

CMA imposes £1.2m in fines for price-fixing in private eyecare

Press release

The CMA has found that a private hospital group and 7 consultant ophthalmologists broke competition law by taking part in illegal price fixing.



Following an investigation by the Competition and Markets Authority (CMA), Spire Healthcare Limited and Spire Healthcare Group plc (Spire) has admitted that one of its hospitals instigated and facilitated an illegal arrangement with 7 consultant ophthalmologists. They have all admitted that they agreed to fix fees for initial private consultations for self-pay patients at £200 and will now face fines totalling more than £1.2 million.

Ophthalmology is a branch of medicine specialising in the treatment of eye disorders like cataracts or glaucoma. Private consultants set their own prices for initial consultations for self-pay patients, but by agreeing not to compete with each other on price, the Spire hospital and the consultants in this case denied potential patients the chance to choose between the consultants to get the best deal.

The arrangement between Spire and the consultants, who all operated out of a Spire hospital in the north of England, continued for almost 2 years. It was first initiated following a dinner organised by that hospital's management and attended by 5 of the 7 ophthalmologists, during which the topic of fees was raised. After the dinner, a Spire employee at the hospital sent an email to all 7 consultants to suggest that the agreed price for initial consultations for self-pay patients be set at £200 going forward.

The ophthalmologists confirmed they would charge this fee, with 4 of them raising their prices from £180 to £200. The remaining 3 were already charging £200 and continued to charge this amount. Spire then liaised with its customer service team to facilitate the arrangement.

Michael Grenfell, Executive Director of Enforcement at the CMA, said:

Initial consultations are an essential first step for people suffering from eye disorders. It is unacceptable that patients were unable to shop around and get the best deal because Spire and the consultants illegally set a minimum consultation fee.

It is particularly disappointing that the CMA has had to take action in the private ophthalmology sector again, following a previous finding of anti-competitive practices in the sector in 2015. Today's decision, and the subsequent fines, send a clear signal that we will not tolerate anti-competitive behaviour.

The total fines imposed take into account the behaviour of those involved. The CMA has discounted each of the fines by 20% to reflect that they all admitted to the illegal arrangement and agreed to cooperate with the CMA, thereby shortening the length of its investigation.

One consultant was not fined as they brought the illegal activity to the CMA's attention and fully cooperated with its investigation.

Notes to editors:

1. The final total penalties payable are set out as the following:
£1,200,000 for Spire Healthcare Limited and Spire Healthcare Group plc;
the consultants received fines of: £2,978, £1,186, £2,312, £2,193,
£3,859, £642
2. The arrangement was found to have taken place from at least 29 August 2017 to 3 July 2019. In the case of one consultant, the arrangement was up to 28 June 2018, when they stopped consulting at the Hospital.
3. In arriving at its decision in this case the CMA reiterates the established legal position that persons entering into an agreement to fix prices may break the law, even where this does not involve them having to subsequently change their prices. Equally a business can break the law if they are facilitating illegal conduct, even if they don't supply the product or service for which the price has been fixed.
4. A party under investigation by the CMA may enter into a settlement agreement if it is prepared to admit that it has breached competition law and is willing to agree to a streamlined administrative procedure for the remainder of the investigation. In return, the CMA imposes a reduced penalty on the business where settlement would achieve clear efficiencies, resulting in the earlier adoption of any infringement decision and other resource savings.
5. The Statement of Objections in this case was issued to the parties on 09 June 2020.
6. [The CMA previously issued fines of £382,500 after finding a membership organisation of private consultant ophthalmologists broke competition law.](#)
7. Further detail of the CMA's procedures in Competition Act 1998 cases is available in [CMA's procedures in Competition Act 1998 cases.](#)
8. Anyone who has information about a cartel is encouraged to call the CMA cartels hotline on 020 3738 6888 or email cartelshotline@cma.gov.uk.
9. More information on this investigation can be found on the ['Privately](#)

[funded ophthalmology services' investigation case page](#).

10. Media enquiries should be directed to the CMA's press team:
press@cma.gov.uk, or 020 3738 6460.

Published 1 July 2020