

COMPLAINANT v FERRING**Allegations about a website****CASE SUMMARY**

This case related to artwork used on the Obstetrics and Fertility pages of a Ferring health professional website. The complainant alleged that using images of babies on these pages of the website was inappropriate as the products mentioned within the website were not indicated for children. The complainant further alleged that, in the absence of accompanying efficacy data, the images of babies created a false expectation of the success of in vitro fertilisation and did not encourage the rational use of medicines.

The outcome under the 2021 Code was:

No Breach of Clause 6.1 (x2)	Requirement that information, claims and comparisons must not be misleading
No Breach of Clause 6.3 (x2)	Requirement that all artwork must conform to the letter and spirit of the Code
No Breach of Clause 14.4	Requirement that promotion must encourage the rational use of a medicine by presenting it objectively and without exaggerating its properties
No Breach of Clause 5.1	Requirement to maintain high standards at all times

**This summary is not intended to be read in isolation.
For full details, please see the full case report below.**

FULL CASE REPORT

A complaint was received from an anonymous, contactable complainant who described themselves as a health professional about Ferring.

COMPLAINT

The complaint wording is reproduced below:

“On the Ferring website [website address provided] there are the images below, including babies.

Note the products mentioned - all are for use on adult women who either trying to be, are or were recently pregnant and none are indicated on children of any age. These images are therefore not appropriate for these products.

[Screenshots of the Ferring Obstetrics website provided]

More significantly, inappropriate images are present on the following pages:

[Screenshots of the Ferring For Fertility, and subsequent linked pages provided]

IVF has many uncertainties and having the pictures of babies could create false expectations - at no point on the initial page where the images are to be found is there any efficacy data to say the chances of becoming pregnant.

To conclude, the images are both inappropriate as the treatment is not for children, and do not help promote rational use of the medicines by subliminally linking the products to successfully having a child.

Please investigate.”

When writing to Ferring, the PMCPA asked it to consider the requirements of Clauses 5.1, 6.1, 6.3 and 14.4 of the 2021 Code.

FERRING'S RESPONSE

The response from Ferring is reproduced below:

“Thank you for your letter of 17th September 2024 regarding allegations raised by an anonymous complainant about the Ferring UK website for HCPs [website address provided].

We will respond to the issues raised by the PMCPA and by the complainant, and address each of the therapy area website pages. When responding to this complaint, you have guided us to bear in mind the requirements of Clauses 5.1, 6.1, 6.3 and 14.4 of the 2021 Code.

Complaint

The complainant has raised a number of issues related to the inclusion of images of babies on an HCP website promoting medicines for fertility and obstetrics. Ferring denies all alleged breaches.

The specific words used by the complainant are:

"Note the products mentioned - all are for use on adult women who either trying to be, are or were recently pregnant and none are indicated on children of any age. These images are therefore not appropriate for these products.

"IVF has many uncertainties and having the pictures of babies could create false expectations - at no point on the initial page where the images are to be found is there any efficacy data to say the chances of becoming pregnant.

To conclude, the images are both inappropriate as the treatment is not for children, and do not help promote rational use of the medicines by subliminally linking the products to successfully having a child."

It is clear that the complainant is worried HCPs might be misled regarding the use of the medicines in babies and the likelihood of success of using fertility products in IVF because of the photos. Ferring contends that this is a highly unlikely scenario.

The **Ferring Obstetrics website** referred to in the complaint is a website intended for and targeted to HCPs only and the HCPs will themselves have to seek to view the content. In order to access the website, an HCP would need to confirm a declaration that they are an HCP before being allowed entry into the website.

The tab to enter this part of the website is called 'Obstetrics' which HCPs would understand as a medical speciality focused on caring for pregnant mothers before, during and after childbirth. The website has multiple images of pregnant women with their hands on their abdomen, indicating that the concerned medications are for use by pregnant women. Three products are featured on the page that is the subject of the complaint – Propess® (dinoprostone), Pabal® (carbetocin) and Tractocile® (atosiban acetate). The indications of all 3 mentioned products are clearly described on the website and are fully aligned with the respective SPCs which are attached herewith.

1. Propess® is licensed for initiation of cervical ripening in pregnant women at term (from 37 completed weeks of gestation).
2. Pabal® is licensed for the prevention of postpartum haemorrhage due to uterine atony, after delivery of the infant.
3. Tractocile® is licensed to delay imminent pre-term birth in certain pregnant women.

As per Clause 5.1, we believe we have maintained high standards. The special nature of the 3 medicines and the information provided for each of these medicines is of high standards, and the information is directed to HCPs.

We believe that the information provided for the 3 medicines is aligned with Clause 6.1. All stated claims in the material provided are referenced accurately and capable of standing alone as regards accuracy.

With regards to Clause 6.3, it is our opinion that HCPs accessing this Obstetrics website where the indications for the featured products are clearly laid out, could not possibly be misled into thinking that the products were for use in children. The images of babies are clearly explaining the intended outcome of treatment and not advocating the use of the products in babies themselves. We strongly believe that the pictures of the babies on the website do not in any way exaggerate the properties of the medicines stated and in no way encourage HCPs to use the products in children.

We also believe it is appropriate to include images of babies on the obstetrics HCP website pages because the field of obstetrics concerns the management of pregnant women and the subsequent delivery of babies. It is not expected that any HCP would prescribe a prescription only medicine on the basis of images on a website but would be expected to research the products further and clearly understand the licensed indications and populations before prescribing.

In relation to the **'Ferring for Fertility' website pages**, again this is a website intended for and targeted to HCPs only and the HCPs will themselves have to seek to view the

content. In order to access the website, an HCP would have to confirm a declaration that they are an HCP before being allowed entry into the website.

The indications of all 4 mentioned products are clearly described on the website and are fully aligned with the respective SPCs which are attached herewith.

1. Menopur® is licensed for the treatment of female infertility in certain groups of women.
2. Rekovelle® is licensed for controlled ovarian stimulation for the development of multiple follicles in women undergoing ART.
3. Fyremadel® is licensed for the prevention of premature luteinising hormone surges in women undergoing controlled ovarian hyperstimulation for ART.
4. Lutigest® is licensed for luteal support as part of ART treatment program for infertile women.

As per Clause 5.1, we believe we have maintained high standards. The special nature of the 4 medicines and the information provided for each of these medicines is of high standards, and the information is directed to HCPs.

As per Clause 6.1, we believe that the material is sufficiently complete to enable viewers to form their own opinion of the therapeutic value of the medicine. All stated claims in the material provided are referenced accurately and are capable of standing alone as regards accuracy.

With regards to Clause 6.3, it is our opinion that HCPs accessing a Fertility website on which the indications for the featured products are clearly laid out, could not possibly be misled or have false expectations into thinking that the products were for use in children, based on the images of children on the website. The introductory statement at the top of the website under the heading 'Ferring for Fertility' clearly states that Ferring develops fertility treatments and has been working in fertility for decades. An HCP entering this website would understand that 'Fertility' implies a person's ability to conceive a child and would be under no illusion that any of the 4 medications stated were for the treatment of babies. We strongly feel that the pictures of the babies on the website would in no way mislead or encourage HCPs to use the products in children.

We believe it is appropriate to include images of babies and families on the fertility HCP website pages because the field of fertility is all about trying to achieve a pregnancy and a family, and babies are at the very centre of this therapy area. The webpages also clearly link to further information on the products (including SPCs and Prescribing Information) which clearly outline the therapeutic indications and target population of each product, which is women trying to conceive. It is not expected that any HCP would prescribe a prescription only medicine on the basis of images on a website but would be expected to research the products further and clearly understand the licensed indications and populations before prescribing.

With regard to the 'Ferring for Fertility' pages, the complainant also states that 'at no point on the initial page where the images are to be found is there any efficacy data to say the chances of becoming pregnant.'

We do not agree with the allegation that there is no efficacy data presented, as the initial page where the 4 concerned medicines are stated, has a tab for each medicine

to take the reader to further information, including clinical data concerning the efficacy and safety of each of the medicines stated.

A link to the Prescribing Information for each product is also available on relevant pages. It is not expected that any HCP would prescribe a prescription only medicine on the basis of images on a website but would be expected to research the products further and clearly understand the licensed indications and populations before prescribing.

