

be owned 60 percent by Owens Corning and 40 percent by Saint Gobain. In response to antitrust concerns, the parties restructured the transaction and entered into an acquisition agreement whereby Owens Corning will acquire Saint Gobain's glass fiber reinforcements and composite fabric business assets worldwide with several important exclusions. Owens Corning will not acquire Saint Gobain's glass fiber reinforcements assets located in the United States. Additionally, certain assets located in Europe will be divested pursuant to an agreement entered into between the parties and the European Commission. However, under the proposed acquisition, Owens Corning will still acquire Saint Gobain's assets used in the design, manufacture, and sale of CFM, a unique glass fiber reinforcement product. Saint Gobain competes in CFM in the United States using CFM produced at its facility in Besana, Italy. The proposed Consent Agreement and Decision and Order are designed to address competition concerns in the CFM market.

The Decision and Order calls for divestiture of Owens Corning's CFM Business to AGY Holding Company ("AGY"), or another Commission-approved buyer in the event that AGY is determined not to be acceptable. The Consent Agreement, if finally accepted by the Commission, would settle charges that the proposed acquisition may substantially lessen competition in the market for CFM. The Commission has reason to believe that Respondent's proposed acquisition would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45.

## II. The Proposed Complaint

According to the Commission's proposed complaint, the relevant product market in which to analyze the effects of Saint Gobain's sale of assets to Owens Corning is the market for the development, manufacture, and sale of CFM and related technology. CFM is an input in the production of non-electrical laminate, marine parts and accessories, and other products where its strength and other desirable characteristics make it the most cost effective material to use. The relevant product is used to increase mechanical performance, such as stiffness and strength, as well as chemical resistance. The relevant geographic market is North America, including imports.

The proposed complaint alleges that the market for CFM is highly concentrated and that Saint Gobain and Owens Corning have been the primary

competitors in these markets for many years. According to the proposed complaint, Owens Corning and Saint Gobain account for more than 90 percent of the CFM sold in North America. The only other substantial supplier is PPG Industries, a firm that accounted for less than 10 percent of the CFM sold in the United States last year.

The proposed complaint alleges that the proposed acquisition would reduce competition by eliminating direct competition between these two companies. The proposed complaint further alleges that entry into the relevant market would not be timely, likely, or sufficient to deter or offset the proposed joint venture's adverse competitive effects.

## III. Terms of the Proposed Order

Under the proposed Decision and Order, Owens Corning will divest its CFM business to AGY within ten (10) days after acquiring certain worldwide glass fiber reinforcements and composite fabric assets from Saint Gobain. AGY, based in Aiken, South Carolina, develops, manufactures, and markets a wide range of glass fiber yarns and reinforcement materials. As an existing participant in the glass fiber reinforcement business, AGY is well-positioned to compete effectively in the CFM business.

The proposed Decision and Order requires Owens Corning to divest its Huntingdon Facility that produces CFM. In addition, Owens Corning is required to divest the Marbles Furnace located in Anderson, South Carolina, that currently supplies the Huntingdon Facility with essential glass fiber marbles used in the production of CFM at Huntingdon. Also, Owens Corning is required to grant AGY two licenses. The first license is to Owens Corning intellectual property, wherever located, related to the production, marketing, and distribution of CFM. The second license is to Owens Corning furnace technology used in the Owens Corning Guelph and Owens Corning Battice facilities related to CFM. The purpose of the divestiture and licensing is to give AGY all assets and know-how necessary for the production and sale CFM products.

The proposed Decision and Order also allows for the parties to enter into transition agreements for the short term provision of services, including an agreement for the supply of the raw materials for the production of Marbles. Moreover, the proposed Decision and Order precludes Owens Corning and Saint Gobain from entering into any agreement that would impair the value of the assets retained by Saint Gobain.

The proposed Decision and Order contains a provision requiring prior notice for the acquisition of certain CFM assets.

## IV. Opportunity for Public Comment

The proposed Decision and Order has been placed on the public record for thirty (30) days to receive comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will review the Consent Agreement and comments received and decide whether to withdraw its agreement or make final the Consent Agreement's proposed Order.

The purpose of this analysis is to facilitate public comment on the proposed Decision and Order. This analysis is not intended to constitute an official interpretation of the Consent Agreement and the proposed Decision and Order. By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Committee on Vital and Health Statistics: Conference Call

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) announces the following advisory committee conference call.

*Name:* National Committee on Vital and Health Statistics (NCVHS), Ad Hoc Workgroup on Secondary Uses of Health Data.

*Time and Date:* October 31, 2007, 2 p.m.–5 p.m. EST.

*Place:* Conference Call, Toll Free—1-888-324-2603, Leader's Name—Cynthia Sidney, Pass code—NCVHS. For security reasons, the pass code above and the leader's name will be required to join the call.

*Status:* Open.

*Purpose:* The purpose of the conference call is to provide an opportunity for public comment on a "pre-decisional draft" of the NCVHS report: Enhanced Protections for Uses of Health Data: A Framework for "Secondary Uses" of Electronically Collected and Transmitted Health Data. The draft report may be found at <http://www.ncvhs.hhs.gov/>.

*Contact Person For More Information:* Substantive program information as well as summaries of meetings and a

roster of committee members may be obtained from Debbie M. Jackson, Senior Program Analyst, National Center for Health Statistics, Centers for Disease Control and Prevention, 3311 Toledo Road, Room 2339, Hyattsville, MD 20782, (301) 458-4614, [djackson@cdc.gov](mailto:djackson@cdc.gov); or Marjorie S. Greenberg, Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, 3311 Toledo Road, Room 2402, Hyattsville, Maryland 20782, telephone (301) 458-4245. Information also is available on the NCVHS home page of the HHS Web site <http://www.ncvhs.hhs.gov/>.

Should you require reasonable accommodation, please contact the CDC Office of Equal Employment Opportunity on (301) 458-4EEO (4336) as soon as possible.

Dated: October 22, 2007.

**James Scanlon,**

*Deputy Assistant Secretary for Science and Data Policy, Office of the Assistant Secretary for Planning and Evaluation.*

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**BILLING CODE 4151-04-M**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Notice of Availability of Draft Guidance on Allocating and Targeting Pandemic Influenza Vaccine**

**AGENCY:** Office of the Secretary, Health and Human Services.

**ACTION:** Notice of availability.

**SUMMARY:** The Department of Health and Human Services (HHS) and the Department of Homeland Security (DHS) are seeking public comment on the draft Guidance on Allocating and Targeting Pandemic Influenza Vaccine. The draft Guidance is now available on the HHS Web site.

**DATES:** Submit comments on or before December 31, 2007.

*Instructions for Submitting Comments:* Electronic responses are preferred and may be addressed to [Panfluvaccine@hhs.gov](mailto:Panfluvaccine@hhs.gov). Written responses should be addressed to U.S. Department of Health and Human Services, Room 434E, 200 Independence Avenue, SW., Washington, DC 20201, Attention: Pandemic Influenza Vaccine Prioritization Guidance Comments. A copy of the Notice and the full text of the draft Guidance are also available on the PandemicFlu.Gov Web site at <http://www.pandemicflu.gov/vaccine/prioritization.html> and at <http://www.aspe.hhs.gov/panflu/>

[vaccinepriorities.html](http://www.pandemicflu.gov/vaccine/prioritization.html). Please follow instructions for submitting responses.

The submission of comments in response to this notice should not exceed 25 pages, not including appendices and supplemental documents. Any information you submit will be made public. Consequently, do not send proprietary, commercial, financial, business confidential, trade secret, or personal information that you do not wish to be made public.

**Public Access:** Responses to this notice will be available to the public in the HHS Public Reading Room, 200 Independence Avenue, SW., Washington, DC 20201. Please call (202) 690-7453 between 9 a.m. and 5 p.m. to arrange access.

**FOR FURTHER INFORMATION CONTACT:** Hui-Hsing Wong, M.D., Office of the Assistant Secretary for Planning and Evaluation, (202) 205-0519.

**SUPPLEMENTARY INFORMATION:** Influenza viruses have threatened the health of animal and human populations for centuries. A pandemic occurs when a novel strain of influenza virus emerges that has the ability to infect and be passed between humans. Because humans have little immunity to the new virus, a worldwide epidemic, or pandemic, can ensue.

Three human influenza pandemics occurred in the 20th century. In the U.S., each pandemic led to illness in approximately 30 percent of the population and death in between 2 in 100 and 2 in 1000 of those infected. It is projected that a modern pandemic, absent effective control measures, could result in the death of 200,000 to 2 million people in the U.S. alone.

A critical part of the United States Government (USG) strategy to control the spread of a pandemic and reduce its health and societal impact is through the use of vaccines. The USG is working toward a goal of expanding domestic influenza surge capacity to produce pandemic influenza vaccines for the entire population within six months of a pandemic declaration. However, at the beginning of a pandemic, the limited supply of existing pandemic influenza vaccines will require that their distribution and administration be prioritized.

Accordingly, the Homeland Security Council *Implementation Plan for the National Strategy for Pandemic Influenza* required the Department of Health and Human Services (HHS) in coordination with the Department of Homeland Security (DHS) to convene a federal interagency working group to draft a guidance to assist State and local

governments, communities, tribal and territorial governments, and the private sector in planning an effective and consistent pandemic response. The USG embarked on a rigorous and collaborative process to seek input from all interested parties in developing a strategy to emerge from a pandemic with minimal levels of illness, death, and disruption to our society and economy.

The draft Guidance on Allocating and Targeting Pandemic Influenza Vaccine outlines the USG's goal of targeting the early production of pandemic vaccines to reduce the impact on health and minimize disruption to society and the economy and describes the scientific and ethical framework for how this guidance was developed. As part of the guidance, a tiered prioritization for vaccines in severe pandemics is being proposed with the following objectives considered to be the most important: (1) Protect those who are essential to the pandemic response and provide care for persons who are ill; (2) protect those who maintain essential community services; (3) protecting children; and (4) protect workers who are at greater risk of infection as a result of their job. Protecting those who maintain homeland and national security was also considered a significant Federal objective. The ultimate goal of pandemic vaccination is to provide vaccines to all persons in the United States who choose to be vaccinated by 6 months after the declaration of a pandemic.

With this notice, the USG requests comment from the public and interested stakeholders on the draft Guidance on Allocating and Targeting Pandemic Influenza Vaccine.

Specifically, the USG invites comments on the following:

The framework for establishing pandemic influenza vaccine priorities, including the—

- (1) approach for defining:
  - a. Target groups,
  - b. The clusters of target groups in the categories,
  - c. The levels within categories,
  - d. The tiers across categories.

(2) The extent to which the prioritization guidance addresses the stated program objectives.

(3) The extent to which the guidance is likely to lead to fair and ethical allocation and targeting of pandemic influenza vaccine across the population.

The text of the draft guidance is available in html and pdf formats through the *PandemicFlu.Gov* Web site at <http://www.pandemicflu.gov/vaccine/prioritization.html> and the HHS Web site at <http://www.aspe.hhs.gov/panflu/>