



IN THE COMPETITION
APPEAL TRIBUNAL

Cases No: 1251-1255/1/12/16

BETWEEN:

GENERICS (UK) LIMITED

Appellant

- v -

COMPETITION AND MARKETS AUTHORITY

Respondent

GLAXOSMITHKLINE PLC

Appellant

- v -

COMPETITION AND MARKETS AUTHORITY

Respondent

(1) XELLIA PHARMACEUTICALS APS
(2) ALPHARMA LLC

Appellants

- v -

COMPETITION AND MARKETS AUTHORITY

Respondent

ACTAVIS UK LIMITED

Appellant

- v -

COMPETITION AND MARKETS AUTHORITY

Respondent

MERCK KGAA

Appellant

- v -

COMPETITION AND MARKETS AUTHORITY

Respondent

ORDER

UPON reading the application and accompanying witness statement of Dr Robert Stillman filed by GlaxoSmithKline PLC (“GSK”) on 16 December 2016 requesting

permission to submit a further written expert report of Dr Stillman responding to portions of the expert report of Ms Rachel Webster (“the Webster Report”) filed on behalf of the Competition and Markets Authority (“CMA”) on 12 December 2016

AND UPON reading the observations of Generics (UK) Limited, Xellia Pharmaceuticals APS and Alpharma LLC, Merck KGaA and the CMA and the further observations of GSK of 19 and 20 December 2016

AND HAVING REGARD TO the directions to the hearing of these appeals set down in the Tribunal’s Order of 17 November 2016 (“the November Order”)

AND UPON hearing counsel for the CMA and GSK at a hearing on 20 December 2016

IT IS ORDERED THAT:

Reply expert evidence

1. GSK has permission to serve a further report by Dr Stillman (“the Further Stillman Report”) replying to the following portions of the Webster Report (by reference to the descriptions in Dr Stillman’s witness statement):
 - (a) Paragraphs 4.16(c) and 4.16(d) (“CIMS versus Sellick”).
 - (b) Paragraphs 4.35 to 4.38 (“The difference between Unison and CMS data”).
 - (c) Paragraphs 3.29 to 3.33 (“Closed versus open prescriptions”).
 - (d) Paragraphs 3.43 to 3.54 (“Adjustments for the decline in total sales of paroxetine”).
2. The Further Stillman Report may respond to the revised calculations in section 5 of Webster Report arising in consequence of points identified at subparagraphs (a) - (d) above.
3. GSK shall serve the Further Stillman Report by 4pm on 27 January 2017. GSK shall use its best endeavours to supply any further detailed calculations to be included in the Further Stillman Report to the CMA and the other Appellants as far as possible in advance of the any expert meeting(s) referred to in paragraph 4(a) below.

Timetable revisions

4. The directions in the November Order be amended as follows:

- (a) Any expert meeting involving Ms Webster shall take place by 25 January 2017 and the resulting Joint Statement(s) shall be produced and lodged with the Tribunal by 4pm on 3 February 2017.
 - (b) Copies of the Hearing Bundle are to be prepared and lodged at the Tribunal by 4pm on 1 February 2017.
 - (c) A pre-trial review is to be listed for 7 February 2017, with a time estimate of one day.
 - (d) The Appellants shall file and serve their skeleton arguments by 4pm on 14 February 2017.
 - (e) The CMA shall file and serve its skeleton argument by 4pm on 21 February 2017.
5. Costs in the appeal.
6. There be liberty to apply.

The Hon Mr Justice Roth
President of the Competition Appeal Tribunal

Made: 20 December 2016
Drawn: 21 December 2016