• A drip on the new suction pipeline; and

• Facilities to interconnect new Lines JP–296 and JP–297 to existing Lines JP–250 and JP–40, respectively, at the South Oakford Gate.

The EA also addresses the potential environmental effects of the proposed abandonment of facilities including:

• All buildings, parking lots, driveways, equipment, piping, and 7,980 horsepower (hp) of compression at the Jeannette Compressor Station;

• A pig receiver and barrel drip at the Huff Gate near the Jeannette Compressor Station (to be removed and installed at Earhart Gate);

• 75 feet of Line JP–40 within the Earhart Gate; and

• A 20-inch mainline gate setting (250–IM) for Line JP–250 at the Earhart Gate.

The purpose of the proposed facilities would be to improve safety, reliability, and flexibility in the operation of the Oakford Storage Field. There would be no increase in the amount of gas stored in the Oakford Storage Field as a result of construction of the proposed facilities. Presently, the Jeannette Compressor Station delivers gas out of the Oakford Storage Field, recovers migrating gas, and re-injects recovered gas into the storage pool. With the addition of the proposed compression and related facilities at the existing South Oakford Compressor Station, the recovery operation performed by the Jeannette Compressor Station would continue with facilities consolidated at one location.

The EA has been placed in the public files of the FERC and is available for public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street NE., Washington, DC 20426, (202) 208–1371.

Copies of the EA have been mailed to Federal, State and local agencies, public interest groups, interested individuals, newspapers, and parties to this proceeding.

A limited number of copies of the EA are available from: Ms. Jennifer Goggin, Environmental Project Manager, Environmental Review and Compliance Branch II, Office of Pipeline Regulation, 888 First Street NE., PR 11.2, Washington, DC 20426, (202) 208–2226.

Any person wishing to comment on the EA may do so. Written comments must reference Docket No. CP95–668–000 and be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comments should be filed as soon as possible, but must be received no later than January 26, 1996, to ensure consideration prior to a Commission decision on this proposal. A copy of any comments should also be sent to Ms. Jennifer Goggin, Environmental Project Manager, at the above address.

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214).

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention. You do not need intervenor status to have your comments considered.

Additional information about this project is available from Ms. Jennifer Goggin, Environmental Project Manager.

Lois D. Cashell,

Secretary.

[FR Doc. 95–31532 Filed 12–29–95; 8:45 am]

BILLING CODE 6717–01–M

FEDERAL TRADE COMMISSION

[File No. 961–0014]

Johnson & Johnson; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: 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 require the New Brunswick, New Jersey-based manufacturer of health care products to divest the Cordis Neuroscience Business, which develops cranial shunts used in the treatment of hydrocephalus. The Commission had alleged that Johnson & Johnson's acquisition of Cordis Corporation would reduce competition in the market for neurological shunts by giving two firms control of 85 percent of the market.

DATES: Comments must be received on or before March 4, 1996.

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: Ann Malester, Federal Trade Commission, S–2035, 6th and Pennsylvania Avenue, NW, Washington, DC 20580, (202) 326–2682. Michael R. Moiseyev, Federal Trade Commission, S.–2025, 6th and Pennsylvania Avenue, NW, Washington, DC 20580. (202) 326–3106.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 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 Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order

The Federal Trade Commission (''Commission''), having initiated an investigation of the proposed merger of Johnson & Johnson, a corporation, and Cordis Corporation (''Cordis''), a corporation, and it now appearing that Johnson & Johnson, hereinafter sometimes referred to as ''Proposed Respondent,'' is willing to enter into an agreement containing an order to divest certain assets, and providing for certain other relief:

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

1. Proposed Respondent Johnson & Johnson is a corporation organized, existing, and doing business under and by virtue of the laws of the state of New Jersey with its principal executive offices located at One Johnson & Johnson Plaza, New Brunswick, New Jersey 08933.

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

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 claims under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is 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 Respondent, 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 Proposed Respondent that the law has been violated as alleged in the draft of complaint here attached, or that the facts as alleged in the draft complaint, other than jurisdictional facts, are true.

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 Section 2.34 of the Commission's Rules, the Commission may, without further notice to Proposed Respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to divest and to cease and desist in disposition of the proceeding, and (2) make information public with respect thereto. When so entered, the order shall have the same force and effect and may be altered, modified, 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 Respondent shall constitute service. Proposed Respondent waives any right it 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 Respondent has read the proposed complaint and order contemplated hereby. Proposed Respondent understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed Respondent further understands it may be liable for civil penalties in the amount provided by law for each violation of the order by Proposed Respondent or any agent of Proposed Respondent after it becomes final. By signing this Agreement, Proposed Respondent represents that the relief contemplated by this Agreement can be accomplished.

Order

I

It is ordered that, as used in this order, the following definitions shall apply:

A. ''Respondent'' or ''Johnson & Johnson'' means Johnson & Johnson, its directors, officers, employees, agents and representatives, predecessors, successors and assigns; its subsidiaries, divisions, and groups and affiliates controlled by Johnson & Johnson, and the respective directors, officers, employees, agents, and representatives, successors, and assigns of each.

B. ''Cordis'' means Cordis Corporation, its directors, officers, employees, agents and representatives, predecessors, successors and assigns; its subsidiaries, divisions, and groups and affiliates controlled by Cordis, and the respective directors, officers, employees, agents, and representatives, successors, and assigns of each.

C. ''Cordis Innovasive Systems'' means Cordis Innovasive Systems Inc., its directors, officers, employees, agents and representatives, predecessors, successors and assigns; its subsidiaries, divisions, and groups and affiliates controlled by Cordis Innovasive Systems, and the respective directors, officers, employees, agents, and representatives, successors, and assigns of each.

D. ''Nobles-Lai'' means Nobles-Lai Engineering, Inc. (formerly known as Visioneering, Inc.), its directors, officers, employees, agents and representatives, predecessors, successors and assigns; its subsidiaries, divisions, and groups and affiliates controlled by Nobles-Lai, and the respective directors, officers, employees, agents, and representatives, successors, and assigns of each.

E. ''Commission'' means the Federal Trade Commission.

F. ''Merger'' means the stock-for-stock merger of Johnson & Johnson and Cordis pursuant to the merger agreement dated November 12, 1995.

G. ''Assets and Businesses'' means all assets, properties, business and goodwill, tangible and intangible, including, without limitation, the following:

1. All real property interests, including rights, title and interest in and to owned or leased property, together with all buildings, improvements, appurtenances, licenses and permits;

2. All machinery, fixtures, equipment, vehicles, transportation facilities, furniture, tools and other tangible personal property;

3. All customer lists, vendor lists, catalogs, sales promotion literature, advertising materials, research materials, technical information, management information systems, software, software licenses, inventions, copyrights, trademarks, trade names, trade secrets, intellectual property, patents, technology, know-how, specifications, designs, drawings, processes and quality control data;

4. Inventory, supplies and storage capacity;

5. All rights, title and interest in and to the contracts entered into in the ordinary course of business with Nobles-Lai, customers (together with associated bid and performance bonds), suppliers, sales representatives, distributors, agents, personal property lessors, personal property lessees, licensors, licensees, consignors and consignees;

6. All rights under warranties and guarantees, express or implied;

7. All books, records, and files; and

8. All items of prepaid expense.

H. ''Cordis Neuroscience Business'' means:

1. Cordis Innovasive Systems and all of its Assets and Businesses; and

2. All of Cordis's rights, title, and interest, as of November 11, 1995, in all Assets and Businesses relating to the development, manufacture, distribution and sale of Neuroscience Products, including, but not limited to, all interest in Nobles-Lai.

I. ''Neuroscience Products'' means:

1. Neurological shunts, including, but not limited to, the Orbis-Sigma and Hakim shunt products;

2. Neurological external drainage systems, including, but not limited to, External Drainage Systems (EDS) and External Ventricular Drainage System Set (EDVS) products; and

3. Neuroendoscopy products, including, but not limited to, the Vision 2020 neuroendoscope product and the Cordis HawkVision Neuroendoscopy System.

J. ''Neurological Shunts'' means systems consisting of a ventricular catheter, a distal catheter, and a valve that are implanted in the brain to divert cerebrospinal fluid (CSF) into the bloodstream of patients experiencing excessive intercranial pressure because of a surplus of CSF inside the skull.

K. ''Neurological External Drainage Systems'' means systems consisting of a ventricular catheter, a drainage bag, tubing, and a stopcock that are used for draining CSF to control intracranial pressure and for monitoring intracranial pressure.

L. ''Neuroendoscopy Products'' means:

1. Neuroendoscopes, which are hand-held devices with an optical and light system that permit viewing of the neural cavity for use in neurosurgical procedures;

2. Neuroendoscopy systems, which are imaging systems used in conjunction with neuroendoscopes; and

3. Neuroendoscopy disposables and accessories, including, but not limited to, cannulas, irrigators, plugs, probes, forceps, scissors, graspers, aspirators, couplers, pumps, cameras and other products used in conjunction with neuroendoscopes and neuroendoscopy systems.

II

It is further ordered that:

A. Johnson & Johnson shall divest, absolutely and in good faith, within twelve (12) months of the date this order becomes final, the Cordis Neuroscience Business, and shall also divest such additional ancillary Assets and Businesses and effect such arrangements as are necessary to assure the marketability, viability and competitiveness of the Cordis Neuroscience Business.

B. Johnson & Johnson shall divest the Cordis Neuroscience Business only to an acquirer that receives the prior approval of the Commission and only in a manner that receives the prior approval of the Commission. The purpose of the divestiture is to ensure the continuation of the Cordis Neuroscience Business as an ongoing, viable operation, engaged in the same business in which the Cordis Neuroscience Business is engaged at the time of the proposed divestiture, and to remedy the lessening of competition resulting from the Merger as alleged in the Commission's complaint.

C. Pending divestiture of the Cordis Neuroscience Business, Johnson & Johnson shall take such actions as are necessary to maintain the viability, marketability, and competitiveness of the Cordis Neuroscience Business, and to prevent the destruction, removal, wasting, deterioration or impairment of the Cordis Neuroscience Business except for ordinary wear and tear.

D. If Johnson & Johnson is prevented from divesting the Cordis Neuroscience Business because of, or as a result of, the assertion by Nobles-Lai of any contractual rights, requirements or prohibitions, then for a period of five (5) years commencing on the date that this order is accepted by the Commission, Johnson & Johnson shall not:

1. Contract with Nobles-Lai for the research, development or manufacture of any Neuroendoscopy Product; or

2. Purchase any Neuroendoscopy Product from, or distribute any Neuroendoscopy Product for, Nobles-Lai.

III

It is further ordered that:

A. If Johnson & Johnson has not divested, absolutely and in good faith, and with the prior approval of the Commission, the Cordis Neuroscience Business within twelve (12) months of the date this order becomes final, the Commission may appoint a trustee to divest the Cordis Neuroscience Business

B. In the event that the Commission or the Attorney General brings an action pursuant to § 5(l) of the Federal Trade Commission Act, 15 U.S.C. (§ 45l), or any other statute enforced by the Commission, Johnson & Johnson shall consent to the appointment of a trustee in such action. Neither the appointment of a trustee nor a decision not to appoint a trustee under this Paragraph III shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed trustee, pursuant to § 5(l) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by Johnson & Johnson to comply with this order.

C. If a trustee is appointed by the Commission or a court pursuant to Paragraph III.A., Johnson & Johnson shall consent to the following terms and conditions regarding the trustee's powers, duties, authority, and responsibilities:

1. The Commission shall select the trustee, subject to the consent of Johnson & Johnson, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in mergers and divestitures. If Johnson & Johnson has not opposed, in writing, including the reasons for opposing, the selection of any proposed trustee within ten (10) days after notice by the staff of the Commission to Johnson & Johnson of the identity of any proposed trustee, Johnson & Johnson shall be deemed to have consented to the selection of the proposed trustee.

2. Subject to the prior approval of the Commission, the trustee shall have the exclusive power and authority to divest the Cordis Neuroscience Business.

3. Within ten (10) days after appointment of the trustee, Johnson & Johnson shall execute a trust agreement that, subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, transfers to the trustee all rights and powers necessary to permit the trustee to effect the divestiture required by this order.

4. The trustee shall have twelve (12) months from the date the Commission approves the trust agreement described in Paragraph III.C.3. to accomplish the divestiture, which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve month period, the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Commission, or, in the case of a court-appointed trustee, by the court; provided, however, the Commission may extend this period only two (2) times.

5. The trustee shall have full and complete access to the personnel, books, records and facilities related to the Cordis Neuroscience Business, or to any other relevant information, as the trustee may request. Johnson & Johnson shall develop such financial or other information as such trustee may request and shall cooperate with the trustee. Johnson & Johnson shall take no action to interfere with or impede the trustee's accomplishment of the divestiture. Any delays in divestiture caused by Johnson & Johnson shall extend the time for divestiture under this Paragraph in an amount equal to the delay, as determined by the Commission or, for a court-appointed trustee, by the court.

6. The trustee shall use his or her best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to Johnson & Johnson's absolute and unconditional obligation to divest at no minimum price. The divestiture shall be made in the manner and to acquirer as set out in Paragraph II of this order, as appropriate; provided, however, if the trustee receives bona fide offers from more than one acquiring entity, and if the Commission determines to approve more than one such acquiring entity, the trustee shall divest to the acquiring entity selected by Johnson & Johnson from among those approved by the Commission.

7. The trustee shall serve, without bond or other security, at the cost and expense of Johnson & Johnson, on such reasonable and customary terms and conditions as the Commission or a court may set. The trustee shall have the authority to employ, at the cost and

expense of Johnson & Johnson, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are necessary to carry out the trustee's duties and responsibilities. The trustee shall account for all monies derived from the divestiture and all expenses incurred. After approval by the Commission and, in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid at the direction of Johnson & Johnson, and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement contingent on the trustee's divesting the Cordis Neuroscience Business.

8. Johnson & Johnson shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of any claim, whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the trustee.

9. If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in Paragraph III.A. of this order.

10. The Commission or, in the case of a court-appointed trustee, the court, may on its own initiative or at the request of the trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture required by this order.

11. The trustee shall have no obligation or authority to operate or maintain the Cordis Neuroscience Business.

12. In the event that the trustee determines that he or she is unable to divest the Cordis Neuroscience Business in a manner consistent with the Commission's purpose as described in Paragraph II, the trustee may divest additional ancillary assets of Johnson & Johnson and effect such arrangements as are necessary to satisfy the requirements of this order.

13. The trustee shall report in writing to Johnson & Johnson and the Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

IV

It is further ordered that Johnson & Johnson shall comply with all terms of the Cordis Neuroscience Business Agreement to Hold Separate, attached to this order and made a part hereof as Appendix I. The Cordis Neuroscience Business Agreement to Hold Separate shall continue in effect until Johnson & Johnson has divested all of the Cordis Neuroscience Business.

V

It is further ordered that:

A. Within sixty (60) days after the date this order becomes final and every sixty (60) days thereafter until Johnson & Johnson has fully complied with Paragraphs II, III, and IV of this order, Johnson & Johnson shall submit to the Commission a verified written report setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with Paragraphs II, III, and IV of this order. Johnson & Johnson shall include in its compliance reports, among other things that are required from time to time, a full description of the efforts being made to comply with Paragraphs II, III, and IV, including a description of all substantive contacts or negotiations for the divestiture required by this order, including the identity of all parties contacted. Johnson & Johnson shall include in its compliance reports copies of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning the divestiture.

B. If Johnson & Johnson is precluded from purchasing from, contracting with, or distributing for Nobles-Lai pursuant to Paragraph II.D. of this order, then one (1) year from the date this order becomes final, annually for the next (5) years on the anniversary of the date this order becomes final, and at other times as the Commission may require, Respondent shall file a verified written report with the Commission setting forth in detail the manner and form in which it has complied and is complying with Paragraph II.D. of this order.

VI

It is further ordered that, for the purpose of determining or securing compliance with this order, Johnson & Johnson shall permit any duly authorized representatives of the Commission:

A. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Johnson & Johnson, relating to any matters contained in this order; and

B. Upon five (5) days' notice to Johnson & Johnson, and without restraint or interference from Johnson & Johnson, to interview officers, directors, or employees of Johnson & Johnson. Officers and employees of Johnson & Johnson whose places of employment are outside the United States shall be made available on reasonable notice.

VII

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

Benjamin I. Berman,

Acting Secretary.

Appendix I

Cordis Neuroscience Business Agreement To Hold Separate

This Agreement to Hold Separate (''Hold Separate'') is by and between Johnson & Johnson, a corporation organized, existing, and doing business under and by virtue of the laws of the state of New Jersey, with its office and principal place of business at One Johnson & Johnson Plaza, New Brunswick, New Jersey 08933; and the Federal Trade Commission (''Commission''), an independent agency of the United States Government, established under the Federal Trade Commission Act of 1914, 15 U.S.C. § 41, et seq. (collectively, the ''Parties'').

