

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman
Julie Brill
Maureen K. Ohlhausen
Terrell McSweeney

)	
In the Matter of)	
)	Docket No. C-4558
)	
National Association of Animal Breeders, Inc.)	
a corporation.)	
)	

COMPLAINT

The Federal Trade Commission (“Commission”), pursuant to the provisions of the Federal Trade Commission Act, as amended, 15 U.S.C. § 41 *et seq.*, and by virtue of the authority vested in it by said Act, having reason to believe that the National Association of Animal Breeders, Inc. (“Respondent” or “NAAB”), a corporation, has violated and is violating the provisions of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues this Complaint, stating its charges as follows:

I. RESPONDENT

1. Respondent National Association of Animal Breeders, Inc. is a non-profit corporation organized, existing, and doing business under, and by virtue of, the laws of the State of Missouri, with its office and principal place of business located at 401 Bernadette Drive, Columbia, Missouri 65203.
2. Respondent is a trade association of animal breeders, with about twenty-four regular members, and about twenty-seven non-voting associate members. Many of Respondent’s members are organizations in the business of collecting, processing, marketing and selling dairy and beef cattle semen for artificial insemination (“AI”). Members include small, family-owned breeding operations, cooperatives, and multinational corporations. Except to the extent that competition has been restrained as alleged herein, many of Respondent’s members have been and are now in competition among themselves and with other AI organizations.

3. Respondent's members have market power in the market for bull semen used to inseminate dairy cows in the United States. Respondent's members account for over ninety percent of the dairy cattle semen sales in the United States.

II. JURISDICTION

4. Respondent conducts business for the pecuniary benefit of its members and is therefore a "corporation" as defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.
5. The acts and practices of Respondent, including the acts and practices alleged herein, are in or affecting "commerce" as defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

III. NATURE OF THE CASE

6. Respondent maintains a Code of Ethics applicable to the commercial activities of its members. Respondent's bylaws require that members comply with the Code of Ethics.
7. Respondent has acted as a combination of its members, and in agreement with at least some of those members, to restrain competition by restricting through its Code of Ethics the ability of its members to disclose truthful and non-deceptive information and to advertise by comparing their products to the products of other members. Specifically, Respondent's Code of Ethics contains the following provisions:
 - "Member competitors will not be named in printed material comparing averages between members."
 - "The purchase price of sires, purchased at private treaty, by NAAB members shall not be disclosed by the Buyer, and the Seller shall be requested not to quote the selling price. Also, prices of bulls purchased at public auction by AI organizations shall not be quoted in their printed statements, advertising, and/or publicity material."
8. Respondent's members comply with the Code of Ethics. Attachments A, B, and C contain examples of marketing materials prepared by NAAB members that comply with the provision requiring that "[m]ember competitors will not be named in printed material comparing averages between members."
9. Respondent established a process for receiving complaints about and resolving alleged violations of the Code of Ethics, including by allowing its members to resolve privately disputes arising out of the Code of Ethics, and also by establishing a mechanism by which Respondent may sanction violations of the Code of Ethics.

IV. VIOLATION CHARGED

10. The purpose, effects, tendency, or capacity of the combination, agreement, acts and practices alleged in Paragraphs 6 through 9 has been and is to restrain competition unreasonably and to injure consumers by restricting the disclosure of truthful and non-deceptive information, by restricting comparative advertising among AI organizations, and by depriving consumers and others of the benefits of free and open competition among AI organizations.
11. The combination, agreement, acts and practices alleged in Paragraphs 6 through 9 constitute unfair methods of competition in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45. Such combination, agreement, acts and practices, or the effects thereof, are continuing and will continue or recur in the absence of the relief requested herein.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this second day of November, 2015, issues its Complaint against Respondent.

By the Commission.

Donald S. Clark
Secretary

SEAL:

Attachment A

Alta Genetics Souvenir Program for its 2011 Wisconsin Showcase, May 2011. Article on page 4 contains chart comparing proof stability among AI firms (*i.e.*, studs), but does not name Alta Genetics' competitors.

