without the prior approval of the Commission, directly or indirectly, through subsidiaries, partnerships, or otherwise:

A. Acquire any stock, share capital, equity or other interest in any concern, corporate or non-corporate, engaged at the time of such acquisition in, or within the two (2) years preceding such acquisition engaged in, the manufacture of Verapamil HC1 in the United States, or any concern that is an exclusive distributor of Verapamil HC1 in the United States for a manufacturer of Verapamil HC1, provided, however, that each pension, benefit, or welfare plan or trust controlled by respondent may acquire, for investment purposes only, an interest of not more than two (2) percent of the stock or share capital of such person or concern, and further provided, however, that an acquisition will be exempt from the requirements of this Paragraph III.A. if it is solely for the purposes of investment and respondent will hold cumulatively no more than two (2) percent of the shares of any class of security;

B. Acquire any assets used in or previously used in (and still suitable for use in) the manufacture of Verapamil HC1 in the United States; provided however, that this Paragraph III.B. shall not apply to any acquisition of goods, services, or equipment in the ordinary course of business;

C. Enter into any agreement with a manufacturer of Verapamil HC1 granting respondent the exclusive right to distribute such manufacturer's Verapamil HC1 for resale.

IV

It is further ordered That one year (1) from the date this order becomes final, annually for the next nine (9) years on the anniversary of the date this order becomes final, and at such other times as the Commission may require, respondent shall file a verified written report setting forth in detail the manner and form in which it has complied and is complying with this order.

V

It is further ordered That respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries or any other change in the corporation that may affect compliance obligations arising out of the order.

VI

It is further ordered That, for the purpose of determining or securing compliance with this order, subject to any legally recognized privilege and upon written request with reasonable notice, respondent shall permit any duly authorized representatives of the Commission:

A. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of respondent relating to any matters contained in this order; and

B. Upon five (5) days' notice to respondent and without restraint or interference from it, to interview officers, directors, or employees of respondent, who may have counsel present regarding such matters.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an agreement containing a proposed Consent Order from IVAX Corporation ("IVAX"), which prohibits IVAX from acquiring any rights to market or sell generic verapamil hydrochloride in the extended release form ("generic verapamil") pursuant to Zenith Laboratories' exclusive distribution agreement with G.D. Searle & Co. ("Searle").

The proposed Consent Order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed Order.

On August 26, 1994, IVAX and Zenith Laboratories, Inc., ("Zenith") entered into an agreement whereby IVAX agreed to acquire all of the voting securities of Zenith in a share exchange valued at \$593 million. The proposed complaint alleges that the proposed acquisition, 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 the market for the sale of generic verapamil in the United States. IVAX is the only company with an approved Abbreviated New Drug Application ("ANDA") to manufacture and sell generic verapamil in the United States, and Zenith has exclusive rights to market and sell generic verapamil for

Searle, a company that manufactures a branded equivalent of the generic drug.

The proposed Consent Order would remedy the alleged violation by prohibiting IVAX from acquiring Zenith's rights to market or sell generic verapamil pursuant to the exclusive distribution agreement between Zenith and Searle. In an effort to address antitrust concerns, Zenith and Searle had terminated the exclusive distribution agreement on November 28, 1994, and agreement that Zenith would transfer its generic verapamil customers to Searle or Searle's designee, which would continue to sell generic verapamil. As a result, two independent competitors will remain in the market following the proposed acquisition. The proposed Consent Order ensures that IVAX will not be able to renegotiate an exclusive arrangement with Searle after it acquires Zenith.

Under the provisions of the Consent Order, IVAX is also required to provide to the Commission a report of its compliance with the provisions of the Order one (1) year from the date the Order becomes final, and annually thereafter for nine (9) years.

The proposed Order will prohibit IVAX, for a period of ten (10) years, from acquiring, without Federal Trade Commission approval, any stock in any concern engaged in the manufacture of generic verapamil or in any concern that is an exclusive distributor in the United States for another manufacturer of generic verapamil, or any assets used in the manufacture of generic verapamil in the United States, unless they are acquired in the ordinary course of business. In addition, the Proposed Order requires IVAX to seek prior Commission approval before entering into any exclusive agreement to distribute another manufacturer's generic verapamil. The Consent Order also requires IVAX to notify the Commission at least thirty (30) days prior to any change in the structure of IVAX resulting in the emergence of a successor.

The purpose of this analysis is to facilitate public comment on the proposed Order, and it is not intended to constitute an official interpretation of the agreement and proposed Order or to modify in any way their terms.

Benjamin I. Berman,

Acting Secretary.

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