

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

**COMMISSIONERS: Jon Leibowitz, Chairman
Pamela Jones Harbour
William E. Kovacic
J. Thomas Rosch**

In the Matter of Agrium Inc., a foreign corporation.))))))	Docket No. C-4277
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COMPLAINT

Pursuant to the Clayton Act and the Federal Trade Commission Act, and its authority thereunder, the Federal Trade Commission (“Commission”), having reason to believe that Respondent Agrium Inc. (“Agrium”), a corporation subject to the jurisdiction of the Commission, has made an offer to acquire all of the voting securities of CF Industries Holdings, Inc. (“CF”), a corporation subject to the jurisdiction of the Commission, in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act (“FTC Act”), as amended, 15 U.S.C. § 45, and it appearing to the Commission that a proceeding in respect thereof would be in the public interest, hereby issues its Complaint, stating its charges as follows:

I. RESPONDENT

1. Respondent Agrium is a Canadian corporation organized, existing, and doing business under, and by virtue of, the laws of Canada, with its office and principal place of business located at 13131 Lake Fraser Drive SE, Calgary, Alberta, Canada, T2J 7E8. In the United States, Agrium operates its chemical and agricultural business through its subsidiary, Agrium USA, headquartered at Suite 1700, 4582 South Ulster Street, Denver, Colorado, 80237. Agrium is a multinational fertilizer and farm products company that develops, manufactures, and markets chemical and agricultural products and services, including nitrogen fertilizers, that it distributes to customers in the Americas and elsewhere.

2. CF is a corporation organized, existing, and doing business under, and by virtue of, the laws of Illinois, with its office and principal place of business located at 4 Parkway North, Suite 400, Deerfield, IL 60015-2590. CF is a fertilizer products company that develops, manufactures, and distributes agricultural products, including nitrogen fertilizers, that it distributes to customers in the Americas and elsewhere.

II. JURISDICTION

3. Agrium and CF are, and at all times relevant herein have been, engaged in commerce as “commerce” is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. § 12, and are corporations whose businesses are in or affect commerce as “commerce” is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

III. THE PROPOSED TRANSACTION

4. On February 25, 2009, Agrium proposed to CF’s board of directors that Agrium acquire all of the voting securities of CF for approximately \$3.6 billion. CF rejected that offer. Since then, Agrium has proposed several revised offers, which have also been rejected by CF’s board of directors. Most recently, on November 5, 2009, Agrium increased its offer to approximately \$4.5 billion. If CF accepts Agrium’s tender offer, Agrium will hold 100 percent of the voting securities of CF, and CF will become a wholly owned subsidiary of Agrium.

IV. RELEVANT PRODUCT MARKET

5. The relevant line of commerce in which to analyze the effects of the proposed acquisition described herein is the distribution and sale of anhydrous ammonia (“AA”), a form of nitrogen fertilizer, for agricultural application.

6. AA is one of several types of nitrogen fertilizer used in the agricultural sector. Nitrogen fertilizers come in many different chemical forms with varying nitrogen concentrations. Among the different chemical forms, Agrium and CF both produce AA, urea, and urea ammonium nitrate solution. Of these different forms of nitrogen fertilizer, AA has the highest concentration of nitrogen per ton. Customers consider soil and topographical characteristics, equipment, and weather when deciding which type of nitrogen fertilizer to use.

7. AA is injected or knifed into the soil using specialized machinery. Many customers who use AA have made significant investments to acquire the necessary infrastructure and application equipment. Switching from AA to another nitrogen fertilizer would require these customers to abandon the significant investments they have already made and to make additional investments to obtain the proper infrastructure and equipment for application of the other nitrogen products.

8. Because of the advantages of using AA for certain topographies and in certain climate conditions, and the substantial capital invested in AA storage and application equipment, most users of AA would not switch to alternative forms of nitrogen fertilizer in response to a significant and sustained increase in price.

V. RELEVANT GEOGRAPHIC MARKETS

9. There are three relevant geographic markets in which to analyze the effects of the proposed acquisition: the Pacific Northwest (“PNW”); East Dubuque, Illinois; and Marseilles, Illinois.

10. In each relevant geographic market, the users of AA would not purchase from terminals located more than approximately 140 miles from their location, even in response to a significant and sustained increase in price. Transportation costs make it difficult for terminal owners to be price competitive and to make profitable sales at distances over generally 140 miles.

VI. MARKET STRUCTURE

11. Each relevant market is highly concentrated, and the proposed transaction will further increase concentration levels.

12. In the PNW, Agrium and CF are the only major distributors and sellers of AA. As a result, the proposed acquisition would reduce the number of significant AA suppliers with storage and distribution assets in the PNW from two to one.

13. In both East Dubuque, Illinois, and Marseilles, Illinois, there are only three major distributors and sellers of AA and the proposed acquisition would reduce the number of significant AA suppliers with storage and distribution assets from three to two.

VII. CONDITIONS OF ENTRY

14. New entry or fringe expansion into the relevant markets would not be timely, likely, or sufficient to deter or counteract the anticompetitive effects of the acquisition. New entry would require several years, including a lengthy process to obtain the regulatory approvals to add new AA storage capacity in a local area. Further, a new entrant would need to build a terminal large enough to benefit from economies of scale, and as a result, would face difficulty in securing sufficient sales to make entry attractive. Together with the high sunk costs associated with the addition of new AA terminal capacity, these difficulties make new entry unlikely.

VIII. EFFECTS OF THE ACQUISITION

15. In the areas identified in paragraphs 9 through 13, above, Agrium and CF compete directly with each other in the distribution and sale of AA. Other competitors are not

effective competitive constraints to Agrium or CF in each relevant geographic area, due to factors such as the location of their manufacturing operations and their lack of storage facilities.

16. The effects of the merger, if consummated, may be to substantially lessen competition or tend to create a monopoly in each of the relevant markets in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the FTC Act, as amended, 15 U.S.C. § 45. Specifically, the merger would:

- a. eliminate actual, direct, and substantial competition between Agrium and CF in the relevant markets;
- b. increase Respondent's ability to exercise market power unilaterally in the relevant markets; and
- c. substantially increase the level of concentration in the relevant markets, and enhance the probability of coordination in East Dubuque, Illinois and Marseilles, Illinois.

IX. VIOLATIONS CHARGED

17. The merger described in Paragraph 4, if consummated, would constitute a violation of Section 5 of the FTC Act, as amended, 15 U.S.C. § 45, and Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this twenty-second day of December, 2009, issues its Complaint against said Respondent.

By the Commission.

Donald S. Clark
Secretary

SEAL