

STATE OF WISCONSIN,

Plaintiff,

v.

Case No. 04-CV-1709

ABBOTT LABORATORIES, et al.,

Defendants.

**AVENTIS PHARMACEUTICALS INC.'S OBJECTIONS AND RESPONSES
TO PLAINTIFF'S FIRST SET OF REQUEST FOR PRODUCTION OF DOCUMENTS**

Pursuant to Rule 804.08 of the Wisconsin Rules of Civil Procedure, Defendant Aventis Pharmaceuticals Inc. ("Aventis"), by its undersigned counsel, hereby responds to Plaintiff's Request for Production of Documents ("Requests"), dated January 27, 2005.

PRELIMINARY STATEMENT

1. By responding to the Requests, Aventis does not waive or intend to waive: (a) any objections as to the competency, relevancy, materiality, privilege, status, or admissibility as evidence, for any purpose, of any documents or information produced in response to these Requests; (b) the right to object on any ground to the use of the documents or information produced in response to these Requests at any deposition, hearing, trial or other proceeding, or to their use in any pleading or submission; or (c) the right to object on any ground at any time to a demand for further responses to these Requests.

2. By responding that it will produce documents responsive to a particular Request, Aventis does not assert that it has responsive documents or that such documents exist, only that it will conduct a reasonable search and produce relevant, responsive, non-privileged documents on

a rolling basis as agreed upon with Plaintiff's counsel, and subject to a binding protective order of confidentiality. No objection made herein, or lack thereof, is an admission by Aventis as to the existence or non-existence of any documents.

3. The objections and responses made herein are based on Aventis's investigation to date of those sources within its control where it reasonably believes responsive documents or information may exist. Aventis reserves the right to amend or supplement these responses in accordance with the applicable rules and court orders and based on results of its continuing investigation.

4. The information and documents supplied herein are for use in this litigation and for no other purposes.

OBJECTIONS TO PLAINTIFF'S DEFINITIONS

1. Aventis objects to the definition of "Chargeback" as set forth in Definition No. 2 on the ground the phrase "other adjustment" is vague, ambiguous and undefined.

2. Aventis objects to the definition of "Defined Period of Time" as set forth in Definition No. 3 to the extent it calls for documents either prior to August 10, 1998 or after August 10, 2004 on the ground such documents are neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence. Aventis believes that the longest statute of limitations period applicable to Plaintiff's claims began to run six years prior to the date of filing of the Complaint. While Plaintiff may be required to produce documents from an earlier time based on the allegations they have chosen to plead, Aventis is not similarly constrained.

3. Aventis objects to the definition of “Incentive” as set forth in Definition No. 5 because defining “incentives” as virtually all activity between Aventis and its customers is argumentative.

4. Aventis objects to subpart (c) of Plaintiff’s definition of “National Sales Data” as set forth in Definition No. 6 on the ground the phrase “your product number” is vague, ambiguous and undefined. Aventis further objects to subparts (m) and (n) on the ground defining “payments or proposed payments in cash or in kind, chargebacks, credits, discounts such as return practice discounts, prompt pay discounts, volume discounts, on-invoice discounts, off-invoice discounts, rebates such as market share rebates, access rebates, or bundled drug rebates, free goods or samples, credits, administrative fees or administrative fee reimbursements, marketing fees, stocking fees, conversion fees, patient education fees, off-invoice pricing, educational or other grants, research funding, payments for participation in clinical trials, honoraria, speaker’s fees or payments, patient education fees or consulting fees” as “incentives” is overbroad, confusing, and argumentative.

5. Aventis objects to the definition of “Targeted Drugs” as set forth in Definition No. 9 because it is based on the utilization for a particular drug. Using this metric to define “Targeted Drugs” is overly broad and vague at this time. Aventis has filed a motion to dismiss based in part on the lack of specificity as to what is the proper scope of the drugs at issue in this suit. Aventis, however, remains willing to work with Plaintiff to reach an agreement defining more meaningfully what will be the “Targeted Drugs” of this lawsuit. Because this issue is still unresolved and is pending before the Court, Aventis objects to Plaintiff’s definition of “Targeted Drugs” in these Requests on the ground they are overly broad and unduly burdensome.

6. Aventis objects to the extent that any of Plaintiff's Requests seek documents not limited to Aventis's practices in Wisconsin on the grounds that such Requests are overly broad, unduly burdensome, and do not seek the discovery of admissible evidence

7. Insofar as any Request seeks information to which the foregoing Objections to Plaintiff's Definitions apply, Aventis's specification or failure to note particular Objections to Plaintiff's Definitions shall not constitute a waiver or limitation of those Objections to Plaintiff's Definitions with respect to any individual Request.

8. Unless otherwise stated, Aventis responds to the following Requests according to its interpretation and definition of the terms and phrases addressed above.

RESPONSES TO REQUEST FOR PRODUCTION OF DOCUMENTS

Subject to the Objections to Definitions stated above, and without waiving or limiting and expressly preserving all such objections, Aventis responds to Plaintiff's individually-numbered Requests as follows:

REQUEST FOR PRODUCTION NO. 1: All National Sales Data for each Targeted Drug during the Defined Period of Time.

RESPONSE: Aventis objects to this Request because, since the service of these discovery requests, the parties have unsuccessfully discussed narrowing the scope of drugs in this case. Since this issue is unresolved and presently before the Court in Defendants' motion to dismiss, Aventis objects to the use of "Targeted Drug" in this Request because it is overly broad and vague at this time. Aventis further objects to the definition of "National Sales Data" because it incorporates the definition of the term "Incentive," which Aventis considers overbroad and argumentative because it characterizes essentially any activity between Aventis and its customers as an "incentive." Aventis also objects to "Defined Period of Time" to the extent it calls for documents created either prior to August 10, 1998 or after August 10, 2004.

Subject to and without waiving these objections, Aventis responds that it previously produced to plaintiff electronic data for five of its products -- Allegra®, Amaryl®, Azmacort®, DDAVP®, and Nasacort® -- on July 22, 2005. Data included in that production was gathered from several electronic databases and included sales data, chargeback and rebate data, and data pertaining to payment of administrative fees. The produced data also included each products' AWP (as reported by First DataBank), WAC, AMP, and Best Price from 1997-2003. When the scope of products at issue is defined, either by the parties or through Court order, Aventis will supplement this response.

REQUEST FOR PRODUCTION NO. 2: All Documents containing AMPs as reported or calculated by you for the Targeted Drugs OR a spread sheet or database showing all reported or calculated AMPs for each Targeted Drug over the Defined Period of Time which lists when such AMPs were reported or calculated, and the quarter to which each AMP applies.

RESPONSE: Aventis objects to this Request because, since the service of these discovery requests, the parties have unsuccessfully discussed narrowing the scope of drugs in this case. Since this issue is presently unresolved and before the Court in Defendants' motion to dismiss, Aventis objects to the use of "Targeted Drug" in this Request because it is overly broad and vague at this time. Aventis further objects to "Defined Period of Time" to the extent it calls for documents created either prior to August 10, 1998 or after August 10, 2004.

Subject to and without waiving these objections, Aventis responds that it previously produced to plaintiff the requested AMP data for five of its products -- Allegra®, Amaryl®, Azmacort®, DDAVP®, and Nasacort® -- on July 22, 2005. When the scope of products at issue is defined, either by the parties or through Court order, Aventis will supplement this response.

REQUEST FOR PRODUCTION NO. 3: All Documents created by you, or in your possession, that discuss or comment on the difference (or Spread) between any Average Wholesale Price or Wholesale Acquisition Cost and the list or actual sales price (to any purchaser) of any of defendants' Pharmaceuticals or any Pharmaceuticals sold by other manufacturers. Documents which merely list the AWP or WAC price and the list or actual sales

price without further calculation of the difference, or without other comment or discussion of or about the spread between such prices are not sought by this Request.

RESPONSE: Aventis objects to this Request because the scope of products involved in this action is still not defined. This Request, therefore, seeks documents relating to drugs that may not be at issue in this case. When the scope of products at issue is defined, either by the parties or through Court order, Aventis will conduct reasonably diligent searches and will produce relevant, responsive, non-privileged documents on a rolling basis as agreed upon by counsel, subject to an appropriate protective order of confidentiality.

REQUEST FOR PRODUCTION NO. 4: All Documents containing an average sales price or composite price identified by you in response to Interrogatory No. 1 of Plaintiff's First Set of Interrogatories to All Defendants.

RESPONSE: Aventis objects to this Request on the ground that the terms "average sales price" and "other composite price" are vague, ambiguous and undefined. As set forth in its Answer to Plaintiff's Interrogatory No. 1, Aventis also objects to this Request because, since the service of these discovery requests, the parties have unsuccessfully discussed narrowing the scope of products in this case. Since this issue is presently unresolved and before the Court in Defendants' motion to dismiss, Aventis objects to the use of "Targeted Drug" in this Request because it is overly broad and vague at this time.

Subject to and without waiving these objections and, as set forth in its Answer to Plaintiff's Interrogatory No. 1, Aventis states that it did not have one internal definition of "average sales price." For many of its pharmaceutical products, Aventis computed gross-to-net sales data that took into consideration any chargebacks, rebates, and administrative fees provided to customers. Notwithstanding that the scope of drugs in this matter has not yet been defined, Aventis produced to plaintiff sales data, and chargeback, rebate and administrative fees data for five of its products -- Allegra®, Amaryl®, Azmacort®, DDAVP®, and Nasacort® -- on July 22,

2005. When the scope of products at issue is defined, either by the parties or through Court order, Aventis will supplement this response.

REQUEST FOR PRODUCTION NO. 5: All documents sent to or received from First DataBank, Redbook and Medi-Span regarding the price of any Targeted Drug.

RESPONSE: Aventis objects to this Request because, since the service of these discovery requests, the parties have unsuccessfully discussed narrowing the scope of products in this case. Since this issue is presently unresolved and before the Court in Defendants' motion to dismiss, Aventis objects to the use of "Targeted Drug" in this Request because it is overly broad and vague at this time.

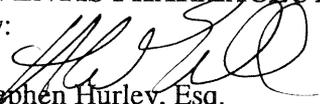
Subject to and without waiving these objections, Aventis states that when the scope of products at issue is defined, either by the parties or through Court order, it will supplement this response.

REQUEST FOR PRODUCTION NO. 6: All Documents in your possession prepared by IMS Health regarding a Targeted Drug or the competitor of a Targeted Drug regarding pricing, sales or market share.

RESPONSE: Aventis objects to this Request because, since the service of these discovery requests, the parties have unsuccessfully discussed narrowing the scope of drugs in this case. Since this issue is presently unresolved and before the Court in Defendants' motion to dismiss, Aventis objects to the use of "Targeted Drug" in this Request because it is overly broad and vague at this time. Aventis also objects to this Request on the ground that the terms "IMS Health," "pricing," "sales," and "market share" are not defined. Aventis further objects to this request on the grounds that a request for all documents relating to "pricing, sales, or market share" is overly broad and unduly burdensome, and seeks information that is neither relevant to this litigation nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving these objections, Aventis states that when the scope of products at issue is defined, either by the parties or through Court order, it will supplement its response.

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