

DOCTOR v ALLERGAN

Vistabel advertisement in Aesthetic Medicine

A doctor complained that an advertisement for Vistabel (botulinum toxin type A), a prescription only medicine (POM), had been placed by Allergan in Aesthetic Medicine which in his view was not a *bona fide* medical journal circulated exclusively to the medical profession; it was distributed freely to beauty salons and was readily accessible to unqualified individuals.

The Panel noted that whether Aesthetic Medicine was a *bona fide* medical journal with exclusive circulation to the medical profession was not the criterion which had to be applied. Most medical journals, including the BMJ for example, were available to anyone who cared to buy them. They could nonetheless contain advertisements for POMs because they were intended mainly for health professionals. Companies were also permitted to promote their products to appropriate administrative staff. The Code stated that promotional material should only be sent or distributed to those categories of persons whose need for or interest in the particular information could reasonably be assumed.

It appeared from Allergan's submission that Aesthetic Medicine was aimed at a mixed audience. Many of the intended readers were health professionals, but others such as owners of beauty salons or spas, where a doctor or nurse were present, appeared not to be. The Panel had no way of knowing who the 3% of recipients classified as 'other' were. The Panel also noted that the readership figures only added up to 95% and not 100%.

The Panel considered that the journal was intended for both health professionals and appropriate administrative staff; it was thus acceptable to include an advertisement for a POM. Such advertising had to be tailored to be appropriate for the combined audience.

The Panel considered that given the distribution of the journal, the advertisement did not promote a POM to the public. No breach of the Code was ruled.

A doctor complained about an advertisement for Vistabel (botulinum toxin type A) placed by Allergan Limited in the journal Aesthetic Medicine.

COMPLAINT

The complainant stated that Aesthetic Medicine was not a *bona fide* medical journal with an exclusive circulation to the medical profession; it was distributed freely to beauty salons and was readily accessible to unqualified individuals and therefore in breach of the advertising regulations as well as contravening the Code.

The Authority informed the complainant that the advertising regulations were a matter for the Medicines and Healthcare products Regulatory Agency but that the matter would be taken up under the Code.

When writing to Allergan, the Authority asked it to respond in relation to Clause 20.1 of the Code.

RESPONSE

Allergan stated that Vistabel was a prescription only medicine (POM). Allergan reviewed the aims and the circulation of the journal Aesthetic Medicine prior to placing the advertisement. It believed this journal to be a suitable publication in which to place a Vistabel advertisement.

Allergan provided a copy of the media pack for Aesthetic Medicine which detailed its circulation. The journal was aimed at the medical aesthetic community, including doctors, plastic surgeons, medical aesthetic nurses, dermatologists and cosmetic dentists. The readership was listed as aesthetic medical practices, plastic surgeons, aesthetic nurses, cosmetic doctors, cosmetic dentists, dermatologists, laser clinics, selected departments of NHS and private hospitals, selected spas and skincare centres.

The circulation was restricted to medical aesthetic professionals and their practices; it was not freely circulated to unqualified individuals as alleged by the complainant. In particular, it was not circulated to members of the public. Therefore, Allergan did not believe the advertisement was in breach of Clause 20.2 of the Code.

In response to a request for further information about the proportion of the circulation of Aesthetic Medicine to health professionals, compared to other recipients, Allergan advised that 10,000 copies were circulated each month. It was a trade magazine focussing on health professionals. From figures provided by the journal the readership could be broken down as follows: 31% managing directors of medical aesthetic clinics of whom 90% were estimated to be health professionals, 7% skin specialists, 7% dermatologists, 7% clinic managers, 5% cosmetic surgeons, 9% cosmetic dentists, 4% GPs, 9% nurses, 4% plastic surgeons, 5% beauty salon owner where doctor or nurse is present, 4% spa owner where doctor or nurse is present and 3% other.

PANEL RULING

The Panel noted that the complainant had stated that Aesthetic Medicine was not a *bona fide* medical journal

with exclusive circulation to the medical profession. That was not, however, the criterion which had to be applied. Most medical journals, including the BMJ for example, were available to anyone who cared to buy them. They could nonetheless contain advertisements for POMs because they were intended mainly for health professionals. Companies were also permitted to promote their products to appropriate administrative staff as set out in Clause 1.1. Clause 12.1 of the Code stated that promotional material should only be sent or distributed to those categories of persons whose need for or interest in the particular information could reasonably be assumed.

It appeared that Aesthetic Medicine was aimed at a mixed audience. Many of the intended readers were health professionals, but others such as owners of beauty salons or spas, where a doctor or nurse were present, appeared not to be. The Panel had no way of knowing who the recipients classified as 'other' were. The Panel also noted that the readership figures only added up to 95% and not 100%.

The Panel considered that the journal was intended for both health professionals and appropriate administrative staff; it was thus acceptable to include an advertisement for a POM. Such advertising had to be tailored to be appropriate for the combined audience.

The Panel considered that given the distribution of the journal, the advertisement did not promote a POM to the public. No breach of Clause 20.1 of the Code was ruled.

Complaint received	20 April 2006
Case completed	13 June 2006