

Antitrust – National Courts

Secretary of State and others v. Servier

First Instance Court (UK), London

Summary

In the context of a damages action brought by several UK health authorities against Servier, the UK High Court has asked for the Commission's opinion on the disclosure of the confidential version of its decision in the Servier case. The High Court had provided the Commission with the draft Confidentiality Order, which sets out the conditions under which the Court wanted to disclose the confidential version.

In its Opinion, the Commission held that it has in principle no objection to the disclosure of the confidential version of its decisions. However, there should be adequate protection of confidential information, notably that obtained from or concerning third parties which are not parties to the proceedings before the national court.

When assessing the draft Confidentiality Order, the Commission found that it would be desirable for that draft to be tightened, in particular on the following points:

- (1) the arrangements for the protection of confidential information should also accommodate the interests of Third Parties;
- (2) the club of persons having access to the confidential information should be limited; and,
- (3) information acquired through access to the confidential version of the decision can only be used in proceedings for the application of Articles 101 and 102 TFEU.

Following the Commission's Opinion, the conditions of the confidentiality ring were revised in order to address the concerns expressed by the Commission.