

**ANALYSIS OF AGREEMENT CONTAINING CONSENT ORDERS
TO AID PUBLIC COMMENT**

***In the Matter of ANI Pharmaceuticals, Inc.; Novitium Pharma LLC; and Esjay LLC
File No. 211-0101; Docket No. C-4754***

The Federal Trade Commission (“Commission”) has accepted, subject to final approval, an Agreement Containing Consent Orders (“Consent Agreement”) from ANI Pharmaceuticals, Inc. (“ANI”) and Novitium Pharma LLC and Esjay LLC (collectively, “Novitium”) that is designed to remedy the anticompetitive effects resulting from ANI’s acquisition of the non-corporate interests of Novitium. Pursuant to an agreement dated March 8, 2021, ANI proposes to acquire Novitium in a transaction valued at approximately \$210 million. The Commission

The Proposed Acquisition would reduce future competition in the SMX-TMP oral suspension market, where ANI is a current competitor and Novitium is

option to acquire a product from another company and ANI sells a product today. The proposed Order requires prior Commission approval before ANI or Novitium may acquire any rights or interests in certain products containing, as the active pharmaceutical ingredients, erythromycin and ethylsuccinate. This provision allows the Commission to evaluate whether a future acquisition of the erythromycin and ethylsuccinate product would reduce competition at the time the acquisition is proposed. The proposed Order also requires ANI and Novitium to seek Commission approval before acquiring any other SMX-TMP or dexamethasone tablet product.

The Commission's goal in evaluating possible purchasers of divested assets is to maintain the competitive environment that existed prior to the Proposed Combination. Prasco is a capable purchaser with management and employees who have experience marketing and distributing generic pharmaceutical products. It will be able to replicate the competition otherwise lost from the Proposed Combination.

The proposed Order contains several provisions to help ensure that the divestitures are successful. ANI will supply Prasco with SMX-TMP oral suspension and dexamethasone tablets for up to three years while the company transfers the manufacturing technology to Prasco's contract manufacturing designee. The proposed Order also requires ANI to provide transitional services to Prasco to assist it in establishing its manufacturing capabilities and securing all of the necessary FDA approvals. These transitional services include technical assistance to have the products manufactured in substantially the same manner and quality employed or achieved by ANI. It also includes advice and training from knowledgeable employees of the parties. Further, the proposed Order requires prior Commission approval before Prasco may sell, license, or otherwise convey any of the assets divested pursuant to the proposed Order.

Under the proposed Order, the Commission also will appoint a Monitor to ensure that ANI and Novitium comply with their obligations under the proposed Order