



## **Federal Trade Commission Protecting America's Consumers**

**For Release:** 12/01/2010

### **FTC Challenges LabCorp's Acquisition of Rival Clinical Laboratory Testing Company**

#### **Alleges Integration of Westcliff Medical Laboratories Would Lead to Higher Prices, Lower Quality**

As part of its ongoing efforts to ensure competition in U.S. health care markets, the Federal Trade Commission today challenged Laboratory Corporation of America's \$57.5 million acquisition of rival clinical laboratory testing company Westcliff Medical Laboratories, Inc., alleging that the transaction would harm competition in Southern California.

"Competition is one of the keys to keeping health care costs under control and ensuring that patients receive high-quality care, and laboratory services are an essential part of that," said Richard Feinstein, Director of the FTC's Bureau of Competition. "Physicians use lab testing to help diagnose patients and accurately evaluate their conditions, and the FTC is committed to protecting competition in this important sector."

The FTC has issued an administrative complaint charging that LabCorp's acquisition of Westcliff, which was completed June 16, 2010, violates antitrust laws and would lead to higher prices and lower quality in the Southern California market for the sale of clinical laboratory testing services to physician groups.

The complaint also alleges that LabCorp's acquisition of Westcliff would leave only two significant laboratories in Southern California competing to provide critical testing services to most physician groups. LabCorp and Westcliff, along with a third competitor, Quest Diagnostics Incorporated, currently serve the vast majority of the physician groups in the region. The transaction would leave LabCorp and Quest in control of approximately 89 percent of the market, according to the FTC's complaint.

LabCorp and Westcliff perform clinical laboratory testing services at the request of patients' individual physicians, but the ultimate payer varies depending on the patient's health plan. In California, physician groups typically contract to pay for laboratory tests performed for patients in health maintenance organizations. Usually, a physician group will contract on a per-member, per-month basis, known as "capitation." Some physician groups pay laboratories for each individual test, known as "fee-for-service."

According to the FTC complaint, Westcliff is an upstart competitor that has been expanding its share of physician group business and has priced its capitated laboratory testing services to physician groups more aggressively than its most significant competitors, LabCorp and Quest. In several instances, the complaint states, Westcliff thwarted LabCorp's attempts to raise prices by offering lower capitated contract rates to physician groups.

LabCorp's acquisition of Westcliff would make it more likely that the only two remaining competitors in the market – LabCorp and Quest – would increase prices. By eliminating competition from Westcliff, the complaint charges, the transaction would deprive physician groups of leverage to keep prices low for clinical laboratory testing services.

The complaint states that it is unlikely that a new competitor would enter or expand into the Southern California market for the sale of clinical laboratory testing services to physician groups sufficient to restore the competition lost as a result of LabCorp's acquisition of Westcliff.

The Commission vote approving the administrative complaint was 4-1, with the majority issuing a statement. Commissioner J. Thomas Rosch voted no and issued a separate dissenting statement. Both statements can be found on the [FTC's website](#) and as a link to this press release. The FTC's administrative complaint was issued yesterday, and a public version will be available shortly. The trial is scheduled before an Administrative Law Judge at the FTC, beginning on May 2, 2011.

The FTC also is filing an action in federal court to prevent LabCorp from integrating the Westcliff assets while the case is being tried in the administrative court. On June 25, 2010, LabCorp agreed to hold the Westcliff assets separate and apart while the agency investigated the transaction; the FTC is seeking a federal court order requiring LabCorp to continue that separation during the administrative proceeding.

The majority statement explained that the Commission voted to issue the complaint because “We find reason to believe that the acquisition of Westcliff by LabCorp will raise prices for health care for millions of people in Southern California.” The Commission added that “We should not lose sight of the critical fact with which we all agree: this merger merits further scrutiny.”

In his dissent, Commissioner Rosch wrote that “I do not fault my colleagues for voting out the product market alleged in the complaint where, as here, they have been put in an untenable position: either they accept the complaint’s improper definition of the relevant product market, or, alternatively, they must conclude that they currently lack reason to believe that the merger violates the antitrust laws.”

**NOTE:** The Commission issues or files a 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. The complaint is not a finding or ruling that the named parties have violated the law. The administrative complaint marks the beginning of a proceeding in which the allegations will be ruled upon after a formal hearing by an administrative law judge.

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@ftc.gov](mailto:antitrust@ftc.gov), or write to the Office of Policy and Coordination, Room 394, Bureau of Competition, Federal Trade Commission, 600 Pennsylvania Ave, N.W., Washington, DC 20580. To learn more about the Bureau of Competition, read “Competition Counts” at <http://www.ftc.gov/competitioncounts>.

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#### **Related Items:**

***In the Matter of Laboratory Corporation of America and Laboratory Corporation of America Holdings, corporations.***

FTC File No. 1010152

- [Statement](#) of the Commission
- [Dissenting Statement](#) of Commissioner Rosch

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