

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

FEDERAL TRADE COMMISSION
RECEIVED DOCUMENTS

In the Matter of)

SCHERING-PLOUGH CORP.,)
a corporation,)

UPSHER-SMITH LABORATORIES,)
a corporation,)

and)

DOCKET NO. 9297

and is competitively sensitive in nature. Neither the proponent of these documents, Upsher-Smith Laboratories, nor the attorneys for the FTC opposes this Motion.

As the Commission has stated, "It is difficult to imagine items of business information more sensitive than . . . profit data That data constitutes the most significant competitive information possessed by [the parties requesting nondisclosure] -- literally the 'corporate jewels' of those firms." *In re General Motors Corp.*, 103 F.T.C. 58 (1984) (footnote omitted). Public disclosure of third-party

BMS's secret and material information would harm BMS's competitive position.

[REDACTED]

- APOT/RENJ/00363 through APOT/RENJ/00365
- The portions of APOTHECON (BMS)/8 – 22, Exh. USX 74, a letter from A. Cummings to K. Bokar regarding Civil Investigative Demand with attachments (dated Nov. 16, 2000):
 - APOTHECON (BMS)/0000013: Response to subpart (e) of Specification 3
 - APOTHECON (BMS)/0000014 (Exhibit 3-1)
- The portion of APOTHECON (BMS)/23 – 36, Exh. USX 75, a letter

including respondent herein"); accord *Kaiser Aluminum & Chemical Corp.*, 103 F.T.C. 500 (1984) (requests for *in camera* treatment by third parties should be given special solicitude because, as a policy matter, such treatment encourages the third party to cooperate with future adjudicative discovery requests); *In re R. R. Donnelley & Sons Co.*, 1993 FTC LEXIS 32 (Feb. 18, 1993) (same).

For information to be afforded *in camera* treatment, a corporation must show that public disclosure of the information for which it seeks *in camera* treatment would result in a clearly defined, serious injury to the corporation. *Id.*

(5) the amount of effort or money expended by [the business] in developing the information;

(6) the ease or difficulty with which the information could be properly acquired or duplicated by others.

camera treatment is warranted; instead it is the actual justification for the

CONFIDENTIAL - SECURITY INFORMATION

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

A. Portions of USX 68 [APOT/CRET/02644 - 02650]

There are two portions of the presentation entitled "A Global Perspective" that should be subject to *in camera* treatment. The first, the bullet point entitled "Primary Focus" and the contents beneath it, deals directly with

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Table 2. Summary of detailed product launch strategies. Includes...

[Redacted line]

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for at least the next five years. This information meets the criteria set forth in FTC

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

In the Matter of)

SCHERING-PLOUGH CORP.,)
a corporation,)

UPSHER-SMITH LABORATORIES)
a corporation,)

and)

DOCKET NO. 9297

• APOT/CRET/02649

- The following portions of APOT/RENJ/00168, Exh. USX 69, a spreadsheet entitled "Potassium Chloride Capsules and Tablets" (undated):

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

CERTIFICATE OF SERVICE

I hereby certify that on January 22, 2002, I caused an original, one

page copy and a true and accurate electronic copy of the foregoing motion to be

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

A Global Perspective

- ◆ New Products
 - Generic Klotrix
 - Generic Desyrel 150 mg
 - Captopril Update
- ◆ Jan/Feb S.O.
- ◆ Marketing Update
- ◆ Bidding Procedures



APOT/CRET/0264

Restricted Confidential, Attorney
Only, FTC Docket No. 9297

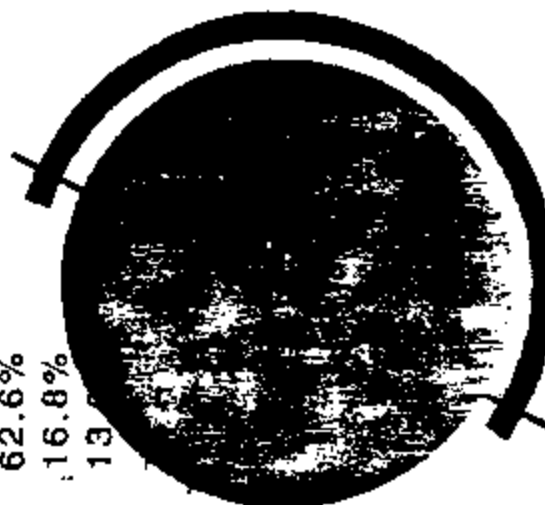
Generic Klotrix

- ◆ 10 mEq Potassium Supplement
- ◆ \$ 82.8 Million Market

Product Manufacturer 1994 Share 94/93 Change

KCL*	Ethex	17.3%	62.6%
Klor-Con 10	Upsher-Smith	15.1%	16.8%
K-Dur	Key	8.6%	13.5%
KCL	Rugby	2.3%	1.1%
K-Tab	Abbott	21.0%	1.1%
Micro K*	Wyeth	25.0%	1.1%
Ten K	Summit	2.6%	1.1%
Klotrix	Apothecon	5.6%	1.1%

* Capsules



APOT/CRET/026

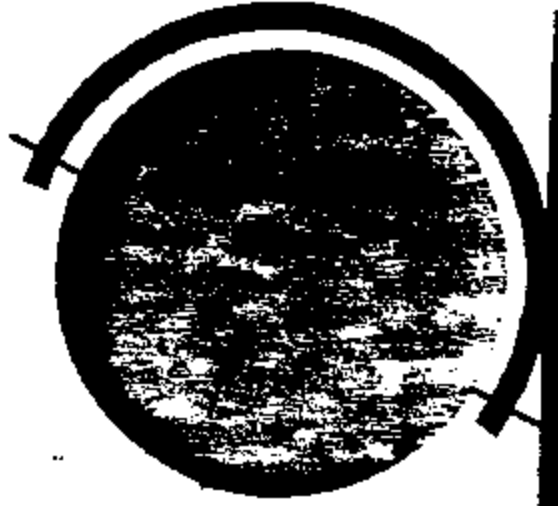
Restricted Confidential, Attorneys
Only, FTC Docket No. 9297

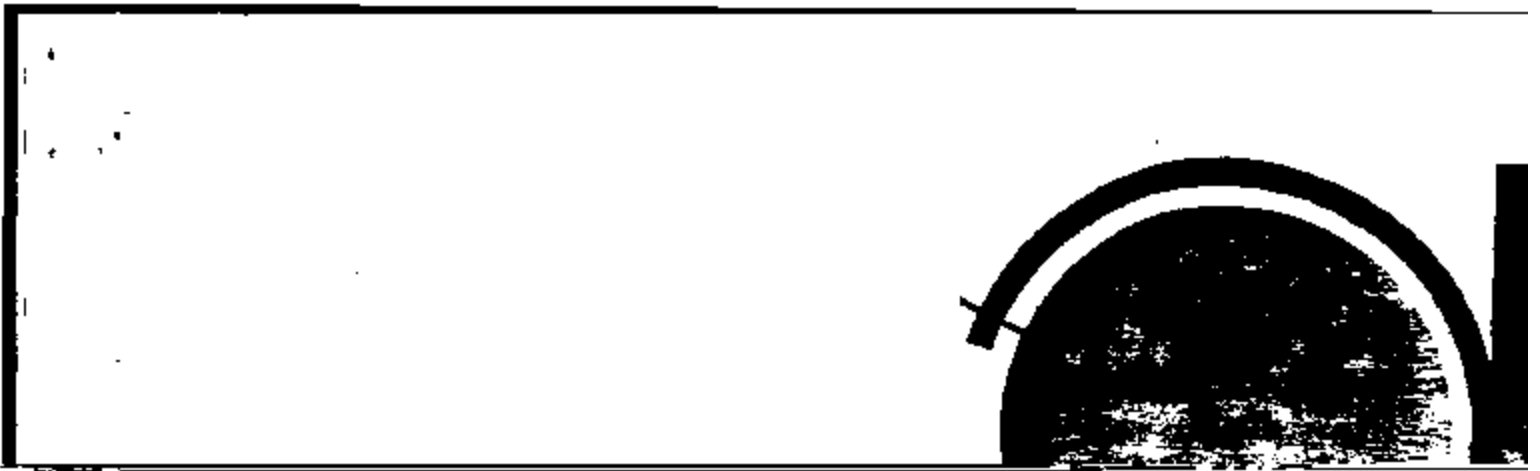
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Only, FTC Docket No. 9297

APOT/CRET/02650

PRICE INCREASE

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[Redacted line]

[Redacted line]

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RE

[Redacted line]

Memorandum

[REDACTED]

[REDACTED]

[REDACTED]

REDACTED

[REDACTED]

REDACTED

APOT/RENJ/0031

**Restricted Confidential, Attorn:
Only, FTC Docket No. 921**

11/24/2000

[REDACTED]

[REDACTED]

HOGAN & HARTSON
L.L.P.

