

Respondents: Business or other for-profit.

Number of Respondents: 1,400 respondents; 1,400 responses.

Estimated Time Per Response: 2 hours x 2 filings per year.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Mandatory. Statutory authority for this collection of information is contained in 47 U.S.C. sections 151–154, 201, 202, 251–254, 256, 271 and 303(r).

Total Annual Burden: 5,600 hours.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information to the Commission. Any respondent who submits information to the Commission that they believe is confidential may request confidential treatment of such information under 47 CFR 0.459 of the Commission's rules.

Need and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) during this comment period in order to obtain the three year clearance from them. There is no change to the Commission's reporting and/third party disclosure requirements.

The Commission asked whether physical collocation in remote terminals presents technical or security concerns and, if so, whether these concerns warrant modification of its collocation rules. The Commission asked whether incumbent LECs should be required to provide requesting carriers with demographic and other information regarding particular remote terminals similar to the information available regarding incumbent LEC central offices. Requesting carriers use demographic and other information obtained from incumbent LECs to determine whether they wish to collocate at particular remote terminals.

This proposed collection in the Second Further Notice of Proposed Rulemaking (FCC 00-297) will be used by the Commission, the state commissions, and competitive carriers to facilitate the deployment of advanced services and other telecommunications services in implementation of section 251(c)(6) of the Communications Act of 1934, as amended.

Federal Communications Commission.

**Marlene H. Dortch,**

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2010-2363 Filed 2-3-10; 8:45 am]

BILLING CODE 6712-01-S

## FEDERAL TRADE COMMISSION

[File No. 091 0159]

### Danaher Corporation and MDS, Inc.; Analysis of Agreement Containing Consent Orders 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 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 March 1, 2010.

**ADDRESSES:** Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to "DanaherMDS, File No. 091 0159" to facilitate the organization of comments. Please note that your comment — including your name and your state — will be placed on the public record of this proceeding, including on the publicly accessible FTC website, at (<http://www.ftc.gov/os/publiccomments.shtm>).

Because comments will be made public, they should not include any sensitive personal information, such as an individual's Social Security Number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any "[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential . . .," as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c).<sup>1</sup>

<sup>1</sup> The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record.

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following weblink: (<https://public.commentworks.com/ftc/DanaherMDS>) and following the instructions on the web-based form. To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink: (<https://public.commentworks.com/ftc/DanaherMDS>). If this Notice appears at (<http://www.regulations.gov/search/index.jsp>), you may also file an electronic comment through that website. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC website at (<http://www.ftc.gov/>) to read the Notice and the news release describing it.

A comment filed in paper form should include the "DanaherMDS, File No. 091 0159" reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex D), 600 Pennsylvania Avenue, NW, Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

The Federal Trade Commission Act ("FTC Act") and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at (<http://www.ftc.gov/os/publiccomments.shtm>). As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at (<http://www.ftc.gov/ftc/privacy.shtm>).

The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. See FTC Rule 4.9(c), 16 CFR 4.9(c).

**FOR FURTHER INFORMATION CONTACT:**

Michael R. Moiseyev (202-326-3106) or Lynda Lao (202-326-3054), Bureau of Competition, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 the Commission 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 January 27, 2010), on the World Wide Web, at (<http://www.ftc.gov/os/actions.shtm>). A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, either in person or by calling (202) 326-2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before the date specified in the **DATES** section.

### **Analysis of Agreement Containing Consent Order to Aid Public Comment**

#### *I. Introduction*

The Federal Trade Commission (“Commission”) has accepted from Danaher Corporation (“Danaher”) and MDS, Inc. (“MDS”), subject to final approval, an Agreement Containing Consent Orders (“Consent Agreement”), which is designed to remedy the anticompetitive effects resulting from Danaher’s acquisition of the stock and assets of MDS Analytical Technologies (US) Inc. (“MDS Analytical Technologies”), a subsidiary of MDS.