Premises

Whereas, Johnson & Johnson and Cordis Corporation (''Cordis''), on November 12, 1995, entered into a stock-for stock merger (hereinafter ''Merger''); and

Whereas, Cordis, with its principal office and place of business located at 14201 N.W. 60th Avenue, Miami Lakes, Florida 33014 develops, manufactures and markets, among other things, neurological shunts; and

Whereas, Johnson & Johnson, with its principal office and place of business located at One Johnson & Johnson Plaza, New Brunswick, New Jersey 08933, through its subsidiary Johnson & Johnson Professional, Inc., develops, manufactures and markets, among other things, neurological shunts; and

Whereas, the Commission is now investigating the Merger to determine whether it would violate any of the statutes enforced by the Commission; and

Whereas, if the Commission accepts the Agreement Containing Consent Order (''Consent Agreement''), the Commission must place it on the public record for a

period of at least sixty (60) days and may subsequently withdraw such acceptance pursuant to the provisions of Section 2.34 of the Commission's Rules; and

Whereas, the Commission is concerned that if an understanding is not reached, preserving the status quo ante of Cordis Neuroscience Business, as defined in Paragraph I.H. of the Consent Agreement, during the period prior to the final acceptance and issuance of the Consent Agreement by the Commission (after the 60-day public comment period), divestiture resulting from any proceeding challenging the legality of the Merger might not be possible, or might be less than an effective remedy; and

Whereas, the Commission is concerned that if the Merger is consummated, it will be necessary to preserve the Commission's ability to require the divestiture of the Cordis Neuroscience Business and the Commission's right to have the Cordis Neuroscience Business continue as a viable competitor; and

Whereas, the purpose of this Hold Separate and the Consent Agreement are:

A. To preserve the Cordis Neuroscience Business as a viable, competitive, and independent business pending divestiture of the Cordis Neuroscience Business, and

B. To remedy any anticompetitive effects of the Merger; and

Whereas, Johnson & Johnson's entering into this Hold Separate shall in no way be construed as an admission by Johnson & Johnson that the Merger is illegal; and

Whereas, Johnson & Johnson understands that no act or transaction contemplated by this Hold Separate shall be deemed immune or exempt from the provisions of the antitrust laws or the Federal Trade Commission Act by reason of anything contained in this Hold Separate.

Now, therefore, the Parties agree, upon the understanding that the Commission has not yet determined whether the Merger will be challenged, and in consideration of the Commission's agreement that, at the time it accepts the Consent Agreement for public comment, it will grant early termination of the Hart-Scott-Rodino waiting period, as follows:

1. Johnson & Johnson agrees to execute and be bound by the Consent Agreement.

2. Johnson & Johnson agrees that from the date this Hold Separate is accepted until the earliest of the times listed in subparagraphs 2.a.–2.b., it will comply with the provisions of Paragraph 3. of this Hold Separate:

a. Three (3) business days after the Commission withdraws its acceptance of the Consent Agreement pursuant to the provisions of Section 2.34 of the Commission's Rules; or

b. The time that divestiture of the Cordis Neuroscience Business is required by Paragraph II of the Consent Agreement is completed.

3. To assure the complete independence and viability of the Cordis Neuroscience Business, and to assure that no material confidential information is exchanged between Johnson & Johnson and the Cordis Neuroscience Business, Johnson & Johnson shall hold the Cordis Neuroscience Business separate and apart on the following terms and conditions:

a. The Cordis Neuroscience Business, as defined in Paragraph I.H. of the Consent Agreement, shall be held separate and apart and shall be managed and operated independently of Johnson & Johnson (meaning here and hereinafter, Johnson & Johnson excluding the Cordis Neuroscience Business and excluding all personnel connected with the Cordis Neuroscience Business as of the date this Agreement is signed, but including all other portions of Cordis), except to the extent that Johnson & Johnson must exercise direction and control over the Cordis Neuroscience Business to assure compliance with this Hold Separate or the Consent Agreement.

b. Johnson & Johnson shall maintain the marketability, viability, and competitiveness of the Cordis Neuroscience Business and shall not cause or permit the destruction, removal, wasting, deterioration, or impairment of any assets or business it may have to divest except in the ordinary course of business and except for ordinary wear and tear, and it shall not sell, transfer, encumber (other than in the normal course of business), or otherwise impair the marketability, viability or competitiveness of the Cordis Neuroscience Business.

c. Johnson & Johnson shall appoint a knowledgeable person among the top management of the Cordis Neuroscience Business, as Manager to manage and maintain the Cordis Neuroscience Business on a day to day basis during the Hold Separate. The Manager shall have exclusive management and control of the Cordis Neuroscience Business, and shall manage the Cordis Neuroscience Business independently of Johnson & Johnson's other businesses.

