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February 4, 2009

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William E. Kovacic  
Chairman  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

**Pfizer/Wyeth merger in context of public interest, cutbacks in research, rising health costs and job losses:**

Dear Chairman Kovacic and Commissioners:

We write this letter in the context of the likelihood of fundamental changes relating to the protection of consumers under the new administration and with the understanding that a new Chairman may soon be appointed by the president. We file this anti-trust/public interest matter with you while simultaneously filing with the Antitrust Division of the Department of Justice (see letter attached to incoming Attorney General Eric Holder).

The Greenlining Institute is a national, public policy and advocacy organization that strives to strengthen communities of color. Greenlining and its members have been leaders in the state of California and to a lesser degree, nationally, in raising a wide range of health issues that affect our nation's 110 million minorities and underserved communities in general, including issues relating to the biopharma industry. This includes the unaffordable costs of drugs, lack of transparency relating to research and development funding, lack of diversity of senior management, and lack of focus on diseases and health problems that disproportionately afflict low income and minority communities.

Greenlining has a special expertise in the field of mergers and acquisitions. For example, it has effectively challenged more than a dozen major financial institutions and telecommunications/technology mergers in the recent past. Each of these cases was successfully settled by the inclusion of major public interest provisions intended to benefit and advance the public interest.<sup>1</sup> As such, we write to urge you to consider our perspectives in the public interest as the Pfizer/Wyeth merger moves forward.

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<sup>1</sup>See for example Bank of America/Countrywide acquisition, leading to a two trillion community reinvestment commitment and a two billion dollar philanthropic commitment to the underserved, and the SBC/AT&T and Verizon/MCI merges leading to a doubling of philanthropy to the underserved, specific goals of minority-owned businesses, and major financial commitments to broadband and telemedicine projects.

## *The Issues*

On the upcoming merger between Pfizer and Wyeth, Greenlining does not challenge this acquisition primarily on the basis of its size, although this acquisition will clearly establish Pfizer as the largest big pharma company and by far the largest biopharma company, or that it would adversely affect competition.

Greenlining's primary challenge is that in the absence of transparency and strict public interest provisions, this acquisition could have the same impact as would occur if a monopoly situation was produced. That is, it appears likely that research and development of the combined institutions will be substantially reduced and it appears likely that monopoly-type drugs free from generic drug competition could be achieved. That is, the new field of biologics presently has no mechanism by which a competitor can eventually secure approval for a generic equivalent. This could have the result of producing 100 year or more monopolies on certain biologic products. Greenlining is also concerned that research and development funds are grossly inflated and include questionable funding (payoffs) to doctors and other promoters of the product.

## *Drug Prices*

A fundamental public interest issue that has not been discussed by Pfizer or Wyeth, and should and must be investigated, relates to the production of high cost or unaffordable drugs and biologic products. See, for example, the development of Wyeth's Prevnar, a major childhood four shot injection to prevent pneumonia, ear infections, and meningitis. The Prevnar treatment costs \$305 dollars.

Over 45 million Americans are without healthcare, and many more millions are unable to pay for the costs of drugs and biologic treatments. Yet, the cost of comparable drugs and treatments are often at half or one third the price in other developed nations such as Great Britain, Canada, Germany, Switzerland, and Australia. In addressing the largest big pharma and largest biopharma merger in world history, it is essential to also raise the question of the government's right to require the following: a guarantee that no American with or without insurance shall be required to pay a higher price than the lowest cost of such a drug or treatment in any developed country of a similar drug or treatment.

The Veterans Administration (VA) drug pricing model has already proven to be successful in requiring drug makers to offer the VA a price lower than a statutory federal price ceiling (FPC), which mandates a discount of at least 24 percent off the non-federal average manufacturer price (NFAMP), with a rebate if price increases exceed inflation. Thus, a similar discounted drug model should be extended to all Americans whereby U.S. big pharma and biopharma companies sell at prices that are comparable to those offered in other developed nations.

### ***Bextra Settlements***

As part of Greenlining's public interest concerns, we also raise the issue of the recent denouncement of a \$2.3 billion settlement with the U.S. Attorney in Massachusetts over the drug Bextra. The full terms of this settlement are not yet known to the public, but apparently involve paying off doctors who are aiding and abetting false and misleading claims by Pfizer that were intended to encourage unsafe use of the drug. The U.S. Attorney in Massachusetts is also presently investigating other marketing and safety charges on other drugs produced by Pfizer. In addition, Pfizer's record as a public citizen has been put in question by past settlements on Bextra; this includes a \$33 million settlement in a suit by 33 states and \$894 million in class action settlements.

### ***Job losses***

The Greenlining Institute also questions the public interests involved when this acquisition would admittedly result in a loss of 19,500 jobs, an approximate 15% decline in Pfizer/Wyeth employees (Pfizer alone recently made 15,000 job cuts). This is in stark contrast to the high executive compensation issued to the executives of big pharma companies. The total compensation for Jeff Kindler, CEO of Pfizer, increased from \$9.8 million in 2006 to \$12.6 million in 2007. Wyeth's new CEO Bernard Pousot also received a lucrative compensation package of \$12.7 million in 2008.

The public interest issues are compounded by Pfizer's recent promotion and propaganda relating to this proposed merger; see for example, Wall Street Journal January 27, 2009 Pfizer full-page ad contending that Pfizer/Wyeth, which will cut 19,500 jobs, and use scarce credit for its financing, will create a "transformational combination," will produce the "most advance treatments at affordable costs," and engender "greater resources to invest in research and development."<sup>2</sup>

There is little, if any evidence, that this is a "transformational" merger or that it will lower rather than raise drug costs or, that greater rather than lesser resources will be used for research and development. In fact, as set forth herein, a) this is a very ordinary merger, except for its size; b) drug and treatment costs are likely to rise as generic competition is bypassed or stifled; and, c) research funds are likely to be reduced. Furthermore, industry analysts have been critical of the current (and past) Pfizer merger(s), questioning whether the outcome will result in a sound product pipeline and revenue growth for the new entity.

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<sup>2</sup> Despite the demonstrated lack of evidence to support any of these contentions, this ad, in the form of a letter, was signed by the CEO of Pfizer, Jeff Kindler, and the CEO of Wyeth, Bernard Pousot.

Thus, related to the aforementioned issues in the public interest the new Pfizer should be required to:

- Develop a transparent method for promoting its drugs and treatments that does not include payoffs to physicians or scientists;
- Develop a far-reaching code of conduct relating to generic competitors that will enhance competition and promote the Obama administration's desire to lower the cost of healthcare, including prescription drugs and treatments; and,
- Provide transparent research and development budgets that do not include payouts to doctors or other promotional costs

### ***Lack of diversity***

The incoming Obama administration has demonstrated its commitment to and has proclaimed the importance of diversity in our society, but in contrast, the new Pfizer board is not diverse. For example, Pfizer's 14 member board includes no representatives from our nation's 15 million Asian Americans and 47 million Latinos. It should also be noted that no truly independent directors are on its board; for example, there are no representatives from our nation's 7,000 community health clinics.

### ***Philanthropy***

Philanthropy to the undeserved, particularly during a recession and high unemployment rates, is also a public interest issue that should be addressed in this acquisition. It is possible that Pfizer/Wyeth's combined philanthropy in the future, despite its present inadequacies, could be further reduced as a result of this acquisition. Since, a minimum of \$4 billion and up to \$6 billion annually, is predicted to be the likely cost-savings of this merger, it is proposed that a minimum 10% of the cost savings be allocated to cash philanthropy to underserved communities so long as the unemployment rate in the United States exceeds 6% and/or the U.S. remains in a recession.

### ***Proposed Action***

The Greenlining Institute, consistent with its past success in addressing merges in the public interest such as in the Bank of America, AT&T, and Verizon cases, has also written to the Chairman and CEO of Pfizer, Jeff Kindler, for a meeting to discuss its concerns and help develop an effective public interest solution consistent with the country's needs for healthcare, economic stimulus, job creation, and diversity.

We will report back to the Federal Trade Commission within 20 days on any progress being made.

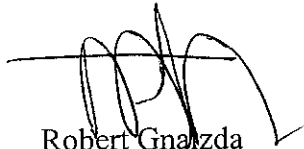
Sincerely,



Orson Aguilar  
Executive Director



Hector Javier Preciado  
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Robert Gnatzda  
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To the Greenlining Institute



April Joy Damian  
Health Fellow