

PROCEDURAL OFFICER DECISION

2021/2

APPLICATION ON BEHALF OF FLYNN PHARMA LIMITED AND FLYNN PHARMA (HOLDINGS) LIMITED IN RELATION TO THE CMA INVESTIGATION UNDER THE COMPETITION ACT 1998 INTO THE SUPPLY OF PHENYTOIN SODIUM CAPSULES IN THE UK

The Application

1. Flynn Pharma Limited and Flynn Pharma (Holdings) Limited (the Applicant) have requested a review of the decision by the Senior Responsible Officer (SRO) in relation to disclosure of information (the Application).

The SRO's Decision

2. The SRO for the CMA's investigation in relation to the supply of phenytoin sodium capsules in the UK (the Investigation) decided to uphold the decision of the CMA case team in relation to information relating to a third party (the Third Party) that has been redacted from the Statement of Objections issued in the Investigation and disclosed within a confidentiality ring (the Information). The Applicant was informed of the SRO's decision by letter dated 1 October (the SRO's Decision).

The Procedural Officer's Process

3. The Application was made on 8 October 2021.
4. I held meetings by video conference with the Applicant's legal advisers and with the CMA case team on 14 October 2021.
5. I have considered the representations and information provided in the meetings I held with the Applicant's legal advisers and the CMA case team, together with the information set out in the Application. The CMA case team provided a timeline of events by email together with representations made by the Third Party in relation to the Information. I have also taken account of the SRO's Decision.

Summary of the Application

6. The Application states:

'The application relates to third party information that the Senior Responsible Officer of the investigation (the "SRO") has decided is confidential to that third party and cannot be disclosed to Flynn. This information has been disclosed within the confidentiality ring in the proceedings. However, there are compelling reasons why restricting access to this information to Flynn's legal/economic advisers alone does not respect Flynn's rights of defence.'

7. The Application requests a review of the SRO's Decision and for the Statement of Objections to be provided to the Applicant with the relevant redactions in relation to the Information lifted. At the meeting I held with the Applicant's legal advisers, a request was made for the confidentiality ring to be expanded to include named individuals from the Applicant.

8. The Application explains the nature of the Information concerned and the redactions that have been made from the Statement of Objections. The Application concerns one paragraph of the Statement of Objections in particular: the identity of the Third Party and the nature of the business in which it is involved have been redacted from a statement that the Third Party's *'internal transfer pricing policy resulted in a profit margin of approximately [redacted]'* The Application argues that the content of this paragraph *'goes to the heart of the CMA's provisional findings against Flynn'*, noting that it is cited later in the Statement of Objections *'as relevant to the CMA's key provisional finding that a return on sale of 2% is "appropriate for some businesses depending on their respective activities and risks", and that these provide "real world illustrations of how seemingly low percentage ROS returns can be earned in the generic pharmaceuticals sector".'*

9. The Application considers arguments in relation to the assessment of the commercial sensitivity of the Information. It notes:

'the primary reason the CMA case team gives ... is that disclosure to Flynn and its CEO might cause significant harm to [redacted]'s legitimate business interests. The CMA case team explains this is because "the figure continues to be used by the business for a wide range of products" and "the relevant business is a direct competitor of Flynn in relation to a number of products (including products to which this figure relates)".'

10. The Application argues:

'However, the CMA case team does not adequately explain the sensitivity of [the Information] to [X] ... and how disclosure of this information could cause [X] significant financial harm. Further, the CMA case team does not explain how, were Flynn to be made aware that [X] operates its transfer pricing policy in this way, this could cause any harm to [X].'

11. The Application notes similar information about another third party, [X], has not been redacted. It argues:

'This suggests either that [X] do not consider similar information to be confidential and therefore [X]'s concerns are unwarranted, or the CMA case team has adopted an inconsistent approach to confidentiality representations.'

12. The Application states that disclosure in a confidentiality ring with restricted access *'to Flynn's legal/economic advisers alone does not respect Flynn's rights of defence'*. It argues:

'the CMA case team fails to justify why this information is sufficiently sensitive to [X] to override the right of Flynn to be provided with full access to file. This is necessary such that the management of Flynn (who are key to defending their position) are able to properly assess the CMA's reliance on this alleged evidence.'

