

12. Twelfth plea in law, alleging that the Commission has breached the parties right to be heard.
13. Thirteenth plea in law, alleging that the Commission erred in its assessment of penalties.

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Action brought on 30 August 2013 — Xellia Pharmaceuticals and Zoetis Products v Commission

(Case T-471/13)

(2013/C 325/75)

Language of the case: English

Parties

Applicant: Xellia Pharmaceuticals ApS (Copenhagen, Denmark) and Zoetis Products, LLC (New Jersey, United States) (represented by: D. Hull, Solicitor)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- Annul Articles 1(3), 2(3) and 3 of Commission Decision C(2013) 3803 final of 19 June 2013 (COMP/39.229 — Lundbeck) in so far as they concern the applicants; or
- In the alternative, declare Article 1(3) of the Decision partially null and void, and reduce the amount of the fine imposed; and
- Order the Commission to bear the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on eight pleas in law.

1. First plea in law, alleging a manifest error of assessment in finding that the restrictions set forth in the Settlement Agreement exceeded the scope of Lundbeck's patents.
2. Second plea in law, alleging an error of law in using the wrong legal standard to determine whether Alpharma was a potential competitor; and a manifest error of assessment in finding that Alpharma was a potential competitor.
3. Third plea in law, alleging a manifest error of assessment in finding that the Settlement Agreement constituted a restriction of competition 'by object'.

4. Fourth plea in law, alleging an error of law in finding a restriction of competition within the meaning of Article 101 despite the fact that the Settlement Agreement solely reflected the exclusionary scope of Lundbeck's patents, which, as a matter of law, must be presumed to be valid.
5. Fifth plea in law, alleging violation of the Applicants' rights of defence by belatedly notifying them of (i) the existence of the investigation and (ii) the Commission's specific objections.
6. Sixth plea in law, alleging violation of the principle of non-discrimination by addressing the Decision to Zoetis.
7. Seventh plea in law, alleging an error of law in calculating the fine without taking into account the limited gravity of the alleged infringement and a manifest error of assessment in setting the fine proportionately higher than the fine imposed on Lundbeck and failing to take into account the uncertainty in the law, the less serious nature of the infringement, and the geographic scope.
8. Eighth plea in law, alleging a manifest error of assessment in applying the 10 % fine cap to A.L. Industrier based upon its 2011 turnover instead of its significantly higher 2012 turnover, thereby forcing the Applicants to pay a higher proportion of the fine

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Action brought on 30 August 2013 — H. Lundbeck and Lundbeck v Commission

(Case T-472/13)

(2013/C 325/76)

Language of the case: English

Parties

Applicants: H. Lundbeck A/S (Valby, Denmark); and Lundbeck Ltd (Milton Keynes, United Kingdom) (represented by: R. Subiotto, QC, and T. Kuhn, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- Annul the Commission's decision C(2013) 3808 final of 19 June 2013, served to the applicants on 21 June 2013, in case COMP/39.226 — Lundbeck;