[Screenshot of the Ferring For Fertility page provided]

The complainant also poses the allegation that the use of images of babies on the fertility HCP website is misleading as to the efficacy of the fertility medicines. We do not believe this to be the case as these webpages are for HCPs only (with appropriate gating in place before the said website pages can be viewed). HCPs working in the field of fertility are well aware of the success rates of IVF and would not be misled by the pictures of babies and information provided, into thinking that the drugs are to be used in children or that use of these drugs result in a high success rate. The success rates of assisted reproductive technology (ART), including in vitro fertilisation (IVF), are widely documented and are in the public domain. For example:

- i. The UK government fertility regulatory body, the Human Fertilisation and Embryology Authority (HFEA) publishes impartial, accurate information about IVF and other fertility treatments, including success rates of IVF treatment on their website via a dashboard – see screenshot below¹ and link here: [website address provided].

[Screenshot of the HFEA website, showing statistics on IVF birth and pregnancy rates provided]

- ii. The NICE Clinical Guidelines - Fertility problems: assessment and treatment, Clinical guideline [CG156] Published: 20 February 2013; Last updated: 06 September 2017, are publicly available evidence-based recommendations for health and care in England and Wales, that are referred to by HCPs to help them to make decisions around prescribing medicines and what treatments to recommend. These guidelines also provide data on efficacy and success rates of IVF treatment².
- iii. The success rates of IVF treatment are frequently quoted in the mainstream media when reporting on IVF treatment, see examples from The Guardian³ and the Mail Online⁴ attached.
- iv. As such, we believe IVF treatment success rates are widely accessible and understood, particularly within the HCP community, and we have made no attempt on our website to exaggerate the efficacy of our products.

As per Clause 14.4, we strongly believe that the pictures of the babies on the website do not in any way exaggerate the properties of the medicines stated and would in no way encourage HCPs to use the products in children. We do not believe that an HCP would prescribe a medication just after viewing the first page, and without consulting the product SPC or Prescribing Information.

For all of the reasons stated above, we do not agree with any of the allegations raised by the complainant. We would respectfully disagree with the complainant's conclusion that the images on the website are inappropriate and do not help promote rational use of the medicines. The information on the website is targeted to HCPs and the images of women, pregnant women, family and babies are presented in a balanced manner. The babies are clearly explaining the intended outcome of treatment and not advocating the use of the products in babies themselves.

We therefore do not believe that the website has breached the requirements of Clauses 5.1, 6.1, 6.3 and 14.4 of the 2021 Code.

We hope that the above has answered all the queries raised by PMCPA and also clarified the issues raised by the complainant."

PANEL RULING

This complaint related to the use of images on a Ferring health professional website. The complainant alleged that the use of images of babies on the Obstetrics and Fertility pages of the website was inappropriate.

The Panel noted the complainant, in correspondence with the Case Preparation Manager, had raised supplementary matters not covered in their initial complaint. When asked by the Case Preparation Manager to clarify the ambit of the complaint the complainant referred the Case Preparation Manager to their initial email. The Panel therefore considered the allegations, as set out in the original complaint to which Ferring had been asked to respond.

The images at issue appeared on the Obstetrics and Fertility pages of the Ferring website. The Panel noted Ferring's submission that this website was intended for health professionals who, in order to access the website, would need to confirm they were a health professional. The website contained a navigation banner from which visitors could access therapy area related sections.

The webpage in question within the Obstetrics section of the website contained a large carousel banner which featured three Ferring products, Propess (dinoprostone), Pabal (carbetocin) and Tractocile (atosiban), above the claim 'Helping People Live Better Lives' and alongside images of pregnant women, and adult hands holding a baby's feet. Below the banner, under the heading 'Welcome to Ferring Obstetrics' there was information about Ferring's history in the obstetrics therapy area. This section included the statement 'The current product portfolio has treatments for induction of labour, prevention of postpartum haemorrhage due to uterine atony'. Alongside this statement there was an image of a sleeping baby. Beneath this was a 'Products' section which provided the licenced indications for Propess, Pabal and Tractocile alongside links to prescribing information for each product and a link to 'learn more' about Propess. The 'Products' section featured an image of a pregnant woman with her hands on her abdomen.

The Fertility section of the website included a landing page with a banner titled 'FERRING FOR FERTILITY'. The banner included the statement 'Ferring is committed to building healthy families by developing innovative fertility treatments and expanding access to IVF treatment. For potential parents and their HCPs, Ferring has been a trusted partner in fertility for decades, backed by a cutting-edge portfolio of products underpinned by scientific rigour.' Beneath the heading there were four tiles containing a product name, a corresponding image and a link to

'read more'. The images contained within the tiles included pregnant women, babies and children or, ultrasound pictures. Clicking the tiles directed website users to individual product pages. These pages contained further information on the corresponding products, including the indication and prominent associated images.

Allegation regarding use of the medicines in babies

The Panel noted the complainant's allegation that the images of babies were inappropriate as none of the products listed on the website were indicated for children of any age. The Panel noted that the images at issue were contained within the Obstetrics and Fertility sections of the website and that the website was intended for health professionals. The Panel agreed with Ferring's submission that health professionals visiting the website would understand that Obstetrics and Fertility were medical specialities focused on pregnant mothers before, during and after childbirth. The Panel considered that the overall impression of the pages, including the text that accompanied the images, was relevant. The Panel noted that the Obstetrics page provided the licenced indications for the products listed and that the Fertility landing page linked through to individual product pages which provided further information on the products. In the Panel's view it was very unlikely that health professionals would infer from the images of babies that the medicines listed within the website pages in question could be prescribed for babies as alleged. On that basis, **the Panel ruled no breach of Clauses 6.1 and 6.3** in relation to each of the obstetrics and fertility webpages.

Allegation regarding false expectations of successful IVF outcomes

The Panel noted the complainant's allegation that the use of images of babies on the Fertility pages of the website could create false expectations of becoming pregnant as the webpage did not contain any efficacy data for the products listed and consequently did not promote the rational use of medicines.

The Panel noted Ferring's submission that health professionals working in fertility would be aware of the success rates of IVF and would not be misled by the images of babies. The Fertility section of the website referenced four products, Menopur (menotrohin), Rekovelle (folitropin delta), Fyremadel (ganirelix acetate) and Lutigest (progesterone). The Panel noted Ferring's submission that the website was intended for health professionals who have to self-validate as such to gain access and then have to themselves seek to view content. Irrespective of whether health professionals had to proactively find the content the Panel noted that the webpages had to be capable of standing alone in relation to the requirements of the Code.

The Panel considered that that the potential audience of the Fertility section of the website was not limited to health professionals specialising in fertility and therefore had a potentially broad non specialist audience. In the Panel's view such a broad health professional audience might have a very general understanding of the difficulties of fertility and its treatment but were much less likely to have a detailed awareness of the fertility treatment landscape including Ferring's products and their relative efficacy. There was no text on the webpages in question which indicated that the content was for specialists only.

The Panel noted the content and layout of the landing page for the Fertility section set out above. The Panel further noted that in relation to this allegation the complainant had also provided screenshots of certain linked product webpages. Each linked webpage featured the claim 'We give you the science, you make it' alongside a prominent image of a scan, pregnancy

or a baby. The linked page for Menopur featured the claim 'Delivering patient outcomes' below an image of a pregnant woman and above an image of a baby. The linked pages provided by the complainant set out factual information about the indication, they did not refer to the likelihood of conception.

The Panel considered that given the therapy area it was not unacceptable to use images of successful conception and outcomes so long as the material complied with the Code. The Panel also acknowledged the binary nature of successful outcomes in this therapy area.

Bearing in mind the broad audience, the Panel had concerns about the visual prominence and the number of positive images of successful conception combined with strong statements introducing the product range. The Panel however noted that the complainant bore the burden of proof and had to establish their case on the balance of probabilities. The complainant had not provided or referred to any efficacy data or other evidence to support their view that the use of images of babies on the Fertility pages of the website could create false expectations of becoming pregnant and therefore the webpages ought to contain efficacy data for the products listed. The Panel, therefore, whilst acknowledging that it had certain concerns outlined above, considered that the complainant had not established that images on the webpage did not satisfy the requirements of Clauses 6.1 and 6.3 on the narrow ground alleged and **no breach of these Clauses was ruled** accordingly.

The Panel noted that Clause 14.4 stated that promotion must encourage the rational use of a medicine by, amongst other things, presenting it objectively. It followed from the Panel's ruling of no breaches of Clauses 6.1 and 6.3 above that on the narrow ground alleged the complainant had not established that the images within the context of the webpages had not been presented objectively and therefore the Panel ruled **no breach of Clause 14.4**.

On the basis of the Panel's no breach rulings above that Ferring had not used inappropriate images of babies on the Obstetrics and Fertility pages the Panel did not consider that the complainant had established that Ferring had failed to maintain high standards and the Panel ruled **no breach of Clause 5.1**.

Complaint received **26 July 2024**

Case completed **31 October 2025**