



Office of the Secretary

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

June 18, 2009

Mr. John Cronin, Pharm.D., J.D.  
California Pharmacists Association  
Legal Counsel  
4030 Lennane Drive  
Sacramento, CA 95834

*Re: In the Matter of CVS Caremark Corporation, File No. 072-3119, Docket No. C-4259*

Dear Mr. Cronin:

Thank you for your letter commenting on the Federal Trade Commission's consent agreement in the above-entitled proceeding. Your letter was placed 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 was given serious consideration by the Commission. The Commission's response follows.

Your letter states that CVS Caremark Corporation's ("CVS Caremark") pharmacies and pharmacy benefit management business ("PBM") have engaged in information sharing and other practices that have harmed consumers and competing pharmacies, and asks the Commission to change the proposed order to prohibit such information sharing. Because your comment mainly concerns the impact of these practices on competing pharmacies, the comment has been referred to the FTC's Bureau of Competition for assessment. The Commission also notes that the law violations alleged in the complaint are not based on information sharing or anti-competitive practices. Rather, the complaint alleges that the company engaged in deceptive and unfair conduct by failing to maintain reasonable and appropriate security for personal information, leading to improper disposal of the information in unsecured dumpsters around the country. To address these alleged violations, the order contains broad injunctive relief, including prohibitions against misrepresentations about the privacy and security provided to sensitive information. Further, if CVS Caremark were to violate the order, it could be subject to civil monetary penalties of up to \$16,000 per violation. The order therefore contains strong relief to address the challenged conduct and also prohibits reasonably related conduct, such as misrepresentations about CVS Caremark's information sharing practices, as your letter alleges. In addition, although the order does not cover every potential violation of Section 5 of the Federal Trade Commission Act by CVS Caremark, the Commission retains the ability to bring a *de novo* Section 5 action if the circumstances warrant.

After considering your comments, the Commission has determined that the public interest would be best served by accepting the consent order. Thank you again for your letter.

By direction of the Commission.

Donald S. Clark  
Secretary