

Statement regarding the CMA's decision to close an investigation into suspected breaches of competition law in the mobility scooter sector on the grounds of administrative priority

Party: TGA Mobility Limited and 2DS & TGA Holdings Limited (together **TGA**)

Case reference: 50469

Case closed: 19 October 2017

Issue: Suspected breaches of competition law relating to the supply of mobility scooters online

Relevant provision: Chapter I of the Competition Act 1998 (CA98)

Summary of closure decision

The CMA has now closed its investigation under Chapter I on administrative priority grounds. This decision does not amount to a statement or finding as to whether the party to the investigation has infringed competition law, nor should any inference be made to that effect.

TGA has been under investigation since 11 April 2017 in relation to suspected agreements and/or concerted practices with retailers of TGA mobility scooters under which those retailers were prevented from advertising prices of TGA branded mobility scooters online or from advertising them online below specified prices.

Having assessed the evidence gathered to date, and having given TGA the opportunity to make representations on the CMA's proposed action, the CMA decided on 23 August 2017 (pursuant to section 39 CA98) that three agreements to which TGA was a party were likely to infringe the Chapter I prohibition. On that basis, the CMA withdrew (with effect from 30 August 2017) the limited immunity from financial penalty from which TGA benefitted. The consequence of the withdrawal of immunity is that TGA is at risk of the imposition of a financial penalty if TGA is found in future, to have infringed the Chapter I prohibition by continuing the behaviour in question on or after 30 August 2017.

In order to address the CMA's competition concerns, TGA has now brought the online price advertising restrictions in the three agreements to an end. TGA has also notified its retailers that they are free to advertise the prices of TGA branded mobility scooters online as they wish. In addition, TGA has stated that it will implement a

competition law training and compliance programme throughout its business, including appropriate and regular monitoring of employees and compliance audits. In view of this, and having had regard to the CMA's Prioritisation Principles¹ in the round and the CMA's other current priorities in its overall portfolio of work, the CMA considers that, on balance, continuing with the investigation would not be the best use of the CMA's resources. The CMA has therefore decided to close this investigation on administrative priority grounds.

A decision to close the case on administrative priority grounds does not prevent the CMA from opening an investigation in the future if it receives new evidence which changes the prioritisation assessment.

¹ A copy of the CMA's prioritisation principles can be downloaded from the CMA website at <https://www.gov.uk/government/publications/cma-prioritisation-principles>