

of its Rules, the Commission hereby issues its Complaint, makes the following jurisdictional findings and enters the following Order:

1. Respondent American Home Products Corporation ("AHP") is a corporation organized, existing and doing business under and by virtue of the laws of the state of Delaware, with its office and principal place of business located at Five Giralda Farms, Madison, New Jersey 07940.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

I.

IT IS ORDERED that, as used in this Order, the following definitions shall apply:

A. "AHP" or "Respondent" means American Home Products Corporation, its predecessors, subsidiaries, divisions, groups and affiliates controlled by AHP, and their respective directors, officers, employees, agents and representatives, and their respective successors and assigns.

B. "Solvay" means Solvay S.A., a corporation organized, existing and doing business under the laws of Belgium with its principal place of business located at Rue du Prince Albert, 33, 1050 Brussels, Belgium.

C. "Acquisition" means the acquisition by AHP of the animal health business of Solvay pursuant to a letter of intent dated September 12, 1996.

D. "Interim Trustee" means the trustee set forth in Paragraph III. of this Order.

E. "Divestiture Trustee" means the trustee set forth in Paragraph IV. of this Order.

F. "Acquirer" means Schering-Plough, Ltd., ("Schering-Plough") or the entity to whom AHP shall divest the Canine Lyme Vaccine Assets, Canine Corona Virus Vaccine Assets and Feline Leukemia Vaccine Assets pursuant to Paragraph II. of this Order.

G. "New Acquirer" means the entity to whom the Divestiture Trustee shall divest the Solvay Companion Animal Vaccine Assets pursuant to Paragraph IV. of this Order.

H. "Commission" means the Federal Trade Commission.

I. "Canine Lyme Vaccine" means all Solvay vaccines used to create and maintain antitoxin levels in dogs to prevent Lyme disease.

J. "Canine Lyme Vaccine Assets" means Solvay's assets and rights, as of the date AHP signs this Agreement Containing Consent Order, relating to the research, development, manufacture and sale of Canine Lyme Vaccine that are not part of Solvay's physical facilities; **provided, however**, that for the single antigen Lyme, "Canine Lyme Vaccine Assets" does not include, and AHP may retain, a non-exclusive right for AHP to research, develop, manufacture and sell products for use in species other than canines. "Canine Lyme Vaccine Assets" does not include, and AHP may retain, co-exclusive rights to all regulatory approvals relating to sales outside the United States and Canada and a non-exclusive right for AHP to research, develop, and manufacture Canine Lyme Vaccine for sale outside the United States and Canada.

K. "Canine Corona Virus Vaccines" means all Solvay combination vaccines used to create and maintain antitoxin levels in dogs to prevent corona virus, including the single antigens contained therein, individually, or in any combination.

L. "Canine Corona Virus Vaccine Assets" means Solvay's assets and rights, as of the date AHP signs this Agreement Containing Consent Order, relating to the research, development, manufacture and sale of Canine Corona Virus Vaccines that are not part of Solvay's physical facilities. "Canine Corona Virus Vaccine Assets" includes, but is not limited to, any single antigen included in any Solvay canine corona virus combination vaccine and those Solvay projects relating to improving any of the antigens currently in any canine corona virus combination vaccine or the research and development of any antigens for possible inclusion in any canine corona virus combination vaccine in the future; **provided, however**, that for the single antigen corona, "Canine Corona Virus Vaccine Assets" does not include, and AHP may retain, a non-exclusive right for AHP to research, develop, manufacture and sell products for use in species other than canines. "Canine Corona Virus Vaccine Assets" does not include, and AHP may retain, co-exclusive rights to all regulatory approvals relating to sales outside the United States and Canada and a non-exclusive right for AHP to research, develop, and manufacture Canine Corona Virus Vaccines for sale outside the United States and Canada.

M. "Feline Leukemia Vaccines" means all Solvay combination vaccines used to create and maintain antitoxin levels in cats to prevent feline leukemia, including the single antigens contained therein, individually, or in any combination.

N. "Feline Leukemia Vaccine Assets" means Solvay's assets and rights, as of the date AHP signs this Agreement Containing Consent Order, relating to the research, development, manufacture and sale of Feline Leukemia Vaccines that are not part of Solvay's physical facilities. "Feline Leukemia Vaccine Assets" includes, but is not limited to, any single antigen in any Solvay feline leukemia combination vaccine and Solvay projects relating to improving any of the antigens currently in any feline leukemia combination vaccine or the research and development of any antigens for possible inclusion in any feline leukemia combination vaccine in the future. "Feline Leukemia Vaccine Assets" does not include, and AHP may retain, co-exclusive rights to all regulatory approvals relating to sales outside the United States and Canada and a non-exclusive right for AHP to research, develop, manufacture, and sell Solvay's feline leukemia combination vaccines with rabies for a period of four years from the date this Order becomes final. "Feline Leukemia Vaccine Assets" does not include, and AHP may retain, co-exclusive rights to all regulatory approvals relating to sales outside the United States and Canada and a non-exclusive right to research, develop, manufacture and sell the rabies single antigen. AHP shall have the exclusive rights to any combination of the rabies antigen with other AHP antigens. "Feline Leukemia Vaccine Assets" does not include, and AHP may retain, co-exclusive rights to all regulatory approvals relating to sales outside the United States and Canada and a non-exclusive right for AHP to research, develop, manufacture and sell Feline Leukemia Vaccines outside the United States and Canada. "Feline Leukemia Vaccine Assets" does not include, and AHP may retain, an exclusive right for AHP to research, develop, manufacture and sell products incorporating the feline immunodeficiency virus and feline infectious peritonitis antigens.

O. "Equine Vaccines" means all Solvay equine vaccines in combination or single antigen.

P. "Equine Vaccine Assets" means Solvay's assets and rights as of the date AHP signs this Agreement Containing Consent Order, relating to the research, development, manufacture and sale of Equine Vaccines manufactured at the Charles City Facility that are not part of Solvay's physical facilities. "Equine Vaccine Assets" includes, but is not limited to, any single antigens included in any Solvay equine combination vaccine and those Solvay projects relating to improving any of the antigens currently in any equine combination vaccine or the research and development of any antigens for possible inclusion in any equine combination vaccine.

Q. "Solvay Companion Animal Vaccine Assets" means Solvay's assets and rights, including, but not limited to, all inventory designated for sale in the United States and Canada and 50% of the inventory designated for sale outside the United States and

Canada, as of the date the Divestiture Trustee divests to the New Acquirer, relating to the research, development, manufacture and sale of Canine Lyme Vaccine Assets, Canine Corona Virus Vaccines Assets, Feline Leukemia Vaccines Assets and Equine Vaccines Assets, including the single antigens contained therein, individually, or in any combination. "Solvay Companion Animal Vaccine Assets" includes, but is not limited to, the Charles City Facility and at AHP's discretion a supply contract, for a term not to exceed (3) three years, from the date of the divestiture between AHP and the New Acquirer, to supply AHP (i) any swine or poultry vaccines for sale worldwide, (ii) any Canine Lyme Vaccine, Canine Corona Virus Vaccines, and Feline Leukemia Vaccines for sale by AHP outside the United States and Canada and (iii) single antigen rabies vaccine and feline leukemia combination vaccine containing rabies for sale worldwide being produced at the Charles City Facility at the time of divestiture to the New Acquirer and priced at each vaccine's Average Total Cost.

R. "Divestiture Agreement" means the agreement for the sale of Canine Lyme Vaccine Assets, Canine Corona Virus Vaccine Assets and Feline Leukemia Vaccine Assets between AHP and an Acquirer or New Acquirer.

S. "Charles City Facility" means the facility located in Charles City, Iowa, in which Solvay manufactures companion animal biologicals.

T. "Contract Manufacture Agreement" means an agreement to manufacture Canine Lyme Vaccine, Canine Corona Virus Vaccines, Feline Leukemia Vaccines or rabies vaccine by AHP for sale to the Acquirer or New Acquirer.

U. "Contract Manufacture" means the manufacture of Canine Lyme Vaccine, Canine Corona Virus Vaccines, Feline Leukemia Vaccines or rabies vaccine by AHP for sale to the Acquirer or New Acquirer.

V. "Cost" means Solvay's average direct per unit cost for each of the single antigens and the combination vaccines referred to in Definitions "J", "L" and "N".

W. "USDA" means the United States Department of Agriculture.

X. "Average Total Cost" means average direct per unit cost

II.