Under the terms of the Consent Agreement, Danaher will divest the assets of MDS’s Arcturus business segment, which includes assets relating to the manufacture and sale of laser microdissection devices and associated reagent products, to Life Technologies Corp. (“Life Technologies”) within 10 days after the date the Decision and Order (“Order”) becomes final. The proposed Consent Agreement has been placed on the public record for 30 days to solicit comments from interested persons. Comments received during this

period will become part of the public record. After 30 days, the Commission will again review the proposed Consent Agreement and will decide whether it should withdraw from the proposed Consent Agreement, modify it, or make it final.

On September 2, 2009, Danaher entered into an agreement to acquire the stock and assets of MDS Analytical Technologies from MDS. The Commission’s complaint alleges the facts described below and 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 FTC Act, as amended, 15 U.S.C. 45, by lessening competition in the market for laser microdissection devices.

#### *II. The Parties*

Danaher, headquartered in Washington, DC, is a global supplier of professional, medical, industrial, commercial, and consumer products. Danaher’s Leica Microsystems (“Leica”) business operates within its Medical Technologies segment. Leica manufactures and sells laser microdissection devices.

Headquartered in Mississauga, Ontario, MDS is a life sciences company that operates three core businesses, MDS Analytical Technologies, MDS Nordin, and MDS Pharma Services. MDS’s Arcturus business, which assembles and sells laser microdissection devices and chemical reagents, is a part of MDS Analytical Technologies.

#### *III. Laser Microdissection Devices*

Laser microdissection devices are used to separate small groups of cells — or even a single cell — from larger tissue samples for specialized tests, such as DNA analysis, RNA analysis, or protein profiling. These devices are fully integrated machines that incorporate a laser, a computer, and a monitor with a microscope. Laser microdissection is a particularly useful technique in the fields of molecular pathology, cell biology, oncology, and forensic medicine where scientists and researchers must separate small cell samples from heterogeneous tissue in order to analyze disease progression and develop more targeted treatments. For these scientists and researchers, the evidence indicates that laser microdissection devices constitute a relevant market for antitrust inquiry. Although other techniques exist for separating cells or proteins, none are as precise or reliable as laser microdissection. Accordingly, if the price of laser microdissection devices

were to increase by five or ten percent, customers would not switch to any other technique or device.

The relevant geographic area in which to evaluate the market for laser microdissection devices is no larger than North America. Customers are unwilling to consider laser microdissection device suppliers that do not have a service and support infrastructure that can provide a timely response to a maintenance call. Additionally, customers in North America strongly prefer laser microdissection suppliers that have an established reputation among their colleagues in the United States and the rest of North America. Whether the geographic market is defined as North America or the United States, however, is unlikely to have any impact on the ultimate antitrust analysis because the same firms compete in each area.

With only four current competitors, the market for laser microdissection devices is highly concentrated. The proposed acquisition would combine Danaher’s Leica brand of laser microdissection devices with MDS’s Arcturus brand, leaving only three viable competitors. Laser microdissection devices are generally purchased through a competitive evaluation process. The four available products are highly differentiated, which leads to competition in a number of areas, including features, reliability, performance, price, and service. The elimination of the direct competition between the Leica and Arcturus devices could allow Danaher to exercise market power unilaterally by increasing prices or decreasing innovation or service, particularly to those customers who view Leica and Arcturus as their top two choices.

Neither new entry nor repositioning and expansion sufficient to deter or counteract the anticompetitive effects of the proposed acquisition in the laser microdissection market is likely to occur within two years. A *de novo* entrant to the laser microdissection market would face significant impediments to timely and sufficient entry. A firm would have to design, develop, and test a product with at least comparable functionality to the existing devices, which would also require navigating around the patents of the current competitors. Furthermore, a new entrant would have to establish a service and support infrastructure in North America. Perhaps most importantly, a new entrant would have to engage leading researchers and practitioners to develop a reputation for quality and reliability. For existing foreign firms that currently sell laser

microdissection devices outside of North America, cultivating the necessary reputation is a major barrier to competitively significant entry into the North American market. It can take several years to acquire a reputation on par with the current laser microdissection device brands in order to make a significant market impact. Accordingly, entry by a foreign firm is unlikely to make a significant market impact sufficient to counteract any anticompetitive effects from the proposed transaction within the next two years.

