



## COMPETITION APPEAL TRIBUNAL

### NOTICE OF A CLAIM FOR DAMAGES UNDER SECTION 47A OF THE COMPETITION ACT 1998

**CASE No: 1060/5/7/06**

The Registrar of the Competition Appeal Tribunal (the “Tribunal”) gives notice of the receipt of a claim for damages on 6 April 2006, under section 47A of the Competition Act 1998 (the “Act”), by Healthcare at Home Limited, a company incorporated under the laws of England and Wales whose registered office Fifth Avenue, Centrum 100, Burton-upon-Trent, Staffordshire, DE14 2WS (the “claimant”) against Genzyme Limited, a company incorporated under the laws of England and Wales whose registered office is 37 Hollands Road, Haverhill, Suffolk, CB9 8PU (the “defendant”). The defendant is a wholly-owned subsidiary of Genzyme Corporation of One Kendall Square, Cambridge, Massachusetts, United States.

The claimant’s legal advisers are Ashurst, Broadwalk House, 5 Appold Street, London, EC2A 2HA (Mr Ben Tidswell and Mr Euan Burrows – reference BJT/EUB/JRL – HEA03.00007).

The claim arises from:

- (a) a decision of the Director General of Fair Trading dated 27 March 2003 No. CA98/3/03 that Genzyme Limited had infringed the Chapter II prohibition in section 18 of the Act;
- (b) a judgment of the Tribunal dated 11 March 2004 in Case No 1016/1/1/03 *Genzyme Limited v Office of Fair Trading* [2004] CAT 4 (the “Substantive Judgment”); and
- (c) a judgment of the Tribunal dated 29 September 2005 in Case No 1016/1/1/03 *Genzyme Limited v Office of Fair Trading* [2005] CAT 32 (the “Remedy Judgment”).

The claimant’s statement of claim states that the defendant’s solicitors have confirmed that the defendant will not pursue an application for permission to appeal against either the Substantive Judgment or the Remedy Judgment.

The claimant submits that it has suffered loss and damage as a result of the abusive pricing policy of the defendant under the following heads:

- (a) loss of margin on actual sales;
- (b) loss of margin on lost sales caused by the claimant’s existing patients switching to Genzyme Homecare;
- (c) loss suffered due to the defendant’s withdrawal of credit terms;
- (d) legal fees and management time;
- (e) loss and damage to the value of the claimant’s business generally;
- (f) contract losses; and

- (g) exemplary damages.

The claimant seeks the following relief:

- (a) damages pursuant to section 47A;
- (b) further, or in any event, exemplary damages;
- (c) a declaration of the claimant's entitlement to an account of the defendant's profits;
- (d) further or other relief;
- (e) interest pursuant to rule 56(2) of the Tribunal's Rules upon such sums found to be due to it for such period and at such rate as the Tribunal thinks fit; and
- (f) costs, pursuant to rule 55 of the Tribunal's Rules

Further details concerning the procedures of the Competition Appeal Tribunal can be found on its website at [www.catribunal.org.uk](http://www.catribunal.org.uk). Alternatively the Tribunal Registry can be contacted by post at the above address or by telephone (020 7979 7979) or fax (020 7979 7978). Please quote the case number mentioned above in all communications.

*Charles Dhanowa*

Registrar  
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