IT IS FURTHER ORDERED that:

A. Respondent shall divest, absolutely and in good faith, the Solvay Canine Lyme Vaccine Assets, Canine Corona Virus Vaccine Assets and the Feline Leukemia Vaccine Assets to (1) Schering-Plough, in accordance with the agreement dated January 30, 1997, no later than ten (10) days after the date on which this Order becomes final; or, (2) at no minimum price, within ninety (90) days of the date on which this Order becomes final, to an Acquirer that receives the prior approval of the Commission and only in a manner that receives the prior approval of the Commission. The purpose of the divestiture of the Canine

Virus Vaccines and Feline Leukemia Vaccines acquired by AHP through the Acquisition may be sold by AHP only to the Acquirer (or the New Acquirer, as applicable).

3. AHP shall make representations and warranties to the Acquirer or the New Acquirer that the Canine Lyme Vaccine, Canine Corona Virus Vaccines and Feline Leukemia Vaccines supplied pursuant to the Contract Manufacturing Agreement by AHP to the Acquirer or the New Acquirer meet the USDA approved specifications.

New Acquirer's option for a period of time until the Acquirer or New Acquirer receives certification from the USDA or abandons its efforts for certification from the USDA, sufficient to satisfy reasonably the management of the Acquirer or New Acquirer that its personnel are adequately trained in the manufacture and sale of Canine Lyme Vaccine, Canine Corona Virus Vaccines and Feline Leukemia Vaccines in the United States. Such assistance shall include an on-site inspection of the Charles City Facility, at the Acquirer's or New Acquirer's request, that is the specified source of supply of the Contract Manufacturing. AHP may require reimbursement from the Acquirer or New Acquirer for all its direct out-of-pocket expenses incurred in providing the services required by this Subparagraph II.B.5.

6. The Divestiture Agreement shall require the Acquirer or the New Acquirer to submit to the Commission, at the same time that the Respondent submits its application for approval of divestiture, a certification attesting to the good faith intention of the Acquirer or the New Acquirer, including an actual plan by the Acquirer or the New Acquirer, to obtain in an expeditious manner all necessary USDA approvals to manufacture and sell Canine Lyme Vaccine, Canine Corona Virus Vaccines and Feline Leukemia Vaccines in the United States.

7. The Divestiture Agreement shall require the Acquirer or the New Acquirer to submit to the Interim Trustee, periodic verified written reports setting forth in detail the efforts of the Acquirer or the New Acquirer to sell in the United States, Canine Lyme Vaccine, Canine Corona Virus Vaccines, and Feline Leukemia Vaccines obtained pursuant to the Contract Manufacturing Agreement and to obtain all USDA approvals necessary to manufacture and sell its own Canine Lyme Vaccine, Canine Corona Virus Vaccines and Feline Leukemia Vaccines in the United States. The Divestiture Agreement shall require the first such report to be submitted 60 days from the date the Divestiture Agreement is approved by the Commission and every 90 days thereafter until all necessary USDA approvals are obtained by the Acquirer or the New Acquirer to manufacture and sell Canine Lyme Vaccine, Canine Corona Virus Vaccines and Feline Leukemia Vaccines in the United States. The Divestiture Agreement shall also require the Acquirer or the New Acquirer to report to the Commission and the Interim Trustee within ten (10) days of its ceasing the sale in the United States of Canine Lyme Vaccine, Canine Corona Virus Vaccines or Feline Leukemia Vaccines obtained pursuant to the Contract Manufacturing Agreement for any time period exceeding sixty (60) days or abandoning its efforts to obtain all necessary USDA approvals to manufacture and sell its own Canine Lyme Vaccine, Canine Corona Virus Vaccines or Feline Leukemia Vaccines in the United States.

8. The Divestiture Agreement shall provide that the Commission may terminate the Divestiture Agreement if the

Canine Corona Virus Vaccine Assets, Feline Leukemia Vaccine Assets and Equine Vaccine Assets, including the Charles City Facility, used to manufacture and sell Canine Lyme Vaccine,

compliance of the Acquirer or New Acquirer under the Divestiture Agreement.

4. The Interim Trustee shall serve until such time as the Acquirer or New Acquirer has received all necessary USDA approvals to manufacture and sell Canine Lyme Vaccine, Canine Corona Virus Vaccines, and Feline Leukemia Vaccines (except for feline leukemia combinations including rabies) in the United States.

