

Neutral citation [2026] CAT 88

Case No: 1821/6/12/26

IN THE COMPETITION

APPEAL TRIBUNAL

Salisbury Square House
8 Salisbury Square
London EC4Y 8AP

23 November 2026

Before:

BEN TIDSWELL
Chair

Sitting as a Tribunal in England and Wales

BETWEEN:

PROGRESSIVE VETERINARY ASSOCIATION

Applicant

- v -

COMPETITION AND MARKETS AUTHORITY

Respondent

Heard remotely on 23 November 2026

RULING (EXTENSION OF TIME)

APPEARANCES

Dr Iain McGill and Ms Katy Roberts appeared on behalf of the Applicant.

Ms Julianne Morrison (instructed by the Competition and Markets Authority) appeared on behalf of the Respondent.

1. The Applicant, the Progressive Veterinary Association (the **PVA**), seeks an order under r.25(3) of the Competition Appeal Tribunal Rules 2015 (the **Tribunal Rules**), extending time for an application to be lodged under s.179 of the Enterprise Act 2002 (the **Act**), in respect of the Competition and Markets Authority's (the **CMA**) Veterinary Services Market Investigation Order 2026 (the **Order**).

2. The Order, which was published on 22 September 2026, follows from a market investigation under Part 4 of the Act into veterinary services for household pets. The final report arising from that investigation was published on 24 March 2026 (the **Report**).

3. The Report identified competition concerns in the market, and as a consequence, the CMA had a duty under the act to address those concerns. The Order, which has been subject to a period of consultation, contains the CMA's package of remedies for that purpose.

4. The PVA seeks an extension of time to allow it to address various matters, which it says might form the basis for a challenge to the Order. It is not clear to me which of these matters is properly considered to be a challenge against the Order, as opposed to a challenge to the findings contained in the Report. In any event, the potential grounds of challenge are as follows.

5. Firstly, a concern about conflict of interest on the part of a member of the CMA panel which prepared the Report (it is not necessary to identify that person and I will refer to them as "**Panel Member A**" in this ruling). I should note that Panel Member A did not participate on the panel which consulted on and finalised the Order, as Panel Member A's term of appointment at the CMA shortly after the Report was issued.

6. Secondly, concerns about the approach to medicines, manufacturing, distribution and funding, especially the funding of the Veterinary Medicines Directorate and the so-called 'cascade' legislation, which involves rules about branded and generic medicines and their licensing and use for different species.

7. And thirdly, the impact of a decision of the Federal Trade Commission in the United States (**FTC**), concerning an acquisition in the veterinary sector. This was published on 13 November 2026.

8. Looking at these issues more closely, the first item, the conflict point, has been the subject of ongoing correspondence between the PVA and the CMA for several months, including a number of exchanges around the time of the publication of the Order.

9. The second item appears to arise from the findings of the Report and/or in a strategic steer given by the CMA in 2025. The issues have been raised in correspondence between the PVA and CMA, dating back several months and at least to the time of the making of the Order.

10. At one stage, Dr McGill, who argued the application for the PVA, suggested that the second point was not a distinct item of potential application from the conflict point. He seemed, however, somewhat unsure about this when I pressed him, and in the interest of fairness, I will treat it as a separate point.

11. The third item is said by the PVA to provide context for some of the PVA's arguments expressed in correspondence in early November 2026. The PVA acknowledges that the FTC decision relates to a different market and does not establish what the CMA was aware of in September 2026 when it made the Order. It is therefore not really a distinct item for the first two items listed above.

12. Against this background, the PVA seeks an extension of time for the filing of its notice of application until 4.00 pm on 21 December 2026. It is common ground between the parties that, according to settled case law, the Tribunal needs to be satisfied that there are exceptional circumstances before an extension such as that requested can be granted. However, the PVA's skeleton argument referred to the central question for the hearing as being, "Why the PVA reasonably needs a short further period to formulate those grounds". That is not a correct formulation of the question, and I will briefly turn to the case law to identify the correct approach.

13. That task is made easier by the judgment of the Tribunal (James Wolffe KC), in *Aramark v CMA* [2026] CAT 18 (***Aramark***), which was subsequently approved by the Inner House of the Court of Session: [2026] CSIH 44. The Tribunal summarised the relevant cases at §§72 - 85 of *Aramark*, and I respectfully adopt that summary and will not repeat it here.

