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UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: **Jon Leibowitz, Chairman**
William Kovacic
J. Thomas Rosch
Edith Ramirez
Julie Brill

In the Matter of	)	
HIKMA PHARMACEUTICALS PLC,	)	**Docket No. C-4320**
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 the Respondent Hikma Pharmaceuticals PLC ("Hikma"), a company subject to the jurisdiction of the Commission, has entered into an agreement to acquire from Baxter Healthcare Corporation, Inc. ("Baxter"), a company subject to the jurisdiction of the Commission, certain assets that comprise Baxter's generic injectable pharmaceutical products business, 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 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. RESPONDENT

1. Respondent Hikma is a corporation organized, existing, and doing business under and by virtue of the laws of England and Wales, with its headquarters located at 13 Hanover Square, London W1S 1HW, United Kingdom and the address of its United States subsidiary, West-Ward Pharmaceutical Corp., located at 465 Industrial Way West, Eatontown, New Jersey 07724-2209. Hikma is engaged in the research, development, manufacture, and sale of human pharmaceutical products.

2. 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 ACQUIRED COMPANY

3. Baxter is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its headquarters located at One Baxter Parkway, Deerfield, Illinois 60015-4633. Baxter, among other things, is engaged in the research, development, manufacture, and sale of human pharmaceutical products in the United States.

III. THE PROPOSED ACQUISITION

4. Pursuant to an Asset Purchase Agreement ("Acquisition Agreement") dated October 29, 2010, Hikma proposes to acquire Baxter's generic injectable pharmaceutical business for approximately $111.5 million (the "Acquisition").

IV. THE RELEVANT MARKETS

5. For the purposes of this Complaint, the relevant lines of commerce in which to analyze the effects of the Acquisition are the manufacture and sale of the following human pharmaceutical products:

a. generic injectable phenytoin; and

b. generic injectable promethazine.

6. For the purposes of this Complaint, the United States is the relevant geographic area in which to analyze the effects of the Acquisition in the relevant lines of commerce.

V. THE STRUCTURE OF THE MARKETS

7. Generic injectable phenytoin is an anti-convulsant drug used to control seizures and prevent the incidence of seizures during and after surgery. The $1.5 million market for generic injectable phenytoin is highly concentrated; only Hikma, Baxter, and Hospira, Inc. ("Hospira") sell the drug in the United States. Hikma is the market leader with a 44 percent share. Baxter accounts for an additional 38 percent, while Hospira has a share of 18 percent.

8. Generic injectable promethazine is used, among other things, to relieve allergies and allergic reactions, to prevent and control motion sickness, nausea, vomiting, and dizziness, and to help patients sleep and control pain and anxiety during and after surgery. The $17 million market for generic injectable promethazine is highly concentrated, with only Baxter, Hikma, and Hospira currently manufacturing and selling the product for the U.S. market. Baxter and Hikma are the market leaders and Hospira's product has limited competitive significance.

VI. ENTRY CONDITIONS

9. Entry into the relevant markets described in Paragraphs 5 and 6 would not be timely, likely, or sufficient in magnitude, character, and scope to deter or counteract the anticompetitive effects of the Acquisition. Entry would not take place in a timely manner because the combination of drug development times and U.S. Food and Drug Administration approval requirements take at least two years. In addition, entry is not likely because the relevant markets are relatively small, limiting sales opportunities for any potential new entrant.

VII. EFFECTS OF THE ACQUISITION

10. 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, by eliminating actual, direct, and substantial competition between Hikma and Baxter in the markets for generic injectable phenytoin and generic injectable promethazine, thereby: (1) increasing the likelihood that Hikma will be able to unilaterally exercise market power in these markets; (2) increasing the likelihood and degree of coordinated interaction between or among the remaining competitors; and (3) increasing the likelihood that customers would be forced to pay higher prices.

VIII. VIOLATIONS CHARGED

11. The Acquisition Agreement described in Paragraph 4 constitutes a violation of Section 5 of the FTC Act, as amended, 15 U.S.C. § 45.

12. The Acquisition 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-fifth day of April, 2011, issues its Complaint against said Respondent.

By the Commission.

Donald S. Clark
Secretary

SEAL: