ANALYSIS OF AGREEMENT CONTAINING CONSENT ORDERS
TO AID PUBLIC COMMENT
In the Matter of Valeant Pharmaceuticals International, Inc. and Precision Dermatology, Inc.
File No. 141-0101

I. Introduction

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an Agreement Containing Consent Orders ("Consent Agreement") from Valeant Pharmaceuticals International, Inc("Valeant

The branded and generic single-agent topical tretinoin market includes both branded and generic tretinoins. Unlike pharmaceutical markets in which the branded product no longer competes with generics once multiple generics enter, branded versions of single-agent topical tretinoins continue to compete with each other and their generic versions.

III. Entry

Entry into the manufacture and sale of both branded and generic single-agent topical tretinoins and generic Retin-A generally or for any given strength/formulation would not be timely, likely, or sufficient in magnitude, character, and scope to deter or counteract the anticompetitive effects of the acquisition. The combination of drug development times and regulatory requirements, including U.S. Food and Drug Administration ("FDA") approval, is costly and lengthy. Industry participants also note that expertise and facilities associated with manufacturing topical products are sufficiently specialized that a relatively small number of firms participate in such markets.

IV. Effects

The Proposed Acquisition would likely cause significant anticompetitive harm to consumers for the manufacture and sale of both branded and generic single-agent topical tretinoins and generic Retin-A and/or the individual strengths and formulations of generic Retin-A by eliminating actual, direct, and substantial competition between Valeant and Precision in these markets. With respect to branded and generic single-agent topical tretinoins, the Proposed Acquisition would likely result in unilateral anticompetitive effects. Evidence gathered during the course of the investigation demonstrates that there is close competition between Valeant's and Precision's branded tretinoin products in terms of pricing and promotional activities. Although generic tretinoins provide some competitive constraint on branded tretinoin pricing, there is a sufficient degree of direct competition between Valeant's and Precision's branded products that Valeant will likely have an incentive to increase the price of branded single-agent topical tretinoins if the Proposed Acquisition takes place. Since many managed care organizations incentivize the use of generic tretinoin over branded tretinoin, the competition between Precision's and Valeant's branded products has benefitted consumers primarily in the form of promotional couponing. The Proposed Acquisition would likely allow Valeant to raise prices by reducing its couponing and other promotional activity for Tretin-X.

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V. The Consent Agreement

The proposed Consent Agreement effectively remedies the Proposed Acquisition's anticompetitive effects in each of the relevant product markets. Pursuant to the Consent Agreement, the parties are required to divest Precision's rights and assets related to Tretin-X to Actavis, and its rights and assets related to generic Retin-A to Matawan Pharmaceuticals. Further, the proposed Consent Agreement requires Precision to assign to Actavis and Matawan Pharmaceuticals its contract manufacturing agreement with DPT Laboratories Ltd. ("DPT") for the divested assets. The parties must accomplish these divestitures and relinquish their rights no later than ten days after the Proposed Acquisition is consummated.

Actavis is well-suited to acquire Tretin-X because of its current presence in the dermatology field, and the fact that it already markets a branded antibiotic, Doryx, that also is used to treat acne vulgaris. Actavis is a multinational pharmaceutical company headquartered in Ireland that employs approximately 19,200 individuals. In 2013, the company generated $8.7 billion in worldwide revenue. Actavis develops, manufactures, markets, sells, and distributes branded, generic, branded generic, biosimilar, and over-the-counter pharmaceutical products. Currently, Actavis offers forty-five branded pharmaceutical products and approximately 250 generic pharmaceutical product lines in the United States. Actavis employs a significant dermatology sales force.

Since Actavis will step into Precision's existing contract manufacturing relationship with DPT for the production of Tretin-X, no transfer of manufacturing will be necessary for the proposed divestiture, and Actavis will be able to compete immediately following the acquisition in the single-agent topical tretinoin market.

Matawan Pharmaceuticals is an acceptable purchaser of the generic Retin-A assets and will be able to replicate Precision's role in that market. Under the proposed divestiture, Matawan Pharmaceuticals will purchase the generic Retin-A assets, but little else will change as the products will continue to be manufactured by DPT and marketed by Rouses Point. Since Matawan Pharmaceuticals will use Precision's already-existing contract manufacturing relationship with DPT for the production of generic Retin-A, no transfer of manufacturing will be necessary.

The Commission's goal in evaluating possible purchasers of divested assets is to maintain the competitive environment that existed prior to the Proposed Acquisition. If the Commission determines that Actavis and Matawan Pharmaceuticals are not acceptable acquirers of the divested assets, or that the manner of the divestitures is not acceptable, the parties must unwind the sale of rights to Actavis and Matawan Pharmaceuticals, and divest the Tretin-X and generic Retin-A assets to Commission-approved acquirers within six months of the date the Order becomes final. In that circumstance, the Commission may appoint a trustee to divest the Products if the parties fail to divest them as required.

The proposed Consent Agreement contains several provisions designed to ensure that the divestitures are successful. The Order requires Valeant and Precision to take all action to maintain the economic viability, marketability, and competitiveness of the products to be

divested until such time that they are transferred to Commission-approved acquirers