



**IN THE COMPETITION**  
**APPEAL TRIBUNAL**

Case No: 1671/5/7/24

BETWEEN:

**(1) THE SCOTTISH MINISTERS**  
**(2)-(15) SCOTTISH HEALTH BOARDS**

Claimants

- v -

**(1) ACCORD-UK LIMITED (FORMERLY KNOWN AS ACTAVIS UK LIMITED)**  
**(2) ALLERGAN UNLIMITED COMPANY (FORMERLY KNOWN AS ACTAVIS  
PLC / ALLERGAN PLC)**  
**(3) INTAS PHARMACEUTICALS LIMITED**  
**(4) ACCORD HEALTHCARE LIMITED**  
**(5) WAYMADE PLC (FORMERLY KNOWN AS WAYMADE HEALTHCARE PLC)**  
**(6) AMDIPHARM UK LIMITED**  
**(7) AMDIPHARM LIMITED**  
**(8) ADVANZ PHARMA SERVICES (UK) LIMITED**

Defendants

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**CONSENT ORDER**

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**WHEREAS** the CMA decision of 15 July 2021 in relation to hydrocortisone (“CMA Decision”) resulted in four separate judgments of the Competition Appeal Tribunal ([2023] CAT 56, [2023] CAT 57, [2024] CAT 17 and [2024] CAT 29)

**WHEREAS** the appeals in relation to the matters that are subject to the CMA Decision have not yet been finally determined

**WHEREAS** the Court of Appeal heard appeals (and applications for permission to appeal) in relation to related aspects of the Tribunal’s second and third judgments, i.e. Hydrocortisone (Cartel Infringements) ([2023] CAT 57) and Hydrocortisone (Due process) ([2024] CAT 17) in July 2024 and judgment is awaited

**WHEREAS** the First to Fourth Defendants submitted applications to the Tribunal for permission to appeal in relation to the Tribunal’s first and fourth judgments, i.e. Hydrocortisone (Abuse of Dominance) ([2023] CAT 56) and Hydrocortisone (Penalties) ([2024] CAT 29) and such applications remain pending before the Tribunal

**WHEREAS** the Claimants served the Claim Form on the First and Fourth to Eighth Defendants and have been granted permission to serve, and are in the process of serving, the Claim Form outside of the Jurisdiction on the Second and Third Defendants

**UPON** the First and Fourth to Eighth parties agreeing to the terms of this Order

**IT IS ORDERED BY CONSENT THAT:**

1. The proceedings against the First and Fourth to Eighth Defendants shall be stayed immediately (the “Stay”): (a) for the period of time specified in paragraph 2, subject to any application made under paragraph 3; and (b) save in respect of the litigation steps detailed in paragraph 4.
2. The Stay shall operate until 60 days after the later of:
  - (a) the Court of Appeal has handed down judgment in respect of each of the joint appeals in (i) *Competition and Markets Authority v Allergan Plc & Others* (Ref. CA-2024-001312); (ii) *Cinven Capital Management (V) General Partner Limited, and others v The Competition and Markets Authority* (Ref. CA-2024-001223); (iii) *Competition and Markets Authority v Allergan Unlimited Company and others* (Ref. CA-2024-001188); (iv) *Competition and Markets Authority v Allergan Unlimited Company* (Ref. CA-2024-001187); and (v) *Competition and Markets Authority v Allergan Plc and others* (Ref. CA-2024-000706);

- (b) any judgment or ruling of the Tribunal or Court of Appeal in respect of any application for permission to appeal in relation to the Tribunal's first or fourth judgments (including those applications already submitted to the Tribunal by the First to Fourth Defendants), or in the event that permission is granted by the Tribunal or the Court of Appeal in respect of any such appeals, the Court of Appeal has handed down judgment in respect of such appeals;
  - (c) the Tribunal has handed down judgment in the event that any re-hearing or remittal to the Tribunal is ordered by the Court of Appeal in respect of any matter subject to any appeal referred to in paragraph 2(a) or 2(b) above;
  - (d) in the event that any application for permission to appeal is made to the Supreme Court in respect of any of the appeals referred to in paragraph 2(a) or 2(b) above, the Supreme Court has either refused permission to appeal or, permission to appeal having been granted, the Supreme Court has handed down its judgment in relation to such appeal; or
  - (e) the Tribunal has handed down judgment in the event that any re-hearing or remittal to the Tribunal is ordered by the Supreme Court in respect of any matter subject to any appeal referred to in paragraph 2(d) above.
3. Any party may make an application to the Tribunal to terminate the Stay upon giving 60 days' written notice to all other parties (such notice to be served by email from the relevant party's solicitors to the other parties' solicitors, taking effect on the day that it is sent).
  4. The litigation steps specified in Rule 31 (service out of the jurisdiction) and Rule 33 (acknowledgment, service and notification) of the Competition Appeal Tribunal Rules 2015 shall fall outside the scope of the Stay and shall (where appropriate) be complied with by the parties consistently with the terms of those rules - or as otherwise specified in any relevant Order made by the Tribunal.
  5. Accordingly, for the avoidance of doubt, and absent any Order to the contrary, upon expiry or termination of the Stay (in accordance with paragraphs 2 and 3 above), any Defendant that wishes to make an application under Rule 34 (disputing the Tribunal's jurisdiction) shall have 21 days from the expiry or termination of the Stay within which to file and serve any such application.
  6. There shall be no order as to costs.
  7. There be liberty to apply.

**Hodge Malek KC**

Chair of the Competition Appeal Tribunal

Made: 19 August 2024

Drawn: 19 August 2024