#### *IV. The Consent Agreement*

The proposed Consent Agreement eliminates the competitive concerns raised by Danaher's proposed acquisition of MDS Analytical Technologies by requiring the divestiture of MDS's assets relating to the manufacture and sale of laser microdissection devices. Danaher and MDS have agreed to sell the Arcturus assets, including the laser microdissection device business, as well as a related reagents business, to Life Technologies within 10 days after the date the Order becomes final.

Life Technologies possesses the knowledge, experience, and financial viability to successfully purchase and manage the divestiture assets and replace MDS as an effective competitor in the laser microdissection market. Headquartered in Carlsbad, California, Life Technologies is a life sciences company that manufactures and sells scientific research equipment that it distributes throughout the world. Life Technologies does not currently compete against Danaher and MDS in the sale of laser microdissection devices, but it does manufacture and sell reagents for downstream analysis using tissue samples obtained through laser microdissection. The Arcturus business would be a natural fit into Life Technologies's product portfolio, since both sets of products are marketed to the same customer base.

Pursuant to the Consent Agreement, Life Technologies would receive all the assets necessary to operate MDS's current laser microdissection business, including equipment used to assemble the Arcturus laser microdissection device, Arcturus software, and reagents that are sold as complementary downstream products to Arcturus customers. In addition to key Arcturus employees, who would be made available to Life Technologies, the Consent Agreement requires MDS to provide Life Technologies with access to certain other employees who may be needed to facilitate the transition of the

Arcturus laser microdissection assets. The Consent Agreement also requires MDS to transfer all the Arcturus intellectual property, including patent licenses for infrared laser microdissection device technology. Divestiture of all of the Arcturus laser microdissection assets will ensure that Life Technologies has a full line of high-quality laser microdissection devices, enabling it to compete immediately with the merged entity.

The Commission may appoint an interim monitor to oversee the divestiture of the Arcturus laser microdissection business at any time after the Consent Agreement has been signed. In order to ensure that the Commission remains informed about the status of the proposed divestitures, the proposed Consent Agreement requires the parties to file periodic reports with the Commission until the divestiture is accomplished. If the Commission determines that Danaher has not fully complied with its obligations under the Order within 10 days after the date the Order becomes final, the Commission may appoint a divestiture trustee to divest the Arcturus assets to a Commission-approved acquirer.

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

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 2010-2460 Filed 2-3-10; 7:15 am]

**BILLING CODE 6750-01-S**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Drug Abuse, Special Emphasis Panel; International Research Collaborations on HIV/AIDS and Drug Use.

*Date:* February 18, 2010.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Sofitel Washington DC, Lafayette Square, 806 15th Street, NW, Madeline Room, Washington, DC 20005.

*Contact Person:* Scott Chen, PhD, Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6101 Executive Boulevard, Room 220, MSC 8401, Bethesda, MD 20892, 301-443-9511, chensc@mail.nih.gov.

*Name of Committee:* National Institute on Drug Abuse, Special Emphasis Panel, Targeted Library Synthesis and Screening at Novel Targets for Potential Drug Addiction (R21/R33).

*Date:* February 25, 2010.

*Time:* 9 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

*Contact Person:* Minna Liang, PhD, Scientific Review Officer, Training and Special Projects Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, 6101 Executive Blvd., Room 220, MSC 8401, Bethesda, MD 20852, 301-435-1432, liangm@nida.nih.gov.

*Name of Committee:* National Institute on Drug Abuse, Special Emphasis Panel, Diversity-promoting Institutions' Drug Abuse Research Development Program.

*Date:* February 25, 2010.

*Time:* 10:30 a.m. to 1:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6101 Executive Boulevard, Rockville, MD 20852.

*Contact Person:* Nadine Rogers, PhD, Scientific Review Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892-8401, 301-402-2105, rogersn2@nida.nih.gov.

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel; Diversity-promoting Institutions' Drug Abuse Research Development Program B.

*Date:* February 25, 2010.

*Time:* 2 p.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6101 Executive Boulevard, Rockville, MD 20852.

*Contact Person:* Meenaxi Hiremath, PhD, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6101 Executive Blvd., Suite 220, MSC 8401, Bethesda, MD 20892, 301-402-7964, mh392@nih.gov.

*Name of Committee:* National Institute on Drug Abuse Initial Review Group; Training and Career Development Subcommittee.