Judge may report drug company executive to attorney general

Clare Dyer *legal correspondent, BMJ*

A high court judge is considering reporting a senior executive of GlaxoSmithKline to the attorney general after he told an expert witness appearing for the company's opponents in a patent action that the company would not fund any research by him in the future.

Mr Justice Pumfrey, who was last week hearing a patent action brought against Glaxo by a group of generic drug companies over Seretide, its combined inhaler of salmeterol and fluticasone, called Dr Garth Rapeport before him for questioning.

The judge acted after Professor Clive Page, an asthma expert from King's College, London, who was appearing as a witness for the generic drugs company Cipra, gave evidence about a phone call he had received from Dr Rapeport, director of clinical

pharmacology at Glaxo. Professor Page said the executive, who qualified in medicine in South Africa, told him that, although his current research grant would continue, he would get no more funding from Glaxo in future.

"He clearly said to me that I could not have the same relationship with Glaxo in the future, and that I was no longer a friend of Glaxo and, therefore, I would not be receiving future funding," Professor Page told the judge.

"At best, it was a fit of pique. At worst, it was an attempt to interfere with a witness," Antony Watson QC, for Cipra, told the judge. Glaxo's counsel, Andrew Waugh QC, said it was "a matter of regret" to the company and "should not have happened."

Dr Rapeport told the judge that Professor Page's participation in the case as an expert witness

for Cipra had come as "a bombshell." Professor Page had already been invited to a meeting scheduled for last week at which Glaxo's research strategies for the future were to have been discussed, he added.

But Professor Page testified that he was not a consultant to Glaxo; he had a research grant specifically looking at adenosine in the airways. He had not been involved in GSK core strategies in this area and had not at that point seen any information about the meeting.

The judge pointed out to Dr Rapeport that the function of an expert witness was "to assist the court, not to assist any particular party."

Dr Rapeport said: "I accept that I acted inappropriately and I apologise for my action. It will not happen again." He assured

the judge that Professor Page's future applications for research grants would be considered on "exactly the same basis as heretofore."

The judge said he now had to consider whether to take the matter further. If he did, he would send the evidence to the attorney general to decide what steps to take.

The attorney general can take proceedings for contempt of court against anyone who attempts to interfere with a witness. Penalties range from a fine to a prison term.

A spokesman for GSK said: "GSK has an existing three year research agreement with Professor Page in the area of asthma biology. GSK at all times has indicated its intention to honour its commitments to Professor Page." □

Death toll mounts in avian flu outbreak

Jane Parry *Hong Kong*

The death toll from H5N1 avian influenza in Asia rose to eight earlier this week, as the *BMJ* went to press. By Tuesday, six people had died in Vietnam and two in Thailand. All but one of those who died were children, and all had had direct contact with infected poultry.

The disease in poultry is spreading across Asia, with Thailand, Cambodia, Indonesia, Pakistan, and Laos announcing outbreaks in addition to Japan, South Korea, and Vietnam. The Chinese authorities also confirmed this week an outbreak of H5N1 avian flu among ducks in the Guangxi Zhuang Autonomous Region. The local government immediately culled 14 000 birds.

As soon as Thailand confirmed an outbreak of bird flu, the European Union, Japan, and many other countries banned Thai chicken imports. Soldiers and prisoners have been drafted in to cull millions of chickens by burying them alive.

A mass cull of chickens is also underway in Vietnam, and the Cambodian government has requested help from the UN Food and Agriculture Organization on how to tackle the disease. The World Health Organization is urging countries affected to cull their chicken populations as the most effective way to stop the spread of the disease.

Peter Cordingley, the WHO's spokesman in Manila, said: "We have serious misgivings about

Workers in Thailand dispose of infected chicken carcasses

whether the cull will be effective enough to stop the disease in its tracks. Culling is still a priority but the disease is spreading in ways that we don't understand."

No human cases have so far been reported outside Vietnam and Thailand but WHO expects more cases to emerge in Vietnam

and is concerned about the possible spread to countries that have little medical infrastructure. "The cases in Thailand are west of Bangkok, close to the Myanmar [Burma] border. An outbreak in Myanmar or Laos would be a nightmare," said Mr Cordingley.

There is still no evidence of human to human transmission, but each new human case gives the virus an opportunity to reassort and combine with another flu virus to

become transmissible by humans. A vaccine treatment for H5N1 avian flu is at least six months away, said Mr Cordingley.

A meeting in Bangkok to discuss the crisis was planned for Wednesday (28 January), after the *BMJ* went to press. (See p 238.) □