



Antitrust: Commission accepts commitments by Aspen to reduce prices for six off-patent cancer medicines by 73% addressing excessive pricing concerns

Brussels, 10 February 2021

The European Commission has made commitments offered by Aspen legally binding under EU antitrust rules. Aspen has to reduce its prices in Europe for six critical cancer medicines by 73% on average. In addition, Aspen has to ensure the continued supply of these off-patent medicines for a significant period.

Executive Vice-President Margrethe **Vestager**, in charge of competition policy, said: *“As a result of today's decision, Aspen has to radically reduce its prices across Europe for six medicines that are essential to treat certain serious forms of blood cancer, including myeloma and leukaemia. Some patients, including young children, depend on these medicines for their treatment. Aspen's commitments will save European health systems many dozens of million Euros and will ensure that these crucial medicines remain available. Today's decision gives a strong signal to other dominant pharmaceutical companies not to engage in abusive pricing practices to exploit our health systems.”*

The Commission's concerns

On [15 May 2017](#), the Commission announced a formal investigation into Aspen's pricing practices regarding six critical off-patent cancer medicines mainly used in the treatment of leukaemia and other haematological cancers. After acquiring the cancer medicines from another company, Aspen started in 2012 to progressively increase its prices, often by several hundred percent, in all countries in Europe where it sold the medicines.

The Commission's analysis of Aspen's accounting data showed that, after the price increases, Aspen has consistently earned very high profits from its sale of these medicines in Europe, both in absolute terms and when compared to the profit levels of similar companies in the industry. Aspen's prices exceeded its relevant costs by almost three hundred percent on average, including when accounting for a reasonable rate of return, although differences did exist between products and countries.

The Commission's investigation did not reveal any legitimate reasons for Aspen's very high profit levels. In particular, Aspen's medicines have been off-patent for 50 years, which means that any R&D investment on the medicines has long been recouped.

Aspen could achieve these price increases, because patients and doctors had mostly no alternatives to using these particular cancer medicines. When national authorities tried to resist Aspen's requests for price increases, Aspen went as far as threatening to withdraw the medicines from the national list of reimbursable medicines and in some cases was ready to even withdraw from normal supply in the market.

Aspen's practices covered the entire European Economic Area, although not every medicine is sold in each country.

The Commission therefore found serious concerns that Aspen's behaviour may be in breach of EU competition rules that, under certain conditions, forbid the imposition of excessive prices on customers.

Aspen's commitments

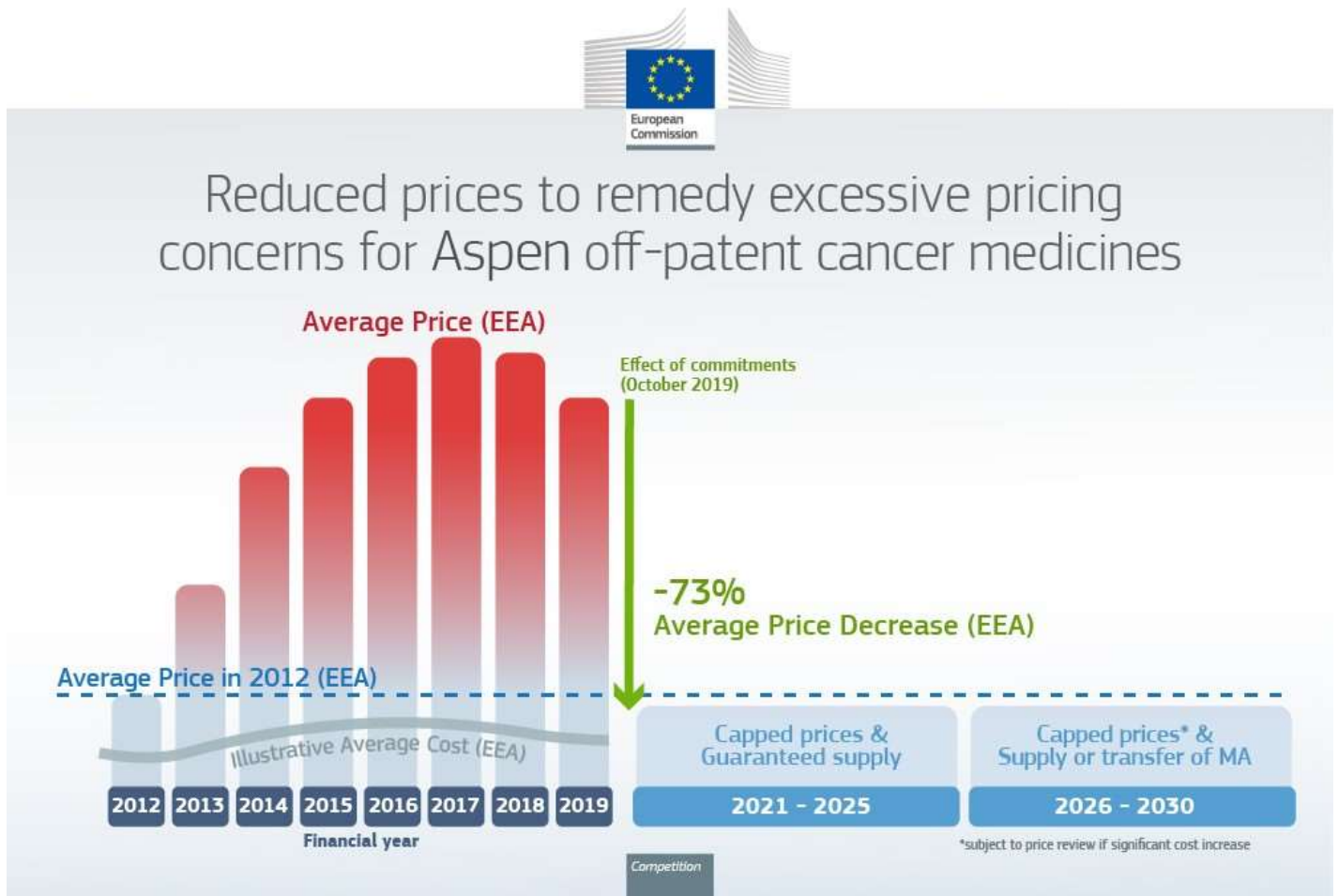
Aspen sought to address the Commission's concerns by proposing a set of commitments. In [July 2020](#), the Commission consulted stakeholders to verify whether the proposed commitments would remove the competition concerns identified by the Commission. In light of the outcome of the market test, Aspen made certain adjustments to its proposed commitments.

The Commission found that Aspen's final commitments offers a fast, comprehensive and lasting solution to the competition concerns it had identified, and therefore has made them legally binding.

Aspen's commitments provide that:

1. Aspen will reduce its prices across Europe for the six cancer medicines by, on average, approximately 73%, which is on average below the prices of 2012, before Aspen's price increases started;
2. The reduced prices will be the maximum that Aspen can charge for the coming 10 years. They will start taking effect already as of 1 October 2019; and
3. Aspen guarantees the supply of the medicines for the next five years, and, for an additional five-year period, will either continue to supply or make its marketing authorisation available to other suppliers.

The commitments will remain in force for ten years. Under supervision of the Commission, a trustee will be in charge of monitoring the implementation and compliance with the commitments.



Background

Aspen is a global pharmaceutical company headquartered in South Africa, with several subsidiaries in Europe.

On [15 May 2017](#), the Commission initiated proceedings into concerns of an abuse of dominance by Aspen. On [14 July 2020](#), the Commission invited comments from interested third parties on a commitments proposal submitted by Aspen on 9 July 2020.

In the EU, national health authorities are free to adopt pricing rules for medicines and to decide on treatments they wish to reimburse under their social security systems. Each country has different pharmaceutical pricing and reimbursement systems, adapted to its own economic and health needs. Prices of pharmaceuticals are typically negotiated at national level between pharmaceutical companies and national pricing and reimbursement authorities. In cases of critical medicines that have no or few therapeutic alternatives, the negotiating power of authorities is rather small.

[Article 102 TFEU](#) prohibits the abuse of a dominant market position, including the imposition of unfair pricing in the form of excessive prices. The implementation of these provisions is defined in the EU's Antitrust Regulation ([Council Regulation No 1/2003](#)), which is also applied by national competition authorities.

EU competition rules do not apply in all situations of high prices of medicines. However, in certain specific circumstances a pricing conduct can be in breach of competition rules. In such case,

competition enforcement can contribute to more affordable medicines.

Article 9(1) of the [Antitrust Regulation 1/2003](#) enables companies investigated by the Commission to offer commitments in order to meet the Commission's concerns and empowers the Commission to make such commitments binding on the companies. Article 27(4) of Regulation 1/2003 requires that before adopting such decision the Commission shall provide interested third parties with an opportunity to comment on the offered commitments.

If Aspen were to breach the commitments, the Commission could impose a fine of up to 10% of Aspen's total annual turnover, without having to find an infringement of EU antitrust rules.

The full text of today's Article 9 Commission Decision, the commitments and more information on the investigation will be available on the Commission's [competition website](#) in the public [case register](#) under the case number [AT.40394](#).

For more information

[Questions and Answers: Aspen commitments](#)

IP/21/524

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