14. Two points of particular relevance emerge from that summary. First, exceptional circumstances should be "strictly construed" and need to be "truly exceptional": see the observations of Vos LJ in *Somerfield Stores*, as quoted in *Aramark* at §74. They are "likely … to be rare": see the remarks of the Tribunal's President, Sir Gerald Barling, in *BSkyB*, quoted in the same paragraph of *Aramark*.

15. Secondly, the central question will always be: "Why did the appellant not lodge an appeal in time?": see Vos LJ as quoted in *Aramark* at §77. That enquiry will reveal whether there is a justification which engages the exceptional circumstances test.

16. I should also add that, as Ms Morrison submitted, r.25(3) of the Tribunal Rules needs to be seen in the context of balancing two considerations: namely the right to challenge a public decision on the one hand; and the interest of finality in public decision-making on the other. See, for example, the quote from the President, Sir Gerald Barling, in *Fish Holdings*, as set out in §73(iv) of *Aramark*.

17. In this matter, I am not satisfied that there are exceptional circumstances. The justification for the delay in filing the application seems little more than that the PVA wanted to get some more information about the prospective items in its potential application. There is nothing before me to suggest that the application could not have been filed within the required time, while still properly dealing with those items.

18. In respect of the conflict point, the PVA has been well aware for several months, and indeed has been engaging with the CMA in robust terms about it, threatening by email on 17 September 2026 to "take this [the conflict point] to

the CAT". Dr McGill accepted that the material in the 30 September 2026 filings relating to Panel Member A was apparent to the PVA by no later than 14 October 2025 when it made a Freedom of Information request referring to that material. The CMA responded to this request on 11 November 2025, although the PVA says that the response is incomplete and has requested an internal review.

19. While it may be the case that the PVA has made Freedom of Information requests which it says remain unanswered, this is not a sufficient reason for delay in light of the material which the PVA acknowledges it has had about Panel Member A's position, and on which it bases its arguments, since at least 14 October 2026. In fact, the PVA has acknowledged in paragraph 13 of its skeleton argument for today's hearing that it is able to file a notice of application, before considering the results of the CMA internal review into the completeness of the Freedom of Information response.

20. In relation to the second point about medicine manufacturing, distribution and funding, it is plain and accepted by Dr McGill that this arose as an issue from the Report in March 2026, and has been the subject of extensive discussion and correspondence between the PVA and the CMA since then. For example, it seems to have been the subject of discussion between the PVA and the CMA at a meeting on 14 September 2026, and was referred to in some detail in the 17 September 2026 email from the PVA that I have just referred to.

21. The PVA has identified no reason, let alone any reason constituting exceptional circumstances, why it was not able, if it wished, to lodge an application against this aspect of the Order within time.

22. Finally, in relation to the FTC decision, the PVA concedes that this does not give rise to any standalone right of application, but simply casts light on the PVA's other arguments, all of which were apparent well before the deadline for filing the application arrived.

23. Dr McGill was, in fact, very open in explaining what appears to me to be the real reason for the delay on the part of the PVA in filing an application. That is

a concern about the risks in bringing proceedings which could be expensive for a small organisation, which has few resources and is largely dependent on pro bono support for legal work. While one might have some sympathy for that position as a general matter, it clearly does not amount to exceptional circumstances. If it did, any number of potential applicants would no doubt say the same thing. The public interest in the finality of decisions would therefore be considerably undermined.

24. For the avoidance of doubt, I make no finding as to whether the issues identified by the PVA are in fact legitimate targets for an application to challenge the Order, as opposed to the Report. Given the conclusions I have reached, there is no need to consider that question.

25. I should also add that Dr McGill and the PVA clearly feel very strongly about the outcome of the Report and the Order, and the effect of those on independent vets. That, however, is not the focus of the hearing today and does not inform the exceptional circumstances test that I have to apply.

26. In conclusion, the PVA has not come anywhere near establishing that exceptional circumstances exist, such as to justify an extension of time under r. 25(3). The answer to the question of why the application has not been lodged before now is that the PVA were concerned to ensure their case was as legally robust as possible, because of the concern about the economic consequences of filing a weak case. That does not amount to exceptional circumstances. I can see no reason why, if the PVA wished to progress the matters it has identified as potential challenges, those could not have been progressed in an application filed well within the deadline. The application for an extension of time is therefore refused.

Ben Tidswell
Chair

Charles Dhanowa CBE, KC (*Hon*)
Registrar

Date: 23 November 2026