

ANONYMOUS v BAYER SCHERING PHARMA

Conduct of representatives

An anonymous complainant, writing as 'a very disappointed nurse', alleged that, at a meeting on sexual health, two named Bayer Schering Pharma representatives, were, *inter alia*, poorly informed about contraception and generally unprofessional, in breach of the Code.

The complainant stated that both representatives gave wrong information from a study which estimated the relative cost-effectiveness of various reversible long-term hormonal contraceptives in the UK which was highly misleading. It was also alleged that the representatives had provided an out-of-date question and answer booklet about Yasmin. The complainant alleged that the representatives' overall knowledge about contraception was very poor; they were unable to answer the complainant's questions.

The detailed response from Bayer Schering Pharma is given below.

The Panel noted that the complainant was anonymous and non contactable. Complainants had the burden of proving their complaint on the balance of probabilities. Anonymous complaints were accepted and, like all complaints, judged on the evidence provided by the parties. The complainant had submitted no material to support his/her position.

The Panel noted that Bayer Schering Pharma stated that the meeting, as identified by the complainant, had not taken place. A meeting had taken place in a different area on the day after that mentioned by the complainant. This was attended by the representatives in question. Bayer Schering Pharma had responded in relation to that meeting.

The Panel noted that complaints about promotional meetings were within the scope of the Code. The complainant had identified the representatives by name. The parties' submissions differed on all other points including the date and location of the meeting. The meeting identified by Bayer Schering Pharm may indeed have been that about which the complainant was concerned however it was impossible to clarify the situation. The Panel noted that the complainant bore the burden of proof and considered that he/she had not established their case on the balance of probabilities. No breach was ruled.

An anonymous complainant, writing as 'a very disappointed nurse', alleged that, at a meeting on sexual health, two named Bayer Schering Pharma representatives, were, *inter alia*, poorly informed about contraception and generally unprofessional, in breach of the Code.

COMPLAINT

The complainant stated that the representatives sponsored a sexual health stand meeting. Details of the area and date were provided. The complainant stated that both representatives gave wrong information from a study looking at the relative cost-effectiveness of Depo-Provera, Implanon and Mirena in reversible long-term hormonal contraception in the UK which was highly misleading. (This study appeared to be Varney and Guest 2004).

The complainant alleged that the representatives' overall knowledge about contraception was very poor and they were highly unprofessional, laughing and joking about private matters within the complainant's ear shot and that of other health professionals which was very inappropriate.

The complainant stated that an out-of-date question and answer booklet about Yasmin was provided. The representative was unable to pronounce ethinylestradiol and drospirenone and they were unable to answer the complainant's questions.

The complainant found both representatives very disappointing as previous dealings with Bayer Schering had always been very positive.

When writing to Bayer Schering Pharma the Authority asked it to respond in relation to Clauses 7.2, 9.1, 15.1 and 15.2 of the Code.

RESPONSE

Bayer Schering Pharma submitted that no meeting took place in the area on the date specified by the complainant. However, the two representatives did go to a meeting in a different area on the day after that mentioned by the complainant which was attended by 125 health professionals; a mixture of nurses and doctors, from the generalist and specialist settings.

As the complainant had not given any details of the alleged misleading information, Bayer Schering Pharma stated it was unable to respond specifically to his/her concern. The company did not cite Varney and Guest in any of its promotional materials, nor was it supplied to representatives. Neither representative had ever talked about this paper to customers and it was not on the list of materials provided at the meeting.

Bayer Schering Pharma was confident of the representatives' general knowledge of the therapy area as well as their specific product knowledge and noted that the complainant had not provided an example of a question that could not be answered.

Both could pronounce the names of products. Details of the representatives' training and its validation were provided. Both had passed the ABPI's Medical Representatives Examination. Bayer Schering Pharma stated that the professionalism of either representative had never previously been questioned. Both denied laughing and joking about private matters within earshot of health professionals or having such a conversation. None of the 96 respondents providing feedback expressed any of the concerns raised by the complainant.

There was currently no Yasmin question and answer document in active promotional use. Neither representative had any Yasmin-related question and answer document. It was not on the list of materials supplied for the meeting.

In summary, Bayer Schering Pharma did not believe there were grounds to uphold any of the allegations. It denied that it had provided misleading information contrary to Clause 7.2, there was ample evidence for the adequate training and good conduct of its representatives as required by Clauses 15.1 and 15.2 and the high standards required by Clause 9.1 had been maintained.

PANEL RULING

The Panel noted that the complainant was anonymous and non contactable and that, as set out in the introduction to the Constitution and Procedure, complainants had the burden of proving their complaint on the balance of probabilities.

Anonymous complaints were accepted and, like all complaints, judged on the evidence provided by the parties. The complainant had submitted no material to support his/her position. The Panel also noted the difficulty of dealing with complaints based on one party's word against the other.

The Panel noted that Bayer Schering Pharma stated that no such meeting as identified by the complainant had taken place. A meeting had taken place in a different area on the day after that mentioned by the complainant, attended by the representatives in question. Bayer Schering Pharma had responded in relation to that meeting and denied any breach of the Code.

The Panel noted that complaints about promotional meetings were within the scope of the Code. The complainant had identified the representatives by name. The parties' submissions differed on all other points including the date and location of the meeting. The meeting identified by Bayer Schering Pharma might indeed have been that about which the complainant was concerned however it was impossible to clarify the situation. The Panel noted that the complainant bore the burden of proof and considered that he/she had not established their case on the balance of probabilities. No breach of Clauses 7.2, 9.1 and 15.2 was ruled.

Complaint received	18 October 2010
Case completed	5 November 2010
