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UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: **Edith Ramirez, Chairwoman**
Julie Brill
Maureen K. Ohlhausen
Joshua D. Wright

In the Matter of **Ardagh Group S.A, a public limited liability company,** **and** **Saint-Gobain Containers, Inc., a corporation,** **and** **Compagnie de Saint-Gobain, a corporation.**	**Docket No. 9356** **PROVISONALLY REDACTED PUBLIC VERSION**

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission (the "Commission"), having reason to believe that Respondent Ardagh Group S.A. ("Ardagh") and Respondent Compagnie de Saint-Gobain have executed an agreement and plan of merger in violation of Section 5 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 45, and which if consummated would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint pursuant to Section 11(b) of the Clayton Act, 15 U.S.C. § 21(b), and Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. § 45(b), stating its charges as follows:

I.

NATURE OF THE CASE

1. Each year, Americans use more than 18 billion glass beer and spirits containers. Three manufacturers produce the overwhelming majority of these glass containers: Ardagh, Saint-Gobain Containers, Inc. ("Saint-Gobain"), and Owens-Illinois, Inc. ("O-I"). Together, these "Three Majors" dominate the approximately $5 billion U.S. glass container industry.

2. Ardagh's proposed $1.7 billion acquisition of Saint-Gobain (the "Acquisition") would combine the second- and third-largest U.S. glass container manufacturers, resulting in an effective duopoly. Ardagh and O-I would control the lion's share of the markets for glass containers sold to beer and glass containers sold to spirits customers. The merging parties' own business documents suggest that the Acquisition would result in a duopoly controlling more than [redacted] of the sales of glass containers to beer customers ("Brewers") and spirits customers ("Distillers") in the United States. The market shares presented in these relevant markets easily exceed the market concentration levels presumed likely to result in anticompetitive effects under the Federal Trade Commission and U.S. Department of Justice Horizontal Merger Guidelines ("Merger Guidelines") and under the case law.

3. The Acquisition would substantially lessen competition by dramatically increasing the ease and likelihood of coordination between the only two remaining major glass container manufacturers and by eliminating head-to-head competition between Ardagh and Saint-Gobain that to date has helped lower prices for customers. The result will be higher prices, lower availability, and less innovation.

4. New entry into the relevant markets will not prevent the Acquisition's anticompetitive effects. Glass container plants are expensive to build, costing at least $150 million. Construction is also time-consuming and subject to significant regulatory hurdles. Expansion by fringe manufacturers is also difficult and unlikely because the remaining firms in the marketplace are substantially smaller than the major manufacturers, with no fringe firm operating more than one dedicated glass container plant. Finally, Respondents cannot show cognizable efficiencies that would outweigh the competitive harm that the Acquisition will cause.

II.

JURISDICTION

5. Respondents Ardagh, Compagnie de Saint-Gobain, and Saint-Gobain are, and at all relevant times have been, engaged in commerce or in activities affecting commerce, within the meaning of the Clayton Act. The Acquisition constitutes an acquisition under Section 7 of the Clayton Act.

III.

RESPONDENTS

6. Respondent Ardagh is a corporation existing and doing business under and by virtue of the laws of Luxembourg, with its office and principal place of business located at 56, rue Charles Martel, Luxembourg. Ardagh is a global leader in glass and metal packaging solutions with global sales of approximately $4.8 billion. Ardagh owns nine glass container plants located in seven U.S. states. In 2012, Ardagh achieved U.S. glass container sales of [redacted]. [redacted] of these sales were made to Brewers and [redacted] million were made to Distillers. Presently, Ardagh is the third-largest glass

container manufacturer in the United States overall, the third-largest glass container manufacturer for Brewers, and the second-largest for Distillers.

7. Respondent Compagnie de Saint-Gobain is a corporation existing and doing business under and by virtue of the laws of France, with its office and principal place of business located at "Les Miroirs," 18 avenue d'Alsace, Courbevoie, France. Compagnie de Saint-Gobain operates a number of industrial manufacturing businesses, including manufacturing glass containers. Its U.S. glass container business, Saint-Gobain, operates under the name "Verallia North America" or "VNA." Saint-Gobain operates 13 glass container plants in 11 U.S. states. In 2012, Saint-Gobain achieved U.S. sales of [redacted]. [redacted] of these sales were made to Brewers and [redacted] were made to Distillers. Presently, Saint-Gobain is the second-largest glass container manufacturer in the United States overall, the second-largest glass container manufacturer to Brewers, and the third-largest to Distillers.

