

CASE AUTH/3570/10/21

HEALTH PROFESSIONAL v STALLERGENES GREER

Concerns about a LinkedIn post

A health professional complained about a promotional post on LinkedIn by Stallergenes Greer Ltd stating that unfortunately, and not for the first time, Stallergenes Greer had posted on its official LinkedIn account clear mention of the availability of its new named prescription only medicine for house dust mite respiratory allergy. The complainant alleged that this was an advertisement which was prohibited and repeatedly done by the company.

The complainant stated that the advertisement was still available on LinkedIn and further alleged that having different product names listed was concerning as it directly advertised brands and some of the complainant's colleagues had been discussing the new product as an option for their patients since seeing this information.

The detailed response from Stallergenes Greer is given below.

The Panel noted Stallergenes Greer's submission that it had posted the LinkedIn post via its company's corporate account which was based in the United Kingdom where the corporate holding company was based. The Panel thus considered that the post came within the scope of the Code.

The Panel noted Stallergenes Greer's submission that the Code was not applicable to the company at the time of the complaint, and neither was it at the time the LinkedIn post at issue was published; Stallergenes Greer had subsequently joined the non-members list and accepted the jurisdiction of the PMCPA.

The Panel noted Stallergenes Greer's submission that whilst the product was not yet commercialised in the UK, it had been registered in the UK; the marketing authorisations for the different dosages were all granted on 25 June 2021. The UK marketing authorisation was held by Stallergenes SAS. In the Panel's view, the medicine was therefore a prescription only medicine as of 25 June 2021. Whilst the exact date the LinkedIn post was made was unclear, from the evidence before the Panel, it appeared that it was posted between August and October 2021 ie after the marketing authorisation had been granted.

The Panel noted that the prohibitions in the Code regarding the prohibition on advertising prescription only medicines to the public were consistent with the requirements of UK law. Given the requirements of UK law, the Panel did not consider it was unreasonable to rule that the proactive dissemination of the LinkedIn post in question, which contained the brand names and indication of Stallergene Greer's prescription only medicine, to those who were not health professionals or other relevant decision makers, constituted promotion of a prescription only medicine to the public in

breach of the Code and a breach was ruled. High standards had not been maintained in this regard and a breach of the Code was ruled.

The Panel did not consider that the complainant had established that this type of activity was repeatedly done by Stallergenes Greer and no breach of the Code was ruled in that regard.

The Panel did not consider that the particular circumstances of this case warranted a ruling of a breach of Clause 2 which was reserved as a sign of particular censure and no breach was ruled.

A complaint concerning a promotional post on LinkedIn by Stallergenes Greer Ltd, made to the Medicines and Healthcare products Regulatory Agency (MHRA) was referred by the MHRA to the PMCPA. The complainant appeared to be a health professional.

The PMCPA subsequently received a similar complaint from a contactable complainant who appeared to be the same complainant who had submitted the complaint to the MHRA. The complaints were virtually identical and in the complaint to the PMCPA the complainant referred to reaching out to the MHRA. Both complaints were processed under Case AUTH/3570/10/21.

The LinkedIn post at issue stated:

‘After the positive outcome of the European decentralised registration procedure for the Stallergenes Greer’s sublingual #HouseDustMite #AllergenImmunotherapy tablet in May, nine of the 21 member states involved in the procedure have already granted marketing authorisations to the company’s SLIT tablet: Austria, Belgium, Croatia, France, Luxembourg, Romania, Slovakia and Sweden. The tablet is marketed under the brand names Actair, Aitmyte or Orlymyte depending on the country.’

The post included a picture of a man lying on a carpet listening to music via headphones.

COMPLAINT

The complainant provided a link to the specific post to the MHRA and stated that it came to his/her attention that unfortunately, and not for the first time, Stallergenes Greer had posted on its official LinkedIn account clear mention of the availability of its new named prescription only medicine for house dust mite respiratory allergy. The complainant alleged that this was an advertisement which was prohibited and repeatedly done by the company. The complainant stated that prescription medicines should not be named in posts that were linked to the services being provided, as clearly stated under the MHRA Blue Guide Appendix 6.

The complainant stated that the advertisement was still available on LinkedIn and further alleged that having different product names listed was concerning as it directly advertised brands and some of the complainant’s colleagues had been discussing the new product as an option for their patients since seeing this information on their social media account.

In the complaint to the PMCPA the contactable complainant stated that he/she knew that the MHRA supported self-regulation and strongly encouraged pharmaceutical companies to abide by the Code and accept the jurisdiction of the PMCPA for UK advertising as it was not the first time either the complainant or his/her colleagues came across this type of behaviour from this

and other companies. Also, as current practice and confidence prescribers had in the system, the complainant and his/her colleagues knew that the MHRA worked closely with the regulatory and self-regulatory bodies to ensure consistent high standards, and most pharmaceutical companies operating in the UK accepted the Code but did not follow it.

The complainant noted that after carrying out an initial review, the MHRA proposed to refer this complaint to the PMCPA for investigation, as this type of promotion had been flagged several times from colleagues. A link was provided in the complaint to the PMCPA which appeared to take the reader to the company's LinkedIn account rather than a specific post but the post in question appeared as a post on the account which stated that it was based in London, United Kingdom.

The contactable complainant encouraged the PMCPA to contact him/her over email and wanted to know from the PMCPA how it would solve the issue that this company kept infringing, either on social media or through its sales representative's facebook accounts (this did not form part of the current complaint as stipulated by the complainant).

When writing to Stallergenes Greer, the Authority asked it to consider the requirements of Clauses 26.1, 5.1 and 2 of the 2021 Code.

RESPONSE

As a preliminary observation, Stallergenes Greer pointed out that the Code was not currently applicable to the company and neither was it at the time the aforementioned LinkedIn post was published. However, Stallergenes Greer could confirm that for the future it had decided to comply with the Code and thus accept the jurisdiction of the Authority.

Stallergenes Greer stated that regarding the complaint itself, the company's comments on the statements made in the claim were as follows:

- 1 First, the complaint stated that '«... mention of the availability of their new named POM for HDM respiratory allergy should clearly be considered as an advertisement...'

According to Clause 26 of the Code, digital guidance about relations with the public and the media, prescription only medicines cannot be promoted to the public. Whilst promotion is prohibited, factual and balanced information about prescription only medicines can be made available to the public either directly or indirectly. However, statements must not be made for the purpose of encouraging members of the public to ask a health professional to prescribe a specific prescription only medicine. The supplementary information to Clause 26.2 permits companies to post on their websites reference information for the public about prescription only medicines which have marketing authorizations. The primary purpose of the reference information is to be a library resource for the public.

Stallergenes Greer submitted that the post on LinkedIn was indeed an institutional factual and balanced corporate communication and did not include any claim around the product. In any case, it was not encouraging members of the public to ask a health professional to prescribe the product.

- 2 Secondly, the claim states that 'Prescription medicines should not be named in posts that are linked to the service being provided, as clearly stated under the MHRA Blue Guide Appendix 6'.

However, in the purpose of the Blue guide appendix 6, it was clearly stated that this 'guidance is intended primarily for companies and organisations which do not hold marketing authorisations for medicines but which provide services that may lead to the prescription and supply of a prescription only medicine (POM)'.

Stallergenes Greer submitted that thus, the MHRA Blue Guide Appendix 6 does not apply to Stallergenes Greer company since Stallergenes SAS owned the marketing authorization for the product in UK and neither Stallergenes Greer Ltd nor Stallergenes SAS provided any product or services that might lead to prescription and supply of prescription only medicines.

Moreover, Stallergenes Greer noted that although the product was registered in UK, it was not yet commercialised in this country.

