In the Matter of:  
ALLURA RED COLORING FROM INDIA

Investigation No.:  
701-TA-433P and  
731-TA-1029P

Pages: 1 through 134
Place: Washington, D.C.
Date: March 25, 2003
THE UNITED STATES INTERNATIONAL TRADE COMMISSION

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ALLURA RED COLORING FROM INDIA ) Investigation No.:
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Tuesday,
March 25, 2003
Room No. 101
U.S. International
Trade Commission
500 E Street, S.W.
Washington, D.C.

The preliminary conference commenced, pursuant to
Notice, at 9:32 a.m., before the Commissioners of the United
States International Trade Commission, the Honorable ROBERT
CARPENTER, Director of Investigations, presiding.

APPEARANCES:

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Jim McClure, Supervisory Investigator
Woodley Timberlake, Investigator
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On behalf of Roha Dyechem Pvt. Ltd., Roha (USA),
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ROBERT M. SCHAEFER, Industry Consultant to Roha (USA)
SUDHIR TRIVEDI, President, Alps Colors LLC
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MR. CARPENTER: Good morning, and welcome to the United States International Trade Commission's conference in connection with the preliminary phase of countervailing duty investigation number 701-TA-433 and antidumping investigation number 731-TA-1029 concerning imports of Allura Red from India.

My name is Robert Carpenter. I'm the Commission's Director of Investigations, and I will preside at this conference. Among those present from the Commission's staff are: Jim McClure, the supervisory investigator; Woodley Timberlake, the investigator; Laurent deWinter, the attorney/advisor; Craig Thomsen, the economist, who should be here in a couple minutes; Justin Jee, the accountant; and Steve Wanser, the industry analyst.

The purpose of this conference is to allow you to present your views with respect to the subject matter of the investigation in order to assist the Commission in determining whether there is a reasonable indication that a U.S. Industry is materially injured or threatened with material injury by reason of imports of the subject merchandise.

Individuals speaking in support of and in opposition to the petition each have one hour to present
their views. Those in support of the petition will speak first. The staff will ask questions of each panel after their presentation, but no questions from opposing parties will be permitted. At the conclusion of the statements from both sides, each side will be given ten minutes to rebut opposing statements and make concluding remarks.

This conference is being transcribed, and the transcript will be placed in the public record of the investigations. Accordingly, speakers are reminded not to refer in their remarks to business proprietary information and to speak directly into the microphones. Copies of the transcript may be ordered by filling out a form which is available from the stenographer.

You may submit nonconfidential documents or exhibits during the course of your presentation. These will be accepted as conference exhibits and incorporated into the record as attachments to the transcript.

Speakers will not be sworn in. However, you are reminded of the applicability of 18 U.S.C. 1001 to false or misleading statements, and to the fact that the record of this proceeding may be subject to court review if there is an appeal. Finally, we ask that you state your name and affiliation for the record before beginning your presentation.

Are there any questions? If not, welcome Mr.
O'Brien, please proceed.

MR. KEVIN O'BRIEN: Thank you, Mr. Director, and good morning. My name is Kevin O'Brien. I am with the law firm of Baker & McKenzie, and we represent the petitioner in this proceeding, Sensient Technologies, Inc.

With me on my left is Mr. John Hammond, the general counsel of Sensient Technologies; on my right is Tom O'Brien, no relation, the president of Sensient Colors; on Tom's right is Mr. Gary Morris, the director of Marketing for Sensient Colors; on the far right is my colleague, Lisa Murray, from Baker & McKenzie; and then on the extreme right is Mr. Harry Meggos, the vice president of technical service at Sensient Colors, and I would like to note for the record, Mr. Meggos last name is spelled M-E-G-G-O-S.

We appreciate the Commission's investigation into this matter. It is a matter of extreme seriousness to the domestic industry producing Allura Red dye, or as it is more commonly known in its certified form, FD&C Red. No. 40.

I'll spend a few minutes this morning identifying features in the industry which we believe are pertinent to the Commission's preliminary determination. We will then hear from those in the industry regarding the product's characteristics, the conditions of the U.S. market, and the presence and likely affects of Indian exports.

Some cases that come before the Commission
with clear evidence of lost sales and lost revenues. Some cases come with evidence of declining prices and evidence of price suppression and depression, and still others come with declining profitability, under-utilized capacity and an inability on the part of the domestic industry to continue to invest in capital improvements, research and development, and new product introduction. This case has all of the above, and more.

There were two U.S. producers, Sensient, the major domestic producer of Allura Red, and Novian which also supports this investigation. There had been a third producer, Monarch Food Colors, however, Monarch left the business in early 2000. It's production equipment was purchased by Sensient, but due to deteriorating market conditions, this production capacity has not been brought on line.

The information supplied in the petition and in the U.S. producers' questionnaire responses demonstrate that matters cannot continue on their present course if the U.S. industry is to survive.

Yesterday, the Department of Commerce initiated this investigation. The dumping margin set forth in the Commerce Department fact sheet range from over 137 percent to over 226 percent. In addition, the Commerce Department initiated the countervailing duty investigation based on

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unfair subsidy programs.

The combination of extensive dumping and
subsidization permits the damaging activities of the Indian
suppliers to continue indefinitely until the domestic
industry is effectively destroyed.

As will be discussed this morning, the product at
issue is subject to Food and Drug Administration
certification before it can be sold in the United States.
As certified, the product is sold as FD&C Red 40, and once
it is certified, the products are fungible and
interchangeable as among suppliers.

That is, food manufacturers can move freely
between domestic and imported FD&C Red 40. One affect of
the interchangeability is that the Indian suppliers have the
ability to make price considerations dispositive in the
purchasing decision which they have done through their
destructive pricing practices. This is the context in which
the pricing information should be viewed in this case.

The information supplied in the petition and
questionnaire responses on the pricing practices of the
Indian suppliers shows repeated and consistent underselling,
and the underselling is large, so large, in fact, that it is
apparently intended to destroy the prior supplier's
relationship with that customer.

Please keep in mind that the only known source of

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Allura Red in the U.S. market are the U.S. producers and Indian suppliers. The U.S. domestic industry is fully capable of meeting demands. In fact, the domestic industry is characterized by substantial underutilized capacity. In view of this, it can be fairly stated that the havoc caused by the Indian exporters is directly and causally related to the U.S. industry's difficulties.

The progression of the Indian suppliers through the U.S. market will be discussed in the witnesses' testimony this morning. As the petition states, the respondents in this case are export oriented businesses. For example, Exhibits 15 and 33 included with the petition show that two of the major respondents, Roha and Neelikon, both export the vast majority of their production. They have made public claims of their ambitious intentions such as Roha's claim on its website, which is Exhibit 15 to the petition, that it is in the process of "becoming the number one synthetic food color manufacturer" and that it "operates the single largest food color plant in the world."

And the Indian suppliers can pursue these claims and ambitions relying on and supported by the extensive platform of subsidies provided by the Indian government that commerce has found to be countervailable in prior cases.

These Indian exporters supply some of the non-U.S. affiliates of the domestic industry's major customers.
Since they are already suppliers to third countries, the potential for product shifting is very real. For example, Roha's web site, included as Exhibit 15, boasts that Roha has a presence in more than 100 countries. Obviously given Roha's export orientation and global presence, there is a substantial potential for diversion of product to the U.S. market when the U.S. industry is destroyed.

The Indian exporters began their penetration at the distribution level and to small-volume end-users. The U.S. producers' questionnaire data speak clearly to the value and value affect on the U.S. industry in that segment which deals largely with large numbers of relatively low-volume sales.

These respondents have used their place in the distribution level and sales to low-volume customers to injure the U.S. industry across the entire customer base so that now at virtually every customer the question has become how much lower will the price be for the next sale. Roha has already taken major customers away from Sensient. As a further example, Exhibit 44 to the petition notes that Roha continues to attempt to take large Sensient customers which would devastate Sensient's business.

In this way, the injury caused by the Indian suppliers extends across the industry far beyond their
individual market shares, and this is at a time of sharp
cost increases putting even more pressure on profitability.

I want to now ask Tom O'Brien, the president of
Sensient Colors, and Gary Morris, the marketing director, to
describe the domestic industry and the competition in the
market in greater detail.

My colleague, Lisa Murray, will then address some
of the factors the Commission may seek to address as part of
its injury analysis.

MR. THOMAS O'BRIEN: Good morning. My name is Tom
O'Brien, and I've been in the color business for more than
14 years. I'm currently president of Sensient's color
group, a company I joined in early 2002.

I have witnessed first-hand the devastating affect
the Indians have had on the markets. It may help to provide
a little background on Sensient Technologies Corporation.
We are a $900 Million publicly-traded company that is split
into two divisions.

One division manufacturers flavors and fragrances
for the food and cosmetic industry. My division, the color
group, manufactures color for the food, pharmaceutical,
cosmetic, and specialty markets. Among the products made at
our largest site in St. Louis, Missouri, is Allura Red.

Sensient and its predecessor, Warner Jenkinson,
have a long and successful history as a U.S. manufacturer in
competitive industries. Warner Jenkinson began in 1905. This is the first time in our 98 year history that we have come to the U.S. government seeking relief from unfair import competition. We do this because of the dire conditions in the U.S. Allura Red market that have both seriously injured the U.S. producers and threaten the existence of the domestic production of the Allura Red product.

My statement today addresses various aspects of competition in the U.S. market for Allura Red. Let me first address the demand side. The vast majority of Allura Red is used in food, primarily soft drinks, dry mixes, baked goods, confections, dairy products, sausage casings, and pet foods. Food use represents roughly 90 percent of the total use of Allura Red. Less common uses of Allura Red are in pharmaceuticals and cosmetics. The demand for Allura Red, thus, closely tracks the domestic consumption of food product. Demand is not seasonal and is generally flat or with very slow growth.

The production capacity of Sensient, including the idled Monarch equipment, is sufficient to supply almost the entire U.S. market. With Novian, the other U.S. producer, the domestic industry's production capacity substantially exceeds U.S. demand. The presence of the Indian suppliers in the U.S.
market has done nothing to increase demand. To the
contrary, there are no suppliers of Allura Red to the U.S.
market other than the domestic industry and Indian
suppliers, and the sales obtained by these Indian suppliers
have been to purchasers that would have been supplied by
either Sensient or Novian.

In addition to doing nothing to expand demand, the
Indian suppliers have destroyed the supply side of the
industry. During the 1990s, Sensient was able to pass along
price increases to the market roughly every year, at least
at a level keeping pace with inflation and maintaining per-
unit profitability.

During this time, the Indian suppliers were not a
significant factor to the U.S. market. Roha was the first
of the Indian suppliers to enter the market in a significant
way during the late 1990s. Since that time, other Indian
suppliers such as Neelikon followed.

Also, since that time, every attempt by Sensient
to pass along price increase has been rejected by the market
due in a large part to the presence of Roha and other Indian
suppliers. As a result, there have been no price increases
since 1999.

To the contrary, prices have collapsed. At some
accounts, Sensient has had to reduce its price anywhere from
10 percent to over 30 percent. As just one example of many
at a long Sensient account in September of last year, Roha took the business with a price that was less than half the price of which Sensient had been supplying.

Our petition contains several other examples of the damage that has occurred by specific price competition from Roha to former and current Sensient customers. The damage goes far beyond the customers for which Sensient and the Indian suppliers have competed head-to-head. This is in a large part because of the structure of the U.S. customer base.

The U.S. market roughly divides into three tiers. Tier one consists of major end-users such as Kraft, Heinz, and others. Tier two includes resalers that are manufacturers of color products but purchase FD&C Red to round out their product line as well as many other private-label end-users. Tier three consists of distributors that resell to end-users as well as some small end-users themselves.

Roha and the other Indian suppliers began their entry into the U.S. market in the late 1990s with the tier three customers, that is at the distributor level and with the small-volume end-users.

Roha in particular used various methods to buy market share and penetrate this tier. Roha established a U.S. warehouse and subsidiary close to Sensient's plant in

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St. Louis and hired a former director at Warner Jenkinson to run Roha's U.S. business.

Roha subsequently hired a former Sensient manager in charge of technical applications and a former Sensient sales person specializing in tier three accounts. To this day, they continue to recruit our employees. In fact, they contacted Mr. Morris within the last three months as well as two other senior managers, one in sales and one in technical, to work at Roha USA.

So after hiring our employees that knew the tier three market in the United States, Roha set about competing for Sensient's distribution customer base with low prices in three ways.

First, Roha competes head-to-head with Sensient's distributors and Sensient for small-volume sales, uniformly undercutting Sensient's pricing.

Second, Roha has made concentrated efforts to lure away Sensient's own distributors by offering much lower pricing. This has been successful and extremely damaging to Sensient with a result that at the distributor level Roha has gained an entire geographic territory and countless customers served by that distributor.

In addition, Roha has set multiple distributors onto the same accounts that Sensient serves through a single distributor creating confusion and sharp price erosion in
the market.

For example, it is not uncommon for a Sensient distributor to compete with four or five distributors for an account with three or four of the competitors being different Roha distributors.

The result, of course, is that the Roha distributors compete against each other on price and drive the price down to unapproachable levels for Sensient's distributors to penetrate the tier one level.

Tier one represents Sensient's largest accounts and is critical to Sensient remaining a U.S. producer. Roha has visited virtually everyone of Sensient's major accounts offering to supply Red 40 product at lower prices.

In some instances, Roha has taken the business resulting in large lost sales. In other instances, however, Roha has inflicted damage through price suppression and depression.

It is important to note that these tier one customers enter into written contracts for a 12-month period that typically have meet-or-release clauses. In other words, Sensient is locked into a price that can't go up, but if Roha or other suppliers offer the product at a lower price, then Sensient must meet the lower price or sacrifice the business. So these contracts as a practical matter operate in one direction: the prices can go down but not
The sharp consistent price declines that have been forced on Sensient are the direct result of competition by Indian suppliers for these customers. Sensient is, of course, put in a untenable position of slashing prices to keep the business or giving up and let Roha take the account.

Thus far, Sensient has chosen in many cases to lower its prices, however, that cannot continue. In fact, I visited a major customer yesterday, one that is referenced in Exhibit 44 to the petition. That customer told me that Roha is "dying to get our business."

We know the price that Roha is quoting to that customer, and it is far below our current pricing. Losing that account by itself would inflict serious harm on our business. That account by itself would also substantially increase Roha's share of the U.S. market and undoubtedly lead to further price collapse.

The prices have now gotten so low that Sensient has abandoned its R&D efforts, canceled capital improvements other than maintenance, cut back its labor force and put on hold any start-up of its idled capacity and abandoned plans to introduce new products.

This situation cannot be maintained and will lead to the demise of Sensient as a domestic producer. This is

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particularly likely given that Roha and Neelikon are large
global producers that already supply some of Sensient's
major customers in other regions.

The sharply increased raw material costs are
accelerating the problems of price declines and further
eroding profitability. Raw material costs are the major
component of the total production costs of Allura Red, and
Sensient has been experiencing relatively low raw material

However, in December of 2002, the market price for
the major cost component in Allura Red jumped dramatically.
By itself, it increased the cost of production of the
finished good substantially.

Sensient would, under normal circumstances, seek
to recover the cost increase by a representative price
increase. In this market, however, the opposite has
occurred. Prices are plummeting daily.

The fungibility of Allura Red product results in
intense price competition. By regulation, the FDA certified
Red 40 products are interchangeable. They can exist side-
by-side in our users' inventory and can even been used in
the same production run. This fungibility lends itself to
severe price competition. This is one of the reasons that
some of our customers have required reverse internet
auctions.
In one recent situation, Sensient and two other suppliers, including at least one Indian supplier bid against each other over a period of 30 minutes for a contract that covered volume for 12 months. It was crystal clear that the low bidder would get the business.

Non-price factors, such as delivery, customer service, technical development, etcetera, were of no consequence. The low prices got the business, and it was that simple.

Purchasers can do this because they know the FDA certified products are interchangeable so the decision is based on the lowest price. I have some samples here to illustrate.

To illustrate the fungibility of these products, I brought along a few samples that you might like to pass around. In the United States, the only two red dyes that are approved for food use are FD&C Red 40, which is to your right, and FD&C Red 3.

Bottles 1 and 2 are samples of Sensient and Roha FD&C 40 at equivalent concentrations in solution, or 20 parts per million. The Red 40 is normally used in solution, and since they are both FDA certified, they are identical in every material aspect.

In contrast, bottles 3 and 4, these two, are samples of Sensient's and Roha's Red No. 3. As you would
expect, the Red 3 samples are identical from the user's standpoint to each other.

But I think you can see that the Red 3 samples differ sharply from the Red 40 samples. In short, the Sensient and Roha samples are essentially identical the end user, thus, the dominance of pricing as an overriding factor.

As a final point, you may wonder how the Indian suppliers can remain in business with sharply lower U.S. prices that are being offered. The subsidy program referred to earlier provides one explanation. The import productions present in the Indian market provide even further explanation.

If Sensient were to try and resell Allura Red in India, I have been advised that we would need to pay an import duty of 25 percent. We would then need to pay a further duty of 16 percent, plus a special duty of four percent. Out of this, the user can claim back 16 percent as a VAT set-off.

The importer would then need to pay certification fees, and pay lab fees, and then pay registration fees to the Indian government. The upshot is that with these high duties in place, the Indian suppliers can afford to remain in the U.S. market at extremely low prices and inflict great harm on the domestic industry.
In conclusion, I would like to highlight some of the points I just mentioned. That is, the Indian suppliers have done nothing to expand the market. The volume obtained by these suppliers has come directly at the expense of the domestic industry.

At the same time, the Indian suppliers have destroyed the profitability in the industry with their unfairly low pricing. The actions of the Indian suppliers extend far beyond their presence as measured in market share.

Sensient has been given the choice of either continually reducing their price to keep market share or maintaining the price and losing the sales.

The low prices offered by the Indian suppliers are known throughout the industry, and the prices offered by the Indian suppliers comes up in every significant price negotiation that Sensient engages in for Red 40.

As I mentioned, Roha's prices came up again yesterday with a description is "trying to get your business." So even when we keep the business, we have to lower prices.

Thus far, Sensient has tried its best to keep its customers through cost reductions of various types, deferral of needed capital improvements, and a reduced emphasis on product development. But there is no more Sensient can do.
Raw material prices have increased sharply. All development efforts have ceased. All other cost reductions have been exhausted and still profitability keeps eroding. Absent relief in this proceeding, Sensient will need to exit the business and cease its domestic production of Allura Red.

Thank you. I'll now turn the microphone over to Gary Morris.

MR. MORRIS: Good morning. My name is Gary Morris. I am the director of marketing for Sensient Colors, and I have been with Sensient for five and-a-half years. My testimony will address issues regarding the domestic production and technical characteristics of Allura Red.

As a preliminary matter, the U.S. industry consists of two producers, Sensient and Novian. There had traditionally been three U.S. producers of Allura Red, the third being Monarch Food Colors, also located in the St. Louis area in High Ridge, Missouri.

Monarch's principal product was Allura Red, and its production capacity for Allura Red was almost as large as Sensient's. Monarch had been producing Allura Red at its High Ridge location since at least the early 1990s and had a fine reputation in the food colors industry.

It historically had been a profitable supplier concentrating largely on the distributor level customer...
In the late 1990s, Roha and other Indian suppliers entered the U.S. market at the distributor level and began decimating the price structure. Monarch did not have the financial ability to withstand the attack by the Indian suppliers. Largely for this reason, Monarch decided to shut its doors in late 1999.

At that time, Monarch was producing an extruded form of the product that was attractive to Sensient because of its reduced dust characteristics. Sensient believed that the Monarch product could extend the Allura Red product line that Sensient already had on the market.

For this reason, Sensient in January of 2000 acquired the Monarch equipment and facilities with the intention of using that capacity to fill out its Allura Red product line.

Nothing of the kind happened. Shortly after acquiring the Monarch equipment, the market damage wrought by Roha and the other Indian suppliers became apparent to Sensient.

During 2000, we began seeing pricing on a regular basis that was far below anything that we had seen previously. As much as we had wanted to bring the additional capacity on stream, we saw that the market was changing dramatically, and the investment could not be
Since January of 2000, the reactors and other equipment acquired in the Monarch transaction have set empty and idle at our facility as the market continues to deteriorate from every aspect.

Indeed, the damage caused by the Indian suppliers has now spread to the tier one customers of Sensient. The damage caused by the Indian suppliers is the primary reason that those reactors, which ran at full capacity during the 1990s, stand dead empty with no plan to activate them under current market conditions.

Regarding the production process for Allura Red, Monarch and Sensient used the same processes with differences primarily in the drawing steps according to the desired form of the product.

Sensient believes that Novian and the principal Indian exporter use largely the same methods to produce the product. In each case, the basic compounds are produced using batch reactors. The product is then dried and packed for shipment according to the needs of the customers.

Sensient's production process for Allura Red begins with the formation of the diazo of CSA, using acid and sodium nitrite. The diazo of CSA is then reacted with schaefer salt to yield Allura Red.

The product is then filtered, and the insolubles
are removed. The clarified product is transferred to an ultrafiltration tank for removal of additional water, salt, and unreacted raw materials and intermediates.

In the case of powder, the principal form of finished product, the product is then transferred to spray drying tanks for conversion into a form suitable for shipment to customers.

All forms of Allura Red, whether powder, granule, or extruded, are chemically produced identically and differ only in the drying method. Different drying methods can be used, such as pan drying, spray drying, and fluid bed drying. In the extruded process, the powder is wetted and then forced through small holes forming strands of color dried on a fluid bed.

Until the presence of the Indian suppliers, Sensient was able to obtain a premium for its dust master form which is similar to an extrate in that it produces relatively little dust but also dissolves in solution relatively fast.

One of the affects of the Indian suppliers is that the price distinctions, based on the form of the product, have been essentially eliminated in the market. In fact, shortly after it entered the market, Roha introduced its own dust-free fast-dissolving product and then eliminated any premium for that form in its product line.
Now Roha and the other suppliers will undercut Sensient's price regardless of the form that is offered, and the customer will not allow any price premiums based on form.

This is one of the reasons that R&D and capital investment in new product lines for Allura Red have disappeared at Sensient. Researching and developing new forms of the product cannot be justified with the present market erosion. Unless current conditions change, innovation by the U.S. industry will stop completely.

Allura Red has an indefinite shelf life and can be stored in inventory for years. The product is intended to be dissolved for use so absorption of moisture presents no storage issue.

In fact, it can be shipped and stored as a solid or liquid depending on customer preference. Since demand tracks food production, there is very little seasonality to the product.

Two further issues that I would like to touch on are the FDA certification process and follow-up on the importance of raw material cost.

Regarding the FDA, the regulations require that every batch be individually certified before sale in the United States. Thus, the product can be entered into the United States and stored at a suppliers warehouse.
indefinitely, but before the product is sold, samples of the production batch for that product must be submitted to the FDA for lab testing and approval.

There is no market that I'm aware of for non-certifiable Allura Red. As a result, one of the top priorities for a supplier is to insure that the FDA regulations are satisfied.

At that point, as explained earlier, the products are fungible from supplier to supplier, and even though there are differences in form as between powder, or extrate, or granule, these differences are overwhelmed by the chemical similarities in FDA certified product, leaving price as the key sales driver.

With respect to the cost of raw materials, the primary ingredients are the schaefer salts and the CSA. Schaefer salts are oil-based derivatives, and their cost rises and falls consistent with oil pricing.

After receiving relatively low pricing for this component during 2001 and 2002, at the end of 2002, we were hit with a very substantial price increase. Due to rising naphthalene prices, we saw schaefer salt prices double in a week's time.

Our sources in the raw material market gave us clear indications that all consumers of schaefer salt were paying much higher prices. Most recently, the sharp rise in
the price of oil has caused further upward movement in the raw material market driving the cost of schaefer salt even higher.

Recently we have received indications that the pricing for CSA will be going up as well. Thus, giving the higher raw material costs and the high level of volatility in the oil prices, there is no question that our cost of production will be substantially higher in 2002 as compared with prior years.

Finally, I would like to provide additional comments regarding the overall affects of the sales efforts of the Indian suppliers on Sensient's business.

With respect to sales through distribution, Sensient and Novian both use a small number of distributors that carry their respective products. Sensient currently uses three distributors for Allura Red, each assigned to a geographical area and intended customer base. Novian uses even fewer distributors, I believe.

In each case, the use of a small number of distributors enabled each manufacturer to present a coordinated and consistent space in the market to a particular area.

In contrast, my distributors have informed me that Roha uses 20 or more distributors that compete against one another apparently without any regional boundaries. My
distributors have advised of instances in which numerous
Roha distributors compete against one another on price for
the same sale, driving the price down further and further
and eliminating the profitability for my distributors even
if they manage to maintain the business.

In addition, as mentioned, the regional
distributor is the face of the manufacturer to the end user
in this market segment. Many end-user customers do not know
Sensient, but they know our distributors with whom we have
worked for many years.

All the effort that Sensient expended developing
the region and supporting that distributor is destroyed,
however, when our distributors are lured away to the Indian
suppliers by offers of low pricing.

In a very real way, taking a distributor from
Sensient carries with it the fruits of years and years of
Sensient support and countless down-stream customers that
Sensient cannot replace.

In the same way, when the Indian suppliers take a
major customer from Sensient, it is important for the volume
loss, but it also allows Roha to visit the rest of our tier
one base claiming that if one major U.S. customer buys from
Roha at low prices then they all should.

This drives down prices across the customer base
without Roha having to take a single sale, casting a harmful

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shadow with much further than just the customer taken.

In conclusion, the destructive actions of Roha and
the other Indian suppliers pervades the U.S. market. My
firm belief is that Sensient cannot remain a domestic
producer of this product under the current market
conditions. Thank you.

MS. MURRAY: Good morning. I'm Lisa Murray of
Baker & McKenzie, also appearing on behalf of Sensient
Technologies. I'll briefly address the statutory elements
that the Commission will consider in its determination.

The situation that Sensient has described this
morning is the very definition of material injury as defined
by the statute. The volume of imports has increased
significantly from zero percent of the U.S. market
previously to now a pervasive presence present in all of the
customer accounts.

Indian imports have had a devastating impact on
price. There's been significant underselling. The Commerce
Department is initiating a dumping investigation based on
evidence of dumping margins of 137 to 226 percent.

As Sensient has described, this underselling has
caused significant price depression. It has also prevented
the domestic industry from introducing price increases that
could otherwise have occurred.

Finally, Indian imports have had a detrimental

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affect on the domestic industry resulting in declines in sales, market share, return on investment, capacity utilization, and profits. R&D has ceased. Not only is there no new investment, but Sensient has been unable to make use of previous investments. I refer you to the domestic producers' questionnaire responses for the full detail.

The domestic industry is also threatened with further injury in the foreseeable future as defined by the statute. The statutory factors to consider are, one, a significant rate of increase of volume or market penetration of imports; two, whether imports are entering at prices likely to have a significant depressing or suppressing affect; three, inventories of the subject merchandise; four, the potential for product shifting; five, actual and potential affects on existing development and production efforts; six, unused production capacity or substantial increase in production and capacity; and seven, any other demonstrable adverse trends. And as the Commission is aware, no one factor is determinative.

An additional factor to consider is that the imports in this investigation are the subject of several subsidy claims. The subsidies alleged are violations of Article 3 of the WTO subsidies agreement, a fact that the statute directs the Commission to particularly consider in

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its threat analysis.

These subsidy programs allow India's export penetration to continue and grow, particularly the Indian import tax deduction for export profits which the government of India acknowledged to the WTO prohibited subsidy yet has no plans to phase out.

Regarding the increase in volume and market penetration, the Commission should note the pervasive presence of Indian imports at the distributor level. The affects that the Indian exporters have had on distributor sales is apparent from the questionnaire responses.

Note further, however, that in the last year, the Indian suppliers have visited virtually every major account of the domestic industry. There can be no mistaking their intentions or motives.

The next factor, whether imports are entering at prices likely to have a significant depressing or suppressing affect has been well documented. The underselling is wide spread and large, sometimes as low as 50 percent or less of the prevailing price by the domestic suppliers.

Next, the Commission must consider current inventories of the subject merchandise. We note again that this product has a long shelf life and can be stored indefinitely.
We have evidence that at least some of the Indian suppliers have stored other colors in the U.S. for long periods of time, and there is no reason that Allura Red cannot also be similarly stored.

Regarding the potential for product shifting, the Indian suppliers themselves state that they are vigorous exporters to numerous countries. Roha's web site, Exhibit 15 of the Petition, notes that Roha has a presence in more than 100 countries.

There's every reason to believe that Roha could redirect these shipments to the United States as it captures market share through its unfairly low pricing.

The fifth factor relates to actual and potential affects on existing development and production efforts in the domestic industry. The evidence on this issue strongly supports the finding of material injury and threat of injury.

The Monarch purchase, followed by the idling of the Monarch equipment, is just one example. Other examples are set forth in the questionnaire responses. It is clear that the deteriorating market conditions have had a major impact on new-product development.

Next, the Commission must consider the exporter's unused production capacity or a substantial increase in production capacity. On this, the Commission should note
the stated ambitions of the Indian suppliers.

Roha's web site states that "we are in the process of being the number one synthetic food color manufacturer." Roha's web site also boasts that Roha has "the single largest food color plant in the world." And it is apparent from Exhibit 33 of the petition, Roha's exports represents a large and growing proportion of its sales.

Similarly, Neelikon states in petition Exhibit 13 that over 90 percent of its production is exported. The Indian producers' questionnaire responses contain the full details.

One additional factor that the Commission should consider is the nature of the sales that are being lost. The loss of certain customers taken by the Indian suppliers has had particularly injurious affects. For example, when a Sensient distributor is lost to an Indian supplier, a long-term relationship and investment is destroyed that cannot be replaced for years until a new relationship is formed with a new distributor.

Similarly, the Indian producers incursion into major traditionally held customer accounts has caused price reductions and other problems across the entire customer base.

We ask the Commission to recognize that the affect on the customer base as a whole far exceeds the already
substantial and material injury caused by the loss of the customer itself.

I'll now turn the floor over to Kevin O'Brien for a few closing remarks.

MR. KEVIN O'BRIEN: Thank you.

Mr. Director and members of the Commission staff, we believe the evidence of record as well as the testimony presented to day establish that for purposes of the Commission's preliminary determination there is a reasonable likelihood that the domestic industry is both materially injured and threatened with material injury.

We recognize that the Indian suppliers will have their turn to present their case. We hope that in presenting their case they will be able to address the following four areas: first, as you've heard, Sensient has a very small number of regional distributors in the U.S.

Which of Sensient's regional distributors have these Indian suppliers contacted for purposes of having them sell Allura Red product? What prices do they offer these distributors, and did they know that those prices offered to Sensient distributors were far below Sensient's prices to the distributors?

Which of Sensient's major customers such as Coke, Kraft, and Heinz -- prior to last year, Heinz -- have been contacted by these Indian suppliers? When were those
contacts made? What prices have been offered to those major
customers, and, of course, did the Indian suppliers know
full well that those prices were far below the prevailing
price to those customers?

Which of the Indian suppliers have competed in
internet reverse auctions? How many bids did they put in as
the auction price went lower, and lower, and lower?

And finally, what is the production capacity of
Roha's "largest food color plant in the world"? And what
are their long-term plans for the U.S. market, particularly
as Roha pursues its plans "of being the number one synthetic
food manufacturer"?

That concludes our presentation this morning, Mr.
Director. We would be happy to answer any questions.

MR. CARPENTER: Okay. I want to thank the panel
for your informed remarks, and we'll begin the questioning
with Mr. Timberlake.

MR. TIMBERLAKE: Good morning. Tim Timberlake.
Welcome.

Can I address the question of Monarch first? When
Sensient purchased Monarch, it purchased, as I understand
your testimony, the machinery and equipment used to produce
Allura Red.

Did it also purchase machinery and equipment
capable of producing other products that Monarch produced
prior to its going out of existence?

MR. MORRIS: Yes, we did purchase all of the equipment that was at Monarch. They did have other equipment which they could manufacture blends and some dispersion capability as well.

MR. TIMBERLAKE: Now, is that equipment also down as the Allura Red equipment is, or is that equipment in production?

MR. MORRIS: Yes, the majority of that equipment is now down as well and is being produced over at the St. Louis facility.

MR. TIMBERLAKE: Good. Thank you. Mr. O'Brien. Just so I can be clear about the transition of companies here, we've got a number of companies involved. We've got Sensient. We have Warner Jenkins. We have Monarch. We have Universal Foods.

Can you sort of tie these companies together for me --

MR. O'BRIEN: Absolutely.

MR. TIMBERLAKE: -- so that we have some historical basis for --

MR. O'BRIEN: The corporation was called Universal Foods. The name changed -- we changed our name in 2000 to Sensient Technologies, and the color group is made up of a large number of acquisitions. We made numerous acquisitions.
over the past 10 years.

And we've just changed our name to Sensient Color Group in 20003, January 2003, effectively. Prior to that we were known as Warner Jenkinson, so that name has just changed. So in effect, Warner Jenkinson and Sensient Color Group are one and the same, and the official name change occurred January of 2003.

MR. TIMBERLAKE: All right. Very good. Thank you. Now, one further question. I believe, Mr. O'Brien, you mentioned that there are no other world suppliers of Allura Red to the U.S. market.

MR. THOMAS O'BRIEN: Correct. None that we know of.

MR. TIMBERLAKE: Kevin O'Brien.

MR. KEVIN O'BRIEN: Thank you, yes, none that we are aware of.

MR. TIMBERLAKE: All right. Has this always been the case, or were there other suppliers that simply gave up on the domestic market?

MR. MEGGOS: Industry history --

MR. TIMBERLAKE: Other world suppliers, for example, Germany, Japan. I believe they at one time did export Allura Red to the U.S. but no longer do.

MR. MEGGOS I'm not aware of anyone else from Germany and/or Japan they had supplied. None that we're
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1 aware of in this country.
2 MR. TIMBERLAKE: Fine. Thank you. No other
3 questions.
4 MR. CARPENTER: Thank you. Mr. deWinter?
5 MR. deWinter: Good morning. Laurent deWinter
6 from the office of the General counsel. Welcome to the
7 Commission.
8 I have a couple questions regarding how prices are
9 set in this market if you could explain the process to me,
10 especially in regards to the tier one purchasers, just the
11 basics, sort of. Are these spot sales, annual sales, long-
12 term contracts? Do you sell through a distributor? Do you
13 sell directly to these companies?
14 MR. MORRIS: Typically, if we start with the tier
15 one customers which are the longest consumers of Allura Red
16 in the domestic industry, those customers will negotiate a
17 contract typically on a 12-month basis, but they can extend
18 those out to say a 2-year. It's very rare, but you can also
19 have a 3-year basis with those companies.
20 And typically you will negotiate, you know, based
21 on the volume of the Allura Red that they buy. When you get
22 beyond those top companies -- when you go into what we are
23 loosely terming tier two, those customers tend to operate
24 also on a 12-month basis on verbal contracts or blanket
25 purchase orders, but again, on a volume basis: this is how
much Allura Red I purchase, and you would quote on that volume.

When you step into tier three, which are the very small volume users, the majority of that business will run through our distribution channels, and so we set a price for our distributors, and then they in turn sell to the market at a price.

There are some customers in that area that we do serve directly ourselves, and they tend to pay the higher of the prices because their volume is very low. And with those customers, you typically do not operate on a contractual basis with them. Those would be considered more spot buy because they will change at any time.

MR. deWINTER: So do you work off a set price list every year that you work discounts off that set price depending on the volume purchased?

MR. THOMAS O'BRIEN: The pricing has been based on the historical levels, and they're negotiated from historical level with a Coke, for example, or with a Kraft. They know what they've paid for a long time, and they're trying to get better prices. We're trying to charge them more.

So it's really -- fundamentally it's been based on what they've historically been paid from the domestic industry, and that's where the negotiations start from.
Does that answer your question?

MR. deWINTER: Yes, somewhat. Let me ask you about qualification process. Is there a qualification process for the larger purchaser, meaning do you have to meet certain standards other than the FDA standards to sell to these larger purchasers?

MR. MORRIS: Typically with the larger purchasers, they have very specific defined specifications. The products must meet the FDA requirements, and then they will define if the product has to be powder form, granular form, or possibly an extruded form.

With many of the larger suppliers, we are not seeing a qualification period if they want to switch suppliers simply because if it meets the FDA specification, it will perform in their systems regardless of who the supplier is if they have the FDA certification batch number.

MR. deWINTER: Are there any exclusive arrangements with purchases, not just Sensient, but that you know of, either with the importers or the other domestic producer. Are there any exclusive supply arrangements with large purchasers?

MR. MORRIS: Contracts?

MR. deWINTER: Contracts, yes.

MR. MORRIS: Yes, there are, and typically, as we mentioned earlier, the U.S. business has evolved, though.
In just about all of these contracts, there does exist a meet-or-release clause which can be exercised if they are given a lower price on their products.

MR. KEVIN O'BRIEN: Pardon me. Just to make it clear, the meet-or-release clause means that if the customer gets a lower price then it's incumbent on Sensient to lower the price to meet the competitive offer or release the customer from the contract.

MR. deWINTER: On the product itself -- I don't know if you mentioned this earlier. I may have missed it, but are there other products on the market that are substitutes for Allura Red or is this the only thing that your customers can purchase to make the products they make?

MR. MEGGOS: In this country there's no substitute for the Red No. 40 or Allura Red. As Mr. O'Brien said, the only two synthetic reds permitted in this country is Allura Red and Red 3, and you can see the difference there.

There's no other color in this country.

MR. deWINTER: Okay. But customers wouldn't use one for the other interchangeable, the No. 3 and the No. 40?

MR. MEGGOS: No.

MR. deWINTER: All right. One last question. Does Sensient import Allura Red from any other countries?

MR. MORRIS: No, we do not.

MR. deWINTER: All right. Thank you very much.

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That's all my questions.

MR. CARPENTER: Mr. Thomsen?

MR. THOMSEN: Good morning. Just a couple of quick questions. You had noted just now that for the smaller tier three purchasers that you have that some of it you sell directly to them and some of them you sell through distributors.

In your questionnaire responses, we did try to look at these different tiers and sales that were under 500 pounds per year. I wanted to know whether that information included the sales through distributors or whether that is just your direct sales.

MR. MORRIS: The distributors, due to the volume that goes through our distributors, they would fall in one of the other tiers. They would not be in that particular tier.

MR. THOMSEN: Okay. Thank you. You had also noted in your responses just now that you've made numerous acquisitions over the past 10 years. Maybe for your post-conference brief or something, I'd kind of like a little history of how many, you know, what you've bought and if you could also in there say, you know, how big of producers they were, you know, kind of a snap shot of what the industry looked like while you were purchasing these companies.

MR. THOMAS O'BRIEN: Just to be clear, only two of
those manufactured synthetic dyes for food.

MR. THOMSEN: Okay.

MR. THOMAS O'BRIEN: And we've made lots of other acquisitions that are not necessarily related, but we'll give you a thorough accounting.

MR. THOMSEN: Okay. That would be great. I guess in the same vein, I'm also interested in knowing a little bit more about Novian. It seems that the domestic industry may be changing, so we really only ask for information that goes back to the year 2000, but also I would be interested in knowing -- again, and looking at how the industry has changed over the past few years, possibly how large Novian's share was in those prior years to 2000.

MR. THOMAS O'BRIEN: We will try to include that in our brief.

MR. THOMSEN: You produce a large range of food dyes, correct?

MR. MORRIS: Excuse me?

MR. THOMSEN: You produce a large range of food dyes, blue number one, etcetera. Is Allura Red the largest in volume or the largest that you produce?

MR. MORRIS: Yes. Allura Red is our largest food color that we produce.

MR. THOMSEN: Have you noticed competition on these other food colors from India, you know, be it blue No.
MR. MORRIS: Yes, we have.

MR. THOMSEN: You have. I'm just wondering why you filed a case on just the Allura Red rather than -- if you're noticing this competition coming from all dyes.

MR. KEVIN O'BRIEN: We filed on Allura Red because this is a separate and distinct industry that we're being harmed very badly in. It is certainly a matter of high concern to the company, the activities that are going on with respect to other colors.

MR. THOMSEN: When you make sales, do you make sales just on Allura Red, or do you make sales on, say, I'll give you Allura Red for "x" price per pound plus blue No. 1 for "x" price, or is it only on, you know, one specific type of food dye at a time?

MR. MORRIS: The typical transaction will be to make an offering on multiple colors that a customer is using, so you wouldn't necessarily just quote on Allura Red. You would quote on blue 1, yellow 5, yellow 6, and Allura Red.

MR. THOMSEN: Okay, so when the purchasers decide to go with our company, they decide on the entire package rather than picking and choosing, I'll take Allura Red from here, blue 1 from Novian, etcetera?

MR. MORRIS: That is typical, but they will
generally put pressure on you to make -- if your other
colors are out of range on competitive pricing, they can put
pressure on you to also bring those prices down in line so
that their entire package is, you know, the most
competitive.

MR. THOMSEN: So -- go ahead.

MR. MORRIS: But there are separate quotes for
each color. It is not one quote for everything.

MR. THOMAS O'BRIEN: Yes, and while it's not
unusual for a customer to ask us for pricing on a basket of
things, after we get a contract it's also not unusual for
them to come back and say your Allura Red price is too high.
So while we may sell a basket, they can pick and chose what
they want to negotiate mid year.

MR. THOMSEN: And is -- a lot of times we talk
about price leadership in here and talk about between
companies, but when you're dealing with a basket, sometimes
something is more important than another thing. Is Allura
Red then kind of the price leader in terms of the basket,
you know, kind of the deal breaker?

MR. MORRIS: Again, it is going to depend on the
customer, but for the most part on the tier one customers,
it is the driver. It is the most important one.

MR. THOMSEN: Okay. You also noted about there is
qualification -- or you didn't really notice a qualification

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process at these tier one customers. You've been doing business with these customers for quite a number of years, correct? Might the reason why you don't have to go through a qualification process is because you have been using these, you know, the same facilities, the same -- and you've built up a relationship with them.

I assume you've been -- since you have been with them for years that they kind of, you know, they know you guys probably on a first-name basis, and the thing I'm just wondering is was there an initial qualification period, you know, the first time you had to go through there, or was it just, you know, accept that you're certified, you know, so it's fine.

MR. MEGGOS If I can answer that since I've been with the company for 33 years, yes, there was an initial qualification for a lot of those companies, but you do not have to repeat that.

MR. THOMSEN: Okay. Also in your testimony you noted that there are -- you are selling to a lot of world-wide companies, be it Coca-Cola, Kraft Foods, whatever. I'm wondering, are there purchasing arms? Are they buying for a world-wide, you know, their world-wide production, or is the United States just buying for the United States, India buying for India, Europe buying for Europe. How integrated are these sales that you're making to these customers?
MR. THOMAS O'BRIEN: I mean, it's really a contrast. There's companies that want to negotiate on a -- in the U.S., for example, as Coca-Cola will want to negotiate what happens globally, but they have local purchasing arms around the world that make decisions locally as well, so they look at their business on a global basis, however, they have some flexibility locally.

MR. THOMSEN: Okay.

MR. THOMAS O'BRIEN: Does that make sense?

MR. TIMBERLAKE: Yes. That's helpful.

MS. MURRAY: You should also bear in mind that certification in one country does not mean that the product is certified in another, so each of these is a separate purchasing process to the extent that it needs to be recertified in each country.

MR. THOMSEN: Okay. That makes sense. Okay, I also wanted to ask you about, you recently have this newly produced dust master product that you had noted. I'm just wondering what type of R&D you could do, you know, to get a better product.

You had noted that you had stopped really doing a whole lot of R&D, and I'm wondering, you know, what you would want to do given that your testimony here today has basically been if it's FDA certified it's all the same.

MR. KEVIN O'BRIEN: If we could, I think we'd like
to address that in the confidential post-hearing brief.

    MR. THOMSEN: Please do so. That would be great.

And just as a last question, I wanted to know whether there
are any distributors that sell multiple producers product,
you know, some Novian and Sensient and Roha, Neelikon, or
whether they’re exclusive distributors.

    MR. MORRIS: I can speak to our distributors.

    MR. THOMSEN: Okay.

    MR. MORRIS: When we assign a distributor to our

company, and the distributors we have have been with our
company for well over ten years, we do assign the
distributors on an exclusive basis. That is, we expect them
to sell and represent our product and our company.

    MR. THOMSEN: Okay. Thank you very much. I have

no further questions.

    MR. CARPENTER: Mr. Jee?

    MR. JEE: I have no questions.

    MR. CARPENTER: Mr. Wanser?

    MR. WASNER: Yes. Just one question, sort of a

historical structure of your industry. Since the Tokyo
round, many other subsectors of the dye industry have
suffered reduced tariffs, the technology is disseminated
throughout the world, and they have felt competition from
throughout, not just one other country.

    Furthermore, domestically, a lot of the production
has gone to the big BASF or Byer or somebody like that.  
Now, I know I'm oversimplifying it, but looking at your  
sector, that doesn't seem to be the case.  