IV.

THE ACQUISITION

8. Pursuant to a Share Purchase Agreement entered into between Ardagh and Compagnie de Saint-Gobain on January 17, 2013, Ardagh proposes to acquire all the voting securities of Saint-Gobain for approximately $1.7 billion.

V.

BACKGROUND

A.

Glass Containers

9. Glass container manufacturers produce beverage and food containers in a variety of shapes and sizes for beer, spirits, non-alcoholic beverages, ready-to-drink alcoholic beverages, and various food products. In 2011, sales to Brewers represented approximately 58% of U.S. glass container shipments and sales to Distillers represented approximately 4%.

10. Glass containers have certain attributes that are prized by Brewers and Distillers who package their products in glass. Among other features, glass:

- Protects beer and spirits by guarding against oxygen invasion for a longer shelf life;
- Maintains the true taste of the beer or spirits;
- Is chemically inert and does not leach chemicals into the beer and spirits;
- Is 100% recyclable;

- Promotes a premium or distinctive brand image; and

- Enables Brewers and Distillers to associate the quality appearance of the glass with their product identity.

11. Other categories of glass, such as flat window glass, table glass (*e.g.*, drinking glasses and kitchenware), and specialty pharmaceutical or industrial glass are manufactured differently than glass containers. Respondents do not make or sell these other types of glass.

B.

Market Structure

12. The approximately $5 billion glass container industry in the United States is dominated by the Three Majors: O-I, Saint-Gobain, and Ardagh. Presently, O-I is the largest U.S. producer of glass containers, operating 17 plants in the country, plus two in Canada. Saint-Gobain is the second-largest glass container producer with 13 plants, and Ardagh is the third-largest with 9 plants.

13. Ardagh entered the U.S. glass container industry in 2012 with two acquisitions. First, Ardagh bought Leone Industries, a small, single-plant glass container producer in Bridgeton, New Jersey. Shortly thereafter, it bought Anchor Glass Container Corporation ("Anchor"), the longstanding, third-largest glass container producer in the United States. Ardagh's proposed acquisition of Saint-Gobain would be its third glass container acquisition in the United States in less than two years, and, in its own words, will make Ardagh the largest glass producer in the country.

14. Beyond the Three Majors, there is a fringe of glass manufacturers each with only a single-plant dedicated to glass containers in the United States, including the independent glass-makers Arkansas Glass, Piramal, Anchor Hocking, Bennu Glass, and Gerresheimer Glass. Of these, only three make glass containers for Distillers and only two make any type of glass containers for Brewers. These sales are extremely limited.

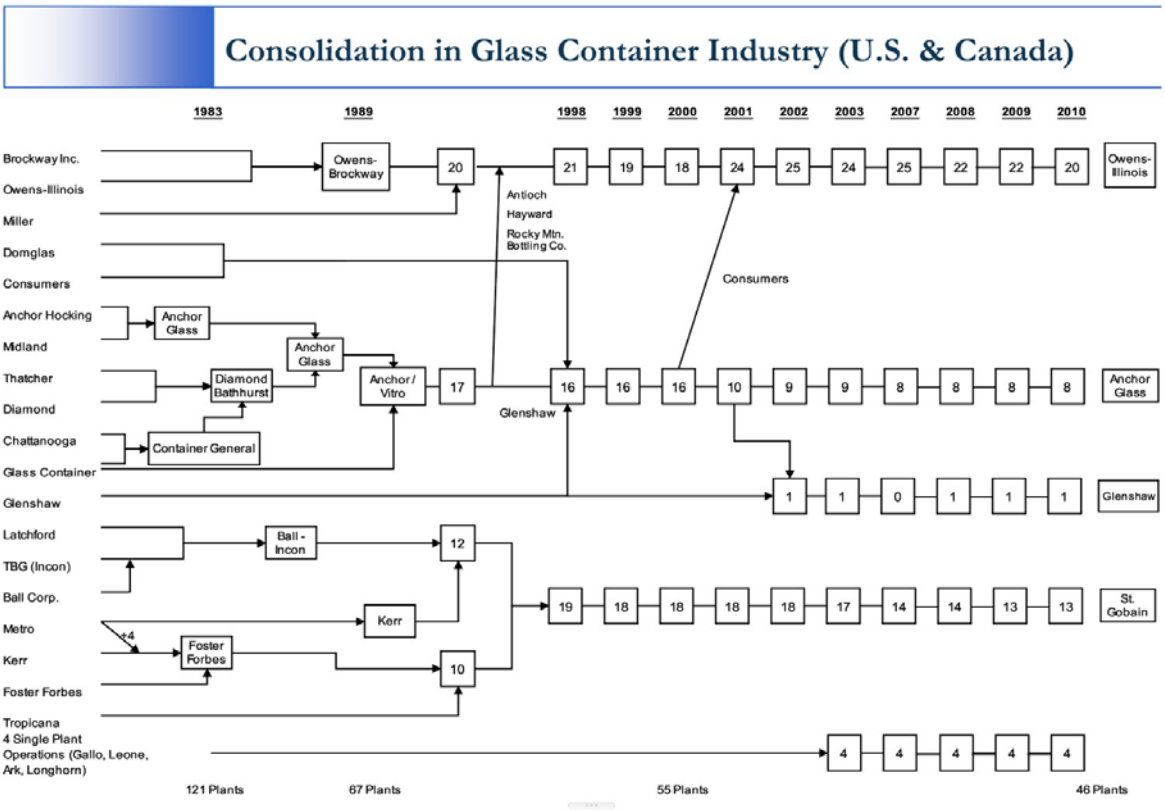
15. Three beverage companies, E. & J. Gallo Winery (through Gallo Glass Company), Anheuser-Busch InBev (through Longhorn Glass Corporation), and MillerCoors (through Rocky Mountain Bottle Company, a joint venture with O-I) operate single-plant glass container manufacturing facilities. Gallo manufactures mostly wine bottles and a small number of glass containers for its own spirits products. Brewers Anheuser-Busch InBev and MillerCoors do not have any external sales of the glass containers that they produce.

16. Two Mexican manufacturers, Vitro and Fevisa, currently export a small amount of glass containers to the United States. The U.S. fringe, self-suppliers, and Mexican firms have a limited impact on competition in the relevant markets, servicing limited regions and portions of demand from Brewers and Distillers.

VI.

INDUSTRY BACKGROUND: MARKET CONSOLIDATION

17. The U.S. glass container industry has changed dramatically over the past thirty years, as manufacturers have consolidated and shed excess capacity. In 1983, there were approximately 121 glass container plants run by 23 different manufacturers, 19 of which operated more than one plant in the United States. During the 1980s and 1990s, a series of mergers reduced the number of competitors. Today, there are only 47 glass container plants, and only the Three Majors operate more than one dedicated glass container plant.



[Note: Anchor Glass is now Ardagh and Glenshaw is now Kelman and is not currently operational].

18. In the years past, mainly before the mid-2000s, when there was excess capacity in the market, the Three Majors competed particularly vigorously against each other. To keep their plants fully loaded, the Three Majors prioritized glass container sales volume over prices. The Respondents refer to this period as one of [redacted] or [redacted] Their efforts to fill excess capacity and the resulting price competition led to lower margins for the Three Majors and lower prices for their customers.

19. Beginning in the mid-2000s, the Three Majors [redacted] The Three Majors began pursuing a "price over volume" strategy (also referred to as "value over volume" or "margin before volume"). The Three Majors recognized that this shared approach would help keep industry capacity in close balance with demand, help maintain pricing policies, and ensure more profitable returns. As a presentation to Ardagh's top executives explains, [redacted]

20. While rationalizing capacity and announcing a focus on profitability, the Three Majors began demanding cost pass-through provisions in their contracts and implementing surcharges to protect themselves from cost increases. Meanwhile, the Three Majors successfully shielded themselves from increases in raw materials, energy, labor, natural gas, and fuel costs, which were passed on to customers. At the same time, the Three Majors recognized the advantages of keeping industry supply tight, which maximized their own leverage with customers. To avoid excess capacity, they closed down glass container plants and idled furnaces. As demonstrated in this chart prepared in 2012 for Ardagh contemplating this very Acquisition, the combination of these two strategies led to higher margins for glass container manufacturers and higher prices for customers.

[redacted]

21. Despite the Three Majors' recognition of mutually beneficial behavior, glass container buyers continue to pit O-I, Saint-Gobain, and Ardagh against each other to obtain better prices. For example, in 2013, a Saint-Gobain distributor reported that it was a [redacted] when one of its major Brewers switched to Ardagh in response to a [redacted]% price increase, and warned Saint-Gobain to [redacted] Similarly, in August 2011, the CEO of Anchor (now President of Ardagh Glass North America) wrote that it [redacted] after one of Ardagh's liquor customers obtained a lower price quote from O-I.

VII.

THE RELEVANT PRODUCT MARKETS

22. The relevant product markets in which to analyze the Acquisition's effects are: (1) the manufacture and sale of glass containers to Brewers; and (2) the manufacture and sale of glass containers to Distillers. This is appropriate because, as described in the Merger Guidelines, prices are individually negotiated in this industry and customers cannot engage in arbitrage.

23. Together, beer and spirits are an important driver for U.S. glass container demand and represent more than 60% of the glass container usage in this country. Brewers purchase over $2 billion in glass containers annually to meet consumer demand for beer in glass bottles. Non-glass packaging materials, such as aluminum cans or plastic containers, are not in this relevant product market because not enough Brewers would switch to such products to make a small but significant and non-transitory increase in the price ("SSNIP") of glass containers to Brewers unprofitable for a hypothetical monopolist.

24. Brewers and Distillers do not view other packaging materials as interchangeable for glass containers because of commercial constraints, such as consumer preferences and brand identity. The existence of other packaging materials has not prevented the Three Majors from shifting cost increases to Brewers and Distillers and raising prices in recent years. Indeed, glass container prices have increased substantially more than plastic containers and aluminum cans.

25. Aluminum cans and plastic containers are already significantly less expensive than size-equivalent glass containers, yet Brewers continue to purchase glass containers. Many Brewers sell beer in both aluminum cans and glass bottles, and view these two forms of packaging as complementary to each other, not as substitutes. Despite the presence of aluminum cans, Respondents forecast demand for glass bottles for beer as stable for the two largest Brewers and growing for craft Brewers.

26. Distillers purchase more than $500 million in glass containers to package and promote their spirits products. Non-glass packaging materials, such as plastic containers, are not in this relevant product market because not enough spirits customers would switch to non-glass packaging materials to make a SSNIP in glass containers to spirits customers unprofitable for a hypothetical monopolist.

27. Distillers who package their products in glass containers rely on competition among glass container manufacturers, not plastic suppliers, to obtain favorable pricing. In instances where spirits manufacturers decide to package their products in plastic – mainly in the sub-premium brands, small container sizes, and bulk sizes – there is little that glass manufacturers can do to prevent these customers from switching to plastic containers. In other words, a customer's decision to convert spirits products from glass packaging to plastic packaging are not typically driven by price competition. Moreover, once a customer converts to plastic, they very rarely return to packaging in glass.

28. Head-to-head competition between glass containers and other types of packaging is rare. Brewers and Distillers compete glass container manufacturers against each other to obtain favorable pricing and commercial terms. While other packaging materials can functionally be used to package beer and spirits, these other packaging materials, primarily aluminum cans for beer and plastic for spirits, lack a close price relationship with glass containers. Quite simply, other types of packaging do not constrain Ardagh and Saint-Gobain to the same degree as glass container competition. Indeed, as Ardagh itself described in its bond offering memorandum raising money to acquire Anchor: "We are subject to intense competition from other glass container producers against whom we compete on the basis of price, quality, customer service, reliability of delivery and marketing." Ardagh distinguished this direct competition with its glass-making rivals by describing that it competes "indirectly" with other forms of rigid packaging, such as plastic and metal. The absence of plastic and metal competition is particularly acute in the relevant product markets.