November 16, 2000

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WWW.HHLLAW.COM

Karen G. Bokor, Esq.
Federal Trade Commission
Room 3112

RECEIVED NOV 16 2000

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

HOGAN & HARTSON LLP

Please call if you have any questions or comments with regard to the
above.

Sincerely,

Andrea T. Cummings

Andrea T. Cummings

BRISTOL-MYERS SQUIBB

**Response to the Civil Investigative Demand
Issued by the Federal Trade Commission
File No. 9910256**

BRISTOL-MYERS SQUIBB CLAIMS THE F.I.L. MEASURE OF

US OFFICE PRODUCTS

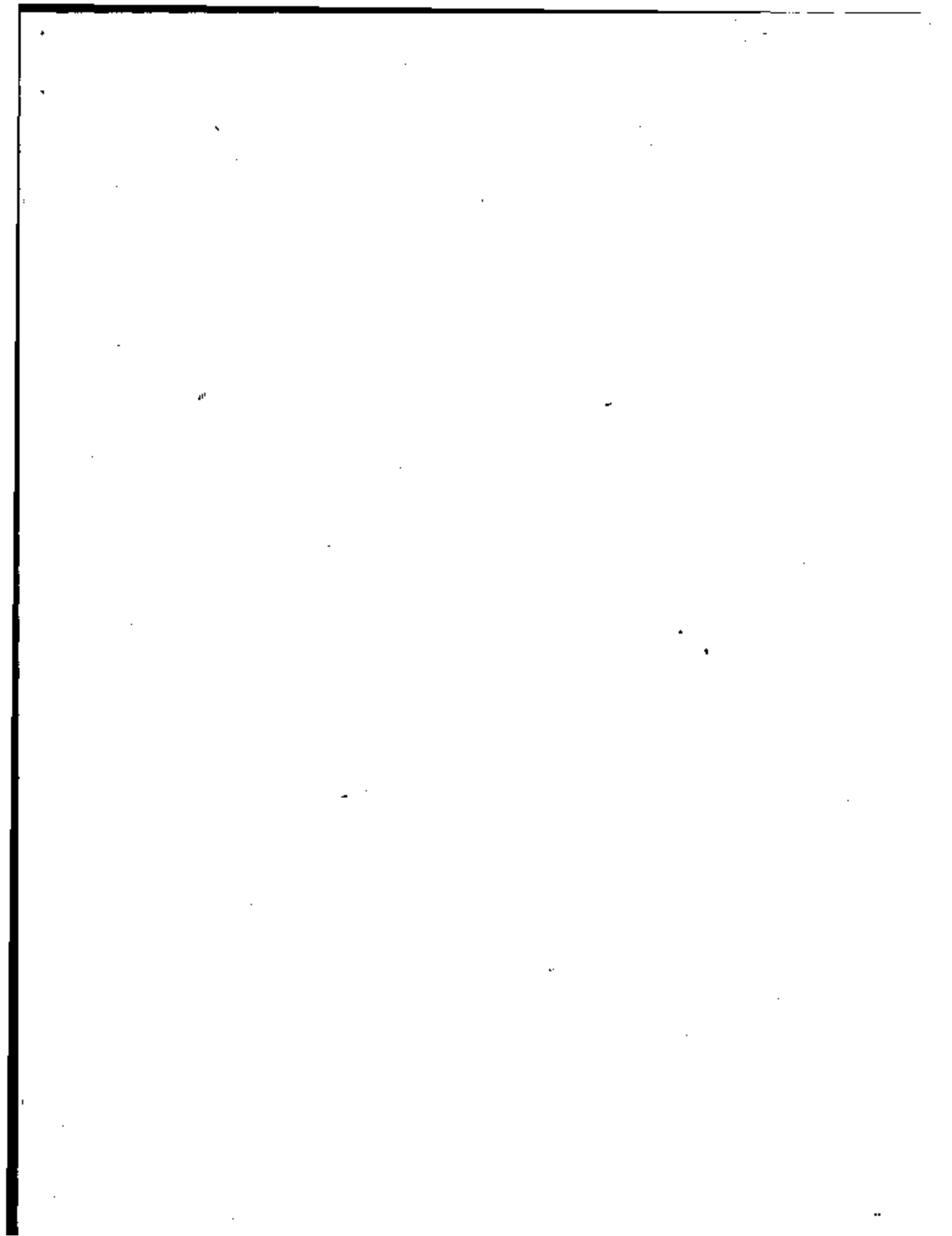
**Bristol-Myers Squibb
Response to Specification 1
Of the CID
Issued by the Federal Trade Commission**

