

HEALTH PROFESSIONAL v ROCHE

Concerns about the use of LinkedIn by senior employees

A complainant who described him/herself as a health professional complained about the use of LinkedIn by four senior employees of Roche Products.

The complainant alleged that promotional claims and content was written underneath the 'Experience' section of the UK LinkedIn profiles of the four employees which showed a complete lack of compliance understanding and no oversight of requirements. The complainant provided screenshots and links to the employee's LinkedIn profiles and alleged that the promotional claims on each did not contain the mandatory promotional requirements as there was no prescribing information, no adverse event reporting, no black triangles, no creation date listed and they had not been certified for a health professional audience. As LinkedIn was also a public platform, the products were promoted to members of the public. Further one profile included no generic name for Ocrevus.

The detailed response from Roche is given below.

The Panel noted that whilst LinkedIn was originally primarily used as a resource for recruitment, this social media platform had evolved over time, and this might not be how it was currently predominantly used. The Panel noted that a CV was a personal matter but when it was in the public domain, such as within a LinkedIn profile, there was an additional responsibility to ensure that the language used and the impression given was appropriate and that the content did not breach any codes, laws or regulations. Employees should be extremely cautious about any reference to a medicine and about how the pharmaceutical industry might be perceived by the public and health professionals. It was particularly important that pharmaceutical companies gave clear and unambiguous advice to employees in their social media policies and that staff were regularly trained in this regard. The Panel noted that it did not have a copy of Roche's social media policy.

In relation to the allegation that information within the profile of four Roche employees advertised prescription only medicines to the public, the Panel noted that within the 'Experience' section of employee one's profile it stated 'Products promoted' and listed Pertuzumab for the treatment of HER2+ breast cancer; Trastuzumab for the treatment of HER2+ breast cancer; and Atezolizumab for treatment of triple negative breast cancer. Within the 'Experience' section of employee two's profile it stated, underneath the heading '[Job title] - Neuroscience', '[Job title] for OCREVUS; £25 million sales achieved in first full year of launch; 20% share of dynamic market in first year; and Best IV launch in MS in UK market'. Within the 'Experience' section of employee three's profile it stated 'Working as a [Job title] on the launch of Ocrelizumab for multiple sclerosis' and within the 'Experience' section of employee four's profile in a previous role as '[Job title] at Roche UK it stated '[Job title] - Multiple Sclerosis Ocrevus (Ocrelizumab). [Location]'

The Panel noted that the 'Experience' section of an individual's LinkedIn profile was essentially a summary of previous job roles and appeared below the 'Activity' section where individuals could be posting, sharing, commenting and liking etc. To see the 'Experience' section text in its entirety, which would depend on its length and possibly the device used by the viewer, might require additional clicks and/or scrolling by the reader.

Whilst the Panel queried whether it was appropriate to mention medicines and their indications in a public online profile rather than just solely referring to the therapy area in which an individual worked, the Panel considered that the information within the 'Experience' section, which would require an individual to actively search and navigate, was distinct from, and appeared below, the 'Activity' section on LinkedIn where posts, comments, 'likes' and shares etc, which would proactively disseminate information to the user's LinkedIn connections, would appear. On the evidence before it, the Panel noted that although the four employees' profiles appeared to be publicly available, the text at issue appeared within the 'Experience' section which, it could be argued, was primarily directed to those with an interest in the individual's work experience such as a potential employer or a recruitment company and might require further navigation such as scrolling and clicking by the reader to fully view the information. On balance, based on the nature of the 'Experience' section within the four Roche employees' LinkedIn profiles, the Panel did not consider that the complainant had established that the information within the 'Experience' section of each of the employee's LinkedIn profiles was such that a prescription only medicine, had been advertised to the public and no breaches of the Code were ruled which were upheld on appeal by the complainant.

In relation to the allegation that prescription only medicines had been promoted to health professionals, without the obligatory information as required by the Code, the Panel considered that, given its comments and ruling above, it did not consider that the information in question within the 'Experience' section of the four employees' LinkedIn profile constituted promotion to health professionals and it therefore ruled no breaches of the Code which were upheld on appeal by the complainant. Consequently, the material did not need to be certified and it ruled no breach of the Code which was upheld on appeal by the complainant.

The Panel noted its rulings above and consequently ruled no breaches of the Code including Clause 2 which were upheld on appeal by the complainant.

A complainant who described him/herself as a health professional complained about the use of LinkedIn by senior employees of Roche Products Ltd.

COMPLAINT

The complainant was concerned about the use of LinkedIn as a selling platform by senior employees in various roles. The complainant alleged that promotional claims and content was written underneath the 'Experience' section of the UK LinkedIn profiles under Roche. The use of LinkedIn to portray sales messages and claims showed a complete lack of compliance understanding and no oversight of requirements. The complainant provided screenshots and links.

Underneath the job title of the first Roche employee, the following text was written in the 'Experience' section:

'Products promoted:

- Pertuzumab for the treatment of HER2+ breast cancer.
- Trastuzumab for the treatment of HER2+ breast cancer.
- Atezolizumab for treatment triple negative breast cancer.'

The complainant alleged that these promotional claims did not contain the mandatory promotional requirements as there was no prescribing information, no adverse event reporting, no black triangles, no date created listed and it had not been certified for a health professional audience. As LinkedIn was also a public platform, the products were promoted to members of the public. The complainant alleged breaches of Clauses 2, 5.1, 8.1, 12.1, 12.6, 12.8, 12.9, 12.10, 26.1 and 26.2 of the Code.

In the 'Experience' section for the second Roche employee, underneath the heading '[Job title] - Neuroscience', the following claims were provided:

- [Job title] for OCREVUS.
- £25 million sales achieved in first full year of launch.
- 20% share of dynamic market in first year.
- Best IV launch in MS in UK market.'

The complainant alleged that these promotional claims did not contain the mandatory promotional requirements as there was no prescribing information, no generic name, no adverse event reporting, no black triangles, no date created listed and had not been certified for a health professional audience. As LinkedIn was also a public platform, the product was promoted to members of the public. The complainant alleged breaches of Clauses 2, 5.1, 8.1, 12.1, 12.3, 12.6, 12.8, 12.9, 12.10, 26.1 and 26.2 of the Code.

In the 'Experience' section for the third Roche employee the following text was written:

'Working as a [Job title] on the launch of Ocrelizumab for multiple sclerosis.'

The complainant alleged that this promotional claim did not contain the mandatory promotional requirements as there was no prescribing information, no adverse event reporting, no black triangles, no date created listed and had not been certified for a health professional audience. As LinkedIn was also a public platform, the product was promoted to members of the public. The complainant alleged breaches of Clauses 2, 5.1, 8.1, 12.1, 12.3, 12.6, 12.8, 12.9, 12.10, 26.1 and 26.2 of the Code.

The fourth Roche employee was a [Job title] and underneath the 'Experience' section in a previous role as '[Job title]' at Roche UK, the following text was written:

'[Job title] - Multiple Sclerosis Ocrevus (Ocrelizumab). [Location].'

The complainant alleged that this promotional claim did not contain the mandatory promotional requirements as there was no prescribing information, no adverse event reporting, no black triangles, no date created listed and had not been certified for a health professional audience. As LinkedIn was also a public platform, the product was promoted to members of the public.

The complainant alleged breaches of Clauses 2, 5.1, 8.1, 12.1, 12.3, 12.6, 12.8, 12.9, 12.10, 26.1 and 26.2 of the Code.

When writing to Roche, the Authority asked it to consider the requirements of Clauses 2, 5.1, 8.1, 12.1, 12.3, 12.6, 12.8, 12.9, 12.10, 26.1 and 26.2 of the 2021 Code.