d. The Manager shall report exclusively to the Cordis Neuroscience Business Management Committee (''Management Committee''), which shall be appointed by Johnson & Johnson. The Committee shall consist of two knowledgeable persons from among the top management of the Cordis Neurological Products business; and a Johnson & Johnson financial officer or a comparable, knowledgeable person from Johnson & Johnson's financial office who has no direct involvement with Johnson & Johnson's Neurological Products Business (''Johnson & Johnson Management Committee Member''). The Manager shall be the Chairman of the Management Committee. Except for the Johnson & Johnson Management Committee Member serving on the Management Committee, Johnson & Johnson shall not permit any officer, employee, or agent of Johnson & Johnson also to be an officer, employee or agent of the Cordis Neuroscience Business. Each Management Committee member shall enter into a confidentiality agreement agreeing to be bound by the terms and conditions set forth in Attachment A, appended to this Hold Separate. The Management Committee shall meet monthly during the course of the Hold Separate, and as otherwise necessary. Meetings of the Management Committee during the term of the Hold Separate shall be audio recorded, and the recording shall be retained for two (2) years after the termination of the Hold Separate.

e. All material transactions, out of the ordinary course of business and not precluded by Paragraph 3 hereof, shall be subject to a majority vote of the Management Committee.

f. Johnson & Johnson shall not exercise direction or control over, or influence directly or indirectly, the Cordis Neuroscience Business, the Management Committee, or the Manager of the Cordis Neuroscience Business, any of their operations, assets, or businesses; provided, however, that Johnson & Johnson may exercise only such direction and control over the Cordis Neuroscience Business as is necessary to assure compliance with this Hold Separate, the Consent Order and with all applicable laws and except as otherwise provided in this Hold Separate.

g. Except as required by law, and except to the extent that necessary information is exchanged in the course of evaluating and consummating the Merger, defending investigations or litigation, obtaining legal advice, complying with this Hold Separate or the Consent Order or negotiating agreements to divest assets, Johnson & Johnson shall not receive or have access to, or the use of, any material confidential information of the Cordis Neuroscience Business or the activities of the Manager or Management Committee not in the public domain, nor shall the Cordis Neuroscience Business, Manager, or the Management Committee receive or have access to, or the use of, any material confidential information about Johnson & Johnson. Johnson & Johnson may receive on a regular basis from the Cordis Neuroscience Business aggregate financial information necessary and essential to allow Johnson & Johnson to file financial reports, tax returns, and personnel reports. Any such information that is obtained pursuant to this subparagraph shall be used only for the purposes set forth in this subparagraph. (''Material confidential information,'' as used herein, means competitively sensitive or proprietary information not independently known to:

1. Johnson & Johnson, with regard to the Cordis Neuroscience Business, from sources other than the Cordis Neuroscience Business or its employees or the Management Committee; or

2. The Management Committee or the Cordis Neuroscience Business or its employees, with regard to Johnson & Johnson, from sources other than Johnson & Johnson,

and includes, but is not limited to, customer lists, price lists, marketing methods, patents, technologies, processes, or other trade secrets.)

h. Except as is permitted by this Hold Separate, the Johnson & Johnson Management Committee Member shall not receive any Cordis Neuroscience Business material confidential information and shall not disclose any such information obtained through his or her involvement with the Cordis Neuroscience Business to Johnson & Johnson or use it to obtain any advantage for Johnson & Johnson. The Johnson & Johnson Management Committee Member shall participate in matters that come before the Management Committee only for the limited purpose of considering any capital investment of over $250,000, approving any

proposed budget and operating plans, authorizing dividends and repayment of loans consistent with the provisions hereof, reviewing material transactions described in subparagraph 3.e, and carrying out Johnson & Johnson's responsibilities under the Hold Separate and the Consent Agreement. Except as permitted by the Hold Separate, the Johnson & Johnson Management Committee Member shall not participate in any matter, or attempt to influence the votes of the other directors on the Management Committee with respect to matters that would involve a conflict of interest between Johnson & Johnson and the Cordis Neuroscience Business.

i. Johnson & Johnson shall not change the composition of the Management Committee unless a majority of the Management Committee consents. The Chairman of the Management Committee shall have the power to remove members of the Management Committee for cause and to require Johnson & Johnson to appoint replacement members to the Management Committee in the same manner as provided in Paragraph 3.d. of this Hold Separate. Johnson & Johnson shall not change the composition of the management of the Cordis Neuroscience Business, except that the Management Committee shall have the power to remove management employees for unsatisfactory performance or for cause.

j. If the Chairman of the Management Committee ceases to act or fails to act diligently, a substitute Chairman shall be appointed in the same manner as provided in Paragraphs 3.c. and 3.d.

k. Cordis personnel connected with the Cordis Neuroscience Business or providing support services to the Cordis Neuroscience Business as of the date this Hold Separate is signed shall continue, as employees of Johnson & Johnson, to provide such services as of the date of this Hold Separate. Such Johnson & Johnson personnel must retain and maintain all material confidential information relating to the Cordis Neuroscience Business on a confidential basis and, except as is permitted by this Hold Separate, such persons shall be prohibited from providing, discussing, exchanging, circulating, or otherwise furnishing any such information to or with any other person whose employment involves any other Johnson & Johnson business.

Such Johnson & Johnson personnel shall also execute a confidentiality agreement prohibiting the disclosure of any material confidential Cordis Neuroscience Business or Johnson & Johnson information.

1. The Cordis Neuroscience Business shall be staffed with sufficient employees to maintain the viability and competitiveness of the Cordis Neuroscience Business, which employees shall be the Cordis Neuroscience Business's employees and may also be hired from sources other than Johnson & Johnson. Each management employee of the Cordis Neuroscience Business shall execute a confidentiality agreement prohibiting the disclosure of any Cordis Neuroscience Business confidential information.

m. Johnson & Johnson shall circulate to the management employees of the Cordis Neuroscience Business and appropriately display a notice of this Hold Separate and Consent Order in the form attached hereto as Attachment A.

n. Johnson & Johnson shall cause the Cordis Neuroscience Business to expend funds for research and development, quality control, manufacturing and marketing of Cordis Neuroscience Business products at a level not lower than that budgeted for either the 1994 or 1995 fiscal year, and shall increase such spending as deemed reasonably necessary in light of competitive conditions. Within thirty (30) days of the date of this Hold Separate, the Chairman of the Management Committee shall develop a budget and operating plan for the 1996 fiscal year that complies with the provisions of this Paragraph and present it to the Management Committee for approval. If necessary, Johnson & Johnson shall provide the Cordis Neuroscience Business with any funds to accomplish the foregoing. Johnson & Johnson shall provide to the Cordis Neuroscience Business such support services as provided by Cordis prior to the Merger.

o. Johnson & Johnson shall provide the Cordis Neuroscience Business with sufficient working capital to operate at a level not less than the rate of operation in effect during the twelve (12) months preceding the date of this Hold Separate.

p. The Management Committee shall serve at the cost and expense of Johnson & Johnson. Johnson & Johnson shall indemnify the Management Committee against any losses or claims of any kind that might arise out of its involvement under this Hold Separate, except to the extent that such losses or claims result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the Management Committee members.

q. The Management Committee shall have access to and be informed about all companies who inquire about, seek or propose to buy the Cordis Neuroscience Business.

r. Notwithstanding the provisions of Paragraph 3.h., companies who undertake a due diligence process in the course of negotiations to purchase the Cordis Neuroscience Business may be accompanied and assisted by the Johnson & Johnson Management Committee Member, in addition to appropriate Cordis Neuroscience Business employees selected by the Management Committee. The Johnson & Johnson Management Committee Member may delegate tasks relating to such due diligence to attorneys, accountants and/or other financial employees of Johnson & Johnson who are not directly engaged in the Johnson & Johnson Neurological Products Business; provided, however, that such Johnson & Johnson employees, accountants and attorneys shall execute a confidentiality agreement prohibiting the disclosure of any Cordis Neuroscience Business material confidential information.

4. Should the Federal Trade Commission seek in any proceeding to compel Johnson & Johnson to divest itself of the Cordis Neuroscience Business, or any additional assets, as provided in the Consent Agreement, or to seek any other injunctive or equitable relief, Johnson & Johnson shall not raise any objection based on the expiration of the applicable Hart-Scott-Rodino Antitrust Improvements Act waiting period or the fact that the Commission has permitted the Merger. Johnson & Johnson shall also waive all rights to contest the validity of this Hold Separate.

5. To the extent that this Hold Separate requires Johnson & Johnson to take, or prohibits Johnson & Johnson from taking, certain actions that otherwise may be required or prohibited by contract, Johnson & Johnson shall abide by the terms of this Hold Separate or the Consent Agreement, and shall not assert as a defense such contract requirements in a civil penalty action brought by the Commission to enforce the terms of this Hold Separate or the Consent Agreement.

6. For the purpose of determining or securing compliance with this Hold Separate, subject to any legally recognized privilege or provision of applicable law, and upon written request with reasonable notice to Johnson & Johnson made to its General Counsel, Johnson & Johnson shall permit any duly authorized representative or representatives of the Commission:

a. Access during the office hours of Johnson & Johnson and in the presence of counsel to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of Johnson & Johnson or relating to compliance with this Hold Separate;

b. Upon five (5) days' notice to Johnson & Johnson, and without restraint or interference from it, to interview officers or employees of Johnson & Johnson, who may have counsel present, regarding any such matters.

