friday September 23 2022.

The Panel noted that the article at issue, published in The Times but authored by a journalist in the US, primarily focused on the use of semaglutide as Ozempic by celebrities in the US.

The Panel noted Novo Nordisk's submission that it was aware of the article but that it was not involved in the development of this article, had no input into the content, nor review of the article before it was published. The Panel noted that Novo Nordisk's investigation revealed, amongst other things, that neither the global nor UK companies had any involvement. The Panel had no information before it about relevant activities by the US affiliate but noted it was unclear whether any such activities would fall within the scope of the Code in relation to the journalist in question. The Panel decided that it had not been established on the balance of probabilities that Novo Nordisk UK had provided any information for, or had otherwise influenced, the content of the article and the Panel therefore ruled **no breach of Clauses 5.1, 26.1 and 26.2.**

4. Novo Nordisk boss [named global senior leader]: We bring hope in the war on obesity, The Sunday Times, Sunday August 07 2022.

The Panel noted the article at issue was based on an interview with [named global senior leader] of Novo Nordisk. Novo Nordisk submitted that its Global Communications team was approached by a journalist requesting an interview as part of an article to appear in The Sunday Times; the Global Communications team provided [named global senior leader] with a verbal briefing based on a written briefing document prior to the interview which, according to Novo Nordisk, made it clear that prescription only medicines could not be promoted to the public. In addition, the Panel noted that the journalist was provided with links to certain background information on Novo Nordisk, the company therapy areas, and the [global senior leader] of the company.

The Panel noted that the briefing document advised the [global senior leader] to be very careful answering questions about amongst other things, Wegovy. The [global senior leader] was advised to raise the profile of Novo Nordisk, focus on obesity and sustainability, and to convey their approach to leadership. These were further developed in the Key messages and the Story to tell section which began with a summary of the requirements of Clauses 26.1 and 26.2 in bold font. The Q&A section included corporate matters, the UK obesity strategy and supply issues. The Panel noted that an email to the journalist dated 4 August requested that the [global senior leader's] response to a final question during the interview be removed as it referred to Saxenda as a treatment for obesity and noted the company's responsibility to be fair and balanced in relation to material which might be read by the newspaper's readers. The journalist agreed to this request however the journalist declined Novo Nordisk's request to share a copy of the article prior to publication.

It was for the Panel to base its rulings on the briefing document on which the verbal briefing was based, along with the statements made by the [global senior leader] during the interview that appeared in the article. The Panel noted that it did not have a transcript of the interview but noted Novo Nordisk's acknowledgment that positive statements formed part of the article including 'The most important thing is that now there is finally hope for people living with obesity — that you can get help to lose weight and avoid some of the complications'. Novo Nordisk further acknowledged that positive statements in the article that might lead to enquiries by members of the public to health professionals about Wegovy. The article contained general references to better treatments and that 'the earlier innovations were not very good products.'

The Panel noted the requirements of Clause 26 and Novo Nordisk's acknowledgment that the positive statements might have led to enquiries by the public. In the Panel's view, the statement 'The most important thing is that now there is finally hope for people living with obesity — that you can get help to lose weight and avoid some of the complications', in the context of the interview and article which was known to make reference to Wegovy, on balance, promoted a prescription only medicine to the public contrary to the requirements of Clause 26.1. Additionally, the Panel considered such a statement would, on the balance of probabilities, encourage members of the public to ask their health professional to prescribe a specific medicine. The Panel therefore ruled **a breach of Clauses 26.1 and 26.2 as acknowledged by Novo Nordisk.**

The Panel noted Novo Nordisk's acknowledgment that certain statements might imply that Wegovy was suitable for all obese patients, which was not the case, but the Panel did not consider that it had an allegation in this regard and thus the Panel ruled **no breach of Clause 6.1.**

The Panel noted Novo Nordisk's acknowledgement that it had not maintained high standards in breach of Clause 5.1. The Panel noted that the verbal briefing was based on a written briefing document that was not provided to the [global senior leader]. The Panel did not know the detail or extent of the verbal briefing provided and considered a written briefing for the [global senior leader] would have been helpful given the public interest in the subject matter of the interview. The Panel noted its comments and rulings of breaches of Clause 26.1 and 26.2 above in relation to promotion to the public and considered that high standards had not been maintained in this regard. The Panel thus **ruled a breach of Clause 5.1.**

5. Give it a Shot, Family Digest – a Jewish Woman’s Weekly magazine, 23 November 2022

The Panel noted the magazine at issue, The Jewish Women’s Weekly, appeared to be a supplement of the Mishpacha magazine package. The article ‘Give It a Shot’ was preceded across two pages with an image illustrating food on a plate with one hand holding a knife and the other an injection; besides the text ‘Give It a Shot’ was the text ‘A new class of recently approved drugs makes weight loss much easier – a game changer for people who’ve struggled for years to shed excess weight. Is the new drug a panacea – or a peril?’; subsequent pages made reference to Ozempic and Wegovy.

The Panel noted Novo Nordisk’s submission that the publication listed its offices as being in Israel and the United States and therefore it did not consider the publication would fall within the scope of the UK Code. In this regard, the Panel noted the complainant’s submission that the publication bore a UK price in pounds sterling and was printed in the UK and aimed at the general public, not medical professionals. The Panel noted that the supplementary information to Clause 1.1 Journals with an International Distribution stated that the Code applies to the advertising of medicines in professional journals which are produced in the UK and/or intended for a UK audience. The identification of the country in which the journal is produced is based on factors such as where it is compiled and edited, and for printed journals where it is typeset, printed and bound, rather than factors such as the location of the head office of the publisher. The Panel noted therefore that contrary to Novo Nordisk’s submission, the location of the publisher’s offices in Israel and the US did not mean that the journal fell outside the scope of the Code. The Panel did not have detailed information about the journal such as its circulation and whether it had a UK specific print run although it noted the complainant’s comment about the cost being stated in sterling.

However, irrespective of whether the journal fell within the scope of the Code, the Panel noted Novo Nordisk’s submission that it had no involvement in the article. The Panel therefore considered that it had not been established that Novo Nordisk had provided any information for or had otherwise influenced the content of the article and the Panel therefore ruled no breach of **Clauses 5.1, 26.1 and 26.2.**

Overall

The Panel noted, in relation to the articles in question, the complainant alleged that Novo Nordisk’s advertising of Ozempic and Wegovy was such that it promoted the medicine as a safe way to lose weight without risks. The Panel noted its comments above that Novo Nordisk could only be held responsible for the information provided to the journalists, rather than the final published articles; the Panel did not consider the statement given by Novo Nordisk’s global senior leader in article 4 above was such that it implied the medicine was safe, nor that it misled in relation to safety information. The Panel noted that in relation to articles 1, 2, 3 and 5 it had not been established that Novo Nordisk was responsible for the articles in question. The Panel therefore **ruled no breach of Clause 6.1 in relation to each article.**

The Panel noted that articles in relation to weight management and associated medicines directed at the public would invariably attract public interest and considered that it was particularly important that the company’s interactions with journalists on such matters complied with the Code. The Panel noted its comments and rulings above in relation to article 4. The Panel noted that Clause 2 was reserved to indicate particular censure and considered that the

matters raised were adequately covered by its rulings of a breach of Clauses 26.1, 26.2 and 5.1 in relation to article 4. The Panel therefore ruled **no breach of Clause 2**.

APPEAL BY COMPLAINANT

Extracts of the complainant's appeal are reproduced below with amendments such as corrections to typographical errors:

'It would've been more than adequate for the panel to consider the use of Clause 2 which deals with actions "likely to bring discredit on, or reduce confidence in, the pharmaceutical industry." which features, throughout my complaint.

When I originally submitted my complaint, not all the information about Novo Nordisk was in the public domain and the disclosure UK database was not yet up-to-date with the information that we now have. I also complained to the publisher News UK, which owns The Times and Sunday times as well as the Sun and the Sun on Sunday about this. Their responses were absolutely shameful and they published the most stories about the medication in question and misled members of the public and healthcare professionals.'

1- Weight-loss jabs on the NHS to curb appetite and cut obesity using drug Wegovy, The Times, Tuesday February 08 2022.

'As you can see from the included documentation, it is very clear that [Novo Nordisk] [Novo Nordisk] did lobby and pay for a large number of people who are on the NICE panel. They also submitted Parliamentary evidence and government policy on obesity.

[Novo Nordisk] may have communicated this via other methods, like in person, communication or the general self-destructing messaging systems like we've seen in parliament recently WhatsApp and others. Therefore it is clearly a breach of clause 5.1 and suitability as a "'teaser' communication/advertising whereby material is intended to 'tease' the recipient by eliciting an interest in something which will be following or will be available at a later date without providing any actual information about it."

Which is exactly what happened and resulted in the large shortages of the generic name Ozempic [sic], which was already licensed for type two diabetics and this further encouraged people who wanted to access the drug to obtain it through illicit manners, which prevented those who actually needed it and were licensed for, type II diabetics, for example to be unable to obtain their medication.

This is also an indirect contravention of clauses 26.1 and 26.2 as "(26.2) Information about prescription only medicines which is made available to the public either directly or indirectly must be factual and presented in a balanced way. It must not raise unfounded hopes of successful treatment or be misleading with respect to the safety of the product.

Statements must not be made for the purpose of encouraging members of the public to ask their health professional to prescribe a specific prescription only medicine."

This is exactly what happened as a result of the article being published and gave people unfounded hopes when there weren't any, and the drug was not launched in the UK'

2 - Can't get Wegovy, the slimming wonder pill? Here are your options, The Times, Monday August 08 2022.

'I completely disagree with the panels assessment on this. As before it is a complete breach of clauses 5.1, 26.1 and 26.2 as the newspaper has a duty of care to regulate itself. [Novo Nordisk] have the option of asking for the article to be corrected online and removed and failed to do so. There is no evidence of them unsuccessfully trying to correct the factual errors and the off label usage. [Novo Nordisk] could also have worked more within the grounds of the social media policy, which is employed and stopped and sent a letter like it is bound to all of the primary news outlets in the UK to warn them of this problem and potential for abuse of online websites and pharmacies, which allow patients to put it in false and accurate information and stop this from happening. [Novo Nordisk], didn't do this, and also failed with the wholesaler Alliance healthcare-not to be confused with Alliance Pharmaceuticals to notice the spike in demand for the amount of Rybelsus'

3 - Hollywood stars turn to Ozempic diabetes drug to achieve weight loss, The Times, Friday September 23 2022.

'Once again, [Novo Nordisk] have been unclear as the journalist [named]who has written over 1200 articles for The Times and its parent company, News Corp, which also published the article using [their] name in the Australian newspaper. [Novo Nordisk] have a large number of corporate communication, specialists and external agencies who would have known about this. Once again, they could've asked for the article to be removed from the website and the way it was pictured, using rather scantily clad clothing breach of clause 2 -and discredit the industry through body dysmorphia as well as clearly breaching Clauses 5.1, 26.1 and 26.2.'

4 - Novo Nordisk boss [named global senior leader]: We bring hope in the war on obesity, The Sunday Times, Sunday August 07 2022.

'This again goes against the code of conduct, both within the media, and in clause 2 as [Novo Nordisk] could have refused to allow the interview to be published and take legal action to defend itself and the reputation of [the] industry.

Under Clause 6.1 • "data derived from in vitro studies, studies in healthy volunteers and in animals must not be used in a way that misleads as to its significance. The extrapolation of such data to the clinical situation should only be made where there is data to show that it is of direct relevance and significance." This is exactly what the article created, and it should've had a warning that it isn't suitable for all obese patients, and it was written like it was the panacea, that would solve all the world's problems. There has been extensive coverage of [Novo Nordisk] in the business section of the newspaper, both as its profits soar, but also as an investment, which is again enticing people to encourage and try a drug no matter what the risks are, as these are clearly not stated in any media publications.'

5. Give it a Shot, Family Digest – a Jewish Woman’s Weekly magazine, 23 November 2022

‘Whilst Novo Nordisk may claim they had no contact with anyone, either of the offices in the USA and Israel, as well as other international writers in the magazine, this has not been extensively investigated, and as you can see from my attachments, there is an office for [Novo Nordisk] in Israel and I very much doubt that [Novo Nordisk] keep records of all their global communications and conversations had with the media or medical professionals who may have been contacted about this article and therefore severely doubt that no stone has been unturned in looking into this.’

Overall

‘Just like the original LinkedIn post that led to the whole [Novo Nordisk] debacle, as you can see from the attached documents, plenty of journalists and media teams, including those in parliament were brief on these issues and included a whole host of new studies that claimed to be independent, but were paid for in full by [Novo Nordisk].’

APPEAL RESPONSE FROM NOVO NORDISK

Novo Nordisk’s response is reproduced verbatim below:

‘The complainant’s appeal appears to be composed of a series of comments on the pdf of the Panel ruling letter in this case, dated 1 February 2024.’

Complainant’s comments on the introduction to the Panel ruling

There does not appear to be any specific allegation in this section of the complainant’s appeal that relates to the case in question. The documents provided by the complainant are various but none appear to be relevant to this case, which concerns allegations that Novo Nordisk promoted prescription-only medicines (POMs) to the public via various media articles listed below.

Please note, if we are aware of an independent article that contains factual errors or poses a patient safety risk (for example advocates off-label use of one of our medicines) we routinely contact the relevant publication and request corrections. However the independent publication is not obliged to address this and we have no control over whether any corrections are, in fact, made. Article 2 below is an example of this, as explained in our initial response to this complaint.

1. Weight-loss jabs on the NHS to curb appetite and cut obesity using drug Wegovy, The Times, Tuesday February 8 2022

The original allegation in this case was that Novo Nordisk promoted Wegovy via an article in The Times published on 8 Feb 2022. The appeal appears to relate to possible communications between Novo Nordisk and NICE and evidence allegedly submitted by Novo Nordisk to Parliament in relation to obesity. There is also reference to product shortages. These points bear no relation to the article in question.

No new evidence has been provided by the complainant to support the allegation that Novo Nordisk was involved in any way with this article and our position remains the same; Novo Nordisk was not involved in the development of this article, had no input into the content, nor did we review the article before it was published.'

2. Can't get Wegovy, the slimming wonder pill? Here are your options, The Times, Monday August 08 2022

'The appeal initially appears to relate to the conduct of The Times, not Novo Nordisk, alleging that it "has a duty of care to regulate itself". The complainant then alleges that Novo Nordisk is in breach for failing to get the publication corrected or remove the article. Whilst Novo Nordisk routinely seeks corrections to erroneous reporting on our medicines (as noted above), in line with the principles of Freedom of the Press, it is not within our power to have articles removed.

No new evidence has been provided by the complainant to support the allegation that Novo Nordisk was involved in any way with this article and our position remains the same; Novo Nordisk was not involved in the development of this article, had no input into the content, nor did we review the article before it was published.'

3. Hollywood stars turn to Ozempic diabetes drug to achieve weight loss, The Times, Friday September 23 2022

'The complainant alleges that Novo Nordisk could have asked for the article to be removed. Whilst Novo Nordisk routinely seeks corrections to erroneous reporting on our medicines, in line with the principles of Freedom of the Press, it is not within our power to have articles removed.

No new evidence has been provided by the complainant to support the allegation that Novo Nordisk was involved in any way with this article and our position remains the same; Novo Nordisk was not involved in the development of this article, had no input into the content, nor did we review the article before it was published.'

4. Novo Nordisk boss [named global senior leader]: We bring hope in the war on obesity, The Sunday Times, Sunday August 07 2022

'The complainant is appealing the Panel's rulings of no breach of two clauses for the following reasons:

- Clause 6.1 because the article "was written like [Wegovy] was the panacea, that would solve all the worlds [sic] problems"

- Whilst in our original response to this complaint we noted that certain statements in the article in question may imply that Wegovy is suitable for all obese patients, which is not the case, with hindsight, we agree with the Panel's ruling that there did not appear to be an allegation in that regard.

- Clause 2 because "[Novo Nordisk] could have refused to allow the interview to be published and take legal action to defend itself and the reputation of the industry"

•As we noted in our original response to this complaint, we took a number of steps to ensure that the article in question was appropriate, including briefing the Novo Nordisk [global senior leader], whose interview formed the basis of the article, and requesting a copy of the article before publication (a request which was refused by The Sunday Times). We had no influence or control over publication of the article beyond the interview that was provided and certainly could not have prevented its publication. We therefore deny any breach of Clause 2 in that regard'

5 - Give it a Shot, Family Digest – a Jewish Woman’s Weekly magazine, 23 November 2022

'The complainant alleges that Novo Nordisk had not extensively investigated whether it had any involvement with this article, apparently linking this to Novo Nordisk having offices in Israel and the US. We have followed up with our offices in Israel and the US and can confirm that neither office was involved in this article.

No new evidence has been provided by the complainant to support the allegation that Novo Nordisk was involved in the writing of this article. We do not consider that such a publication would fall within the scope of the UK Code; even if it did, Novo Nordisk had no involvement in the article.

Finally, the complainant appears to close their appeal by alleging that Novo Nordisk had briefed “journalists and media teams, including those in parliament” on a “whole host of new studies that claim to be independent but were paid for in full by [Novo Nordisk]”. This is purely supposition on the part of the complainant, with no evidence to support this allegation. Moreover, this was never alleged in the original complaint and is therefore outside of the scope of this appeal. We have thus not provided a response in that regard.'

FINAL COMMENTS FROM COMPLAINANT

Extracts of the complainant’s appeal are reproduced below with amendments such as corrections to typographical errors:

'In response to the above it is well known within the legal community that Strategic Lawsuits Against Public Participation (SLAPPs) are used by large companies to try and stop the publication by journalist to stop the publication of information that could lead to negative publicity or in this case medical information that could lead to illicit use of Novo Nordisk’s medications. Lots of companies and individuals have taken them out against News UK - who publish The Times and The Sunday Times.'

1. Weight-loss jabs on the NHS to curb appetite and cut obesity using drug Wegovy, The Times, Tuesday February 8 2022

'NICE “expectations” and opinions are meant to be confidential and the article failed to show that Novo Nordisk paid for part of the trial and this was not disclosed in the article. [Novo Nordisk UK senior leader] was also directly quoted in the article saying “We are hopeful that Wegovy being made available on the NHS in England will help

thousands of people living with obesity.”- “given to the Telegraph in relation to a positive NICE recommendation on 7 February 2022.”- where is the evidence for this?

All newspapers allow for corrections to be made under the IPSO code of conduct and the online edition changed, so why did [Novo Nordisk] not do this?’

This also breaches

Under Clause 6.1 • “data derived from in vitro studies, studies in healthy volunteers and in animals must not be used in a way that misleads as to its significance. The extrapolation of such data to the clinical situation should only be made where there is data to show that it is of direct relevance and significance.” This is exactly what the article created, and it should've had a warning that it isn't suitable for all obese patients, and it was written like it was the panacea, that would solve all the worlds problems. There has been extensive coverage of [Novo Nordisk] in the business section of the newspaper, both as its profits soar, but also as an investment, which is again enticing people to encourage and try a drug no matter what the risks are, as these are clearly not stated in any media publications.”

There are also breaches

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(26.2) Information about prescription only medicines which is made available to the public either directly or indirectly must be factual and presented in a balanced way. It must not raise unfounded hopes of successful treatment or be misleading with respect to the safety of the product.

Statements must not be made for the purpose of encouraging members of the public to ask their health professional to prescribe a specific prescription only medicine.’

2. Can't get Wegovy, the slimming wonder pill? Here are your options, The Times, Monday August 08 2022

‘Once again [Novo Nordisk] could have asked News UK to remove the article or taken out an injunction. This freedom of press argument is dealt with above. There is also Clause 2 which deals with actions “likely to bring discredit on, or reduce confidence in, the pharmaceutical industry.” Of which features, throughout my complaint.

[Novo Nordisk] have a direct supply agreement with Alliance Healthcare as their sole UK wholesaler and have quotas set for every pharmacy in the UK. They would have known that there would have been a spike in the sales and supply issues of Rybelsus- the branded [Novo Nordisk] name for the tablet form of Ozempic'

3. Hollywood stars turn to Ozempic diabetes drug to achieve weight loss, The Times, Friday September 23 2022

'Once again the Freedom of the Press agenda is abused. The pictures that went with it were added by The Times in the UK and again a SLAPP or an injunction could have been used.'

'Once again, they could've asked for the article to be removed from the website and the way it was pictured, using rather scantily clad clothing breach of clause 2 - and discredit the industry through body dysmorphia as well as clearly breaching Clauses 5.1, 26.1 and 26.2'

'The UK Times editor had to approve it, in addition [Novo Nordisk] made payments to [named consultancy company] as [named consultancy companies]. - [Novo Nordisk] should have disclosed this.'

4 - Novo Nordisk boss [named global senior leader]: We bring hope in the war on obesity, The Sunday Times, Sunday August 07 2022

'As above SLAPP's and other legal remedies could have been taken and they could have refused to give the interview like other companies have done to not bring the industry into disrepute.'

5 - Give it a Shot, Family Digest – a Jewish Woman's Weekly magazine, 23 November 2022

'Please find attached the adverts in the Magazine on how to obtain the medications and a large number of the readership are medical professionals and direct to consumer advertising is allowed and I am unable to trace any press or lobby agencies [Novo Nordisk] may use abroad.'