FURTHER COMMENTS FROM COMPLAINANT

In response to a request from the case preparation manager whether there were any further points the complainant wished to raise based on another similar case that was recently published in December 2021 (Case AUTH/3476/2/21), the complainant stated the following:

- '1 LinkedIn is a platform with access to the public and health professionals. This included potential employers (could also be from different industries) who would also be classified as members of the public and would therefore ask their own health professional for the product based on viewing content in the experience section.
- 2 Any information in the profile section was available for anyone to see which included those without a registration to LinkedIn. This included information in the experience section. There was no need to click further or scroll as the promotional information was prominent from the outset.
- 3 A connection request from any of the [5] individuals who were promoting products on their LinkedIn profile would require the requested individual to view their profile content to ensure it was a genuine request. This would lead to exposure of the promotional content to either a health professional/member of the public. Subsequently, those who would be interested in such content would be more than just future employers (e.g. other general connections) and thus would not require an active search. Thus, this was proactive dissemination of inappropriate content from the outset to health professionals and members of the without consideration.
- 4 Information in CV [curriculum vitae] could be sent privately to a future employer if indeed this was to be used as a defence, as opposed to pasting it onto a public area creating exposure to health professionals and members of the public. There was no particular need to mention products, indications and sales messages within a profile area as if Roche had provided social media training & guidance on LinkedIn, it would be concerning that [5] different individuals with extensive experience were acting outside the SOP [standard operating procedure] requirements and training, thereby breaching high standards from the outset.
- 5 Highly concerning that [5] individuals had decided to provide proactive product information which meant there was low understanding of not promoting to health professionals and public on a platform which had broader readership.'

RESPONSE

Roche noted that the complainant alleged that several employees of Roche had used their personal LinkedIn pages to promote prescription only medicines in contravention of the ABPI Code.

The complainant provided screenshots and links for four Roche employees. A copy of the italicised text featured in the 'Experience' section of the named employee's page was provided.

The complainant alleged that these LinkedIn page extracts constituted promotional information and, as such, should comply with the mandatory requirements for promotional material, particularly regarding the requirements for prescribing information, adverse event reporting, black triangle inclusion (where required), date of preparation and certification.

In addition, the complainant suggested that, as LinkedIn was a public platform, these pages promoted prescription only medicines to members of the public.

In summary, the complainant alleged breaches of Clauses 2, 5.1, 8.1, 12.1, 12.3, 12.6, 12.8, 12.9, 12.10, 26.1 and 26.2 of the 2021 ABPI Code of Practice. Roche strongly refuted all alleged breaches of the Code in this case, as outlined in its response below.

Roche highlighted its commitment to the maintenance of high standards and to provide assurance to the Panel of the robust processes that Roche had in place to ensure that all activities continued to meet the requirements of the Code. This included a UK Social Media Policy which provided clear guidance on how to interact on various social media channels to ensure compliance with the Code. This guidance included information on what employees were not permitted to do when engaging on social media sites (including LinkedIn), as follows:

- Posting on any product launch or approval.
- Like/comment on posts shared by anyone about Roche products including those posted on any Roche channel.
- Engaging on forums, with patient groups or with charities with regard to, or relating to, Roche's products /disease areas.
- Sharing or posting comments, views and content that could be damaging to the Roche brand.

As part of Roche's investigation into this complaint, it acknowledged the focus of the current social media guidance was centred on the proactive dissemination of information, ie liking, sharing and commenting on posts, as opposed to the 'Experience' section of a profile on platforms such as LinkedIn where information was generally sought out. This complaint, and other recent cases published by the PMCPA on the use of LinkedIn, had given Roche the opportunity to explore the application of the Code in this area and its considerations in this regard are outlined below.

LinkedIn was an online professional networking and career development site. Members used the platform to seek new job opportunities or internships, and to 'connect and strengthen professional relationships'. Given this context, it was reasonable to conclude that a high proportion of views of the 'Experience' section of an individual's LinkedIn page would be:

- By a recruiter working on behalf of a pharmaceutical company via a third party recruitment agency.
- By a recruiter working for a pharmaceutical company as an employee.
- By an individual within the same industry/therapy area seeking new job opportunities.

Viewers who fell into the categories above were not viewing the pages within their personal capacity as members of the public or health professionals but were engaging in a professional capacity within pharmaceutical recruitment or as members of pharmaceutical companies

themselves. As such, factual information about prescription medicines in this context could not be considered promotional. Indeed, the intent of sharing information in the 'Experience' section of LinkedIn was to provide an overview of professional experience in a non-promotional, factual manner that might be relevant to the jobs they were recruiting for. The intention of such information was not to promote the administration, consumption, prescription, purchase, recommendation, sale, supply or use of these medicines.

This was highlighted in Case AUTH/3476/2/21 (Anonymous, contactable v Leo) where the Appeal Board noted that the 'Experience' section on an individual's LinkedIn profile was essentially a summary of previous job roles and appeared below the 'Activity' section where individuals could be posting, sharing, commenting and liking etc. To fully see the 'Experience' section text might require additional clicks and/or scrolling by the reader. The Appeal Board considered that the information within the 'Experience' section, which would require an individual to actively search for it, was distinct from user activity on LinkedIn such as posts, comments, 'likes' and shares etc which would proactively disseminate information to the user's LinkedIn connections.

As such, based on the nature of the 'Experience' section, the Appeal Board, in this instance, did not consider that the information within the employee's profile, which included reference to a prescription only medicine, had been advertised to the public and no breach of the Code was ruled.

Summary

Roche noted the similarities between this complaint and the recent Appeal Board ruling in Case AUTH/3476/2/21. Roche's view was aligned with that of the Appeal Board and, as such, it refuted the allegations of breaches of Clauses 2, 5.1, 8.1, 12.1, 12.3, 12.6, 12.8, 12.9, 12.10, 26.1 and 26.2 of the ABPI Code of Practice.

Finally, Roche reiterated its commitment to the maintenance of high standards and the assurance of robust processes in place to ensure that all activities met the requirements of the ABPI Code. Roche strove for continuous improvement and upskilling of colleagues on the ABPI Code and its application and welcomed cases such as this which helped its industry interpret and implement the Code in evolving ways of working such as with social media. Roche welcomed careful consideration to this ruling since it had a significant impact on the pharmaceutical industry and how it governed its use of social media.

PANEL RULING

The Panel noted that LinkedIn was different to some other social media platforms in that it was a business- and employment-orientated network and was primarily, although not exclusively, associated with an individual's professional heritage and current employment and interests; its application was not limited to the pharmaceutical industry or to healthcare. In the Panel's view, it was, of course, not unacceptable for company employees to use personal LinkedIn accounts; the Code would not automatically apply to all activity on a personal account. The Panel noted that compliance challenges arose when the personal use of social media by pharmaceutical company employees overlapped with their professional responsibilities or the interests of the company. Given that LinkedIn was a business- and employment-orientated network, the Panel considered that company employees ought to be particularly mindful of such compliance challenges when using personal accounts. The Panel noted that material could be disseminated or highlighted by an individual on LinkedIn in a number of ways, by posting,

sharing, commenting or liking. The Panel noted that an individual's activity and associated content might appear in the individual's list of activities on his/her LinkedIn profile page which was visible to his/her connections; an individual's profile page was also potentially visible to others outside his/her network depending on the individual's security settings. Company employees should assume that such activity would, therefore, potentially be visible to both those who were health professionals or other relevant decision makers and those who were members of the public. Whether the Code applied would be determined on a case-by-case basis, taking into account all of the circumstances including, among other things, content and distribution of the material.

The Panel noted that whilst LinkedIn was originally primarily used as a resource for recruitment, this social media platform had evolved over time, and this might not be how it was currently predominantly used. The Panel noted that a CV was a personal matter but when it was in the public domain, such as within a LinkedIn profile, there was an additional responsibility to ensure that the language used, and the impression given, was appropriate and that the content did not breach any codes, laws or regulations. Employees should be extremely cautious about any reference to a medicine and about how the pharmaceutical industry might be perceived by the public and health professionals. It was particularly important that pharmaceutical companies gave clear and unambiguous advice to employees in their social media policies and that staff were regularly trained in this regard. The Panel noted that it did not have a copy of Roche's social media policy.

