

081-0073

2. Respondent UAP is a corporation organized, existing, and doing business under, and by virtue of, the laws of Delaware, with its office and principal place of business located at 7251 W 4th Street, Greeley, Colorado, 80634. UAP is an agricultural products company that develops, manufactures, and markets a line of products and value-added services including chemicals, fertilizer, and seed to farmers, commercial growers, and regional dealers throughout the world.

II. JURISDICTION

3. Agrium and UAP 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. Agrium and UAP announced on December 3, 2007, that their respective boards of directors had approved the sale and purchase of all outstanding shares of UAP stock to Agrium for approximately \$2.65 billion pursuant to the stock purchase agreements by and between Agrium and UAP. As a result of the merger, Agrium will hold 100% of the voting securities of UAP. Upon completion of the merger, UAP will become a wholly owned subsidiary of Agrium.

IV. VIOLATIONS CHARGED

Product Market

5. The relevant line of commerce in which to analyze the effects of the proposed merger described herein is the retail sale of bulk fertilizer by farm stores, together with, in certain cases, related services. Retail farm stores sell mainly three classes of products: pesticides, seed, and fertilizer. Additionally, farm stores can deliver a range of services to meet the specific needs of particular growers. Retail farm stores, for example, often deliver fertilizer directly to the

12. In Croswell, Agrium has four farm stores between 10 and 19 miles from UAP's Croswell store. Agrium and UAP together account for the largest share of the sales of bulk fertilizer in the highly concentrated market composed primarily of the area broadly between the respondents' stores and east of Croswell.

13. In Richmond, UAP's Richmond store is 26 miles southeast of Agrium's Melvin store. Agrium and UAP together account for the largest share of the sales of bulk fertilizer in the highly concentrated market composed primarily of the area broadly between the respondents' stores and east of Richmond.

14. In Imlay City, UAP's Imlay City store is 17 miles northeast of Agrium's Melvin store, and 13 miles northeast of Agrium's Brown City store. Agrium and UAP together account for the largest share of the sales of bulk fertilizer in the highly concentrated market composed primarily of the area broadly between the respondents' stores, and the area north and east of Melvin.

15. In Standish, UAP's Standish store is 16 miles north of Agrium's store in Linwood, and eight miles north of an Agrium satellite location at Pinconning. Agrium and UAP together account for the largest share of the sales of bulk fertilizer in the highly concentrated market composed primarily of the area broadly between the respondents' stores, and the area north of Standish.

16. In Vestaburg, UAP's Vestaburg store is located 22 miles west of Agrium's store in Breckenridge. Agrium and UAP together account for the largest share of the sales of bulk fertilizer in the highly concentrated market composed primarily of the area broadly between the respondents' stores.

17. In Girdletree and Pocomoke, Agrium's Snow Hill store is 12 miles northeast of UAP's store in Pocomoke City, and six miles north of UAP's Girdletree location. Agrium and UAP together account for the largest share of the sales of bulk fertilizer in the highly concentrated market composed primarily of the area broadly between the respondents' stores, extending a few miles south of UAP's locations and a few miles north of Agrium's location.

Conditions of Entry

18. New entry would not prevent or counteract the anticompetitive effects of this acquisition in these relevant markets. New farm store entry has become highly infrequent, due to the risks involved in expending significant sunk costs to obtain enough customers to make a new store viable in a mature industry. Furthermore, because reliable supply and service is so important, loyalty to existing suppliers is typically high among growers, making it particularly difficult for a new entrant to develop a sufficient customer base.

Effects of the Acquisition

19. In the areas identified in paragraphs 11 through 17, above, UAP and Agrium compete directly with each other in the retail sales of bulk fertilizer. Other competitors are not effective competitive constraints to Agrium or UAP throughout each relevant trade area, due to factors such as location, and size and scale of their operations.

20. The effects of the merger, if consummated, may be to substantially lessen competition or tend to create a monopoly in each of the relevant retail farm store 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 UAP in the relevant markets;
- b. increase Respondents' 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.

21. The merger agreement described in Paragraph 4 constitutes a violation of Section 5 of the FTC Act, as amended, 15 U.S.C. § 45.

22. 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 first day of May, 2008, issues its Complaint against said Respondents.

By the Commission.

Donald S. Clark
Secretary

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