

Complaint

IN THE MATTER OF

**NATIONAL ASSOCIATION OF ANIMAL
BREEDERS, INC.**

CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATION OF
SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT.

Docket C-4558; File No. 141 0215

Complaint, November 02, 2015 – Decision, November 02, 2015

The complaint alleges that National Association of Animal Breeders, Inc. (hereinafter “NAAB”) acting as a combination of its members and in agreement with at least some of its members, restrained competition among its members. NAAB is a non-profit corporation of animal breeders, with about twenty-four regular members, and about twenty-seven non-voting associate members. Many of NAAB’s members are organizations that are in the business of artificial insemination. In order to become a member of the NAAB, organizations must agree to and operate under their code of ethics. NAAB restrained competition by adopting and maintaining provisions in its Code of Ethics that restrain its members from naming competitors in printed materials that contain certain information about the competitors, and disclosing or publicizing prices of bulls purchased or sold. The consent order requires NAAB to cease and desist from restraining its members from naming members or other competitors when making statements comparing the products and services of a member with the products and services of any other member or competitor, and publicizing or disclosing price information relating to the purchase or sale of animals.

Participants

For the *Commission*: Armando Irizarry, and Karen Mills.

For the *Respondent*: Gregory J. Commins Jr., BakerHostetler.

COMPLAINT

The Federal Trade Commission (“Commission”), pursuant to the provisions of the Federal Trade Commission Act, as amended, 15 U.S.C. § 41 *et seq.*, and by virtue of the authority vested in it by said Act, having reason to believe that the National Association of Animal Breeders, Inc. (“Respondent” or “NAAB”), a corporation, has violated and is violating the provisions of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public

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interest, hereby issues this Complaint, stating its charges as follows:

RESPONDENT

1. Respondent National Association of Animal Breeders, Inc. is a non-profit corporation organized, existing, and doing business under, and by virtue of, the laws of the State of Missouri, with its office and principal place of business located at 401 Bernadette Drive, Columbia, Missouri 65203.

2. Respondent is a trade association of animal breeders, with about twenty-four regular members, and about twenty-seven non-voting associate members. Many of Respondent's members are organizations in the business of collecting, processing, marketing and selling dairy and beef cattle semen for artificial insemination ("AI"). Members include small, family-owned breeding operations, cooperatives, and multinational corporations. Except to the extent that competition has been restrained as alleged herein, many of Respondent's members have been and are now in competition among themselves and with other AI organizations.

3. Respondent's members have market power in the market for bull semen used to inseminate dairy cows in the United States. Respondent's members account for over ninety percent of the dairy cattle semen sales in the United States.

JURISDICTION

4. Respondent conducts business for the pecuniary benefit of its members and is therefore a "corporation" as defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

5. The acts and practices of Respondent, including the acts and practices alleged herein, are in or affecting "commerce" as defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

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NATURE OF THE CASE

6. Respondent maintains a Code of Ethics applicable to the commercial activities of its members. Respondent's bylaws require that members comply with the Code of Ethics.

7. Respondent has acted as a combination of its members, and in agreement with at least some of those members, to restrain competition by restricting through its Code of Ethics the ability of its members to disclose truthful and non-deceptive information and to advertise by comparing their products to the products of other members. Specifically, Respondent's Code of Ethics contains the following provisions:

- "Member competitors will not be named in printed material comparing averages between members."
- "The purchase price of sires, purchased at private treaty, by NAAB members shall not be disclosed by the Buyer, and the Seller shall be requested not to quote the selling price. Also, prices of bulls purchased at public auction by AI organizations shall not be quoted in their printed statements, advertising, and/or publicity material."

8. Respondent's members comply with the Code of Ethics. Attachments A, B, and C contain examples of marketing materials prepared by NAAB members that comply with the provision requiring that "[m]ember competitors will not be named in printed material comparing averages between members."

9. Respondent established a process for receiving complaints about and resolving alleged violations of the Code of Ethics, including by allowing its members to resolve privately disputes arising out of the Code of Ethics, and also by establishing a mechanism by which Respondent may sanction violations of the Code of Ethics.

VIOLATION CHARGED

10. The purpose, effects, tendency, or capacity of the combination, agreement, acts and practices alleged in Paragraphs

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6 through 9 has been and is to restrain competition unreasonably and to injure consumers by restricting the disclosure of truthful and non-deceptive information, by restricting comparative advertising among AI organizations, and by depriving consumers and others of the benefits of free and open competition among AI organizations.

11. The combination, agreement, acts and practices alleged in Paragraphs 6 through 9 constitute unfair methods of competition in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45. Such combination, agreement, acts and practices, or the effects thereof, are continuing and will continue or recur in the absence of the relief requested herein.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this second day of November, 2015, issues its Complaint against Respondent.

By the Commission.

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Attachment A

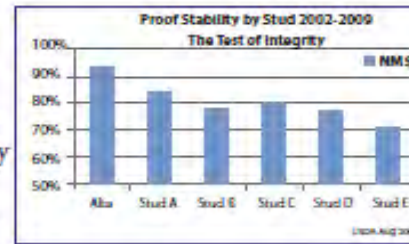
Alta Genetics Souvenir Program for its 2011 Wisconsin Showcase, May 2011. Article on page 4 contains chart comparing proof stability among AI firms (*i.e.*, studs), but does not name Alta Genetics' competitors.



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The Pride of Program Integrity

Compared to traditional Progeny Testing programs, AltaAdvantage® is anything but the norm. The Advantage® program combines strict testing standards, large contemporary groups and commercial testing environments – to provide the dairy industry with the most accurate sire proofs ever.

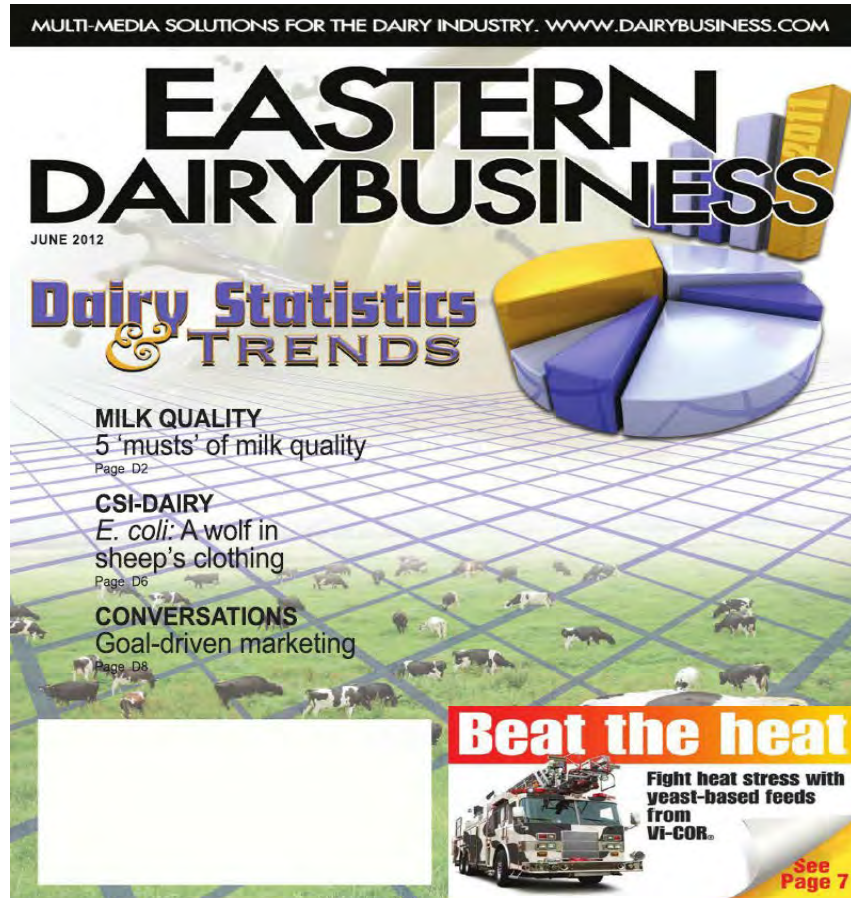


Highly accurate proofs translate into Alta being the leader for proof stability (see nearby graph). We have shown that proven sires from the AltaAdvantage® program hold up to the promise of their first crop Advantage proof, and consistently return cows that live up to and beyond expectations.

