

Care Home Medicines: Lessons Learned

In 2014, two pharmaceutical companies were found to have entered into an illegal market sharing agreement which resulted in fines of over £370,000.

Tomms Pharmacy and Lloyds Pharmacy were competing to supply prescription medicines to care homes. Tomms were owned by Quantum, a pharmaceutical manufacturer, who also supplied Lloyds as a customer. The companies agreed that Tomms would not target existing Lloyds' care home customers and in return, for at least some of the time, Lloyds also agreed not to approach existing customers of Tomms.

How did this break the law?

This was an illegal cartel agreement capable of reducing competition in the market for supplying care homes. Cartels manipulate markets and deprive consumers and other businesses from the benefits of fair competition. By agreeing not to target each other's customers, this agreement may have denied care homes from receiving the benefits of healthy competition for their custom.

What action was taken?

By being the first to report the existence of the cartel, Lloyds avoided a fine under the leniency policy. Quantum and Tomms also applied for leniency and achieved a further reduction in their eventual fine by agreeing to settle the case which enabled a quicker resolution to proceedings.

What are the lessons from this case?

- **Agreeing not to target a competitors' customers is unlawful:** it is a form of market-sharing that limits competition and can deprive end consumers from getting value for their money.
 - **Doing the right thing can secure leniency:** by reporting illegal activity to the CMA, businesses can apply for leniency and receive immunity from fines and other penalties. Both parties in this case applied for leniency with Lloyds receiving total immunity as the first to apply and Quantum and Tomms receiving a reduction in fines for cooperating with the CMA's investigation.
 - **Sanctions can apply to parent companies:** even though Tomms were the business in direct competition with Lloyds, Quantum (and in turn, their parent company Hamsard) were also held jointly and severally liable for the fine imposed.
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Being involved in a cartel can have serious consequences. Recognise the risks and what you can do to protect your business



What can you do?

- Create a culture of compliance – everyone in your business must understand what they need to do to stay on the right side of the law, and stick to it.
 - Apply for leniency if you have been involved in a cartel to help reduce the penalties you could face
 - Ensure that compliance runs through your entire corporate structure: the actions of subsidiary companies can have damaging repercussions for those at the top.
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To discuss and
apply for leniency:
T: 020 3738 6833

For more
information:
www.gov.uk/cma

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