



IN THE COMPETITION
APPEAL TRIBUNAL

Case Nos: 1407/1/12/21
1411/1/12/21
1412/1/12/21
1413/1/12/21

BETWEEN:

- (1) ALLERGAN PLC
(2) ADVANZ PHARMA CORP. LIMITED
(3) CINVEN CAPITAL MANAGEMENT (V) GENERAL PARTNER LIMITED &
OTHERS
(4) AUDEN MCKENZIE (PHARMA DIVISION) LIMITED & ANOTHER
(5) INTAS PHARMACEUTICALS LIMITED & OTHERS

Appellants

- v -

COMPETITION AND MARKETS AUTHORITY

Respondent

ORDER

UPON the application by the Respondent made on 28 March 2022 to amend its Amended Defence filed on 18 March 2022 (“**the Application**”)

AND UPON reading the enclosures filed by the Respondent with the Application on 28 March 2022

AND UPON reading the responses to the Tribunal’s letter dated 6 April 2022 inviting observations from the parties from: (i) the Respondent, dated 8 April 2022; (ii) the Second Appellants dated 8 April 2022; and (iii) the Fifth Appellants dated 11 April 2022

AND UPON reading the responses to the Tribunal’s letter dated 13 April 2022 inviting observations from the parties on paragraph 2(b) of that letter from: (i) the Respondent, dated 20 April 2022; and (ii) the Fifth Appellants, dated 21 April 2022

AND HAVING REGARD TO Rule 12(3) (read with rule 15(7)) of the Competition Appeal Tribunal Rules 2015 (“the Tribunal Rules”) regarding amendments

AND HAVING REGARD TO Rule 104(2) of the Tribunal Rules, which provides that the Tribunal may at its discretion, subject to rules 48 and 49, at any stage of the proceedings make any order that it thinks fit in relation to the payment of costs in respect of the whole or part of the proceedings

AND HAVING REGARD TO the decision of the Court of Appeal in *Competition and Markets Authority v Flynn Pharma Limited & Ors* [2020] EWCA Civ 617 and to the fact that this decision has been appealed to the Supreme Court of the United Kingdom, where judgment is awaited

IT IS ORDERED THAT:

1. The amendments numbered iii, iv and v in the Application are allowed.
2. The amendments numbered i, ii and vi in the Application are allowed on the condition that:
 - (a) The Fifth Appellants may make responsive amendments to their Reply, if so advised, to be served and filed by no later than 14 days after the service of the Respondent’s Re-Amended Defence pursuant to paragraph 3 below.
 - (b) The costs of any such responsive amendments are reserved for further consideration. The President will consider the incidence and payment of costs after the decision of the Supreme Court has been handed down, and after receiving any further submissions the parties might wish to make.

3. The Respondent shall file and serve a Re-Amended Defence by no later than 4pm on 11 May 2022.

Sir Marcus Smith
President of the Competition Appeal Tribunal

Made: 9 May 2022
Drawn: 10 May 2022