



**IN THE COMPETITION  
APPEAL TRIBUNAL**

Case No: 1334/4/12/19

BETWEEN:

**ECOLAB INC.**

Applicant

- v -

**COMPETITION AND MARKETS AUTHORITY**

Respondent

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**ORDER**

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**UPON** reading the correspondence from the legal representatives of the parties relating to the establishment of a Confidentiality Ring

**AND UPON** hearing the legal representatives of the parties at a Case Management Conference on 21 November 2019

**AND UPON** the parties having agreed the terms of this order

**IT IS ORDERED THAT:**

1. This Order becomes effective in respect of each of the persons named in Part A of the Schedule to this Order (including persons subsequently admitted to the Confidentiality Ring pursuant to paragraph 4 of this Order) only upon receipt by the Competition Appeal Tribunal (**Tribunal**) of a signed undertaking in the terms of Part B of the Schedule to this Order.
2. For the purposes of this Order:

- a. **“Confidentiality Ring”** means all those Relevant Advisers who have signed an undertaking to the Tribunal in the terms of Part B of the Schedule to this Order, of which a copy has been provided to the Tribunal.
  - b. **“Confidential Information”** is defined as information justifying confidential treatment by the Tribunal in accordance with rule 101 of the Competition Appeal Tribunal Rules 2015 which is contained in any pleadings or other documents submitted, or to be submitted, by the Parties to the present proceedings before the Tribunal.
  - c. **“Relevant Advisers”** are those persons:
    - i. listed in Part A of the Schedule to this Order who have given a signed undertaking to the Tribunal in the terms of Part B of the Schedule to this Order; or
    - ii. subsequently added to the lists in Part A after being admitted to the ring in accordance with paragraph 4 below and who have given a signed undertaking to the Tribunal in the terms of Part B of the Schedule to this Order.
3. All pleadings and other documents served in these proceedings must be marked so as to indicate the parts in relation to which confidential treatment is claimed, in the manner referred to in paragraph 7.46 of the Tribunal’s Guide to Proceedings 2015. A system of colour-coding shall be used to indicate to which entity the confidential information belongs (or such other system as the parties shall agree where colour-coding is considered unworkable). Any Confidential Information contained within those pleadings and documents shall be disclosed only to the Relevant Advisers listed in Part A of the Schedule to this Order and who have signed an undertaking to the Tribunal and to the parties in the terms of Part B of the Schedule to this Order.
  4. If any party wishes to add any additional person as a Relevant Adviser for the purposes of paragraph 2(c). of this Order, they may either:
    - a. obtain the written consent of the other party to the admission of that individual to the Confidentiality Ring and inform the Tribunal in writing accordingly (copying the representatives of the other parties); or
    - b. apply to the Tribunal for an order authorising the admission of that individual to the Confidentiality Ring.
  5. If any party wishes one of its Relevant Advisers to be removed from the Confidentiality Ring, they shall inform the Tribunal in writing (copying the representatives of the other parties).

6. When a Relevant Adviser is admitted to or removed from the Confidentiality Ring, the relevant party will provide to the Tribunal (and circulate to the parties) an up-to-date list of the persons in Part A of the Schedule to this Order.
7. The parties shall make available without charge to any person on request an up-to-date list of the persons in Part A of the Schedule to this Order.
8. Costs be reserved.
9. There be liberty to apply.

**The Honourable Mr Justice Morris**  
Chairman of the Competition Appeal Tribunal

Made: 21 November 2019  
Drawn: 22 November 2019

## **SCHEDULE**

### **PART A**

This part contains the names, for each party, of Relevant Advisers:

#### **Ecolab Inc.**

##### *External Counsel*

Brian Kennelly QC (Blackstone Chambers)  
Paul Luckhurst (Blackstone Chambers)

##### *External Solicitors*

Nicholas Levy  
Paul Gilbert  
John Messent  
Andrew Boyce  
Rohan Mandumula  
(all of Cleary Gottlieb Steen & Hamilton LLP)

Alexandra Kamerling  
Richard Jenkinson  
Chloe Cumber  
(all of DLA Piper UK LLP)

#### **Competition and Markets Authority**

##### *External Counsel*

Rob Williams (Monckton Chambers)  
Ben Lask (Monckton Chambers)  
Marie Demetriou, QC (Brick Court)

## **PART B – UNDERTAKING**

In respect of any Confidential Information disclosed to them pursuant to this Order, each Relevant Adviser undertakes that they will comply with the following requirements in the following terms:

### **I, the undersigned, undertake to the Tribunal and each of the parties as follows:**

1. I have read a copy of the Tribunal's Order of 21 November 2019 (the "**Tribunal's Order**") and understand the implications of that Order and the giving of this undertaking.
2. Save in respect of provision to the Tribunal, I will only disclose the Confidential Information in accordance with the terms of the Tribunal's Order and will not disclose the Confidential Information (as defined in the Tribunal's Order) to any person who is not a Relevant Adviser (as defined in the Tribunal's Order) without the express written consent of the party originally disclosing the Confidential Information ("the **Disclosing Party**") or the permission of the Tribunal.
3. I will use the Confidential Information only for the purpose of these proceedings and for the purpose of no other current or future proceedings, dispute, complaint, or other use whatsoever without the express written consent of the Disclosing Party or the permission of the Tribunal.
4. The pleadings and documents containing the Confidential Information will remain in my custody or the custody of another Relevant Adviser at all times and be held in a manner appropriate to the circumstances so as to prevent unauthorised access.
5. The production by me of further copies of the documents containing the Confidential Information shall be limited to those strictly required for the use of the Relevant Advisers for the purpose of these proceedings and shall be held in accordance with paragraph 4 of this undertaking.
6. Any and all copies and the pleadings and documents in paper form containing the Confidential Information will be returned to the Disclosing Party, or destroyed by the receiving party at the conclusion of the present proceedings; and copies of the pleadings and the documents containing Confidential Information in electronic form will where possible be returned or where that is not possible will be rendered inaccessible from any computer systems, disk or device so that the Confidential Information is not readily available to any person.
7. Save that none of the requirements listed above shall prevent Relevant Advisers from disclosing to a person advised by them Confidential Information which such person has already legitimately seen.
8. Save that none of the requirements listed above shall prevent Relevant Advisers from complying with any regulatory requirement in relation to their profession.

Name:

[Firm] OR [Company] OR [Establishment]:

[Legal qualification] OR [Role / Job title]:

IF APPLICABLE [Professional regulator]:

Signed:

Date: [ ] November 2019