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UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: **Edith Ramirez, Chairwoman**
Julie Brill
Maureen K. Ohlhausen
Joshua D. Wright
Terrell McSweeny

In the Matter of	)	
	)	
ELI LILLY AND COMPANY	)	
a corporation;	)	
	)	**Docket No. C-4500**
and	)	
	)	
NOVARTIS AG	)	
a corporation.	)	
	)	

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 Eli Lilly and Company ("Eli Lilly"), a corporation subject to the jurisdiction of the Commission, has agreed to acquire the Novartis Animal Health business ("Novartis Animal Health") from Respondent Novartis AG ("Novartis"), a corporation subject to the jurisdiction of the Commission, in violation of Section 5 of the Federal Trade Commission Act ("FTC Act"), as amended, 15 U.S.C. § 45, that such acquisition, if consummated, would violate 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, 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. RESPONDENTS

1. Respondent Eli Lilly is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Indiana, with its headquarters at Lilly Corporate Center, Indianapolis, Indiana, 46285.

2. Respondent Novartis is a corporation organized, existing, and doing business under and by virtue of the laws of the Swiss Confederation, with its headquarters at Lichtstrasse 35, Basel, Switzerland, CH-4056. Novartis's U.S. headquarters is located at 230 Park Avenue, New York, New York, 10169.

3. Each Respondent is, and at all times relevant herein has been, engaged in commerce, as "commerce" is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. § 12, and is a company whose business is in or affects commerce, as "commerce" is defined in Section 4 of the FTC Act, as amended, 15 U.S.C. § 44.

II. THE PROPOSED ACQUISITION

4. Pursuant to a Stock and Asset Purchase Agreement dated April 22, 2014, Eli Lilly proposes to acquire Novartis Animal Health for approximately $5.4 billion (the "Acquisition"). The Acquisition is subject to Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

III. THE RELEVANT MARKET

5. For the purposes of this Complaint, the relevant line of commerce in which to analyze the effects of the Acquisition is the research, development, license, manufacture, marketing, distribution, and sale of canine heartworm parasiticides. Canine heartworm parasiticides are used to treat heartworm in dogs, and are available in a variety of formulations, in combination with other medications to treat other conditions, and in topical, oral, and injectable form. Eli Lilly's Trifexis and Novartis's Sentinel products are particularly close competitors because they both use the same active ingredient to treat heartworm, they both are combination products that treat fleas as well as heartworm, and they both are oral products.

6. For the purposes of this Complaint, the United States is the relevant geographic area in which to assess the competitive effects of the Acquisition in the relevant line of commerce.

IV. THE STRUCTURE OF THE MARKET

7. The market for canine heartworm parasiticides in the United States is highly concentrated. Eli Lilly is the market leader with a market share in excess of 35%. Merial Limited, which sells Heartgard and Heartgard Plus, is the second-leading supplier, with a share of 30%. Heartgard and Heartgard Plus are oral products but do not treat fleas. Novartis's Sentinel product line has an 8% market share. The only other significant supplier is Zoetis Inc., which supplies Revolution and ProHeart 6. Revolution is a combination product that requires topical

application. ProHeart 6 is an injectable product that does not impact fleas. Thus, the Acquisition would consolidate the two closest competitors, would substantially increase concentration, and would produce a single firm controlling more than 43% of the relevant market.

V. ENTRY CONDITIONS

8. Entry into the relevant market described in Paragraphs 5 and 6 would not be timely, likely, or sufficient in magnitude, character, and scope to deter or counteract the anticompetitive effects of the Acquisition. *De novo* entry would require significant investment to, among other things, develop products, obtain regulatory approval, and establish a recognized brand. Entry would be unlikely because the required investment would be difficult to justify given the sales opportunities in the affected market. Entry would also not be timely because drug development times and FDA approval requirements would be lengthy. In addition, no other entry is likely to occur such that it would be timely and sufficient to deter or counteract the competitive harm likely to result from the Acquisition.

VI. EFFECTS OF THE ACQUISITION

9. The effects of the Acquisition, if consummated, may be to substantially lessen competition and to tend to create a monopoly in 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, by, among other things:

a. combining the only two providers of oral canine heartworm parasiticides that also treat fleas in dogs, thereby eliminating actual, direct, and substantial competition between Eli Lilly and Novartis;

b. increasing the likelihood that Eli Lilly would unilaterally exercise market power in the relevant market; and

c. increasing the likelihood that customers would be forced to pay higher prices for the relevant product.

VII. VIOLATIONS CHARGED

10. The Stock and Asset Purchase Agreement described in Paragraph 4 constitutes a violation of Section 5 of the FTC Act, as amended, 15 U.S.C. § 45.

11. The Acquisition described in Paragraph 4, if consummated, would constitute a 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.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this nineteenth day of December, 2014 issues its Complaint against said Respondents.

By the Commission.

Donald S. Clark
Secretary

SEAL: