

COMPANY DIRECTORS DISQUALIFICATION ACT 1986

DISQUALIFICATION UNDERTAKING

**IN RE: KING PHARMACEUTICALS LIMITED and PRAZE CONSULTANTS LIMITED
(together “King/Praze”)**

**CASE 50507.2: CMA INVESTIGATION INTO THE SUPPLY OF NORTRIPTYLINE
TABLETS IN THE UK**

I, **PHILIP MALCOLM HALLWOOD** of [REDACTED]
hereby undertake to the Competition and Markets Authority (“the CMA”), on the basis set out
in the schedule attached to this disqualification undertaking, that in accordance with section
9B of the Company Directors Disqualification Act 1986 (“CDDA 1986”):

I WILL NOT for a period of **7 years**:

- a) be a director of a company, act as a receiver of a company’s property or in any way,
whether directly or indirectly, be concerned or take part in the promotion, formation or
management of a company unless (in each case) I have the leave of the court; or
- b) act as an insolvency practitioner.

Further, I will use my best endeavours to cooperate with, and assist, the CMA in its director
disqualification investigation in relation to Case 50507.2 and any related proceedings.

The scope and effect of the disqualification undertaking that I hereby give have been explained
to me in the CMA’s letter of 22 November 2019.

Further, I understand that if I act in contravention of the above disqualification undertaking:

- a) I may be prosecuted for a criminal offence (CDDA 1986 section 13); and
- b) I may be personally responsible for all the relevant debts of a company (CDDA 1986
section 15).

The CMA has explained that I may seek legal or professional advice on the effect of this
undertaking and I was given the opportunity to do so before signing this undertaking.

Signed

[REDACTED]

Philip Malcolm Hallwood

[REDACTED]

Date

Accepted by

[REDACTED]

(Authorised person at CMA)

[REDACTED]

Date

Note: the period of disqualification commences at the end of 90 days beginning with the day
on which the disqualification undertaking is accepted by the CMA, and that commencement
date is **19 March 2020**

SCHEDULE TO THE DISQUALIFICATION UNDERTAKING GIVEN BY

PHILIP MALCOLM HALLWOOD

Solely for the purpose of the CDDA 1986 and for any other purposes under the provisions of the CDDA 1986 and other legislation consequential to the giving of a disqualification undertaking, I admit the following matters:

BREACH OF COMPETITION LAW

1. As provisionally found by the CMA in its Statement of Objections issued on 18 June 2019 (the **SO**) and admitted by King Pharmaceuticals Limited and Praze Consultants Limited (collectively, **King/Praze**¹) on 20 September 2019 (as regards the Information Exchange as defined below in paragraph 1(b)) and 16 October 2019 (as regards the Market Sharing as defined below in paragraph 1(a)) in settlement of case 50507.2 (nortriptyline tablets), King/Praze infringed the prohibition imposed by section 2(1) of the Competition Act 1998 and Article 101(1) of the Treaty on the Functioning of the European Union ('TFEU') within the United Kingdom ('UK') and within the internal market by participating in the following agreements and concerted practices during the time periods described below (the **Relevant Periods**):

- a. **Market Sharing** – From September 2014 until May 2015, Auden Mckenzie and King/Praze entered into a market sharing agreement relating to the supply of nortriptyline tablets to Lexon that had as its object the restriction of competition by:
 - i. Market sharing: Auden Mckenzie would supply Lexon with only 10mg packs of nortriptyline tablets and King/Praze would supply Lexon with only 25mg packs of nortriptyline tablets.
 - ii. Fixed prices: Auden Mckenzie and King/Praze would supply Lexon at a fixed price of £4 per pack.
 - iii. Fixed quantities: Auden Mckenzie and King/Praze would each supply no more than a fixed quantity of their respective packs of tablets: 3,400 10mg packs in the case of Auden Mckenzie; and 1,600 25mg packs in the case of King/Praze. In both cases, the fixed volumes accounted for approximately one sixth of the total market size.

The market sharing agreement lasted between at least September 2014 and May 2015 (the Market Sharing Period). King/Praze implemented all three elements of the market sharing agreement for the entire Market Sharing Period.

