UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: **Joseph J. Simons, Chairman**
Noah Joshua Phillips
Rohit Chopra
Rebecca Kelly Slaughter
Christine S. Wilson

In the Matter of	)	
DANAHER CORPORATION, **a corporation;**	)	
and	)	**Docket No. C-4710**
GENERAL ELECTRIC COMPANY, **a corporation.**	)	

COMPLAINT

Pursuant to the Clayton Act and the Federal Trade Commission Act ("FTC Act"), and its authority thereunder, the Federal Trade Commission ("Commission"), having reason to believe that Respondent Danaher Corporation ("Danaher"), a company subject to the jurisdiction of the Commission, has made an offer to acquire the Biopharma business of GE Healthcare Life Sciences ("GE Biopharma"), a division of General Electric Company ("GE"), a company subject to the jurisdiction of the Commission, 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 Danaher is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Delaware, with its executive and principal offices located at 2200 Pennsylvania Avenue, NW, Suite 800W, Washington, DC 20037. Danaher is engaged in the development, manufacture, sale, and distribution of equipment used in several industries including life sciences, diagnostics, and environmental and applied solutions.

2. Respondent GE is a corporation organized, existing, and doing business under and by virtue of the laws of the state of New York, with its headquarters located at 41 Farnsworth Street, Boston, Massachusetts 02210. GE Biopharma is engaged in the development, manufacture, sale, and distribution of instruments, consumables, and software that support the research, discovery, process development, and manufacturing workflows of biopharmaceutical drugs.

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 an Equity and Asset Purchase Agreement dated February 25, 2019, Respondent Danaher proposed to acquire the GE Biopharma business of Respondent GE in a transaction valued at approximately $21.4 billion (the "Acquisition"). The Acquisition is subject to Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

III. THE RELEVANT MARKETS

5. The relevant lines of commerce in which to analyze the effects of the Acquisition are (1) the research, development, manufacture, marketing, distribution, and sale of the following products, which are used to support the research, discovery, process development, and manufacturing workflows of biopharmaceutical drugs: (a) microcarrier beads; (b) conventional low-pressure liquid chromatography ("LPLC") columns; (c) conventional LPLC skids; (d) single-use LPLC; (e) chromatography resins; (f) LPLC continuous chromatography systems; and (g) single-use tangential flow filtration ("TFF") systems, and (2) the research, development, manufacture, marketing, distribution, and sale of label-free molecular characterization instruments.

a. Microcarrier beads are used in cell culture bioprocessing. They provide a surface for the anchorage of dependent cells to attach and grow in cell culture vessels and bioreactors;

b. LPLC columns separate wanted from unwanted molecules by using a liquid or gaseous phase to carry the cell mass through an adsorbent serving as a stationary phase. Conventional LPLC columns are containers that hold chromatography resins used as the adsorbent during the stationary phase. Columns are made of glass, stainless steel, acrylic glass, or plastic;

c. Conventional LPLC skids control the flow of liquid in the chromatography process. Conventional LPLC skids contain a system of pumps, valves, sensors, tubing, electronic components, software, and flow paths composed of multi-use components;

d. Single-use LPLC skids control the flow of liquid in the chromatography process and have the same function as conventional LPLC skids except that the flow path is composed of single-use components;

e. Chromatography resins are chemically treated consumables that constitute the stationary phase of the LPLC process. Each resin type differs in its chemical characteristics and features so each is used for specific purification and production steps and the processing of particular molecules;

i. Affinity resins include resins that utilize specific binding interactions between a ligand that is immobilized to a resin and its binding partner but does not include protein A;

ii. Ion exchange resins include resins that separate molecules based on their total charge; and

iii. Mixed mode resins include resins that utilize matrices that have been functionalized with ligands capable of multiple interactions.

f. LPLC continuous chromatography systems allow for the simultaneous processing of multiple columns in LPLC. LPLC continuous chromatography systems consist of pumps, valves, sensors, tubing, electronic components, software, and flow paths composed of either multi-use or single-use components;

g. Single-use TFF systems control the filtration process, which removes unwanted molecules from the cell growth process through physical separation by running liquids through porous membranes. Single-use TTF systems include sensors, valves, safety and security items, software, and network communication hardware, as well as flow kits, manifolds, and pumps composed of single-use components; and

h. Label-free molecular characterization instruments characterize protein binding interaction and protein concentration based on measurement of the optical, calorimetric, electrical, acoustic, and other physical reactions to various stimuli.

6. The relevant geographic area in which to assess the competitive effects of the Acquisition is no narrower than the United States and may be as broad as the entire world.

IV. THE STRUCTURE OF THE MARKETS

7. Respondents Danaher and GE are two of a limited number of significant participants in the markets for microcarrier beads, conventional LPLC columns, conventional LPLC skids, single-use LPLC skids, chromatography resins, LPLC continuous chromatography systems, single-use TFF systems, and label-free molecular characterization instruments, and each relevant market is highly concentrated.

8. The microcarrier beads market is highly concentrated with only three significant suppliers, including Respondents. By their own estimate, the combined firm would have a market share of greater than 70 percent. The Acquisition substantially increases concentration in the microcarrier bead market and reduces the number of major suppliers from three to two.

9. The LPLC conventional chromatography columns market is highly concentrated with only three significant suppliers, including Respondents. Respondents estimate the combined firm would have a market share of greater than 45 percent. Several fringe firms also supply the market. The Acquisition substantially increases concentration in the market for conventional LPLC chromatography columns by reducing the number of major suppliers from three to two.

10. The market for conventional LPLC skids is highly concentrated, with only three significant suppliers. GE estimates it was the leading supplier of conventional LPLC skids with over 30 percent market share in 2018. Combined, Danaher and GE would have an even larger share of the market for conventional LPLC skids. Post-Acquisition, the combined firm would compete with only significantly smaller firms.

11. With only three significant suppliers, the single-use LPLC skids market is highly concentrated and GE is the dominant supplier with approximately 80 percent market share. The Acquisition increases concentration in this market and reduces the number of significant suppliers from three to two.

12. The markets for affinity, ion exchange, and mixed mode chromatography resins are highly concentrated. GE is the dominant supplier in each resin category, accounting for more than half of all sales in each market. Danaher and GE currently compete for sales in the markets for each resin. Post-Acquisition, the combined firm would compete with only considerably smaller firms. The Acquisition substantially increases the combined firm's market power in the markets for affinity, ion exchange, and mixed mode chromatography resins.

13. Danaher and GE are the leading suppliers in the market for continuous chromatography systems. Currently, Danaher has approximately 28 percent market share and GE has approximately 14 percent share. Only three other suppliers compete in this market, and the combined firm would have a market share of over 40 percent. The Acquisition substantially increases concentration in the market for continuous chromatography systems.

14. Danaher and GE are two of only three major competitors in the market for single-use TFF systems. GE's TFF system has gained significant market share since recently entering the market and currently competes closely with Danaher's system. Respondents estimate the combined firm would have a market share of greater than 35 percent. The Acquisition will substantially increase concentration in the market for single-use TFF systems.

15. Danaher and GE currently compete in the market for label-free molecular characterization instruments where they are the two major suppliers. By their own estimates Danaher has approximately 23 percent share and GE has about 39 percent leaving the combined firm with share greater than 60 percent. The Acquisition substantially increases concentration in the market for label-free molecular characterization instruments.

V. ENTRY CONDITIONS

16. Entry or expansion into the relevant markets described in Paragraph 5 would not be timely, likely or sufficient in magnitude, character, and scope to deter or counteract the anticompetitive effects of the Acquisition.

17. Entry into each relevant market requires a significant amount of time and resources. In each relevant market, a firm must develop products with high levels of performance and reliability to establish the brand recognition necessary to compete effectively. A potential entrant into each relevant market must develop around or obtain licenses for existing intellectual property or design around existing intellectual property to compete effectively. Moreover, a potential entrant must establish a sufficient sales force that offers high-quality technical support and that can establish effective relationships with customers of the relevant products.

VI. EFFECTS OF THE ACQUISITION

18. The effects of the Acquisition, if consummated, may be to substantially lessen competition in each relevant market 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, in the following ways, among others:

i. by eliminating actual, direct, and substantial competition between Danaher and GE and reducing the number of competitors for the sale of each relevant product;

ii. by increasing Respondent Danaher's ability to unilaterally exercise market power for each relevant product;

iii. by increasing the likelihood that consumers would be forced to pay higher prices for each relevant product; and

iv. by reducing Respondents Danaher's incentive to improve quality, service, and innovation for each relevant product.

VII. VIOLATIONS CHARGED

19. 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 _____ day of _____, 2020 issues its Complaint against said Respondent.

By the Commission.

April J. Tabor
Acting Secretary

SEAL: