UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: **Edith Ramirez, Chairwoman**
Maureen K. Ohlhausen
Terrell McSweeny

In the Matter of	)	
C.H. BOEHRINGER SOHN AG & CO. KG	)	**Docket No. C-4601**
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 C.H. Boehringer Sohn AG & Co. KG ("Boehringer Ingelheim"), a corporation subject to the jurisdiction of the Commission, has agreed to acquire the Merial Animal Health business ("Merial") from Sanofi, a corporation subject to the jurisdiction of the Commission, in violation of Section 5 of the 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. RESPONDENT

1. Respondent Boehringer Ingelheim is a corporation organized, existing and doing business under and by virtue of the laws of the Federal Republic of Germany, with its headquarters address located at Binger Strasse 173, 55216, Ingelheim am Rhein, Germany, and the , Inc., located at 3902 Gene Field Rd., St. Joseph, Missouri 64506.

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 ACQUIRED COMPANY

4. Sanofi is a corporation organized, existing and doing business under and by virtue of the laws of the French Republic, with its headquarters address located at 54, rue La Boétie, 75008, Paris, France, and the address of its United States subsidiary, Sanofi US, located at 55 Corporate Drive, Bridgewater, New Jersey 08807.

5. Sanofi is engaged in, among other things, the research, development, manufacture, distribution, and sale of human pharmaceutical products, as well as animal health products through its Merial Animal Health division.

6. Sanofi 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.

III. THE PROPOSED ACQUISITION

7. Pursuant to an Exclusivity Agreement dated December 15, 2015, Boehringer Ingelheim proposes to swap its consumer health care business for Sanofi's Merial animal health business (the "Acquisition"). In the proposed swap, Boehringer Ingelheim obtains Merial, valued at $13.53 billion, and Sanofi obtains Boehringer Ingelheim's Consumer Health Care business unit, valued at $7.98 billion, as well as cash compensation of $5.54 billion. The Acquisition is subject to Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

IV. THE RELEVANT MARKETS

8. For the purposes of this Complaint, the relevant lines ( )-17(ur)3(s)-1(uas)-1(un22(h30(zn -2(t)-(t)-2(i)-

e. macrocyclic lactone sheep parasiticides.

9. 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 lines of commerce.

V. THE STRUCTURE OF THE MARKETS

10. The markets for canine vaccines in the United States are highly concentrated. Boehringer Ingelheim, Merial, Zoetis, Inc. ("Zoetis"), and Merck & Co. ("Merck") are the only four companies offering or likely to offer canine vaccines for the prevention of canine distemper virus, canine parvovirus, leptospirosis, canine adenovirus, canine parainfluenza virus, canine coronavirus, Lyme disease, and/or *Bordetella bronchiseptica* bacterium in the United States. In 2015, Boehringer Ingelheim, Merial, Zoetis, and Merck o

produce a single firm controlling more than 65% of the relevant market, and would consolidate the only two suppliers of "zero-day milk withhold" macrocyclic lactone cattle parasiticides.

14. The parties are the two primary suppliers of macrocyclic lactone sheep parasiticides. Boehringer Ingelheim offers Cydectin Oral Drench, and Merial offers Ivomec Oral Drench. In 2015, Cydectin Oral Drench and Ivomec Oral Drench approximated 57% and 22%, respectively, of total sales in the United States. Following the acquisition, the merged firm would control more than 78% of this market.

VI. ENTRY CONDITIONS

15. Entry into the relevant markets described in Paragraph 8 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 approvals, and effectively establish recognized brands. Entry would be unlikely because the required investment would be difficult to justify given the sales opportunities in the affected mo

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18. The Acquisition described in Paragraph 7, 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 twenty-eighth day of December, 2016, issues its Complaint against said Respondents.

By the Commission.

April J. Tabor
Acting Secretary

SEAL: