0610220

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS: **Deborah Platt Majoras, Chairman**
Pamela Jones Harbour
Jon Leibowitz
William E. Kovacic
J. Thomas Rosch

In the Matter of	)	
	)	
JOHNSON & JOHNSON,	)	
a corporation;	)	
	)	**Docket No. C-4180**
and	)	
	)	
PFIZER INC.,	)	
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 Respondent Johnson & Johnson ("J&J"), a corporation subject to the jurisdiction of the Commission, has agreed to acquire certain assets and voting securities of Respondent Pfizer Inc. ("Pfizer") (collectively "Respondents"), a corporation subject to the jurisdiction of the Commission, in violation 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, 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. RESPONDENT JOHNSON & JOHNSON

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

2. Respondent J&J is engaged in, among other things, the research, development, manufacture, distribution, and sale of over-the-counter ("OTC") consumer healthcare products,

including H-2 blockers, hydrocortisone anti-itch products, nighttime sleep-aids, and diaper rash treatments.

3. Respondent J&J is, and at all times 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 corporation whose business is in or affects commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

II. RESPONDENT PFIZER

4. Respondent Pfizer is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Delaware, with its offices and principal place of business located at 235 E.42nd St., New York, New York 10017.

5. Respondent Pfizer is engaged in, among other things, the research, development, manufacture, distribution, and sale of OTC consumer healthcare products, including H-2 blockers, hydrocortisone anti-itch products, nighttime sleep-aids, and diaper rash treatments.

6. Respondent Pfizer is, and at all times 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 corporation whose business is in or affects commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

III. THE PROPOSED ACQUISITION

7. Pursuant to a Stock and Asset Purchase Agreement dated June 25, 2006 (the "Agreement"), J&J proposes to acquire certain voting securities and assets comprising Pfizer's Consumer Healthcare Division in a transaction valued at approximately $16.6 billion (the "Acquisition").

IV. THE RELEVANT MARKETS

8. For the purposes of this Complaint, the relevant lines of commerce in which to analyze the effects of the acquisition are the research, development, manufacture, and sale of: (a) OTC H-2 blockers; (b) OTC hydrocortisone anti-itch products; (c) OTC nighttime sleep-aids; and (d) OTC diaper rash treatments.

9. OTC H-2 blockers are a class of drugs available without a prescription for the treatment of heartburn and acid indigestion. H-2 blockers work by blocking histamine from stimulating the gastric parietal cells, thereby suppressing secretion of stomach acid.

10. OTC hydrocortisone anti-itch products are topical medications available without a prescription that contain 0.25 to 1.0 percent hydrocortisone, a corticosteroid that reduces skin

inflammation. These products are used to relieve skin inflammation that is associated with a variety of skin conditions such as dermatitis, eczema, psoriasis and poison ivy.

11. OTC nighttime sleep-aids are drugs that are available without a prescription that are indicated solely for the relief of occasional sleeplessness by individuals who have difficulty falling asleep.

12. OTC diaper rash treatments are creams or ointments that are available without a prescription that are used to prevent and treat diaper rash.

13. For the purposes of this complaint, the United States is the relevant geographic area in which to analyze the effects of the acquisition in each of the relevant lines of commerce.

V. THE STRUCTURE OF THE MARKET

14. The relevant market for the manufacture, distribution, and sale of OTC H-2 blockers in the United States is highly concentrated whether measured by the Herfindahl-Hirschman Index ("HHI") or two-or four-firm concentration ratios. Respondents J&J and Pfizer are the two largest suppliers of OTC H-2 blocker products in the United States. J&J is the market leader with its Pepcid® products, while Pfizer is the second leading supplier with its Zantac® products. Together, they account for over 70% of the sales in this highly concentrated market. Accordingly, the Acquisition would significantly increase the concentration levels in the United States for OTC H-2 blocker products, leaving J&J as the dominant supplier. Respondents are actual competitors in this relevant market.

15. The relevant market for the manufacture, distribution, and sale of OTC hydrocortisone anti-itch products in the United States is highly concentrated whether measured by the Herfindahl-Hirschman Index ("HHI") or two-or four-firm concentration ratios. Respondents J&J and Pfizer are the only significant suppliers of branded OTC hydrocortisone anti-itch products in the United States. Pfizer is the market leader with its Cortizone® products, while J&J is the second leading supplier with its Cortaid® products. Together, they account for over 55% of the sales in this highly concentrated market. Accordingly, the Acquisition would significantly increase the concentration levels in the United States for OTC hydrocortisone anti-itch products, leaving J&J as the dominant supplier. Respondents are actual competitors in this relevant market.

16. The relevant market for the manufacture, distribution, and sale of OTC nighttime sleep-aids in the United States is highly concentrated whether measured by the Herfindahl-Hirschman Index ("HHI") or two-or four-firm concentration ratios. Respondents J&J and Pfizer are the two largest suppliers of OTC nighttime sleep-aids in the United States. Pfizer is the market leader with its Unisom® products, while J&J is the second leading supplier with its Simply Sleep® products. Together, they account for over 45% of the sales in this highly concentrated market. Accordingly, the Acquisition would significantly increase the

concentration levels in the United States for OTC nighttime sleep-aids, leaving J&J as the dominant supplier. Respondents are actual competitors in this relevant market.

17. The relevant market for the manufacture, distribution, and sale of OTC diaper rash treatments in the United States is highly concentrated whether measured by the Herfindahl-Hirschman Index ("HHI") or two-or four-firm concentration ratios. Respondents J&J and Pfizer are two significant suppliers of OTC diaper rash treatments in the United States. Pfizer is the market leader with its Desitin® products, while J&J is the third largest supplier with its Balmex® products. Together, they account for nearly 50% of the sales in this highly concentrated market. Accordingly, the Acquisition would significantly increase the concentration levels in the United States for OTC diaper rash treatments, leaving J&J as the dominant supplier. Respondents are actual competitors in this relevant market.

VI. ENTRY CONDITIONS

18. Entry into any relevant line of commerce would not be timely, likely, or sufficient to deter or counteract the anticompetitive effects of the Acquisition set forth in Paragraph 19 below. Entry into any of these markets would require the investment of extremely high sunk costs to, among other things, develop products, obtain regulatory approval, establish a brand name, and provide promotional funding and advertising to support the product(s), which would be difficult to justify given the market structure and sales opportunities in the affected markets. Even if a new entrant were willing to take on such investments, it would also face the difficult task of convincing retailers to carry its products. As a result, new entry into any of these markets sufficient to achieve a significant market impact within two years is unlikely.

VII. EFFECTS OF THE ACQUISITION

19. The effects of the Acquisition, if consummated, may be to substantially lessen competition and to tend to create a monopoly in the relevant markets 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, in the following ways, among others:

a. by eliminating actual, direct, and substantial competition between Respondents J&J and Pfizer for the research, development, manufacture, and sale of OTC H-2 blockers, OTC hydrocortisone anti-itch products, OTC nighttime sleep-aids, and OTC diaper rash treatments in the United States;

b. by increasing the ability of the merged entity to unilaterally raise prices of OTC H-2 blockers, OTC hydrocortisone anti-itch products, OTC nighttime sleep-aids, and OTC diaper rash treatments in the United States; and

c. by reducing the merged entity's incentives to improve service or product quality for OTC H-2 blockers, OTC hydrocortisone anti-itch products, OTC nighttime sleep-aids, and OTC diaper rash treatments in the United States.

VIII. VIOLATIONS CHARGED

20. The Acquisition described in Paragraph 7 constitutes a violation of Section 5 of the FTC Act, as amended, 15 U.S.C. § 45.

21. The Acquisition described in Paragraph 7, 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 twelfth day of December, 2006, issues its Complaint against said Respondents.

By the Commission, Commissioner Harbour, Commissioner Kovacic, and Commissioner Rosch recused.

Donald S. Clark
Secretary

SEAL: