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UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

In the Matter of	)	
Schering-Plough Corporation, a corporation, and Merck & Co., Inc., a corporation.	)	Docket No. C-4268

COMPLAINT

Pursuant to the Clayton Act and the Federal Trade Commission Act, and its authority thereunder, the Federal Trade Commission ("Commission"), having reason to believe that Respondent Schering-Plough Corporation ("Schering-Plough"), a corporation subject to the jurisdiction of the Commission, and Respondent Merck & Co., Inc. ("Merck"), a corporation subject to the jurisdiction of the Commission, have agreed to merge in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C.

3. Respondent Schering-Plough is a corporation organized, existing, and doing business under and by virtue the laws of the state of New Jersey, with its headquarters address at 2000 Galloping Hill Road, Kenilworth, New Jersey 07033-1310.

4. Respondent Schering-Plough is engaged in, among other things, the research, development, manufacture, distribution and sale of human pharmaceutical and animal health products.

5. Respondents are, and at all times herein have been, engaged in commerce, as "commerce" is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. §12, and are corporations whose business is in or affect commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

II. THE PROPOSED ACQUISITION

6. Pursuant to an Agreement and Plan of Merger dated March 8, 2009 (the "Agreement"), Schering-Plough proposes to acquire Merck and rename the surviving entity Merck, in a transaction valued at approximately $41.1 billion (the "Acquisition"). Merck and Schering-Plough are global suppliers of human pharmaceutical and biological products, and the Acquisition would combine two of the top four animal health suppliers in the United States. Through its joint venture with Sanofi-Aventis S.A., Merial Limited, Merck competes with Schering-Plough in a number of U.S. animal health pharmaceutical and biological markets that raise competitive concerns, including the specific animal health markets identified in Paragraph 7.

III. THE RELEVANT MARKETS

7. For the purposes of this Complaint, the relevant markets in which to analyze the effects of the Acquisition include the manufacture and sale of:

   a. neurokinin 1 receptor antagonists ("NK1 receptor antagonists") for chemotherapy-induced nausea and vomiting ("CINV") and post-operative nausea and vomiting ("PONV") in humans;

   b. live poultry vaccines for the prevention or treatment of (1) each strain of Marek's disease; (2) each strain of infectious bronchitis; (3) Newcastle disease; (4) each strain of infectious bursal disease; (5) reovirus; (6) fowl pox; (7) coccidiosis; (8) laryngotracheitis; (9) avian encephalomyelitis; and (10) tenosynovitis;

   c. killed poultry vaccines for the prevention or treatment of (1) each strain of infectious bronchitis; (2) Newcastle disease; (3) each strain of infectious bursal disease; and (4) reovirus; and

d. cattle gonadotropins.

8. For The

VI. EFFECTS OF THE ACQUISITION

15. The effects of the Acquisition, if consummated, may be to substantially lessen competition and to tend to create a monopoly in the relevant markets in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the FTC Act, as amended, 15 U.S.C. § 45, in the following ways, among others:

a. by eliminating future competition between Merck's Emend® and Schering's rolapitant in the U.S. market for NK1 receptor antagonists for CINV and PONV, thereby: (1) increasing the likelihood that the combined entity would forgo or delay the launch of rolapitant; and (2) increasing the likelihood that the combined entity would delay or eliminate the additional price competition that would have resulted from rolapitant's entry into the market;

b. by eliminating actual, direct, and substantial competition between Merck and Schering-Plough for the sale of each of the relevant

VII. VIOLATIONS CHARGED

16. The Acquisition described in Paragraph 6 constitutes a violation of Section 5 of the FTC Act, as amended, 15 U.S.C. § 45.

17. The Acquisition described in Paragraph 6, if consummated, would constitute a violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the FTC Act, as amended, 15 U.S.C. § 45.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this twenty-ninth day of October, 2009, issues its Complaint against said Respondents.

By the Commission, Commissioner Har