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Mergers: Commission clears Teva's proposed acquisition of Barr subject to conditions

The European Commission has approved under the EU Merger Regulation the proposed acquisition of Barr Pharmaceuticals of the US by Teva Pharmaceutical Industries of Israel. Both companies produce generic medicines. To remedy the Commission's competition concerns in the field of cancer drugs and prescription vitamin products on a number of national markets, Teva made the commitment to divest fifteen cancer drugs in the Czech Republic, Hungary, Poland, the Slovak Republic and Slovenia, as well as two other drugs in Poland. In the light of these commitments, the Commission concluded that the proposed transaction would not cause competition concerns in the European Economic Area (EEA) or any substantial part of it.

Teva is a global pharmaceutical company mainly specialising in the development, production and marketing of generic medicines. Teva is the largest generics producer in the world. Barr is a global pharmaceutical company primarily engaged also in the development, production and marketing of generic medicines. Generic medicines are chemically equivalent to original medicines and sold once the patent for the latter has expired.

The merger is complementary to a large extent. Where overlaps between Teva's and Barr's activities occur, the Commission investigated a number of national pharmaceuticals markets in Central and Eastern Europe, Germany and the United Kingdom. The Commission found that competition concerns could be excluded in these markets, because Teva's and Barr's joint market shares are moderate and a sufficient number of competitors will remain after the merger.

However, the Commission found that the proposed transaction – as originally notified – would have raised competition concerns for 17 pharmaceuticals markets in the Czech Republic, Hungary, Poland, the Slovak Republic and Slovenia. The Commission's concerns related primarily to the field of cancer drugs, where both Teva and Barr have overlapping product portfolios in these countries. The Commission was concerned about the removal of Barr as a competitor to Teva for the generic versions of these drugs and for two prescription vitamin products in Poland. There was a risk that the lack of competition in these markets would lead to higher prices for hospitals and patients.

To address the Commission's concerns, Teva offered to divest the carboplatin and cisplatin businesses in the Czech Republic, Hungary and Slovenia, the fluorouracil business in the Czech Republic, the methotrexate businesses in the Czech Republic and Hungary, the paclitaxel businesses in the Czech Republic and Poland, the calcium folinate business in Poland, the tamoxifen business in Slovakia and Barr's calcium folinate business in the Czech Republic. In addition, Teva offered to divest its pyridoxine and riboflavin businesses in Poland.

In view of these commitments, the Commission concluded that the transaction would no longer raise competition concerns.

More information on the case will be available at:

http://ec.europa.eu/competition/mergers/cases/index/m105.html#m_5295