

**STATEMENT OF CHAIRMAN LEIBOWITZ, COMMISSIONER RAMIREZ,
AND COMMISSIONER BRILL
FEDERAL TRADE COMMISSION AND
STATE OF MINNESOTA V. LUNDBECK, INC.**

January 20, 2012

The Commission does not intend to seek review by the United States Supreme Court of the Eighth Circuit's decision in *FTC v. Lundbeck, Inc.* We agree with Commissioner Rosch that the result in this case was profoundly wrong, reflecting a serious misunderstanding by the District Court of the dynamics of this market and of the competitive consequences of an acquisition that allowed one company to control the only two pharmaceutical treatments for a life-threatening medical condition and raise prices by nearly 1300 percent. The Court of Appeals' opinion unfortunately upheld that result. But it did so on narrow grounds, emphasizing the narrow standard of review that it applies to issues it views as factual in nature. The decisions of both the Court of Appeals and the District Court are limited to the District Court's assessment of the evidence, which Judge Kopf observed in his concurrence was "perplexing," "odd," and "strange." We therefore intend to forgo further review in this case, and turn our energies to other enforcement priorities.