Alta
Create Value ▲ Build Trust ▲ Deliver Results

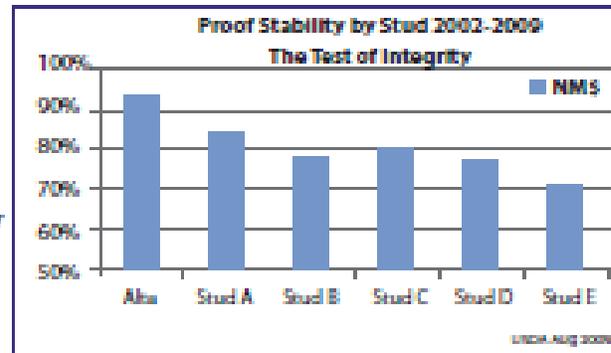
Alta Advantage[®]
2011 Showcase

Seeing is Believing

Wisconsin
May 18-20, 2011

The Pride of Program Integrity

Compared to traditional Progeny Testing programs, AltaAdvantage® is anything but the norm. The Advantage® program combines strict testing standards, large contemporary groups and commercial testing environments – to provide the dairy industry with the most accurate sire proofs ever.



Highly accurate proofs translate into Alta being the leader for proof stability (see nearby graph). We have shown that proven sires from the AltaAdvantage® program hold up to the promise of their first crop Advantage proof, and consistently return cows that live up to and beyond expectations.

Attachment B

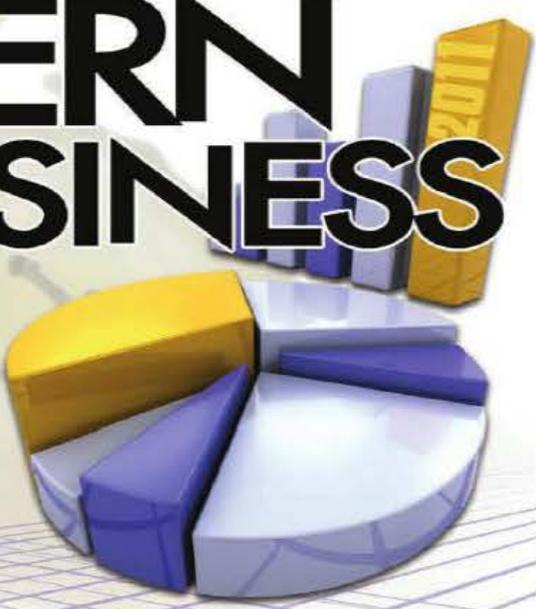
Select Sires ad in trade publication Eastern Dairy Business, June 2012. Ad for Select Sires on page 46 contains chart comparing the number of genomic young sires in the top 50 by AI firm, but does not name Select Sires' competitors.

MULTI-MEDIA SOLUTIONS FOR THE DAIRY INDUSTRY. WWW.DAIRYBUSINESS.COM

EASTERN DAIRYBUSINESS

JUNE 2012

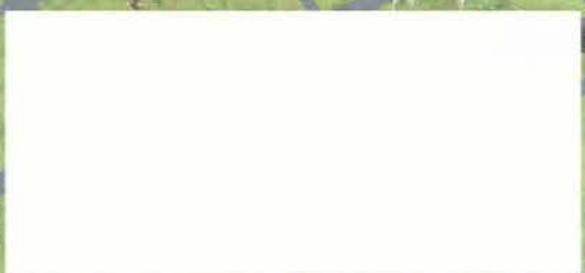
Dairy Statistics & TRENDS



MILK QUALITY
5 'musts' of milk quality
Page D2

CSI-DAIRY
E. coli: A wolf in sheep's clothing
Page D6

CONVERSATIONS
Goal-driven marketing
Page D8



Beat the heat



Fight heat stress with yeast-based feeds from Vi-COR.