1. *State the name, chemical entity, manufacturer, formulation(s), and dosage strength(s) for each BMS Potassium Supplement Product ("PSP").*

Response

The chart below identifies the name, chemical entity, manufacturer, formulation and dosage strength of each BMS Potassium Supplement Product. BMS sold all of the products listed below during each of the relevant periods. *(The chart is redacted.)*

US OFFICE PRODUCTS



**Bristol-Myers Squibb
Response to Specification 3
Of the CID
Issued by the Federal Trade Commission**

State of California, County of San Diego, City of San Diego, California
Bristol-Myers Squibb Company
234 West Broadway
San Diego, California 92101

[The remainder of the page contains multiple lines of text that are almost entirely obscured by heavy black redaction bars. Only a few faint characters and line structures are visible.]

(d) Exhibit 3-1 provides annual sales in units, as reported internally at BMS, for Klotrix, K-Lyte and Potassium Chloride for each of the relevant years. A "unit" sale represents the sale of a package of the product. Data for the current year is provided as of September 30, 2000. There were no sales of a generic potassium supplement in 1995, as BMS did not launch its generic potassium supplement until 1996.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

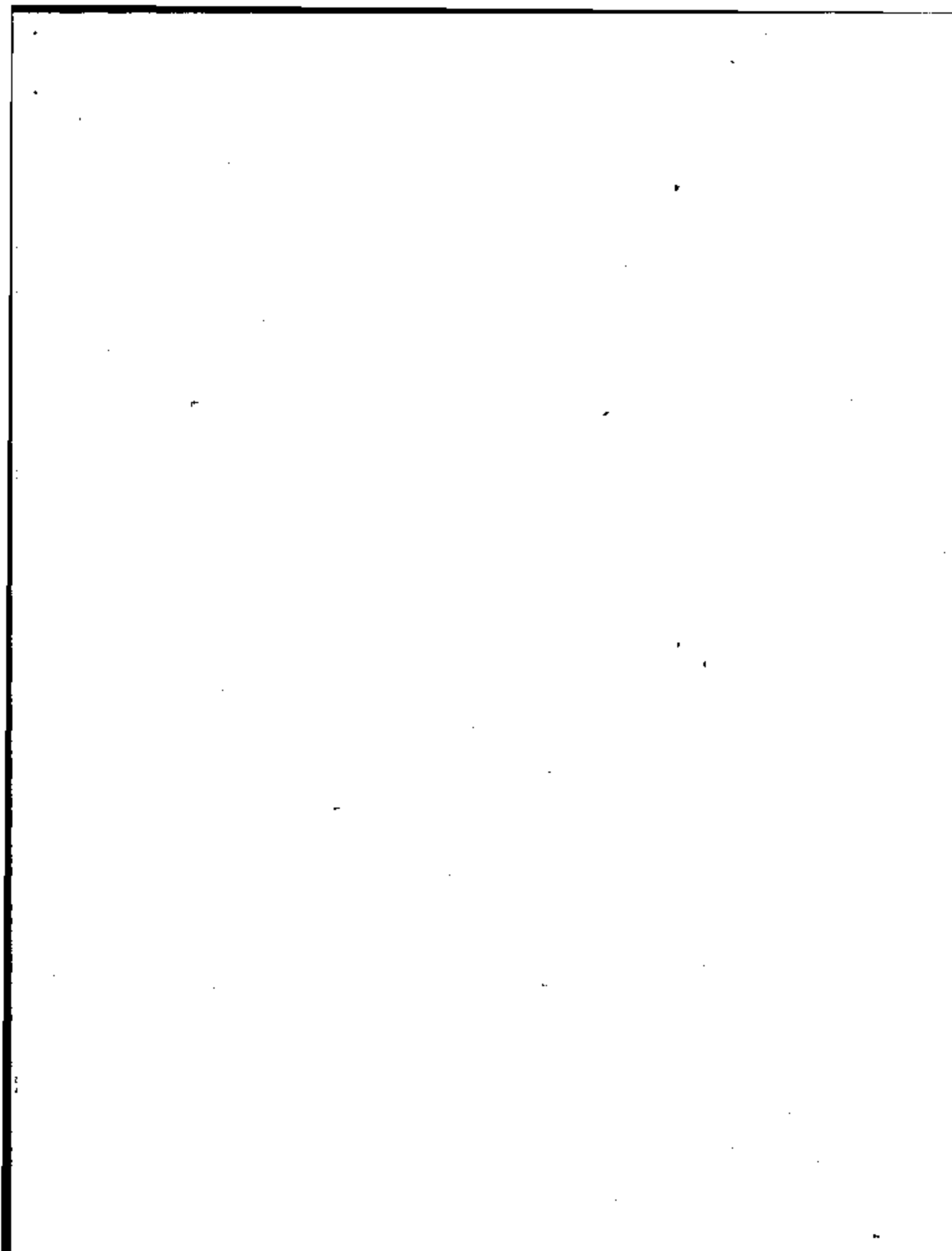
[REDACTED]

