



JAMP Pharma Corporation v Janssen Inc. (CT-2024-006)

INFORMATION NOTE: November 20, 2024

Today, the Competition Tribunal dismissed an application for leave under subsection 103.1(7) of the *Competition Act*, RSC, 1985, c C-34, as amended, brought by JAMP Pharma Corporation (JAMP) to commence an application against Janssen Inc. (Janssen) under the abuse of dominance provisions of the *Competition Act*. This was the first application seeking leave to commence a proceeding under section 79 to be determined by the Tribunal, following recent amendments to the *Competition Act*.

The Tribunal's task was to determine whether it had reason to believe that JAMP was directly and substantially affected in the applicant's business by any practice referred to in section 79 that could be subject to an order under that section.

The parties disagreed on the meaning of "directly and substantially affected in the applicant's business by any practice" in subsection 103.1(7) in the context of proposed section 79 proceedings. The Tribunal concluded that an analysis of the text, context and purpose of subsection 103.1(7), when read together with section 79, did not require that an applicant be directly and substantially affected in its entire business.

On the basis of the evidentiary record, the Tribunal concluded that JAMP did not adduce sufficient cogent evidence to give rise to a *bona fide* belief that an order could be made under paragraphs 79(1)(a) or (b) of the *Competition Act*. Similarly, the Tribunal concluded that JAMP's evidence did not give rise to a *bona fide* belief that it was directly and substantially affected in its business by a reviewable practice under section 79. JAMP's application for leave under subsection 103.1(7) was therefore dismissed.

The full reasons for the Tribunal's order are currently confidential. The Tribunal is working with the parties to identify confidential or competitively sensitive information in its confidential reasons that will be redacted from the public version. That public version is expected to be released within approximately ten days.