

NO BREACH OF THE CODE

CASE AUTH/3773/6/23

PHARMACEUTICAL COMPANY EMPLOYEE V ASTELLAS

Allegations about a LinkedIn post advertising a company-organised presentation

CASE SUMMARY

This case was in relation to a LinkedIn post by Astellas Pharma Europe that advertised a company-organised presentation at UK Kidney Week 2023.

The outcome under the 2021 Code was:

No Breach of Clause 5.1	Requirement to maintain high standards
No Breach of Clause 8.1	Requirement to certify promotional material

**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 an anonymous, non-contactable complainant, who described themselves as a pharmaceutical company employee, about Astellas Pharma Ltd.

COMPLAINT

The complaint wording is reproduced in below:

‘LinkedIn post advertising a company organised presentation at UK Kidney Week 2023 that does not appear to have been reviewed/approved by a compliance team (no job bag code/date of prep) and has been liked/shared by promotional employees (marketing and sales). Constitutes promotional activity therefore that has not been approved appropriately [LinkedIn link provided]’

When writing to Astellas, the Authority asked it to consider the requirements of Clauses 5.1 and 8.1 of the 2021 Code.

RESPONSE

The response from Astellas is reproduced below:

‘We note that you had provided this information to Astellas Pharma Ltd. (APL) to forward onto the appropriate individual within Astellas Pharma Europe Ltd (APEL). APL will be responding to this complaint as the LinkedIn post provided was an APL activity and was executed by the UK affiliate. The LinkedIn post was uploaded to the APEL LinkedIn account.

The LinkedIn post which is subject to the complaint was one of a series of posts made during UK Kidney Week 2023 (UKKW 2023). This was part of a series of non-promotional posts with the aim to raise awareness of the Astellas Sponsored Symposium entitled 'Pioneers in practice: Real life experiences in the management of patients with anaemia of CKD' which took place at UKKW 2023 on 5th June 2023 – Following receipt of the complaint letter dated 6th June 2023, the series of posts were removed from LinkedIn on 7th June 2023.

The post was first displayed on the Astellas Pharma Europe LinkedIn account on 26th May 2023. The post was developed in line with the Astellas Established Markets Standard Operating Procedure - *Social Media Management for Established Markets* and the *UKIE Playbook – social media Section*. Dissemination via LinkedIn was through a geotargeted (UK) general feed post and paid targeting was used to reach those working in Nephrology in the UK - see *Targeting for LinkedIn Paid Posts Document*, which was attached to the job bag.

The Healthcare professional who recorded the post for Astellas was briefed to ensure avoidance of any mention of Astellas products, indications or subsequent clinical trial work, as these posts may be viewable in public areas of LinkedIn and must be non-promotional.

Astellas' response to the complainant allegations regarding to the LinkedIn post are set out below:

"Does not appear to have been reviewed/approved by a compliance team (no job bag code/date of prep)":

The item was certified via the non-promotional certification route using Veeva® Vault PromoMats® on 24th May 2023, as per Astellas guidance, *UKIE Playbook – social media Section*. The item was certified by a registered medical final signatory, who had been notified to the PMCPA and MHRA. As this was a non-promotional item, there is no requirement under the 2021 ABPI Code of Practice for a job bag number or date of preparation to be present.

The signatory's qualification is MPharm and they are a pharmacist registered with the General Pharmaceutical Council (GPhC) in the UK.

"Has been liked/shared by promotional employees (marketing and sales)":

The liking and sharing of the post by any Astellas staff were conducted in accordance with associated briefings, company policies, procedures and guidance.

All UK based employees are specifically trained on Code compliant use of social media, with two documents: *Global social media Policy for Individuals* and *SMART Social Using social media Responsibly: A Guide for Employees*, which are mandatory training items. A targeted group of UK-based employees have also been trained on the *Social Media Management for Established Markets* procedure. These Policy and guidance documents give comprehensive rules and principles for employees to follow.

A specific, certified briefing document - *Astellas supporting UK Kidney Week 2023* was sent to all APL employees on 25th May 2023, to re-emphasise APL's social media requirements.

Our policies, procedures and guidance include the following instructions to employees:

- Astellas medicines must not be mentioned (or linked to) in any post they (employees) make, like or share;
- Posts from Astellas Europe channels [which includes the Astellas Pharma Europe LinkedIn account] can be liked or shared;
- If uncertain whether an action is appropriate, seek guidance from the UK Ethics and Compliance.

The post made no reference either directly or indirectly to an Astellas medicine. It was posted on the APEL LinkedIn channel and, therefore, the liking and sharing of this non-promotional post was permissible by Astellas employees.

“Constitutes promotional activity therefore that has not been approved appropriate”:

The post was a non-promotional item and stated that the Astellas organised symposium it referred to was for healthcare professionals only and that it was a promotional talk. The non-promotional post made no reference to Astellas medicines either directly or indirectly and therefore has been approved appropriately. Through viewing the LinkedIn post, there was no opportunity for any individual to access any promotional material. Non-promotional items “signposting” to promotional events are consistent with the PMCPA Social Media Guidance.

As requested, please see below further details from Astellas on this matter in relation to the requirements of Clauses 8.1 and 5.1 of the 2021 Code of Practice.

Clause 8.1 – “Promotional material must not be issued unless its final form, to which no subsequent amendments will be made, has been certified by one person on behalf of the company in the manner provided for by this clause, subject to the provisions of the supplementary information to this clause where relevant. This person must be a registered medical practitioner or a pharmacist registered in the UK or alternatively, in the case of a product for dental use only, a UK registered dentist. The person certifying on behalf of the company must not be the person responsible for developing or drawing up the material”:

Astellas refutes a breach of Clause 8.1 - This clause refers to promotional material. As made clear above the post was non-promotional and did not refer to any medicine either directly or indirectly.

Although not a requirement for non-promotional material of this nature, Astellas more than met the requirements of the ABPI Code of Practice as the item was certified, via the non-promotional certification route, by a registered Final Medical Signatory. The Final Medical Signatory who approved the item was not responsible for developing or drawing up the material.

Clause 5.1 – “High standards must be maintained at all times”:

Astellas refutes a breach of Clause 5.1 Astellas has appropriate social media processes and guidance in place for all employees. These include guidance on both the acceptable use of personal and company social media platforms/accounts - The post was approved in accordance with applicable processes.

APL employees were appropriately trained and specifically briefed about their interactions with this social media post. In addition, the Healthcare professional who recorded the video was also briefed and strict instructions were provided to ensure the post was non-promotional.

The post was disseminated through a geotargeted (UK) general feed post and paid targeting was used to reach those working in Nephrology in the UK. The post made it very clear that the referenced meeting was for healthcare professionals only.

Therefore, Astellas believe that we have acted according to both the letter and the spirit of the code to maintain high standards and fulfil the requirements of the ABPI Code, including Clause 5.1.'

PANEL RULING

The complaint related to a LinkedIn post by Astellas Pharma Europe which had been reposted by a UK employee and allegedly constituted promotional activity.

The Panel noted the post included the text:

'With less than a week to go until UK Kidney Week, we're looking forward to being joined by [name nurse], a Renal Anaemia Clinical Nurse Specialist. Alongside her colleagues, [named nurse] will be sharing real life experiences in the management of adult patients with anaemia of chronic kidney disease. Make sure to join us at 17:15 on Monday 5th June for this live talk. #UKKW2023 #UKKidneyWeek2023. This promotional talk is for Healthcare Professionals only.'

The post also included a video of the nurse specialist who introduced themselves and stated

'I'm looking forward to welcoming you to UK Kidney Week in Newport where I will be presenting real life experiences in the management of patients with anaemia of chronic kidney disease on behalf of Astellas. I hope to see you there.'

The Panel noted Clause 1.17 defined promotion as any activity undertaken by a pharmaceutical company or with its authority which promotes the administration, consumption, prescription, purchase, recommendation, sale, supply or use of its medicines.

The Panel examined the contents of the post and video as described above. In the Panel's view, the post was non-promotional, noting there was no direct or implied mention of any medicine in the LinkedIn post. The Panel considered Astellas had made it clear that the talk would be promotional, and their involvement was clear by means of its prominent logo in the video and the post originated from Astellas Pharma Europe.

The Panel noted the complainant's allegation that the post constituted promotional activity and therefore required the appropriate approval. Clause 8.1 required that promotional material be

certified. The Panel, noting its view above that the post was non-promotional, considered the post did not require certification and **ruled no breach of Clause 8.1.**

Regarding the complainant's allegation about lack of review/approval due to the absence of a job bag code or date of preparation, while the Panel considered unique identifiers were good practice for linking certificates to specific materials, it noted Astellas' submission there was no such requirement as this was a non-promotional item. The post and associated transcript had been examined by Astellas. With regard to the complainant's reference to Astellas' promotional employees in sales and marketing liking and sharing the LinkedIn post, the Panel noted its finding above that the LinkedIn post was non-promotional. The Panel considered it had therefore not been established that Astellas had failed to maintain high standards and **ruled no breach of Clause 5.1.**

Complaint received 5 June 2023

Case completed 30 May 2024