29. The Respondents' own assessment of competition shows why products other than glass containers are not in the relevant markets. In their business documents, Saint-Gobain and Ardagh routinely identify each other and O-I as their most consistent and direct competitive constraints. Respondents' own documents focus on competition from each other and O-I when analyzing sales to Brewers and Distillers. Respondents identify their competition as the other glass container manufacturers and discuss business strategies for glass container sales. Ardagh and Saint-Gobain calculate their sales volumes and revenues relative to each other and O-I. For example, in a recent presentation to [redacted], Ardagh explained its "North American Glass Expansion" would make Ardagh the "#1 Player [with a] 49% Market Share."

VIII.

THE RELEVANT GEOGRAPHIC MARKET

30. The relevant geographic market in which to analyze the competitive effects of this Acquisition is no broader than the United States. All Three Majors have manufacturing plants throughout the United States that enable them to compete on a nationwide basis. There are limited imports of glass containers to the United States, because of high freight costs, logistical and supply chain risks, and customer perceptions of inferior quality. Imports are thus unlikely to defeat a small but significant and non-transitory increase in price by a hypothetical monopolist of glass containers manufactured and sold to Brewers and Distillers in the United States.

IX.

MARKET CONCENTRATION AND THE ACQUISITION'S PRESUMPTIVE ILLEGALITY

31. The glass container industry in the United States will be highly concentrated after the Acquisition. The Merger Guidelines measure concentration using the Herfindahl-Hirschman Index ("HHI"). Under that test, a merger is presumed likely to create or

enhance market power (and presumptively illegal) when the post-merger HHI exceeds 2,500 and the merger increases the HHI by more than 200 points. Here, both markets' post-merger HHI well exceeds 2,500, and the Acquisition increases concentration in the sale of glass containers sold to Brewers by 781 points, and 1,069.3 for the sale of glass containers to Distillers.

Glass Containers Sold to Brewers Market				
Company	Pre-Merger		Post-Merger	
	Share (%)	HHI	Share (%)	HHI
O-I				
Saint-Gobain				
Ardagh				
Rocky Mtn. Bottle				
Fevisa				
Longhorn				
Gerresheimer Glass				
Vitro				
Imports				
Total	Pre-Merger HHI = 2,884.8 Post-Merger HHI = 3,665.8 Increase = 781			

Glass Containers Sold to Distillers Market				
Company	Pre-Merger		Post-Merger	
	Share (%)	HHI	Share (%)	HHI
O-I				
Ardagh				
Saint-Gobain				
Vitro				
Anchor Hocking				
Gallo				
Piramal				
Gerresheimer Glass				
Imports				
Total	Pre-Merger HHI = 2,179.8 Post-Merger HHI = 3,249.1 Increase = 1,069.3			

X.

ANTICOMPETITIVE EFFECTS

A.

The Acquisition Will Likely Lead To Anticompetitive Coordination.

32. The glass container markets for beer and spirits have many features that increase the likelihood of post-Acquisition coordination, including low demand growth, tight capacity, stable market shares, and high barriers to entry. The Three Majors already obtain a wealth of information about the markets and each other, including plant-by-plant production capabilities, profitability, the identities of each other's customers, and details regarding each other's contracts and negotiations with customers. Customers, industry analysts, public statements, and distributors all serve as conduits for market information.

33. After the Acquisition, with only two major glass container manufacturers left, it will become substantially easier for the remaining two majors to coordinate with one another on price and non-price terms to achieve supracompetitive prices or other anticompetitive outcomes.

34. All Three Majors recognize their mutual interdependence and aligned incentives today. They have reduced capacity, either by closing plants or idling furnaces, to rationalize industry supply so as not to exceed customer demand. The Three Majors share an [redacted] and have embraced a "price over volume" or "margin over volume" strategy of cutting capacity, boosting price, and shifting input cost volatility to the customers. Indeed, Saint-Gobain repeatedly referred to its strategy of "margin over volume" as its [redacted] O-I is the only one of the Three Majors that is publicly traded and Ardagh and Saint-Gobain closely follow O-I's financial reports and public strategy statements.

