Press release: CMA removes immunity from fines for mobility scooter supplier

It comes as the Competition and Markets Authority (CMA) announced it has decided to withdraw immunity from fines from a mobility scooter supplier it has found is likely to have broken competition law.

Mobility Limited and 2DS & TGA Holdings Limited (TGA), a mobility scooter supplier, has been under investigation since April for potentially breaking competition law by restricting its retailers from advertising prices online.

This follows a warning letter sent by the Office of Fair Trading (OFT) (one of the CMA's predecessor bodies) to several companies in the sector, including TGA, in March 2013 warning of the unlawfulness of such behaviour.

The CMA's current investigation examined TGA's agreements with 3 online retailers. It found the agreements either prevented retailers from advertising prices of TGA branded mobility scooters online or from advertising them below specified prices.

Firms that make certain agreements with other companies where their combined turnover is no more than £20 million are immune from fines under UK law. However, if as a result of its investigation the CMA considers that any such agreement is likely to break competition law, it may withdraw this immunity.

Following the withdrawal of its immunity from fines, TGA risks a penalty of up to 10% of its worldwide turnover if it restricts the freedom of retailers to advertise prices online in the future.

This is the first time immunity has been withdrawn at this early stage of an investigation.

TGA has now taken action to bring to an end the online price advertising restrictions in question. It stated it is in the process of confirming to all its retailers that they are free to advertise prices online and to decide for themselves the level of those prices. In addition, it is instituting a wide-ranging competition compliance and training programme across its business.

Ann Pope, Senior Director for antitrust enforcement, said:

> The internet is an increasingly important distribution channel and people are held back from finding the best deal if retailers are prevented from advertising their prices online.
>
> Businesses of all sizes need to take competition law seriously. We will withdraw immunity from small businesses, exposing them to the risk of fines, if we think it is necessary – particularly where

previous warnings have been ignored.

Notes

1. Section 39 of the Competition Action 1998 (CA98) provides that a party to a ‘small agreement’ is immune from financial penalties for an infringement of the Chapter I prohibition of CA98. Chapter I covers (among other matters) anti-competitive agreements and concerted practices between undertakings (for example, businesses) which may affect trade within the UK or a part of it and which have as their object or effect the prevention, restriction or distortion of competition within the UK or a part of it, unless they are excluded or exempt in accordance with CA98.

2. A ‘small agreement’ is an agreement between undertakings whose combined turnover did not exceed £20 million in the business year ending in the calendar year preceding one during which the infringement occurred and which is not a price fixing agreement. Under section 39(4), if the CMA has investigated a ‘small agreement’, it may make a decision withdrawing the limited immunity from penalty given by section 39(3) if, as a result of its investigation, it considers that the agreement is likely to infringe the Chapter I prohibition.

3. On 27 March 2014, the OFT issued an infringement decision finding that Pride Mobility Products Limited and certain of its retailers infringed the Chapter I prohibition of the CA98 – see press release.

4. On 5 August 2013, the OFT issued an infringement decision finding that Roma Medical Aids Limited and certain of its retailers infringed the Chapter I prohibition of the Competition Act 1998 – see press release.

5. The CMA is considering its next steps in the on-going investigation in light of TGA taking action to bring the restrictions to an end and to comply with competition law going forward.

Press release: Residents to learn more about ancient villages lost at sea

Evidence of communities on the Humber dating back 8,000 years will be discussed at a free community drop-in event at Welwick Village Hall on Monday

4 September.

Archaeologists will be on hand between 2-7pm to talk through the early findings from a geophysical study and small scale excavation between Outstrays and Skeffling last autumn.

The study found that the area contains a long and interesting history, with evidence of storm surge deposits, ancient river channels and areas of peat from as far back as the Middle and New Stone Age (approximately 3,000 to 8,000 years ago), which suggests that landscapes occupied and exploited by prehistoric people survive beneath the current farmland.

Across the higher parts of the site evidence was also found of Roman settlement activity which evolved into the medieval period as communities settled closer to the shore as the land was drained.

The initial archaeological assessment formed part of the design for the Outstays to Skeffling Managed Realignment Scheme, a new habitat creation project on the Humber Estuary working in partnership between the Environment Agency and Associated British Ports.

Stephen Kemp, senior archaeologist at the Environment Agency, said:

> Our initial assessment begins to tell the stories of communities by the Humber that learnt to adapt to environmental changes, like rising sea levels.

> When many of these ancient communities lived here the coast was much further away and the surrounding land was significantly less populated, enabling people and the ecology to thrive.

> The stories of the, now lost, villages provide interesting insight into environmental changes in today’s contexts and why, when providing managed realignment schemes like this, it is vital to ensure we are working with nature to make good long-term choices that will maintain our modern communities.

The Outstrays to Skeffling Managed Realignment Scheme will see a new inter-tidal environment created that offsets habitat losses from future coastal development and ‘coastal squeeze’.

Coastal squeeze occurs when fixed hard flood defence structures, built to protect people and properties along the coast, reduce the inter-tidal land between low and high tide as a result of rising sea levels. It is a legal obligation for the Environment Agency to rebalance this coastal squeeze by creating a compensatory habitat.

As part of the proposed scheme a 900 acre natural habitat site will be created for estuarine and terrestrial wildlife and an improved landscaped flood defence will surround this area to help reduce the risk of flooding to the local community. Once complete, managed realignment sites like the Outstrays to Skeffling Managed Realignment Scheme are typically colonised with invertebrates and wading birds.

Environment Agency project manager Tim Cobb said:

> With higher tides and changes in weather, we cannot avoid changes to our environment as we know it. But the results from our archaeological survey show that these changes have been happening for millennia and they stress the importance of addressing coastal squeeze in key locations on Britain's coastline.

> While the Outstrays to Skeffling Managed Realignment Scheme is still in public consultation stage we are keen to present our initial findings to the community. Perhaps more importantly though, we'd like to learn more about the local community's understanding of the site to ensure they help us shape and maintain the important parts of the area's history.

A planning application for the Skeffling Managed Realignment Scheme is expected to be submitted at the end of 2017. Subject to planning approval, the Environment Agency says it anticipates starting work for the western site in 2018.

Further archaeological excavations are anticipated in advance of the main scheme construction and regular updates on the findings will be communicated to the community on a regular basis.

Partners involved in the Outstrays to Skeffling Managed Realignment Scheme excavation include: the Environment Agency, Historic England and York Archaeological Trust.

News story: British Minister reaffirms UK's commitment to peace process

Minister for the Middle East Alistair Burt visits Israel and the OPTs for discussions on peace process and to celebrate strong business and tech relations with Israel.

Alistair Burt MP, Britain's Minister of State for the Middle East at the Foreign & Commonwealth Office, today concluded a three day visit to Israel and the OPTs.

During the Israel leg of the visit, Minister Burt met a number of government officials and political figures to discuss wide-ranging issues affecting the UK’s relations with Israel. He emphasised the UK’s strong relationship with Israel and its commitment to the Middle East Peace Process.

Mr Burt also attended the launch ceremony of El Al Airlines’ first Boeing 787 Dreamliner plane Ben Gurion Airport. El Al’s new fleet of Dreamliners is equipped with British-made Rolls Royce engines, a result of the biggest-ever trade deal between the two countries, signed in 2016.

Minister Burt said:

> The UK is a great friend of Israel and during this visit I have reaffirmed the UK’s commitment to peace and stability in the Middle East. We will continue to work with and support those in Israel and beyond who want to achieve a viable solution.
>
> We have a longstanding relationship with Israel and I have witnessed first-hand the strength of this partnership in many areas from trade and investment to technology and innovation. This relationship will continue to grow and benefit both of our nations.

In a series of meetings in Jerusalem, Minister Burt met Tzachi Hanegbi MK, Minister for Regional Cooperation; Michael Oren MK, Deputy Minister at the Prime Minister’s Office; Ayman Odeh MK, head of the Joint List party; and Yuval Rotem, Director General of the Ministry of foreign Affairs.

During a meeting with young tech developers, he witnessed how a London-based initiative, the free coding school Founders & Coders, is expanding to Israel through a successful branch in the city of Nazareth.

Press release: Competition concerns found in adult mental health care merger

Universal Health Services, Inc. – through its subsidiary Cygnet Health Care Limited (Cygnet) – acquired Cambian Adult Services (CAS) in December 2016. Both companies operate hospitals that provide inpatient rehabilitation services to patients suffering from long-term mental illness.

Rehabilitation services provide patients suffering from a variety of mental illnesses with ongoing support as they recover. Ultimately they aim to help patients re-gain their independence and re-integrate into the community.

After the Competition and Markets Authority's (CMA) initial investigation into the merger, it was referred for a more in-depth, phase 2, investigation in May 2017.

In the summary of provisional findings published today, 2 local areas in England have been identified where the 2 companies' hospitals are close competitors, such that the merger would be expected to result in a substantial lessening of competition (SLC).

The inquiry group conducting the phase 2 investigation found that clinical commissioning groups (CCGs), as the main customers of these types of hospitals, would face a reduction in choice, quality or value as a result of the merger when seeking to refer male patients in the East Midlands and female patients in the West Midlands suffering from long-term mental illness.

As well as the provisional findings, a notice of possible remedies has been published which outlines ways the companies could address these competition concerns, including the sale of hospitals in the local areas where an SLC has been provisionally found.

Simon Polito, Chair of the inquiry group, said:

> Mental health hospitals are a vital part of our healthcare system, caring for some of the most vulnerable in our society. The needs of patients are complex and varied and NHS trusts and CCGs need access to a range of facilities and treatment options to help ensure they can deliver the best outcomes for each individual patient.
>
> Factors such as how close the hospital is to a patient's home and family, the quality of the hospital and its track record, all play into making the right referral decision for a given patient.
>
> NHS budgets are under ever-increasing strain. Having a variety of hospitals to choose from when referring patients in the local area is key to ensure quality, service and the best value possible.
>
> We have provisionally concluded that the merger may mean there is not enough choice for NHS customers to help them get the best outcomes for patients suffering from long-term mental health issues in the East and West Midlands. We now await the companies' views on our provisional findings and what action they will take to address our concerns.

Notes for editors

1. Cygnet Health Care Limited operates 20 mental health hospitals in the UK.

2. CAS operates 61 mental health hospitals in the UK.

3. The CMA is the UK's primary competition and consumer authority. It is an independent non-ministerial government department with responsibility for carrying out investigations into mergers, markets and the regulated industries and enforcing competition and consumer law.

4. The summary of provisional findings can be found on the case page. The CMA is required to publish its final decision by 17 October 2017.

5. On 22 February 2017 the CMA started its initial investigation and on 3 May 2017 the CMA referred it for a phase 2 investigation.

6. All the CMA's functions in phase 2 merger inquiries are performed by independent inquiry groups chosen from the CMA's panel members, and supported by CMA staff. The appointed inquiry group are the decision-makers on phase 2 inquiries.

7. The members of the inquiry group are: Simon Polito (Inquiry Chair), Thomas Hoehn, Jill May and Andrew Popham.

8. The CMA's panel members come from a variety of backgrounds, including economics, law, accountancy and/or business; the membership of an inquiry group usually reflects a mix of expertise and experience.

9. For more information on the CMA see our homepage or follow us on Twitter @CMAgovuk, Facebook, Flickr and LinkedIn. Sign up to our email alerts to receive updates on merger cases.

10. Media enquiries should be directed to Rebecca Cassar (rebecca.cassar@cma.gsi.gov.uk, 020 3738 6633).

News story: UK Government reaction to GERS

Reacting to the Scottish Government's GERS figures, published today,

Scottish Secretary David Mundell said:

These figures from the Scottish Government are a cause for concern, and show clearly there is still much to be done to improve Scotland’s economy.

They also highlight the value of pooling and sharing resources around the UK. Being part of a strong UK has protected our living standards, and that’s one reason the people of Scotland clearly rejected Nicola Sturgeon’s plan for a second independence referendum at the election.

Scotland’s deficit is falling at a slower rate than the UK as a whole and economic growth is lagging behind. It is vital we grow the economy and we want to work with the Scottish Government to achieve that.

We will continue to invest in Scotland, with new initiatives such as UK City Deals, which have already seen around £1 billon of UK Government money committed to Scotland. I would also urge the Scottish Government to use their significant economic levers – including on tax, skills and getting people into work – to improve Scotland’s economic future.

Key facts

At -8.3% of GDP (£13.3 billion), Scotland’s deficit is more than three times higher than that of the UK as a whole (-2.4%).

Public spending per person in Scotland is more than £13,000, compared with £11,739 for the whole of the UK. Since 2012-13, public spending per person in Scotland has been significantly higher than the UK average.

Scotland’s borrowing per person is £2453, more than £1700 higher than the rest of the UK (£704 per person).

Scotland contributed 8% of UK tax and received 9.2% of UK spending in 2016-17.

Scotland’s currently devolved tax revenues are up. This includes £4.6 billion from the Scottish Rate of Income Tax (SRIT), and raised a total of £10bn in 2016-17.

Scotland’s geographical share of North Sea revenues increased from £56m last year to £208m in 2016/17. [NB: UK-wide revenues were £84m in 2016/17. The reason for this discrepancy is due to the allocation of tax relief on petroleum relief tax-paying fields, 40% of which are based in English waters).

Non-North Sea revenue in Scotland grew by 6.1% in 2016-17, similar to that for the UK as a whole at 6.2%. This relatively strong growth is driven by increased national insurance contributions and corporation tax revenue.