



**EDITOR'S NOTE:** This document is subject to editorial revision before its reproduction in final form in the *Federal Courts Reports*.

## ACCESS TO INFORMATION

*Access to Information Act*, R.S.C. 1985, c. A-1 (Act) matter returned to Federal Court by Federal Court of Appeal in *Canada (Health) v Elanco Canada Limited*, 2021 FCA 191 — Facts, background on matter outlined in *Elanco Canada Limited v Canada (Health)*, 2019 FC 1455 — Pursuant to Act, s. 44, applicant applied for review of Health Canada's decision disclosing portions of 166-page record of applicant's submissions to Health Canada for approval of veterinary drug Fortekor — Parties disagreeing on severance, redactions to be applied to record — On matters remitted by Federal Court of Appeal, evidentiary record remaining same — Main issue whether "Identity of Suppliers" exempt from disclosure — "Identity of Suppliers" exempted under Act, s. 20(1)(b), (c), (d) — "Identity of Suppliers" information should be treated same as "Supplier Information" as these are conceptually same, treated in same manner by applicant — Act, S. 20(1)(b) protecting "financial, commercial, scientific or technical information that is confidential information supplied to government institution by third party, treated consistently in confidential manner by third party" — Considering applicant needing only to demonstrate reasonable expectation of probable harm, disclosure of "Identity of Suppliers" information could have negative competitive impact on applicant — Applicant not required to establish "proof of harm" — Established sufficient, non-speculative evidence of potential harm to contractual negotiations — Disclosure of supplier's identities could harm applicant's contractual negotiations — Respondent ordered to redact certain portions of record.

ELANCO CANADA LIMITED V. CANADA (HEALTH) (T-2092-17, 2024 FC 543, McDonald J., reasons for judgment dated April 8, 2024, 14 pp.)