35. Not only do the Three Majors pay close attention to each other's public statements but their executives often obtain non-public information through third parties. For example, in 2009, Anchor requested a call with a key industry analyst. After the call, in which Anchor's CEO, CFO, and a board member participated, the industry analyst wrote back, "I will let you know what I hear back from St. Gobain when I hear from them." Three days later, Anchor's CEO responded:

> We hope that our view confirms your thoughts regarding the industry leader's efforts on enhanced performance. We continue to desire to play the role as the rational #3 glass provider in NA, support customers where there is a strong geographic alignment logistically, and focus our assets to support improved value rather than just volume.
>
> We believe our curtailment efforts on capacity and balancing capacity/demand/ inventory are very consistent with what has been pursued by the leader as well.

The industry analyst later responded with information he had learned from discussions with O-I:

> I was chatting with OI recently and they are optimistic about the outlook for a recovery in glass volumes, but probably not until 2010 . . . In the US, they anticipate achieving some price success with their 2 big customers at the end of this year, but they seemed (in my opinion) to have backed off a bit of the bullishness they had a few quarters ago regarding timing and absolute level of increase. They do feel that supply/demand is being well managed in the US, but given the volume trends thus far in 2009 they seem a little concerned (in my view) on whether they will be able to get the big step up in price they (and investors) wanted . . . Reading between the lines a little, it seems to me they are a little concerned about losing some volume to competitors.

36. This merger to duopoly would greatly increase the likelihood and risk of coordination. For example, prior to quoting on craft Brewer business, Saint-Gobain advised its sales committee to [redacted]

B.

The Acquisition Will Eliminate Direct Competition Between Ardagh and Saint-Gobain.

37. The Acquisition would eliminate head-to-head competition between the second- and third-largest U.S. glass container manufacturers in the relevant product markets. Brewers and Distillers have reaped substantial benefits from Respondents' rivalry, which would be immediately extinguished by The Acquisition.

38. Direct competition between Ardagh and Saint-Gobain has led to lower prices for customers. For example, in 2012, Anchor lowered its prices to [redacted] in response to competition from Saint-Gobain. Another craft brewer, [redacted], was able to obtain more favorable pricing by competing Saint-Gobain and Anchor off each other. A spirits customer, [redacted], also used the threat of switching from Saint-Gobain to Anchor to get better prices on its glass bottles.

39. Respondents' ordinary-course business documents confirm that they understand competition from each other to constrain price increases. For example, in a 2011 email, the Vice President of Sales for Anchor wrote about price increases through its glass distributor for beer customers: [redacted] In a 2012 email, the other Vice President of Sales for Anchor wrote about Saint-Gobain's pricing at another beer customer: [redacted]

40. Ardagh and Saint-Gobain have also competed directly to offer customers more innovative products and better service. For example, in 2012, a customer invited Ardagh

and Saint-Gobain to submit prototypes for an innovative glass beer bottle. Both firms submitted proposals before Saint-Gobain won the business. At another Brewer, competition from Saint-Gobain prompted Ardagh to offer lighter weight glass bottles.

41. The Acquisition is also likely to lead to output reductions. [redacted] In an industry where capacity is tight, and utilization rates are nearly at maximum capacity, such plant closures or idling furnaces are likely to result in overall output reductions.

XI.

ENTRY BARRIERS

42. Effective entry or expansion into the relevant markets would neither be timely, likely, or sufficient to counteract the Acquisition's likely anticompetitive effects. The barriers facing potential entrants include the large capital investment necessary to build a glass plant, the need to obtain environmental permits, the high fixed costs of operating a glass plant, existing long-term contracts that foreclose much of the market, the need for specific manufacturing knowledge that is not easily transferred from other industries, and the molding technologies and extensive mold libraries already in place at existing manufacturers.

XII.

EFFICIENCIES

43. Extraordinarily great merger-specific efficiencies would be necessary to justify the Acquisition in light of its vast potential to harm competition. Nearly all of Ardagh's alleged efficiencies are either speculative, unverifiable, or not merger-specific. Respondents cannot show cognizable efficiencies that would outweigh the competitive harm that the Acquisition will cause.

VIOLATIONS

Count I: Illegal Agreement

44. The allegations contained in Paragraphs 1-43 are incorporated by reference as though fully set forth.

45. The agreement and plan of merger constitutes an unfair method of competition in violation of Section 5 of the FTC Act, as amended, 15 U.S.C. § 45.

