

*For Immediate Release*

## **Biota provides Progress Update on GSK Litigation**

Melbourne Australia—Wednesday 14 December 2005.

Biota Holdings Limited (ASX: BTA) provides the following update to shareholders on the litigation with GlaxoSmithKline (GSK).

At the recent hearing in the Supreme Court of Victoria on 7 December the Court directed GSK to provide to Biota three further tranches of documents relevant to Biota's claims against GSK. (Since April 2005 GSK has delivered seven tranches comprising in excess of 120,000 documents). The three additional tranches, each of which is to be of 20,000 documents or more, are to be provided by 14 December 2005, 6 February 2006 and 10 March 2006. The Court will review the status of the provision of documents by GSK to Biota at a further hearing which is scheduled for Friday, 24 March 2006.

Biota began legal proceedings against GSK in May 2004, in the Victorian Supreme Court. In substance, Biota's claims are that GSK has failed to use its best endeavours to promote and support Relenza. As a result, Biota claims that GSK is in breach of its contract with Biota and liable to compensate Biota for the loss and damage which it has suffered and will continue to suffer in the future. In July 2005, Biota estimated its loss and damage at between \$308m and \$430m and a document to this effect was filed with the Court.

In January 2005, the Court directed that both parties should participate in a mediation process by 25 November 2005, a normal practice within the Victorian Supreme Court system before the setting of a trial date. The mediation was held on 9 and 10 November 2005 and, as was reported to the Market on 11 November 2005, no settlement was reached.

Since the mediation, two further Court hearings have been held. The first, on 18 November, resulted in an adjournment to 7 December 2005 to enable additional affidavit evidence to be filed. The outcome of the 7 December 2005 hearing is reported above.

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At this stage it appears unlikely that GSK will complete the task of providing all of its relevant documents to Biota by March 2006. The date by which GSK will complete this process, which is an essential prerequisite to the setting of the trial date, should become clearer at the hearing on 24 March 2006.

The company's legal advisors have indicated that the trial will not commence until at least six months after that process is complete. On this basis, the earliest possible time for the commencement of the trial would now seem to be late 2006. Biota remains of the view that it has a strong case and will continue to press forward with it as quickly as possible. The July 2005 estimate may vary in the future as further documents are received from GSK and more information emerges about pandemic stockpiling of antiviral drugs, including Relenza.

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