



**IN THE COMPETITION
APPEAL TRIBUNAL**

Case No:

BETWEEN:

ADVANZ PHARMA CORP

Applicant

- v -

COMPETITION AND MARKETS AUTHORITY

Respondent

ORDER – EXTENSION OF TIME

UPON the application made on 14 February 2022 for an extension of time for the Applicant to file its appeal against the decision of the Respondent of 3 February 2022 regarding the supply of prochlorperazine tablets in the UK (Case 50511-2) (“the Prochlorperazine Decision”)

AND UPON there being no objection in principle from the Respondent to the extension request

AND HAVING REGARD TO rule 9(2) of the Competition Appeal Tribunal Rules 2015 (“rule 9(2)”)

IT IS ORDERED THAT:

The time for the Applicant to file its Notice of Appeal is extended to 25 April 2022.

REASONS:

1. The Applicant is an addressee of not only the Prochlorperazine Decision but also of (i) a decision of the Respondent made on 15 July 2021 regarding the

supply of hydrocortisone tablets in the UK (“the Hydrocortisone Decision”); and (ii) the decision of the Respondent of 29 July 2021 regarding the supply of liothyronine tablets in the UK (“the Liothyronine Decision”). Both the Hydrocortisone Decision and the Liothyronine Decision are subject to appeals currently before the Tribunal (under Case No. 1411/1/12/21 (the “Hydrocortisone Appeal”) and Case No. 1422/1/12/21 (the “Liothyronine Appeal”) respectively).

2. It has been ordered that both the Hydrocortisone and Liothyronine Appeals are to be progressed and case managed through the use of “Ambulatory Drafts”, a process requiring front-loaded production of material from the parties involved. Pursuant to Orders of the President made on 28 January 2022 (in the Hydrocortisone Appeal) and 4 February 2022 (in the Liothyronine Appeal), there are multiple deadlines by which the Applicant will be required to prepare (and co-ordinate with other parties in respect of) sections of the Ambulatory Drafts in both appeals between now and the current deadline for its notice of appeal in respect of the Prochlorperazine Decision (being 4 April 2022).
3. It has been noted by the CMA in the Press Release for the Prochlorperazine Decision that *“this is the first time that a company has been fined by the CMA in three separate investigations”*.¹ The Applicant has also instructed the same legal representatives in respect of all three decisions to which it is an addressee, and understandably wishes to retain them in respect of the appeals before the Tribunal.
4. The Applicant and its legal team are therefore faced with the concurrent preparation of three separate appeals of lengthy and complex decisions. The burden on the Applicant in respect of the present appeal is compounded by the various deadlines in respect of the Ambulatory Drafts for the Hydrocortisone and Liothyronine Appeals in the coming weeks. As such, I consider there are exceptional circumstances for the purposes of rule 9(2) justifying an extension of time.

¹ Press release, CMA fines firms over £35m for illegal arrangement for NHS drug (3 February 2022) <https://www.gov.uk/government/news/cma-fines-firms-over-35m-for-illegal-arrangement-for-nhs-drug>

5. The requested extension of three weeks is reasonable and proportionate, particularly accounting for the Easter break which falls within the extended appeal window. I do not see any material prejudice to the Respondent in allowing the Application, and the Respondent has not objected to the Application. Accordingly, I grant the three-week extension sought by the Applicant.

Sir Marcus Smith
President of the Competition Appeal Tribunal

Made: 18 February 2022
Drawn: 18 February 2022