APPEAL BOARD RULING

In relation to articles one (The Times, February 8 2022), two (The Times, August 8 2022), three (The Times, September 23 2022) and five (Family Digest – a Jewish Woman's Weekly magazine, 23 November 2022), the Panel had ruled no breaches of Clauses 5.1, 6.1, 26.1 and 26.2 of the Code as it had not been established that Novo Nordisk had provided information for, or otherwise influenced the content of, those articles.

The Appeal Board accepted Novo Nordisk's submission that it could not be held responsible under the Code for the content of independent articles which Novo Nordisk had not been involved with.

The Appeal Board took account of Novo Nordisk's submission that it routinely contacted media outlets to request corrections of factual errors in independent articles while having no control over whether corrections were subsequently made.

The Appeal Board considered that the complainant had not established that Novo Nordisk had influenced the content of articles one, two, three and five, nor that these articles had been placed with the company's authority. The Appeal Board therefore considered that Novo Nordisk could not be held responsible for articles one, two, three and five and upheld the Panel's rulings of **no breach of Clauses 5.1, 6.1, 26.1 and 26.2** in relation to each article. The appeal on these points was unsuccessful.

In relation to article 4 (The Sunday Times, August 7, 2022), the Appeal Board noted Novo Nordisk's acceptance of the Panel's rulings of breaches of Clauses 5.1, 26.1 and 26.2 in relation to the quote from the Novo Nordisk [global senior leader]:

'The most important thing is that now there is finally hope for people living with obesity - that you can get help to lose weight and avoid some of the complications'

The issue for the Appeal Board was whether the complainant had also shown that Clause 6.1 had been breached. Novo Nordisk, in its initial response to the complaint, had acknowledged a breach of Clause 6.1 on the basis that certain statements in the article might have implied that Wegovy was suitable for all obese patients, which it is not. The Panel had found no breach, on the narrow basis that the admission by Novo Nordisk was not in line with the complaint that was being made.

The Appeal Board took account of the breadth of the complainant's allegation, which was that Wegovy was being promoted in the article 'as a safe way to lose weight without risks'. Novo Nordisk accepted at the Appeal Board hearing that at the time that it made its concession that Clause 6.1 had been breached, it believed that it was admitting something which was in line with the complaint that had been made.

The Appeal Board considered that the statement within the article 'The most important thing is that now there is finally hope for people living with obesity - that you can get help to lose weight and avoid some of the complications' misleadingly implied that Wegovy was suitable for all obese patients, which was not so, and it was not balanced as there was no reference to potential risks. The Appeal Board determined that the complaint was broad enough to encompass a breach of Clause 6.1 on this basis. The Appeal Board ruled **a breach of Clause 6.1**. The appeal on this point was successful.

When considering whether there had been a breach of Clause 2, the Appeal Board took account of the broad reach and very large public audience of The Sunday Times. In the context of a period when Novo Nordisk would have anticipated strong interest in articles relating to weight management and associated medicines, the Appeal Board considered that the company should have exercised more caution and control over its [global senior leader's] interaction with the media outlet. According to the Novo Nordisk representatives at the appeal, although the [global senior leader] received a verbal briefing based on a written document, this document had not been provided to the [global senior leader] and there was nobody from the UK affiliate present during the [global senior leader]'s interview.

The Appeal Board considered that Novo Nordisk had inadequate control of the interaction with the media outlet. Taking everything into account, the Appeal Board considered that Novo Nordisk's involvement with the article, particularly the statement made by the Novo Nordisk [global senior leader] which promoted a prescription only medicine to the public in a way that was misleading, was such that Novo Nordisk had reduced confidence in, and brought discredit upon, the pharmaceutical industry. The Appeal Board ruled **a breach of Clause 2**. The appeal on this point was successful.

The Appeal Board noted the company was currently under an audit cycle as a result of its suspension by the ABPI Board (Case AUTH/3525/6/21). The Appeal Board expected that the upcoming October 2024 re-audit required by the ABPI Board would, among other things, evaluate matters relating to the above. The Appeal Board did not, therefore, impose any further sanctions on the company.

The Appeal Board heard from Novo Nordisk that it regularly contacted the media to make requests for clarification and correction but had no power to require such corrections. The Appeal Board was conscious of the limits of its remit: the Code only covers the conduct of pharmaceutical companies, not journalists and media outlets (which fell within the remit of other regulatory bodies). However, the Appeal Board considered that it was of utmost importance that high standards of responsible, accurate and balanced journalism were upheld particularly bearing in mind the prohibition of advertising medicines to the public.

Complaint received **11 October 2022**

Case completed **17 June 2024**