In relation to the allegation that information within the profile of four Roche employees advertised prescription only medicines to the public, the Panel noted that within the 'Experience' section of employee one's profile it stated 'Products promoted' and listed Pertuzumab for the treatment of HER2+ breast cancer; Trastuzumab for the treatment of HER2+ breast cancer; and Atezolizumab for treatment of triple negative breast cancer. Within the 'Experience' section of employee two's profile it stated, underneath the heading 'National Business leader - Neuroscience', 'Neuroscience commercial lead] for OCREVUS; £25 million sales achieved in first full year of launch; 20% share of dynamic market in first year; and Best IV launch in MS in UK market'. Within the 'Experience' section of employee three's profile it stated 'Working as a Product Manager on the launch of Ocrelizumab for multiple sclerosis' and within the 'Experience' section of employee four's profile in a previous role as 'Hospital Sales Specialist' at Roche UK it stated 'Hospital Sales Specialist - Multiple Sclerosis Ocrevus (Ocrelizumab). West Yorkshire and North-West up to Cumbria'.

The Panel noted that the 'Experience' section of an individual's LinkedIn profile was essentially a summary of previous job roles and appeared below the 'Activity' section where individuals could be posting, sharing, commenting and liking etc. To see the 'Experience' section text in its entirety, which would depend on its length and possibly the device used by the viewer, might require additional clicks and/or scrolling by the reader.

Whilst the Panel queried whether it was appropriate to mention medicines and their indications in a public online profile rather than just solely referring to the therapy area in which an individual worked, the Panel considered that the information within the 'Experience' section, which would require an individual to actively search and navigate, was distinct from, and appeared below, the 'Activity' section on LinkedIn where posts, comments, 'likes' and shares etc, which would proactively disseminate information to the user's LinkedIn connections, would appear. On the evidence before it, the Panel noted that although the four employees' profiles appeared to be publicly available, the text at issue appeared within the 'Experience' section which, it could be argued, was primarily directed to those with an interest in the individual's work

experience such as a potential employer or a recruitment company and might require further navigation such as scrolling and clicking by the reader to fully view the information. On balance, based on the nature of the 'Experience' section within the four Roche employees' LinkedIn profiles, the Panel did not consider that the complainant had established that the information within the 'Experience' section of each of the employee's LinkedIn profiles was such that a prescription only medicine, had been advertised to the public and no breach of Clauses 26.1 and 26.2 were ruled.

In relation to the allegation that prescription only medicines had been promoted to health professionals, without the obligatory information as required by the Code, the Panel considered that, given its comments and ruling above, it did not consider that the information in question within the 'Experience' section of the four employees' LinkedIn profile constituted promotion to health professionals and it therefore ruled no breach of Clauses 12.1, 12.3, 12.6, 12.8, 12.9, and 12.10. Consequently, the material did not need to be certified and it ruled no breach of Clause 8.1.

The Panel noted its rulings above and consequently ruled no breach of Clauses 5.1 and 2.

APPEAL FROM THE COMPLAINANT

The complainant provided his/her reasons for appeal as follows:

- 1 The complainant alleged that the product information, which was present in the 'Experience' section of 4 different Roche employee's LinkedIn accounts, was actually proactive dissemination of information. This was because the 'Experience' section could be viewed by anyone which included members of the public with ease. There was no need to click further for this information. It was readily available for viewing without additional clicks/scrolling on the LinkedIn profile. This was important to consider as there was a huge assumption in the case summary that one would always need to perform additional clicks and/or further scrolling which was not so. Even those without interest in the information would have proactive exposure to this content.
- 2 Roche claimed that recruiters, as well as individuals working in the same therapy area who viewed the product information within the 'Experience' section, were not viewing the pages within their personal capacity as members of the public or health professionals. However, the complainant alleged that this was wholly incorrect considering Roche had previously been found in breach of Clause 26.1 on the basis of a voluntary admission where a promotional email had been sent to individuals working in the industry (Case AUTH/3362/6/20 – Voluntary admission by Roche). Roche submitted in that case that there had been an error resulting in the email being sent to individuals who were related to the pharmaceutical industry (classed as members of the public) but were not UK health professionals. Therefore, any individual viewing the content in the 'Experience' section would still be a member of the public regardless of whether they were a recruiter or not. If this was not the case, companies could circumvent the Code and have huge details of product information in the 'Experience' section of their LinkedIn profiles as a way to advertise products as had happened with the 4 profiles in question.
- 3 The complainant alleged that the wording contained in some of the profiles in question with regard to products was fairly comprehensive. For example, 'Best IV

launch in MS in UK market' and 20% share of dynamic market in first year. One could only view these as product claims considering the broadness of the claims. In addition, mentions of products and their associated indications were clear claims.

- 4 The complainant alleged that if a connection request was sent on LinkedIn from one person to another, individuals would then automatically view the 'Experience' section of the profile. This would include members of the public. It was incorrect to assume that there would be some form of active search and navigation to find the content within the 'Experience' section. In fact, the information could easily be viewed by individuals who were not even on LinkedIn considering profile pages were open access.
- 5 The complainant alleged that there were differences in this case compared to the previous Leo Pharma case, Case AUTH/3476/2/21. Firstly, Roche had 4 profiles with broader product information compared to a sole individual in the Leo case. Secondly, there was no discussion in the Leo case around the fact that this information in the 'Experience' section could be easily found and not require extra clicks as assumed which was not brought to the attention of the Appeal Board in the Leo Pharma case. In addition, the Appeal Board were not made aware that members of the public were also exposed to the content in the 'Experience' section.
- 6 The complainant alleged that Roche social media policy did not allow for product information to be contained in the experience section (Posting on any product launch or approval, Engaging on forums, with patient groups or with charities with regard to, or relating to, Roche's products /disease areas) as described in the case summary. The Panel also commented it did not have a copy of the policy, which would strongly indicate that there had been a potential breach of the policy. Following SOPs and policies was paramount.

In conclusion, the complainant stated that content in the 'Experience' section was proactive dissemination. If one were to assume that only certain individual's would actively search and navigate to find this information, this would be a strong means to circumvent the Code and have product information in the 'Experience' section of LinkedIn profiles. The Appeal Board should analyse the fact that content in the 'Experience' section was easily accessible and exposure to large audiences (including members of the public) was inevitable. Although, the previous Leo Pharma case was ruled not in breach, the Appeal Board were not presented with the full facts around the 'Experience' section and considerations around broad claims being utilised. Furthermore, broad product claims were present in the Roche profiles in question. The complainant appealed the Panel's rulings of no breach of Clauses 2, 5.1, 8.1, 12.1, 12.3, 12.6, 12.8, 12.9, 12.10, 26.1 and 26.2 of the Code.

COMMENTS FROM ROCHE

Roche recognised the challenges when considering the applicability of the Code in the context of social media. This, and other recent cases published by the PMPCA, was giving the Industry the opportunity to shape and set precedent of how it applied the Code to the evolving digital technologies, in particular social media.

Roche agreed with the Panel's ruling in this case, and the Appeal Board ruling in Case AUTH/3476/2/2 and it failed to see the justification for the complainant's appeal, the premise of which seemed to centre on the accessibility of the 'Experience' section.

Roche submitted that as per the detail in its response to the complaint, and the subsequent consideration by the Panel, the 'Experience' section of an individual's LinkedIn profile was distinct from the 'Activity' section (where individuals could be posting, sharing, commenting and liking etc) and generally required additional scrolling or clicks. The complainant cited a specific example in its appeal of when a connection request was sent on LinkedIn from one person to another. Even in this instance, the 'Experience' section still featured below the 'Activity' section and required scrolling.

Roche submitted that the nature of, and intent of, sharing information in the 'Experience' section of an individual's profile was to provide personal information directed at potential employers or recruiters. The complainant made specific reference to the following in their appeal as an example of a product claim, 'Best IV launch in MS in UK market' and 20% share of dynamic market in first year. Roche failed to see how this could be perceived in any other way than as an individual sharing career information in the spirit of the intended use of the 'Experience' section of their LinkedIn profile, ie a personal CV.

Finally, Roche also failed to see the relevance of Case AUTH/3363/6/20, as referenced by the complainant in its appeal.

FURTHER COMMENTS FROM THE COMPLAINANT

The complainant alleged that the 'Experience' section was proactive dissemination considering the information was easily accessible and the great amount of product information that could be placed in the section by individuals as demonstrated in this case. Using terms such as 'Best launch' and giving sales figures of the market share whilst mentioning products and indications, allowed the Code to be circumvented. A personal CV should be shared via direct message if necessary, not used as a means to act outside the parameters of the Code by utilising the 'Experience' section to mention products, indications and claims as shown in this case. Roche had made no comment about its own social media policy, the complainant queried if the policy allowed for product mentions, indications and claims on LinkedIn? The complainant requested that the Appeal Board review the challenges caused by broad usage of the 'Experience' section and acting outside a company's own social media policy. Furthermore, Roche had had several compliance breaches in general in recent years which indicated a lack of understanding of the Code which had translated into using LinkedIn for detailing Roche product information. In addition, [5] employees using the 'Experience' section mentioning products, indications and claims as part of proactive dissemination was a huge cause for concern. The concept around scrolling to find this information was a huge assumption considering some profile lengths might well be very short too and the information on products including claims such as 'Best IV launch' was there, whether one needed to scroll or not. Another huge assumption was that recruiters would be the only ones to access this information, members of public and health professionals could view the 'Experience' section with ease and more importantly recruiters were also members of the public.

APPEAL BOARD RULING

The Appeal Board noted that whilst LinkedIn was originally primarily used as a resource for recruitment, this social media platform had evolved over time, and this might not be how it was currently predominantly used. The Appeal Board noted that a CV was a personal matter but when it was in the public domain, such as within a LinkedIn profile, there was an additional responsibility to ensure that the language used, and the impression given, was appropriate and

that the content did not breach any codes, laws or regulations. Employees should be extremely cautious about any reference to a medicine and about how the pharmaceutical industry might be perceived by the public and health professionals. It was particularly important that pharmaceutical companies gave clear and unambiguous advice to employees in their social media policies and that staff were regularly trained in this regard. The Appeal Board noted that it did not have a copy of Roche's social media policy but the representatives from Roche at the appeal said that its social media policy gave clear advice to its staff, not to mention product names or 'like', comment or share posts containing mention of product on social media. The policy did not currently include any specific advice regarding the 'Experience' section of LinkedIn but Roche representatives said it would be updated in this regard.

The Appeal Board had concerns about whether it was appropriate to mention medicines and their indications in a public online profile rather than just solely referring to the therapy area in which an individual worked. However, the Appeal Board noted that the 'Experience' section of an individual's LinkedIn profile was essentially a summary of previous job roles and was distinct from, and appeared below, the 'Activity' section where individuals could be posting, sharing, commenting and liking etc. The Appeal Board accepted Roche's submission that navigation such as scrolling and clicking by the reader to see the 'Experience' section text in its entirety.

On the evidence before it, the Appeal Board noted that although the four employees' profiles appeared to be publicly available, the text at issue appeared within the 'Experience' section which, it could be argued, was primarily directed to those with an interest in the individual's work experience such as a potential employer or a recruitment company. On balance, based on the nature of the 'Experience' section within the four Roche employees' LinkedIn profiles, the Appeal Board did not consider that the complainant had established that the information within the 'Experience' section of each of the employee's LinkedIn profiles was such that a prescription only medicine had been advertised to the public and it therefore upheld the Panel's ruling of no breach of Clauses 26.1 and 26.2. The appeal on this point was unsuccessful.

In relation to the allegation that prescription only medicines had been promoted to health professionals, without the obligatory information, as required by the Code, the Appeal Board considered that, given its comments and ruling above, it did not consider that the information in question within the 'Experience' section of the four employees' LinkedIn profile constituted promotion to health professionals and it therefore upheld the Panel's ruling of no breach of Clauses 12.1, 12.3, 12.6, 12.8, 12.9 and 12.10. Consequently, the material did not need to be certified and it upheld the Panel's ruling of no breach of Clause 8.1. The appeal on this point was unsuccessful.

The Appeal Board consequently upheld the Panel's ruling of no breach of Clauses 5.1 and 2. The appeal on this point was unsuccessful.

Complaint received 22 November 2021

Case completed 15 December 2022