7. This Hold Separate shall not be binding until approved by the Commission.

Attachment A.—Notice of Divestiture and Requirement for Confidentiality

Johnson & Johnson and Cordis Corporation have entered into a Consent Agreement and Agreement to Hold Separate with the Federal Trade Commission (''Commission'') relating to the divestiture of the Cordis Neuroscience Business. Until after the Commission's Order becomes final and the Cordis Neuroscience Business are divested, the Cordis Neuroscience Business must be managed and maintained as a separate, ongoing business, independent of all other Johnson & Johnson businesses. All competitive information relating to The Cordis Neuroscience Business must be retained and maintained by the persons involved in the Cordis Neuroscience Business on a confidential basis and such persons shall be prohibited from providing, discussing, exchanging, circulating, or otherwise furnishing any such information to or with any other person whose employment or agency involves any other Johnson & Johnson business. Similarly, all such persons involved in any other Johnson & Johnson business small be prohibited

from providing, discussing, exchanging, circulating or otherwise furnishing competitive information about such business to or with any person whose employment or agency involves the Cordis Neuroscience Business.

Any violation of the Consent Agreement or the Agreement to Hold Separate, incorporated by reference as part of the Consent Order, may subject Johnson & Johnson to civil penalties and other relief as provided by law.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted subject to final approval an agreement containing a proposed consent order from Johnson & Johnson under which Johnson & Johnson would divest the Cordis Neuroscience Business, which includes Cordis' neurological shunt product line.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Johnson & Johnson, a New Jersey based corporation, has proposed to acquire Cordis Corporation, a Florida based corporation, in a stock for stock exchange worth $1.8 billion.

The proposed complaint alleges that the proposed merger, 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, in the market for neurological shunts. Neurological shunts are medical devices used to treat hydrocephalus, a brain disorder that primarily afflicts young children. The merger will substantially increase concentration in the already highly concentrated U.S. shunt market: two firms will control over 85% of the market. Anticompetitive effects, such as increased prices and decreased services, are likely to result. In addition, timely entry by other companies, both in the United States and overseas, is unlikely to defeat these anticompetitive effects. Entry cannot occur in a timely fashion because of the difficulty of developing competitive neurological shunt designs, establishing manufacturing facilities, organizing a sales and service network, receiving Food and Drug Administration approval, and gaining physician acceptance in the market.

The proposed consent order would remedy the alleged violation by replacing the lost competition that would result from the merger. It provides that Johnson & Johnson shall divest the Cordis Neuroscience Business within twelve (12) months of the date the proposed order becomes final. The Cordis Neuroscience Business is a single operational unit that sells neurological shunts, intracranial pressure drainage systems and neuroendoscopy equipment. Significant synergies between the products manufactured and sold by the Business exist, and Cordis' shunts are sold as part of the broader product line. Therefore, a divestiture of the whole business is necessary to maintain competition in the shunt market. The proposed order requires Cordis Neuroscience Business to take all the steps necessary to assure the viability, marketability, and competitiveness of the Cordis Neuroscience Business, and to prevent the destruction, removal, wasting, deterioration, or impairment of the Cordis Neuroscience Business.

If Johnson & Johnson is unable to divest the Cordis Neuroscience Business within twelve (12) months, then a trustee may be appointed by the Commission to divest the Cordis Neuroscience Business within an additional twelve (12) month period. If, at the end of that twelve (12) month period, the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the time period for divestiture can be extended up to two (2) times by the court.

A Hold Separate Agreement signed by Johnson & Johnson provides that, during the time period from the date the Hold Separate is accepted until the divestiture of the Cordis Neuroscience Business is completed, the Cordis Neuroscience Business shall be held separate and operated independently of Johnson & Johnson.

Under the provisions of the order, Johnson & Johnson is also required to provide to the Commission a report of compliance with the divestiture provisions of the order within sixty (60) days following the date this order becomes final, and every sixty (60) days thereafter until Johnson & Johnson has completely divested its interest in the Cordis Neuroscience Business.

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

[FR Doc. 95–31558 Filed 12–29–95; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 95E–0301]

Determination of Regulatory Review Period for Purposes of Patent Extension; PREVACID®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for PREVACID® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration,5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the