

Press release: Pharma firms accused of illegal agreements over life-saving drug

The Competition and Markets Authority (CMA) has provisionally found that, from July 2011 to April 2015, the sole supplier of hydrocortisone tablets in the UK, Auden Mckenzie, and its rival, Waymade, entered into anti-competitive agreements.

This may also have involved Auden Mckenzie abusing its dominant position by making monthly payments to Waymade not to enter the market. The CMA has today issued its concerns in a 'Statement of Objections' to the companies involved.

As a result of this alleged anti-competitive behaviour, the CMA believes the NHS was denied a choice of suppliers and the potential savings resulting from increased competition.

Hydrocortisone tablets are the primary treatment for people suffering from the life-threatening Addison's Disease, where adrenal glands produce insufficient amounts of natural steroid hormones. These tablets are a frontline treatment with limited alternatives available for patients.

From 2011 to 2015, while Auden Mckenzie remained the sole supplier of 20 mg hydrocortisone tablets, charges to the NHS rose from around £46 to £90 for a pack of 30 tablets, increasing the annual costs incurred by the NHS for the medicine from £1.7 million to £3.7 million.

The CMA provisionally finds that in May 2011, Waymade was ready to enter the market for 20 mg hydrocortisone tablets, but then failed to do so until July 2015. Instead, it froze its own stock and agreed a deal with Auden Mckenzie under which it received monthly payments aimed at delaying its entry as a competitor in the market.

Waymade also obtained a licence to sell 10 mg hydrocortisone tablets in September 2012. In exchange for Waymade not entering the market and competing with its own tablets, the CMA alleges that Auden Mckenzie significantly lowered the price it charged Waymade from the market rate of around £32 per pack to £1.

Michael Grenfell, the CMA's Executive Director for Enforcement said:

The CMA has today provisionally found that Auden Mckenzie and Waymade broke competition law through Auden Mckenzie paying its rival to stay out of the market.

Hydrocortisone is a lifesaving drug for those suffering with Addison's Disease in the UK. The NHS should not be denied the opportunity of benefitting from an increased choice of suppliers

and potential savings on what it spends on this essential drug.

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

For more information see the [hydrocortisone tablets: alleged anti-competitive agreements and conduct](#) case page.

Notes to editors

1. The Chapter I prohibition in the Competition Act 1998 prohibits anti-competitive agreements and concerted practices between businesses which have as their object or effect the prevention, restriction or distortion of competition within the UK. The Chapter II prohibition in the Competition Act 1998 prohibits the abuse of a dominant position by one or more companies which may affect trade within the UK or a part of it. Similarly, Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU) prohibit, respectively, anti-competitive agreements and the abuse of a dominant position which may affect trade between EU member states.
2. The CMA may impose a financial penalty on any business found to have infringed either of these prohibitions of up to 10% of its annual worldwide group turnover. In calculating financial penalties, the CMA takes into account a number of factors including seriousness of the infringement(s), turnover in the relevant market and any mitigating or aggravating factors.
3. A Statement of Objections gives parties notice of a proposed infringement decision under the competition law prohibitions in the Competition Act 1998 or the TFEU. 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 any final decision is made. The final decision will be taken by a case decision group, which is separate from the case investigation team and was not involved in the decision to issue the statement of objections.
4. 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.
5. In this Statement of Objections, the CMA proposes to find that the following legal entities formed part of the undertaking Auden Mckenzie; from 1 July 2011 until 31 October 2012 Auden Mckenzie (Pharma Division) Limited; from 1 November 2012 until 30 April 2015 Auden Mckenzie (Pharma Division) Limited and its holding company, Auden Mckenzie Holdings Limited.
6. The Statement of Objections is addressed to Auden Mckenzie (Pharma Division) Limited, Auden Mckenzie Holdings Limited and Accord-UK Limited. Accord-UK Limited (formerly named Actavis UK Limited) is an addressee because the CMA provisionally considers it was the economic

successor of Auden Mckenzie (Pharma Division) Limited and should therefore be held liable for that company's direct involvement in the alleged infringements for their full duration.

7. The Statement of Objections is additionally addressed to Waymade plc.
8. Hydrocortisone tablets are only sold in 2 different strengths in the UK – 10 mg and 20 mg.
9. In December 2016, a separate CMA investigation accused Actavis UK (formerly Auden Mckenzie) of charging excessive prices to the NHS for 10mg hydrocortisone tablets following a 12,000% price rise over the course of several years. View the [case page](#) for further information. In March 2017, another CMA investigation accused Actavis UK (formerly Auden Mckenzie) and Concordia Ltd (formerly Amdipharm Ltd, now Advanz Pharma) of entering into agreements under which it incentivised Concordia not to enter the market with its own competing version of 10 mg hydrocortisone tablets, and alleged that Actavis UK abused its dominant position by inducing Concordia to delay its independent entry into the market. View the [case page](#) for further information.
10. All information relating to this case can be found on the CMA [case page](#). All 3 investigations are likely to be progressed in parallel.
11. For more information on the CMA see our [homepage](#) or follow us on [Twitter](#), [LinkedIn](#) and like our [Facebook](#) page. Sign up to our [email alerts](#) to receive updates on Competition Act 1998 and cartels cases.
12. Media enquiries should be directed to the CMA Press Office at press@cma.gov.uk or 020 3738 6460.