

HEALTH PROFESSIONAL v GILEAD SCIENCES

Unsolicited email

A health professional complained that he had received an unsolicited email from Gilead Sciences; he had not provided his email address to Gilead. The complainant had asked Gilead how it had obtained his personal email address and to seek confirmation that it would be removed from its mailing list. The complainant had had no reply.

The complainant noted that whilst the email did not relate to a particular product, it advertised a Gilead sponsored fellowship programme. The complainant alleged that use of his private email address for this purpose was in breach of the Code. More worrying, however, was the fact that the company had his email address.

The detailed response from Gilead is given below.

The Panel noted that the email in question informed recipients about the new Gilead UK and Ireland Fellowship Programme which was to largely replace an existing grants process. The aims of the programme were outlined and the reader was referred to an attached letter for more details. Neither the email nor the attached letter referred to any specific products. Reference was made to HIV, invasive fungal disease and chronic hepatitis B.

The Panel noted that the Code prohibited the use of email for promotional purposes without the prior permission of the recipient. The Panel considered that the email in question was non-promotional and in that regard it ruled no breach of the Code.

The Panel noted, from copies of emails provided by Gilead, that the complainant had contacted the company on 29 January requesting, *inter alia*, that his name be removed from the mailing list. Gilead replied the next day stating that the complainant's details would be removed from the medical director's business contacts list. The Panel ruled no breach of the Code.

COMPLAINT

A health professional complained that he had received an unsolicited email from Gilead Sciences Ltd; he had not provided his email address to Gilead. The complainant had written to Gilead to ask how it had obtained his personal email address and to seek confirmation that the address would be removed from its mailing list. The complainant had had no reply.

The complainant noted that whilst the email did not relate to a particular product, it did advertise a fellowship programme sponsored by Gilead. The

complainant alleged that use of his private email address for this purpose was in breach of Clause 9.9 of the Code. More worrying, however, was the fact that the company had his email address.

In addition to Clause 9.9 cited by the complainant the Authority also requested Gilead to consider the requirements of Clause 9.1.

RESPONSE

Gilead submitted that the non-promotional email in question was sent by the medical director to a broad group of health professionals whom he emailed regularly; a copy of the original email and attachment was provided.

The complainant's email address was inadvertently included in the distribution list of recipients. On receipt of a complaint from this recipient, 30 January 2009, an apology was sent immediately with confirmation that his name had been removed from the distribution list. Unfortunately, it appeared that this never reached the complainant and he subsequently raised the matter with the Authority.

The subject of the email sent on 28 of January was the launch of the 'Gilead UK and Ireland Fellowship'. This was a new initiative to largely replace the company's existing grants process. The programme aimed to support the development, exploration and dissemination of best practice which enhanced patient care in HIV, invasive fungal disease and chronic hepatitis B. Grants would be awarded to individual organisations or groups of healthcare providers within a locality.

Gilead provided a copy of its 'guidance to applicants' leaflet sent to all who expressed an interest in the fellowship programme.

Gilead submitted that complaint fell outside of the scope of the Code as set out in Clause 1, as the email was non-promotional.

Gilead accepted that the email was erroneously sent to the complainant. In this regard, the company had fallen below the usual high standards which set itself and unreservedly apologised. The complainant's name had been removed from Gilead's distribution list to ensure that this could not happen again.

PANEL RULING

The Panel noted that the email in question informed recipients about the new Gilead UK and Ireland

Fellowship Programme which was to largely replace the existing grants process. The aims of the programme were outlined; it appeared that it would support disease areas in which Gilead had a commercial interest. The reader was referred to an attached letter for more details. Neither the email nor the attached letter referred to any specific products. Reference was made to HIV, invasive fungal disease and chronic hepatitis B.

The Panel noted that Clause 9.9 prohibited the use of email for promotional purposes without the prior permission of the recipient. The Panel considered that the email in question was non-promotional and in that regard it ruled no breach of Clause 9.9.

The Panel noted, from copies of emails provided by Gilead, that the complainant had contacted the company on 29 January requesting, *inter alia*, that his name be removed from the mailing list. Gilead replied the next day stating that his details would be removed from the medical director's business contacts list. The Panel considered that in this regard high standards had been maintained. No breach of Clause 9.1 was ruled.

Complaint received **16 February 2009**

Case completed **23 March 2009**
