

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Joseph J. Simons, Chairman
Noah Joshua Phillips
Rohit Chopra
Rebecca Kelly Slaughter
Christine S. Wilson

In the Matter of)
)
)
 ABBVIE INC.,)
 a corporation;) Docket No. C-4713
)
 and)
)
 ALLERGAN PLC,)
 a public limited company.)

ORDER TO MAINTAIN ASSETS

The Federal Trade Commission ("Commission") initiated an investigation of the proposed acquisition by Respondent AbbVie Inc. of all of the voting securities of Resp Allergan plc. The Commission's Bureau of Competition prepared and furnished to each Respondent the Draft Complaint, which it proposed to present to the Commission for its consideration. If issued by the Commission, the Draft Complaint would charge Respondents with violations of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45.

Respondents and the Bureau of Competition executed an Agreement Containing Consent Orders ("Consent Agreement") containing (1) an admission by Respondents of all the jurisdictional facts set forth in the Draft Complaint; (2) a statement that this agreement is for settlement purposes only and does not constitute an admission by Respondents that the law has been violated as alleged in the Draft Complaint and the facts as alleged in the

Commission Rule 2.34, 16 C.F.R. § 2.34, the Commission hereby issues its Complaint, makes the following jurisdictional findings, and issues this Order to Maintain Assets:

1. Respondent AbbVie Inc. is a corporation organized, existing, and doing business under, and by virtue of, the laws of the State of Delaware with its executive offices and principal offices in the State of Illinois. Respondent is a corporation organized, existing, and doing business under, and by virtue of, the laws of the State of Delaware with its executive offices and principal offices in the State of Illinois.

F. "Orders" means the Decision and Order and this Order to Maintain Assets.

II. Asset Maintenance

IT IS FURTHER ORDERED that:

A. Respondents shall take such actions as are necessary to maintain the full economic viability, marketability,

4. providing such resources as may be necessary to maintain the competitive strength and positioning of each of the Divestiture Product Businesses;

5.

duties, authorities, and responsibilities of the Monitor:

1. The Monitor shall have the power and authority to monitor each Respondent's compliance with the divestiture and asset maintenance obligations and related requirements of the Orders, and shall exercise such power and authority and carry out the duties and responsibilities of the Monitor in a manner consistent with the purposes of the Orders and in consultation with the Commission;
 2. Respondents shall provide access to all information and facilities, and make such arrangements with third parties, as are necessary to allow the Monitor to monitor compliance with the obligations to Transition Package and to transfer and deliver the Product Manufacturing Technology;
 3. The Monitor shall act in consultation with the Commission or its staff, and shall serve as an independent third party and not as an employee or agent of the Respondents or of the Commission; and
 4. The Monitor shall serve until Respondents complete the Transition Packaging, transition services, and the transfer of the Clinical Trials, as applicable, for each Acquirer *unless* the Commission decides to extend or modify this period as may be necessary or appropriate to accomplish the purposes of the Orders.
- D. Subject to any demonstrated legally recognized privilege, the Monitor shall have full and complete access to each Respondent's personnel, books, documents, records kept in the ordinary course of business, facilities, and technical information, and such other relevant information as the Monitor may reasonably request, related to that Respondent's compliance with its obligations under the Orders.

Each Respondent shall cooperate with any reasonable request of the Monitor and shall take no action to interfere with or impede the Monitor's ability to monitor that Respondent's compliance with the Orders.

The Monitor shall serve, without bond or other security, at the expense of Respondents, on such reasonable and customary terms and conditions as the Commission may set. The Monitor shall have authority to employ, at the expense of Respondents, such consultants, accountants, attorneys, and other representatives and assistants as are reasonably necessary to carry out the Monitor's duties and responsibilities.

Respondents shall indemnify the Monitor and hold the Monitor harmless against any losses, claims, damages, lia

acts, or bad faith by the Monitor.

- H. Respondents shall report to the Monitor in accordance with the requirements of the Orders and as otherwise provided in any agreement approved by the Commission. The Monitor shall evaluate the reports submitted to the Monitor by a Respondent, and any reports submitted by the Acquirer with respect to the performance of a Respondent's obligations under the Orders. Within 30 days after the date this Order to Maintain Assets is issued and every 90 days thereafter, and at such other times as may be requested by staff of the Commission, the Monitor shall report in writing to the Commission concerning performance by the Respondents of the Respondents' obligations under the Orders. Among other things, the Monitor shall report in writing to the Commission concerning progress by the Acquirer toward obtaining FDA approval (i) for indications on a Divestiture Product related to any Clinical Trials that were planned or ongoing on or before the Divestiture Date, and (ii) to manufacture in commercial quantities, in a manner consistent with cGMP, independently of Respondents, each Divestiture Product that was manufactured by a Respondent on or before the Divestiture Date.

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- L. The Commission may on its own initiative, or at the request of the Monitor, issue such additional orders or directions as may be necessary or appropriate to assure compliance with the requirements of the Orders.

to perform this function. Respondents shall submit an original and 2 copies of each Compliance Report as required by Commission Rule 2.41(a), 16 C.F.R. § 2.41(a), including a paper original submitted to the Secretary of the Commission and electronic copies to the Secretary at ElectronicFilings@ftc.gov and to the Compliance Division at bccompliance@ftc.gov. In addition, Respondents shall provide a copy of each Compliance Report to the Monitor.

- D. After the Decision and Order in this matter becomes final, the reports due under this Order to Maintain Assets may be consolidated with, and submitted to the Commission on the same timing as, the Compliance Reports required to be submitted by Respondents pursuant to the Decision and Order.

VI. Change in Respondents

IT IS FURTHER ORDERED that Respondents shall notify the Commission at least 30 days prior to:

- A. any proposed dissolution of AbbVie Inc. or Allergan plc;
- B. any proposed acquisition, merger, or consolidation of AbbVie Inc. or Allergan plc; or
- C. any other change in a Respondent including assignment and the creation or dissolution of subsidiaries, if such change might affect compliance obligations arising out of the Orders.

VII. Access

IT IS FURTHER ORDERED that, for purposes of determining or securing compliance with this Order, and subject to any legally recognized privilege, and upon written request and upon five-days' notice to a Respondent made to its principal United States offices,

