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

**COMMISSIONERS:** **Edith Ramirez, Chairwoman**
**Julie Brill**
**Maureen K. Ohlhausen**
**Joshua D. Wright**
**Terrell McSweeny**

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| **In the Matter of** | ) | |
| **MEDTRONIC, INC.,** **a corporation;** | ) | **Docket C-4503** |
| **and** | ) | |
| **COVIDIEN PLC,** **a public limited company.** | ) | |

## COMPLAINT

Pursuant to the Clayton Act and the Federal Trade Commission Act ("FTC Act"), and its authority thereunder, the Federal Trade Commission ("Commission"), having reason to believe that Respondent Medtronic, Inc. ("Medtronic"), a corporation subject to the jurisdiction of the Commission, has agreed to acquire Covidien plc ("Covidien"), a public limited company subject to the jurisdiction of the Commission, in violation of Section 5 of the FTC Act, as amended, 15 U.S.C. § 45, that such acquisition, if consummated, would violate 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, 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. RESPONDENTS

1. Respondent Medtronic is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Minnesota, with its headquarters address located at 710 Medtronic Parkway, Minneapolis, Minnesota 55432-5604.

2. Respondent Covidien is a public limited company organized, existing, and doing business under and by virtue of the laws of the Republic of Ireland, with its headquarters address located at 20 on Hatch, Lower Hatch Street, Dublin 2, Ireland.

3. Each 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 PROPOSED ACQUISITION

4. Pursuant to a Transaction Agreement dated June 15, 2014, Medtronic proposes to merge with Covidien in exchange for cash and stock valued at approximately $42.9 billion (the "Acquisition"). The Acquisition is subject to Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

## III. THE RELEVANT MARKET

5. For the purposes of this Complaint, the relevant line of commerce in which to analyze the effects of the Acquisition is the development, licensing, manufacturing, marketing, distribution, and sale of drug-coated balloon catheters indicated for the femoropopliteal ("fem-pop") artery.

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

## IV. THE STRUCTURE OF THE MARKET

7. Drug-coated balloon catheters indicated for the fem-pop artery are used to treat peripheral arterial disease in the fem-pop artery, an artery located above the knee. Peripheral arterial disease results from atherosclerosis, the narrowing of blood vessels due to plaque buildup. The U.S. market for drug-coated balloon catheters indicated for the fem-pop artery is highly concentrated with only one current supplier, C.R. Bard, Inc. Medtronic and Covidien are likely to enter as the second and third U.S. suppliers, respectively. Medtronic and Covidien are the only two potential market participants that have advanced to the clinical-trial stage of the Food and Drug Administration ("FDA") approval process for drug-coated balloon catheters indicated for the fem-pop artery.

## V. ENTRY CONDITIONS

8. Entry into the relevant market 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. De novo entry would not take place in a timely manner because the product development times and FDA approval requirements are lengthy. In addition, no other entry is likely to occur such that it would be timely and sufficient to deter or counteract the competitive harm likely to result from the Acquisition.

## VI. EFFECTS OF THE ACQUISITION

9. The effects of the Acquisition, if consummated, may be to substantially lessen competition and to tend to create a monopoly in the relevant market 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 future competition between Medtronic and Covidien in the U.S. market for drug-coated balloon catheters indicated for the fem-pop artery;

b. by increasing the likelihood that the combined entity would forego or delay the launch of one company's drug-coated balloon catheter indicated for the fem-pop artery;

c. by increasing the likelihood that the combined entity would delay, eliminate, or otherwise reduce the substantial additional price competition that would have resulted from an additional U.S. supplier of drug-coated balloon catheters indicated for the fem-pop artery; and

d. by reducing research and development in the U.S. market for drug-coated balloon catheters indicated for the fem-pop artery.

## VII. VIOLATIONS CHARGED

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

11. 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 thirteenth day of January, 2015, issues its Complaint against said Respondents.

By the Commission.

Donald S. Clark
Secretary

SEAL: