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**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

**COMMISSIONERS: Jon Leibowitz, Chairman
 J. Thomas Rosch**

FACTS

Background

4. Medicare Part D is a prescription drug benefit for consumers with Medicare coverage, primarily senior citizens and persons with disabilities (“beneficiaries”). To obtain Part D benefits, beneficiaries must enroll in a Medicare drug plan administered by an insurer or other private company approved by the Centers for Medicare & Medicaid

RxAmerica Incident

10. In 2007, RxAmerica owed money to CVS Pharmacy (a subsidiary of CVSC) and Walgreens. Rather than pay the pharmacies directly, RxAmerica instead decided to increase the reimbursement rate to those pharmacies for generic drugs purchased by plan beneficiaries. RxAmerica started reimbursing CVS and Walgreens at rates sometimes ten times as much as it was reimbursing other pharmacies for the same drugs. Because the total cost of a drug is comprised of the beneficiary's copayment plus the pharmacy's reimbursement rate, beneficiaries were adversely affected by this reimbursement structure, as described below.
11. The higher reimbursement rates were not reflected in the pricing data RxAmerica sent to

15. RxAmerica became aware no later than January 2008 that its reimbursement methods were forcing some beneficiaries prematurely into the donut hole. Nonetheless, the discrepancy between the prices posted online and the actual reimbursement rates to CVS and Walgreens continued until at least November 2008.
16. Respondent's conduct injured many beneficiaries.

VIOLATIONS OF THE FTC ACT

17. Through the means described in Paragraphs 10 through 16, Respondent has represented, directly or indirectly, expressly or by implication, that the prices of covered Medicare Part D drugs at various pharmacies as posted on Plan Finder and on the websites of RxAmerica and other third parties, were accurate estimates of the prices that beneficiaries would pay for those drugs in those pharmacies.
18. In truth and in fact, the prices of covered Medicare Part D prescription drugs in various pharmacies as posted on Plan Finder and on the websites of RxAmerica and other third parties, were not accurate estimates of the prices that consumers would pay for those drugs in those pharmacies. Rather, the prices charged to consumers who purchased their covered Part D drugs from CVS or Walgreens, were significantly higher than the prices posted on those websites.
19. Therefore, the representations set forth in Paragraph 17 of this Complaint were, and are, false or misleading, and the making of such representations constitutes a deceptive act or practice in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(a).

THEREFORE, the Federal Trade Commission this ___ day of ____, 2012, has issued this Complaint against Respondent.

By the Commission.

Donald S. Clark
Secretary