Scope for the Procedural Officer to consider the Application

13. The role of the Procedural Officer in a Competition Act 1998 (Competition Act) case is set out in the CMA Rules.¹ The CMA's view about the scope of complaints within the remit of the Procedural Officer is provided in the Guidance on the CMA's Investigation Procedures (the Guidance)² and also in the Procedural Officer content on the CMA's webpage.³ These each provide the same four bullet points setting out the issues to which, in the CMA's view, a procedural complaint may relate and which the Procedural Officer is able to review. These bullet points cover procedural complaints relating to confidentiality and disclosure.

¹ The Competition Act 1998 (Competition and Markets Authority's Rules) Order 2014 SI 2014/458, Rule 8(1).

² Guidance on the CMA's investigation procedures in Competition Act 1998 cases (CMA8), paragraph 15.4.

³ [CMA webpage](#).

14. The Application falls within the Procedural Officer's remit.

Issues raised by the Application

15. The Application makes two arguments to support the request for review of the SRO's Decision and for the Applicant to be provided with the relevant paragraph of the Statement of Objections with redactions lifted. These two arguments also relate to the request made at the meeting I held with the Applicants legal advisers for the confidentiality ring to be expanded, as noted above (see paragraph 7). The first argument relates to the assessment of commercial sensitivity made by the CMA case team, and confirmed by the SRO's Decision. The second argument relates to the rights of defence of the Applicant as an addressee of the Statement of Objections issued in the Investigation. These two arguments are linked in the Application. These arguments were reiterated by the Applicant's legal advisers at the meeting I held with them.

16. I have considered the issues raised by each of these arguments separately below.

1) Disclosure and the assessment of commercial sensitivity

Part 9 of the Enterprise Act and the CMA Rules

17. The provisions of Part 9 of the Enterprise Act apply to the disclosure of information relating to the Third Party in the Statement of Objections and to which the Application relates. There are three pieces of information relating to the Third Party which are relevant to my consideration: the identity of the Third Party, the [X] figure, and the nature of the Third Party's business. I have defined these above together as the Information although I have also dealt with them separately as necessary.

18. The Information is 'specified information' within the meaning of section 238 of the Enterprise Act since the details have come to the CMA in connection with the CMA's functions under the Competition Act 1998. The CMA must therefore have regard to the considerations set out in section 244 of the Enterprise Act before making any disclosure. In light of the request set out in the Application, in this context I have considered only the disclosure in the Statement of Objections. The second and third considerations set out in sections 244(3)(a) and section 244(4) of the Enterprise Act are central to the Application:

'the need to exclude from disclosure (so far as practicable) commercial information whose disclosure the authority thinks might significantly harm the legitimate business interests of the undertaking to which it relates.'

'the extent to which the disclosure of the information ... is necessary for the purpose for which the authority is permitted to make the disclosure.'

19. The CMA Rules⁴ set out the procedures that are to be followed when the CMA is proposing to disclose information which the person who has supplied that information considers should be treated as confidential information.

The position of the Applicant: commercial sensitivity of the Information

20. The Application sets out arguments about the nature and significance of the Information and whether any harm could be caused to the Third Party by the requested disclosure. It also argues that any potential harm which might arise for the Third Party would be outweighed by the respect for the rights of defence for the Applicant. This is considered further below (see paragraph 31 and following). These arguments were emphasised by the Applicant's legal advisers at the meeting I held with them.

21. As noted above, the Application states that the CMA case team has not explained the commercial sensitivity of the information to the Third Party or how disclosure to those involved in the day to day business managing the Applicant would cause the Third Party any harm (see paragraph 10 above). The Application makes a number of points about the nature of the Information and the absence of any significant commercial consequences for the Third Party of any disclosure and makes a comparison with the treatment of information provided by another third party. It notes:

- *two access to file documents explain that 'the [X] figure is: 1) used purely for [X]'s accounting purposes and 2) clearly is not the actual profit made on [X]'s sales of its products – it is simply a notional cost of the product supplied by one internal business unit to another.'*
- *the argument presented by the CMA case team 'does not explain how awareness by Flynn of a specific figure within [X]'s transfer pricing policy*

⁴ Rule 7 of the CMA Rules, see footnote 1 above. The definition of 'confidential information' for the purpose of the Rules is set out in Rule 1.

could cause any harm (let alone significant financial harm) to [X]. The mere fact that other unspecified products are subject to the same approach is unclear. There is no basis upon which Flynn could be aware that [X] in respect of such unspecified products and/ or whether [X] may own any IP or whether such IP is owned by another [X] group company. Further, the fact of Flynn being aware of this internal transfer pricing policy will not in any way allow Flynn to adapt or alter its pricing.'

- *'similar information for [X] has not been redacted from the SO. Accordingly, this information is currently known to our client. Like [X], [X] also sells phenytoin tablets. This suggests either that [X] do not consider similar information to be confidential and therefore [X] 's concerns are unwarranted, or the CMA case team has adopted an inconsistent approach to confidentiality representations.'*

22. At the meeting I held with the Applicant's legal advisers a number of points were made about the Information including the following:

- the representations about commercial sensitivity which had been made by the Third Party had been summarised to the Applicant's legal advisers who were not in a position to know if these had been sufficiently challenged by the CMA case team
- the Information related only to an internal accounting mechanism of the Third Party and the Applicant would not be provided with any details of products
- the disclosure requested was limited in nature and would not enable the Applicant's business to make use of the Information more widely. It would itself be protected by the provisions of Part 9 of the Enterprise Act and therefore from any further disclosure
- the position of the Applicant as a small business and the difference in the size and nature from the Third Party limited the use which could be made of the Information
- the relevant figure is a current one used by the Third Party although the alleged infringement is historic.

The SRO's Decision

23. The SRO's Decision confirmed the CMA case team's view that disclosure might significantly harm the Third Party's legitimate business interests. It states:

'based on the nature of this information and the specific representations made by the relevant business, we consider that disclosure to Flynn and its CEO might cause significant harm to its [the Third Party's] legitimate business interests (the information is, therefore, confidential for the purposes of the CMA Rules).'

24. The SRO's Decision sets out the relevant information on which this was based:

'We consider the following (which have been raised in representations) to be relevant to this assessment: a. The figure continues to be used by the business for a wide range of products. b. The relevant business is a direct competitor of Flynn in relation to a number of products (including products to which this figure relates).'

25. The SRO's Decision acknowledged that consideration of the request for disclosure involved the balancing required by applying the provisions of section 244, noting:

'we have sought to arrive at a conclusion which we think appropriately balances the relevant and, in this case, competing interests.'

26. The SRO's Decision sets out the steps that were taken in considering the approach to disclosure of the Information:

'...we have already engaged with the relevant business to ensure disclosure of this information in a way that does not impair Flynn's ability to defend itself whilst protecting the confidential nature of the information.'

Specifically:

a. Prior to issuing the non-confidential Statement of Objections on 5 August, we engaged further with the relevant business to ensure that the [X] figure was disclosed outside of the confidentiality ring. Whilst we acknowledged that the figure was confidential and whilst the figure is one of a number of reference points in the assessment, we considered the need for Flynn and its CEO to see the percentage

figure itself. For these purposes, we agreed instead to redact the source of the figure.

b. Both the [X] and its source have been fully disclosed within the CMA's confidentiality ring, which ensures disclosure to Flynn's legal and economic advisors, as well as a non-executive director of the business who has been involved in the proceedings for a number of years.'

27. The steps which had been taken to assess the commercial sensitivity of the Information and the conclusions set out in the SRO's Decision were explained at the meeting I held with the CMA case team. In particular, they explained the representations which had been received from the Third Party and the approach which had been adopted following the request for disclosure made on behalf of the Applicant. Further details of the process followed are set out below (see paragraph 28 and following). The CMA case team also explained that careful consideration had been given to the Information and that it was considered to be confidential, internal and strategic and to apply to a wide range of products.

The process in relation to the disclosure

28. A timeline including correspondence was provided as part of the Application and information about the steps taken by the CMA case team as part of this timeline was also provided by email (see paragraph 5 above). At the meeting with the CMA case team, they explained the process that was followed in dealing with the Information and the request for disclosure made on behalf of the Applicant including the steps that had been taken and the issues considered. In particular, based on the timelines that have been provided, I note:

- representations were received from the Third Party about the commercial sensitivity of the Information and the disclosures to be made within the confidentiality ring, before the Statement of Objections was issued
- the importance of the information for the Applicant and the need to consider an appropriate approach to disclosure was acknowledged
- the CMA case team engaged with the Third Party in order to enable disclosure in a non-confidential version of the Statement of Objections as well as disclosure within the confidentiality ring

- following the request on behalf of the Applicant for the lifting of redactions (in a letter dated 3 September) the CMA case team sought further representations from the Third Party
- the Applicant's legal advisers were kept informed by the CMA case team of the steps that were being taken to deal with the request by seeking further representations (in a letter dated 10 September), acknowledged by the Applicant's legal advisers (in a letter dated 15 September)
- further representations were received from the Third Party's legal advisers in relation to the commercial sensitivity of the Information.

