The European Commission (EC) has made commitments offered by Aspen Pharmacare Holding, to reduce prices for six critical cancer medicines by around two thirds, legally binding. In the acceptance agreement (10 February) Aspen will additionally retrospectively reimburse member states by excess amounts paid since 1 October 2019 and ensure continual off-patent medicine supplies for a significant period.

"Today's decision gives a strong signal to other dominant pharmaceutical companies not to engage in abusive pricing practices to exploit our health systems," said Margretje Vestager, the European Competition Commissioner, in a statement.

In May 2017, the EC opened a formal investigation around concerns Aspen Pharmacare Holdings, a company headquartered in Durban, South Africa, was engaging in excessive pricing of six haematological cancer medicines containing the active pharmaceutical ingredients chlorambucil, melphalan, mercaptopurine, tioguanine and busulfan. Aspen, who had acquired facilities to manufacture these ingredients after patent protection had expired and was the only supplier, adopted a 'price gouging' policy where it imposed unjustified price increases of up to several hundred percent. The medicines had been off-patent for 50 years, with the effect that any R&D investments had already been recouped.

The EC believed Aspen's behaviour to be in breach of the EU's antitrust rules (namely Article 102 of the Treaty on the Functioning of the European Union [TFEU] which prohibits the abuse of dominant market positions, and Article 54 of the European Economic Area [EEA] Agreement, which forbid imposition of unfair prices or trading conditions on customers). If found guilty of breaching EU rules Aspen could have faced a fine of up to 10% of its global turnover on top of a finding of wrongdoing. Article 9 of the antitrust rules, however, allows companies under EC investigation to offer commitments to address concerns.

Aspen offered the following commitments which the EC has now made legally binding:

- To introduce an average price reduction across products of 73%.
- To maintain reduced prices for 10 years and guarantee supply for at least five years.
- After five years, should Aspen wish to cease commercialising any of the products it will make them available for sale to a third party.
- Aspen will make a one-time payment to the relevant entities responsible for reimbursement of medicine.

Commenting on the agreement, the European Cancer Patient Coalition (ECPC), wrote in a press statement, "Through enforcement action and proposing a feasible solution to the competition concerns in the Aspen case, the Commission gives an example of how patients' rights and needs should come before any vested industrial interest and creates a precedent for those who disrespect the EU values and laws that will have to deal with the consequences."

The European Consumer Organisation (BEUC) Director General Monique Goyens said, "All pharma companies must now take note of this decision when negotiating drug prices with national healthcare systems. They should be fair for healthcare systems and consumers."

The agreement holds in the European Economic Area (EEA), including EU member states together with UK, Iceland, Liechtenstein and Norway. It does not, however, include Italy. On 29 September 2016, the Italian Antitrust Authority fined Aspen €5 million for abusing its dominant position and fixing unfair prices for life saving cancer drugs following a complaint from the Italian consumer group Altroconsumo.