



FEDERAL TRADE COMMISSION
PROTECTING AMERICA'S CONSUMERS

FTC Challenges Consummated Merger of Companies That Make Microprocessor Prosthetic Knees

Agency alleges that Otto Bock's acquisition of Freedom Innovations has harmed competition that benefits amputees

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The Federal Trade Commission has issued an [administrative complaint challenging the merger of two prosthetics manufacturers](#) that are top sellers of prosthetic knees equipped with microprocessors.

According to the FTC's complaint, Otto Bock's recent acquisition of FIH Group Holdings (owner of Freedom Innovations) harmed competition in the U.S. market for microprocessor prosthetic knees by eliminating head-to-head competition between the two companies, removing a significant and disruptive competitor, and entrenching Otto Bock's position as the dominant supplier.

Since closing the acquisition on September 22, 2017, Otto Bock has taken steps to integrate the Freedom Innovations' business, including personnel, intellectual property, know-how, and other critical assets. To preserve the viability of the business, including assets and personnel pending resolution of this action, the company has agreed to a Hold Separate and Asset Maintenance Agreement under which Otto Bock will take steps to ensure the preservation and health of the former Freedom Innovations business.

Microprocessor knees, which use microprocessors to adjust the stiffness and positioning of the joint in response to variations in walking rhythm and ground conditions, provide a stable platform for amputees. Prosthetists and doctors typically prescribe microprocessor knees to patients with above-the-knee amputations who have a relatively high degree of mobility. Compared to other products, microprocessor prosthetic knees reduce the risk of falling, cause less pain, and promote the health and function of the sound limb.

New entry or expansion by other manufacturers of microprocessor knees is not likely to be timely or sufficient to offset the anticompetitive effects of the merger. The complaint notes that it routinely takes firms more than two years just to develop a microprocessor knee, even when they are building on existing microprocessor knee technology.

In addition to issuing an administrative complaint, the Commission authorized agency staff to seek a temporary restraining order, preliminary injunction, and ancillary relief in federal court, should doing so be necessary to ensure the Freedom Innovations business remains viable and to preserve the Commission ability to order effective relief if staff prevails in the administrative trial on the merits.

The Commission vote to issue the administrative complaint and to authorize staff to seek a temporary restraining order and preliminary injunction in federal court was 2-0.

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. The issuance of the administrative complaint marks the beginning of a proceeding in which the allegations will be tried in a formal hearing before an administrative law judge.

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