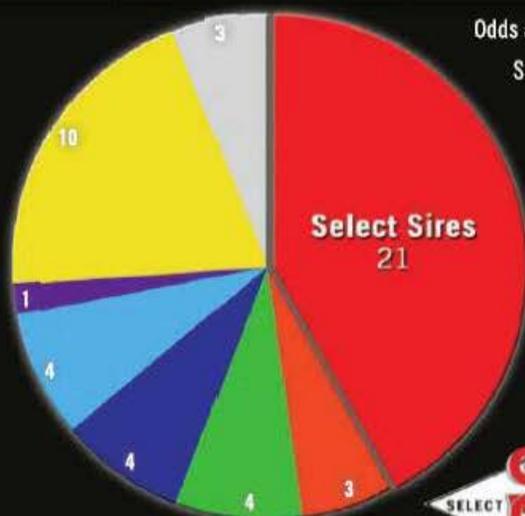
See Page 7

Where Will the Next Great One Come From?



21 of the top 50 genomic young sires come from code 7

Top 50 GTPI™ Active Holstein Genomic Young Sires



Odds are that the next great proven sire is standing in waiting at Select Sires right now. After all, that's where the breed's top sire on the 97% Reliability GTPI list was standing a short time ago. 7H08081 Ensenada Taboo PLANET-ET, pictured second from the right, is now siring daughters that dairy producers all over the globe love to milk! Turn to Select Sires, home of 21 of the top 50 GTPI active Holstein genomic young sires, when you want the most elite genetics of tomorrow. For a complete listing of genetically superior, young sires contact your Select Sires representative or visit www.selectsires.com.

Source: Holstein Association USA Domestic Young Sires Ranking by GTPI.
™/® is a service mark of Holstein Association USA.

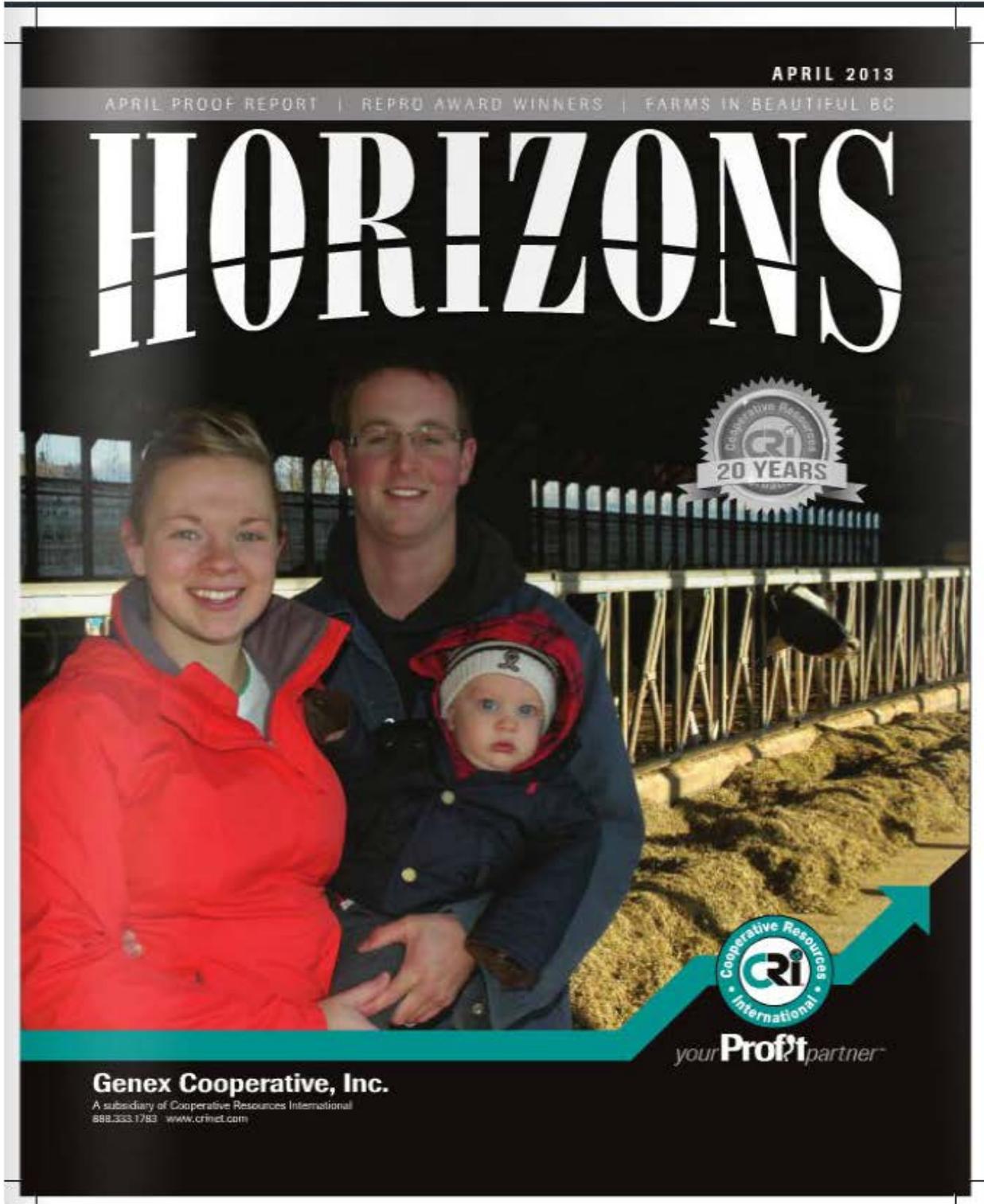


YOUR SUCCESS *Our Passion.*

Phone: (614) 873-4683 • www.selectsires.com

Attachment C

CRI/Genex cooperative Horizons magazine, April 2013, at 16. Article on page 16 contains chart comparing average fertility rating by AI firm (*i.e.*, stud), but does not name Genex's competitors.



Fertility Focused From the Beginning

Genex has concentrated on sire fertility dating back to the beginning of artificial insemination (A.I.). In the 1950s, the cooperative tracked non-return data for technicians. In the 70s and 80s, the cooperative published non-return data for bulls. These efforts to provide producers with valuable profit-impacting fertility data were all prior to industry-wide recognition of the real fertility differences between bulls.

In 2003, industry-wide fertility data was released in the form of Estimated Relative Conception Rates (ERCR). Since 2009, the USDA has calculated Sire Conception Rate (SCR). Throughout this time, Genex remained dedicated to

top-notch fertility and has been the industry's fertility leader for more than a decade. Figure 1 data proves the Genex fertility advantage. This data and the cooperative's long-term commitment to fertility have earned Genex a global reputation as the number one source of high conception sires.

Another fertility system, still unique to Genex today is SynchSmart™. First published in 2007, the Genex exclusive SynchSmart evaluations provide producers with the knowledge of which bulls settle better when used in timed A.I. programs. It is no secret that with our history and data strength, Genex knows fertility matters.

Average Annual Sire Fertility* Rating by A.I. Stud										
	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Genex	1.3	1.0	1.0	0.9	0.9	1.5	2.0	1.9	1.5	1.5
Stud A	0.5	0.1	0.2	0.0	0.1	1.0	1.2	1.1	0.9	1.2
Stud B	0.1	-0.2	-0.1	0.3	0.3	1.2	2.2	NA	NA	NA
Stud C	0.0	-0.5	-0.4	-0.8	-0.8	-0.5	-0.4	0.2	0.4	0.2
Stud D	0.5	0.3	0.4	0.3	0.3	0.7	1.1	0.5	0.5	0.3
Stud E	-0.4	0.2	0.8	0.7	0.9	1.3	1.5	0.7	0.6	0.6

*2003 - 2008 data represents ERCR evaluations. 2009 to present represents SCR evaluations. Sources: USDA-AIPL and DRMS/Raleigh, N.C. 2012 data based on April and August sire summaries. As of 2010, Stud B chose not to disclose SCR evaluations.

Figure 1. Average Annual Sire Fertility Rating by A.I. Stud