

# ANONYMOUS v ALLERGAN

## Botox tweet

An anonymous, non-contactable complainant alleged that a tweet sent by an Allergan employee to a patient organisation and an individual representing that organisation was in breach of the Code. The tweet referred to Botox and stated '... we could do something around stroke rehab ...'. Botox was indicated, *inter alia*, for certain spasticity associated with stroke in adults.

The detailed response from Allergan is given below.

The Panel noted Allergan's submission that its employee had used a personal Twitter account to respond to a tweet from a friend who worked for an agency that worked for the patient organisation. The tweet referred to Botox and rehabilitation in stroke. The Panel noted that although the tweet was intended to be a private message to a friend, tweets were much more public and so in that regard it considered that a prescription only medicine had been advertised to the public. A breach of the Code was ruled as acknowledged by Allergan. High standards had not been maintained. A further breach of the Code was ruled.

The Panel noted that the tweet was sent in error by an individual using a personal account and without the knowledge or authority of Allergan. Pharmaceutical company employees needed to ensure that business relationships and personal relationships were kept very separate particularly when such business relationships were subject to the Code. In the Panel's view pharmaceutical company employees needed to be extremely cautious when using social media. Allergan's company policy clearly stated no Allergan employee might comment in a social media forum about an Allergan product or business activity. The Panel thus noted that Allergan had a policy in place which should have prevented the tweet being sent. The Panel considered that Allergan had been badly let down by its employee. Nonetheless the Panel did not consider that this case warranted a ruling of a breach of Clause 2 which was a sign of particular censure and reserved for such. No breach of that clause was ruled.

An anonymous, non-contactable complainant complained about a tweet from an Allergan employee to an individual at a patient organisation. The tweet referred to the sender's association with Botox (botulinum toxin, marketed by Allergan) and included '... we could do something around stroke rehab'.

Botox had a number of indications including certain spasticity associated with stroke in adults.

## COMPLAINT

The complainant noted that the tweet at issue was sent proactively by an Allergan employee to a patient organisation and an individual representing that organisation. The tweet mentioned Botox by brand name and included '... we could do something around stroke rehab ...'. The complainant alleged a breach of the Code.

When writing to Allergan, the Authority asked it to respond in relation to Clauses 2, 9.1 and 22.1 of the Code.

## RESPONSE

Allergan confirmed that the tweet intercepted by the complainant was sent by one of its employees. It was sent on a private and confidential basis, and was not approved or authorised by Allergan.

Allergan explained that the employee concerned was an occasional user of Twitter (details were provided). The account was entirely personal and not connected with Allergan. The tweet at issue was sent in response to a tweet from a friend whom the employee had known for approximately ten years and was following on Twitter. This friend worked for an agency which worked for a patient organisation. Allergan submitted that the original tweet and the response were the only communication on this matter. Copies of the tweets were provided.

Allergan submitted that its employee had intended to reply directly as a private message to a friend (as in an email), and so was not aware that the reply was accessible not only to the friend, but also to his/her followers and the Twitter followers of the patient organisation he/she worked for. As soon as the matter was brought to the Allergan employee's attention the tweet at issue was deleted from Twitter. The Twitter account had been closed.

The individual concerned knew that the tweet at issue should not have been sent, either to an individual (and/or their followers) or to a patient organisation. Whilst this was a genuine mistake by an infrequent user of Twitter, the employee was aware of his/her error in this matter and had been told that the sending of the tweet violated Allergan's Global Social Media Policy. This policy covered personal use of social media and clearly stated that Allergan would respond promptly to any potential violations of its policy. A copy was provided.

The employee had also been told that the sending of the tweet was in breach of Clause 22.1 of the Code. Any potential breaches of the Code by employees were promptly investigated by Allergan. A full internal investigation had been instigated and would result in appropriate disciplinary action.

Allergan submitted that it took this matter extremely seriously and, apart from actions being undertaken with the employee, it had looked at training on social media in general and had updated its social media policy. Allergan would include further emphasis on the personal use of social media.

All UK employees had been sent an update on the use of social media together with a copy of the PMCPA guidance on digital communications and training materials on the Code would be updated to include a specific section on social media.

Regarding the potential breaches of the Code, Allergan acknowledged that the sending of the tweet was a breach of Clause 22.1.

Allergan noted that this was an error by an individual, rather than a company failure. The employee's error in inappropriately replying to a tweet from a friend, compounded by inexperience with the use of Twitter, resulted in the tweet also being sent to Twitter followers of a patient organisation.

Allergan stated that it appreciated the serious nature of this issue and had undertaken appropriate remedial action. However, it did not believe this was a breach of either Clause 9.1 or Clause 2. Allergan had clear policies in place and training was provided on both internal Allergan policies and the Code.

#### **PANEL RULING**

The Panel noted Allergan's submission that the individual concerned had used his/her own personal Twitter account to respond to a tweet from a friend who worked for an agency that worked for a patient association. The tweet referred to Botox and rehabilitation in stroke. The Panel noted that the

tweet was intended to be a private message to a friend as in an email but tweets were much more public. According to Allergan this tweet had been sent to the friend, the friend's followers and followers of the patient organisation. The sender was described as an occasional and inexperienced user of Twitter.

The Panel noted that the tweet named a prescription only medicine (Botox) and referred to a potential use (rehabilitation following a stroke). In that regard the Panel considered that a prescription only medicine had been advertised to the public. A breach of Clause 22.1 was ruled as acknowledged by Allergan. High standards had not been maintained. A breach of Clause 9.1 was ruled.

The Panel noted that the tweet was sent in error by an individual using their own account and without the knowledge or authority of Allergan. The sender's Twitter account had been closed. The Panel considered that pharmaceutical company employees needed to ensure that business relationships and personal relationships were kept very separate particularly when such business relationships were subject to the Code. In the Panel's view pharmaceutical company employees needed to be extremely cautious when using social media. It noted that the Allergan Global Social Media Policy clearly stated with regard to personal use of social media that users might not address Allergan-related topics unless specifically authorized by Allergan to do so. As an example it was stated that no Allergan employee might comment in a social media forum about an Allergan product or business activity. The Panel thus noted that Allergan had a policy in place which should have prevented the tweet being sent. The Panel considered that Allergan had been badly let down by its employee. Nonetheless the Panel did not consider that this case warranted a ruling of a breach of Clause 2 which was a sign of particular censure and reserved for such. No breach of Clause 2 was ruled.

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| <b>Complaint received</b> | <b>10 November 2011</b> |
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| <b>Case completed</b> | <b>13 December 2011</b> |
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