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

**COMMISSIONERS:** **Deborah Platt Majoras, Chairman**
**Pamela Jones Harbour**
**Jon Leibowitz**
**William E. Kovacic**
**J. Thomas Rosch**

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| **In the Matter of**<br><br>**ALLERGAN, INC.,**<br>**a corporation;**<br><br>**and**<br><br>**INAMED CORPORATION,**<br>**a corporation.** | **Docket No. C-4156** |

## COMPLAINT

Pursuant to the Clayton Act and the Federal Trade Commission Act, and its authority thereunder, the Federal Trade Commission ("Commission"), having reason to believe that Respondent Allergan, Inc. ("Allergan"), a corporation subject to the jurisdiction of the Commission, has agreed to acquire Inamed Corporation ("Inamed"), a corporation 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"), as amended, 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. DEFINITIONS

1. "Commission" means the Federal Trade Commission.

2. "FDA" means the United States Food and Drug Administration.

3. "Ipsen" means Ipsen Ltd., a company organized, existing, and doing business under the laws of England, with its registered offices located at 190 Bath Road, Slough, Berkshire SL1 3XE, United Kingdom.

4. "Respondents" means Allergan and Inamed, individually and collectively.

## II. RESPONDENTS

5. Respondent Allergan is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its offices and principal place of business located at 2525 Dupont Drive, Irvine, California 92612. Allergan, among other things, is engaged in the research, development, manufacture, and sale of facial aesthetic products.

6. Respondent Inamed is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its offices and principal place of business located at 5540 Ekwill Street, Suite D, Santa Barbara, California 93111. Inamed, among other things, is engaged in the research, development, manufacture, and sale of facial aesthetic products.

7. 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 business is in or affects commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

## III. THE PROPOSED ACQUISITION

8. On December 20, 2005, Allergan and Inamed entered into an Agreement and Plan of Merger (the "Merger Agreement") whereby Allergan agreed to acquire all of the outstanding common shares of Inamed in a transaction valued at approximately $3.2 billion (the "Acquisition").

## IV. THE RELEVANT MARKET

9. For the purposes of this Complaint, the relevant line of commerce in which to analyze the effects of the Acquisition is the research, development, manufacture, and sale of cosmetic botulinum toxin.

10. For the purposes of this Complaint, the United States is the relevant geographic area in which to analyze the effects of the Acquisition in the relevant line of commerce.

## V. THE STRUCTURE OF THE MARKETS

11. Allergan dominates the market for the research, development, manufacture, and sale of cosmetic botulinum toxins with its product Botox. Botox is currently the only botulinum toxin product approved by the FDA for cosmetic indications. Inamed plans to enter the market with its cosmetic botulinum toxin product Reloxin, which is licensed to Inamed from Ipsen.

Inamed is in Phase III of clinical development with Reloxin, and is the firm best positioned next to enter the market. Other firms that are undertaking efforts to develop cosmetic botulinum toxin products lag well behind Inamed.

## VI. ENTRY CONDITIONS

12. Entry into the relevant line of commerce described in Paragraph 9 would not be timely, likely, or sufficient in its magnitude, character, and scope to deter or counteract the anticompetitive effects of the Acquisition. Developing and obtaining FDA approval for manufacture and sale of this product takes at least two years due to substantial regulatory and technological barriers.

## VII. EFFECTS OF THE ACQUISITION

13. The effects of the Acquisition, if consummated, 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 FTC Act, as amended, 15 U.S.C. § 45, in the following ways, among others: (a) by eliminating potential competition between Allergan and Inamed in the market for the research, development, manufacture, and sale of cosmetic botulinum toxin, thereby increasing the ability of the combined firm unilaterally to raise prices of cosmetic botulinum toxin products; and (b) by increasing the likelihood that the combined entity would delay or forego the launch of Inamed's Reloxin, thereby delaying or eliminating the price competition that would have resulted from Inamed's entry into the market for cosmetic botulinum toxin.

## VIII. VIOLATIONS CHARGED

14. The Merger Agreement described in Paragraph 8 constitutes a violation of Section 5 of the FTC Act, as amended, 15 U.S.C. § 45.

15. The Acquisition described in Paragraph 8, 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.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this seventh day of March, 2006, issues its Complaint against said Respondents.

By the Commission, Commissioner Rosch recused.

Donald S. Clark
Secretary

SEAL: