

United States Senate

WASHINGTON, DC 20510

May 14, 2014

The Honorable Edith Ramirez
Chairwoman
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, D.C. 20850

The Honorable William J. Baer
Assistant Attorney General, Antitrust Division
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

RE: Proposed Acquisition of AstraZeneca by Pfizer

Dear Chairwoman Ramirez and Assistant Attorney General Baer,

On May 2, 2014, Pfizer, Inc. announced a \$106 billion bid to acquire AstraZeneca plc. Should a merger or acquisition ultimately be accepted by AstraZeneca, whether under the terms of that offer or any subsequent offer, we want to bring to your attention our significant concerns with the potentially harmful impact to consumers that would result.

As you know, the pharmaceutical industry has undergone significant consolidation over the past decade. Pfizer's acquisition of Wyeth Laboratories and Merck's Acquisition of Schering-Plough, both in 2009, resulted in elimination of two of the largest pharmaceutical firms with global reach. Prior significant mergers have included Pfizer acquisitions of Pharmacia (2003) and Warner-Lambert (2000); Novartis acquisition of Alcon (2011); Sanofi-Aventis acquisition of Genzyme (2011); and Roche consolidation of Genentech (2009).

Should this acquisition proceed, the combined Pfizer-AstraZeneca entity would rank first in global pharmaceutical sales, U.S. pharmaceutical sales, and pharmaceutical R&D spending.¹ We also expect that the increase in concentration (as measured by the Herfindahl-Hirschman Index, or HHI) will be sufficient to raise significant competitive concerns, beginning with certain prescription drugs (e.g., Crestor and Lipitor).

Among other important considerations, the *Horizontal Merger Guidelines* call upon the antitrust enforcement agencies to determine whether a merger or acquisition is "likely to diminish innovation competition by encouraging the merged firm to curtail its innovative efforts below the level that would prevail in the absence of the merger."² The *Guidelines* further state: "That curtailment of innovation could take the form of reduced incentive to continue with an existing product-development effort or reduced incentive to initiate development of new products."³

Pfizer's record of reducing efforts to innovate and bring new products to market following prior acquisitions is plain: following its 2009 acquisition of Wyeth, Pfizer closed six of 20 research sites worldwide⁴ and effectively cut R&D spending to half of what the companies spent individually in 2008.⁵ Since 2009, the consolidated pharmaceutical industry has resulted in more

¹ Annual Reports (10-K) of the major pharmaceutical companies with a U.S. presence.

² See *FTC-DOJ Horizontal Merger Guidelines* (2010), Section 6.4 at 23.

³ *Id.*

⁴ "In Drug Mergers, There's One Sure Bet: The Layoffs," *Wall Street Journal*, April 29, 2014.

⁵ See "Potential Impact on R&D Of A Pfizer Takeover Of AstraZeneca," *Forbes.com*, April 24, 2014.

than 156,000 jobs lost in the U.S. alone.⁶ We share the concerns raised by other observers that a major round of cost-cutting through elimination of R&D jobs will follow the proposed acquisition,⁷ leading to fewer drugs and diminished consumer welfare.

We are especially concerned about the impact this transaction would have on the drug supply and availability of medicines for our nation's most vulnerable citizens – patients with rare diseases, seniors, and children. Given Pfizer's track record of decreased investment in research jobs and innovation post-merger, a "snapshot" focus on individual drugs on the market at the time of acquisition is inappropriate in this case. Elimination of R&D does not always produce efficiencies, even where two R&D efforts may overlap.⁸ Analysis of the total loss of competition and research across a broad range of conditions is necessary to assess potential anticompetitive harm.⁹ Any efficiencies claimed to justify this merger may be vastly outweighed by the significant competitive harm to consumers and patients.

In addition, we view with skepticism any pro-competitive justification offered in support of this acquisition in light of Pfizer's stated motivation for the transaction – avoidance of U.S. taxation. Pfizer has made clear its primary goal is to move its tax residence to England, and thereby access billions of dollars it has stored overseas while operating as a U.S. company, without any payment of U.S. taxes. We do not believe that this transfer from U.S. taxpayers to Pfizer constitutes a pro-competitive justification for the merger and encourage your careful review to ensure that consumers, patients and the marketplace are protected from anticompetitive harm.

We look forward to your attention to these concerns should this transaction proceed.

Sincerely,



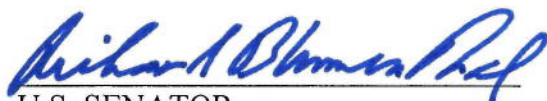
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⁶ *Id.*, citing data from Challenger Gray & Christmas.

⁷ "A Case for Rejecting Pfizer's Bid for AstraZeneca," *NY Times DealBook*, May 8, 2014.

⁸ See Munos, "Lessons from 60 years of pharmaceutical innovation," 8 *Nature Reviews: Drug Discovery*, vol. 8 issue 12 at 959-968 (2009).

⁹ See Comanor and Scherer, "Mergers and innovation in the pharmaceutical industry," *Journal of Health Economics* vol. 32 at 106-113 (2013).