derived from a chronic feeding study or a long-term field study with wildlife, a Final Residue Value (FRV) for DEHP cannot be calculated and, therefore, criteria based on a FRV cannot be derived at this time.

Dated: September 13, 1995.

Tudor T. Davies,

*Director, Office of Science and Technology.*

References

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2. Federal Register notice November 28, 1980; 45 FR 79339.

3. U.S. EPA; ''Ambient Water Quality Criteria for Phthalate Esters'' October 1980, EPA–440/5–80–067.

4. U.S. EPA Draft ''Ambient Water Quality Criteria for Di-2-Ethylhexy1 Phthalate''; September 24, 1987; 440/5–87–013.

5. Stephen, C.E., D.I. Mount, D.J. Hansen, J.H. Gentile, G.A Chapman and W.A. Brungs. 1985; 822R85100. ''Guidelines for Deriving National Water Quality Criteria for the Protection of Aquatic organisms and Their Uses''. PB85–227049. National Technical Information Service Springfield, Va.

6. Barron, M.G., I.R. Schultz and W.L. Hayton. 1989. Presystemic brachial metabolism limits Di-2-Ethylhexyl Phthalate accumulation in fish. Toxicol. Appl. Pharmacol 98:48–57.

[FR Doc. 95–23844 Filed 9–25–95; 8:45 am]

BILLING CODE 6560–50–P

## FEDERAL MARITIME COMMISSION

### Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Presitge Forwarding Co., 13630 Destino Place, Cerritos, CA 90703, I Chen Chiang, Sole Proprietor

NACH 1 Air Services Incorporated, 615 South Madison Drive, Tempe, AZ 85281. Officers: Michael S. Entzminger, President, Charlotte Carpenter, Vice President

By the Federal Maritime Commission.

Dated: September 20, 1995.

Joseph C. Polking,

*Secretary.*

[FR Doc. 95–23743 Filed 9–25–95; 8:45 am]

BILLING CODE 6730–01–M′

## FEDERAL TRADE COMMISSION

**[Dkt. C–3593]**

### Nature's Bounty, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

**AGENCY:** Federal Trade Commission.

**ACTION:** Consent order.

**SUMMARY:** In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, the New York-based company and two of its wholly-owned subsidiaries to pay $250,000 to the Commission for possible use for consumer redress, and requires them to have substantiation for specific health-related representations they make in advertising and promoting any product in the future.

**DATES:** Complaint and Order issued July 21, 1995.[1]

**FOR FURTHER INFORMATION CONTACT:** Justin Dingfelder or Peter Metrinko, FTC/S–4631, Washington, DC 20580. (202) 326–3017 or 326–2104.

**SUPPLEMENTARY INFORMATION:** On Thursday, May 11, 1995, there was published in the Federal Register, 60 FR 25218, a proposed consent agreement with analysis In the Matter of Nature's Bounty, Inc., et al., for the purpose of soliciting public comment.

Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Donald S. Clark,

*Secretary.*

[FR Doc. 95–23795 Filed 9–25–95; 8:45 am]

BILLING CODE 6750–01–M

[1] Copies of the Complaint, the Decision and Order, and Commissioner Azcuenaga's statement are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

**[File No. 942–3161]**

### Genetus Alexandria, Inc., et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed consent agreement.

**SUMMARY:** In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a Virginia-based clinic and its operators from misrepresenting the nature or extent of a physician's participation in any treatment procedure, the safety or efficacy of any treatment procedure, and the extent to which a treatment is covered by a patient's medical insurance.

**DATES:** Comments must be received on or before November 27, 1995.

**ADDRESSES:** Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Sondra Mills or Eric Bash, FTC/H–200, Washington, DC 20580. (202) 326–2673 or 326–2892.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice (16 CFR 4.9(b)(6)(ii)).

In the matter of Genetus Alexandria, Inc., a corporation, and Galen Medical Centers, Ltd., a corporation, and George Oprean, individually and as President and a director of Genetus Alexandria, Inc. and Galen Medical Centers, Ltd., and Linda Huffman Oprean, individually and as an officer and a director of Genetus Alexandria, Inc. and as a director of Galen Medical Centers, Ltd.

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Genetus Alexandria, Inc., a corporation (''Genetus''), Galen Medical Centers,

Ltd., a corporation (''Galen''), George Oprean, individually and as President and a director of Genetus and Galen, and Linda Huffman Oprean (''Linda Oprean''), individually and as officer and a director of Genetus and as a director of Galen, and it now appearing that Genetus, Galen, George Oprean and Linda Huffman Oprean, hereinafter sometimes referred to as proposed respondents, are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Genetus and Galen, by their duly authorized officers, George Oprean, individually and as President and a director of Genetus and Galen, and Linda Huffman Oprean, individually and as an officer and a director of Genetus and a director of Galen, and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Genetus Alexandria, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Virginia, with its office and principal place of business located at 2843 Duke Street, Alexandria, Virginia 22314.

Proposed respondent Galen Medical Centers, Ltd. is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Virginia, with its office and principal place of business located at 2843 Duke Street, Alexandria, Virginia 22314.

Proposed respondent George Oprean is the President, Secretary, Treasurer and a director of Genetus and is the President and a director of Galen. He formulates, directs, controls and implements the policies, acts and practices of Genetus and Galen. His address is 2843 Duke Street, Alexandria, Virginia 22314.

Proposed respondent Linda Huffman Oprean is the Vice President and a director of Genetus and is a director of Galen.

Together with George Oprean, she formulates, directs, controls and implements the policies, acts and practices of Genetus and Galen. Her address is 2843 Duke Street, Alexandria, Virginia 22314.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by the proposed respondents of facts, other than jurisdictional facts, or of violations of law as alleged in the draft complaint.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, motified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

*Definitions*

For purposes of this Order, the following definitions shall apply:

1. ''Impotence'' means the inability of a man to attain and maintain an erection of sufficient rigidity and/or duration to enable him to engage in sexual intercourse.

2. ''Treatment procedure'' means any method of treating impotence or any other medical condition, disease or symptom, including, but not limited to, injections, drug therapy, hormone replacements, use of devices to induce erections, vascular surgery, use or implantation of devices, behavior modification, counseling, psychotherapy, or any other method.

I

*It is ordered* That respondents Genetus Alexandria, Inc., a corporation, (''Genetus''), Galen Medical Centers, Ltd. (''Galen''), their successors and assigns, and their officers, and George Oprean, individually and as President and a director of Genetus and Galen, and Linda Huffman Oprean (''Linda Oprean''), individually and as an officer and a director of Genetus and as a director of Galen, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale or sale of any treatment procedure in or affecting commerce, as ''commerce'' is defined in the Federal Trade Commission Act, do forthwith cease and desist from, in any manner, directly or by implication:

A. Falsely representing in any manner, directly or by implication, that each individual purchasing any impotence treatment procedure will receive an examination by a physician, or otherwise misrepresenting the nature or extent of physician participation in any treatment procedure;

B. Falsely representing in any manner, directly or by implication, that each individual purchasing any impotence treatment procedure will receive a medical diagnosis and treatment of the underlying cause of his impotence, or otherwise misrepresenting the nature of extent of medical diagnosis or treatment provided in connection with any treatment procedure;

C. Falsely representing in any manner, directly or by implication, the qualifications, credentials, or licenses held by any person involved in providing any treatment procedure;

D. Representing in any manner, directly or by implication, that Prostaglandin E1, Papaverine, or Phentolamine, or any combination thereof, has no side-effects or contraindications, or otherwise misrepresenting the side-effects or contraindications of any drug or treatment procedure;

E. Falsely representing in any manner, directly or by implication, that any impotence treatment procedure is unqualifiedly safe, or otherwise misrepresenting the safety of any treatment procedure;

F. Falsely representing in any manner, directly or by implication, that any impotence treatment procedure will arrest impotence, or otherwise misrepresenting the efficacy or the duration of results of any treatment procedure;

G. Falsely representing in any manner, directly or by implication, the extent to which medical insurance will cover the costs of any treatment procedure;

H. Falsely representing in any manner, directly or by implication, that medical procedures were performed;

I. Falsely representing in any manner, directly or by implication, that claims submitted to insurance companies were signed, or approved for signature, by a physician;

J. Misrepresenting the safety, side-effects, or efficacy of, or the extent, nature, or duration of results of, any treatment procedure.

II

*It is further ordered* That respondents and their officers agents, servants, employees, attorneys, subsidiaries, affiliates, successors, assigns, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, and each of them, shall take no further actions to collect any payments from customers of Genetus on any outstanding accounts receivable of Genetus; provided, however, that this Paragraph shall not prohibit respondents from fulfilling any legal obligations arising out of any *bona fide* pledge or assignment of such accounts receivable made to third party creditors of Genetus prior to September 1, 1994.

