



Reports of Cases

Judgment of the Court (Fourth Chamber) of 25 March 2021 – Sun Pharmaceutical Industries and Ranbaxy (UK) v Commission

(Case C-586/16 P)¹

(Appeal – Competition – Agreements, decisions and concerted practices – Pharmaceutical products – Market for antidepressant medicines (citalopram) – Settlement agreements concerning process patents concluded between a manufacturer of originator medicines holding those patents and manufacturers of generic medicines – Article 101 TFEU – Potential competition – Restriction by object – Characterisation – Calculation of the amount of the fine)

1. *Agreements, decisions and concerted practices – Adverse effect on competition – Criteria for assessment – Description of an undertaking as a potential competitor – Real or concrete possibilities of entering the market – Criteria – Firm intention and inherent ability of the undertaking to enter the relevant market – Sufficient preparatory steps to enter the relevant market – No insurmountable barrier – Assessment – Existence of a process patent*

(Art. 101(1) TFEU)

(see paras 35-46)

2. *Agreements, decisions and concerted practices – Adverse effect on competition – Criteria for assessment – Distinction between restrictions by object and by effect – Restriction by object – Sufficient degree of harmfulness – Assessment*

(Art. 101(1) TFEU)

(see para. 68)

3. *Agreements, decisions and concerted practices – Adverse effect on competition – Amicable agreement on patents – Agreement concluded between an originator company and a generic medicine undertaking – Agreement to delay the entry of the manufacturer of generic medicines into the relevant market – Consideration consisting in transfers of value – Characterisation of a restriction by object – Criteria – Assessment of whether transfers of value act as an incentive to refraining from entering the market*

(Art. 101(1) TFEU)

(see paras 69-74)

¹ OJ C 30, 30.1.2017.

4. *Competition – Administrative procedure – Limitation period for fines – Point from which time starts to run – Single and continuous infringement*
(Art. 101 TFEU; Council Regulation No 1/2003, Art. 25)
(see paras 106-109)

Operative part

The Court:

1. Dismisses the appeal.
2. Orders Sun Pharmaceutical Industries Ltd and Ranbaxy (UK) Ltd to bear their own costs and to pay those incurred by the European Commission.
3. Orders the United Kingdom of Great Britain and Northern Ireland to bear its own costs.