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Administrative Law Judge Upholds FTC's Complaint Challenging Consummated Merger of Companies that Make Microprocessor Prosthetic Knees

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FOR RELEASE

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In an [Initial Decision](#) announced today, Chief Administrative Law Judge D. Michael Chappell upheld a Federal Trade Commission complaint [challenging the consummated merger of two prosthetics manufacturers](#) that are top sellers of prosthetic knees equipped with microprocessors.

According to the FTC's December 2017 [administrative complaint](#), microprocessor prosthetic knees or MPKs, 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 prosthetic knees to patients with above-the-knee amputations who have a relatively high degree of mobility. Compared to other prosthetic products, microprocessor prosthetic knees reduce the risk of falling, cause less pain, and promote the health and function of the sound limb.

Judge Chappell found that the direct competition between Otto Bock HealthCare North America, Inc. and Freedom Innovations in the microprocessor prosthetic knee market has enabled clinic customers to negotiate lower prices and has spurred innovation.

"[T]he evidence in this proceeding proves that the acquisition will significantly increase concentration in the relevant MPK market, which gives rise to a presumption that the acquisition may substantially lessen competition," Judge Chappell wrote in the decision.

Under an order Judge Chappell included with the April 29, 2019 Initial Decision, no later than 90 days after the order becomes final, Otto Bock is required to divest the assets of Freedom Innovations – in good faith, at no minimum price, and in compliance with a Divestiture Agreement – to a Federal Trade Commission-approved buyer.

To ensure that the buyer can operate Freedom Innovations in the same way that it has been run, Otto Bock is required under the order to hold Freedom Innovation's assets separately, provide transitional services to the buyer, and allow the buyer the opportunity to recruit and employ all Freedom Innovation employees. The order also allows the Commission to appoint a Monitor to ensure Otto Bock's compliance with the order, and a Divestiture Trustee to ensure compliance with the Divestiture Agreement.

According to the [complaint, Otto Bock's acquisition of FIH Group Holdings](#) (the 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. After the acquisition closed in September 2017, Otto Bock took steps to integrate the Freedom Innovations' business, including personnel, intellectual property, know-how, and other critical assets.

The Appeals Process. The Judge's Initial Decision is subject to review by the full Federal Trade Commission on its own motion, or at the request of any party. The Initial Decision will become the decision of the Commission 30 days after it is served upon the parties, unless a party files a timely notice of appeal – and thereafter files a timely appeal brief – or the Commission places the case on its own docket for review or stays the effective date of the decision.

The Federal Trade Commission works to [promote competition](#), and protect and educate consumers. You can learn more about [how competition benefits consumers](#) or [file an antitrust complaint](#). Like the FTC on [Facebook](#), follow us on [Twitter](#), read our [blogs](#), and [subscribe to press releases](#) for the latest FTC news and resources.

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