

Drugs firms Pfizer and Flynn broke law with 2,600% price increase for epilepsy tablets to NHS, watchdog finds

Two drugs firms have been accused by the UK's competition watchdog of illegal pricing and abusing their dominant position to overcharge the NHS for vital anti-epilepsy tablets.

The Competition and Markets Authority (CMA) said it had provisionally found that [coronavirus](#) vaccine-maker Pfizer and Flynn broke competition law by charging unfairly high prices for phenytoin sodium capsules – hiking the cost of the treatment by up to 2,600% “overnight”.

It saw NHS spending on the capsules rocket from around £2m a year in 2012 to about £50m in 2013, according to the regulator.

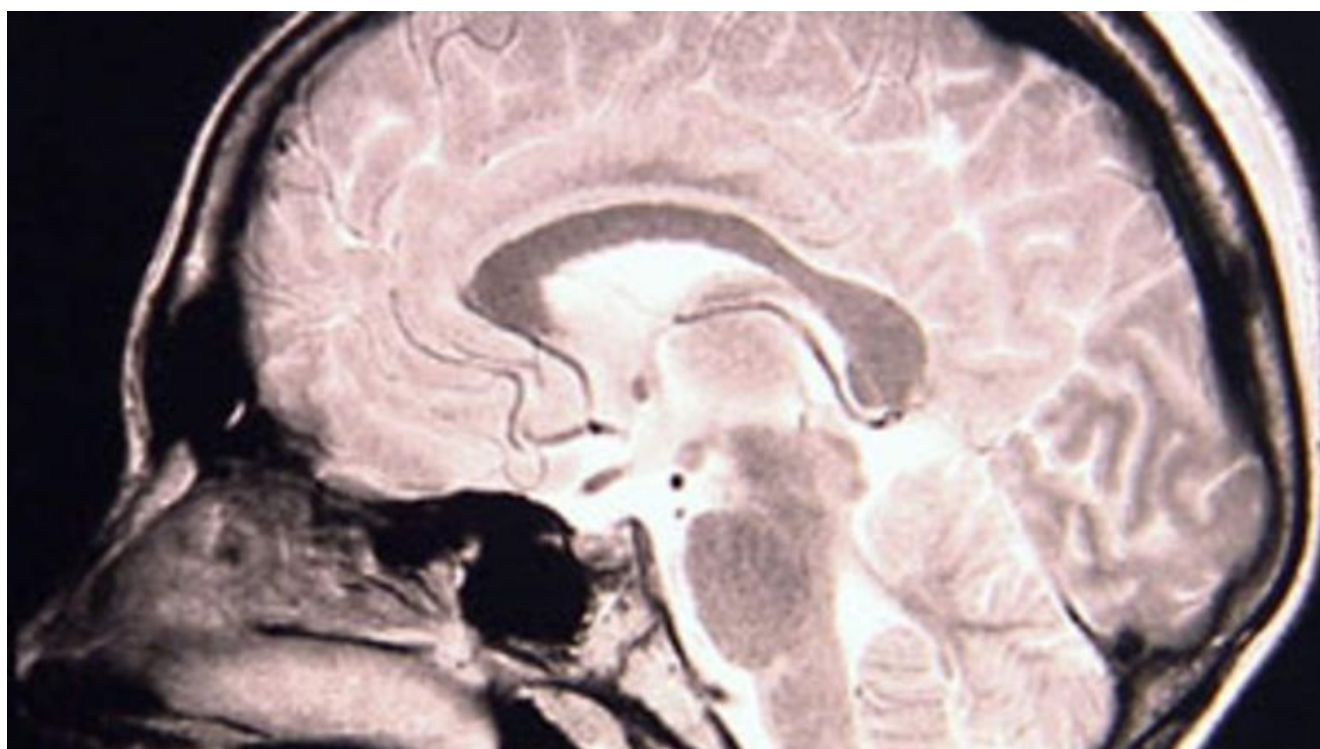


Image:

Thousands of patients depend on the drug as a result of their epilepsy, says the CMA

The latest finding comes after the CMA reinvestigated the case following appeals by the two firms over an earlier decision in December 2016, which saw them slapped with [a record £90m fine](#).

In 2018, the Competition Appeals Tribunal (CAT) upheld much of the original findings, but referred the matter of unlawful abuse of dominance back to the CMA for further consideration.

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The CMA and Flynn then went to the Court of Appeal, which dismissed the pharmaceutical firm's appeal but upheld aspects of the CMA's case.

Following this, the watchdog decided to re-investigate, launching its current inquiry in June 2020.

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CMA chief executive Andrea Coscelli said: "Thousands of patients depend on this drug to prevent life-threatening seizures as a result of their epilepsy.

"As the CAT recognised, this is a matter that is important for government, for the public as patients and taxpayers, and for the pharmaceutical industry itself.

"Protecting these patients, the NHS and the taxpayers who fund it is our priority."

In its provisional finding, the CMA claims the companies exploited a loophole by de-branding the drug – known as Epanutin prior to September 2012 – with the effect that the drug was not subject to price regulation in the way branded drugs are.

It said: "As Pfizer and Flynn were the dominant suppliers of the drug in the UK, the NHS had no choice but to pay unfairly high prices for the vital medicine."

Over more than four years, Pfizer's prices rocketed by between 780% and 1,600%.

Pfizer then supplied the drug to Flynn, which sold it to

wholesalers and pharmacies at prices between 2,300% and 2,600% higher than those they had paid previously, according to the CMA.

The CMA said Pfizer and Flynn now had an opportunity to respond to its provisional findings before a final decision was made.

The regulator said it remained committed in its work “to tackle robustly any illegal behaviour by drug companies overcharging the NHS”, pointing out it recently [fined firms](#) a total of £360m for competition law breaches over the supply of medication.

In a statement, Pfizer said: “Ensuring a sustainable supply of our products to UK patients is of paramount importance to Pfizer and was at the heart of our decision to divest the product in 2012.

“In 2020, the Court of Appeal upheld the Competition Appeal Tribunal’s finding in the company’s favour.

“Pfizer continues to co-operate fully with the CMA’s ongoing investigation.

“The statement of objections is the CMA’s provisional findings only and all parties will have the opportunity to respond to the statement before the CMA decides if there has been any infringement.”