

Illumina will seek to overcome EU antitrust concerns over Grail deal, CEO says

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By Matthew Newman

US biotech giant Illumina will try to convince European regulators in the coming days that its \$8 billion bid to acquire cancer-testing startup Grail should be approved, CEO Francis deSouza said today. EU and US antitrust regulators have threatened to block the deal, arguing that Illumina could hold back access to its gene sequencing technology from potential competitors of Grail, limiting competition in the testing market.

US biotech giant Illumina will try to convince European regulators in the coming days that its \$8 billion bid to acquire cancer-testing startup Grail should be approved, CEO Francis deSouza said today.

"We are constructively engaged with the EU," deSouza told reporters, though he declined to say whether Illumina will submit remedies by a Jan. 28 deadline to overcome EU regulators' concerns about the transaction.

"There is an ongoing discussion, and we know what we have already put out on offer, which is a good framework for the discussion," he said.

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Illumina has offered an "open letter" as part of the US antitrust review that binds Illumina to continue providing "unfettered access" to its sequencing product over 12 years, deSouza said. In addition, the biotech company has committed to cut its sequencing price by more than 40 percent by 2025, he said.

Swiss drug giant Roche and six other companies have agreed to the terms, he said.

"That's what's in the open offer letter and those are the kind of things that are part of the discussions here," deSouza said, referring to the EU process.

Illumina is facing an uphill battle to convince the European Commission that the deal won't harm competition and innovation. The EU antitrust watchdog sent a hefty "letter of facts" on Jan. 14, laying out additional concerns after an initial statement of objections in November (see [here](#)).

When asked whether he thinks the deal will ultimately be blocked by the March 4 EU deadline, deSouza skirted making any projections.

"One of the lessons of Formula One is that you have to wait until the race is over to call the winner," he said, in a reference to the controversial last race of this season's F1 motor racing championship. "We're confident about the arguments that we have been putting forth."

— Lives at stake? —

DeSouza has argued that Illumina has no incentive to block access to next-generation sequencing technology because it earns most of its revenue through sales of these systems. The chief executive has warned that prohibiting the acquisition of Grail will cost lives and deter investment in the biotech sector.

Illumina's goal in acquiring Grail is to ensure that the company's cancer-detection blood tests are rolled out across the world. To achieve that, the company needs Illumina's expertise in "scaling up and delivering genomic tests" in more than 140 countries. "We at Illumina are uniquely qualified to accelerate the rollout of Grail around the world," deSouza said.

If Grail's cancer-detection tests are used in Europe, Illumina estimates that between 65,000 and 100,000 lives could be saved over the next decade, he said.

The EU executive opened an in-depth probe into the deal in July 2021, citing concerns that it may reduce competition and

innovation in the emerging market for cancer-detection tests based on sequencing technologies (see [here](#)).

The commission's concerns center on the risk of "vertical input foreclosure" by Illumina, given its leading position in the next generation sequencing technologies that are crucial inputs for the development and commercialization of NGS-based cancer detection tests. It said its preliminary investigation suggested that Illumina could have the ability and incentive to do so, to cut off Grail's rivals.

The EU watchdog served the company with a formal statement of its objections to the deal on Nov. 17.

Illumina has argued that the commission has no legal justification to block the deal, as it's not a merger of direct competitors nor is there a case that it would or could harm competition on the downstream market.

Illumina announced its acquisition of Grail in September 2020. At the time, it anticipated closing the deal in the second half of 2021 (see [here](#)).

The commission's case file number is M.10188.

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