Count II: Illegal Acquisition

46. The allegations contained in Paragraphs 1-43 are incorporated by reference as though fully set forth.

47. The Acquisition, if consummated, may substantially lessen competition in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and is an unfair method of competition in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45.

NOTICE

Notice is hereby given to the Respondents that the second day of December, 2013, at 10:00 a.m. is hereby fixed as the time, and the Federal Trade Commission offices at 600 Pennsylvania Avenue, N.W., Room 532, Washington, D.C. 20580, as the place when and where an evidentiary hearing will be had before an Administrative Law Judge of the Federal Trade Commission, on the charges set forth in this complaint, at which time and place you will have the right under the Federal Trade Commission Act and the Clayton Act to appear and show cause why an order should not be entered requiring you to cease and desist from the violations of law charged in the complaint.

You are notified that the opportunity is afforded you to file with the Commission an answer to this complaint on or before the fourteenth (14th) day after service of it upon you. An answer in which the allegations of the complaint are contested shall contain a concise statement of the facts constituting each ground of defense; and specific admission, denial, or explanation of each fact alleged in the complaint or, if you are without knowledge thereof, a statement to that effect. Allegations of the complaint not thus answered shall be deemed to have been admitted.

If you elect not to contest the allegations of fact set forth in the complaint, the answer shall consist of a statement that you admit all of the material facts to be true. Such an answer shall constitute a waiver of hearings as to the facts alleged in the complaint and, together with the complaint, will provide a record basis on which the Commission shall issue a final decision containing appropriate findings and conclusions and a final order disposing of the proceeding. In such answer, you may, however, reserve the right to submit proposed findings and conclusions under Rule 3.46 of the Commission's Rules of Practice for Adjudicative Proceedings.

Failure to file an answer within the time above provided shall be deemed to constitute a waiver of your right to appear and to contest the allegations of the complaint and shall authorize the Commission, without further notice to you, to find the facts to be as alleged in the complaint and to enter a final decision containing appropriate findings and conclusions, and a final order disposing of the proceeding.

The Administrative Law Judge shall hold a prehearing scheduling conference not later than ten (10) days after the Respondents file their answers. Unless otherwise directed by the Administrative Law Judge, the scheduling conference and further proceedings will take place at the Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Room 532, Washington, D.C. 20580. Rule 3.21(a) requires a meeting of the parties' counsel as early as practicable before the

pre-hearing scheduling conference (but in any event no later than five (5) days after the Respondents file their answers). Rule 3.31 (b) obligates counsel for each party, within five (5) days of receiving the Respondents' answers, to make certain initial disclosures without awaiting a discovery request.

NOTICE OF CONTEMPLATED RELIEF

Should the Commission conclude from the record developed in any adjudicative proceedings in this matter that the Acquisition challenged in this proceeding violates Section 7 of the Clayton Act, as amended, or Section 5 of the FTC Act, as amended, the Commission may order such relief against Respondents as is supported by the record and is necessary and appropriate, including, but not limited to:

1. If the Acquisition is consummated, divestiture or reconstitution of all associated and necessary assets, in a manner that restores two or more distinct and separate, viable and independent businesses in the relevant markets, with the ability to offer such products and services as Ardagh and Saint-Gobain were offering and planning to offer prior to the Acquisition.

2. A prohibition against any transaction between Ardagh and Saint-Gobain that combines their businesses in the relevant markets, except as may be approved by the Commission.

3. A requirement that, for a period of time, respondents provide prior notice to the Commission of acquisitions, mergers, consolidations, or any other combinations of their businesses in the relevant markets with any other company operating in the relevant markets.

4. A requirement to file periodic compliance reports with the Commission.

5. Any other relief appropriate to correct or remedy the anticompetitive effects of the transaction or restore Saint-Gobain as a viable, independent competitor in the relevant markets.

IN WITNESS WHEREOF, the Federal Trade Commission has caused this complaint to be signed by its Secretary and its official seal to be hereto affixed, at Washington, D.C., this twenty-eighth day of June, 2013.

By the Commission, Commissioner Wright dissenting.

Donald S. Clark
Secretary

SEAL