[REDACTED]

[REDACTED]

Exhibit 3-1

REDACTED



*Bristol-Myers Squibb
Response to Specification 4
Of the CID
Issued by the Federal Trade Commission*

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

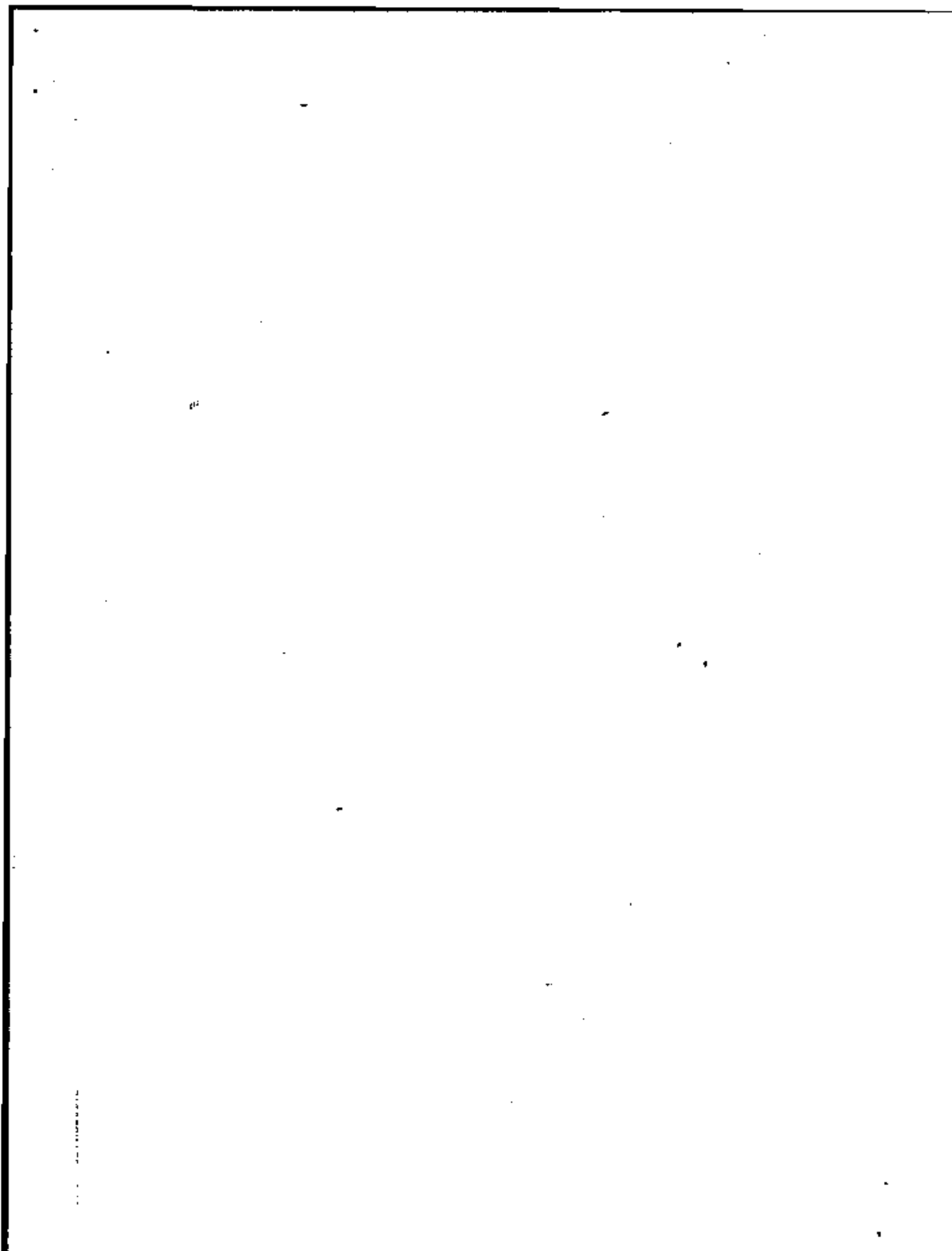
FirstDataBank AWP listed on Exhibit 4-1 is provided on a per package basis for each SVT of each product.

U.S. OFFICE PRODUCTS

Bristol-Myers Squibb
Response to Specification 5
Of the CID
Issued by the Federal Trade Commission

5. For each product which the company believes competes with any BMS Potassium Supplement Tablet or Capsule ("competitor product");

(a) identify the brand name, chemical entity, dosage strength



**Bristol-Myers Squibb
Response to Specification 6
Of the CID
Issued by the Federal Trade Commission**

6. For each product which the company believes will compete in the future with any BMS Potassium Supplement Tablet or Capsule ("future competitor product"):

(a) identify the brand name, chemical entity, dosage strength, formulation, and manufacturer of the future competitor product;

**Bristol-Myers Squibb
Response to Specification 7
Of the CID
Issued by the Federal Trade Commission**

7. *Identify the name, dosage strength, formulation, developer and manufacturer of any potassium supplement product that has not yet received final marketing approval from the Food and Drug Administration, other than those products identified in response to Specification 6.*

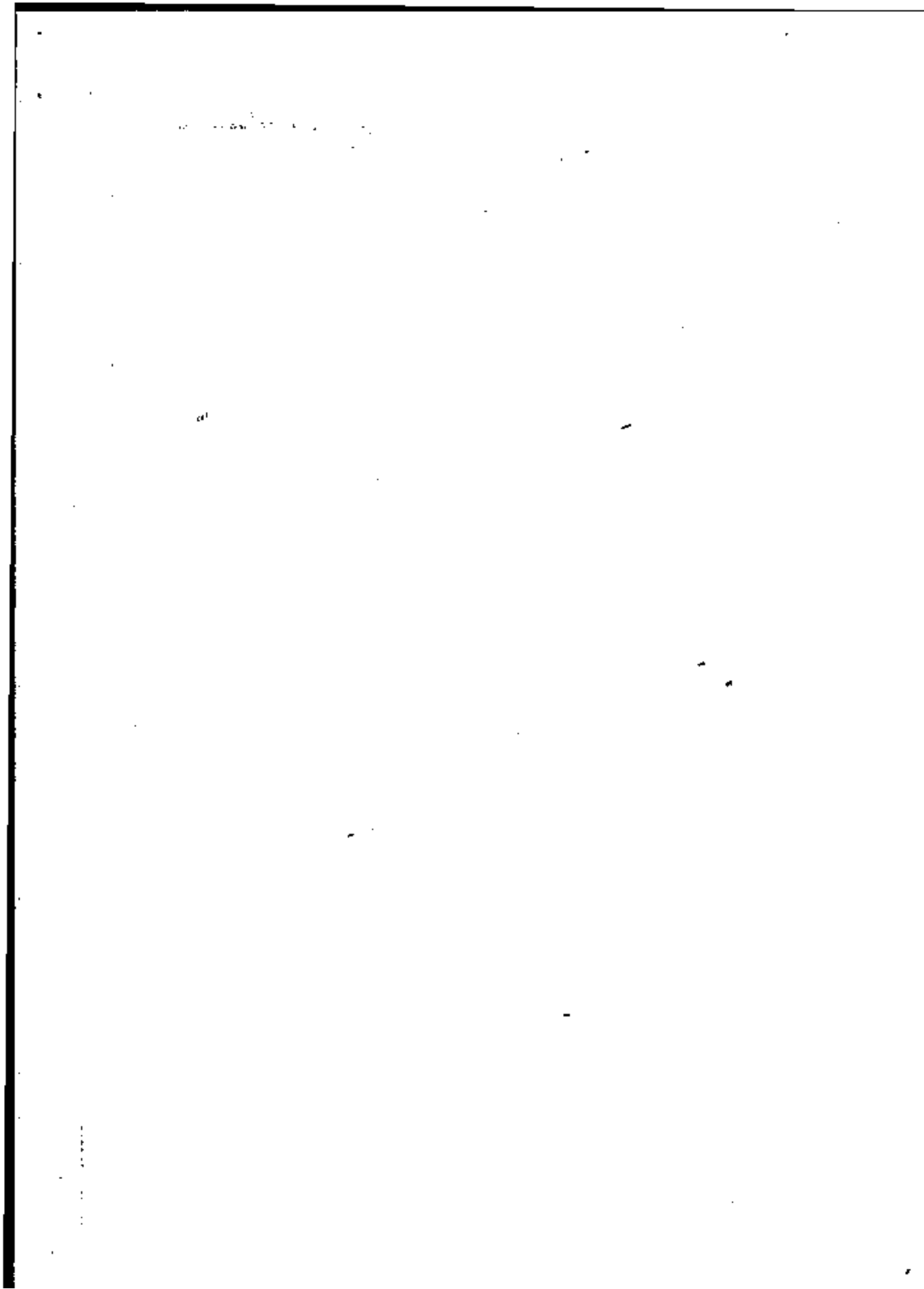
Response

BMS does not in the ordinary course of business

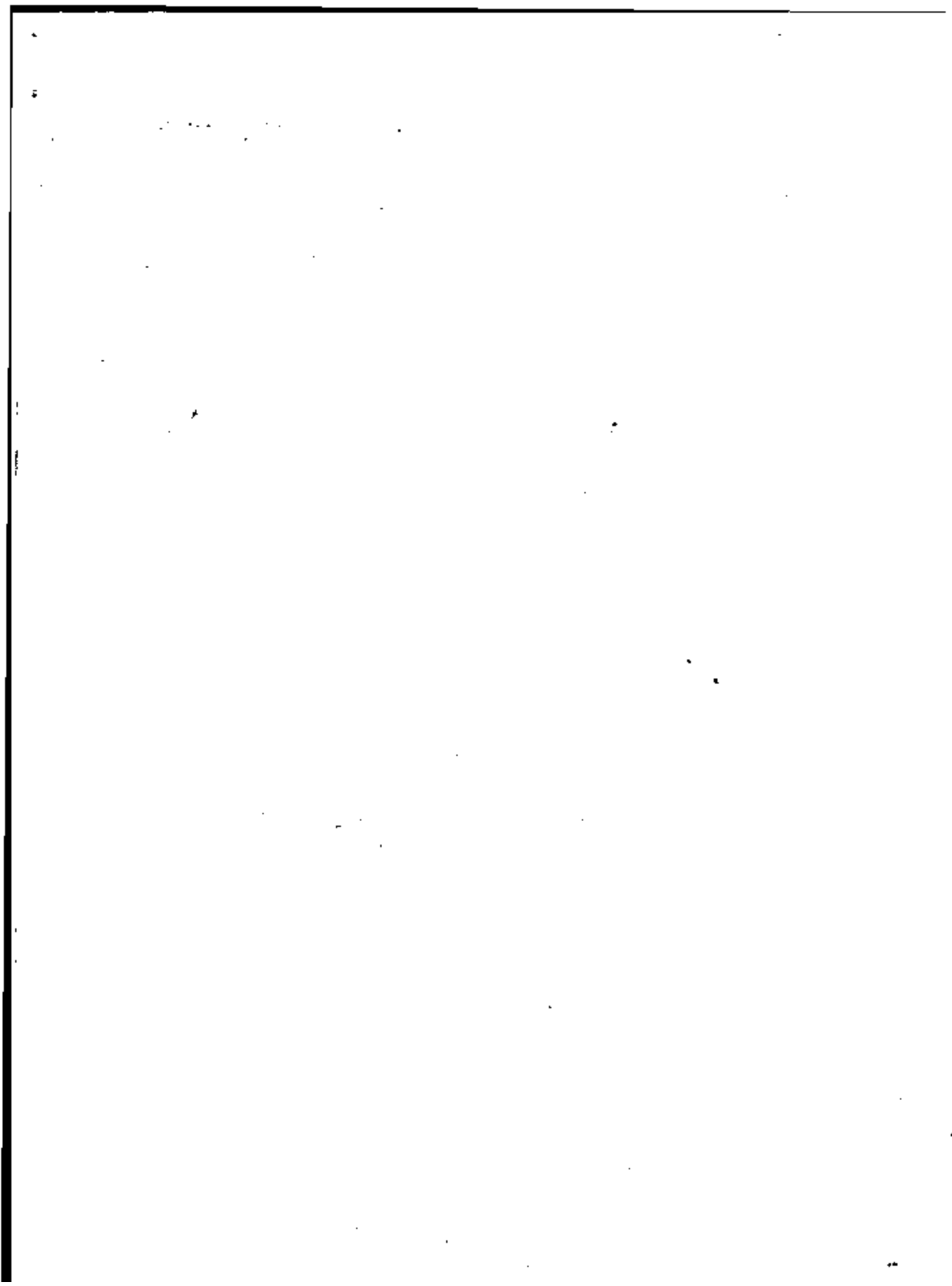
information sufficient to identify potassium supplement products that have not yet

**Bristol-Myers Squibb
Response to Specification 8
Of the CID
Issued by the Federal Trade Commission**

8. As of June 1, 1997, state the date on which the company expected the introduction of the first bisphosphonate to the market.



Bristol-Myers Squibb
Response to Specification 9



Bristol-Myers Squibb

1993

1993

1993

[Redacted]

[Redacted]

[Redacted]

[Redacted]

HOGAN & HARTSON
L.L.P.

November 17, 2000

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Karen G. Bokor, Esq.

Room 3112
601 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Re: **File No. 9910256; Civil Investigative Demand Issued to
