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UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: **Edith Ramirez, Chairwoman**
Julie Brill
Maureen K. Ohlhausen
Joshua D. Wright
Terrell McSweeny

In the Matter of	)	
	)	
GLAXOSMITHKLINE, PLC	)	
a corporation;	)	
	)	**Docket No. C-4498**
and	)	
	)	
NOVARTIS AG	)	
a corporation.	)	
	)	

COMPLAINT

Pursuant to the Clayton Act and the Federal Trade Commission Act, and its authority thereunder, the Federal Trade Commission ("Commission"), having reason to believe that Respondents GlaxoSmithKline, PLC ("GSK"), a corporation subject to the jurisdiction of the Commission, and Novartis AG ("Novartis"), a corporation subject to the jurisdiction of the Commission, have agreed to enter into a joint venture in violation of Section 5 of the Federal Trade Commission Act ("FTC Act"), as amended, 15 U.S.C. § 45, that such acquisition, if consummated, would violate 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, and it appearing to the Commission that a proceeding in respect thereof would be in the public interest, hereby issues its Complaint, stating its charges as follows:

I. RESPONDENTS

1. Respondent GSK is a corporation organized, existing, and doing business under and by virtue of the laws of the United Kingdom of Great Britain and Northern Ireland, with its headquarters located at 980 Great West Road, Brentford Middlesex, TW8 9GS, England.

2. Respondent Novartis is a corporation organized, existing, and doing business under and by virtue of the laws of the Swiss Confederation, with its headquarters located at Lichtstrasse 35, Basel, Switzerland CH 4056 and the address of its U.S. subsidiary, Novartis Corporation, located at 230 Park Avenue, New York, NY 10169.

3. Each Respondent is, and at all times relevant herein has been, engaged in commerce, as "commerce" is defined in Section 1 of the Clayton Act as amended, 15 U.S.C. § 12, and is a company whose business is in or affects commerce, as "commerce" is defined in Section 4 of the FTC Act, as amended, 15 U.S.C. § 44.

II. THE PROPOSED TRANSACTION

4. Pursuant to a series of agreements signed on April 22, 2014 (the "Agreements"), GSK and Novartis intend to combine the GSK consumer healthcare business and most of the Novartis consumer health business (excluding Novartis's U.S. nicotine replacement therapy ("NRT") transdermal patch business) into a joint venture in which GSK will hold a 63.5% controlling share and Novartis will hold the remaining 36.5% share (the "Transaction"). The Transaction is subject to Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

III. THE RELEVANT MARKET

5. For the purposes of this Complaint, the relevant line of commerce in which to analyze the effects of the Transaction is the manufacture, marketing, distribution, and sale of NRT transdermal patches.

6. For the purposes of this Complaint, the United States is the relevant geographic area in which to assess the competitive effects of the Transaction in the relevant line of commerce.

IV. THE STRUCTURE OF THE MARKETS

7. GSK and Novartis are the only two suppliers of branded NRT transdermal patches in the United States. GSK's branded NRT transdermal patches are marketed under the NicoDerm CQ® brand, and Novartis's are marketed under the Habitrol® brand. GSK and Novartis also are two of only three suppliers of private label NRT patches in the United States. Therefore, the Transaction would likely substantially increase concentration in the relevant market described in Paragraphs 5 and 6.

V. ENTRY CONDITIONS

8. Entry into the relevant market described in Paragraphs 5 and 6 would not be timely, likely, or sufficient to deter or counteract the anticompetitive effects of the Transaction. Development of a patch product by a new entrant would be difficult, expensive, and time-consuming, and even if it were to succeed in developing a new patch, it would then face a lengthy FDA approval period.

VI. EFFECTS OF THE TRANSACTION

9. The effects of the Transaction, if consummated, may be to substantially lessen competition, or to tend to create a monopoly, in the relevant market in 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, by

a. reducing actual, direct, and substantial competition between GSK and Novartis in the supply of branded NRT transdermal patches, thereby increasing the likelihood that Novartis would increase the prices of Habitrol®;

b. reducing actual, direct, and substantial competition between GSK and Novartis in the supply of private label NRT transdermal patches, thereby increasing the likelihood that Novartis would increase the prices of its private label NRT transdermal patches;

c. reducing actual, direct, and substantial competition between Novartis's private label NRT transdermal patches and GSK's NicoDerm CQ®, thereby further increasing Novartis's incentive to increase prices of its private label NRT transdermal patches; and

d. reducing actual, direct, and substantial competition between Novartis's Habitrol® product and GSK's private label NRT transdermal patches, thereby further increasing Novartis's incentive to increase the prices of Habitrol®.

VII. VIOLATIONS CHARGED

10. The Agreements described in Paragraph 4 constitute a violation of Section 5 of the FTC Act, as amended, 15 U.S.C. § 45.

11. The Transaction described in Paragraph 4, 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.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this twenty-sixth day of November, 2014 issues its Complaint against said Respondents.

By the Commission.

Donald S. Clark
Secretary

SEAL: