ANALYSIS OF AGREEMENT CONTAINING CONSENT ORDERS TO AID PUBLIC COMMENT

In the Matter of Actavis, Inc. and Warner Chilcott PLC

File No. 131-0152

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an Agreement Containing Consent Orders ("Consent Agreement") from Actavis, Inc. ("Actavis") and Warner Chilcott plc ("Warner Chilcott") that is designed to remedy the anticompetitive effects of Actavis's proposed acquisition of Warner Chilcott. Under the terms of

Generic drugs are typically launched upon the expiration of the branded product's patents. If the generic company intends to launch its product before the expiration of the branded product's patents, it must notify the FDA and certify that its product does not infringe the branded company's patent or that the branded company's patents are invalid. This is referred to as a Paragraph IV certification. A Paragraph IV certification typically leads to patent infringement litigation between the generic company and branded company. The first company to file a Paragraph IV ANDA has the right to market its generic drug exclusively for a period of 180 days if it is successful in its litigation against the branded drug manufacturer.[1] No other firm, even those that subsequently submit Paragraph IV ANDAs, may enter the generic market until after the conclusion of this marketing exclusivity period. The prospect of earning higher profits as the only firm marketing a generic version of a drug for 180 days provides an incentive to defend against the patent infringement claims

Chilcott's branded products for a significant period absent the Proposed Acquisition. By eliminating this potential competition between Warner Chilcott and Actavis in each of these markets, the Proposed Acquisition would harm U.S. consumers by substantially increasing the likelihood of higher post-acquisition prices for Lo Loestrin FE and Atelvia.

The Proposed Consent Agreement

The proposed Consent Agreement effectively remedies the Proposed Acquisition's anticompetitive effects in the relevant markets by requiring Actavis to divest to Amneal certain rights and assets related to generic Femcon FE, generic Loestrin 24 FE, generic Lo Loestrin FE, and generic Atelvia no later than ten days after consummating the acquisition. In addition, the Consent Agreement requires Actavis to enter into a s