

**STATEMENT OF THE FEDERAL TRADE COMMISSION  
CONCERNING PFIZER/WYETH  
FTC File No. 091-0053**

The Federal Trade Commission has voted to accept a Consent Order in its investigation of Pfizer Inc.'s proposed acquisition of Wyeth. The Consent Order remedies the anticompetitive effects that the Commission believes are likely to result from the transaction in numerous markets for animal health products. After a thorough investigation, the Commission has concluded that the transaction does not raise anticompetitive concerns in any human health product markets. We write here to explain our decision, provide greater visibility into this important investigation, and, in the event that there are future such transactions, describe the framework that we used in our analysis.

The Commission allocated extensive resources to the investigation.<sup>1</sup> The price, quality, and availability of prescription pharmaceutical products has a tremendous impact on health care costs, and a significant part of the investigation focused on ascertaining whether the proposed transaction would adversely affect competition in human pharmaceutical markets. The Commission is dedicated to promoting competition in health care markets to ensure that costs are contained and to protect incentives for pharmaceutical companies to develop new medications.

**I. Background**

Pfizer is the largest prescription pharmaceutical company in both the United States and the world, with \$48.4 billion in worldwide revenues for 2008. In addition to manufacturing and selling pharmaceutical products, Pfizer also researches and develops new pharmaceutical products. At the end of 2008, Pfizer had 114 products in various stages of clinical development. Based on the evidence gathered during the investigation, Pfizer's overall market share of pharmaceutical and biotech products totals about 9 percent in the United States.

At the time of the acquisition, Wyeth was the twelfth-largest prescription pharmaceutical company in the United States. Wyeth's worldwide annual revenue totaled about \$22.2 billion in 2008, \$16.8 billion of which was from pharmaceutical and biological sales. Like Pfizer, Wyeth also researches, develops, manufactures, and sells pharmaceutical products and is also a significant participant in the biologic and vaccine areas of human pharmaceuticals. Wyeth is the fourth largest biotechnology company by revenue in the world and has 18 biologic products in clinical development.

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<sup>1</sup> During the course of its comprehensive investigation, Bureau of Competition staff conducted nearly 200 interviews, and reviewed hundreds of thousands of documents produced by the parties and third parties. The investigation also involved close cooperation with foreign competition authorities, including those from Australia, Canada, the European Union, Mexico, New Zealand, and South Africa.

Although both Pfizer and Wyeth are substantial suppliers of human pharmaceutical products, their respective product portfolios are highly complementary. Staff's investigation evaluated numerous potential overlaps where the companies may compete against each other, either now or in the future. In particular, the investigation included significant analysis of four markets – treatments for renal cell carcinoma, *Methicillin-resistant Staphylococcus aureus* (or “MRSA” infections), osteoporosis, and Alzheimer's disease – to determine whether the transaction would undermine competition in those markets. Beyond these specific overlaps, the staff thoroughly investigated whether the transaction could have an impact on competition in human pharmaceutical markets more broadly, whether on innovation, the intellectual property landscape, clinical development, or marketing. The evidence demonstrates that it will not.

## **II. Competitive Effects Analysis**

Beyond the areas addressed by the Consent Order, the Commission analyzed three principle theories of potential competitive harm.

First, we assessed whether the merger might substantially reduce competition in any relevant human health market in which Pfizer and Wyeth currently compete. We conclude that it does not.

With respect to a small number of diseases or conditions, including renal cell carcinoma and MRSA infections, Pfizer and Wyeth both market treatments. Evidence gathered in the investigation showed that, although Pfizer and Wyeth produce drugs that target the same indications, their products are not close substitutes for – or indeed competitive with – each other. In addition, it appears that in these markets a sufficient number of other competitors will remain after consummation of the Pfizer/Wyeth transaction. Moreover, the products that these other companies offer are closer competitors to either the Pfizer or Wyeth products than the Pfizer and Wyeth products are to each other. Accordingly, Pfizer and Wyeth's consolidation is unlikely to facilitate the exercise of market power in any of these markets.

Second, we assessed whether the evidence supported a challenge based upon a theory that the transaction threatened to eliminate potential future competition in any relevant market. We conclude that it does not.

There are a small number of diseases or conditions for which Pfizer or Wyeth markets a product where the other company is developing a potentially competitive product, or both companies are developing products that could compete against each other in the future. Here, we considered not only the products that Pfizer and Wyeth are directly developing, but also products that other companies are developing in which Pfizer or Wyeth have a financial interest. For example, both Pfizer and Wyeth are developing products to treat osteoporosis. After careful investigation, though, we conclude that the transaction is not likely to affect competition in this market, based on non-public information that Pfizer's and Wyeth's products are unlikely to be close competitors.

We also extensively investigated Alzheimer's disease treatments. Alzheimer's disease is a progressive and terminal neurodegenerative disorder of the brain that is the sixth-leading cause of death in the United States, affecting approximately five million people. The number of Americans suffering from Alzheimer's disease is expected to grow exponentially, and expenditures on drugs to treat Alzheimer's disease are expected to more than double in the next ten years. The future competitiveness of this market, for both economic and therapeutic reasons, is critical. Consequently, the Commission staff dedicated much of its time to investigating the competitive landscape in this market, and how the proposed transaction would affect it, if at all. Pfizer currently markets a product called Aricept, the leading drug on the market today to treat Alzheimer's disease, and has several other products to treat Alzheimer's disease in clinical development. Wyeth currently does not offer a product to treat Alzheimer's disease, but does have several products in development.

The explosive growth of the Alzheimer's disease patient population has caused the market for treatments to attract considerable attention. Besides Pfizer and Wyeth, a significant number of other companies, including both large and small pharmaceutical companies and biotechnology companies, have products in development for the treatment of the disease. As of today, there are approximately 50 companies with at least 66 products in various phases of development. Among those companies are 14 of the largest pharmaceutical companies in the world, as well as numerous small- and medium-sized pharmaceutical and biotechnology firms. While there are several different therapeutic approaches being pursued for Alzheimer's disease, Pfizer and Wyeth overlap in only a small number of these areas. In those therapeutic areas where they do overlap, there are several other companies also developing products.

Overall, the evidence demonstrates that Pfizer and Wyeth's products are unlikely to be sufficiently close competitors that the elimination of competition between them would affect the competitiveness of any relevant human health market. Rather, the most likely outcome is that they each will compete more closely with products from other companies.

Third, we assessed whether a combined Pfizer/Wyeth would have a greater ability to engage in anticompetitive bundling, block new drug development with a merger-created patent thicket, or adversely impact the market for basic research and innovation in any human health markets, but with a particular focus on Alzheimer's disease, the area of most significant overlap. We conclude that the proposed transaction is unlikely to affect the market(s) in any of these ways.

As part of its investigation, staff evaluated whether the acquisition would change the negotiating power between Pfizer and its customers such that consumers would be harmed because of unlawful tying, bundling, or exclusive dealing by Pfizer. Prescription pharmaceutical customers (*e.g.*, insurance companies) set up bid processes for purchasing pharmaceutical products on a product-by-product (or category-by-category) basis and have generally resisted efforts by large pharmaceutical companies to bundle products across categories, unless the bundle is in the customer's best interest. We found no evidence that this acquisition would undermine customers' ability to prevent anticompetitive bundling. As a result, we conclude that the addition of the Wyeth portfolio of products to Pfizer's portfolio is not likely to enhance the

merged entity's ability to engage in anticompetitive bundling, especially because the combined portfolio would contain few blockbuster drugs.

Staff also investigated whether the acquisition would create a patent thicket by virtue of the breadth of the combined company's patent portfolio. A merger-created patent thicket could reduce or eliminate competition in human pharmaceutical products by enabling the combined firm to prevent other pharmaceutical companies from developing products through the enforcement of intellectual property rights. After evaluating the parties' respective patent portfolios in a number of areas where both firms are active, including, most notably, Alzheimer's disease, the evidence showed that the combination of the intellectual property of Pfizer with that of Wyeth would not pose any greater barrier to entry to third-party companies than the intellectual property held by the companies individually.

Finally, staff evaluated whether the transaction would decrease basic research or the pace of innovation in pharmaceutical markets by eliminating a leader in pharmaceutical research and development; changing the incentives of companies performing pharmaceutical research and development; or reducing the number of potential research, marketing, or funding partners. Pharmaceutical research and development is a dynamic field with multiple participants including both large and small traditional pharmaceutical companies, specialty pharmaceutical companies, biotechnology companies, and contract research organizations. The evidence does not indicate that the combination raises antitrust concerns in these respects.

Even within the discrete product areas where both Pfizer and Wyeth are actively pursuing research and development, such as treatments for Alzheimer's disease, we conclude that the transaction is not likely to affect competition in basic research or innovation. Within Alzheimer's disease specifically, fundamental information about the disease, including its cause, how to diagnose it prior to the appearance of symptoms, and when intervention must occur to modify the disease, is still unknown. There is no scientific consensus about the most promising track for the treatment of Alzheimer's disease. As a result, it is a dynamic area of drug development, and the many companies working in this disease area are pursuing many different pathways with compounds that can have different effects and risk factors.

Although Pfizer and Wyeth are two of the most active companies pursuing research and development activities in the Alzheimer's disease area, it is unlikely that the combination of the Pfizer and Wyeth's Alzheimer's disease pipelines will diminish the incentives of Pfizer or any other company to compete in the research and development of Alzheimer's disease treatments. Further, the combination of Pfizer and Wyeth is not likely to affect the ability of other companies to continue to develop and ultimately introduce new products to treat Alzheimer's disease.

The Commission's extensive investigation and commitment of resources in this matter reflects its dedication to ensuring that pharmaceutical markets are competitive and that consumers have access to innovative and affordable medications. Although the Commission, based on the evidence gathered, determined that this transaction did not raise anticompetitive concerns in the markets for human pharmaceuticals, the Commission remains dedicated to

ensuring that pharmaceutical markets are competitive. We will closely monitor these markets and continue to evaluate future transactions under the framework explained here to determine their effect on competition in the health care market, and, where appropriate, take action to ensure that any merger or acquisition does not undermine the pharmaceutical industry's competitiveness.