III

*It is further ordered:*

A. That respondents Genetus, George Oprean and Linda Oprean shall jointly and severally pay to the FTC as consumer redress the sum of $250,000; provided, however, that this liability will be suspended, subject to the provisions of subparts B and C below, upon the execution and submission to the Commission of a truthful sworn declaration by respondents Genetus, Galen, George Oprean, and Linda Oprean, in the form shown on Exhibit A to this Order, no later than three (3) days after the date of service of this Order, that shall reaffirm and attest to the truth, accuracy and completeness of the financial statement of each such respondent, each dated August 24, 1995, and previously submitted to the Commission.

B. That the Commission's acceptance of this Order is expressly premised upon the financial statements and related documents provided by respondents to the FTC referred to in subpart A above. After service upon respondents of an order to show cause, the FTC may reopen this proceeding to make a determination whether there are any material misrepresentations or omissions in said financial statements and related documents. Respondents shall be given an opportunity to present evidence on this issue. If, upon consideration of respondents' evidence and other information before it, the FTC determines that there are any material misrepresentations or omissions in said financial statements and related documents showing that any of the respondents failed to disclose the existence of assets in the financial statements, that determination shall cause the entire amount of $250,000 to become immediately due and payable to the FTC, and interest computed at the rate prescribed in 28 U.S.C. 1961, as amended, shall immediately begin to accrue on any unpaid balance of this amount. Proceedings initiated under Part III are in addition to, and not in lieu of, any other civil or criminal remedies as may be provided by law, including any proceedings the FTC may initiate to enforce this Order.

C. That any funds paid by respondents pursuant to subparts A and B above shall be paid into a redress fund administered by the FTC and shall be used to provide direct redress to consumers who purchased Genetus' services. If the FTC determines, in its sole discretion, that redress to consumers is wholly or partially impracticable, any funds not so used shall be paid to the United States Treasury. Respondents shall be notified as to how the funds are disbursed, but shall have no right to contest the manner of distribution chosen by the Commission.

IV

*It is further ordered* That for five (5) years after the last date of dissemination of any representation covered by this Order, respondents, or their successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials that were relied upon in disseminating such representation; and

B. All tests, reports, studies, surveys, demonstrations or other evidence in their possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

V

*It is further ordered* That, for a period of five (5) years from the date of entry of this Order, respondents shall distribute a copy of this Order to each of their operating divisions, to each of their managerial employees, and to each of their officers, agents, representatives, or employees engaged in the preparation or placement of advertising or other material covered by this Order and shall secure from such person a signed statement acknowledging receipt of this Order.

VI

*It is further ordered* that respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporation such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this Order.

VII

*It is further ordered* That, for a period of ten (10) years from the date of entry of this Order, each individual respondent named herein shall promptly notify the Commission of the discontinuance of his or her present business or employment, with each such notice to include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment.

VIII

*It is further ordered* That this Order will terminate twenty years from the date of its issuance, or twenty years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the Order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

A. Any paragraph in this Order that terminates in less than twenty years;

B. This Order's application to any respondent that is not named as a defendant in such a complaint; and

C. This Order if such complaint is filed after the Order has terminated pursuant to this Paragraph.

Provided further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the Order, and the dismissal or ruling is either not appealed or upheld on appeal, then the Order will terminate according to this Paragraph as though the complaint was never filed, except that the Order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

IX

*It is further ordered* That respondents shall, within sixty (60) days after service upon them of this Order and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the requirements of this Order.

*Exhibit A*

In the Matter of Genetus Alexandria, Inc., a corporation, and Galen Medical Centers, Ltd., a corporation, and George Oprean, individually and as President and a director of Genetus Alexandria, Inc. and Galen Medical Centers, Ltd., and Linda Huffman Oprean, individually and as an officer and a director of Genetus Alexandria, Inc. and as a director of Galen Medical Centers, Ltd.

File No.

Declaration of

Pursuant to 28 U.S.C. 1746

Pursuant to 28 U.S.C. 1746, I, _____, hereby state that the information contained in the financial statement of _____, provided to the Federal Trade Commission on _____, 1995, was true, accurate and complete at such time.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: _____

_____

[signature]

Analysis of Proposed Consent to Aid Public Comment

The Federal Trade Commission has accepted for comment a proposed consent order with Genetus Alexandria, Inc. (''Genetus''), Galen Medical Centers, Ltd. (''Galen''), George Oprean, and Linda Huffman Oprean (''Linda Oprean''). Under the direction and control of George Oprean and Linda Huffman Oprean, Genetus and Galen have marketed and provided impotence treatment services through clinics located in Virginia and Maryland.

