

ANONYMOUS v ALLERGAN

Conduct of employees

The Authority received an anonymous complaint from non-contactable complainants about the conduct of two Allergan employees at the Merz symposium at the International Master Course on Aging Skin (IMCAS) meeting held in Paris, January 2012.

The complainants stated that they were disgusted by the behaviour of two members of Allergan's staff whom they alleged had to be thrown out of the Merz symposium for repeatedly taking photographs and recording the session despite signs and requests from the chairman not to do so. The complainants stated that they were particularly upset to hear one of the employees subsequently boasting and laughing about the incident in the hotel foyer.

The detailed response from Allergan is given below.

The Panel noted that the complainants were 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 Panel also noted the difficulty of dealing with complaints based on one party's word against the other.

The Panel noted that Allergan's recollection of the event at issue differed from that of the complainants'. Allergan had submitted that the two employees in question had attended IMCAS for its educational value and to aid their continuing professional development. Both had attended the Merz symposium and had taken photographs during the symposium. The Panel noted Allergan's submission that neither employee was aware of a sign or statement by the chairman that photographs could not be taken. The Panel also noted that staff facilitating the meeting had asked the employees in question to delete any photographs, which they did and then left the symposium. Both employees denied discussing the matter in the hotel lobby.

The Panel was concerned that there was no written brief or instructions on conduct for UK based Allergan employees when attending a meeting on behalf of the company, but considered that there was no evidence submitted by the complainants to indicate that Allergan or its employees had failed to maintain high standards. No breach of the Code was ruled. The Panel noted the above ruling and Allergan's submission that neither employee was a representative and ruled no breach of the Code. The Panel consequently ruled no breach of Clause 2.

The Authority received an anonymous complaint from non-contactable complainants who described

themselves as 'two ex-loyal Allergan customers' about the conduct of two Allergan Ltd employees at the Merz symposium at the International Master Course on Aging Skin (IMCAS) meeting held in Paris, January 2012.

COMPLAINT

The complainants stated that they were disgusted by the behaviour of two members of Allergan's staff who had 'to be thrown out' of the Merz symposium for repeatedly taking photographs and recording the session despite signs and requests from the chairman not to do so. The complainants submitted that a lot of Allergan staff were at the symposium and most simply took lots of notes but the two employees in question were unprofessional and arrogant.

The complainants stated that they were particularly upset to hear one of the employees boasting and laughing about the incident a couple of hours later in the hotel foyer. This behaviour was unacceptable.

The complainants stated that they were loyal Allergan customers but no more.

When writing to Allergan, the Authority asked it to respond in relation to Clauses 2, 9.1 and 15.2 of the Code.

RESPONSE

Allergan explained that the IMCAS was an annual meeting dedicated to achieving the highest quality of teaching through the interface of plastic surgery and dermatology. IMCAS started in 1994, in Paris, as a congress dedicated to plastic surgeons and dermatologists. Since then, IMCAS had sought to bridge the knowledge vacuum between plastic and reconstructive surgery and dermatology, thereby generating a synergetic and mutually reinforcing interface among these two fields. This European congress was open to all involved in the field of aesthetic medicine.

Allergan submitted that no UK sales representatives or product and promotions managers attended IMCAS 2012. The two employees in question had attended IMCAS for its educational value and to aid their continuing professional development. Neither was a sales representative, and so they had not undertaken the ABPI Medical Representatives Examination.

There were no instructions/briefing for any UK based employees who attended IMCAS 2012. Although UK based, all the employees who attended had a regional role.

The Merz symposium was an open session aimed at all delegates who were registered at IMCAS. The delegates were primarily health professionals with an interest in aesthetic medicine but could be anyone who had registered as a delegate, irrespective of professional qualification. Allergan was not aware of any materials distributed prior to, or at, the symposium which referred to the expected conduct of delegates.

Both employees had been asked about this alleged incident and had provided written statements about what happened (copies were provided). In summary neither employee was aware of a sign or statement by the chairman that photographs could not be taken. A number of people had taken photographs throughout the symposium. This was apparent due to the camera flashes occurring throughout the session. One employee took a photograph of a quiz question they wanted to remember. The other took a number of photographs of 'off-label' information being presented on unlicensed indications for Bocouture (Merz's toxin), including the management of crow's feet. This matter would be taken up with the relevant regulatory body in France.

Both of the employees were 'selected' from the audience by staff facilitating the meeting and asked to delete any photographs they had; both complied immediately, deleted their photographs and left the symposium. Following the meeting Allergan found that one photograph was missed and not deleted. A copy of that photograph was provided. Allergan submitted that there were no audio or video recordings made by either employee. Both employees denied any discussion of this matter in the hotel lobby as alleged.

Allergan stated that as neither employee was a sales representative, Clause 15.2 did not apply. The company was confident that its employees had maintained high standards at IMCAS and had not brought any discredit to, or reduced confidence in, the industry. Allergan therefore denied a breach of Clauses 9.1 or 2.

PANEL RULING

The Panel noted that the complainants were 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 Panel also noted the difficulty of dealing with complaints based on one party's word against the other.

The Panel was unsure whether attendees included UK health professionals or not. However the employees were based in the UK and their geographical responsibilities included the UK. In addition the Panel noted that the complaint concerned their conduct. The Panel considered that on the information available to it the matter was within the scope of the UK Code.

The Panel noted that Allergan's recollection of the event at issue differed from that of the complainants'. Allegan had submitted that the two employees in question had attended IMCAS for its educational value and to aid their continuing professional development. Both had attended the Merz symposium and had taken photographs during the symposium. The Panel noted Allegan's submission that a number of other delegates had also done so and that neither employee was aware of a sign or statement by the chairman that photographs could not be taken. The Panel also noted that staff facilitating the meeting had asked the employees in question to delete any photographs, which they did and then left the symposium. In error, one photograph was not deleted. Both employees denied discussing the matter in the hotel lobby.

The Panel was concerned that there was no written brief or instructions on conduct for UK based Allegan employees when attending a meeting on behalf of the company, but considered that there was no evidence submitted by the complainants to indicate that Allegan or its employees had failed to maintain high standards. No breach of Clause 9.1 was ruled. The Panel noted the above ruling and Allegan's submission that neither employee was a representative and ruled no breach of Clause 15.2. The Panel consequently ruled no breach of Clause 2.

Complaint received	1 February 2012
Case completed	22 February 2012