

Private medical practitioners: information on competition law

If you work as a medical practitioner in private practice then sharing prices or commercial information with other private practitioners could risk breaking the law.

It's important that the price patients and healthcare providers pay for medical care represents good value for money. Competitive pressure helps keep fees from inflating or becoming unjustifiably expensive. Attempts to remove this pressure can be illegal under competition law.

If you are currently working with your competitors, or if you plan to do so, then you should carry out a **self-assessment to ensure your conduct complies** with competition law.

This advice does not apply to work carried out under employment with the NHS in relation to NHS funded services.

Who are your competitors?

- Unless you work in a group such as a Limited Liability Partnership (LLP) *and* never work as a sole trader then usually all other medical practitioners (including those within your group) who provide similar services to you in the same geographic market are your competitors.
- Private clinics and facilities in the same geographic market that provide procedures similar to those undertaken by you (eg private hospitals).

What you can't do

- Coordinate with your competitors in order to keep prices at a certain level.
- Agree with your competitors to charge a fixed price or a mechanism for setting prices.
- Agree to share markets (such as particular places) or customers between you and your competitors.
- Discuss with your competitors your future commercial plans, including how you intend to respond to pricing initiatives or tender invitations.

What you can do

Competition law does not prohibit working together in groups nor collaborating on sharing knowledge around clinical practice and making referrals based on objective reasons/clinical need. However, if you wish to collaborate in a way that for example involves sharing commercially sensitive information then you should ensure it meets the **test for an exemption**.

The law allows such collaboration provided that it contributes to improving production or distribution or promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:

- impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;
- afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.



Why it matters

Healthy competition means that markets work well for consumers, businesses and the economy. Competition law prevents behaviours that can put this in jeopardy.

You can be fined, both as a business and as an individual, if you break competition law. Penalties can be significant and can be up to 10% of your turnover.

Read the CMA's letter to private medical practitioners:
bit.ly/DoctorsLetter

For more information on competition law:
www.gov.uk/cma

Contact the CMA:
T: 020 3738 6000

These materials do not constitute legal advice and should not be relied upon as such.