



## Quis custodiet ipsos custodes?

### Getting away with publication misconduct: A ghostly tale

by Adam Jacobs

In January 2010, a paper appeared in the *Journal of Bioethical Inquiry* entitled “From Evidence-based Medicine to Marketing-based Medicine: Evidence from Internal Industry Documents,” by Glen Spielmans and Peter Parry [1]. The paper was of a genre that is no doubt familiar to those who follow the literature on industry-sponsored publications.

In the paper, the authors describe various ways in which the pharmaceutical industry allegedly distorts the scientific literature. One section of the paper describes ghostwriting. It alleges that ghostwriters insert messages into papers “to maximise the marketing power of the publication,” with a clear implication that this is putting marketing concerns ahead of science and safety.

No-one should be working in that way. The EMWA guidelines for medical writers involved in publications, which I co-authored (<http://www.emwa.org/Mum/EMWAGuidelines.pdf>), make it clear that those kinds of behaviours are unacceptable. However, for all I know, perhaps there are some unscrupulous companies out there who do work like that.

Spielmans and Parry give examples of two companies who they allege engage in such evil behaviour. Now, given that this is a scholarly article in a reputable peer-reviewed journal, you might think that they would have good evidence of the evil deeds of those companies, and would present the evidence in the paper, wouldn't you?

Well, you'd be wrong. One of the companies they describe is my own company, Dianthus Medical Limited. I happen to know, because I run the company, that we do not work like that. We do not ghostwrite, and we do not allow marketing messages to over-ride the science in the papers we write. The allegation that we do those things was simply untrue. All this is rather ironic considering the title of the journal. Publishing untrue and damaging allegations is hardly ethical, and it was clear that the authors had just made stuff up instead of attempting any form of inquiry to get at the facts. It is a further irony that the article itself was about the integrity and accuracy of the scientific literature.

This was totally unacceptable to me. Here was a paper in the peer-reviewed literature making serious and untrue allegations against my company. It is not the sort of thing that should happen in a peer-reviewed journal. So I wrote to the editor to point out the mistake, and asking that they print an apology and a correction, which I thought was a perfectly reasonable request.

The editor of the journal, Kate Cregan, disagreed. She refused to correct the article, and wouldn't admit that there was anything wrong with it, stating in her reply to me “We see the differences of opinion on what ghost-writing con-

sists in, and some of the risks encountered in writing for others, as important issues to debate fully and openly.”

I really don't see how making specific allegations about a specific company could be simply a “difference of opinion.” Nonetheless, Cregan did agree to publish a letter from me in reply, in which I explained that the allegations were completely untrue [2]. That hardly seemed satisfactory, however, as the original article remained uncorrected, and most people who read an article do not also read the accompanying correspondence.

To make matters worse, Spielmans and Parry wrote a letter in response to my letter, in which far from admitting their mistake, they simply repeated the allegations against my company [3]. I was not permitted to reply to that letter.

I contacted Spielmans and Parry and explained that we really don't engage in the sort of behaviours they describe, and asked them to request that the journal publish a correction to their article. In e-mail correspondence, they appeared to be reasonable about this, and did offer to do so. They agreed that a correction, which included the text “To be clear, we found no evidence that Dianthus Medical [*sic*] writers fail to properly acknowledge their role in drafting and editing various manuscripts,” would be appropriate.

Again, I asked Kate Cregan to publish this correction, but despite apparent agreement from Spielmans and Parry that the correction was warranted, she still refused to do so.

It seems to me extraordinary that faced with an article which even the authors appear to agree is incorrect, she still refused to publish a correction. By this stage, I was sufficiently frustrated with these damaging and untrue allegations against my company being printed, and remaining printed, in a peer-reviewed journal that I decided to contact some libel lawyers. I spoke to several lawyers specialised in the field of libel, and the advice I received was absolutely consistent: yes, the article was almost certainly defamatory under English law, and I would have a good case against the publisher if I decided to take action, but they strongly recommended that I didn't pursue the case. Libel is a rich man's game, the costs of court actions typically running into hundreds of thousands of pounds. The simple fact was that there is no way in practice that a small company such as my own could realistically take on a major international publishing company like Springer (the publisher of the journal).

Clearly, authors and editors have little need to worry about being sued for libel when they chose to make untrue allegations against a small company such as Dianthus Medical. However, if such allegations had been made against a

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large multinational company, the journal would have been far more likely to have ended up as the defendant in a libel action. Spielmans, Parry, and Cregan could well have been aware of that, which perhaps explains why they chose to make the allegations against my company rather than a larger and better known one.

Having accepted that legal action was not open to me, my final hope in requiring the journal to publish a correction to the article was the Committee on Publication Ethics (COPE). According to the COPE website [4], “COPE aims to define best practice in the ethics of scholarly publishing and to assist editors, editorial board members, owners of journals and publishers to achieve this.” They publish a code of conduct for journals, and they state “Editors who are COPE members are expected to follow this Code of Conduct and COPE will consider complaints against those who have not followed the Code.”

Section 12.1 of the COPE code of conduct states “Errors, inaccurate or misleading statements must be corrected promptly and with due prominence.” It seemed clear to me that the journal had broken that part of the code, so I submitted a complaint.

Although I knew that COPE was likely to have an editor perspective as it consists largely of journal editors, their response to my complaint shocked me. What I found shocking, in view of the stated claim of COPE to be a guardian of publication ethics, was not the decision *per se*, but the total lack of transparency in their decision.

I was hoping for a detailed explanation of how they had reached their decision that the journal had done nothing wrong. Did they believe that the article was not inaccurate, and if so, why? Or did they believe that the letter from me counted as a correction “with due prominence”? If so, did they think it appropriate that I was not permitted to reply to the further letter from Spielmans and Parry repeating the allegations? And if they did believe my letter to be an adequate correction, why did they think that a formal bibliographically linked correction wasn’t necessary? Or did they believe that there was some reason why section 12.1 of the code wasn’t applicable in this case, and if so, why? What weight did they give to the fact that Spielmans and Parry had themselves agreed that a correction was appropriate?

I do not know the answer to any of those questions, because the reasons COPE gave for their decision were so miserably lacking in detail that it is impossible to know what their reasons were. Their response was, in fact, so short, that I shall reproduce it in full here:

*COPE has now looked into this complaint against the Journal of Bioethical Inquiry. The Vice-Chair and two Council members have looked at the evidence provided and we have agreed that the journal has satisfactorily dealt with the issues at hand. COPE will only comment on the processes of a journal and not on the actual facts of the case. Given the nature of this complaint, we feel that it was sufficient that the journal allowed discussion of the relevant issues in the correspondence section, which allowed readers to understand the different sides and arguments.*

The most extraordinary part of this is the statement that “COPE will only comment on the processes of a journal and not on the actual facts of the case.” This suggests that they didn’t even consider the question of whether the article was inaccurate. Without considering that question, it is impossible to see how they could determine whether the journal had breached their code. It sounds (although given the lack of transparency, it is hard to be sure) that they simply trust the journal’s judgement in determining whether the code has been breached.

If that is true, you have to wonder what the point of COPE is.

I did e-mail COPE and ask them to explain the reasons for their decision, but they refused. I had an e-mail from Sabine Kleinert, the vice-chair of COPE, which simply paraphrased the original response and ended with “We regard this case now as closed.”

The integrity of the peer-reviewed literature is important (in a deep, deep irony, that was the point that Spielmans and Parry were trying to make in their article). There need to be various mechanisms to ensure that what is published in peer-reviewed journals is reliable. Obviously peer review itself is the first line of defence, but that doesn’t always work. Clearly it didn’t work here: an alert peer reviewer might have seen that the article was making some serious allegations and queried what the evidence was for those allegations, but that didn’t happen (or if it did happen, the peer reviewer was over-ruled by the journal).

So what should happen if an inaccurate article makes it into press? Often, when the inaccuracy is noticed, contacting the journal will result in a correction being published, or in extreme cases, a retraction. However, all this assumes good faith on the part of the journal editor. What happens if that good faith is lacking? In this case, it is clear that the journal editor, Kate Cregan, had not simply been guilty of an inadvertent omission. She was perfectly aware that the article was inaccurate: even the authors of the article agreed with this. She never attempted to claim that the allegations in the article were true. But despite that, for whatever reason she may have had, she chose to let an inaccurate article remain uncorrected in her journal.

It appears that COPE’s processes assume good faith on the part of journal editors, as they were unwilling to get involved and investigate the facts of the case.

If COPE, the supposed guardian of publication ethics, are not willing to investigate acts of misconduct by journal editors, then what line of defence is left when editors act in bad faith?

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#### References:

1. Spielmans GI, Parry PI. From Evidence-based Medicine to Marketing-based Medicine: Evidence from Internal Industry Documents. *Bioethical Inquiry* 2010. DOI 10.1007/s11673-010-9208-8
2. Jacobs A. The important distinction between ghostwriting and professional medical writing services. *Bioethical Inquiry* 2010. doi:10.1007/s11673-010-9226-6
3. Spielmans GI, Parry PI. Reply to Jacobs. *Bioethical Inquiry* 2010. DOI 10.1007/s11673-010-9241-7
4. <http://www.publicationethics.org>

## COPE response to Adam Jacobs

I am writing on behalf of the Committee on Publication Ethics (COPE) to respond to Adam Jacobs.

COPE is primarily an advisory body for editors on publication ethics. It is not a regulatory body. We have a procedure for investigating complaints about COPE member editors but we accept that our complaints procedure has several limitations and that this procedure may not be able to satisfy some individuals who have a grievance, which either falls outside our remit, or where we do not uphold their grievance.

We appreciate that Adam Jacobs is unhappy about the outcome of our investigation. We understand that it is unlikely that we will be able to assuage all his concerns but perhaps by explaining how we investigate complaints we can make it clear how we come to decisions and reinforce how seriously we take all complaints against editors.

We can only consider complaints specifically about our Codes of Conduct (for Editors and Publishers). COPE does not seek to arbitrate in disagreements (i.e. it does not act as a Court of Appeal if someone has a dispute with a journal) but it does seek to ensure that its members follow its Code of Conduct. The complaints procedure therefore considers only whether the COPE member broke the Code, not on the actual arguments in the specific case. This distinction may appear arcane, but it is important. However, when we feel that a journal does not have good systems in place, or has not followed them, we will issue a judgement.

In this case, as in all others, we carefully reviewed the details of the complaint supplied by Adam Jacobs. We then contacted the journal concerned. We received a detailed reply to our queries from the Chair of the Editorial Board. Three council members then assessed all the documentation from Adam Jacobs and the Chair, first individually and then in person together. To ensure impartiality, complaints are handled by Council members without links to the publisher, editor or complainant concerned and always by at least 2 people. Since Liz Wager (the Chair of COPE) has worked and published with Adam Jacobs in the past, she took no part in the process.

Without allowing the journal the right to respond here it is not appropriate for us to go into extensive details. In addition, decisions about publishing corrections and about allowing criticism of published material are not always clear-cut. However, in this case, we did not feel that the journal had broken the COPE Code of Conduct and therefore informed Mr Jacobs of this in an initial e-mail and in two further e-mails in response to his request for more detail.

The e-mail sent to Adam Jacobs was brief and thus may have given no sense to him of how carefully we had investigated his complaint and we are sorry for that impression. We will look again at how we should report back to complainants in future. However, we stand by our decision here.

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## A meeting of editors and peer reviewers in Turkey

*Acta Orthopaedica et Traumatologica Turcica* (AOTT: [www.aott.org.tr](http://www.aott.org.tr)), the official international journal of the Turkish association of orthopaedics and traumatology has a driven editorial team lead by its editor in chief Mehmet Demirhan. AOTT is published not only in English but aspires to a readable English of the style that we are used to reading in the *BMJ*—and not many speciality journals—making it a pleasure to read. The impressive approach behind its production is to the credit of a dedicated team of technical editors lead by Askel Seyahi, who is an EMWA member. The team meet in the evenings after they have finished their day jobs—Askel is an orthopaedic surgeon—to translate, edit and discuss the articles to be published by the journal.

The AOTT journal, on the initiative of Mehmet Demirhan, held its annual meeting in Istanbul on 4<sup>th</sup> May 2011. The meeting was attended by the journal's editorial board and peer reviewers and took place in association with a conference held by the Turkish Association of Orthopaedics and Traumatology (TAOT) which attracted some 400

participants. I gave a presentation on peer review at the pre-conference meeting and attended enjoyable social activities arranged for conference participants, giving me also the opportunity to meet the association's members. It was a great honour to receive a placard by which the journal and TAOT expressed their gratitude for my contribution to the editorial community and the AOTT journal. My thanks though go the editorial board for the insights I gained into the hard work and commitment behind the production of their journal.



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