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Dear Mr Lutener

**The sharing of price information by Local Pharmaceutical Committees**

I am writing in response to your letter dated 22 February and further to our telephone conversation of 29 March. In your letter, you requested guidance on whether the sharing of pricing and specification material between Local Pharmaceutical Committees (LPC) might constitute a breach of competition law.

One of the OFT's functions is to enforce the Competition Act of 1998 ("the Act"). The Act prohibits anti-competitive agreements between undertakings (the Chapter I prohibition) and the abuse of a dominant position by one or more undertakings (the Chapter II prohibition). Please see [www.oft.gov.uk](http://www.oft.gov.uk) for more information.

Information sharing can in some circumstances constitute a breach of Chapter I of the Act. The OFT's Competition Act guideline *Trade Association, professions and self-regulating bodies* notes that "the exchange of information on prices may lead to price co-ordination and therefore diminish competition which would otherwise be present between undertakings".

In your letter, you noted that "each PCT<sup>1</sup> will negotiate with only one LPC" such that "LPCs therefore do not compete with each other". To this extent, one must assume that information sharing between LPCs cannot "diminish competition which would otherwise be present between undertakings".

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<sup>1</sup> Primary Care Trust



It is also relevant that the information that you have said will be shared will be historical in nature. As outlined in the same OFT guideline, "the circulation of purely historical information or the collation of price trends is unlikely to have an appreciable effect on competition". Sharing historical information, that will in any event also be available to PCTs, will not alter the negotiation process between LPCs and PCTs and similarly should not provide a means to facilitate co-ordination.

Finally, I should note that that since 1 May 2004, the OFT no longer accepts notifications for decisions or guidance under the Act. To this extent, you should treat the above as informal guidance on this matter and should ensure that the PSNC and LPCs continue to have due regard to the Act in all of their ongoing dealings.

If you have any questions with respect to any of the above, please do not hesitate to get in touch.

Yours sincerely



Geoff Steadman  
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