

ANALYSIS OF AGREEMENT CONTAINING CONSENT ORDERS TO AID PUBLIC COMMENT

In the Matter of Danaher Corporation and General Electric Company
File No. 191-0082

INTRODUCTION

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an Agreement Containing Consent Orders ("Consent Agreement") from Danaher Corporation ("Danaher") designed to remedy the anticompetitive effects resulting from Danaher's proposed acquisition of the GE Biopharma business of General Electric Company's ("GE") GE Healthcare Life Sciences division. Under the terms of the proposed Consent Agreement, ' D Q D K H U is required to divest all of the rights and assets related to the following products Sartorius AG ("Sartorius"): (1) microcarrier beads; (2) conventional low-pressure liquid chromatography ("LPLC") columns; (3) conventional LPLC skids; (4) single-use LPLC skids; (5) three affected chromatography resins; (6) LPLC continuous chromatography systems; (7) single-use TFF systems; and (8) label-free molecular characterization instruments.

The proposed Consent Agreement has been placed on the public record for thirty days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty days, the Commission will review the comments received and decide whether it should withdraw, modify, or make the Consent Agreement final.

Under the terms of the Equity and Asset Purchase Agreement dated February 25, 2019, Danaher will acquire the GE Biopharma business in exchange for \$21.4 billion (the "Acquisition"). The Commission's Complaint alleges that the proposed Acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, by substantially lessening competition in the markets for: (1) microcarrier beads; (2) conventional low pressure liquid chromatography ("LPLC") columns; (3) conventional LPLC skids; (4) single use LPLC skids; (5) three affected chromatography resin; (6) LPLC continuous chromatography systems; (7) single use TFF systems; and (8) label free molecular characterization instruments. The proposed Consent Agreement will remedy the alleged violations by preserving the competition that otherwise would be lost in these markets as a result of the proposed Acquisition.

THE PARTIES

Headquartered in Washington, DC, Danaher is a leading global manufacturer of professional medical, industrial, and commercial products and services through more than twenty operating companies. Danaher's bioprocessing products are primarily through its wholly owned subsidiary Pall Corporation ("Pall"), including instruments and consumables that support research, discovery, process development, and manufacturing workflows of biopharmaceutical drugs. Danaher's other life science instruments, including molecular characterization, are primarily in biopharmaceutical research applications through its Molecular Devices, LLC operating company.

GE is a global conglomerate headquartered in Boston, Massachusetts. GE Biopharma is a division of GE Healthcare Life Sciences that manufactures and sells instruments, consumables, and software that support the research, discovery, process development, and manufacturing workflows of biopharmaceutical drugs.

PRODUCTS AND MARKET

three significant suppliersThe only other suppliers are fringe firms with few sales. Danaher and GE have

TFF systems. Danaher and GE are two important competitors in the market for single use TFF systems. GE's system has gained share since recently entering the market and currently competes closely with Danaher's system. The pair has a combined share of the single use TFF filter

The Consent Agreement eliminates the competitive concerns raised by the proposed Acquisition by requiring Danaher to divest its microcarrier beads; chromatography hardware including conventional LPLC chromatography columns, conventional HPLC chromatography skids, and single-use LPLC chromatography skids; three chromatography resins; LPLC continuous chromatography systems; single-use TFFiltration systems; and label-free molecular characterization instruments to Sartorius. Danaher must divest all assets and rights to research, develop, manufacture, market, and sell the products including all related intellectual property and other confidential business information, manufacturing technology, existing inventory, and all related agreements to manufacture and distribute the products. Additionally, to ensure that the divestiture is successful and to maintain continuity of supply, the proposed Order requires Danaher to supply Sartorius with these products for a limited time while Sartorius establishes its own manufacturing capability. Further, the proposed Order requires Sartorius to seek the Commission's approval in the event that it seeks to sell certain divested assets or acquire certain assets that compete with the divested assets for a period of three years. The provisions of the Consent Agreement ensure that Sartorius becomes an independent, viable, and effective competitor to maintain the competition that currently exists.

Based in Göttingen, Germany, Sartorius is a leading provider of instruments, manufacturing systems, and associated consumables for the life sciences industry, including bioprocessing equipment used for drug discovery, development and commercialization. Sartorius' existing biopharmaceutical business includes products that are highly complementary to the divestiture assets. Sartorius has the expertise, worldwide sales infrastructure, and resources to restore the competition that otherwise would have been lost due to the proposed Acquisition.

Danaher

