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MINNESOTA

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JOINT ECONOMIC COMMITTEE
JUDICIARY
RULES AND ADMINISTRATION

United States Senate
WASHINGTON, DC 20510

August 1, 2013

The Honorable Edith Ramirez
Chairwoman
Federal Trade Commission
600 Pennsylvania Ave. NW
Washington, DC 20580

Dear Chairwoman Ramirez:

I am writing to request that the Federal Trade Commission investigate Questcor Pharmaceutical's acquisition of the rights to one of its competitors' rival drugs, Novartis Pharmaceuticals' Synacthen. Under the Hart-Scott-Rodino filing rules, Questcor was not required to provide premerger notification to the Commission or Department of Justice of this acquisition. Nevertheless, the Commission should examine the potential impact this transaction could have on competition in the relevant drug market.

H.P. Acthar Gel ("Acthar") was originally marketed and sold by Questcor to treat a rare form of infant spasms. It is now also used to treat a variety of immune related illnesses. Questcor is acquiring the rights to Synacthen, a drug made by Novartis that today is sold only in Europe. Synacthen is similar to Acthar and is believed to be a potential alternative to it for treatment of a potentially life-threatening form of epilepsy in infants and young children. According to press reports, Retrophin, a pharmaceutical start-up, tried to acquire Synacthen and had planned to sell the drug in the U.S. for a few hundred dollars a vial, but was outbid by Questcor. Under the reported terms of the deal, Questcor is making an initial payment of \$60 million to Novartis, far higher than the \$16 million Retrophin had offered, plus a percentage of licensing fees.

In 2008, the Joint Economic Committee investigated Questcor's significant increases in the price of Acthar which, at the time, was generally limited to the treatment of infantile spasms. In 2001, when Questcor acquired Acthar for \$100,000, it immediately raised the price from \$40 per vial, to \$700 per vial. In 2007, the price was hiked to \$23,000 per vial. Today Questcor markets Acthar for treatment of various immune-related illnesses and sells it for more than \$28,000 per vial, providing the company with \$509 million in sales in 2012. That's an increase of almost 70,000 percent in the price of Acthar in eleven years.

Acthar is a crucial drug of best and last resort for children who suffer from infantile spasms. As a result of Questcor's acquisition, the only potential competition to the high price of Acthar could be lost to Questcor, and families could be left without an affordable option to treat their children's condition. At a time when rising prices for prescription drugs stretch family budgets and threaten the stability of our nation's economy, we must be vigilant in ensuring the most competitive drug markets possible.

Sincerely,



Amy Klobuchar
Chairman, Subcommittee on
Antitrust, Competition Policy
and Consumer Rights