Opening Remarks
Chairwoman Edith Ramirez
AbbVie Media Call
September 8, 2014

Good afternoon, and thank you for taking part in today's call.

Today, the Federal Trade Commission filed a lawsuit in federal district court in Pennsylvania charging that the pharmaceutical company AbbVie and its partner Besins Healthcare filed sham patent litigation to delay consumers' access to lower-priced versions of the blockbuster drug Androgel. We are also alleging that, following this, AbbVie entered into an anticompetitive pay-for-delay settlement agreement with Teva Pharmaceuticals USA to further delay generic drug competition.

We believe the defendants' anticompetitive conduct has forced consumers to overpay hundreds of millions of dollars for this medication.

The complaint we filed follows a long line of cases the Commission has brought to combat anticompetitive conduct in the pharmaceutical industry that delays generic competition. We are seeking a court judgment permanently barring the three companies from engaging in similar anticompetitive behavior in the future and ordering them to disgorge their ill-gotten gains.

The drug at issue in this case, AndroGel, is a topical gel that is approved for testosterone replacement therapy in men, and has annual U.S. sales of over $1 billion. AndroGel's active ingredient is testosterone. It also contains an ingredient known as IPM, which speeds the delivery of testosterone into the bloodstream.

Consumers stood to benefit from the timely introduction of lower-cost alternative versions of AndroGel onto the market that were being planned by two generic pharmaceutical companies, Teva and Perrigo.

We allege, however, that in 2011 AbbVie and Besins filed sham patent infringement lawsuits against Teva and Perrigo in order to delay FDA approval of a generic version of AndroGel and to extend the monopoly profits they were reaping from the branded version. In its infringement lawsuits, AbbVie argued that the testosterone gels developed by Teva and Perrigo violated its patent because they used ingredients to speed testosterone delivery that, while different from IPM, were equivalent to it.

But as our complaint makes clear, this argument was baseless because the inventor of Androgel had fully surrendered any claim to those ingredients during the patent application process. The actual basis and motivation behind the filing of the patent lawsuits was to extend the significant monopoly profits AbbVie and Besins were making from AndroGel sales at the expense of U.S. consumers.

When AbbVie's lawsuit against Teva moved quickly, and with the likelihood of defeat looming, AbbVie persuaded Teva to settle the litigation and delay bringing its competing testosterone gel product to market until a date that was much later than the companies' forecasts for generic Androgel entry. This translated into hundreds of millions of dollars of additional monopoly profits for AbbVie.

In exchange, AbbVie agreed to supply Teva with an authorized generic version of another popular drug, Tricor. While this deal was highly profitable for Teva, it made no independent business sense for AbbVie other than as a way to compensate Teva for not competing with AndroGel.

This case underscores the Commission's continuing commitment on behalf of consumers to ensure that America's health care markets remain competitive, resulting in lower drug prices and greater innovation for consumers.

I want to thank the FTC case team, as well as Debbie Feinstein, the Director of our Bureau of Competition, for their work on this matter.

Thank you again for taking part in today's call. We will open the lines up for questions at this time.