

Press release: Drug firms accused of illegal market sharing over anti-nausea tablets



The CMA has provisionally found that 4 pharmaceutical companies broke the law by agreeing not to compete in the supply of an anti-nausea drug in the UK.

In a statement of objections issued today, the Competition and Markets Authority (CMA) alleges that, between June 2013 and July 2018, Alliance, Focus, Lexon and Medreich agreed not to compete for the supply of prescription-only Prochlorperazine 3mg dissolvable or “buccal” tablets to the NHS. Prochlorperazine is an important drug used to treat nausea and dizziness.

Between December 2013 and December 2017, the prices paid by the NHS for Prochlorperazine rose by around 700% from £6.49 per pack of 50 tablets to £51.68. From 2014 to 2018, the annual costs incurred by the NHS for Prochlorperazine increased from around £2.7 million to around £7.5 million, even though the number of packs dispensed fell.

The CMA has provisionally found that Lexon and Medreich were paid a share of the profits earned by Focus on the supply of the Alliance product, and agreed not to compete for the supply of Prochlorperazine in the UK.

The CMA provisionally finds that Alliance, Focus, Lexon and Medreich entered into an overarching agreement that was implemented through 2 separate agreements – one between Alliance and Focus, and one between Focus, Lexon and Medreich. Under these alleged agreements Alliance supplied Prochlorperazine exclusively to Focus. Focus then paid Lexon a share of the profits it earned on the onward sales of Alliance’s Prochlorperazine. Lexon, in turn, shared these payments with Medreich.

In its provisional findings the CMA alleges that, before entering into this arrangement, Lexon and Medreich had been taking steps to launch their jointly

developed Prochlorperazine. Although Medreich obtained a licence to supply Prochlorperazine in January 2014, it did not supply the product until November 2017.

The CMA alleges that each of the agreements between Alliance and Focus and between Focus, Lexon and Medreich, individually broke competition law.

Ann Pope, CMA Senior Director of Antitrust, said:

Agreements where a company pays a rival not to enter the market can lead to higher prices and deprive the NHS of huge savings that often result from competition between drug suppliers.

The NHS should not be denied the opportunity of benefitting from an increased choice of suppliers, or lower prices, for important medicine.

This is the CMA's provisional finding and the companies now have the chance to make representations to the CMA before it reaches a final decision.

For more information see the [pharmaceuticals: suspected anti-competitive agreements](#) case page.

Notes to editors

1. The over-arching agreement referred to in the SO commenced in June 2013, and the CMA believes continued until July 2018. Medreich was party to the alleged infringing agreement from February 2014 until February 2018.
2. The Statement of Objections is addressed to: (i) Alliance Pharmaceuticals Limited and Alliance Pharma plc; (ii) Focus Pharmaceuticals Limited, Focus Pharma Holdings Limited, Mercury Pharma Group Limited, Concordia Investment Holdings (UK) Limited, Concordia Investments (Jersey) Limited and Advanz Pharma Corporation; (iii) Cinven Capital Management (V) General Partner Limited, Cinven (Luxco 1) S.A. and Cinven Partners LLP; (iv) Lexon (UK) Limited and Lexon UK Holdings Limited; and (v) Medreich plc, Medreich Ltd, Meiji Seika Pharma Co. Ltd and Meiji Holdings Co. Ltd.
3. In this Statement of Objections, the CMA proposes to find (in some cases for part of the time period under investigation) that the following legal entities formed part of: (i) the undertaking referred to as Alliance – Alliance Pharmaceuticals Limited and Alliance Pharma plc; (ii) the undertaking referred to as Focus – Focus Pharmaceuticals Limited, Focus Pharma Holdings Limited, Mercury Pharma Group Limited, Concordia Investment Holdings (UK) Limited, Concordia Investments (Jersey) Limited, Advanz Pharma Corporation, Cinven Capital Management (V) General Partner Limited, Cinven (Luxco 1) S.A. and Cinven Partners

LLP; (iii) the undertaking referred to as Lexon – Lexon (UK) Limited and Lexon UK Holdings Limited; and (iv) the undertaking referred to as Medreich – Medreich plc, Medreich Ltd, Meiji Seika Pharma Co. Ltd and Meiji Holdings Co. Ltd.

4. A Statement of Objections gives parties notice of a proposed infringement decision under the competition law prohibitions in the Competition Act 1998 and EU law equivalents. It is a provisional decision only and does not necessarily lead to an infringement decision. Parties have the opportunity to make written and oral representations on the matters set out in the Statement of Objections. Any such representations will be considered by the CMA before a final decision is made. The final decision will be taken by a case decision group, which is separate from the investigation team and was not involved in the decision to issue the Statement of Objections.
5. The Statement of Objections will not be published. However, any person who wishes to comment on the CMA's provisional findings, and who is in a position materially to assist the CMA in testing its factual, legal or economic arguments, may request a non-confidential version of the Statement of Objections by contacting the CMA.
6. Media queries should be directed to press@cma.gov.uk, or call 020 3738 6460.