The Commission has placed the proposed order on the public record for sixty days for comment by interested persons. Comments received during this period will become part of the public record. After sixty days, the Commission will again review the agreement and decide whether it should withdraw from, or make final, any or all of the proposed order.

According to the complaint, impotence is frequently a symptom or side-effect of serious diseases, such as arteriosclerosis, aneurysms, high blood pressure, diabetes, strokes, kidney disease, and spinal cord injuries. Impotence can also be a side-effect of various prescription medications and alcoholism, and can also be caused by depression, stress, anxiety, and other psychological factors.

The complaint states that impotence can be treated by various methods. Some treat the underlying physical, psychological, or behavioral, cause; others produce an erection without treating the underlying cause. According to the complaint, the only treatment offered by respondents Genetus, George Oprean, and Linda Oprean was the latter. These respondents' sole treatment method consisted of injecting the drug Prostaglandin E–1 or ''Tri-mix'' (a solution of the drugs Prostaglandin E–1, Papaverine, and Phentolamine). If injected in appropriate doses into the patient's penis, these drugs may cause an erection but do not treat the underlying cause of the impotence.

The Commission's complaint charges that respondents Genetus, George Oprean, and Linda Oprean deceptively promoted their impotence treatment services. The complaint charges that Galen is also liable for other respondent's deceptive practices because it is the successor corporation of Genetus and the alter ego of Genetus and/or George Oprean.

Alleged Misrepresentations Re: Treatments Provided. The Commission's complaint charges that respondents Genetus, George Oprean, and Linda Oprean falsely represented that each patient of Genetus would be examined by a physician, that each patient would receive a medical diagnosis and treatment of the underlying cause of his impotence, and that each patient would be evaluated and treated by a physician or other medical practitioner licensed to do so. (¶ 7) The complaint also specifically charges that respondents Genetus, George Oprean, and Linda Oprean falsely represented that Linda Oprean was a ''nurse practitioner'' under Virginia law. (¶ 11) In fact, according to the complaint, Linda Oprean was only a ''registered nurse'' under Virginia law (¶ 12), and many patients were examined, evaluated, and treated only by her. (¶ 8) Therefore, the complaint alleges that many Genetus patients were not examined by a physician, and were not evaluated or treated by a physician or other medical practitioner licensed to do so. (¶ 8) The complaint further alleges that Genetus' patients did not receive a medical diagnosis or treatment of the underlying cause of their impotence. (¶ 8) The proposed order prohibits all respondents from making the alleged false representations in connection with any ''treatment procedure,'' (¶¶ I.A., I.B., I.C.) defined to include not only procedures for treating impotence but also those for treating any other medical condition, disease or symptom. (Definitions Section, ¶ 2)

*Alleged Misrepresentations Re: Efficacy and Safety.* The complaint also charges that respondents Genetus, George Oprean, and Linda Oprean falsely represented that Prostaglandin E–1 has no side-effects or contraindications, and that their treatment program was unqualified safe and would arrest each patient's impotence. (¶ 9) In fact, Prostaglandin E–1 has possible side-effects, including priapism (a prolonged erection) and fibrosis of penile tissue, and its use is contraindicated for some patients. (¶ 10) The complaint further alleges that the treatment program provided by Genetus, George Oprean, and Linda Oprean was not unqualifiedly safe, and that their treatments did not arrest each patient's impotence. (¶ 10) As a remedy, the proposed order prohibits misrepresentations about the side-effects and contraindications of any drug or treatment procedure, the safety of any treatment procedure, and the

efficacy or duration of results of any treatment procedure. (¶¶ I.D., I.E., I.F.)

*Alleged Misrepresentations Re: Billing Practices.* The complaint further charges that respondents Genetus, George Oprean, and Linda Oprean misrepresented to patients and their insurance companies that all medical tests and laboratory procedures billed by Genetus had been performed, that all patients had been diagnosed and had services performed or ordered by a medical practitioner licensed to do so, and that all claims submitted by Genetus to insurance companies were signed or approved for signature by a physician. (¶ 13) The complaint also charges that respondents Genetus, George Oprean, and Linda Oprean also misrepresented to patients that, in most cases, the costs of their treatment program would be covered by the patients' health insurance. (¶ 15) In fact, according to the complaint, not all the medical tests and laboratory tests billed by Genetus were performed, many patients were diagnosed and had services performed or ordered by Linda Oprean, and many claims were signed by Linda Oprean without a physician's knowledge or permission. (¶ 14) For these reasons, the costs of Genetus' treatment program were not, in most cases, covered by patients' health insurance. (¶ 16) In addition, patients were otherwise responsible for paying for most or all of the amounts billed by Genetus because the amounts Genetus charged bore no reasonable relationship to the costs of certain goods and services and substantially exceeded the amount the insurers had agreed to pay for such items. (¶ 16) The proposed order prohibits all respondents from making the alleged misrepresentations. (¶¶ I.H., I.I.)

*Monetary Remedies.* The proposed order also prohibits all respondents from taking any action to collect any payments still owing from any customers of Genetus for any of its impotence treatment services. In addition, the proposed order requires Genetus, George Oprean, and Linda Oprean to pay consumer redress in the amount of $250,000, liability for which is suspended based upon the truthfulness and accuracy of financial statements provided to the Commission by all four respondents. If the Commission later determines that any financial statement contained any material misrepresentations or omissions, the entire amount of $250,000 is immediately due and payable.

The purpose of this analysis is to facilitate comment on the proposed consent order. This analysis is not intended to constitute an official interpretation of the agreement or proposed order, or to modify in any way its terms.

Donald S. Clark,

*Secretary.*

[FR Doc. 95–23796 Filed 9–25–95; 8:45 am]

BILLING CODE 6750–01–M

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**[File No. 951 0090]**

## Hoechst AG; Proposed Consent Agreement With Analysis To Aid Public Comment

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed consent agreement.

**SUMMARY:** This consent agreement, accepted subject to final Commission approval, settles alleged violations of federal law prohibiting unfair or deceptive acts and practices and unfair methods of competition arising from the $7.1 billion merger of Hoechst AG and Marion Merrell Dow, Inc. The consent agreement, among other things, would require Hoechst—a pharmaceutical firm—to provide Biovail Corporation International with a letter of access to the toxicology data necessary to secure additional FDA approvals for a hypertension and cardiac drug called Tiazac (diltiazem). It would also require Hoechst to return any confidential information obtained from Biovail; to refrain from using the information; to dismiss a patent infringement lawsuit filed by Marion Merrell Dow regarding Tiazac; to withdraw a citizen petition Marion Merrell Dow filed with the Food and Drug Administration relating to Tiazac; and to agree not to file any subsequent litigation against Biovail regarding diltiazem. In addition, the consent agreement would require Hoechst to divest the rights to either Trental or Beraprost (two drugs intended to treat intermittent claudication, a painful leg cramping condition); to divest the rights to Pentasa (or the generic formulation), which is one of two oral forms of mesalamine used to treat ulcerative colitis and Crohn's Disease; and to divest the rights to Rifadin (or the generic formulation), which is used to treat tuberculosis. The required divestitures would have to be made to Commission approved entities. If they are not completed within nine months of the date on which the Commission accords final approval to the consent agreement, the consent agreement would permit the Commission to appoint a trustee to complete them.

**DATES:** Comments must be received on or before November 27, 1995.

**ADDRESSES:** Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** William Baer, FTC/H–374, Washington, DC 20580 (202) 326–2932; or Ann Malester, FTC/S–2308, Washington, DC 20580 (202) 326–2682.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice (16 CFR 4.9(b)(6)(ii)).

In the Matter of Hoechst AG, a corporation.

Agreement Containing Consent Order

The Federal Trade Commission (''Commission''), having initiated an investigation of the merger of Hoechst AG (''Hoechst''), through its United States subsidiary, Hoechst Corporation, and Marion Merrell Dow Inc. (''MMD''), and it now appearing that Hoechst, hereinafter sometimes referred to as ''Proposed Respondent,'' is willing to enter into an Agreement Containing Consent Order to (i) divest certain assets, (ii) cease and desist from certain acts, and (iii) provide for certain other relief:

It is hereby agreed by and between Proposed Respondent, by its duly authorized officers and its attorneys, and counsel for the Commission that:

1. Proposed Respondent Hoechst is a corporation organized, existing, and doing business under and by virtue of the laws of Germany, with its principal place of business located at 65926 Frankfurt am Main, Germany.

2. Proposed Respondent admits all the jurisdictional facts set forth in the draft of complaint.

3. Proposed Respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this Agreement; and

(d) Any claim under the Equal Access to Justice Act.