

## **Statement regarding the CMA's decision to close an investigation into a suspected breach of competition law in the medical equipment sector on the grounds of administrative priorities**

**Parties:** The names of the parties to the investigation have not been published.

**Case reference:** CE/50284.

**Case closed:** 15 February 2017.

**Issue:** Suspected abuse of dominance in relation to tying.

**Relevant provision:** Chapter II Competition Act 1998 (CA98) and Article 102 Treaty on the Functioning of the European Union (TFEU).

### **Summary of closure decision**

The CMA has closed its investigation into a suspected breach of competition law in relation to suspected abusive tying in the medical equipment sector on the grounds of administrative priorities. The decision to close the investigation on administrative priority grounds does not amount to a statement as to whether the party to the investigation infringed competition law, nor should any inference be made to that effect.

The investigation under Chapter II CA98 and Article 102 TFEU was opened by the CMA on 12 April 2016. Following a period of evidence gathering and assessment, the CMA considered whether to proceed with the investigation in light of its Prioritisation Principles.<sup>1</sup> The CMA has decided that it is no longer an administrative priority, at this time, to continue an investigation under Chapter II CA98 or Article 102 in respect of this case.

In reaching its prioritisation decision, the CMA has noted among other things that the impact of the observed conduct on the market for the relevant medical equipment is

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<sup>1</sup> A copy of the CMA's prioritisation principles can be downloaded from the CMA website at: [CMA prioritisation principles](#).

unclear. The CMA has therefore decided to focus its finite resources on projects that appear likely to have a greater impact on consumer welfare.

The CMA has not reached a definitive view on whether the party under investigation holds or held a dominant position in the relevant market or the legality of the conduct identified in the course of this investigation. The CMA considers that the imposition of a tying practice (or other types of similar conduct restricting a customer's choice), may give rise to concerns under Chapter II CA98 and Article 102 TFEU and/or Chapter I CA98 and Article 101 TFEU. Therefore, the decision to close this investigation should not be taken as an indication or confirmation that the conduct under investigation is outside the scope of competition law, currently or in the future, nor should it be taken to imply that the CMA would not prioritise investigations into suspected abusive tying conduct in the future. It is possible that the CMA could decide in the future to re-open the investigation, or to open a new investigation, on the basis of receiving further evidence of a suspected infringement of competition law or if the CMA's prioritisation assessment changes in respect of the matters within the scope of this investigation.