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Attachment B

Select Sires ad in trade publication Eastern Dairy Business, June 2012. Ad for Select Sires on page 46 contains chart comparing the number of genomic young sires in the top 50 by AI firm, but does not name Select Sires' competitors.



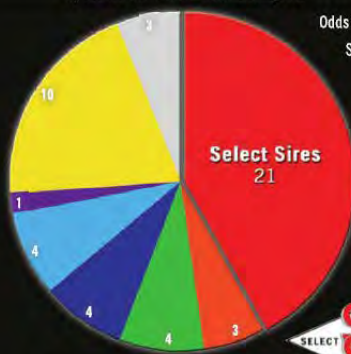
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Where Will the Next Great One Come From?



21 of the top 50 genomic young sires come from code 7

Top 50 GTPI™ Active Holstein Genomic Young Sires



Odds are that the next great proven sire is standing in waiting at Select Sires right now. After all, that's where the breed's top sire on the 97% Reliability GTPI list was standing a short time ago. 7H08081 Ensenada Taboo PLANET-ET, pictured second from the right, is now siring daughters that dairy producers all over the globe love to milk! Turn to Select Sires, home of 21 of the top 50 GTPI active Holstein genomic young sires, when you want the most elite genetics of tomorrow. For a complete listing of genetically superior, young sires contact your Select Sires representative or visit www.selectsires.com.



YOUR SUCCESS *Our Passion.*

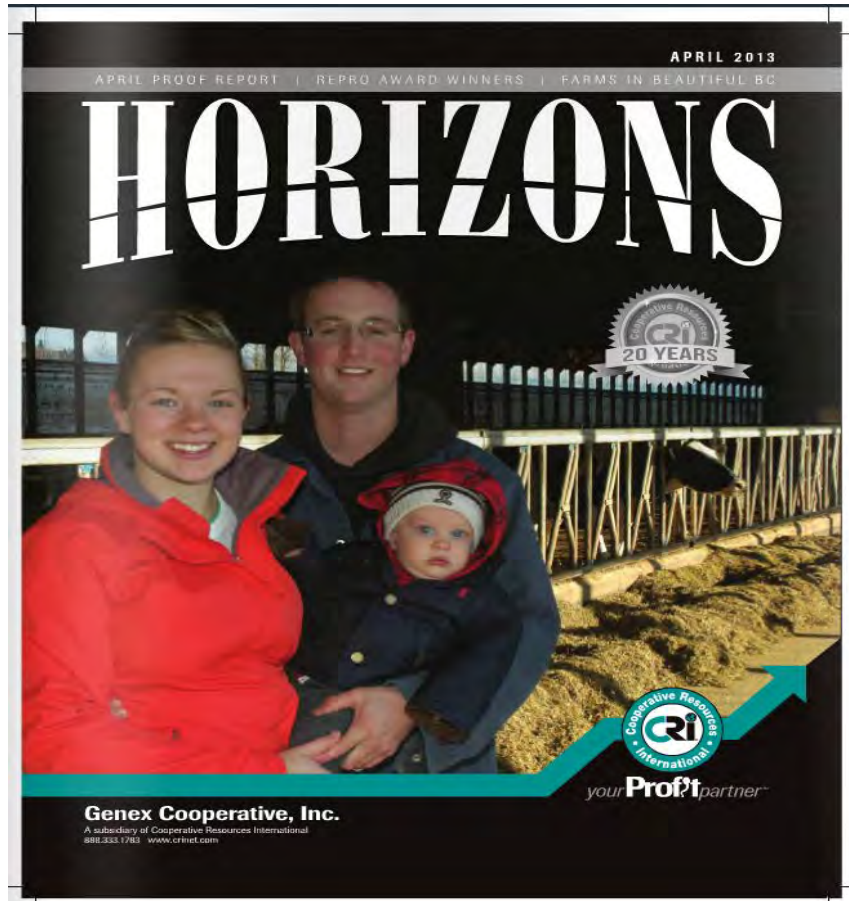
Phone: (614) 873-4683 • www.selectsires.com

Source: Holstein Association USA Genomic Young Sires Ranking by GTPI.
*GTPI is a service mark of Holstein Association USA.

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Attachment C

CRI/Genex cooperative Horizons magazine, April 2013, at 16. Article on page 16 contains chart comparing average fertility rating by AI firm (*i.e.*, stud), but does not name Genex's competitors.



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Fertility Focused From the Beginning

Genex has concentrated on sire fertility dating back to the beginning of artificial insemination (A.I.). In the 1950s, the cooperative tracked non-return data for technicians. In the 70s and 80s, the cooperative published non-return data for bulls. These efforts to provide producers with valuable profit-impacting fertility data were all prior to industry-wide recognition of the real fertility differences between bulls.

In 2003, industry-wide fertility data was released in the form of Estimated Relative Conception Rates (ERCR). Since 2009, the USDA has calculated Sire Conception Rate (SCR). Throughout this time, Genex remained dedicated to

top-notch fertility and has been the industry's fertility leader for more than a decade. Figure 1 data proves the Genex fertility advantage. This data and the cooperative's long-term commitment to fertility have earned Genex a global reputation as the number one source of high conception sires.

Another fertility system, still unique to Genex today is SynchronSmart™. First published in 2007, the Genex exclusive SynchronSmart evaluations provide producers with the knowledge of which bulls settle better when used in timed A.I. programs. It is no secret that with our history and data strength, Genex knows fertility matters.

Average Annual Sire Fertility* Rating by A.I. Stud											
	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	
Genex	1.3	1.0	1.0	0.9	0.9	1.5	2.0	1.9	1.5	1.5	
Stud A	0.5	0.1	0.2	0.0	0.1	1.0	1.2	1.1	0.9	1.2	
Stud B	0.1	-0.2	-0.1	0.0	0.3	1.2	2.2	N/A	N/A	N/A	
Stud C	0.0	-0.5	-0.4	-0.0	-0.0	-0.5	-0.4	0.2	0.4	0.2	
Stud D	0.5	-0.2	0.4	0.0	0.3	0.2	1.1	0.0	0.0	0.3	
Stud E	-0.4	0.2	0.0	0.7	0.0	1.1	1.5	0.7	0.0	0.0	

*2003 - 2006 data represents ERCR evaluations; 2009 to present represents SCR evaluations. Source: USDA-APHIS and DRMS-Fairfax, N.C. 2012 data based on April and August sire summaries. As of 2010, Stud B chose not to disclose SCR evaluations.

Figure 1. Average Annual Sire Fertility Rating by A.I. Stud

DECISION AND ORDER

The Federal Trade Commission, (“Commission”), having initiated an investigation of certain acts and practices of National Association of Animal Breeders, Inc. (“Respondent” or “NAAB”) and Respondent having been furnished thereafter with a copy of a draft of complaint that the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge Respondent with violations of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45; and

Respondent, its attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by Respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by Respondent that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission’s Rules; and

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The Commission having thereafter considered the matter and having determined that it had reason to believe that Respondent has violated the said Act, and that a complaint should issue stating its charges in that respect, and having accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, now in further conformity with the procedure described in § 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order (“Order”):

1. Respondent National Association of Animal Breeders, Inc., is a non-profit corporation organized, existing, and doing business under, and by virtue of, the laws of the State of Missouri, with its office and principal place of business located at 401 Bernadette Drive, Columbia, Missouri 65203.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondent, and the proceeding is in the public interest.

ORDER**I.**

IT IS HEREBY ORDERED that, as used in this Order, the following definitions shall apply:

- A. “Respondent” or “NAAB” means National Association of Animal Breeders, Inc., its directors, boards, officers, employees, agents, representatives, committees, foundations, divisions, successors, and assigns.
- B. “Antitrust Counsel” means a lawyer admitted to practice law in a Federal court or in the highest court of any State or Territory of the United States whose practice areas include antitrust law.

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- C. “Antitrust Laws” means the Federal Trade Commission Act, as amended, 15 U.S.C. § 41 *et seq.*, the Sherman Act, 15 U.S.C. § 1 *et seq.*, and the Clayton Act, 15 U.S.C. § 12 *et seq.*
- D. “Code of Ethics” means a statement setting forth the principles, values, standards, or rules of behavior that guide the conduct of an organization and its members.
- E. “FTC Settlement Statement” means the statement attached to this Order as Appendix A.
- F. “Member” means a member of NAAB, including any regular or associate member.
- G. “Organization Documents” means any document relating to the governance, management, or direction of the relevant organization, including, but not limited to, bylaws, rules, regulations, Codes of Ethics, policy statements, interpretations, commentaries, training materials, or guidelines.
- H. “Regulating” means (1) adopting, maintaining, recommending, or encouraging that Members follow any rule, regulation, interpretation, ethical ruling, policy, commentary, or guideline; (2) taking or threatening to take formal or informal disciplinary action; or (3) conducting formal or informal investigations or inquiries.

II.

IT IS FURTHER ORDERED that Respondent, directly or indirectly, or through any corporate or other device, in or in connection with Respondent’s activities as a professional association in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44, do forthwith cease and desist from Regulating, restricting, restraining, impeding, declaring unethical or unprofessional, interfering with or advising against the advertising, publishing, stating, or disseminating by any Member of the prices, terms, availability, characteristics, or conditions of sale of animal

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breeding services, including but not limited to, the adoption or maintenance of any principle, rule, guideline, or policy that restricts any Member from:

- A. Naming members or other competitors when making statements comparing the products and services of a Member with the products and services of any other Member or competitor, including restrictions against naming Members in printed material comparing the average performance of a Member's products and services with the average performance of any other Member's or competitor's products and services, or in any other context; and
- B. Publicizing or disclosing price information relating to the purchase or sale of animals, whether an animal was purchased or sold at private treaty, public auction, or in any other context.

Provided, however, that nothing in this Paragraph II. shall prohibit Respondent from adopting and enforcing reasonable principles, rules, guidelines, or policies governing the conduct of its Members with respect to representations that Respondent reasonably believes would be false or deceptive within the meaning of Section 5 of the Federal Trade Commission Act.

III.

IT IS FURTHER ORDERED that:

- A. No later than thirty (30) days from the date this Order is issued, Respondent shall:
 - 1. Post and maintain for five (5) years on the Code of Ethics page of NAAB's website, together with a link from Respondent's home or menu page that is entitled "Antitrust Compliance," the following items:
 - a. An announcement that states "NAAB agreed to change its Code of Ethics and will not adopt, encourage its members to follow, or enforce

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any Code of Ethics provision relating to the advertising, publishing, stating, or disseminating of information that does not comply with the FTC Consent Order;”

- b. The FTC Settlement Statement; and
 - c. A link to the Federal Trade Commission’s website that contains the press release issued by the Commission in this matter.
 2. Distribute electronically or by other means a copy of the FTC Settlement Statement to its board of directors, officers, employees, and Members.
- B. No later than sixty (60) days from the date this Order is issued Respondent shall:
 1. Remove from NAAB’s Organization Documents and NAAB’s website any statement that does not comply with Paragraph II. of this Order; and
 2. Publish on NAAB’s website any revisions of NAAB’s Organization Documents.
- C. For a period of five (5) years after this Order is issued, Respondent shall distribute electronically or by other means, a copy of the FTC Settlement Statement to each:
 1. New Member no later than thirty (30) days after the date of commencement of the membership; and
 2. Member who receives a membership renewal notice, at the time the Member receives such notice.
- D. For a period of five (5) years after this Order is issued, Respondent shall require that each Member delegate certify that he or she has received and read the FTC Settlement Statement as a condition to allowing the Member delegate to attend Respondent’s annual

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convention or any other Respondent event in which Member delegates participate.

- E. Respondent shall maintain and make available to Commission staff for inspection and copying upon reasonable notice records adequate to describe in detail any:
 - 1. Action against any Member taken in connection with the activities covered by Paragraph II. of this Order, including but not limited to enforcement, advisory opinions, advice or interpretations rendered; and
 - 2. Complaint received from any person relating to Respondent's compliance with this Order.

IV.

IT IS FURTHER ORDERED that Respondent shall design, maintain, and operate an antitrust compliance program to assure compliance with this Order and the Antitrust Laws:

- A. No later than thirty (30) days from the date this Order is issued, Respondent shall appoint Antitrust Counsel for the duration of this Order to supervise Respondent's antitrust compliance program.
- B. For a period of five (5) years from the date this Order is issued, Respondent shall:
 - 1. Provide in-person annual training to its board of directors, officers, and employees concerning Respondent's obligations under this Order and an overview of the Antitrust Laws as they apply to Respondent's activities, behavior, and conduct; and
 - 2. Conduct a presentation at NAAB's annual convention that summarizes Respondent's obligations under this Order and provides context-

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appropriate guidance on compliance with the Antitrust Laws.

- C. No later than sixty (60) days after the date this Order is issued, Respondent shall implement policies and procedures to:
1. Enable persons (including, but not limited to, its board of directors, officers, employees, Members, Member delegates, and agents) to ask questions about, and report violations of, this Order and the Antitrust Laws, confidentially and without fear of retaliation of any kind; and
 2. Discipline its board of directors, officers, employees, Members, and agents for failure to comply fully with this Order.

V.

IT IS FURTHER ORDERED that Respondent shall file a verified written report with the Commission setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with this Order:

- A. No later than ninety (90) days after the date this Order is issued; and
- B. No later than one (1) year after the date this Order is issued and annually thereafter for four (4) years on the anniversary of the date on which this Order is issued, and at such other times as the Commission staff may request.

VI.

IT IS FURTHER ORDERED that Respondent shall notify the Commission at least thirty (30) days prior to any proposed:

- A. Dissolution of Respondent;
- B. Acquisition, merger, or consolidation of Respondent;
or

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- C. Any other change in Respondent, including, but not limited to, assignment and the creation or dissolution of subsidiaries, if such change might affect compliance obligations arising out of this Order.

VII.

IT IS FURTHER ORDERED that, for the purpose of determining or securing compliance with this Order, and subject to any legally recognized privilege, and upon written request and upon five (5) days' notice to Respondent, Respondent shall, without restraint or interference, permit any duly authorized representative of the Commission:

- A. Access, during business office hours of the Respondent and in the presence of counsel, to all facilities, and access to inspect and copy all books, ledgers, accounts, correspondence, memoranda and all other records and documents in the possession, or under the control, of the Respondent related to compliance with this Order, which copying services shall be provided by the Respondent at its expense; and
- B. To interview officers, directors, or employees of the Respondent, who may have counsel present, regarding such matters.

VIII.

IT IS FURTHER ORDERED that this Order shall terminate on November 2, 2035.

By the Commission.

Decision and Order

APPENDIX A

(Letterhead of NAAB)

Dear Member:

As you may know, the Federal Trade Commission conducted an investigation concerning the provisions in NAAB's Code of Ethics ("Code of Ethics") that stated:

Member competitors will not be named in printed material comparing averages between members.

The purchase price of sires, purchased at private treaty, by NAAB members shall not be disclosed by the Buyer, and the Seller shall be requested not to quote the selling price.

Also, prices of bulls purchased at public auction by AI organizations shall not be quoted in their printed statements, advertising, and/or publicity material.

The Federal Trade Commission alleges that these provisions in the Code of Ethics violate the Federal Trade Commission Act because they unnecessarily restrict members of NAAB from competing for customers, thereby depriving customers of the benefits of competition among organizations engaged in the artificial insemination of dairy and beef cattle and other livestock.

To end the investigation expeditiously and to avoid disruption to its core functions, NAAB voluntarily agreed, without admitting any violation of the law, to the entry of a Consent Agreement and a Decision and Order by the Federal Trade Commission. As a result, NAAB is in the process of revising its Code of Ethics, and will implement an antitrust compliance program.

In general, the Federal Trade Commission has prohibited NAAB from maintaining bylaws, code of ethics, operational policies, or membership requirements that restricts members from advertising, publishing, publicizing, disclosing, stating, or disseminating the prices, terms, availability, characteristics, averages, or conditions of sale of animals or artificial insemination services.

