Merger Enforcement Actions - Part 2 Consents (FY 2012)

Matter:	Enforcement Date:	Industry:
1. 1210144 - Novartis / Fougera	7 /16/2012	Health Care – Prescription Drugs

http://www.ftc.gov/os/caselist/1210144/index.shtm

On 7/16/2012, the FTC required drug supplier Novartis AG to give up its marketing rights to four topical skin care medications, under a proposed settlement resolving charges that Novartis' acquisition of pharmaceutical firm Fougera Holdings, Inc. would harm competition in the market for these topical drugs. The settlement order requires Novartis to end a marketing agreement that allows it to sell three topically-applied generic drugs and return all rights to a fourth generic drug in development to its manufacturer, Tolmar, Inc. According to the FTC's complaint, Novartis' acquisition of Fougera would violate Section 5 of the FTC Act and Section 7 of the Clayton Act by reducing competition in the generic drug markets for three skin care drugs: 1) generic calcipotriene topical solution, 2) generic lidocaine-prilocaine cream, and 3) generic metronidazole topical gel. The complaint also alleges that the acquisition would eliminate potential competition in the market for the sale of diclofenac sodium gel.

2. 1210055 - Giant Food / Genuardi's	6 /15/2012	Retail – Grocery/Supermarkets

http://ftc.gov/os/caselist/1210055/index.shtm

On 6/15/2012, the FTC required Koninklijke Ahold N.V., the parent company of Giant Food Stores, LLC, to sell a supermarket outside of Philadelphia, Pennsylvania, to settle charges that its proposed acquisition of the Genuardi's supermarket chain from Safeway Inc. otherwise would be anticompetitive. To preserve competition in the local grocery market, Ahold will sell the supermarket, located in Newtown, Pennsylvania, to McCaffrey's supermarkets, under an agreement with the FTC. The transaction, if completed, would eliminate competition between Giant and Genuardi's, allowing the combined firm to raise prices unilaterally. The transaction also would increase the likelihood that Giant and Acme would be able to tacitly or expressly work together to raise prices or otherwise reduce competition in a way that would harm local consumers, the FTC alleged.

3. 1110160 - Johnson & Johnson / Synthes	6 /11/2012	Health Care – Medical Equipment/Devices

http://www.ftc.gov/opa/2012/06/jjsynthes.shtm

On 6/11/2012, the FTCequired Johnson & Johnson (J&J) to sell its system for surgically treating serious wrist fractures, resolving charges that J&J's proposed $21.3 billion acquisition of Synthes, Inc. would illegally reduce competition for these systems. J&J intends to sell its system, known as DVR, along with the rest of its product line for treating traumatic injuries, to Biomet, Inc. According to the FTC's complaint, J&J's proposed acquisition of Synthes would harm competition in the U.S. market for volar distal radius plating systems, internal devices that are surgically implanted on the underside of the wrist to achieve proper alignment of the radius bone following a fracture. On 08/07/2012, the FTC approved a final order settling charges that Johnson & Johnson's proposed acquisition of Synthes, Inc. would have been anticompetitive in the market for surgical systems used to treat traumatic distal radius wrist fractures. The final FTC order resolving the charges requires Johnson & Johnson to sell its system for surgically treating serious wrist fractures.

4. 1210014 - Kinder Morgan / El Paso	5 /1 /2012	Energy – Natural Gas

http://ftc.gov/os/caselist/1210014/index.shtm

On 5/1/2012, the FTC required Kinder Morgan, Inc., one of the largest U.S. transporters of natural gas and other energy products, to sell three natural gas pipelines and other related assets in the Rocky Mountain region as part of a settlement resolving charges that Kinder Morgan's $38 billion acquisition of El Paso Corporation would be anticompetitive. According to the FTC's complaint, Kinder Morgan's proposed acquisition of El Paso would harm competition in the markets for pipeline transportation and processing of natural gas in the Rocky Mountain gas production areas in and around Wyoming, Colorado, Nebraska, and Utah, in violation of Section 5 of the FTC Act and Section 7 of the Clayton Act. On 6/14/2012, the FTC approved a final order settling charges that Kinder Morgan Inc.'s proposed acquisition of El Paso Corporation would have been anticompetitive in several natural gas pipeline transportation and gas processing markets.

5. 1110172 - CoStar / Loopnet	4 /26/2012	Information and Technology – Software/Databases

http://www.ftc.gov/os/caselist/1110172/index.shtm

On 4/26/2012, the FTC required CoStar Group, the largest provider of commercial real estate information services in the United States, to sell LoopNet's ownership interest in Xceligent, under a proposed order settling charges that CoStar's $860 million acquisition of LoopNet would be anticompetitive. The FTC's complaint alleges the proposed acquisition would violate the FTC and Clayton Acts by reducing competition in the markets for real estate listings databases and information services.

6. 1110122 - Western Digital / Hitachi	3 /5 /2012	Information and Technology – Hardware

http://www.ftc.gov/os/caselist/1110122/index.shtm

On 3/5/2012, the FTC required Western Digital Corporation to sell assets used to manufacture and sell desktop hard disk drives to Toshiba Corporation as part of a proposed settlement that resolves charges that Western Digital's proposed acquisition of rival Hitachi Global Storage Technologies Ltd. would likely have harmed competition in the market for desktop hard disk drives used in personal computers. The proposed FTC order settles charges that the deal as originally proposed would have left only two companies, Western Digital and Seagate Technology LLC, in control of the entire worldwide market for desktop hard disk drives.

Matter:	Enforcement Date:	Industry:
7. 1110207 - Carpenter / HHEP-Latrobe	2 /29/2012	Manufacturing – Industrial Goods

http://ftc.gov/os/caselist/1110207/index.shtm

On 2/29/2012, the FTC required specialty metals manufacturer Carpenter Technology Corporation to sell assets involved in producing two metal alloys used in the aerospace industry, under a proposed settlement resolving charges that Carpenter's proposed $410 million acquisition of Latrobe Specialty Metals, Inc. would harm competition in the U.S. markets for these alloys.The FTC's complaint alleges that Carpenter and Latrobe are the only companies that make these highly specialized alloys, and that the combination of the two companies would be anticompetitive in the U.S. markets for both alloys. The deal – a merger to monopoly – likely would lead to higher prices for consumers of the two alloys, in violation of the FTC Act and Section 7 of the Clayton Act, according to the complaint. On 4/13/2012, the FTC issued its final order requiring Carpenter divest assets necessary for manufacturing the two alloys – MP159 and Aerospace MP35N – to another metals manufacturer, Eramet S.A.

8. 1110170 - Fresenius / Liberty	2 /28/2012	Health Care – Hospitals/Clinics

http://ftc.gov/os/caselist/1110170/index.shtm

On 2/28/2012, the FTC required Fresenius Medical Care AG & Co. KGaA to sell 60 outpatient dialysis clinics in 43 local markets under a proposed settlement resolving charges that its acquisition of rival dialysis provider Liberty Dialysis Holdings, Inc. would harm competition in numerous local markets for outpatient dialysis services around the country. By requiring the sales, the FTC settlement preserves competition in each of the local markets, and protects renal care patients from anticompetitive price increases or reductions in quality of care. According to the FTC, Fresenius's acquisition of Liberty would eliminate head-to-head competition between the firms in the 43 markets at issue, leading to higher prices and reduced quality for dialysis consumers. The proposed acquisition allegedly would to lead to monopolies for outpatient dialysis services in 17 of the 43 local markets. In 24 other markets, the proposed acquisition would cause the number of dialysis providers to drop from three to two. Competition would be significantly reduced in the remaining two markets. On 5/25/2012, the FTC approved a modified final order settling charges concerning Fresenius Medical Care AG & Co. KGaA's acquisition of Liberty Dialysis Holdings, Inc.

9. 1210022 - Amerigas / ETP	1 /11/2012	Energy – Other

http://www.ftc.gov/os/caselist/1210022/index.shtm

On 1/11/2012, the Commission required AmeriGas L.P. and Energy Transfer Partners L.P. (ETP), two of the nation's largest propane distributors, to amend AmeriGas's proposed acquisition of ETP's Heritage Propane business as part of a settlement with the FTC. The settlement resolves FTC charges that the deal, as originally proposed, would have reduced competition and raised prices in the market for propane exchange cylinders that consumers use to fuel barbeque grills and patio heaters. AmeriGas originally entered into an agreement with ETP to acquire ETP's Heritage Propane business in October 2011 for $2.9 billion. The FTC's settlement protects consumers by requiring AmeriGas to exclude ETP's cylinder exchange business, Heritage Propane Express, from the sale. On February 28, 2012, The FTC issued a final order resolving the charges by requiring AmeriGas to exclude ETP's cylinder exchange business, Heritage Propane Express, from the sale.

10. 1110216 - Valeant / J & J	12/12/2011	Health Care – Prescription Drugs

http://www.ftc.gov/os/caselist/1110216/index.shtm

On 12/12/2011, the FTC approved orders requiring Valeant Pharmaceuticals International, Inc. to divest three drugs used to treat different skin ailments, as conditions of acquiring Ortho Dermatologics, Inc. from Johnson & Johnson, and Dermik Laboratories, Inc. from Sanofi. Under the settlements, Valeant will sell the manufacturing and marketing rights to drug products that treat acne and actinic keratosis, a pre-cancerous skin lesion, to Mylan Pharmaceuticals Inc. Valeant also will sell the marketing rights to a drug that treats fine line wrinkles to Spear Pharmaceuticals, Inc. Both settlements preserve competition and prevent higher prices that likely would have resulted from the acquisitions. (also see 1110215). On 2/22/2012, the FTC approved final orders settling charges that Valeant Pharmaceuticals International, Inc.'s (Valeant) two proposed acquisitions of dermatology businesses – one from Sanofi and one from Johnson & Johnson.

11. 1110215 - Valeant / Sanofi-Aventis	12/12/2011	Health Care – Prescription Drugs

http://www.ftc.gov/os/caselist/1110215/index.shtm

On 12/12/2011, the FTC approved orders requiring Valeant Pharmaceuticals International, Inc. to divest three drugs used to treat different skin ailments, as conditions of acquiring Ortho Dermatologics, Inc. from Johnson & Johnson, and Dermik Laboratories, Inc. from Sanofi. Under the settlements, Valeant will sell the manufacturing and marketing rights to drug products that treat acne and actinic keratosis, a pre-cancerous skin lesion, to Mylan Pharmaceuticals Inc. Valeant also will sell the marketing rights to a drug that treats fine line wrinkles to Spear Pharmaceuticals, Inc. Both settlements preserve competition and prevent higher prices that likely would have resulted from the acquisitions. (also see 1110216). On 2/22/2012, the FTC approved final orders settling charges that Valeant Pharmaceuticals International, Inc.'s (Valeant) two proposed acquisitions of dermatology businesses – one from Sanofi and one from Johnson & Johnson.

Matter:	Enforcement Date:	Industry:
12. 1110155 - LabCorp / Orchid Cellmark	12/8 /2011	Health Care – Professional Services

http://www.ftc.gov/os/caselist/1110155/index.shtm

On 12/8/2011, the Commission required laboratory testing companies Laboratory Corporation of America Holdings (LabCorp) and Orchid Cellmark Inc. (Orchid) to divest a portion of Orchid's paternity testing business, to resolve the FTC complaint alleging that LabCorp's $85.4 million acquisition of Orchid would have an anticompetitive impact in the market for paternity testing services used by government agencies. The FTC's complaint alleges that LabCorp's acquisition of Orchid would illegally reduce competition in the U.S. market for paternity testing services provided to government agencies. Under the proposed settlement order, the portion of Orchid's U.S. paternity testing business that is focused on sales to government agencies, and related assets, will be sold to another testing company, DNA Diagnostics Center (DDC). On 2/1/2012, the FTC approved a final order settling charges concerning Laboratory Corporation of America Holdings' (LabCorp) proposed acquisition of rival firm Orchid Cellmark Inc.

13. 1110097 - IMS Health / SDI Health	10/28/2011	Health Care – Other

http://www.ftc.gov/os/caselist/1110097/index.shtm

On 10/28/2011, the FTC reached a settlement with Healthcare Technology Holdings, Inc., the parent company of market research firm IMS Health Inc., according to which IMS has agreed to sell two product lines of rival SDI Health LLC, as a condition of allowing it to proceed with its acquisition of SDI. The proposed settlement order requires the sale of SDI's promotional audit and medical audit businesses to an FTC-approved buyer to resolve the agency's charges that IMS's acquisition of SDI, as originally proposed, is anticompetitive and likely would increase prices for market research products in the health care industry. On1/10/2012, the FTC approved a modified final order settling charges concerning Healthcare Technology Holdings, Inc.'s proposed acquisition of SDI Health LLC.

14. 1110166 - Cephalon / Teva	10/7 /2011	Health Care – Prescription Drugs

http://www.ftc.gov/os/caselist/1110166/index.shtm

On 10/7/2011, the FTC required Teva Pharmaceutical Industries Ltd. to sell the rights and assets related to a generic cancer pain drug and a generic muscle relaxant, as a condition of its proposed $6.8 billion acquisition of rival drug firm Cephalon, Inc. In addition, the proposed settlement requires Teva to enter into a supply agreement that will allow a competing firm to sell a generic version of Cephalon's wakefulness drug Provigil in 2012. On 7/3/2012, the FTC issued its final order. The final amended FTC order resolving the charges requires Teva to sell the rights and assets related to a generic cancer pain drug and a generic muscle relaxant to Par Pharmaceuticals, Inc. It also requires Teva to enter into a supply agreement that will allow Par to sell a generic version of Cephalon's wakefulness drug Provigil in 2012.