

HEALTH PROFESSIONAL v CHIESI

Alleged promotion to the public

A complainant who described him/herself as a health professional with a named clinical commissioning group (CCG) stated that he/she was amazed that at a meeting which took place in May 2016 at a named restaurant, the pharmaceutical companies' exhibitions were in full view of the public. The restaurant was open to the public and the area where the stands were was visible from outside.

The detailed response from Chiesi appears below.

The Panel noted Chiesi's submission that there was signage for the meeting immediately outside the entrance and upon entering the meeting room there was a manned registration desk. Frosting and drapes on the external windows restricted any view from the outside and there was limited pedestrian footfall given the restaurant's location on a main road. The Panel noted Chiesi's submission that the internal windows and doors were covered by the same opaque film which covered the external window. The exhibition stands were positioned on the far right hand side of the room with the back panels facing the external windows and the promotional panels facing inwards. The room plan provided by Chiesi showed the exhibition stands positioned by the windows at the far end of the meeting room; even if the door was open, it appeared that the stands would not be visible without stepping into the room and turning to the right.

The Panel noted that the complainant, as set out in the introduction to the Constitution and Procedure, had the burden of proving his/her complaint on the balance of probabilities. The complainant had provided little information and no evidence to support his/her position.

The Panel considered that the fact that a restaurant was open to the public at the same time that a meeting was held in a private room was not, in itself, unacceptable. Appropriate precautions needed to be taken particularly if the public was able to see into a room where prescription-only medicines were being advertised. The Panel considered that there was no evidence that prescription-only medicines had been promoted to the public. Further, there was no evidence to support the allegation that Chiesi's stand was in full view of the public and visible from the outside. The Panel did not consider that a prescription only medicine had been promoted to the public. No breaches of the Code were ruled including Clause 2.

A complainant who described him/herself as a health professional with a named clinical commissioning group (CCG) complained about a meeting which took place in May 2016 at a named restaurant.

COMPLAINT

The complainant attended the meeting and stated that he/she was amazed that the pharmaceutical companies' exhibitions were in full view of the public. The complainant explained that there were a number of companies present including Chiesi. The restaurant was open to the public and the area where the stands were was visible from outside.

When writing to Chiesi the Authority asked it to respond in relation to the requirements of Clauses 2, 9.1 and 26.1.

RESPONSE

Chiesi explained that the meeting was an independent, third party meeting which it supported through the purchase of stand exhibition space only. Based on the last available agenda sent to Chiesi, the meeting was also supported by three other named pharmaceutical companies. The Chiesi representative at the meeting confirmed that those three companies also exhibited at the meeting.

The meeting was organised and run by a local group of health professionals which held regular meetings for its members. Chiesi was initially made aware of the meeting verbally and received a follow up email providing further information and an outline agenda. The cost of exhibition space was detailed in the outline agenda.

As stated on the agenda the meeting started with arrival and registration at 18:30 and closed at 20:30 with refreshments. The meeting was held at the restaurant, an events venue which provided private meeting and function rooms. The Chiesi representative confirmed that the venue was commonly used due to location, cost and facilities. The venue was recognised locally for holding such business functions and was widely used by other sectors such as the local council and fire service.

Chiesi submitted that its local representative, the only Chiesi attendee, had previously visited the venue in a personal capacity. The representative was familiar with the layout and the ability to hold a meeting in a private function room away from the public. The organising health professional, via an events support person, had a conversation regarding where the meeting was to be held and the representative, with his/her local knowledge, was satisfied that the meeting complied with the relevant Chiesi standard operating procedure.

The representative originally entered the meeting into the customer relationship management (CRM) system in April and completed a meeting qualification form along with other material associated with the meeting ie agenda, as the first

stage of compliance due diligence. The meeting qualification form and any other relevant material associated with the meeting were sent electronically via the CRM to the regional business manager (RBM) for approval. The RBM had to review the meeting and all attachments in the CRM and either approve, reject or reject with further amends needed. That was the second compliance due diligence check. The meeting qualification form specifically required the representative to check that the meeting was away from the public. It specifically asked 'Will the stand be in a private area that is not open to the general public?' and the representative responded 'yes'. When asked for any additional venue information, the representative responded 'the venue is regularly used by pharma companies; only invited visitors have access to the exhibition room, no public access'.

The RBM on checking the associated documents with the entry in the CRM system noticed that the agenda was incomplete as Chiesi's name was omitted from the declaration of involvement at the foot of the agenda. The Chiesi representative then contacted the events support person to ask for the correction to be made. The events support person sent a revised agenda. The representative then forwarded the final agenda to the RBM and uploaded it into the CRM system for approval. A summary of the CRM history in relation to the meeting was provided as were copies of all material on display at the meeting.

Chiesi submitted that as part of the investigation, it visited the venue unannounced, in July, in order to verify the representative's account and to photograph the venue and room used for the meeting.

The venue was on a main road next to a busy roundabout, limiting pedestrian footfall; there were two floors with private function/meeting rooms available on both. The meeting was held on the ground floor and a sketch of the ground floor layout (not to scale) was provided.

Chiesi submitted that it would be extremely difficult for anyone to see into the meeting room through the external windows. The windows had a plastic opaque film covering the bottom half (frosting) and also had drapes restricting any view from the outside. A series of photographs taken in July showing the external and internal views of the meeting room and venue were provided.

Chiesi explained that on entering the building, the meeting room was on the far right. It could only be accessed by double doors which opened inwards into the room. There were windows visible internally to the restaurant. The internal windows and doors were covered by the same opaque film which covered the external windows. Whilst the doors to the meeting room were visible from the main public restaurant, they were in the far corner, not in mainstream view.

On the evening of the meeting the representative arrived at around 18:00, approximately thirty minutes before the start of the meeting. Prior to erecting the stand, he/she ensured that the door was closed and

that both the meeting organiser and restaurant staff were positioned to ensure that the public could not enter the room. To help matters there was signage for the meeting immediately outside the entrance and on entering the meeting room there was a registration desk which was staffed by a member of the group. All delegates were asked to sign an attendance register. A photograph of the attendance register was provided to the representative after the meeting.

Chiesi submitted that its representative, together with the other pharmaceutical representatives, erected his/her promotional stand for the start of the meeting (18:30). All representatives collapsed their stands, boxed away any promotional material and left the meeting room before the formal presentations started.

Chiesi submitted that the exhibition stands were positioned side by side and on the far right hand side of the room with the back panels facing the external windows. The promotional panels faced into the room. Given the position of the stands it would be impossible to see them from either inside or outside the restaurant. After completing its investigation, Chiesi did not believe the exhibition stands were visible to the public.

Chiesi submitted that its representative knew that the restaurant would be open to the public on the evening, however the restaurant had limited footfall/ customers with the main purpose of the business being hosting events. The meeting took place in a private room away from the public.

Having fully investigated the complaint, Chiesi submitted that the meeting was held in accordance with the company's standard operating procedure and the Code. The meeting room was conducive to host a third party educational meeting and the due diligence carried out before the meeting ensured compliance. No evidence was found that the meeting was visible to the public at any stage.

In conclusion, Chiesi strongly denied that there had been any promotion to the public, that it had failed to maintain high standards and that it had reduced confidence in the industry or had brought the industry into disrepute. Chiesi thus denied any breach of Clauses 26.1, 9.1 and 2.

PANEL RULING

The Panel examined the latest agenda provided to Chiesi by the meeting organiser. This version of the agenda named three pharmaceutical companies in addition to Chiesi. The case preparation manager had taken the matter up with each company named by the complainant.

The Panel noted that Clause 26.1 stated, *inter alia*, that prescription only medicines must not be advertised to the public. The Panel noted Chiesi's submission that there was signage for the meeting immediately outside the entrance and upon entering the meeting room there was a registration desk manned by a member of the medical group. The Panel further noted Chiesi's submissions that frosting and drapes

on the external windows restricted any view from the outside and that there was limited pedestrian footfall given the restaurant's location on a main road next to a busy roundabout. From the photographs provided by Chiesi, and seemingly taken when the restaurant and room were empty, the doors to the private room appeared to be frosted glass with a small band of unfrosted glass in the middle. The Panel noted Chiesi's submission that the internal windows and doors were covered by the same opaque film which covered the external window. The Panel estimated from the photographs supplied that the frosting went to about head height; above the frosting the glass was clear. The Panel noted Chiesi's submission that the exhibition stands were positioned on the far right hand side of the room with the back panels facing the external windows and the promotional panels facing inwards. The room plan provided by Chiesi showed the exhibition stands positioned by the windows at the far end of the meeting room; even if the door was open, it appeared that the stands would not be visible without stepping into the room and turning to the right.

The Panel noted that the complainant, as set out in the introduction to the Constitution and Procedure,

had the burden of proving his/her complaint on the balance of probabilities. The complainant had provided little information and no evidence to support his/her position.

The Panel considered that the fact that a restaurant was open to the public at the same time that a meeting was held in a private room was not, in itself, unacceptable. Appropriate precautions needed to be taken particularly if the public was able to see into a room where prescription-only medicines were being advertised. In the circumstances, the Panel considered that there was no evidence that prescription-only medicines had been promoted to the public. Further, there was no evidence to support the complainant's allegation that Chiesi's stand was in full view of the public and visible from the outside. The Panel did not consider that a prescription only medicine had been promoted to the public. No breach of Clauses 26.1, 9.1 and 2 was ruled.

Complaint received **26 July 2016**

Case completed **8 September 2016**
