

# [Dar Lighting fined £1.5 million for illegally preventing online price discounts](#)

The CMA has issued millions of pounds worth of fines in recent years to firms, including those in the [lighting](#) and [musical instrument](#) sectors, for preventing retailers from offering discounts online.

Most recently, in March 2022, [we fined Dar Lighting, a supplier of domestic light fittings, £1.5 million](#) for restricting the level of discounts retailers could offer to customers online.

Stopping firms from illegally preventing discounts online is becoming more and more important with online retail growing significantly in the UK in recent years. The impact of the Covid-19 pandemic has meant more people than ever before now shop online.

When online resellers have the freedom to price items independently, competition can thrive as rivals compete to offer the best deal to customers. This gives people the option to compare prices and shop around for a better deal. However, if a supplier dictates to its resellers a specific minimum price that they cannot drop below, or tries to stop them from selling at a reduced price, rival resellers are prevented from competing on price and customers lose out. This practice is known as Resale Price Maintenance (RPM) and is illegal.

## **What happened**

Between 2017 and 2019, Dar Lighting illegally restricted resellers' freedom to offer discounts beyond a certain level online. This was even after the company received 2 separate [warning letters](#) from the CMA prior to the investigation. For ignoring these warning letters, and not taking sufficient action in response, the CMA increased Dar's fine by 35%.

## **Selective Distribution Agreements**

Selective Distribution Agreements (SDAs) are a legitimate way for a business to make products available to a number of select retailers, who meet certain criteria. SDAs are often used to help protect the brand of a business.

However, suppliers using SDAs must never misrepresent what an SDA allows them to do. In this case, alongside its SDAs, Dar imposed restrictions on its resellers' ability to discount and, in doing so, broke the law.

## **Anti-discount culture**

Internal communication at Dar highlights its policy of restricting

discounting online. In an internal email captured by the CMA, a Dar employee says:

“We need to focus on the websites. No ‘sales’ ‘offers’... at all.”

The following CMA evidence – a message sent by a senior employee at Dar – furthermore underlines the policy was to restrict advertising of discounts online:

“No one should be advertising 40% off...in their header. We are not a discount brand.”

During the investigation a lighting reseller told the CMA that the threat of being dropped as an approved stockist made him comply with pricing instructions.

He wrote: “... we were told not to sell any Lighting Book 2 or David Hunt products below list price... We were told if we did not adhere to this policy our account would go on hold or be closed...”

Further to this, WhatsApp messages sent by Dar to its resellers evidence instructions by Dar to retailers to increase the retail prices of its product, for example: “Can you increase the price to 325 until further notice.”

## **How this broke the law**

Dar instructed some of its resellers not to sell below a specified price and they agreed to this.

Preventing resellers from being able to independently set their own prices and offer customer discounts is illegal.

## **Lessons learned from this case**

- Take CMA warning and advisory letters seriously
- If you receive a CMA warning or advisory letter you should seek independent legal advice and follow that legal advice carefully
- You risk increased fines if after receiving a CMA warning or advisory letter you are later investigated and found to have broken the law
- The CMA can observe e-commerce for signs of restrictive pricing patterns – we have [online monitoring tools](#) at our disposal and have taken a number of RPM cases across different sectors in recent years
- Do not make the mistake of thinking that the CMA will not open an investigation without first having sent a warning or advisory letter – several of the CMA’s RPM investigations did not involve warning or advisory letters
- Be on high alert to anti-competitive risks in your business – take steps to ensure your business is compliant, with regular training
- Never try to misuse an SDA to try and dictate the prices at which a reseller can advertise or sell products online
- When setting up an SDA, if in doubt, ensure you get independent legal

advice and follow it carefully

- If you are investigated by the CMA, there are benefits to be had by owning up to misconduct – in this case Dar Lighting was granted a 20% discount because it admitted it had broken the law and settled the case with the CMA

## Benefits of blowing the whistle

If a company is the first to report being part of an RPM agreement and fully co-operates with an investigation, it can benefit from immunity from fines and its co-operating directors can avoid director disqualification.

Even after an investigation has started, businesses may still benefit from reduced fines through our [leniency programme](#).

Individuals may also be eligible for immunity from prosecution and director disqualification if they come forward independently and co-operate with the investigation.

If you think you may have broken the law, we always recommend that you seek independent legal advice as soon as you can from lawyers of your choice. If you do not have your own legal advisers, you can use other sources of advice, such as the [Competition Pro Bono Scheme](#). This scheme offers an initial free legal consultation. Other organisations may offer a similar service.

If you have information on other companies in your industry that may have been involved in an anti-competitive arrangement, report it to us; [you may qualify for a reward](#).

For more information, including how best to report, see our [‘Cheating or Competing?’ campaign page](#).