FEDERAL TRADE COMMISSION
PROTECTING AMERICA'S CONSUMERS

Bosley, Inc. Settles FTC Charges That It Illegally Exchanged Competitively Sensitive Business Information With Rival Firm, Hair Club, Inc.

FOR RELEASE

April 8, 2013

TAGS: Bureau of Competition | Competition | Nonmerger | Unfair Methods of Competition

Bosley, Inc., the nation's largest manager of medical/surgical hair restoration procedures, has settled Federal Trade Commission charges that it illegally exchanged competitively sensitive, nonpublic information about its business practices with one of its competitors, HC (USA), Inc., commonly known as Hair Club. In settling the FTC's charges, Bosley has agreed not to communicate such information in the future, and will institute an antitrust compliance program.

Bosley, headquartered in Beverly Hills, Calif., is a wholly owned subsidiary of Aderans America Holdings, Inc. Aderans America, also located in Beverly Hills, is a wholly owned subsidiary of Aderans Co., Ltd, headquartered in Tokyo, Japan. Bosley manages medical/surgical hair restoration practices and provides hair therapy products.

Hair Club, headquartered in Boca Raton, Fla., is a wholly owned subsidiary of Regis Corporation, which is based in Minneapolis, Minnesota. Hair Club provides hair-loss treatments, including non-surgical hair restoration and hair therapy products. Hair Club also manages medical/surgical hair restoration practices. Under a stock purchase agreement dated July 13, 2012, Aderans intends to acquire Hair Club for $163.5 million.

The FTC alleges that for at least the past four years, Bosley has exchanged competitively sensitive, nonpublic information about its business operations with Hair Club. The information exchanged by the companies' CEOs included details about future product offerings, surgical hair transplantation price floors and discounts, plans for business expansion and contraction, and current business operations and performance.

The FTC charges that by directly and repeatedly exchanging competitively sensitive, nonpublic information, the companies have violated Section 5 of the Federal Trade Commission Act, which prohibits unfair methods of competition. According to the FTC's complaint, the exchange of such information could facilitate coordination between Bosley and Hair Club by reducing uncertainty regarding each other's product offerings, prices, and strategic plans.

In addition, the FTC alleges that Hair Club was not the only firm to which Bosley provided such information. Bosley's exchange of sensitive information to other rivals increases the potential for competitive harm.

The proposed order settling the FTC's charges remedies the anticompetitive conduct alleged in the complaint. The proposed order bars Bosley from communicating competitively sensitive, nonpublic information directly to any hair transplantation competitor. It also bars Bosley from requesting, encouraging, or facilitating the communication of any such information from any of its competitors.

In addition, the proposed order requires Bosley to institute a program to ensure that it complies with federal antitrust laws in the future. This program includes: 1) developing annual compliance training for all Bosley officers, executives, and employees who have contact with competitors or have sales, marketing, or pricing responsibilities for Bosley's hair transplantation operations; 2) providing legal support to respond to questions regarding compliance with federal antitrust laws; and 3) retaining documents needed to ensure compliance with the FTC's order.

Finally, the proposed order requires Bosley to submit periodic compliance reports to the FTC, to provide the FTC with 30 days' notice before any corporate changes that may affect compliance with the order, and to provide the FTC access to its U.S. facilities, records, and employees with five days' notice.

The proposed order does not interfere with Bosley's ability to compete or to participate in legitimate business activities, including trade associations and medical societies. The proposed order specifically exempts from its provisions certain types of legitimate information exchanges.

The Commission vote to accept the consent agreement package containing the proposed consent order for public comment was 3-0-1, with Commissioner Joshua D. Wright recused. The FTC will publish a description of the consent agreement package in the Federal Register shortly. The agreement will be subject to public comment for 30 days, beginning today and continuing through May 8, 2013, after which the Commission will decide whether to make the proposed consent order final.

Interested parties can submit comments electronically or in paper form by following the instructions in the "Invitation To Comment" part of the "Supplementary Information" section. Comments can be submitted electronically. Comments in paper form should be mailed or delivered to: Federal Trade Commission, Office of the Secretary, Room H-113, 600 Pennsylvania Avenue, N.W., Washington, DC 20580. The FTC is requesting that any comment filed in paper form near the end of the public comment period be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

NOTE: The Commission issues an administrative complaint when it has "reason to believe" that the law has been or is being violated, and it appears to the Commission that a proceeding is in the public interest. The complaint is not a finding or ruling that the respondent has actually violated the law. A consent order is for settlement purposes only and does not constitute an admission by the respondent that the law has been violated. When the Commission issues a consent order on a final basis, it carries the force of law with respect to future actions. Each violation of such an order may result in a civil penalty of up to $16,000.

The Federal Trade Commission works for consumers to prevent fraudulent, deceptive, and unfair business practices and to provide information to help spot, stop, and avoid them. To file a complaint in English or Spanish, visit the FTC's online Complaint Assistant or call 1-877-FTC-HELP (1-877-382-4357). The FTC enters complaints into Consumer Sentinel, a secure, online database available to more than 2,000 civil and criminal law enforcement agencies in the U.S. and abroad. The FTC's website provides free information on a variety of consumer topics. Like the FTC on Facebook, follow us on Twitter, and subscribe to press releases for the latest FTC news and resources.

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