

**CHANGE IN THE MEETING:** The following topics were added to the open portion of the meeting:

- Withdrawal of Proposed Rule—Advance Participations; Sales of Whole Advances.

- Gramm-Leach-Bliley Directorship Amendments.

The Board determined that agency business required the addition of these items on less than seven days notice to the public and that no earlier notice of these changes in the subject matter of the meeting was possible.

**CONTACT PERSON FOR MORE INFORMATION:** Elaine L. Baker, Secretary to the Board, (202) 408-2837.

**William W. Ginsberg,**

*Managing Director.*

[FR Doc. 99-33013 Filed 12-16-99; 2:26 pm]

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## FEDERAL TRADE COMMISSION

[File No. 991 0071]

### Hoechst AG, et al.; Analysis to Aid Public Comment

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed consent agreement.

**SUMMARY:** The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

**DATES:** Comments must be received on or before January 6, 2000.

**ADDRESSES:** Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW, Washington, D.C. 20580.

**FOR FURTHER INFORMATION CONTACT:** Richard Parker or Elizabeth Jex, FTC/H-374, 600 Pennsylvania Ave., NW, Washington, D.C. 20580. (202) 326-2574 or 326-3273.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following

Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for December 7, 1999), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H-130, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, either in person or by calling (202) 326-3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW, Washington, D.C. 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

### Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission ("Commission") has accepted provisionally an agreement containing a proposed consent order from Hoechst AG ("Hoechst") and Rhone-Poulenc S.A. ("RP") under which RP would be required: (1) To divest the assets relating to RP's direct thrombin inhibitor drug Revasc; and (2) to divest its interest in Rhodia, its specialty chemicals subsidiary which produces cellulose acetate, to a level of 5% or less and to sequester that interest pending its divestiture, thereby preserving competition in the manufacture, marketing, and sale of cellulose acetate thermoplastics.

The proposed Consent Order has been placed on the public record for thirty (30) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed Consent Order.

In a proposed merger agreement, Hoechst and RP will combine most of their respective businesses through an exchange offer by RP for all of Hoechst's outstanding shares, with Hoechst shareholders receiving one RP share for each 1.33 outstanding Hoechst shares. Thereafter, the merged entity will be

renamed Aventis S.A. ("Aventis"). The proposed complaint alleges that the proposed merger, 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, in the markets for: (1) Cellulose acetate; and (2) direct thrombin inhibitors. The proposed Consent Order would remedy the alleged violations by replacing the lost competition that would result from the merger.

### Cellulose Acetate

Cellulose acetate is a thermoplastic that is used to produce, among other products, cigarette filters, tool handles, tapes and films. In applications where it is used, there are no cost effective substitutes. U.S. consumers purchase approximate \$1 billion worth of cellulose acetate yearly.

The market for cellulose acetate is highly concentrated. Three companies currently produce cellulose acetate in the United States: (1) Eastman Chemical Company ("Eastman"); (2) Primester, a joint venture whose shares are owned 50% by Eastman and 50% by Rhodia (a specialty chemicals company that is itself 67% owned by RP); and (3) Celanese Limited ("Celanese"), until recently a wholly-owned subsidiary of Hoechst. Celanese controls approximately 46% of U.S. production capacity, Eastman owns approximately 44% of U.S. production capacity, and Primester holds the remaining 10%. Eastman and Rhodia are each entitled to one-half of the production of Primester. Rhodia currently sells cellulose acetate only outside the United States; thus Celanese and Eastman are the only companies currently selling cellulose acetate in the United States.

There are significant barriers to entry into the cellulose acetate market. In order to enter the market, a firm must incur substantial sunk costs to build a dedicated production facility. Moreover, reductions in the demand for this material and its limited growth potential create disincentives to new entry.

The merger of RP and Hoechst will increase the likelihood of coordinated interaction in the market for cellulose acetate. The Kuwait Petroleum Company ("PC") will hold significant interests in Celanese and Aventis after the merger. Because the remaining shareholders of Celanese and Aventis are (and will remain) widely diversified, KPC currently owns a controlling interest in Celanese, and will acquire working control (defined as 10% or more interest in a corporation whose stock is widely held) of Aventis. These shareholdings could permit KPC to

coordinate the activities of Celanese and, through Aventis, Rhodia and Primester after the merger. In addition, Aventis' indirect holding, through Rhodia, of 50% of the Primester joint venture with Easement may facilitate coordination between the KPC-controlled entities and Easement following the merger. For these reasons, the proposed transaction could create conditions that increase the likelihood of collusion in the cellulose acetate market.

On September 15, 1999, the parties entered into undertakings with the Antitrust Directorate of the European Commission ("EC") to resolve competitive concerns raised by the proposed merger of Hoechst and RP to form Aventis. Among other conditions, the EC undertakings required Hoechst to spin off Celanese and required RP to divest its holding in Rhodia. Pursuant to those undertakings, Hoechst spun off the Celanese division to Hoechst shareholders on October 26, 1999. To date, RP has not divested Rhodia, and the EC undertakings did not require RP to divest Rhodia prior to the formation of Aventis.

The proposed Consent Order is designed to supplement the EC undertakings by preserving interim competition among Celanese, Rhodia and Eastman in the cellulose acetate market in the United States pending Aventis' divestiture of Rhodia. The proposed Consent Order requires the parties to divest their holding of Rhodia to a level of 5% or less of total outstanding shares within three months of the date the consent agreement is accepted by the Commission for public comment. In the case of shares held in escrow as collateral for RP debt obligations, the shares must be divested within six months of the end of the exchange period for those shares. The proposed Consent Order also requires the parties to refrain from participating in the decisions of, seeking to influence the conduct of, or receiving confidential business information concerning Rhodia's cellulose acetate business.

#### Direct Thrombin Inhibitors

Direct thrombin inhibitors are used in the treatment of various blood clotting diseases. While certain other products may also be used for the treatment of blood clotting diseases, direct thrombin inhibitors are both more effective and safer than any available alternatives. U.S. sales of direct thrombin inhibitors currently total only approximately \$15 million, but have the potential to increase significantly in the future.

Hoechst sells the only direct thrombin inhibitor currently on the U.S. market,

Refludan. RP is in the final stages of developing its direct thrombin inhibitor, Revasc, which is licensed from Novartis AG ("Novartis") in 1998. RP plans to submit its New Drug Application for Revasc to the Food and Drug Administration for approval shortly. Available evidence indicates the RP and Hoechst are each other's closest competitors in the direct thrombin inhibitor market. Each party priced its products in relation to those of the other and based its product development strategy on the other's development and position in the market. Other companies currently developing direct thrombin inhibitors are years behind Hoechst and RP.

The planned merger is likely to create anticompetitive effects in the direct thrombin inhibitor market by eliminating the actual, direct, and substantial competition between Hoechst and RP that would otherwise continue to exist. In addition, the proposed transaction reduces potential competition and innovation competition among researchers and developers of direct thrombin inhibitor products by eliminating a significant competitor and increasing the barriers to entry to others by, among other results, combining RP and Hoechst's portfolios of patents and patent applications.

To resolve these anticompetitive concerns, the proposed Consent Order is designed to transfer all of RP's rights in the direct thrombin inhibitor Revasc to Novartis or an independent third party. Novartis (the original licensor) holds a contractual right of prior approval for any transfer of RP's rights in Revasc to any third party. Thus, while other companies have expressed interest in acquiring the rights to Revasc, none may do so without the prior approval of Novartis. The proposed Consent Order requires the parties to return RP's rights in Revasc to Novartis or to sublicense all such rights to another company, subject to Novartis's contractual right of approval. The proposed Consent Order would also require the parties to enter into a short-term service contract with the acquirer of the Revasc rights in order to ensure the continued performance of development work on Revasc. Should RP be unable to divest Revasc during the allotted time period, the proposed Consent Order permits the appointment of a trustee to divest either RP's Revasc assets or the North American rights to Hoechst's own drug, Refludan. Further, in order to prevent any interim harm to assets related to Revasc, the parties have signed a trustee agreement and an Interim Trustee has been approved by the Commission. The proposed Consent Order would provide for the immediate

involvement of the Interim Trustee to ensure the continued development and viability of Revasc as an independent competitor to Hoechst's Refludan.

The purpose of this analysis is to facilitate public comment on the proposed Consent Order, and it is not intended to constitute an official interpretation of the agreement and proposed Consent Order or to modify their terms in any way.

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 99-32893 Filed 12-17-99; 8:45 am]

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#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### Program Support Center; Agency Information Collection Activities: Submission for OMB Review; Comment Request

The Department of Health and Human Services, Program Support Center, publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and 5 CFR 1320.5. The following information collection was recently submitted to OMB:

1. HHS Payment Management System Forms PSC-270 (formerly PMS-270) and PSC-272 (formerly PMS-272)—0937-0200 Extension.

The PSC-270 (formerly PMS-270), Request for Advance or Reimbursement, is used to make advances or reimbursement payments to grantees. It serves in place of the SF-270.

*Respondents:* State and local governments; profit and nonprofit businesses and organizations receiving grants from HHS; *Total Number of Respondents:* 10; *Frequency of Response:* monthly; *Average Burden per Response:* 15 minutes; *Estimated Annual Burden:* 30 hours.

The PSC-272 (formerly PMS-272), Federal Cash Transactions Report, is used to monitor Federal cash advances to grantees and obtain Federal cash disbursement data. It serves in place of the SF-272.

*Respondents:* State and local governments; profit and nonprofit businesses and institutions receiving grants from HHS; *Total Number of Respondents:* 16,800; *Frequency of Response:* quarterly; *Average Burden per Response:* 4 hours; *Estimated Annual Burden:* 268,800 hours.

*Total Burden:* 268,830 hours.