CASE AUTH/3868/12/23 ***NO BREACH OF THE CODE***

COMPLAINANT v ROSEMONT PHARMACEUTICALS

Alleged promotion to the public

CASE SUMMARY

This case was in relation to a LinkedIn post by Rosemont Pharmaceuticals which referred to oral liquid medications being beneficial to children. The complainant alleged that the post had prompted a patient to ask to be prescribed a specific medication. There were also allegations that a Rosemont webpage had not been approved and that it was possible for members of the public to access promotional material on that webpage.

The outcome under the 2021 Code was:

No Breach of Clause 2	**Requirement that activities or materials must not bring discredit upon, or reduce confidence in, the pharmaceutical industry**
No Breach of Clause 5.1	**Requirement to maintain high standards at all times**
No Breach of Clause 8.1	**Requirement to certify promotional material**
No Breach of Clause 26.1	**Requirement not to advertise prescription only medicines to the public**
No Breach of Clause 26.2	**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 or encourage the public to ask their health professional to prescribe 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 an anonymous, non-contactable complainant who described themselves as a health professional about Rosemont Pharmaceuticals Ltd.

COMPLAINT

The complaint wording is reproduced below with some typographical errors corrected:

> "A patient has viewed Rosemont pharmaceuticals website following some of their recent advertising on Linkedin and has been able to easily access a large range of

promotional material leading them to specifically requesting the use of certain medicines that are marketed by this company. in addition to this, there is no clear display to show that the website content has been reviewed and appropriately approved."

When writing to Rosemont, the PMCPA asked it to consider the requirements of Clauses 2, 5.1, 8.1, 26.1 and 26.2 of the 2021 Code.

ROSEMONT PHARMACEUTICALS' RESPONSE

The response from Rosemont is reproduced below:

"Thank you for your letter dated 20 December 2023 concerning the allegation above, which I have responded to below as requested.

1. LinkedIn post

The LinkedIn post referred to in the complaint was posted from the Rosemont Pharmaceuticals account on 9 November 2023. This account is operated by the Rosemont marketing team, who are based in the UK.

We believe the content to be of a factual and informative nature only. The post did not contain a link to the Rosemont website, nor does it mention any specific product or any claims about liquid medicines generally.

It is not clear from the details of the complaint given how the complainant arrived at the Rosemont website through the LinkedIn post. The intention of the article was to provide general information on the subject, not to drive activity to the Rosemont website. A link to the Rosemont website is generally available on the Rosemont LinkedIn account home page (please see section 3 below for details on the access levels within the Rosemont website), or it is possible that the complainant could have Google searched for the website.

Copies of the references cited in the post, together with the relevant approvals, are contained in file reference.

2. Marketing material approval process

Any Rosemont posts or marketing materials undergo and internal certification process. In additional a new digital approval system, was implemented in March 2023 to further ensure that all approvals are fully traceable and compliant.

As part of the process, each piece of material is assigned a 'ROS' code and an internal 'expiry date', which prompts a reapproval at or around the two-year mark.

The signatory roles for the Rosemont approval process, together with their credentials are as follows:

ABPI training refreshers are carried out annually.

Please see for a copy of the specific approval relating to the LinkedIn post.

3. Rosemont website

The website is a general public-facing website containing information about the company.

Any website user attempting to access product specific information not suitable for the public through the website and through the product gateway at will be met by a HCP challenge wall. This challenge wall requires the user to actively confirm that they are a HCP before accessing the data, and has been in place since the creation of the website.

Rosemont are in the process of implementing a new website this month. This will also require active confirmation of HCP status to access the relevant information, but also goes a step further by only allowing HCPs, wholesalers, Rosemont employees, distributors and commercial partners to register for an account. This is in addition to the requirement for HCPs to confirm they are HCPs before viewing any product information.

The relevant approvals and certifications have been completed for all pages on the new website."

PANEL RULING

The Constitution and Procedure stated that the complainant had the burden of proving their complaint on the balance of probabilities. All complaints were judged on the evidence provided by the parties.

<u>The complaint</u>

The complaint was made by someone that described themselves as a health professional, but the complaint described a situation that the complainant alleged was experienced by a patient.

This complainant alleged that a patient had:

1. viewed a promotional LinkedIn post by Rosemont Pharmaceuticals,
2. been able to view promotional material on Rosemont Pharmaceuticals' website,
3. been encouraged to ask their health professional to prescribe them certain medicines.

