



FEDERAL TRADE COMMISSION
PROTECTING AMERICA'S CONSUMERS

Cardinal Health Agrees to Pay \$26.8 Million to Settle Charges It Monopolized 25 Markets for the Sale of Radiopharmaceuticals to Hospitals and Clinics

Under Settlement, Money to Be Deposited Into a Fund for Distribution to Injured Customers

FOR RELEASE

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TAGS: [Bureau of Competition](#) | [Northeast Region](#) | [Competition](#)

In its latest action to ensure competition in the nation's healthcare markets, the FTC announced that Cardinal Health, Inc. has agreed to resolve charges that it illegally monopolized 25 local markets for the sale and distribution of low-energy radiopharmaceuticals and forced hospitals and clinics to pay inflated prices for these drugs. The [proposed stipulated order requires Cardinal to pay \\$26.8 million](#) of ill-gotten gains and represents the second largest monetary settlement the FTC has obtained in an antitrust case. The money will be deposited into a fund for distribution to injured customers. The order also includes provisions to prevent future violations and restore competition in six markets where Cardinal remains the dominant radiopharmacy.

"We have reason to believe that Cardinal, by preventing other radiopharmacies from entering its markets, was able to deny customers the benefits of competition and reap monopoly profits from the sale of radiopharmaceuticals for a sustained period of years," said FTC Chairwoman Edith Ramirez. "In addition to obtaining important injunctive relief to restore lost competition and prevent future misconduct, the settlement ensures that Cardinal disgorges the monopoly profits it obtained and that affected customers get relief."

Cardinal owns the nation's largest chain of radiopharmacies which sell and distribute drugs known as low-energy radiopharmaceuticals. These radiopharmaceuticals are used by hospitals and clinics to diagnose a range of medical conditions, including heart disease. Due to the short half-life of the radioactive isotopes used in these drugs, hospital and clinics rely on radiopharmacies located nearby, resulting in highly localized markets.

As alleged in the [FTC complaint](#), between 2003 and 2008, Bristol-Myers Squibb and General Electric Co. (which acquired Amersham plc in 2004) were the only U.S. manufacturers of heart perfusion agents or HPAs. HPAs are radiopharmaceuticals used to perform heart stress tests, the most common procedure in nuclear medicine. As such, they are key inputs for a financially viable radiopharmacy business. During this time, a radiopharmacy could not profitably enter a new market and compete without obtaining the right to distribute either Cardiolite (BMS's HPA) or Myoview (GE's HPA).

According to the FTC's complaint, through separate acquisitions in 2003 and 2004, Cardinal became the largest operator of radiopharmacies in the United States and the sole radiopharmacy operator in 25 metropolitan areas. Between 2003 and

respective HPA products to new competitors in the relevant markets.

As described in the complaint, Cardinal's anticompetitive tactics included:

- Cancelling, and threatening to cancel, Cardinal's current or future purchases of the manufacturers' radiopharmaceutical products;
- Threatening to switch, and actually switching, customers from BMS's Cardiolite to GE's Myoview in the relevant markets to pressure BMS to abandon plans to license Cardiolite to new competitors;
- Threatening to compete, and offering to forego competing, against BMS as a generic HPA manufacturer; and
- Conditioning Cardinal's future relationship with GE in the radiopharmaceutical industry on GE's refusal to grant Myoview distribution rights to new competitors in the relevant markets.

As a result of these tactics, the complaint alleges that Cardinal obtained *de facto* exclusive distribution rights to the only HPAs available on the market and prevented numerous potential entrants from gaining access to these radiopharmaceuticals.

The complaint charges that Cardinal violated the FTC Act by blocking or delaying competitive entry, and thereby monopolizing the sale and distribution of radiopharmaceuticals to hospitals and clinics in the following 25 markets:

1. Albany, New York	14. Lexington, Kentucky
2. Birmingham, Alabama	15. Little Rock, Arkansas
3. Charlotte, North Carolina	16. Louisville, Kentucky
4. Chattanooga, Tennessee	17. Nashville, Tennessee
5. Columbia, South Carolina	18. Omaha/Lincoln, Nebraska
6. Gadsden, Alabama	19. Orange, Texas
7. Gainesville, Florida	20. Raleigh, North Carolina
8. Greensboro, North Carolina	21. Richmond, Virginia
9. Huntington, West Virginia	22. Spokane, Washington
10. Indianapolis, Indiana	23. Tulsa, Oklahoma
11. Jackson, Mississippi	24. Wichita, Kansas; and
12. Jacksonville, Florida	25. Springfield, Missouri
13. Knoxville, Tennessee	

Under the proposed stipulated federal court order, Cardinal is required to pay \$26.8 million as disgorgement of its ill-gotten gains. In addition, the order bars Cardinal from entering into simultaneous exclusive deals with manufacturers of the same radiopharmaceutical product or from using coercion or retaliation to obtain *de facto* exclusivity. The order also requires Cardinal to notify the FTC before entering into new exclusive distribution agreements or buying radiopharmacy assets that would not otherwise be subject to the notification requirements of the Hart-Scott Rodino Act.

The order also includes additional provisions designed to facilitate entry and restore competition in six of the relevant markets where Cardinal continues to operate the sole or dominant radiopharmacy: Little Rock, Arkansas; Gainesville, Florida; Lexington, Kentucky; Omaha-Lincoln, Nebraska; Knoxville, Tennessee; and Spokane, Washington. Cardinal has agreed to give its customers in these six markets the option to terminate their contracts with Cardinal for low-energy

contracts. Finally, the order also requires Cardinal to establish and maintain an antitrust compliance program for its radiopharmacy division.

The Commission vote authorizing staff to file the complaint and the proposed order in federal court, and to issue a Commission statement, was 3-2, with Commissioners Maureen K. Ohlhausen and Joshua D. Wright dissenting. Chairwoman Edith Ramirez and Commissioners Julie Brill and Terrell McSweeney joined the [Commission statement](#). Commissioners [Ohlhausen](#) and [Wright](#) issued separate dissenting statements.

The FTC's Northeast Region filed the complaint and proposed order in the U.S. District Court for the Southern District of New York on April 20, 2015. The proposed order is subject to court approval.

NOTE: The Commission 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. Stipulated orders have the force of law when approved and signed by the District Court 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, 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.

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