Bristol-Myers Squibb on August 18, 2000**

Dear Karen:

FILE 73 55 35 69 27 60 38 44 75 27 60 26 68 51 72 49 33 43 31 25 34 20 19 11

[Redacted]

[Redacted]

[Redacted]

0.52	0.87	1.09	1.20	1.14	1.03	0.50	1.48		1.18	1.30	1.37	1.41	1.06	1.69	1.51	1.84		1.79	1.96	2.06	1.65	2.71	0.30	1.48	1.54		1.46	1.29	1.94	1.94	1.60	1.81	0.11	1.06
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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

79 96 06 85 71 30 18 34 | 14 28 10 15 14 28 17 24 | 09 06 08 15 17 10 18 14 | 14 08 09 04 08 7 14

1900	\$60.16
1999	\$58.30
1998	\$52.37
1998	\$49.41
1997	\$47.06
1997	\$45.69
1996	\$43.51
1995	\$41.84
1998	\$179.93
1995	\$127.80
1996	\$18.56
1995	\$13.06

Apethress (BMS) 0000928
 Schering et al, 991-0256

Exhibit 4-2

REDACTED

Exhibit 4-2

REDACTED

Exhibit 4-2

REDACTED

Exhibit 4-2

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Exhibit 4-2

REDACTED

Exhibit 4-2

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