IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

TELA BIO, INC.,	:	
	:	CIVIL ACTION
Plaintiff,	:	
v.	:	No. 2:25-cv-07189-GAW
	:	
BECTON, DICKINSON AND COMPANY, C.R. BARD, INC., and DAVOL, INC.,	:	
	:	
Defendants.	:	

ORDER

AND NOW, this 12th day of May 2026, upon consideration of Defendant Becton, Dickinson and Company's ("BD") Motion to Dismiss for Failure to State a Claim (Dkt. 36), Plaintiff's Tela Bio, Inc.'s ("TELA Bio") response thereto (Dkt. 37), and BD's reply (Dkt. 40) it is hereby ORDERED that Defendant's motion is DENIED. BD has 21 days from the date of this Order to Answer TELA Bio's Complaint.[1]

BY THE COURT:

GAIL WEILHEIMER J.

[1] "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). Mere conclusory statements or "threadbare recitals of the elements," without more, are insufficient to meet this standard. *Iqbal*, 556 U.S. at 678. "When there are well-pleaded factual allegations, [the] court should assume their veracity and then determine whether they plausibly give rise to an entitlement to relief." *Id.* at 679. The "Twiqbal" standard measures only the plausibility of the Plaintiff's claims, not the probability of their success.

Although antitrust litigation may be fact-intensive and costly, TELA Bio's pleadings are not held to a higher standard. *See W. Penn Allegheny Health Sys., Inc. v. UPMC*, 627 F.3d 85, 98 (3d Cir. 2010) ("We conclude it is inappropriate to apply *Twombly's* plausibility standard with extra bite in antitrust and other complex cases."). The Court appreciates that Defendant has briefed extensively the issues it considers fatal to Plaintiff's claims. But such disputes—like the contours of the relevant product market, whether Defendant's multi-product discounts are pro or anticompetitive—are not apt for resolution at this stage of the litigation. Def's. Mot. to Dismiss at 19. As a result, the Court declines to dismiss TELA Bio's Complaint at this stage. *See Mylan Pharms. Inc. v. Sanofi-Aventis U.S. LLC*, No. 2:23-cv-00836, 2026 WL 201152, at *8, *23 (W.D. Pa. Jan. 27, 2026); *URL Pharma, Inc. v. Reckitt Benckiser, Inc.*, No. CV 15-505, 2015 WL 5042911, at *3 (E.D. Pa. Aug. 25, 2015).

To have standing, TELA Bio must allege "injury of the type the antitrust laws were intended to prevent and that flows from that which makes defendant['s] acts unlawful." *City of Pittsburgh v. West Penn Power Comp.*, 147 F.3d 256, 265 (3d Cir. 1998) (quoting *Brunswick Corp. v. Pueblo Bowl-O-Mat, Inc.*, 429 U.S. 477, 489 (1977)). Counts I and II of the Complaint allege violations of Section 2 of the Sherman Act via monopolization and attempted monopolization. 15 U.S.C. § 2. Under Section 2 of the Sherman Act, "[TELA Bio] must plausibly assert that [BD] had monopoly power; that it obtained or maintained that monopoly through anticompetitive or exclusionary conduct; and that its conduct caused [TELA Bio] to suffer an antitrust injury." *Mylan Pharms. Inc.*, 2026 WL 201152, at *8. TELA Bio has crossed this pleading threshold. *See* Pl.'s Compl. at ¶¶ 88-100.

TELA Bio's claims of monopolization and attempted monopolization are premised on the same theory, summarized broadly as follows: Defendant BD leveraged its monopoly power over the hernia mesh market to block TELA Bio from entering the resorbable mesh market. Pl.'s Compl. ¶63. BD used "overlapping multi-year contracts" across group purchasing organizations ("GPOs"), integrated delivery networks ("IDNs"), and individual hospitals. *Id.* at ¶60. According to TELA Bio, this takes the form of tiered conditional pricing backed by pricing penalties across product lines. *Id.* at ¶72. BD requires high purchasing thresholds for its products, a strategy with no legitimate business purpose other than to foreclose lower-priced options, such as TELA Bio, from competing on the merits. *Id.* at ¶93, 94. These facts, taken as true, are sufficient to proceed to discovery. *See UniStrip Techs., LLC v. LifeScan, Inc.*, 153 F. Supp. 3d 728, 738-739 (E.D. Pa. 2015) (Slomsky, J.) (holding that Sherman Act claim monopolist engaged in exclusive dealing and bundling schemes with rebates could proceed).

Counts III and IV fall under Section 1 of the Sherman Act and Section 3 of the Clayton Act, both of which concern unlawful agreements that unreasonably restrain competition. *See* 15 U.S.C. §§ 1, 14. To state a claim under Section 1 of the Sherman Act, the plaintiff must show "(1) concerted action by the defendants; (2) that produced anti-competitive effects within the relevant product and geographic markets; (3) that

the concerted action was illegal; and (4) that the plaintiff was injured as a proximate result of the concerted action." *Queen City Pizza, Inc. v. Domino's Pizza, Inc.*, 124 F.3d 430, 442 (3d Cir 1997). This action rests on the existence of an agreement; unilateral action will not suffice. *In re Ins. Brokerage Antitrust Litig.*, 618 F.3d 300, 321 (3d Cir. 2010). Section 3 of the Clayton Act prohibits exclusivity arrangements where the effect of such arrangement "may be to substantially lessen competition or tend to create a monopoly in any line of commerce." 15 U.S.C. § 14. "The legality of an exclusive dealing arrangement under the Clayton Act depends on whether the competition foreclosed constitutes a substantial share of the relevant market." *Barr Laboratories, Inc. v. Abbott Laboratories*, 978 F.2d 98, 110 (3d Cir. 1992).

TELA Bio alleges that BD's contracts were *de facto* exclusive arrangements that foreclosed competition in the hernia mesh market. Pl.'s Compl. ¶¶129, 130. TELA Bio plausibly identifies customers in agreements with BD who cannot enter into business with competitors. *Id.* at ¶¶92, 94, 95. As such, they have set forth a plausible violation of Section 1 of the Sherman Act and Section 3 of the Clayton Act. *See, e.g., UniStrip Techs.*, 153 F. Supp. 3d at 738 (denying motion to dismiss); *UPMC*, 627 F.3d at 99 ("If a complaint includes non-conclusory allegations of direct evidence of an agreement, a court need go no further on the question whether an agreement has been adequately pled.").

Accordingly, TELA Bio's claims can proceed to discovery.