There was also an allegation that it was not clear that the "website content" had been approved. The Panel noted that the complainant was referring to a specific webpage relating to gabapentin (an anticonvulsant medication). The Panel therefore interpreted the complaint as being that this webpage had not been approved.

The wording of the complaint only referred to an allegation that the LinkedIn post and the company's website had led the patient into "*specifically requesting the use of certain medicines that are marketed by this company*". However, attached to the complaint was a screenshot of

the product details for gabapentin, so the Panel interpreted the complaint as alleging that the patient had been encouraged to ask their health professional for this specific medicine.

Allegation 1 – the LinkedIn post (Clause 26.1 and Clause 26.2)

The Panel considered the content of the LinkedIn post that was posted by Rosemont Pharmaceuticals. The post explained that many medicines for children are unlicensed, compared to those for adults. It went on to state that most licensed oral medicines for adults were often in tablet-form and with a dosing variability that was not suitable for children. The post concluded by stating "*we're working hard to make oral liquid medications widely available to paediatric patients*". The Panel also noted that the post included "#dysphagia" (difficulty swallowing).

The LinkedIn post was posted directly by Rosemont Pharmaceuticals' LinkedIn account so there could be no doubt it was responsible for the content of the post. The Panel also noted Rosemont's submission that the post came from its LinkedIn account which is operated by the Rosemont marketing team (based in the UK). The Panel took account of the fact that LinkedIn was a public forum where posts can be viewed by members of the public, and that the 'reach' of this post would be enhanced by anyone searching for #dysphagia.

The Panel noted that the post did not mention any specific product or disease. The post promoted the general concept of oral liquid medications being beneficial to children and that Rosemont Pharmaceuticals was "*working hard*" to make such products available for children.

It is an established principle of the Code that a medicine can be promoted without its name being mentioned. However, the Panel's overall impression of the LinkedIn post was that it was promotional of Rosemont Pharmaceuticals as a company, and of oral liquid medications in general. Given that the LinkedIn post did not mention any medicine, nor even any therapy area, it could not be interpreted as advertising a prescription only medicine to the public. The Panel concluded that there was no causal link between this LinkedIn post and the promotion of any prescription only medicine.

In addition, the post did not contain a link to the gabapentin webpage, nor even any link to any part of the Rosemont Pharmaceuticals website.

The Panel concluded that the LinkedIn post was corporate advertising that did not promote a prescription only medicine to the public and therefore **ruled no breach of Clause 26.1**.

The Panel also considered Clause 26.2 in light of the complainant's allegation that the patient had been encouraged by the LinkedIn post to ask their health professional to prescribe gabapentin. Clause 26.2 provides:

"*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.*"

The Panel noted in particular the word "specific" in this clause. As with the Panel's conclusions in relation to Clause 26.1, the Panel considered that a LinkedIn post about the benefits of oral liquid medicines compared to tablets in general terms, could not be construed as encouraging the use of any *specific* prescription only medicine. The Panel therefore **ruled no breach of Clause 26.2**.

Allegation 2 – promotional webpage available to the public (Clause 26.1)

The Panel accepted the evidence provided by Rosemont Pharmaceuticals that there was a requirement to self-certify 'health professional' status before being allowed access to the 'Licensed And Specials Products' page, or to the gabapentin page, of their website.

As long as the Supplementary Information to Clause 26.2 (Website Access) is complied with, 'self-certification' of health professional status is a sufficient way in which to ensure members of the public do not access material about prescription only medicines that is not intended for them. On the basis that the complainant had not established their case that the webpages at issue were available to the public, the Panel **ruled no breach of Clause 26.1**.

Allegation 3 –webpage had not been certified (Clause 8.1)

As part of its response to the complaint, Rosemont Pharmaceuticals provided the PMCPA with a marketing approval certificate, signed by a qualified medical practitioner. The Panel was satisfied by those materials provided by Rosemont Pharmaceuticals and that the webpage for the product referred to by the complainant (gabapentin) had been certified appropriately. On that basis, the Panel **ruled no breach of Clause 8.1**.

Clause 5.1 and Clause 2

The Panel did not believe that there had been any additional evidence that Rosemont Pharmaceuticals had failed to maintain high standards and therefore **ruled no breach of Clause 5.1.**

In the absence of any findings of breaches of any other provisions of the Code, the Panel concluded that there had been no discredit brought upon, or reduced confidence in, the pharmaceutical industry. The Panel **ruled no breach of Clause 2**.

Complaint received **15 December 2023**

Case completed **13 December 2024**