

Heightened US antitrust fears rattle biopharma



[Madeleine Armstrong](#)



The FTC moves to block Amgen's Horizon takeout, broadening its remit to curb anticompetitive moves that inflate drug prices.

A rash of recent large acquisitions had biopharma investors hoping that [lean times for M&A might be coming to an end](#). But those lifted spirits were sent plummeting back to earth today by confirmation that the US Federal Trade Commission is challenging Amgen's \$28bn takeout of Horizon.

Horizon shares opened off 18% on a [report from Bloomberg](#) that was later [confirmed by the FTC](#), stating in no uncertain terms that the agency was taking aim at proposed monopolies that resulted in elevated drug pricing. This seems to be the first big demonstration of a crackdown that the FTC - along with other agencies around the world - had [threatened in 2021](#).

More than just overlap

The move appears to signal a worst-case scenario, for Amgen and Horizon and potentially the wider sector, given the confirmation that it is not merely to do with product or therapy area overlaps.

The FTC's strongly worded statement claims that the proposed deal would entrench the monopoly positions of the Horizon drugs Tepezza, for thyroid eye disease, and Krystexxa, for gout. Neither has "any competition", so an Amgen acquisition would "entrench [a] monopoly ... enabling Amgen to use rebates on its existing blockbuster drugs to pressure insurance companies and pharmacy benefit managers".

The FTC has voted 3-0 to seek a temporary restraining order and preliminary injunction in federal court. It is worth remembering that all three commissioners are Democrat appointees who have pushed the agency's more hawkish antitrust stance. The FTC can have up to five commissioners; the last Republican appointee resigned at the end of March in protest at some recent actions.

The watchdog had been signalling for some time that the scope of its investigations was broadening, against its historic focus just on marketed drugs. More recent expanded reviews were taking in pipeline reviews, and asking whether acquisitions might seek to eliminate a competitive threat.

Even proposed divestments were receiving much greater scrutiny, [lawyers told Evaluate Vantage a few months ago](#). Still, bolt-on deals were not really considered to be in the FTC's sights, though a long delay to Roche's takeover of Spark first raised such fears; today's surprising development could confirm such a trend.

This move confirms what some [investors had speculated](#), namely that the agency is testing new theories of harm. The FTC explicitly pointed to Amgen's historic use of cross-market leverage with pharmacy benefit

managers. This is being litigated by Regeneron, which sued Amgen last year, alleging use of “[an illegal, anticompetitive bundling scheme](#)” to compel payers to use its PCSK9 drug Repatha, by offering discounts on its other big sellers.

That case is ongoing, and the FTC said today that it would not “hesitate to challenge mergers that enable pharmaceutical conglomerates to entrench their monopolies at the expense of consumers and fair competition”. The fact a buyer’s track record has indeed entered the antitrust watchdog’s purview could be considered hugely damaging to the sector’s M&A prospects.

The FTC said its action was part of ongoing work in response to widespread complaints about rebates and fees paid by drug manufacturers to PBMs. “Amgen has a history of leveraging its broad portfolio of blockbuster drugs to gain advantages over potential rivals,” the agency stated.

Under threat? Open healthcare M&A deals

Deal announcement date	Acquiring company	Target/divesting company	Deal value (\$m)
March 2023	Pfizer	Seagen	43.0
December 2022	Amgen	Horizon Therapeutics	27.8
April 2023	Merck & Co	Prometheus Biosciences	10.8
April 2023	Astellas Pharma	Iveric Bio	5.9
February 2023	Globus Medical	Nuvasive	3.1
April 2023	GSK	Bellus Health	2.0

Source: Evaluate Pharma.

The table above, of notable billion-dollar-plus transactions that have yet to close, shows what else could be at stake. The biggest is Pfizer’s \$43bn swoop for Seagen; [concerns were raised at the time](#) about potential FTC involvement. Seagen’s shares fell 5% this morning.

Pfizer has already [pulled away from its Merck KGaA-partnered PD-L1 MAb Bavencio](#), leading Berenberg analysts to conclude today that there was “virtually no overlap” between Pfizer and Seagen’s marketed products. However, the Amgen/Horizon situation confirms that overlaps are no longer the only driver of FTC scrutiny.

Such a broad antitrust crackdown, should it succeed, would clearly be ominous for sector M&A, and could snuff out hopes a quick recovery in the biotech bear market.

This is an updated version of a story previously published, before the FTC statement.

[More from Evaluate Vantage](#)

Evaluate HQ
[44-\(0\)20-7377-0800](#)

Evaluate Americas
[+1-617-573-9450](#)

Evaluate APAC
[+81-\(0\)80-1164-4754](#)

© Copyright 2023 Evaluate Ltd.