



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1415/5/7/21 (T)

BETWEEN:

- (1) THE SECRETARY OF STATE FOR HEALTH AND SOCIAL CARE**
- (2) THE NATIONAL HEALTH SERVICE BUSINESS SERVICES AUTHORITY**
- (3) THE WELSH MINISTERS**
- (4) SWANSEA BAY UNIVERSITY HEALTH BOARD**
- (5) CWM TAF MORGANNWG UNIVERSITY HEALTH BOARD**
- (6) ANEURIN BEVAN UNIVERSITY HEALTH BOARD**
- (7) HYWEL DDA UNIVERSITY HEALTH BOARD**
- (8) BETSI CADWALADR UNIVERSITY HEALTH BOARD**
- (9) CARDIFF & VALE UNIVERSITY HEALTH BOARD**

Claimants

- v -

- (1) LUNDBECK LIMITED**
- (2) H. LUNDBECK A/S**
- (3) GENERICS (U.K.) LIMITED**
- (4) MERCK KGAA**
- (5) ARROW GENERICS LIMITED**
- (6) ARROW GROUP APS**
- (7) RESOLUTION CHEMICALS LIMITED**
- (8) XELLIA PHARMACEUTICALS APS**
- (9) ALPHARMA LLC**
- ~~(10) A.L. INDUSTRIER AS~~**
- (11) SUN PHARMACEUTICAL INDUSTRIES LIMITED**
- (12) SUN PHARMA UK LIMITED**

Defendants

ORDER (DIRECTIONS)

UPON the listing of a case management conference (**CMC**) to commence at 10.30am on 20 July 2026 with a time estimate of one day to consider disclosure directions as well as directions to trial

AND UPON considering the agreed draft directions filed by the parties on 14 July 2026

AND UPON the parties applying for the CMC to be vacated in view of their agreement as to disclosure and directions to trial

AND UPON the parties consenting by way of letter dated 16 July 2026 to the Tribunal's amendments to their agreed draft directions

AND UPON Practice Direction 3/2025 on Expert Evidence dated 2 December 2025

IT IS ORDERED THAT:

A. DISCLOSURE

1. The Claimants shall by 24 July 2026 provide initial disclosure by providing to the Defendants:

(a) A list of documents within the categories set out in Schedule 1 which:

(i) the Claimants relied upon for the purposes of the Re-Amended Claim Form; and

(ii) the Claimants are aware of and are adverse to the Claimants' pleaded case (so far as such documents are or were previously within the Claimants' control) (**Known Adverse Documents**).

(b) Copies of any such documents (save where such documents have already been provided to the Defendants).

2. Each Defendant shall by 24 July 2026 provide initial disclosure by disclosing to the Claimants copies of the documents and any accompanying indices which were provided by the European Commission to the Defendants pursuant to the access to file procedure

in Case AT.39226 – *Lundbeck*, to the extent these are readily identifiable and accessible (the **Access to File Procedure**, and such documents being the **Access to File Documents**).

3. For the avoidance of doubt:
 - (a) Subject to sub-paragraph (b) below, each Defendant's Access to File Documents shall be limited to documents which were provided to the Commission by, or obtained by the Commission from, that Defendant (**Defendant's Own Access to File Documents**). They shall not include other Access to File Documents provided to the Commission by or obtained by the Commission from another Defendant or a third party.
 - (b) Each Defendant's Access to File Documents shall include in full any indices which were provided by the European Commission to that Defendant.
4. Each Defendant's Access to File Documents disclosed pursuant to paragraphs 2 and 3 above shall be provided to the Claimants in the form in which they were provided by the Commission to the Defendants pursuant to the Access to File Procedure.
5. To the extent not covered by paragraphs 2 and 3 above, each of the Defendants shall (so far as the Defendants are aware of such documents and they are within their control) provide the Claimants with copies of requests for documents or further information that were made of that Defendant by the European Commission in Case AT.39226, and their responses thereto.
6. Each Defendant shall, by 24 July 2026, provide a Disclosure List which includes in respect of each document disclosed a disclosure number and the identifying number assigned by the Commission.
7. The Parties shall by 4 September 2026 file disclosure reports in accordance with r. 60(1)(b) of the Competition Appeal Tribunal Rules 2015.
8. By 2 October 2026, the Claimants shall make proposals to the Defendants in respect of:

- (a) further disclosure of documents from the Commission file which have not already been disclosed by any of the Defendants pursuant to paragraphs 2 and 3 above including unredacted copies of documents from the Commission file and copies of documents provided to the Commission by third parties (**Third Party Access to File Documents**) in the Defendants' control; and/or
 - (b) further disclosure of other documents in the Defendants' control.
- 9. By 2 October 2026, the Defendants shall make proposals to the Claimants in respect of disclosure to be given by the Claimants, further to that which has already been disclosed pursuant to paragraph 1 above.
- 10. The parties shall seek to agree the scope of any further disclosure. Any matters that are not agreed shall be determined at a further case management conference (the **Third CMC**) to be listed in accordance with paragraph 16 below.

B. WITNESS STATEMENTS

- 11. By 2 April 2027 each party shall serve on every other party witness statements setting out the evidence which the party serving the statement intends to rely on in relation to any issues of fact to be decided at the trial.
- 12. By 14 May 2027, each party shall serve on every other party any witness statements in reply.

C. EXPERT EVIDENCE

- 13. By 30 October 2026, the Claimants and Defendants shall provide notice of:
 - (a) the expert witnesses they intend to seek permission to call;
 - (b) the respective fields of expertise of those experts; and
 - (c) a list of issues it is intended that each of those experts will address, by reference to the relevant paragraphs in the statements of case.

14. Seven days before the Third CMC, the parties shall submit to the Tribunal, for approval, a list of the questions to be considered by the experts, corresponding to the pleaded issues (or if this list is not agreed, an agreed composite version which shows the remaining areas of disagreement).
15. Subject to any further order the Tribunal may make at the Third CMC, the parties shall:
 - (a) exchange their main expert reports in each field for which permission is granted by 23 July 2027;
 - (b) exchange any reply expert reports by 1 October 2027;
 - (c) instruct the experts in each topic to meet by 29 October 2027 on a “without prejudice” basis and in the absence of the parties’ legal representatives to discuss areas of agreement and disagreement. They shall produce joint statements identifying those areas by 12 November 2027.

D. THE THIRD CMC

16. The Third CMC shall be listed on an available date after 27 November 2026 to determine appropriate further directions as to: (i) disclosure; and (ii) expert evidence.
17. In preparation for the Third CMC:
 - (a) any applications, together with any evidence in support of it, shall be filed and served at least three weeks before the Third CMC;
 - (b) any reply to such an application, including evidence in reply, is to be filed and served at least two weeks before the Third CMC;
 - (c) the Claimants will file and serve the CMC bundle at least 10 days before the Third CMC; and
 - (d) the parties shall file and exchange skeleton arguments seven days before the Third CMC.

E. PRE-TRIAL REVIEW

18. A Pre-Trial Review shall be listed on an available date approximately four weeks before trial with a time estimate of one day.

F. TRIAL

19. The trial shall be listed to start at a mutually convenient date from 2 March 2028 with a time estimate of 28 days.
20. Liberty to apply.
21. Costs in the case.

Bridget Lucas KC

Chair of the Competition Appeal Tribunal

Made: 16 July 2026

Drawn: 16 July 2026

SCHEDULE 1

Categories of documents to be addressed by the Claimants by way of initial disclosure referred to in paragraph 1 are:

1. documents evidencing, supporting or adverse to the Claimants' pleaded case (at paragraph 241.4 of the Re-Amended Claim Form) that, in the counterfactual, the Claimants would have sought, and the court would have required, an undertaking in damages broad enough to compensate the NHS (to include any cross-undertakings obtained, or applications for cross-undertakings, made by the NHS prior to the end of 2006);
2. documents evidencing, supporting or adverse to the Claimants' pleaded case (at paragraphs 128A and 264 of the Re-Amended Claim Form) that the delay in recategorising citalopram from Category C to Category A was an error, including documents relating to the criteria, timing and decision-making said to govern that reclassification;
3. documents evidencing, supporting or adverse to the Claimants' pleaded case (at paragraphs 128A, 264 of the Re-Amended Claim Form) regarding the roles of the Prescription Pricing Authority, the Department of Health and the Pharmaceutical Services Negotiating Committee, and any input or decisions made by them, relating to the recategorising of citalopram to Category A during the actual period;
4. documents evidencing, supporting or adverse to the data relied on by the Claimants for the purposes of calculating their claimed damages, including without limitation:
 1. documents evidencing the reimbursement prices for citalopram and escitalopram in tablet form as specified in the Drug Tariff between 2002 and 2014; and
 2. for each month from January 2002 to May 2014, copies of 'Part VIIIA – Basic Prices of Drugs' of the relevant Drug Tariff.