

Australian Competition & Consumer Commission
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Canberra ACT 2601

Via email: mergersru@acc.gov.au

5 June 2020

To Whom It May Concern

Submission re: Elanco's proposed s.87B undertaking - attention Elizabeth Elias/Rachel Goldfeld

WoolProducers Australia welcomes the opportunity to provide information for consideration by the ACCC in its assessment of competition concerns regarding the undertaking offered by Elanco pursuant to section 87B of the *Competition and Consumer Act 2010*.

WoolProducers Australia is the peak industry council for the wool industry. We write specifically regarding the undertaking requirement for Elanco to divest the Avenge+Fly sheep lice treatment brand, and provide this information following consultation with our Sheep Health and Welfare Committee, the membership of which is comprised of the industry's commercial, superfine and stud breeding sectors; and also our State Farm Organisation members.

Sheep flystrike is a significant health and welfare concern for the Australian wool industry. Millions of dollars of woolgrower levies combined with matched Australian Government contributions have been invested to research and develop husbandry procedures (other than mulesing) and products that prevent flystrike. It is important that a range of pharmaceutical products remain available to woolgrowers to manage the risk of flystrike and this requires having several insecticides available, formulated from different chemical groups, so that resistance to the active chemical constituents of these products is not developed by the sheep blowfly.

The New South Wales Government Department of Industry estimated that sheep lice cost farmers in New South Wales approximately \$123 million in treatment costs and lost revenue each year¹. Lice can severely irritate sheep, causing them to bite at their skin and rub against trees and fences. This damages their fleece, with lousy sheep cutting 10 per cent less wool than non-infested sheep¹. As such, it is important for sheep health and welfare, and farm profitability to ensure there is a sufficient range of lousicides available to manage this pest while preventing the development of resistance to active chemicals used in these products.

Feedback provided to WoolProducers Australia on the use of Avenge+Fly by woolgrowers has been divergent. Respondents from New South Wales, Victoria and Queensland indicated that Avenge+Fly is not a widely used product (inferring that it is not popular) and that use of other products for fly prevention and lice control is commonplace. Feedback was provided that Avenge+Fly is expensive, which may provide explanation for this low usage. One rural merchandiser in Victoria advised that they have not sold Avenge+Fly for two years and that Viper has become the more popular lousicide amongst their customers.

¹ NSW Government, 2010, *Primefact 483: Sheep Lice*, https://www.dpi.nsw.gov.au/_data/assets/pdf_file/0005/318704/Sheep-lice.pdf (accessed 4 June 2020).

However, one respondent from Queensland (who is employed by a rural merchandiser and also runs their own sheep flock) provided that Avenge+Fly is widely used and is a popular product. A woolgrower from South Australia gave feedback that Avenge+Fly is a popular product and this was supported by a staff member of the South Australian Government's Biosecurity SA, who responded that Avenge+Fly is the most widely-used off-shears lice treatment in South Australia and that there would be concern if the product was no longer available as a result of the divestment. A grower from Tasmania commented that they believed the product would be used by many farmers, and that if farmers were not currently using the product they may in the future when they learn of its efficacy. This farmer also said that they no longer use Avenge+Fly and instead use generic products as they are cheaper.

Possible reasons for the divergence of views regarding usage and popularity of Avenge+Fly are:

- Differences in production environments may see products work more efficiently for growers in some regions compared to others. These differences include environmental factors that may influence the populations and subsequent impediments of insects, such as sheep lice and flies, on sheep.
- Rural merchandisers are likely aware of product use in their region only. The rural merchandiser from Victoria who has not sold Avenge+Fly for two years may not be aware of the sales of the product in the region covered by the rural merchandiser in Queensland, or sales of the product across South Australia where feedback indicates Avenge+Fly is a popular product.
- Farmers often rely on their rural merchandiser for advice on which products to use. These merchandisers may be inclined to promote products based on their personal experience using the products. Alternatively, merchandisers may advise the use of products based on incentivised-sale schemes offered by wholesalers or the product company directly, and not on known efficacy of the product.

Avenge+Fly uses the active ingredient imidacloprid. No resistance has been recorded to imidacloprid-based lice control products in Australia². Of seven other chemical actives used in lice control products, only three others have not had resistance detected. As vertebrate resistance to chemicals is an ever-present risk (and anecdotally, increasing) for sheep health and welfare, it is important that a sufficient range of alternative products remain available for farmers to use in rotation as part of their lice prevention programmes. This requires having access to several lousicides formulated with different active constituents. Therefore, there is value in having Avenge+Fly remain available for purchase to reduce the risk of resistance, particularly given there is no recorded resistance to imidacloprid-based lice control products.

Concern was raised that Elanco are divesting Avenge+Fly but retaining Viper, which is the newer Bayer product that is believed by some respondents to be a more effective lousicide. Should the merged entity retain Viper and another product, Extinosad, they would own two effective lousicide products and it is thought that they might then hold a monopoly. Feedback indicated that generic products exist on the market, but some believe that generic products do not offer the combined fly protection and lice control that Avenge+Fly does.

Based on feedback received, WoolProducers Australia requests the ACCC ensures that Avenge+Fly remains on the market for Australian farmers for the following reasons:

- Avenge+Fly is currently used by many woolgrowers who believe the product is effective in preventing flystrike and controlling sheep lice.

² SheepCRC, 2020, *Pesticide Resistance*, <http://www.liceboss.com.au/sheep-goats/resistance/pesticide-resistance.php> (accessed 3 June 2020).

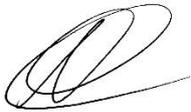
- Having Avenge+Fly available for purchase offers consumers a choice in fly prevention and lice control products, particularly when purchasing decisions may require rotation of active chemical constituents to prevent the development of chemical resistance among fly and sheep lice pests:
 - This will maintain adequate range of lice control and fly prevention products on the market, thereby maintaining fair competition between products and their respective companies.
 - This will provide an additional lousicide and fly prevention product that can be used to minimise the development of chemical resistance and provide a product option for chemical rotation programmes.

WoolProducers Australia requests that the ACCC provide guarantee that should Avenge+Fly be divested, the approved purchaser is able to continue to manufacture Avenge+Fly with its current chemical formulation so that its efficacy (as evidenced by the feedback) is maintained. This of course would be required until such time as potential resistance issues may require the chemical formulation to be altered.

We also request that the ACCC respond to the concern raised about the potential for a monopoly on effective lousicides being held by Elanco/Bayer in relation to the Viper and Extinosad products should Avenge+Fly be divested to an approved purchaser. We would appreciate clarification on whether this would create a competition issue.

Please do not hesitate to contact me if you wish to discuss our submission further on 0455 442 776 or via email (acooper@woolproducers.com.au).

Yours Sincerely,



Ashley Cooper
General Manager
WoolProducers Australia