

# VOLUNTARY ADMISSION BY A MENARINI

## Late disclosure of research and development payments

A Menarini voluntarily admitted that following its initial timely disclosure in March 2017 of payments made in 2016, it subsequently received additional data from corporate colleagues about clinical trial payments made to a UK organisation. These payments were not uploaded into the UK disclosure portal until August 2017.

As Paragraph 5.6 of the Constitution and Procedure required the Director to treat a voluntary admission as a complaint, the matter was taken up with A Menarini.

The detailed submission by A Menarini is given below.

The Panel noted that the payment at issue was not part of the company's initial disclosure in March 2017; it appeared that research and development (R&D) colleagues provided the data late and it was not uploaded until August 2017. The Code required transfers of value to be disclosed in the first six months after the end of the calendar year in which they were made. The deadline for disclosure had not been met. A breach of the Code was ruled.

A Menarini voluntarily admitted a breach of the Code as some research and development (R&D) payments were disclosed after the 6 month deadline.

As Paragraph 5.6 of the Constitution and Procedure required the Director to treat a voluntarily admission as a complaint, the matter was taken up with A Menarini.

### VOLUNTARY ADMISSION

A Menarini noted that on 29 March 2017 it submitted its transfer of value data for 2016 for disclosure into the ABPI Transfer of Value Portal.

Subsequent to this full and timely submission, and following the receipt of internal information from colleagues in R&D, it submitted additional data on 21 August 2017 that it received from corporate colleagues about clinical trial payments made to a UK organisation during 2016. This R&D payment submission was beyond the deadline of disclosure of 30 June 2017.

A Menarini noted that Clause 24.4 stated that 'Disclosures must be made annually in respect of

each calendar year. Disclosure must be in the first six months after the end of the calendar year in which the transfers of value were made', the use of the word 'must' twice led the company to interpret the clause in such a way that any submission of additional data after 30 June 2017 would be a breach of the Code. A Menarini therefore voluntarily admitted a breach of Clause 24.4.

A Menarini understood that the disclosure process was still at its early stages and that there might not be other similar cases reported. The company gave its assurance that it was developing new processes with its corporate colleagues to reduce the likelihood of late data submission in the future.

A Menarini was asked to respond to Clause 24.4 of the Code.

### RESPONSE

A Menarini submitted that the R&D payment details at issue were uploaded into the UK disclosure portal on 21 August 2017 and confirmation was received on 6 September that the data was integrated on the portal.

### PANEL RULING

The Panel noted that an R&D payment made in 2016 to a UK organisation did not form part of A Menarini's initial disclosure of transfers of value made in 2016 and submitted on 29 March 2017. It appeared that this was due to the data only being received late from colleagues in R&D. The relevant details were ultimately uploaded on to the disclosure portal on 21 August 2017, after the disclosure deadline of 30 June 2017. The Panel noted the requirements of Clause 24.4 and disagreed with A Menarini's statement that any submission of additional data after 30 June 2017 would be a breach of the Code. Clause 24.4 referred to disclosure which, in the Panel's view, meant that the data must be published in the first six months after the end of the calendar year in which the transfers of value were made. This deadline for disclosure had not been met and a breach of Clause 24.4 was ruled.

**Voluntary admission received**      **31 August 2017**

**Case completed**                      **16 January 2018**