29. At the meeting with the CMA case team, they explained the issues that had been taken into account and the possible options for disclosure which had been considered. The fact that there was a confidentiality ring in place and the identity of those who had access to it, including a non-executive director from Flynn who had a long-standing involvement in the Investigation, were relevant considerations. The CMA case team also noted that the approach to disclosure of information about another third party was not necessarily an equivalent process.

30. I note also that the process was explained and that the Applicant's legal advisers were kept informed of the steps that were being taken. This was reflected in the correspondence which was provided with the Application in letters dated 10 and 15 September (see paragraph 28 above) and set out in the SRO's Decision which explains:

'Following Flynn's request, we also contacted the relevant business to which the [X] figure relates to seek any additional representations they wished to provide. The business provided additional representations re-affirming and further explaining their view that this information is confidential for the purposes of rule 1(1) of The Competition Act 1998 (Competition and Markets Authority's Rules) Order 2014 (the 'CMA Rules').'

2) Disclosure and rights of defence

31. The second argument raised by the Application relates to the rights of defence of the Applicant as an addressee of the Statement of Objections issued in the Investigation. As noted above (see paragraph 15), this is linked to the first argument about disclosure and the assessment of the commercial sensitivity of the Information and the significant harm to the legitimate business interests of the

Third Party which may be caused by disclosure. The SRO's Decision acknowledged the balancing of interests.

Part 9 of the Enterprise Act and the CMA Rules

32. As noted above (see paragraph 18), in considering the disclosure of the Information, the third consideration set out in section 244(4) of the Enterprise Act is relevant: *'the extent to which the disclosure of the information ... is necessary for the purpose for which the authority is permitted to make the disclosure.'*

33. In this case, the disclosure relates to the carrying out of a formal stage of the Investigation. The CMA Rules state that an addressee of a Statement of Objections must be provided with *'the facts on which the CMA relies, the objections raised by the CMA, the action the CMA proposes and its reasons for the proposed action'*.⁵

The position of the Applicant: disclosure and rights of defence

34. The Application raises the rights of defence of the Applicant. In the meeting with the Applicant's legal advisers, the rights of defence were emphasised and the significant potential consequences of any infringement finding that might be made were highlighted. It was argued that the balance in relation to disclosure should fall in favour of a company facing quasi-criminal penalties under the Competition Act. The Applicant's legal advisers explained the importance of the Information as part of the CMA's case and therefore the importance of being able to respond to it properly.

35. The Application argues that the way in which the Information is disclosed *'does not respect Flynn's rights of defence'*. As explained in the Application and noted above (see paragraph 8), the Information is disclosed in a confidentiality ring and redactions are made from the relevant paragraph of the Statement of Objections. The Application notes that although the [X] figure was disclosed to the Applicant outside the confidentiality ring:

'the identity of the supplier apparently relying on this [X] figure is not known to them, meaning they cannot substantively comment on the value of this information and/ or reflect their knowledge of the industry in responding to the SO.'

⁵ Rule 6 of the CMA Rules, see footnote 1 above.

'More generally, the individuals involved in Flynn's defence who are best placed to review and critique the CMA's reliance upon this [redacted] figure are those with day-to-day involvement in Flynn's business i.e. individuals at Flynn. These individuals may feasibly already have, or may be in a position to express, detailed knowledge of [redacted] and why it chooses to operate in this way. The CMA's reliance upon this [redacted] figure appears to be a crucial part of the CMA's provisional finding on this issue. The confidentiality ring members, as Flynn's legal/economic advisers, do not have day-to-day involvement in the generic industry and are not in a position to fully understand whether the CMA is correct to compare Flynn's returns with [redacted]'s use of this [redacted] figure.'

36. The Application also argues that the rights of defence of the Applicant are linked to the arguments about any commercial sensitivity to the Third Party which might arise from disclosure to the Applicant in the way requested (see paragraph 12 above).
37. These arguments were emphasised at the meeting I held with the Applicant's legal advisers. They explained the nature of the Applicant's business and why this was an important consideration for the rights of defence in the context of this Application. The way in which the Information had been disclosed created limitations on how it could be assessed in order to make representations on the Statement of Objections. As set out in the Application (see paragraph 35 above) they argued the need for the Information to be disclosed to those with day to day knowledge of the business and therefore in a position to provide an informed response. This was different from other businesses. It was noted that the Applicant did not have any internal legal advisers who could have access to the confidentiality ring and this had implications for the instructions that could be taken on the Information disclosed. Although it was acknowledged that a non-executive director was part of the confidentiality ring, the individual had limited knowledge about the day to day operation of the business. At the meeting with the Applicant's legal advisers, they suggested that one or more individuals from the Applicant's management could have access to the confidentiality ring in order to address these concerns.
38. As noted above, the Application states that *'this [redacted] figure appears to be a crucial part of the CMA's provisional finding on this issue'*. At the meeting with the Applicant's legal advisers, they emphasised why it was therefore important that the Applicant was in a position to make informed representations which included knowing the identity of the business which made this return. It was not possible to make arguments on the basis of assumptions about the identity or the

nature of the business. The Applicant's legal advisers needed to be in a position to take informed instructions from those with business knowledge in order to be in a position to make representations on the Statement of Objections on behalf of the Applicant.

The SRO's Decision

39. The SRO's Decision acknowledges the importance of the Information to the Applicant's ability to make representations on the Statement of Objections. It states:

'Both the [X] and its source have been fully disclosed within the CMA's confidentiality ring, which ensures disclosure to Flynn's legal and economic advisors, as well as a non-executive director of the business who has been involved in the proceedings for a number of years.'

40. The SRO's Decision also acknowledges the importance of the percentage figure and sets out the way in which this was addressed:

'Prior to issuing the non-confidential Statement of Objections on 5 August, we engaged further with the relevant business to ensure that the [X] figure was disclosed outside of the confidentiality ring. Whilst we acknowledged that the figure was confidential and whilst the figure is one of a number of reference points in the assessment, we considered the need for Flynn and its CEO to see the percentage figure itself. For these purposes, we agreed instead to redact the source of the figure.'

41. The approach to disclosure of the Information and the ability of the Applicant to be in a position to make representations on the Statement of Objections was set out at the meeting I held with the CMA case team. The background to the confidentiality ring was explained. Requests to expand the confidentiality ring had been carefully considered and a non-executive director had been included to reflect the particular circumstances of the Applicant. The CMA case team noted that the individual had been involved in the Applicant's business. It was noted that the individual had also been part of the confidentiality ring during proceedings before the Competition Appeal Tribunal which had commented on the unusual situation of a non-executive director being part of a confidentiality ring. The CMA case team explained that although a request to expand the ring further and include individuals from the management of the Applicant's business had been considered, it had been decided that this would be likely to undermine the purpose of a confidentiality ring.

42. At the meeting I held with the CMA case team, they also explained that the nature of the Information had been carefully considered. The percentage figure was important and this had therefore been disclosed in the Statement of Objections as well as in the confidentiality ring. The identity and precise nature of the business had been redacted from the relevant paragraph although the fact that it was a [X] had been disclosed. The CMA case team noted however that the percentage figure was only one part of the CMA case set out in the Statement of Objections: it was a reference point within a cross check. It was also noted that the Applicant's economic advisers had previously considered the issue of [X] and would therefore be well placed to consider the Information and make any appropriate arguments, even in the absence of detailed input from those involved in the day to day running of the business.

Observations on the Application

43. In handling this Application, I have considered the procedures followed in reaching the SRO's Decision. In particular, I have considered if there has been any error in the procedures followed in applying Part 9 of the Enterprise Act. I have also considered whether any of the procedures followed in handling the request to lift the redactions and reaching the conclusions in the SRO's Decision were unfair or unreasonable. In doing so, I have taken account of the rights of defence of the Applicant as an addressee of the Statement of Objections issued in the Investigation.

44. As part of my consideration of the Application, it is not appropriate to apply Part 9 of the Enterprise Act to the Information. I have been provided with the representations made by the Third Party. I have considered these only as part of the process undertaken by the CMA case team in considering the approach to disclosure of the Information. I have not made a fresh assessment myself of any of the points that have been made in those representations. I note more generally that the Third Party does not have a formal role in the Procedural Officer's process for considering this Application. I have considered carefully the steps taken by the CMA case team. I note the arguments that have been made on behalf of the Applicant including the fact that the CMA case team has not demonstrated any significant harm that might occur to the legitimate business interests of the Third Party by disclosure to the Applicant. In particular, I have considered if the arguments made were such as to suggest that the CMA case team in some way misapplied the provisions of Part 9 or misunderstood the nature of the Information concerned. I note the points which have been made about the assessment, the nature of the Information and the process which was followed.

