

Summary of findings of Code of Practice Appeal Committee findings-Complaint #141 under the Code of Practice (v.15)

Astra Zeneca New Zealand Limited and GlaxoSmithKline New Zealand Limited

Code of Practice Appeal Committee: Catherine Garvey, Associate Professor Michelle Glass, Dr Kevin Morris, Alan Carter.

Hearing: 17 June 2014.

Appeal: AstraZeneca appealed a decision of the Code of Practice Standing Committee dated 9 April 2014. The complaint and subsequent appeal arose out of the following summarised facts:

- In August 2013 GlaxoSmithKline sponsored a series of lectures for healthcare professionals on asthma management by a UK-based clinician, Professor Neil Barnes. The lecture was subsequently available to healthcare professionals in an electronic format (a webinar and a Q&A video) and related written material was also distributed.
- At the time of the presentation Professor Barnes had accepted an offer of employment with GlaxoSmithKline, to commence in October 2013. It was not made known to attendees prior to the start of the presentation.
- The presentation included discussion on alternate strategies for asthma management. It substantially relied on an article co-authored by Professor Barnes, “Single maintenance and reliever therapy (SMART) of asthma: a critical appraisal” (referred to as “the Chapman article”). Explicit reference was made by Professor Barnes to Seretide, an asthma medication produced by GlaxoSmithKline, and Symbicort SMART, produced by Astra Zeneca. Professor Barnes’ presentation clearly preferred the management approach consistent with Seretide.
- GlaxoSmithKline received Professor Barnes’ slides for his lecture in advance, checked these for compliance with the Code and were satisfied there were no issues regarding compliance.
- Subsequent to the presentation, the webinar and other related material was promoted to health care professionals. The invitation to view did not contain a disclaimer regarding Professor Barnes’ pending employment.
- Intercompany dialogue resolved some concerns through the following steps:
 - a. GlaxoSmithKline ceased using and distributing the webinar replay, related slide kits and Q&A video for iPads;
 - b. A corrective letter was sent to all health care professionals who viewed the webinar replay;
 - c. Undertakings were given in relation to the future use of the scientific material relied upon by Professor Barnes and discussion by GlaxoSmithKline representatives of the SMART regimen to ensure a balanced presentation of the scientific evidence.

COPSC finding: The COPSC found that there was no breach of the Code in relation to the original presentation. The COPSC found that the subsequent use of the presentation and related material without a disclaimer (that the views were those of Professor Barnes and not necessarily of GlaxoSmithKline) was a “minor breach” of the Code.

The COPSC found that section 3.4.1 of the Code was breached.

Appeal Committee decision: After considering the detailed written and oral submissions, and substantial supporting material provided by both parties, the Appeal Committee found:

1. The promotional nature of the material in question was not disputed however as an invited speaker Professor Barnes was not at the relevant time within the phrase “company or company’s representative” (not defined in the Code). However having undertaken to review the presentation in advance for the purpose of checking compliance with the Code GlaxoSmithKline ought to have identified the breaches of the Code and drawn those to their invited speaker’s attention.
2. GlaxoSmithKline was required to ensure that in any subsequent use of the material that it complied with the Code (s3.8.1) and did not do so. There were clear breaches of the Code:
 - a. Absence of a disclaimer (as the COPSC also found);
 - b. Failure to ensure that comparative claims between Seretide and Symbicort SMART were fair, accurate and reflected the balance of the scientific evidence.

Remedy: The Appeal Committee noted the steps taken as a consequence of intercompany dialogue by GlaxoSmithKline and ordered that these actions remain in place.

The Appeal Committee ordered costs in favour of AstraZeneca in the sum of \$20,000 plus GST (representing the complaint and appeal fees payable under the Code).
