

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

COMMISSIONERS:

Robert Pitofsky, Chairman
Sheila F. Anthony
Mozelle W. Thompson
Orson Swindle
Thomas Leary

In the Matter of

HOECHST MARION ROUSSEL, INC.,
a corporation,

CARDERM CAPITAL L.P.,
a limited partnership,

and

ANDRX CORPORATION,
a corporation.

Docket No. 9293

AGREEMENT CONTAINING CONSENT ORDER

The Federal Trade Commission (“Commission”), has conducted an investigation of certain acts and practices of Hoechst Marion Roussel, Inc. (“Respondent Hoechst”), Carderm Capital, L.P. (“Respondent Carderm”) and Andrx Pharmaceuticals, Inc. (“Respondent Andrx”). Respondents Hoechst and Carderm, having been represented by counsel, are willing to enter into this Agreement Containing Consent Order (“Consent Agreement”) resolving the allegations contained in the attached complaint. Therefore,

IT IS HEREBY AGREED by and between Respondents Hoechst and Carderm, by their duly authorized officers and their attorneys, and counsel for the Commission that:

1. Respondent Hoechst is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business

located at 339 Interpace Parkway, P.O. Box 663, Parsippany, New Jersey 07054. Hoechst is, directly or indirectly, a wholly-owned subsidiary of Aventis, S.A., which is incorporated under the laws of the Republic of France with its office and principal place of business at 25 Quai Paul Doumier, 92408 Courbevoie Cedex, France.

2. Respondent Carderm is a Delaware limited partnership having its office and principal place of business at Richmond House, 12 Par-la-Ville Road, Hamilton, Bermuda. Carderm is directly or indirectly owned or controlled by Hoechst.
3. Respondents Hoechst and Carderm have been served with a copy of the complaint issued by the Federal Trade Commission charging them with violations of Section 5(a) of the Federal Trade Commission Act, and have filed answers to the complaint.
4. Except as stated in paragraph 1 above, Respondents Hoechst and Carderm admit all the jurisdictional facts relating to them set forth in paragraphs 1-4 of the complaint.
5. Respondents Hoechst and Carderm waive:
 - (a) any further procedural steps;
 - (b) the requirement that the Commission's Decision and Order ("Decision and Order"), here attached and made a part hereof, contain a statement of findings of fact and conclusions of law;
 - (c) all rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this Consent Agreement; and
 - (d) any claim under the Equal Access to Justice Act.
6. This Consent Agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this Consent Agreement is accepted by the Commission it, together with the complaint, will be placed on the public record for a period of thirty (30) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this Consent Agreement and so notify Respondents Hoechst and Carderm, in which event it will take such action as it may consider appropriate, or issue and serve its decision in disposition of the proceeding.
7. This Consent Agreement is for settlement purposes only and does not constitute an admission by Respondents Hoechst and Carderm that the law has been violated as alleged in the complaint here attached or that any of the facts alleged in the complaint, other than the jurisdictional facts relating to it in paragraphs 1-4 of the complaint (except as set forth in paragraph 1 above), are true. Respondents Hoechst and Carderm deny the other allegations in the complaint and specifically deny that there was any delay in the entry into the market of a generic version of Cardizem CD by Andrx or any other potential

manufacturer or that the conduct, or the September 1997 stipulation and agreement between Hoechst and Andrx, at issue delayed consumer access to a generic version of Cardizem CD.

8. This Consent Agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Commission Rule 3.25(f), 16 C.F.R. § 3.25(f), the Commission may, without further notice to Respondents Hoechst and Carderm, (1) issue its decision containing the following Order in disposition of the proceeding, and (2) make information about it public. When so entered, the Order will have the same force and effect and may be altered, modified or set aside in the same manner provided by statute for Commission orders issued on a litigated or stipulated record. The Order shall become final upon service. Delivery of the Decision and Order to Respondents Hoechst's and Carderm's counsel by any means specified in Commission Rule 4.4(a), 16 C.F.R. § 4.4(a), shall constitute service. Respondents Hoechst and Carderm waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the Order, and no agreement, understanding, representation, statement, or interpretation not contained in the Decision and Order or the Consent Agreement may be used to vary or contradict the terms of the Consent Agreement or Decision and Order.
9. By signing this Consent Agreement, Respondents Hoechst and Carderm represent and warrant that they can accomplish the full relief contemplated by this Consent Agreement, and that all of their parents, subsidiaries, affiliates, and successors necessary to effectuate the full relief contemplated by this Consent Agreement shall take the steps required to effectuate the relief contemplated by this Consent Agreement and by the Decision and Order.
10. Respondents Hoechst and Carderm have read the complaint and Decision and Order. They understand that once the Decision and Order has been issued, they will be required to file one or more compliance reports showing how they have complied with the Decision and Order. Respondents Hoechst and Carderm further understand that they may be liable for civil penalties in the amount provided by law for each violation of the Decision and Order after the Decision and Order becomes final.

11. Respondents Hoechst and Carderm are fully authorized to sign on behalf of the entities described in paragraph I.B. and I.C. of the Decision and Order.

Signed this 27th day of November, 2000.

Hoechst Marion Roussel, Inc.

By: _____

Edward H. Stratemeier
Vice President, North America Legal,
Government Affairs, and Policy

Counsel for Hoechst Marion Roussel, Inc.

By: _____

James M. Spears
Michael L. Koon
Peter D. Bernstein
Shook, Hardy & Bacon LLP

Carderm Capital, L.P.

By: _____

Stephan Petri
Authorized Representative

Counsel for Carderm Capital, L.P.

By: _____

Peter O. Safir
Stacy L. Ehrlich
Kleinfeld, Kaplan and Becker

Federal Trade Commission

By: _____

Markus H. Meier
Bradley S. Albert
Daniel Kotchen
Robin Moore
Seth Silber
Jon M. Steiger

Approved:

David Pender
Deputy Assistant Director

Richard A. Feinstein
Assistant Director

Michael E. Antalics
Deputy Director

Richard G. Parker
Director
Bureau of Competition