¹ The SO provisionally held King Pharmaceuticals Limited ("King") and Praze Consultants Limited ("Praze") jointly and severally liable for their involvement in the Admitted Infringements, as defined in paragraphs 1a and 1b of this document, and for any resulting financial penalty which the CMA may decide to impose. The CMA also provisionally found that King and Praze formed a single economic unit, or '*undertaking*', and thus liability for the Admitted Infringements is imputed to that undertaking. King and Praze are therefore collectively referred to in this document as 'King/Praze' to reflect these findings.

b. **Information Exchange** – King/Praze, Lexon and Alissa participated in a concerted practice (or series of concerted practices) comprising the repeated exchange of strategic information on pricing, volumes and timing of supplies, and entry plans for the supply of nortriptyline tablets in the UK. The Information Exchange had as its object the restriction of competition: the exchanges reduced strategic uncertainty in the market with the purpose of maintaining the prices of nortriptyline tablets in the UK or at least slowing their decline. King/Praze, Lexon and Alissa were party to the Information Exchange as follows:

- i. During the period from 27 July 2015 to 27 May 2016 ('Information Exchange Period 1'):
 - o King/Praze and Lexon were party to the Information Exchange throughout Information Exchange Period 1;
 - o Alissa was party to the Information Exchange during the period from 2 March 2016 to 27 May 2016; and
- ii. During the period from 5 December 2016 to 27 January 2017 ('Information Exchange Period 2'), King/Praze and Alissa were party to the Information Exchange.

(together, the **Admitted Infringements**)

2. During the Market Sharing and Information Exchange periods described above, King/Praze breached competition law by engaging in the Admitted Infringements.
3. I have been a director of King Pharmaceuticals Limited since 31 March 2014 and a director of Praze Consultants Limited since 9 June 1999 and therefore a director of King/Praze throughout the Relevant Periods.

MATTERS OF UNFITNESS

4. On 18 June 2019, the CMA issued its Statement of Objections to King/Praze in which the CMA provisionally found that King/Praze participated in the Admitted Infringements.
5. King/Praze admitted their participation in the Admitted Infringements on 20 September 2019 (as regards the Information Exchange) and 16 October 2019 (as regards the Market Sharing) as part of settlement of case 50507.2 with the CMA.
6. King Pharmaceuticals Limited opened its first UK establishment on 1 December 1995, Praze Consultants Limited was incorporated on 23 April 1999 and both were therefore active companies during the Relevant Periods.
7. I accept that I was a director of King/Praze throughout the Relevant Periods and in the following respects my conduct as a director of King/Praze was such as to make me unfit to be concerned in the management of a company.

Market Sharing

- a. I was directly involved in the establishment, implementation and operation of a market sharing agreement with my company's direct and immediate competitor, Auden Mckenzie, throughout the Market Sharing Period. I actively maintained the market sharing agreement throughout the entire Market Sharing Period, both internally within King/Praze and externally by having engaged in contact with Auden Mckenzie.
- b. I discussed supply of nortriptyline tablets to Lexon with Auden Mckenzie in the summer of 2014 and these discussions formed the basis of the horizontal agreement between King/Praze and Auden Mckenzie. I agreed with Auden Mckenzie that King/Praze and Auden Mckenzie would share supplies of nortriptyline tablets to Lexon on the terms agreed independently by Auden Mckenzie with Lexon.
- c. My intention in entering into the market sharing agreement was to share the supply of nortriptyline tablets in the UK to Lexon with my direct competitor, to fix the prices of supply to Lexon and to fix the quantities of supply to Lexon throughout the Market Sharing Period.
- d. Market sharing is amongst the most serious type of competition law infringement.
- e. As a result of the breach, I directly contributed to King/Praze being exposed to a penalty under the Competition Act 1998, which it has agreed to pay as part of a settlement with the CMA.

Information Exchange

- f. I directly participated in a concerted practice (or series of concerted practices) comprising the repeated exchange of strategic information on pricing, volumes and timing of supplies, and entry plans for the supply of nortriptyline tablets in the UK (the Information Exchange).
- g. I directly participated in the Information Exchange throughout the duration of both Information Exchange Period 1 and Information Exchange Period 2 by exchanging strategic information with both actual and potential competitors.
- h. My intention in participating in the Information Exchange was to create conditions of competition which did not correspond to the normal conditions of the market and to reduce strategic uncertainty in the market with the purpose of maintaining the prices of nortriptyline tablets in the UK, or at least slowing their decline.
- i. The exchange of commercially sensitive information is amongst the most serious type of competition law infringement.
- j. As a result of the breach, I directly contributed to King/Praze being exposed to a penalty under the Competition Act 1998, which it has agreed to pay as part of a settlement with the CMA.