

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

)	
In the Matter of)	
)	
CVS CORPORATION,)	
a corporation,)	
)	
and)	
)	
REVCO D.S., INC.,)	
a corporation.)	
)	

Docket No. C-3762

COMPLAINT

The Federal Trade Commission ("Commission"), having reason to believe that CVS Corporation, through a wholly-owned subsidiary, North Acquisition Corp., has agreed to acquire Revco D.S., Inc., all corporations subject to the jurisdiction of the Commission, in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act ("FTC Act"), 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. DEFINITION

1. For the purposes of this complaint, "MSA" means Metropolitan Statistical Area as defined by the United States Department of Commerce, Bureau of the Census.

II. RESPONDENTS

2. Respondent CVS Corporation ("CVS") is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at One CVS Drive, Woonsocket, Rhode Island 02895.

3. Respondent Revco D.S., Inc. ("Revco") is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 1925 Enterprise Parkway, Twinsburg, Ohio 44087.

4. For purposes of this proceeding, Respondents are, and at all times relevant herein have been, engaged in commerce as "commerce" is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. § 12, and are corporations whose businesses are in or affecting commerce as "commerce" is defined in Section 4 of the FTC Act, as amended, 15 U.S.C. § 44.

III. THE ACQUISITION

5. On February 6, 1997, CVS, through a wholly-owned subsidiary, North Acquisition Corp., entered into an Agreement and Plan of Merger to acquire and merge with Revco ("the Acquisition").

IV. THE RELEVANT MARKETS

6. For purposes of this Complaint, the relevant line of commerce in which to analyze the effect of the Acquisition is the retail sale of pharmacy services to third-party payors such as insurance carriers, health maintenance organizations, preferred provider organizations, and corporate employers. Pharmacy services refers to the filling of prescription drugs and related pharmacy service benefits. Third-party payors offer retail pharmacy service benefits to their beneficiaries, typically through intermediaries known as pharmacy benefit management firms or PBMs, who create and administer retail pharmacy networks on behalf of third-party payors, so that the beneficiaries of these third-party payors may go to any pharmacy participating in the retail pharmacy network to have their prescriptions filled.

7. For purposes of this Complaint, the relevant sections of the country in which to analyze the effect of the Acquisition are:

- a. the State of Virginia; and
- b. the Binghamton, New York MSA.

8. The relevant markets set forth in Paragraphs 6 and 7 are highly concentrated, whether measured by Herfindahl-Hirschmann Indices ("HHI") or two-firm and four-firm concentration ratios.

9. Entry into the relevant markets is difficult or unlikely to occur at a sufficient scale to deter or counteract the effect of the Acquisition described in Paragraph 5.

10. CVS and Revco are actual competitors in the relevant markets.

V. EFFECT OF THE ACQUISITION

11. The effect of the Acquisition may be substantially to 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 Federal Trade Commission Act, 15 U.S.C. § 45, in the following ways, among others:

- a. by eliminating direct actual competition between CVS and Revco in the relevant markets;
- b. by increasing the likelihood that CVS will unilaterally exercise market power in the relevant markets; and
- c. by increasing the likelihood of collusion in the relevant markets.

12. All of the above increase the likelihood that firms in the relevant markets will increase prices and restrict output both in the near future and in the long term.

VI. VIOLATIONS CHARGED

13. The acquisition agreement described in Paragraph 5 constitutes a violation of Section 5 of the FTC Act, as amended, 15 U.S.C. § 45.

14. The Acquisition described in paragraph 5, 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.

IN WITNESS WHEREOF, the Federal Trade Commission has caused this Complaint to be signed by the Secretary and its official seal to be affixed, at Washington, D.C. this thirteenth day of August, 1997.

By the Commission.

Donald S. Clark
Secretary

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