- 3 Lastly, the complaint stated that the '...advertisement [is] repeatedly done by this company' and 'this company keeps doing over and over again either on social media or through their sales reps facebook accounts'.

Stallergenes Greer submitted that, again, this post on LinkedIn was a corporate communication done by Stallergenes Greer Ltd as a holding company of the Group Stallergenes Greer and there had been no prior occurrence. In the same manner, Stallergenes Greer did not have any commercial affiliate in UK, nor any distributor promoting the product and consequently, there were no sales representatives in the UK acting for Stallergenes Greer.

For all these reasons, Stallergenes Greer did not understand the allegations made in this anonymous letter and consider this claim totally unjustified.

Stallergenes Greer hoped these elements of answer clarify the situation and thus requested that the complaint forwarded by the MHRA be rejected in its entirety.

In response to a request for further information from the Panel, Stallergenes Greer submitted that by registration, it indeed meant that a marketing authorisation had been granted in the UK for the medicine mentioned in the LinkedIn post. This was stated in its letter dated 18 March which stated 'Stallergenes SAS owns the marketing authorization for the product in the UK'. Stallergenes Greer submitted that the marketing authorisations for the different dosages were all granted on 25 June 2021. Stallergenes Greer confirmed that the product was currently (as of 14 June 2022) still not commercialised in the UK. Stallergenes Greer further confirmed that since its group holding company was currently based in London, it reflected this fact in the information section of its corporate LinkedIn account.

PANEL RULING

The Panel noted Stallergenes Greer's submission that it had posted the LinkedIn post via its company's corporate account which, according to the account details and as confirmed by Stallergenes Greer, was based in the United Kingdom where the corporate holding company was based. The Panel thus considered that the post came within the scope of the Code.

The Panel noted that its role was to consider matters in relation to the Code and not the MHRA Blue Guide; the complainant's allegations regarding the Blue Guide were thus not considered. The Panel could only rule in relation to the Code. The Panel noted Stallergenes Greer's submission that the Code was not applicable to the company at the time of the complaint, and neither was it at the time the LinkedIn post at issue was published. The Panel noted that Stallergenes Greer had subsequently signed the requisite form to join the non-members list and accept the jurisdiction of the PMCPA.

The Panel noted Stallergenes Greer's submission that it did not have any commercial affiliate in the UK, nor any distributor promoting the product and consequently, there were no sales representatives in the UK acting for Stallergenes Greer. The Panel further noted Stallergenes Greer's submission that whilst the product was not yet commercialised in the UK, it had been registered in the UK; the marketing authorisations for the different dosages were all granted on 25 June 2021. The UK marketing authorisation was held by Stallergenes SAS. In the Panel's view, the medicine was therefore a prescription only medicine as of 25 June 2021. Whilst the exact date the LinkedIn post was made was unclear, from the evidence before the Panel, it appeared that it was posted between August and October 2021, ie after the marketing authorisation had been granted.

The Panel noted that Clause 26.1 prohibited the promotion of prescription only medicines to the public. The prohibitions in the Code regarding the prohibition on advertising prescription only medicines to the public were consistent with the requirements of UK law. Given the requirements of UK law, the Panel did not consider it was unreasonable to rule that the proactive dissemination of the LinkedIn post in question, which contained the brand names and indication of Stallergenes Greer's prescription only medicine, to those who were not health professionals or other relevant decision makers, constituted promotion of a prescription only medicine to the public in breach of Clause 26.1 of the Code and a breach was ruled. High standards had not been maintained in this regard and a breach of Clause 5.1 was ruled.

The Panel did not consider that the complainant had established that this type of activity was repeatedly done by Stallergenes Greer and no breach of Clause 5.1 was ruled in that regard.

The Panel did not consider that the particular circumstances of this case warranted a ruling of a breach of Clause 2 which was reserved as a sign of particular censure and no breach was ruled.

Complaint received **19 October 2021**

Case completed **21 June 2022**