



September 14, 2012

Office of the Secretary, Room H-113
Federal Trade Commission
Annex X, 600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: Pet Medications Workshop, Project No. P12-1201 (Docket No. FTC-2012-0059)

To whom it may concern:

PetCareRx, Inc. (“PetCareRx”) is pleased to provide these comments in response to the Federal Trade Commission’s (“FTC’s”) July 9, 2012, *Federal Register* notice seeking public comments in connection with a workshop to examine competition and consumer protection issues in the pet medications industry. See 77 Fed. Reg. 40,355 (July 9, 2012). PetCareRx (www.petcarerx.com) is a leading, full-service pet pharmacy and pet supply provider. Founded in 1998, the company is authorized to dispense prescription pet medications to consumers in all 50 states out of its Lynbrook, New York, facility. Since 2010, the National Association of Boards of Pharmacy (“NABP”) has accredited PetCareRx under its Veterinary-Verified Internet Pharmacy Practice Sites (“Vet-VIPPS”) Program. PetCareRx commends the FTC for organizing the workshop and soliciting public comments on the significant competition and consumer protection issues that impact this industry and those we serve. PetCareRx appreciates the opportunity to educate the FTC on several points relevant to the questions posed in the *Federal Register* notice.

I. How are prescription pet medications distributed to consumers?

Most consumers obtain prescription pet medications directly from veterinarians or institutional pharmacies affiliated with the facilities where their veterinarians practice. Increasingly, however, consumers have turned to third-party pharmacies like PetCareRx for their pets’ prescription medications. Our customers do so for two main reasons.

First, our customers choose PetCareRx for convenience, particularly when seeking refills of preventative medications or treatments for chronic conditions. As with human prescription drugs, contact lenses and countless other consumer products, many customers value the convenience of ordering their pets’ medications online or over the phone and having the products delivered to their homes. Purchasing pet medications from PetCareRx saves our customers the hassle and expense of having to visit their veterinarians’ offices to obtain prescribed medications when such visits are not necessary (*e.g.*, to obtain a refill of a heartworm preventative).

Second, our customers choose PetCareRx for financial reasons. While veterinarians and affiliated institutional pharmacies charge substantial mark-ups for prescription medications, third-party pharmacies generally offer more competitive pricing. In some cases, PetCareRx charges customers as much as 50 percent less than a veterinarian may charge for the same medication. In a struggling economy, the potential for such significant savings appeals to pet owners.



II. How do customers purchase prescription medications from third-party pharmacies like PetCareRx?

PetCareRx cannot speak to the dispensing procedures of other third-party pharmacies but believes the FTC could benefit from a basic understanding of how customers purchase prescription medications from PetCareRx.

After a veterinarian has examined a customer's pet and prescribed a particular medication, the customer calls PetCareRx or visits the company's website to place an order for the prescribed product. When placing an order, the customer provides PetCareRx with information about the pet for whom the veterinarian has prescribed the product as well as contact information for the prescriber. PetCareRx then contacts the prescribing veterinarian to confirm that a valid prescription exists. After the prescribing veterinarian provides the prescription to PetCareRx, one of the company's licensed pharmacists dispenses the medication in accordance with applicable legal requirements (e.g., labeling requirements). PetCareRx then ships the product to the customer. If necessary, the customer may call PetCareRx and speak to a staff pharmacist to obtain counseling (e.g., on proper administration of the drug, possible side effects, recommended storage conditions). When the pet runs out of a dispensed medication, the customer may obtain a refill if it has been authorized by the prescriber.

PetCareRx's dispensing procedures thus mirror those of a traditional human drug pharmacy in all material respects. Importantly, PetCareRx is a licensed pharmacy staffed by licensed pharmacists, and has earned Vet-VIPPS accreditation from the NABP. PetCareRx dispenses prescription pet medications only after confirming the existence of a valid prescription with the customer's treating veterinarian. Our business model provides pet owners with a safe, convenient, and often less expensive alternative to purchasing the medications their pets need.

III. How do third-party pharmacies like PetCareRx obtain the prescription pet medications they dispense?

PetCareRx cannot speak to the procurement practices of other third-party pharmacies but believes the FTC could benefit from a basic understanding of how PetCareRx obtains the prescription pet medications it dispenses. PetCareRx obtains prescription veterinary drugs from three types of suppliers: (1) licensed distributors, (2) veterinarians (who, where required by law, may themselves hold distributor licenses) and (3) manufacturers. While licensed distributors purchase products either from manufacturers or from veterinarians, most veterinarians purchase products directly from manufacturers. PetCareRx takes steps to ensure that products purchased from distributors and veterinarians are authentic and have been handled and stored appropriately while in the distribution chain.

PetCareRx must purchase its pet medication supplies from different categories of suppliers for one main reason: historically, manufacturers have restricted their sale of prescription pet medications only to veterinarians and, in some purchase agreements, have prohibited veterinarians from re-selling such medications to distributors or third-party pharmacies. While some manufacturers have abandoned this anticompetitive practice, others continue to proffer the antiquated and flawed view that safety concerns warrant restricting distribution of prescription pet medications to veterinarians. Indeed, some manufacturers still go to great lengths to restrict third-party pharmacies' access to their products (e.g., by refusing to sell product to veterinarians known to have sold surplus inventory to



distributors or third-party pharmacies). Some also actively discourage purchase of their products from third-party pharmacies. These tactics include exaggerating safety concerns about pharmacy-purchased products, refusing to honor guarantees or warranties for, or accept returns of, products purchased from sources other than veterinary offices, and refusing to provide even informational support to purchasers of such products.

Manufacturers that still refuse to sell products to distributors and third-party pharmacies, that take additional steps to restrict legitimate distributors' and pharmacies' access to their products, and that discourage customers from purchasing their products from legitimate pharmacies are in the best position to justify their conduct to the FTC. However, PetCareRx is not aware of any safety issues posed by licensed, Vet-VIPPS-accredited pharmacies' dispensing pet medications pursuant to verified prescriptions. States heavily regulate the practice of pharmacy, and the NABP actively monitors for compliance with accreditation criteria and standards as well as legal requirements. More than sufficient oversight exists to address any safety concerns. Indeed, third-party pet pharmacies like PetCareRx are not materially different from licensed pharmacies, including online pharmacies, that have dispensed human drugs pursuant to valid prescriptions for many years.

IV. What are the impacts of some manufacturers' refusing to sell prescription pet medications to licensed distributors and third-party pharmacies and related conduct?

When manufacturers refuse to sell prescription pet medications to licensed distributors and third-party pharmacies, otherwise restrict these entities' access to such products, and discourage purchasing such products from these entities, consumers suffer. In particular:

- Consumers may elect to forego the convenience and financial benefits of purchasing prescription pet medications from third-party pharmacies when they otherwise would not have but for a manufacturer's anti-competitive messaging or policies that discriminate against customers who purchase products from third-party pharmacies.
- Consumers may have no choice but to purchase products from their veterinarians, even at inflated prices, when manufacturers succeed in limiting access to their products, leaving third-party pharmacies with insufficient supplies to dispense all orders placed. For consumers in rural areas who must then travel great distances to purchase refills from veterinarians, the impact is greater still.
- Consumers who do purchase prescription pet medications from third-party pharmacies may not receive the same manufacturer-provided benefits as customers who purchase pet medications from veterinarians (*e.g.*, warranties, guarantees, product support).
- Consumers who do purchase prescription pet medications from third-party pharmacies may pay higher prices than they would have if pharmacies could obtain all drugs directly from manufacturers or from distributors that purchase directly from manufacturers. This is because purchasing veterinarians' surplus directly or indirectly through distributors creates unnecessary inefficiencies and can result in supply shortages, both of which increase costs for pharmacies, which are then passed on to consumers. In addition, as supply issues may create a barrier to market entry, third-



party pharmacies' prices may also be higher than they otherwise would be due to a lack of competition.

V. *Conclusion*

As the foregoing reveals, the practices of certain manufacturers in the prescription pet medication industry raise significant competition and consumer protection questions. The questions strongly resemble those that spurred Congress to pass, and President George W. Bush to sign, the Fairness to Contact Lens Consumers Act, which the FTC has concluded furthered the law's intended purpose of promoting consumer choice. *See* FTC, THE STRENGTH OF COMPETITION IN THE SALE OF RX CONTACT LENSES: AN FTC STUDY at 60 (2005), *available at* <http://www.ftc.gov/reports/contactlens/050214contactlensrpt.pdf>. (“Technological innovations in contact lens manufacturing, along with the FCLCA’s prescription portability requirement, have resulted in greater consumer choice of outlets from which to purchase contact lenses.”). PetCareRx appreciates the opportunity to provide comments and applauds the FTC’s willingness to conduct a thorough review of competition and consumer protection issues in the pet medication industry. Please do not hesitate to contact me should you require additional information.

Respectfully Submitted,

Jonathan Shapiro
CEO
PetCareRx Inc.