45. The SRO's Decision states:

'In these circumstances, it falls to the CMA to carefully consider all the representations received from each party and, balancing those representations, come to a conclusion on whether or not to disclose the information. In this case, we have considered the potential harm to the relevant business from disclosure to Flynn and its CEO, as well as whether Flynn should be granted access to the redacted information outside of the confidentiality ring for rights of defence reasons.'

46. The SRO's Decision clearly sets out the approach that was adopted, covering the steps that were taken in relation to the assessment of the commercial sensitivity of the Information and the conclusions that were reached. I note that consideration was given to the assessment of the provisions of Part 9 of the Enterprise Act and in particular in this case the balance between the commercial sensitivity of the Information for the Third Party and the rights of defence of the Applicant. This consideration took account of the representations and arguments that had been made both on behalf of the Third Party and of the Applicant. In this context, I note that the provisions of section 244 give discretion to the CMA in making the assessment. Section 244(3)(a) refers to *'commercial information whose disclosure the authority thinks might harm the legitimate business interests of the undertaking to which it relates'* (emphasis added).

47. I have carefully considered the two linked arguments that were made in the Application and at the meeting I held with the Applicant's legal advisers. In particular, I note the points that have been made on behalf of the Applicant which question the assessment of the commercial sensitivity of the Information and the consequences of any disclosure for the Third Party. As noted above, I consider that the SRO's Decision sets out the approach that was adopted and the considerations that were properly taken into account in assessing the commercial sensitivity of the Information. I do not consider that the points made on behalf of the Applicant are such as to conclude that there was any error in reaching the SRO's Decision.

48. I have carefully considered the arguments made on behalf of the Applicant about the rights of defence and in particular the importance of those involved in the day to day management being able to see and make representations on the Information as a whole. In this context I note in particular that full disclosure of the Information has been made in the confidentiality ring and that disclosure of the percentage and business model have been made in the Statement of

Objections. I also note that a non-executive director of the Applicant is part of the confidentiality ring. At the meeting I held with them, the CMA case team also made a number of other points about the nature of the Information and its use to the Applicant's advisers without the need for further disclosure (see paragraph 42 above).

49. In light of these points, I consider that the SRO's Decision was based on a proper application of Part 9 of the Enterprise Act, reflecting a reasonable assessment of the consequences of disclosure for the Third Party, balanced against appropriate disclosure to enable the Applicant to respond to the Statement of Objections.

50. I have also considered whether any of the procedures followed in handling the request to lift the redactions and reaching the conclusions in the SRO's Decision were unfair or unreasonable. In particular, I have considered the procedures that were followed in assessing the representations that were made on behalf of the Applicant in relation to disclosure of the Information, the representations that were made on behalf of the Third Party about the commercial sensitivity of the Information and the steps that were taken to make appropriate disclosures based on those assessments.

51. As part of this consideration I note in particular the following points:

- the SRO's Decision sets out the steps that were taken in reaching the conclusions in relation to disclosure of the Information and the reasons for those conclusions
- the timelines which I have seen and the correspondence provided with the Application demonstrate the consideration which was given to the arguments made on behalf of the Applicant and the representations sought from the Third Party and that this was part of a continuing process reflecting the arguments and representations received (see paragraph 28 above)
- the correspondence shows that the Applicant was kept informed of the steps that were being taken to seek representations from the Third Party (see paragraphs 28 and 30 above)
- the correspondence shows that the procedures set out in the CMA Rules for handling information which has been identified as being information the CMA should treat as confidential were followed (see paragraphs 19 and 28 above)

- the use of a confidentiality ring and disclosure in a redacted Statement of Objections reflect the consideration given to the appropriate method of disclosure to balance the interests identified
- the nature of the confidentiality ring was considered and adapted as appropriate to the particular circumstances of the Applicant.

52. I therefore consider that the procedures followed in dealing with the Applicant's request for lifting of the redactions and reaching the conclusions set out in the SRO's Decision were fair and reasonable.

Decision

53. After careful consideration, in light of the reasons set out above, I have decided to reject the Application.

FRANCES BARR
PROCEDURAL OFFICER
22 October 2021