

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

| | | |
|----------------------------------|---|----------------------------|
| In the Matter of |) | |
| |) | |
| Amgen Inc., |) | |
| a corporation, |) | |
| |) | |
| and |) | |
| |) | FTC File No. DO9414 |
| Horizon Therapeutics plc, |) | |
| a corporation. |) | |
| |) | |
| |) | |
| |) | |
| |) | |

AGREEMENT CONTAINING CONSENT ORDER

The Federal Trade Commission (“Commission”) initiated an investigation of the proposed acquisition by Respondent Amgen Inc. (“Amgen”) of Respondent Horizon Therapeutics plc (“Horizon”). The Bureau of Competition and Respondents enter into this Agreement Containing Consent Order (“Consent Agreement”). Respondents enter this Consent Agreement to provide relief to resolve the allegations of the Commission in the Complaint in this matter, and in the Commission’s Joint Federal Court Complaint for Temporary Restraining Order and Preliminary Injunction filed with the Interested States in the United States District Court, Northern District of Illinois, June 22, 2023, Case # 1:23-cv-03053, through a proposed Decision and Order, all of which are attached, to present to the Commission.

IT IS HEREBY AGREED by and between Respondents, by their duly authorized officers and attorneys, and counsel for the Commission that:

1. Respondent Amgen Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of Delaware, with its executive offices and principal place of business located at One Amgen Center Drive, Thousand Oaks, California.
2. Respondent Horizon Therapeutics plc is a corporation organized, existing, and doing business under and by virtue of the laws of Ireland with its principal executive offices located at 70 St. Stephen’s Green, Dublin 2, D02 E2X4, Ireland.
3. Respondents admit all the jurisdictional facts set forth in the Complaint.

4. Respondents waive:
 - a. any further procedural steps;
 - b. the requirement that the Decision and Order contains a statement of findings of fact and conclusions of law;
 - c. all rights to seek judicial review or otherwise to challenge or contest the validity of the Decision and Order entered pursuant to this Consent Agreement; and
 - d. any claim under the Equal Access to Justice Act.
5. This Consent Agreement is for settlement purposes only and does not constitute an admission by Respondents that the law has been violated as alleged in the Complaint, or that the facts as alleged in the Complaint, other than jurisdictional facts, are true.
6. Respondents shall submit an initial compliance report, pursuant to Commission Rule 2.33, 16 C.F.R. § 2.33, no later than 30 days after the date on which Respondents execute this Consent Agreement and subsequent compliance reports every 30 days thereafter until the Decision and Order becomes final. After the Decision and Order becomes final, the reporting obligations contained in the Decision and Order shall control and the reporting obligations under this Consent Agreement shall cease. Each compliance report shall set forth in detail the manner in which Respondents have complied, have prepared to comply, are complying, and will comply with the Consent Agreement and Decision and Order. Respondents shall provide sufficient information and documentation to enable the Commission to determine independently whether Respondents are in compliance with the Consent Agreement and the Decision and Order.
7. Each compliance report submitted pursuant to Paragraph 6 above shall be verified in the manner set forth in 28 U.S.C. § 1746 by the Chief Executive Officer or another officer or employee specifically authorized to perform this function. Respondents shall electronically file their compliance reports with the Secretary of the Commission at ElectronicFilings@ftc.gov, and with the Compliance Division at bccompliance@ftc.gov, as required by Commission Rule 2.41(a), 16 C.F.R. § 2.41(a). In addition, Respondents shall provide a copy of each compliance report to the Monitor, if one has been appointed pursuant to the Decision and Order.
8. This Consent Agreement, and any compliance reports filed pursuant to this Consent Agreement, shall not become part of the public record of the proceeding unless and until the Commission accepts the Consent Agreement. If the Commission accepts this Consent Agreement, the Commission will place it, together with the Complaint, the proposed Decision and Order, an explanation of the provisions of the proposed Decision and Order, and any other information that may help interested persons understand the orders on the public record for the receipt of comments for 30 days.

9. This Consent Agreement contemplates that, if the Commission accepts the Consent Agreement, the Commission thereafter may withdraw its acceptance of this Consent Agreement and notify Respondents, in which event the Commission will take such action as it may consider appropriate. If the Commission does not subsequently withdraw such acceptance pursuant to the provisions of Commission Rule 2.34, 16 C.F.R. § 2.34, and because the Commission has already issued the Complaint, the Commission may, without further notice to Respondents, issue the attached Decision and Order providing for other relief in disposition of the proceeding.
10. The Decision and Order shall become final upon service. Delivery of the Decision and Order to Respondents by any means provided in Commission Rule 4.4(a), 16 C.F.R. § 4.4(a), or by delivery to United States counsel for Respondents identified in this Consent Agreement, shall constitute service to Respondents. Respondents waive any rights they may have to any other manner of service. Respondents also waive any rights they may otherwise have to service of any appendices attached to or incorporated by reference into the Decision and Order, if Respondents are already in possession of such Appendices, and agree that they are bound to comply with and will comply with the Decision and Order to the same extent as if they had been served with copies of the Appendices.
11. The Complaint may be used in construing the terms of the Decision and Order, and no agreement, understanding, representation, or interpretation not contained in the Decision and Order, or the Consent Agreement may be used to vary or contradict the terms of the Decision and Order.
12. By signing this Consent Agreement, Respondents represent and warrant that:
 - a. they can fulfill all the terms of and accomplish the full relief contemplated by the Decision and Order; and
 - b. all parents, subsidiaries, affiliates, and successors necessary to effectuate the full relief contemplated by this Consent Agreement, and the Decision and Order, are parties to this Consent Agreement and are bound as if they had signed this Consent Agreement and were made parties to this proceeding or are within the control of parties to this Consent Agreement and the Decision and Order, or will be after the acquisition.
13. Respondents have read the Complaint, and the proposed Decision and Order. From the date Respondents sign the Consent Agreement, each agrees to comply with the terms of the proposed Decision and Order. Respondents understand that once the Commission has issued the Decision and Order, they will be required to file one or more compliance reports setting forth in detail the manner in which they have complied, have prepared to comply, are complying, and will comply with the Decision and Order. When final, the Decision and Order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time as provided by statute for other orders. Respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the Decision and Order

IT IS FURTHER HEREBY AGREED by and between the Interested States, enumerated below, by each of their duly authorized officers and counsel for the Commission that:

1. The State of California is a state represented by the Attorney General with its offices at 300 S. Spring Street, Suite 1702, Los Angeles, CA 90013.
2. The State of Illinois is a state represented by the Attorney General with its offices at 100 West Randolph Street, Chicago, IL 60601.
3. The State of Minnesota is a state represented by the Attorney General with its offices at 445 Minnesota Street, Saint Paul, MN 55101.
4. The State of New York is a state represented by the Attorney General with its offices at 28 Liberty Street, New York, NY 10005.
5. The State of Washington is a state represented by the Attorney General with its offices at 1125 Washington St. SE, Olympia, WA 98504.
6. The State of Wisconsin is a state represented by the Attorney General with its offices at 17 West Main Street, Madison, WI 53707.
7. The Interested States represent and warrant that all persons within the offices of the Attorneys General who are working on or are otherwise responsible for this matter understand the rights, obligations and limitations to the Interested States in the various Sections of the Decision and Order.
8. The Interested States represent and warrant that any information or documents obtained by the Interested States shall not be divulged to any Person other than an authorized representative of the particular Office of the State Attorney General, except during legal proceedings to which the Office of the State Attorney General is a party for the purpose of securing the Respondents' commitments outlined in this Consent Agreement, or as otherwise required by State law and with reasonable notice to Respondents.