Analysis to Aid Public Comment

Under the Decision and Order, NAAB may not restrict members from making statements comparing their products and services with the products and services of any other member. In particular, NAAB may not restrict members from naming members or other competitors when making statements comparing the products and services of a member with the products and services of any other member or competitor, whether the statements are made in printed material, whether the statements compare the average performance of a member's products and services with the average performance of any other member's products and services, or in any other context. NAAB also may not restrict members from publicizing or disclosing price information relating to the purchase or sale of animals, including restrictions on disclosing the purchase price, whether the animal was purchased or sold at private treaty, public auction, or in any other context.

The Decision and Order does not prohibit NAAB from adopting and enforcing Codes of Ethics or similar documents that govern the conduct of members with respect to representations that NAAB reasonably believes would be false or deceptive within the meaning of Section 5 of the Federal Trade Commission Act.

A copy of the Decision and Order is enclosed. It is also available on the Federal Trade Commission website at www.FTC.gov, and through the NAAB web site.

**ANALYSIS OF CONSENT ORDER TO AID PUBLIC
COMMENT**

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an Agreement Containing Consent Order ("Consent Agreement") from the National Association of Animal Breeders, Inc. (hereinafter "NAAB"). The Commission's complaint ("Complaint") alleges that NAAB, acting as a combination of its members and in agreement with at

Analysis to Aid Public Comment

least some of its members, restrained competition among its members and others in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45. NAAB restrained competition by adopting and maintaining provisions in its Code of Ethics that restrain its members from (1) naming competitors in printed materials that contain certain information about the competitors, and (2) disclosing or publicizing prices of bulls purchased or sold.

Under the terms of the proposed Consent Agreement, NAAB is required to cease and desist from restraining its members from (1) naming members or other competitors when making statements comparing the products and services of a member with the products and services of any other member or competitor, and (2) publicizing or disclosing price information relating to the purchase or sale of animals.

The Commission anticipates that the competitive issues described in the Complaint will be resolved by accepting the proposed order, subject to final approval, contained in the Consent Agreement. The proposed Consent Agreement has been placed on the public record for 30 days for receipt of comments from interested members of the public. Comments received during this period will become part of the public record. After 30 days, the Commission will review the Consent Agreement again and the comments received, and will decide whether it should withdraw from the Consent Agreement or make final the accompanying Decision and Order (“the Proposed Order”).

The purpose of this Analysis to Aid Public Comment is to invite and facilitate public comment. It is not intended to constitute an official interpretation of the proposed Consent Agreement and the accompanying Proposed Order or in any way to modify their terms.

The Consent Agreement is for settlement purposes only and does not constitute an admission by NAAB that the law has been violated as alleged in the Complaint or that the facts alleged in the Complaint, other than jurisdictional facts, are true.

Analysis to Aid Public Comment

I. The Complaint

The Complaint makes the following allegations.

A. The Respondent

NAAB is a non-profit corporation of animal breeders, with about twenty-four regular members, and about twenty-seven non-voting associate members. Many of NAAB's members are organizations in the business of collecting, processing, marketing and selling dairy and beef cattle semen for artificial insemination ("AI"). Members include small, family-owned breeding operations, cooperatives, and multinational corporations.

B. The Anticompetitive Conduct

NAAB maintains a Code of Ethics applicable to the commercial activities of its members. NAAB's bylaws require that members comply with the Code of Ethics. NAAB maintains the following provisions in its Code of Ethics:

- "Member competitors will not be named in printed material comparing averages between members."
- "The purchase price of sires, purchased at private treaty, by NAAB members shall not be disclosed by the Buyer, and the Seller shall be requested not to quote the selling price. Also, prices of bulls purchased at public auction by AI organizations shall not be quoted in their printed statements, advertising, and/or publicity material."

NAAB also established a process for receiving complaints about and resolving alleged violations of the Code of Ethics, including by allowing its members to resolve privately disputes arising out of the Code of Ethics, and also by establishing a mechanism by which NAAB may sanction violations of the Code of Ethics.

Analysis to Aid Public Comment

The Complaint alleges that NAAB has violated Section 5 of the Federal Trade Commission Act by adopting and maintaining provisions in its Code of Ethics that restrain its members from (1) making advertisements comparing AI organizations, and (2) disclosing truthful and non-deceptive information. The Complaint alleges that the purpose, effects, tendency, or capacity of the combination, agreement, acts and practices of NAAB has been and is to restrain competition unreasonably and to injure consumers by discouraging and restricting competition among AI organizations, and by depriving consumers and others of the benefits of free and open competition among AI organizations.

C. The Proposed Order

The Proposed Order has the following substantive provisions. Paragraph II requires NAAB to cease and desist from restraining its members from (1) naming members or other competitors when making statements comparing the products and services of a member with the products and services of any other member or competitor, and (2) publicizing or disclosing price information relating to the purchase or sale of animals. The Proposed Order does not prohibit NAAB from adopting and enforcing reasonable restraints with respect to representations that NAAB reasonably believes would be false or deceptive within the meaning of Section 5 of the Federal Trade Commission Act.

Paragraph III of the Proposed Order requires NAAB to remove from its website and organization documents any statement that does not comply with the Proposed Order, and to publish on the website any revision to the organization documents. NAAB must publish an announcement that it has changed its Code of Ethics, and a statement describing the Consent Agreement (“the Settlement Statement”). NAAB must distribute the Settlement Statement to NAAB’s board of directors, officers, employees, and members. Paragraph III also requires NAAB to provide all new members and all members who receive a membership renewal notice with a copy of the Settlement Statement.

Paragraph IV of the Proposed Order requires NAAB to design, maintain, and operate an antitrust compliance program. NAAB will have to appoint Antitrust Counsel for the duration of

Analysis to Aid Public Comment

the Proposed Order. For a period of five years, NAAB will have to provide in-person annual training to its board of directors, officers, and employees, and conduct a presentation at its annual convention that summarizes NAAB's obligations under the Proposed Order and provides context-appropriate guidance on compliance with the antitrust laws. NAAB must also implement policies and procedures to enable persons to ask questions about, and report violations of, the Proposed Order and the antitrust laws confidentially and without fear of retaliation, and to discipline its board of directors, officers, employees, members, and agents for failure to comply with the Proposed Order.

Paragraphs V-VII of the Proposed Order impose certain standard reporting and compliance requirements on NAAB.

The Proposed Order will expire in 20 years.

Complaint

IN THE MATTER OF

WRIGHT MEDICAL GROUP, INC.**AND****TORNIER N.V.**CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATION OF
SECTION 7 OF THE CLAYTON ACT AND SECTION 5 OF THE
FEDERAL TRADE COMMISSION ACT.*Docket C-4559; File No. 151 0018**Complaint, November 05, 2015 – Decision, November 05, 2015*

This consent order addresses the \$3.3 billion all-stock transaction between Wright and Tornier. The complaint alleges that the Proposed Merger would violate Section 7 of the Clayton Act, and Section 5 of the Federal Trade Commission Act by substantially lessening competition in the U.S. markets for total ankle replacements and total silastic toe joint replacements. Both Wright and Tornier are global device companies headquartered in the United States. They both respond directly to competition from each other with improved products, better service, and lower prices. By eliminating this direct and substantial head-to-head competition, the Proposed Merger likely would allow the combined firm to exercise market power unilaterally, resulting in less innovation and higher prices for consumers. The Order requires the parties to enter into a transitional services agreement with Integra to assist the company in establishing its manufacturing capabilities and securing all necessary FDA approvals. The Order also requires the parties to appoint Quantic Regulatory Services, LLC as interim monitor to ensure the parties comply with the obligations pursuant to the Consent Agreement and to keep the Commission informed about the status of the transfer of the assets and rights to Integra.

Participants

For the *Commission*: *Kenneth A. Libby* and *Aylin M. Skroejer*

For the *Respondents*: *Jeffrey B. Kom* and *Agathe Richard*, *Willkie Farr & Gallagher LLP*; *Jonathan S. Klarfeld* and *Christian Rowan*, *Ropes & Gray LLP*; *Jeremy Calsyn*, *Cleary Gottlieb Steen & Hamilton LLP*.

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 Wright Medical Group, Inc. (“Wright”),