FTC Puts Conditions on Akorn, Inc.'s Proposed Acquisition of VersaPharm Inc

Settlement Preserves Future Competition in Generic Injectable Tuberculosis Drug Market

FOR RELEASE

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TAGS: Bureau of Competition | Competition

Pharmaceutical company Akorn, Inc. has agreed to sell its rights to develop, manufacture, and market the generic injectable tuberculosis drug, rifampin, in order to settle FTC charges that Akorn's proposed acquisition of VersaPharm Inc. and its parent company, VPI Holdings Corp., would likely be anticompetitive. The FTC's proposed settlement with Akorn requires the company to divest its Abbreviated New Drug Application for generic injectable rifampin – which is currently pending before the Food and Drug Administration – to Watson Laboratories, Inc. Akorn proposes to acquire VersaPharm for approximately $324 million, under an agreement dated May 9, 2014.

According to the FTC's complaint, only VersaPharm and two other firms currently have FDA approval to sell generic injectable rifampin. There are no viable substitutes for rifampin as a course of treatment for tuberculosis. Absent the acquisition, Akorn likely would have entered the market for generic injectable rifampin in the near future, resulting in a significant price reduction for the drug. According to the FTC's complaint, if Akorn were to consummate its acquisition of VersaPharm, as originally proposed, the combined company would likely forego or delay the introduction of Akorn's generic injectable rifampin.

Under the proposed consent order, an interim monitor will supervise Akorn to ensure that it provides Watson with any information the FDA requests, assists Watson to obtain FDA approval for the pending ANDA, and provides transitional services so that Watson can develop the ability to manufacture generic injectable rifampin independently.

More information about the market for this drug and the consent agreement can be found in the analysis to aid public comment for this matter on the FTC's website.

The Commission vote to accept the proposed consent order for public comment was 5-0. The proposed settlement is part of the Commission's ongoing effort to protect U.S. consumers from higher healthcare-related costs.

The FTC will publish the consent agreement package in the Federal Register shortly. The agreement will be subject to public comment for 30 days, beginning today and continuing through September 3, 2014, after which the Commission will decide whether to make the proposed consent order final. Interested parties can submit written comments electronically or in paper form by following the instructions in the "Supplementary Information" section of the Federal Register notice.

NOTE: The Commission issues an administrative complaint when it has "reason to believe" that the law has been or is being violated, and it appears to the Commission that a proceeding is in the public interest. When the Commission issues a consent order on a final basis, it carries the force of law with respect to future actions. Each violation of such an order may result in a civil penalty of up to $16,000 per day.

The FTC's Bureau of Competition works with the Bureau of Economics to investigate alleged anticompetitive business practices and, when appropriate, recommends that the Commission take law enforcement action. To inform the Bureau about particular business practices, call 202-326-3300, send an e-mail to antitrust{at}ftc{dot}gov, or write to the Office of Policy and Coordination, Bureau of Competition, Federal Trade Commission, 600 Pennsylvania Ave., NW, Room CC-5422, Washington, DC 20580. To learn more about the Bureau of Competition, read Competition Counts. Like the FTC on Facebook, follow us on Twitter, and subscribe to press releases for the latest FTC news and resources.

PRESS RELEASE REFERENCE:
FTC Approves Final Order Preserving Future Competition in Generic Injectable Tuberculosis Drug Market

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Related Cases

Akorn, Inc., In the Matter of