5. The Interim Trustee shall have full and complete access to AHP's personnel, books, records, documents, facilities and technical information relating to the research, development, manufacture, importation, distribution and sale of Canine Lyme Vaccine, Canine Corona Virus Vaccines, or Feline Leukemia Vaccines, or to any other relevant information, as the Interim Trustee may reasonably request, including, but not limited to, all documents and records kept in the normal course of business that relate to the manufacturing of Canine Lyme Vaccine, Canine Corona Virus Vaccines, and Feline Leukemia Vaccines. AHP shall cooperate with any reasonable request of the Interim Trustee. AHP shall take no action to interfere with or impede the Interim Trustee's ability to monitor AHP's compliance with Paragraphs II., III. and IV. of this Order and the Divestiture Agreement between AHP and the Acquirer or New Acquirer.

6. The Interim Trustee shall serve, without bond or other security, at the cost and expense of AHP, on such reasonable and customary terms and conditions as the Commission may set. The Interim Trustee shall have authority to employ, at the cost and expense of AHP, such consultants, accountants, attorneys and other representatives and assistants as are reasonably necessary to carry out the Interim Trustee's duties and responsibilities. The Interim Trustee shall account for all expenses incurred, including fees for his or her services, subject to the approval of the Commission.

7. AHP shall indemnify the Interim Trustee and hold the Interim Trustee harmless against any losses, claims, damages, liabilities or expenses arising out of, or in connection with, the performance of the Interim Trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparations for, or defense of any claim whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from the misfeasance, gross negligence, willful or wanton acts, or bad faith by the Interim Trustee.

8. If the Interim Trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in

the same manner as provided in Subparagraph III.A.1. of this Order.

9. The Commission may on its own initiative or at the request of the Interim Trustee issue such additional orders or directions as may be necessary or appropriate to assure compliance with the requirements of this Order and the Divestiture Agreement with the Acquirer or New Acquirer.

10. The Interim Trustee shall evaluate reports submitted to it by the Acquirer or the New Acquirer with respect to the efforts of the Acquirer or the New Acquirer to obtain all necessary USDA approvals to manufacture and sell Canine Lyme Vaccine, Canine Corona Virus Vaccines and Feline Leukemia Vaccines. The Interim Trustee shall report in writing to the Commission every two months concerning compliance by AHP and the Acquirer or New Acquirer, with the provisions of Paragraphs II., III. and IV. of this Order and the efforts of the Acquirer or New Acquirer to obtain all necessary USDA approvals to manufacture and sell Canine Lyme Vaccine, Canine Corona Virus Vaccines, and Feline Leukemia Vaccines in the United States.

B. If the Commission terminates the Divestiture Agreement pursuant to Subparagraph II.B.8. of this Order, the Commission may direct the Interim Trustee to seek a New Acquirer, as provided for in Subparagraph II.B.9. of this Order.

IV.

IT IS FURTHER ORDERED that:

A. If AHP fails to divest absolutely and in good faith, and with the Commission's prior approval: the Canine Lyme Vaccine Assets, the Canine Corona Virus Vaccine Assets, and the Feline Leukemia Vaccine Assets and comply with the requirements of Paragraph II. of this Order, or if Schering-Plough or the Acquirer abandons its efforts or fails to obtain all necessary regulatory approvals in the manner set out in Paragraph II.B.8.(b) and (c), then any executed Divestiture Agreement between AHP and Schering-Plough or an Acquirer, as applicable, shall be terminated and the Commission may appoint a Divestiture Trustee to divest the Solvay Companion Animal Vaccine Assets and execute a new Divestiture Agreement that satisfies the requirements of Paragraph II. of this Order. The Divestiture Trustee may be the same person as the Interim Trustee and will have the authority and responsibility to divest the Solvay Companion Animal Vaccine Assets absolutely and in good faith, and with the Commission's prior approval. The proceeds of any divestiture by the Divestiture Trustee shall be for the account of AHP.

B. If the Commission terminates a Divestiture Agreement and if a Divestiture Trustee is appointed or directed by the Commission or a court pursuant to Subparagraph A. of this Paragraph to divest the Solvay Companion Animal Vaccine Assets to a New Acquirer, AHP shall consent to the following terms and conditions regarding the Divestiture Trustee's powers, duties, authority, and responsibilities:

1. The Divestiture Trustee shall have the same authority and responsibilities with respect to the New Acquirer as those described in Paragraph III. of this Order, as well as the authority and responsibility necessary to effect the required divestiture pursuant to this Paragraph.

2. Neither the decision of the Commission to direct the Divestiture Trustee, nor the decision of the Commission not to direct the Divestiture Trustee, to divest any of the assets under Subparagraph A. of this Paragraph shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed trustee, pursuant to § 5(1) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by the Respondent to comply with this Order.

3. The Commission shall select the Divestiture Trustee, subject to the consent of AHP, which consent shall not be unreasonably withheld. If AHP has not opposed, in writing, including the reasons for opposing, the selection of any proposed Divestiture Trustee within ten (10) days after notice by the staff of the Commission to AHP of the identity of any proposed Divestiture Trustee, AHP shall be deemed to have consented to the selection of the proposed Divestiture Trustee. The Divestiture Trustee may be the same person as the Interim Trustee.

4. Subject to the prior approval of the Commission, the Divestiture Trustee shall have the exclusive power and authority to divest the Solvay Companion Animal Vaccine Assets to a New Acquirer pursuant to the terms of this Order and to enter into a Divestiture Agreement with the New Acquirer pursuant to the terms of this Order, which Divestiture Agreement shall be subject to the prior approval of the Commission.

5. Within ten (10) days after appointment of the Divestiture Trustee, AHP shall execute a (or amend the existing) trust agreement that, subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, transfers to the Divestiture Trustee all rights and powers necessary to permit the Divestiture Trustee to divest the Solvay Companion Animal Vaccine Assets to a New Acquirer and to enter into a Divestiture Agreement with the New Acquirer.

6. The Divestiture Trustee shall have six (6) months from the date the Commission approves the trust agreement described in subparagraph IV.B.3. of this Order to divest the Solvay Companion Animal Vaccine Assets and to enter into a Divestiture Agreement with the New Acquirer that satisfies the requirements of Paragraph II. of this Order. If, however, at the end of the applicable six (6)month period, the Divestiture Trustee has submitted to the Commission a plan of divestiture or believes that divestiture can be achieved within a reasonable time, such divestiture period may be extended by the Commission, or, in the case of a court-appointed trustee, by the court; **provided, however,** the Commission may extend such divestiture period only two (2) times.

7. The Divestiture Trustee shall have full and complete access to the personnel, books, records and facilities of AHP related to the manufacture, distribution, or sale of the Canine Lyme Vaccine, Canine Corona Virus

shall have the authority to employ, at the cost and expense of AHP, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are necessary to carry out the Divestiture Trustee's duties and responsibilities. The Divestiture Trustee shall account for all monies derived from the divestiture and all expenses incurred. After approval by the Commission and, in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid at the direction of AHP. The Divestiture Trustee's compensation shall be based at least in significant part on a commission arrangement contingent on the Divestiture Trustee's locating a New Acquirer and assuring compliance with this Order.

10. AHP shall indemnify the Divestiture Trustee and hold the Divestiture Trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the Divestiture Trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of any claim, whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the Divestiture Trustee.

11. If the Divestiture Trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in Paragraph IV. of this Order.

12. The Commission or, in the case of a court-appointed trustee, the court, may on its own initiative or at the request of the Divestiture Trustee issue such additional orders or directions as may be necessary or appropriate to comply with the terms of this Order.

13. The Divestiture Trustee shall have no obligation or authority to operate or maintain the Solvay Companion Animal Vaccine Assets.

14. The Divestiture Trustee shall report in writing to AHP and the Commission every two months concerning his or her efforts to divest the relevant assets, AHP's compliance with the terms of this Order, and the New Acquirer's efforts to obtain all necessary USDA approvals to manufacture and sell the Canine Lyme Vaccine, Canine Corona Virus Vaccines and Feline Leukemia Vaccines.

v.

IT IS FURTHER ORDERED that:

A. Within sixty (60) days of the date this Order becomes final and every ninety (90) days thereafter until AHP has fully complied with the provisions of Paragraphs II., III. and IV. of this Order, AHP shall submit to the Commission a verified written report setting forth in detail the manner and form of which it

VII.

IT IS FURTHER ORDERED that Respondent shall notify the Commission at least thirty (30) days prior to any change in Respondent such as dissolution, assignment or sale resulting in the emergence of a successor, the creation or dissolution of subsidiaries or any other change that may affect compliance obligations arising out of the Order.

By the Commission.

Donald S. Clark
Secretary

SEAL

ISSUED: May 16, 1997