

1989 No. 1061

COMPETITION

The Unichem Limited (Allotment of Shares) Order 1989

<i>Made</i> - - - -	<i>26th June 1989</i>
<i>Laid before Parliament</i>	<i>28th June 1989</i>
<i>Coming into force</i>	<i>19th July 1989</i>

Whereas Unichem Limited is a person specified in a report of the Monopolies and Mergers Commission entitled "Unichem Limited - a report on Unichem's arrangements and proposed arrangements for the allotment of shares in its capital"(a);

And whereas the Director General of Fair Trading was not requested under section 9(1) of the Competition Act 1980(b) to seek to obtain an undertaking from Unichem Limited;

And whereas the Secretary of State, in accordance with section 91(2) of the Fair Trading Act 1973(c), as applied by section 10(4)(b) of the Competition Act 1980, published on 26th May 1989 a notice stating his intention to make this Order, indicating the nature of the provisions to be embodied in it and stating that any person whose interests were likely to be affected by it and who was desirous of making representations in respect of it should do so in writing before 26th June 1989;

And whereas the Secretary of State has considered the representations made to him in accordance with that notice:

Now, therefore, the Secretary of State, in exercise of the powers conferred by section 10(1) and (2)(a) and (b) of the Competition Act 1980 and section 90(4) of, and paragraphs 1 and 2 of Schedule 8 to, the Fair Trading Act 1973, as applied by section 10(4)(a) and (d) of the Competition Act 1980, and (to the extent that this Order is made under section 10(2)(b) of the Competition Act 1980) for the purpose of remedying or preventing adverse effects specified in the aforesaid report of the Monopolies and Mergers Commission, hereby makes the following Order:-

1. This Order may be cited as the Unichem Limited (Allotment of Shares) Order 1989 and shall come into force on 19th July 1989.

2.—(1) Unichem Limited shall not engage in the anti-competitive practice described in paragraph (2) below or pursue any other course of conduct which is similar in form and effect to that practice, except so far as provided in paragraph (3) below.

(2) The practice referred to in paragraph (1) above is the practice, more particularly described in paragraph 6.15 of the report of the Monopolies and Mergers Commission entitled "Unichem Limited - a report on Unichem's arrangements and proposed arrangements for the allotment of shares in its capital" and referred to in that report as the "Share Scheme", of allotting or agreeing to allot shares in Unichem Limited by reference to the amounts of goods and services severally acquired from Unichem Limited by the prospective holders of those shares.

(3) Paragraph (1) above shall not prohibit Unichem Limited from allotting or agreeing to allot shares by reference to amounts of goods and services acquired from Unichem Limited on or before 17th May 1989.

3.—(1) This article applies to any agreement which provides that shares in Unichem Limited will be allotted to any party to the agreement or any other person by reference to the amount of goods and services acquired from Unichem Limited after 17th May 1989 by any party to the agreement or any other person.

(2) It shall be unlawful for Unichem Limited to make an agreement to which this article applies, or to carry out any such agreement (including any agreement already in existence on the date on which this Order is made), except (in the case of an agreement made before 19th July 1989) to the extent that Unichem Limited is able to carry it out without allotting shares by reference to the amount of goods and services acquired after 17th May 1989.

4.—(1) This article applies to any agreement under which it is a condition of the acquisition or retention of membership of Unichem Limited that —

- (a) the member purchases from Unichem Limited not less than a specified amount of ethical pharmaceutical products, the amount being specified by reference to a value per month greater than £3,000, or
- (b) the prospective member subscribes for a number of shares greater than —
 - (i) two hundred for each separate premises at which he sells pharmaceutical products or
 - (ii) one thousand,whichever is the less.

(2) It shall be unlawful for Unichem Limited to make an agreement to which this article applies, or to carry out any such agreement made after 17th May 1989, except (in the case of an agreement made before 19th July 1989) to the extent that the said condition is applied as if the amount referred to in subparagraph (a) of paragraph (1) above were specified by reference to a value per month not greater than £3,000 or (as the case may be) the number of shares referred to in subparagraph (b) of that paragraph were not greater than two hundred for each separate premises or one thousand, whichever is the less.

26th June 1989

Francis Maude
Parliamentary Under-Secretary of State
Department of Trade and Industry

EXPLANATORY NOTE

(This note is not part of the Order)

This Order prohibits Unichem Limited from continuing to operate its "Share Scheme", under which shares will be allotted by reference to the amounts of goods and services acquired from Unichem, except in respect of allotment by reference to goods and services acquired by 17th May 1989. Unichem may not make or carry out any agreement in respect of allotment by reference to later acquisitions of goods or services.

Unichem must also hold its minimum purchase qualification for continued membership to £3,000 per month and its initial share subscription qualification to 200 per premises, up to a maximum of 1,000.

Copies of the report of the Monopolies and Mergers Commission on which the Order is based (Cm. 691) may be obtained from Her Majesty's Stationery Office.