



Office of the Secretary

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

May 3, 2012

Sandra DiEmidio  
Commonwealth of Pennsylvania

*Re: In the Matter of CVS Caremark Corporation  
File No. 112 3210, Docket No. C-4357*

Dear Ms. DiEmidio:

Thank you for your comment on the Federal Trade Commission's consent agreement in the above-entitled proceeding. The Commission has placed your comment on the public record pursuant to rule 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii), and has given it serious consideration.

Your comment addresses the quality of CVS Caremark's ("CVSC") insurance, in particular unexpected changes regarding formularies and terms of coverage. Specifically, you raise concerns about CVSC's failure to cover the cost of flu shots, as well as changes to its formularies shortly after the open enrollment period closed.

The proposed complaint in this case arises from allegations that CVSC, through its Medicare Part D health plan subsidiary, RxAmerica, violated Section 5(a) of the FTC Act by misrepresenting prescription drug prices. The Commission's proposed order requires CVSC to pay \$5 million in consumer redress, to be distributed to affected Medicare Part D beneficiaries. The proposed order also prohibits CVSC – including its subsidiaries such as RxAmerica – from misrepresenting the price or cost of Medicare Part D prescription drugs, or other prices or costs associated with Medicare Part D prescription drug plans. Thus, to the extent that CVSC or any of its subsidiaries violates the terms of the Commission's final order, such as by misrepresenting the price or cost of Medicare Part D prescription drugs, it would be liable for civil monetary penalties of up to \$16,000 per violation, pursuant to Section 5(l) of the FTC Act.

Although your comment relates to matters outside the scope of the proposed order, we have forwarded your complaint to the Commission's Consumer Response Center. Your complaint will be added to our Consumer Sentinel database and made available to FTC investigators and hundreds of other law enforcement agencies.

The Commission has determined that the public interest would best be served by issuing the Decision and Order in final form without any modifications. The final Decision and Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. It helps the Commission's analysis to hear from a variety of sources in its work. Thank you again for your comment.

By direction of the Commission, Commissioner Ohlhausen not participating.

Donald S. Clark  
Secretary