



COMPETITION APPEAL TRIBUNAL

NOTICE OF AN APPEAL UNDER SECTION 46 OF THE COMPETITION ACT 1998

Case No: 1439/1/12/22

Pursuant to Rule 14 of the Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648) (“the Rules”), the Registrar gives notice of the receipt of an appeal on 4 April 2022, under section 46 of the Competition Act 1998 (“the Act”), by Alliance Pharmaceuticals Limited and Alliance Pharma PLC (“Alliance”), against a decision of the Competition and Markets Authority (“the CMA”) in Case 50511-2, entitled *Prochlorperazine* dated 3 February 2022 (“the Decision”). Alliance is represented by CMS Cameron McKenna Nabarro Olswang LLP of Cannon Place, 78 Cannon Street, London, EC4N 6AF (Reference 157332.00027).

In the Decision, the CMA found *inter alia* that Alliance had entered into an agreement with Lexon (UK) Limited and Lexon UK Holdings Limited (“Lexon”) relating to Prochlorperazine 3mg buccal tablets sold in packs of 50, a prescription only medicine which had as its object the restriction of competition contrary to the prohibition in s. 2(1) of the Act (“the Chapter I prohibition”) (“the Market Exclusion Agreement”). The CMA found that the Market Exclusion Agreement was entered into most likely by 7 June 2013 but in any event by 22 June 2013 and lasted until 31 July 2018 (“the Alliance Infringement Period”).

The CMA imposed a penalty of £7.9 million on Alliance in respect of the Alliance Infringement Period. Alliance strongly disputes the findings made in the Decision.

In summary, Alliance advances two grounds of appeal against the finding of infringement made by the CMA in the Decision in relation to the Alliance Infringement Period. Alliance contends that:

1. The CMA erred in finding that Alliance was party to or aware of any Market Exclusion Agreement.
2. Even if (contrary to Ground 1 above) it had been lawful to impose any penalty on Alliance in respect of the Alliance Infringement Period, the penalty imposed by the Decision is excessive and disproportionate.

By way of relief, Alliance asks that the Tribunal:

- a. Set aside the Decision insofar as it relates to Alliance and the Alliance Infringement Period, and find that Alliance was not party to, or aware of, any Market Exclusion Agreement; or
- b. In the alternative, impose no penalty on Alliance, or in the further alternative, substantially reduce that penalty imposed on Alliance for the Alliance Infringement Period; and
- c. In any case, order that the CMA pay Alliance’s costs.

Any person who considers that they have sufficient interest in the outcome of the proceedings may make a request for permission to intervene in the proceedings, in accordance with rule 16 of the Rules.

Please also note that a direction of the President is currently in place as to the electronic filing of documents: see paragraph 2 of the [Practice Direction](#) relating to Covid-19 published on 20 March 2020. Therefore, a request for permission to intervene should be sent to the Registrar electronically, by email to registry@catribunal.org.uk, so that it is received within **three weeks** of the publication of this notice.

Further details concerning the procedures of the Competition Appeal Tribunal can be found on its website at www.catribunal.org.uk. Alternatively, the Tribunal Registry can be contacted by telephone (020 7979 7979) or email (registry@catribunal.org.uk). Please quote the case number mentioned above in all communications.

Charles Dhanowa OBE, QC (Hon)
Registrar

Published 16 May 2022