Do you think there are any technical barriers to  
trade or is the FDA set up some kind of a barrier to entry  
from foreign productions?  Somehow I would have expected to  
have seen, as what I've seen just looking at other  
subsectors of the industry, competition from all over the  
world without dumping.  

I mean, whether or not they adhered to  
environmental regulations as they are in the U.S.  That's  
another issue, but I would have expected to have seen more  
competition world-wide, more production from a BASF or a  
Byer or somebody because it looks like your market is pretty  
attractive.  I mean, who you sell to is some pretty big  
accounts.  That would attract more producers.  

MR. THOMAS O'BRIEN:  I'm not sure BASF has ever  
been in the food dye business.  

MR. WASNER: Well, I just look at them as a large  
company with a capacity to do something like that.  

MR. MEGGOS They are a large company, but they  
don't produce the food dyes.  If you compare with what BASF  
and some of the other countries do, it's a small industry.  
It's not that large.  By comparison, they make a lot of the  
technical dyes and nonfood-grade products but the volume is  

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MR. WASNER: So is it a fairly small subsector of the dye industry?

MR. MEGGOS: Yes.

MR. WASNER: Okay. All right. Thank you.

MR. CARPENTER: Mr. McClure?

MR. McClure: Jim McClure, Office of Investigations. I have no questions presently.

MR. CARPENTER: There are a few questions I'd like to ask. First of all, in the FDA certification process, how long a process is that? How long does it take to get FDA approval?

MR. MEGGOS: Typically when we send a sample to the FDA, we get a response within two weeks, sometimes less, sometimes more, but on an average two weeks.

MR. CARPENTER: Do you think that would be the same for foreign producers?

MR. MEGGOS: I would say it would be because they run the same tasks.

MR. CARPENTER: Do you typically only approach FDA for certification after you have an order for the product, or do you obtain certification for a particular lot and then hold it in inventory prior to sale?

MR. MEGGOS: We obtain certification for the products as we manufacture them, all the basic products.
MR. CARPENTER: Okay, thank you. Do other countries have similar requirements as we have in the United States for the FDA certification process, as far as you know?

MR. MEGGOS: As far as I know, not the same certification process. Other countries do have purity requirements or specifications that you have to meet and it becomes onus of the manufacturer to make sure that those are met.

MR. CARPENTER: You mentioned R&D and investment, that you've had to cut back on that recently. Is there anything that you can do to expand the market through product development and increase consumption of your product? Because, I believe you said in the petition that demand for the product closely tracks food consumption, and I was just wondering how much opportunity you have to expand the market or grow the market.

MR. MORRIS: The market demand for allura red is basically flat. It tracks with what happens in the food consumption sector of the United States. So, if food consumption in particular areas is growing, then allura red may grow a little bit. But, you know, it is a relatively flat, close track.

MR. CARPENTER: I thought I heard someone mention in their testimony that when the Indian product came in --
or that the Indian producers did nothing to grow the market in the United States. I was just wondering what you -- I can't remember who said that, but what was meant by that?

MR. THOMAS O'BRIEN: No, I mean, we spend time on other product areas trying to innovate and this is an area where we wouldn't even consider any kind of innovation to do anything new, because there's no value in it, there's no premium in it for us.

MR. KEVIN O'BRIEN: One other point that is, I think, notable, since the market is basically flat, any market share that goes to the Indian suppliers almost by definition comes from the domestic industry, which already is underutilizing its capacity.

MR. CARPENTER: Okay. That leads into another question, the whole question of capacity. I believe you said that Sensient alone can almost supply the entire U.S. market and when you add in Novian, the two can supply well over 100 percent of domestic consumption, and that's without any imports. And then you mentioned that you had acquired the capacity of Monarch Food Colors, which, I believe, you said was almost as large as Sensient's capacity.

Now, you made he earlier statement about Sensient being able to supply almost the entire U.S. market. Did that include the capacity of Monarch, which is not being used?
MR. KEVIN O'BRIEN: Yes, that includes the Monarch acquisition.

MR. CARPENTER: Okay. Notwithstanding that, the fact that Sensient and Novian can supply well over 100 percent of the market, can't an argument be made that there is an over capacity problem in the industry that could have some affect on driving down prices, in addition to the imported product?

MR. KEVIN O'BRIEN: Well, no, I don't believe that that is correct. Certainly, the company wants to move to the forms of the product that command the higher prices, if it can. There, at one point, was a delineation between pricing for different forms, before the Indian suppliers destroyed that delineation. There are, also, export markets that the company would be very, very anxious to pursue, if it could.

MR. CARPENTER: When you acquired the capacity of Monarch, was there some expectation that consumption would grow? Or what was the motivation behind acquiring that capacity?

MR. MORRIS: Monarch had a patented technology with their extruded form of Red 40. And we believed that we could command a further premium in the market, because of the performance of that product over our current dust master product, and that was our interest -- that was our focus,
and what we wanted to use the capacity of Monarch for was to grow that extruded business.

MR. CARPENTER: I see. Thank you. You mentioned meter release contracts and I got the impression that that's becoming more prevalent in the recent time periods. Can you give me an idea of when that practice started and approximately what percentage -- do you have any idea of what percentage of U.S. consumption would be subject to meter release contracts?

MR. KEVIN O'BRIEN: If I can just make sure -- clarify the question, in the sense that I think the contracts traditionally had meter release provisions, but the phenomena that's occurred is that they're being invoked with increasing frequency.

MR. CARPENTER: I see.

MR. KEVIN O'BRIEN: Maybe Mr. Morris can expand.

MR. MORRIS: No, that is correct. They've been a standard in most legal contracts; but, in our experience, just in the last couple of years, we've seen where these clauses are invoked on a very routine and regular basis. And there have been instances where they've been invoked more than one time in a 12-month period, because of lower price quotations.

MR. CARPENTER: Okay, thank you. You, also, mentioned a reverse Internet auctions. I was wondering, is
that a recent phenomena, or when did that start to occur and is it increasing?

MR. MORRIS: Our first experience with that was around May of 2000 and we have only participated in two such -- well, we've participated in two events with the same customer, once in May of 2000 and then once in July of 2002, and then only one other event with a separate customer, which was around November of 2002. It appears that that trend is an isolated trend and we're not seeing an increase in that at present.

MR. CARPENTER: Okay. Could you give an estimate, either now or in your post-conference brief, as to 2002, what percentage of U.S. consumption was -- or sales were awarded through Internet auctions?

MR. MORRIS: Yes. We'll address that in our brief.

MR. CARPENTER: Thank you. Does anyone else have any further questions? Mr. deWinter?

MR. DEWINTER: Regarding your production of allura red, can you produce other colors on the production line that produces allura red, or is that specifically devoted to allura red year round?

MR. MORRIS: It is devoted to allura red year round. So, we have dedicated equipment on the allura red side, until we get to the spray drying side. The spray
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dryer is a shared piece of equipment for multiple dies.

MR. DEWINTER: Okay, thank you.

MR. CARPENTER: That completes the staff questions. Than you, very much, for your presentations and for your -- I'm sorry, one more question. Mr. Thomsen?

MR. THOMSEN: Sorry about that. I, actually, wanted to ask one further question on what Mr. Carpenter brought up about the timing of the Monarch purchase. Did you ever produce anything on the Monarch equipment?

MR. KEVIN O'BRIEN: I think we would have to check and we can confirm that in the brief.

MR. THOMSEN: Okay.

MR. KEVIN O'BRIEN: I don't think we're aware of any right now.

MR. THOMSEN: I just wanted to know kind of the timing, whether, you know, you bought it and then while they were still producing, were they shut down first and then you bought their assets. I think that would be very helpful to know that.

MR. KEVIN O'BRIEN: We'll provide that.

MR. THOMSEN: Thank you.

MR. CARPENTER: Okay. Thank you, again, for your presentations, for coming here this morning, and thank you for your responses to our questions. Now, I'll just take a couple minutes break while the Respondents come up and
prepare. Thank you.

(Whereupon, a brief recess was taken.)

MR. CARPENTER: Welcome, Ms. Levinson. Please be seated.

MS. LEVINSON: Thank you, Mr. Carpenter and than you to all the members of the Commission staff for being here and listening to us. For the record, my name is Lisbeth Levinson and I'm with the law firm of Garvey, Schubert and Barer. I represent Roha Dyechem, Roha (USA), Neelikon, and Alps Colors. I'm going to make a few introductory remarks on behalf of the Indian respondents.

I think I can best summarize this case by saying that Petitioners have gone on a fishing expedition, but they've come up with no fish. They allege that injurious volumes of allura red are coming in from India. But what is the source of that data? They rely on volume and value import data for a tariff item that is a basket category that they, themselves, admit does not correlate specifically to import of the subject merchandise.

They, also, rely on volume and value export data from India for a tariff item that is, also, a basket category that does not correlate specifically to exports of the subject merchandise. In other words, Petitioners brought this case having no idea of what the actual volumes of allura red from India are and they are hoping against
hope that the questionnaire responses would substantiate significant volumes. They went fishing.

Well, unfortunately for them, the record that has been amassed before this Commission simply does not substantiate the allegations in the petition. The volumes of allura red being imported from India are minuscule, as compared to total U.S. consumption. The volumes of allura red have been so minuscule, in fact, that they cannot possibly be causing the injury that Petitioners allege, nor could they form a reasonable basis for supposing that any threat of injury exists.

There are only two exporters of allura red from India: Roha Dyechem and Neelikon. Both companies have submitted questionnaire responses to the Commission. The other companies named in the petition have submitted or will be submitting statements that they have never exported to the United States. Thus, we believe that the Commission will have the entire universe before it. From these questionnaire responses, it should be immediate apparent that the volumes of imports are simply not there to sustain either a preliminary injury or a threat determination, even at this preliminary stage.

Petitioners allege a number of loss sales. We urge the Commission to investigate these allegations carefully, as we know you're doing. Our own research shows
that the majority of loss sales are simply fictitious. In one particularly egregious case, Sensient lost its own customer, not because Roha approached the customer, but because the distributor had sold three years worth of supply to the customer at dramatically reduced prices. Ironically, the product was Sensient's own product, not Roha's.

With respect to threat, I note that the Petitioners claimed over and over again that because Roha exports to over 80 countries, somehow that means that Roha is likely to direct its supply to the United States in the future. Why would they do that? They have been well entrenched in their other markets. This is the last market -- or one of the last markets that they have entered and they're getting very good prices in their other markets.

There's no cause for them to direct supply from other countries, where they're getting good prices, to the United States, where prices, everybody agrees, are depressed. If they were going to do that, they would have done it. The small quantity that has come from India belies the assertion that Roha has any intention of flooding the United States market with supplies at the expense of its other markets.

There hasn't been a lot of discussion today about like products, but we'll just say that we think there's a very good argument that the industry this Commission should
be looking at is the food coloring industry, not just allura red. But since the data collected in this preliminary investigation is limited to allura red, we're willing to argue based on the facts of this case and leave arguments about expanding like product to any further investigation, if there is.

Our first witness, the gentleman to my right, Mr. Rohit Tibrewala, is a CEO of Roha (USA). We believe that Roha (USA)'s parent company, Roha Dyechem, is the largest exporter of allura red from India. Yet, even Roha's imports are minuscule in quantity, as compared to the total U.S. market.

Roha (USA) is a new outfit only created in 1999. The company did not even make its first sale of any commercial quantity until December 2000. Yet, the Petitioner claims over and over again that somehow they're responsible for serious price erosion in 1999 and that they're even responsible for driving U.S. producer Monarch out of business in 1999. They didn't even have a sale until December of 2000. So, you wonder how this can be.

Mr. Tibrewala will explain to you how ironic it is that Petitioners are accusing Roha of causing price declines. The irony comes in, because as Mr. Tibrewala will explain, Roha actually imported allura red beginning in December 1999; but, as I said before, it didn't make a
single sale until a full year later, in December 2000. Why
not? Because, Roha's price was too high to attract
customers.

So what happened for a year? What did they do
with the supply that they imported in 1999? The allura red
imported by Roha either sat in inventory for a year, while
they were waiting for prices to come up, or was exported to
Mexico, where Roha exported 25 percent of its imports from
India.

Following Mr. Tibrewala's remarks, Mr. Bob
Schaefer, to my right, was one of the founders of Roha (USA)
and a former employee of Sensient Technologies, will tell
you that price erosion in the United States began long
before Roha (USA) opened its doors and it is no way
attributable to Roha. He will describe, based on his many
years as an employee of Sensient, that competitive
conditions that existed in the late 1990s and how these
competitive conditions have resulted in any injury that
Petitioners claim they are suffering today.

Finally, at the far end, Mr. Sudhir Trivedi of
Alps Colors will talk about his supplier, Neelikon.
Neelikon is a very recent entrant into the U.S. market and
is still unsure whether they're committed to this market and
whether they are going to have any success in this market.

After the testimony, all witnesses and I will be
available for questions. And with that, I turn the floor
over to Mr. Rohit Tibrewala.

MR. TIBREWALA: Good morning, members of the
Commission staff, ladies, and gentlemen. My name is Rohit
Tibrewala. I am the CEO of Roha (USA). I appreciate this
opportunity to appear before you and tell you about my
company.

Roha (USA) was established in 1999. Our parent
company, Roha Dyechem, is a manufacturer of food coloring
with a worldwide distribution network. Today, Roha Dyechem
has a presence on every continent, except for Antarctica, to
serve its customers throughout the world. We have been
serving the Southeast Asian market since the mid-1980s;
European, South American, Australian, and Mexican market
since the early 1990s. We did not enter the U.S. market
until 2000, long after we have already well established in
other parts of the world.

We opened operations here in the United States,
because many of our already existing multinational customers
had headquarters in the United States and wished for us to
have a U.S. presence. Unfortunately, we have not been able
to sell any products to these customers, because the
domestic prices are lower than what Roha offers them. Our
company in the United States is one of the smallest of the
Roha family, as we just recently entered this market, and is
only very small quantities.

We first imported allura red from India in late 1999 in relatively small quantities. We did not make our first U.S. sale, however, which consisted of a mere 25 pounds, until May of 2000, over six months after the importation. We delayed in making the first sales for one reason: we were simply unwilling to lower our prices to the levels that U.S. customers were paying in 1999 and 2000.

We were well intent on not destroying the market. After all, bringing down the price would impact our profitability, as well as that of other suppliers. We preferred not to make the sale, than to lower our prices. As a result, almost the entire product that was imported in late 1999 and up until December of 2000 simply remained in our inventory.

In 2001, we exported a significant portion of our imports to Mexico, rather than sell at low prices in the United States.

The Petitioners have said that these products are interchangeable and since Roha has presence in the other countries, they can always move their product into the United States. I would want to put a point in front of the Commission, that though we can ship the product out of Europe to any other market, it is very difficult to import any product from the other markets into the U.S., because it
is highlighted that the U.S. market is regulated by FDA. So, any product that I get into the U.S. has to be FDA approved, of FDA standards, which the sample has to go into FDA for approval. That is not the case with other countries. So, it is easy to get the product out of the U.S. to other countries, but it is difficult to get the products from other countries into the U.S. And there cannot be a more compelling testament of our imports not to cause a decline in prices than that.

I was astounded to read that the Petitioners blame imports from India for the supposed demise of Monarch, which they acquired in January 27, 2000. Given that we had not even made a single sale by January 27, 2000, the time of the acquisition, the allegation that somehow we caused injury to Monarch is almost laughable.

The petition also claims that Sensient acquired Monarch, because Roha had driven them out of the business. Their own chairman, president, and CEO, Mr. Manning, contradicts this allegation in a news release, dated January 27, 2000, attached to the petition as Exhibit 20, wherein he stated, "this acquisition sits well with our color business in St. Louis and will provide a number of marketing and production synergies." He further says, "in addition, we gain access to Monarch's customers and products, including its proprietary line of water soluble food colors." Thus,
there were legitimate business reasons that drove the
Monarch acquisition that had nothing to do with Roha.

   Significantly, the news release does not make a
single reference of imports from India as a cause behind
Monarch's supposed demise. Petitioners are trying to
rewrite history before the Commission, and this has been
supported by Mr. Gary Morris, that acquisition of Monarch
was because they had a patented line of product.

   There is another astonishing fact about this
petition. Novian, which is another domestic manufacturer in
the U.S., has supported this petition. I would like to
inform the Commission that Roha (USA) has purchased 2,000
pounds of allura red from Novian in 2001 for five dollars
per pounds. This price is very below than the lowest price
that Roha has sold to any of its customers in 2001 and
significantly below our average selling price of allura red
in 2001 and 2002. We find it ironic that they are accusing
us of dumping, when, in fact, the domestic producer's prices
are lower than our lowest prices and they have been selling
at those prices.

   We have encountered low prices from both Sensient
and Novian over and over again. We have given the
Commission some details of these instances in our
questionnaire response.

   At this point, I would like to brief the
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Commission about the on-line bidding that has been going on in the industry. As it has been brought out by the Petitioners, the first on-line bidding that they participated was in May 2000. Roha did not participate in any on-line bidding until June of 2001. So the on-line bidding has been going on or the Internet sales of this product have been going on, even before Roha started the business in this country.

And the main reason of decline in the prices is not because of Roha's presence or Indian producer's presence in the U.S. It is because of the on-line or the Internet sale. And it is very difficult to establish, in these conditions, who is responsible for declining prices, because no one knows who is bidding. It may be that the two domestic producers are bidding against each other, assuming that the other party is Roha, and accusing Roha of dumping the product in the U.S.; whereas, we don't have any sales derived from those kind of bids. So, I don't know what the Petitioners are trying to prove over here.

There was another question raised by the staff of the Commission about the global contracts or these companies contracting just for the U.S. I would like to highlight the Commission that, generally, the companies, who have multiple locations worldwide, always want to go in for a worldwide contract. They never go in for a U.S. contract only. There
are only very few of them, who want to go in only for a U.S. contract and leave the other part of the world aside.

Roha has come across various instances where the companies have asked all the color manufacturers to pay for the entire global consumption of colors and we have been successful to get the business in other parts of the world. In fact, we are doing business with them in every other country, except for the U.S. We are not being able to get the U.S. business, because we are not being able to meet the prices here in the U.S. that are being offered by the domestic suppliers, and that is the reason they are not giving us any business.

Second, I would like to point out, at this point, is the qualification process. There was a very eligible question raised by the Commission, whether there is a qualification process for any new supplier to supply to these multinational countries or the TR-1 companies, as quoted in the petition. I would like to inform the Commission that even if I offered them the product free of cost, they are not going to buy from me, until and unless they complete their entire qualification process, which lasts for more than a quarter. It involves using my product in their end product, testing their shelf life, which may range from one month to over six months. And not only that, after that, they have to go on and audit my manufacturing
plant that is in India.

So, it is just not that my product has to be attractive in order for them to switch over to Roha as a supplier, there has to be other reasons why they are willing to evaluate Roha as a supplier. And we have the quality, we have the service, which are compelling them to evaluate Roha as a supplier, and we have still not finished that process with any of these customers. As a result, we are not selling to any of them. But, I would like to inform the Commission that we are selling products to all of these customers everywhere else in the world, except for the U.S.

Since 2000, we have continued to import very modest quantities of allura red. In fact, 2001, we imported much less than what we had in 2000. There has been no significant increase in volume of imports that we have brought in since 2001. And, in fact, there was a 50 percent decline in 2001 over 2000 figures. The maximum amount that we have imported in any year to date is reported in our questionnaire response.

To put our imports into perspective, please consider the FDA certified 4.25 million pounds of allura red each year for use in the United States. Out of our total imports, we have exported 25 percent of the product to Mexico, where we had established markets from earlier years. Therefore, to see how much we have sold in the U.S., the

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figures are in the questionnaire and I hope the Commission will consider those, to see if there is any, if at all, injury to the domestic manufacturers.

I can only surmise that this case is just one more attempt by Sensient to drive us out of the United States by subjecting us to unwarranted legal proceedings. To give a series of these attempts, Sensient approached Roha -- I don't remember the year exactly -- for a conference between the CEO of Roha and the CEO of Sensient, where they wanted to discuss some business opportunities. They wanted to meet with a big delegation of people, but Roha said, we are not interested in meeting with a big delegation; let us just meet the CEO to CEO, which was declined by Sensient. Thereafter -- or I would take my word back, it was not declined by them, but we did not hear anything back from them, after we offered -- or counter offered the proposal.

In 2001, they sent letters to our sales agents, who was not even Roha's employees, claiming that by dealing with Roha, she was violating a previous employee agreement with Sensient. They, then, sent us and all our sales agents and distributors letters threatening a patent infringement suit, which failed. And I would like to highlight over here that even if they suspected that Roha was infringing a patent, they should have just sent a letter to us and not to our agents and our customers saying that Roha is infringing
a patent, until it was established that we were infringing. And even that petition failed.

Now, they have brought this antidumping and countervailing duty proceeding, claiming that we have injured them, even though our market share is insignificant in this country. Therefore, I only summarize that this case is just one more attempt by Sensient to drive us out of the United States.

In conclusion, I would like to ensure the Commission staff that Roha has always acted responsibly and will continue to do so. We have no intentions of flooding the U.S. market with imports of allura red. If we had such an intention, we would have already done so. We had the material in stock to support us with that intention, if we had that intention.

The figures supported in the questionnaire response speak for themselves. We have imported our only minuscule quantities, because the United States is one of our smallest markets. We have commitments to long-standing customers in other markets, such as Southeast Asia and Europe, and we are not about to divert supply from these well-established markets to the United States market.

I would, also, like to point here that Mr. Morris mentioned that Roha has around 20 different distributors, who are selling and competing against each other, and Roha
has been taking all the Sensient distributors. And he, also, mentioned or someone from the Petitioner's side mentioned that Sensient only deals with three or four distributors, so they could synergize the market effectively. So, I don't understand how can we take 20 distributors out of the three that they had.

And, secondly, I don't know of the 20 distributors that we have, because we only have two distributors, who Roha is dealing with, and they have never sold Sensient colors or they have not -- as a matter of fact, they have never sold colors in the past. The color industry is new for them and those agents are new for us. So, we are appointing distributors, who have never sold colors in this industry before. We are not taking over any distributors. We are not firing any employees. We are not taking over any of their resources to assist us.

Thank you for this opportunity to appear and I will be happy to respond to any questions you might have.

MR. SCHAEFER: Good morning. My name is Robert Schaefer and I am the founder of Roha (USA), in partnership with Roha Dyechem of India. I have acted as the consultant to Roha (USA) since 2001. I find it particularly ironic that the Petitioners are accusing us of undercutting prices in the United States, because we have always pursued a very different strategy. As my colleague has just pointed out,
we were unable to make any sales during the first year of
our operation and we were unable to successfully quote
during that period.

Our sales agents complained that we were not
giving them realistic prices and eventually all but one of
them has left. I left the company in 2001, because the
competitive pressures that were exerted on us by the
domestic producers left me with no hope that we would ever
achieve any reasonable volume in the near future.

I am extremely well trained and extensively
trained in marketing and business management. In an
industry such as ours, where the technology is mature and
virtually the same for all competitors, as the Petitioner
has also alleged, the price aggressive strategy is absolute
suicide. I was driven personally and professionally to
avoid a price war in the entry to this market. That is not
my style and, I would like to highlight this, the Petitioner
is well aware of that fact.

I have read the petition in this investigation and
I must say that it contains several misleading and
inaccurate statements, which I would like to address. Some
inaccuracies are not important in the large scheme, but some
are extremely important. I will comment on the minor points
first.

The petition suggests that Roha lured me away from

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WJ, as part of some devious plan to usurp WJ's position in the marketplace. Nothing could be further from the truth. I left WJ in 1999 and I approached Roha about a position with them. They never approached me.

The petition, also, suggests that there is something sinister about the fact that I set up Roha (USA) in St. Louis. I set up the company there simply because I was there.

Now, onto the important points. One of the more striking inaccuracies contained in the petition is Sensient's statement that Monarch was driven out of business in large part by Indian imports. This, as we have reviewed, is a preposterous statement for several reasons.

First, at the time of the Monarch's proposed demise, there were not yet any imports at all of allura red from India into the United States.

Second, on or about June 6, 1999, representatives of Roha Dyechem met with John Mudd, the former CEO and owner of Monarch, and intended to discuss expanding the quantity of dyes that they were supply Monarch, in an attempt to assist Monarch in the development of the market to our mutual benefit, and not, in any way, to harm or thwart the growth of Monarch. We wanted to work with them, not undermine them.

I would, also, like to comment on the affidavit
dated February 24, 2003, submitted by Gary Morris, and attached to the petition as Exhibit 12. In paragraphs 32 through 54, Mr. Morris asserts that the price erosion experienced in the allura red market started in 1999 and was caused, in fact, by Roha. The reality is that price erosion begin in 1996 and 1997, long before Roha ever entered this market or even thought about it.

Prior to those years, there was a stable supply situation in the United States, with WJ and Novian supplying the entire U.S. market. In those days, our strategy was to let Novian sell out their capacity and then leave the rest of the marketplace to WJ. Under those competitive situations, WJ could virtually charge whatever it wanted of the product in the remaining market.

The atmosphere changed when Pointing Limited from the United Kingdom reentered the United States in approximately 1996. Now, instead of two suppliers, there was suddenly three, and WJ no longer had a strangle hold and lost the flexibility to dictate prices. To give you an example of the difference that Pointing made, prior to 1996, WJ was charging Kraft Foods, one of the largest U.S. consumers of allura red, $7.25 a pound and Coca Cola, $6.70. At that time, the price to Coca Cola was the lowest price that WJ had anywhere in the market.

After Pointing entered the market, those prices
begin to slide. A price war erupted between Novian and Pointing, with WJ struggling to keep up. By 1998, WJ was quoting prices of $5.90 and not getting the business. Now, remember, this was still several years before there was any significant import from India.

By 1999, as a result of its low pricing, Pointing was totally unprofitable. Sensient acquired Pointing in that year. After the acquisition, instead of raising the Pointing prices to the previously prevailing market levels that WJ had dictated, WJ lowered its own prices to the Pointing levels, particularly after accounts that they referred to as the tier one accounts, even though Roha was not yet a factor in the market. Novian, who had always priced its product at about 50 cents below WJ, was then forced to lower its prices even more, in what they felt was a required defensive move.

My point is that price erosion actually started years before Roha imported a single pound of allura red. While there were price increases announced prior to 1995 that went through, the prices started declining in 1996, in spite of the price increase announcements, but it had nothing to do with Roha. In fact, as Mr. Tibrewala has stated before me, when Roha did finally enter the market, it priced its product at or above the market price and, as a result, did not make any significant sales for a full year.

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until after its first imports entered the United States.

Turning away from the pricing issue, I would now like to discuss the Roha product and how its perceive in the marketplace. Petitioners wrongly claimed that they are the only ones that have devoted significant resources to research and development and improvement of the U.S. market, and that the Respondents are benefitting from their investments.

Quite to the contrary, Roha has invested a great deal of time and money into R&D and has developed a new and unique product, which is the subject of patent applications in both India and the United States. This product, known as Sphericlean, by trade name, has a smooth exterior profile and a spherical shape, to reduce the propensity of our competitor's products to regenerate dust, after it has been manufactured during shipping and handling.

Several of our customers have told us that they consider the Roha product to be superior and have awarded us the business on that basis, and that our competitor's products do not perform as well, and that they would buy Roha product even if it were priced higher, which it has been in several instances. These customers are expected to submit individual statements to the Commission.

I will conclude by detailing the many reasons why customers want to do business with Roha for reasons
unrelated to price. First, the global presence of Roha
gives them a viable alternative supply to the only other
game in town, which is Sensient Technologies. Customers
value having more than one source of supply simply for the
prudent fiscal management and secured market management of
their business. Throughout the years, Sensient Technologies
has sought to eliminate its competitors by acquiring all of
those competitors in the synthetic dye industry, save one,
to the detriment of the customers.

In 1988, Sensient bought H. Conestand, which was
not a producer of allura red; but, in this market, the
customers buy packages of products, which the Commission has
raised questions about. Then, in 1989, they bought Dyeco of
Canada, also purchased Clark Colors in Europe, and the
staining food color business from McCormick. In 1991, they
bought the Williams Color Business of Morton International.
In 1992, they acquired Butterfield Laboratories in the
United Kingdom. In 1997, they bought the regulated color
business of Peosa Mexico. In 1999, they bought Pointing of
the U.K. and thereby acquired a quarter interest in Monarch
Food Color, which they had to do something with, as they
settled that acquisition. You can understand that in this
environment, many customers are very keen to support
Sensient's competitors, simply for a matter of self
preservation.
There are other non-price reasons why customers purchase Roha product, as well. Customers appreciate the fact that we can offer the full range of product in the FDNC markets. We are the only other alternative to Warren Jenkinson worldwide that can make that claim. They purchase allura red from us, because they can also fulfill their other needs for lace and dyes and value-added products.

In addition, Roha and Sensient Technologies are the only remaining significant players in the worldwide industry and the world, frankly, is dependent on the sum capacity of the plant in Roha, India and the plant in St. Louis, Missouri.

Finally, our customers buy from Roha, because our product, which will soon be patented, has some superior characteristics, which some customers favor.

I would, also, like to address a few of the other points made in the Petitioner's testimony, simply to bring some clarity to a few points. They have cited cost increases as being a particular burden on their business and that is certainly true. We can sympathize with them, because just like they, we suffer those same cost increases. The sources of raw materials in the world are severely limited. They are commodity markets and anything that they see, we're going to see within a heartbeat.

They allege that idle production capacity in the
United States is sufficient to supply U.S. demand. That is true. They could idle production capacity here or certainly take care of the entire U.S. market, but that statement is somewhat misleading.

First of all, the capacity, as the Commission began to probe a few moments ago, can easily be converted to make other dyes in what they call the ESA class. They do have dedicated equipment, as all producers would, for making Red 40, because it minimizes your cleanup times and things like that. But, the equipment can be relatively easily converted to make other dyes, particularly sunset yellow and tarquizine.

That excess capacity that they speak of that is in St. Louis has always been there. The assertion was made that during the 1990s, some of that capacity was not there, that they were fully occupied. And during my tenure at WJ, which ran from 1993 to 1999, again, that capacity was never under full utilization during that entire period. That is pretty much true for anyone in that business, because you never obviously want to run capacities up to full utilization, because you can't take care of your customers, at that point, and, if you did, you'd expand.

Mr. Rohit Tibrewala made the point that distributors that we have are not encroaching on their distribution network at all. We were solicited by a few of
their distributors, when we entered the market, looking for business, but the prices that we encountered were such ridiculous prices, that we declined to do business with them and, to this day, have not done business with anyone of them, except save one, who solicited a very small, very rare order, when they could not get supply elsewhere.

On the fungibility issue, chemically, these products are the same. They are regulated by FDA. Chemically, there is no difference between them. If the difference could be detected, the batches would be rejected by the FDA and unfit for sale in the United States.

However, it is not to say that there is an easily replaced supply situation on the part of customers in the United States. Here, there are extensive approval processes that you must go through, certainly at the tier one customers, that take quite frequently months on end to complete, where the product must be evaluated to meet certain quality standards and quality systems within all of those companies.

In addition, there are some differences in the product forms, in the granular forms, the powders, the things that we talked about today in the Red 40. And as products are tested at these customers, they will want to run them through production -- well, first of all, trial scale and then production runs, to make sure that the
products do work. Typically, there are small production changes that have to be made based on the dissolution rates or the physical form of the product. It does cause some concern for them. So, it is not an exact place or time in the technology right now, where we could walk in with a product one day and offer a lower price and have the business the next day. That simply doesn't happen at the tier one customers ever.

-- stringent at the tier one, but I would also assert a different scenario than what the Petitioner has claimed, and that is that even the tier two customers do have a qualification process. They may not see it, because they are the infringed incumbent. They have not had to deal with those issues significantly for many years. But, as a new comer to the market, I can tell you that the tier two customers are quite careful about their change in supply, as well, and that does not happen over night.

Red 40, being a competitive market, as they've claimed, is certainly true, as it would be for any dye that's manufactured. It's a relative judgment, I guess. Some people would look at this market and say it's not very competitive, because the profit margins are still decent in this market compared to other commodities that you may encounter. They would be run out of this business where this hearing not to go in their favor is a gross

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exaggeration.

Large acquisitions and significant acquisitions over the years have expanded their capacity. They have been able virtually to do what they want in the marketplace and that never lasts in any market for very long, because competitive pressures being what they are and the United States being a free market certainly is going to discourage any such activity.

Sensient's capacity could be used for other things, as I said. They are flexible. They do have the best technology probably in the world, as far as separation technology, and other things that I am prevented by a secrecy agreement by divulging. But, I'm aware of their cost position, because I worked at the company. I was on the executive committee of that company and I am quite certain that no one in the world is going to drive them out of the market. The profit margins may be impacted, no doubt; but, certainly, no one is going to be able to drive them out of this market. That is a gross exaggeration.

I make no bones about the fact that we're here to compete. The business that isn't here to make money and try to find customers is either a charity or nonexistent. However, we are here exactly for that reason, to compete. The United States represents a significant market for Red 40. It's the only one that we don't have. We do compete.
with them in our home markets and are simply trying to look
for a fair opportunity to do the same thing here.

    New product development has always been slower in
a mature market like Red 40 that is heavily regulated by the
FDA, using old chemistry technology, and for the most part,
relatively simply batch chemistry. There isn't going to be
a lot of innovation in an industry like that. And the value
added products that form downstream, certainly there can be,
but to say that there isn't going to be a lot of innovation
because we're impacting the profitability simply is an
exaggeration. I applaud an encourage the Commission's
questioning with Sensient to dig into what they would do
with Red 40, to make the significant expansion to the Red 40
market in the United States.

    For clarity, Mr. Wanser's question before about
competitors in the world and why does it not develop -- why
we haven't seen more competitors developing, by world
standards and modern industry, this is a small industry.
Worldwide, we're talking $350 to $400 million total, not for
allura red, for the total FDNC food color market. For a
company like BASF, ICI, several Japanese competitors, other
chemical producers in the world that could easily duplicate
this technology or were in this market and left, which is
the case with BASF, there simply isn't the justification
from their capital and their returns in that industry. For
someone to come into an industry, like BASF, and to focus energy on something that might make them $25 to $50 to $75 million a year simply isn't going to fly past the boards that make the decisions about investing in future development.

So, there are other competitors around. There are other people with that technology. But, the industry size simply doesn't warrant expanding the number of competitors that are already here, particularly when they have the capabilities of a Roha and Warner Jenkinson and Sensient Technologies. The rest of the world knows that the two of us have the capability, have the technology, have the people in place, to take care of the industry as it currently exists.

The Petitioners assert that the premium for Dustmaster, their premium product in the area of dust prevention, was eroded by Roha. In 1989, when that product was introduced to the market by WJ, they attempted to get a premium for that product and virtually abandoned the efforts to do that in the marketplace over the next couple of years. There were a few instances in the future that I can think of, but they were very minor and I can count them on one hand, where we were able to justify a slight premium for that product with customers.

We do, in some of our customers, it's rare, again,
but we do in some of our customers a payment premium for our product, as well, and that was part of our strategy when we started the business and we deliberately do that, because we do think it is worth more.

As far as the Internet bidding, the Petitioner claimed that in May 2000 that it started. I would like to just say before this Commission that we had no knowledge of any bidding process in May 2000 and had no participation in anything that took place in the year 2000 whatsoever. If Internet bidding took place in that year and there is any claim that Roha somehow eroded the prices, we had no knowledge and was not present in any of those bidding processes during that year.

To make a clear statement about an answer that I thought was somewhat ambiguous, to answer Mr. deWinter's question about the capacity, the capacity can produce other colors. I want to make that point clear. It's not something that you do on the fly in a matter of hours between batches, but it is not a major deal to convert capacity to make some of the other colors; though, as I said before, it can and is probably devoted to allura red at their operation, as well as within ours.

Thank you.

MS. LEVINSON: We've heard a lot about Roha. Now, we're going to pass the mic to a representative for

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Neelikon.

MR. TRIVEDI: Good morning, gentlemen. My name is Sudhir Trivedi. I'm the CEO of Alps Colors LLC. Alps Colors LLC was established in January of 2001. Prior to Alps Colors, I was president and CEO of Sunbelt Corporation, from 1983 to 2000. Sunbelt Corporation was based in Baltimore, Maryland, and has a manufacturing plant in Rockville, South Carolina. And it was engaged and it is engaged in manufacturing and marketing dyes for textiles, plastics, inks, and petroleum, what Mr. Wanser referred to, the other dyes.

Alps Colors was established as a distribution office for Alps Chemicals, Plywood Limited of India. The main product line and the consideration was dyes for textiles, leather, plastics, and inks. These are the product lines being manufactured by Alps Chemicals in India.

We began exclusive representation for Neelikon for dyes and -- Neelikon dyes and chemicals in May 2002. We market the entire range of the food drugs and cosmetic dyes. Our first new entries of allura red was received in June of 2002. We produced our company as a distributor of food, drugs, and cosmetic dyes from Neelikon at an international food technology expo in Anaheim, California, in July of 2002.

Much of our efforts in the year 2002 have been
devoted to contacting various distributors and getting the product samples tested and approved. And this process, as mentioned by Rohit and Robert, takes several months, sometimes years, especially in the case of tier one companies, and it may not happen. For example, Coca Cola would not even accept samples from people, because they would just simply say, we don't want to test samples. So, there are instances that substitutability of a product is not an easy in, in spite of providing every possible angles of service that you can possibly provide.

Our only sales of the product of allura red is minuscule by all accounts, and that would be submitted in our petition. By contrast, the FDA has certified tremendous amounts of allura red in 2002 and earlier. We have entered the market in the U.S., to provide a fair alternative to distributors and end users in the marketplace, and not to destroy the competitive market environment in the U.S.A. But, by all accounts, we are here to compete. We are not kicking tires.

Neelikon has long established customers in other countries, including, like Roha mentioned, Australia, the Far East, the U.K., Latin America, and they have no intentions of degrading those markets in fear of these markets, where it has made its reputation to bring large volumes of allura red to dump in the United States.

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We have no idea at this very early juncture whether we will be successful to a degree that we hope. We are still very much in the exploratory phase. Process of entry into the marketplace is not easy. A company, in addition to certifying their products through FDA, has to pass the same product through R&D departments of distributors and end users for suitability of the product in their formulations. These products are not always easily substituted for incumbent products in existing formulations, even though they might be chemically identical.

While we hope for a successful future here, we are not in a position to realistically predict. And what we want to make clear is that this is seemingly -- and I've been in the United States long enough to be here to know the market forces and I respect that. But, this is like a preventive strike, that even before there is nothing that you -- how do you put people and arrest them and give them undue burden to come before commissions and spend money and time for smaller people, to expand all this and explain where there is no case, where there is no facts.

I want the Commission to please take this into consideration, that future applications of these natures have to have some mechanics of thereby we are informed of this somewhat in an early way, rather than spread this all over, as if we have been the culprits of dumping in this

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country. If it is dumping, I hope, like Mr. Wanser state, the world is getting competitive every day and what will happen tomorrow, I cannot predict. But to say that something has happened before it has happened and that it will happen and before anything, that there should be an antidumping duty is something really egregious.

I thank the Commission members and all the gentlemen here and I would like to take questions later, when you have some. Thank you, so much.

MS. LEVINSON: That concludes our presentations.

MR. CARPENTER: Thank you, very much, for your presentations. We'll begin the question with Mr. Timberlake.

MS. LEVINSON: Mr. Carpenter, excuse me, I've just been informed that Mr. Tibrewala would like to make one point, if you don't mind.

MR. TIBREWALA: Thank you, very much. I would just like to explain a bit more on the on-line bidding process, which we anticipate to be the cause of decline in the pricing and not Roha. Most of these cases where there is an Internet bidding or an on-line process, I would like to make a point here, that Roha has never been the first bidder on the Internet. We have always waited, seen where the market is going, see the other players participate in the market, and then only bid. There has been only one
single instance when Roha was the first one to bid and in that instance, there was no one else bidding in that business and we were awarded the business.

The other thing that I want to point out is that whenever we waited and watched the Internet bidding, there were always more than one bidder on the Internet, which were fighting against each other to reduce the price, and it was not us. If there is anyway by which Commission can get those bidders, which I feel is extremely impossible or difficult, it will prove for itself that Roha was never the first bidder. There were two people fighting, reducing the prices, and Roha always came at a later time to participate, because we have been forced by the mechanism, if we don't participate in that kind of a structure, the buyer will not approve Roha as a supplier and they will not consider us as a supplier every in that industry. So, in order -- since we are new in the market, we have to supply. We have to approach the customers. They leave us with no option, but to do that.

The other point that I want to point out about that is that the bids, in most of the cases, do not ask for a separate price for allura red or a separate price for Yellow 5, or a separate price for Yellow 6. It always says, put in your best price for the package. The package includes all the colors that the buyer is buying. Whatever
quantity of Red 40, whatever quantity of Yellow 5, whatever quantity of Yellow 6, they give us the quantities. They give us the point of delivery. And they tell us, okay, I want this quantity to be delivered to this plant of mine. They all have multiple locations. They all give us all the information. They tell us, okay, this is the quantity that goes to this particular location of ours. This is the order site. They just want to quote us, okay: this is my entire package; I want you to quote; I want the delivered price at this location; this is my package; this is the opening bid; x amount is the opening bid, can you bid below x price.

And they put that increment. Okay, there is a .5 percent increment that you have to give, in order for your quote to be accepted. If someone quotes $100, I can't quote $99.99. There is a percentage, which I have to quote below that, in order to consider my quote. Otherwise, the system does not accept my quote. So, there are a lot of considerations, there are a lot of restraints, there are a lot of unfair means established in this way of negotiating business. And if at all anyone wanted to discontinue this process of negotiation, it would have been the domestic buyers, because Roha was new in this industry. And all these bids very clearly say that even the lower bidder will not get the business unless he is qualified as per our procedure.
So, if the domestic industry feel that Roha will not qualify as a supplier to those industries, they were the ones that could have prevented this erosion. They were the ones, who would have ruled out that we are not participating in these bids. And then if Roha would have bid, we would have not gotten the business. There has been an instance where we have been the best bidder and the business was not awarded to us, because the company said, well, you don't meet our qualification process. So, the price is always not the consideration of awarding business. And if this decline could have been stopped, it could have been stopped by the domestic manufacturers and not Roha.

Roha was just forced to participate in this, because we had no say in this market. Since we were new, we had to penetrate. We had to make a presence. We had to participate. And we played very responsibly. We waited. We saw what the other people were doing. And as I put in my testimony, in an earlier time, that maybe the two domestic players are fighting against each other, and you think that the other person was Roha.

That's it and thank you, very much.

MR. TIMBERLAKE: Thank you for your testimony.

Tim Timberlake, Office of Investigations.

Mr. Tibrewala, can you just very briefly describe the allura red industry in India? Tell us who the producers
are. I believe you, Ms. Levinson, said there were only two firms that exported product to the U.S. Give us some idea, Roha we know is one. Give us some idea who the others are. Tell us whether or not there have been new firms that have come into the industry say from 1999 forward, or whether firms have exited the industry. Give us any scuttlebutt you might have of rumors of takeovers and acquisitions as such.

MR. TIBREWALA: I would like to start this with answering that allura red is not the easiest color to manufacture. There are colors which are easier to manufacture and which are used worldwide in more quantities than allura red and that is tartresen and sunset yellow which is produced in India in tons and tons and there are more manufacturers of these colors than the manufacturers producing allura red.

So if at all our pricing would affect, it would affect those pricings, not allura red. Because allura red there are hardly three or four manufacturers in India that we know of.

Secondly, the allura red market in India is very insignificant. That product is not manufactured for India. And the primary reason that we manufacture allura red is because this product is used in our Southeast Asian market and our European market and in our Mexican market. We
started manufacturing allura red. As a matter of fact only the Indian exporters who are exporting into these countries are manufacturing allura red. A person who is just supplying domestic industry in India is not manufacturing allura red because there is no market for allura red in India.

About the acquisitions, I would like to inform the Commission that even in the U.S. there have been around six or seven color manufacturers in the history of colors. Sensient is not a pioneer in manufacturing of allura red. Sensient did not develop allura red. Sensient was not the first color manufacturer in the U.S.

What happened to the pioneers? What happened to the people who started this industry? Where are they? They're all history. They are nowhere to be seen. They are nowhere to be heard.

Because when Sensient was formed they had a stride of acquiring anyone who provided colors in the U.S. There were manufacturers in Europe, for example, Pointing. There was a manufacturer in Mexico. There was a manufacturer in Latin America who all tried to come into the U.S. and sell their product. They were all acquired by Sensient.

Secondly, Sensient has been acquiring companies as their CEO Mr. O'Brien said, from the last ten years they have had a series of acquisitions. Why are they talking
only about the capacities of Monarch? What happened to the
capacities of other guys? They were also manufacturing.
They had manufacturing capacity. What happened to those
manufacturing capacities? Are those being used? Are those
idle? Why were they acquired? Why were they let go? Why
were they shut down? Why are those questions not being
answered in the petition? Why is only Monarch coming in.
Was Monarch only the third manufacturer in this industry?
No, there were many manufacturers in the U.S. which Mr.
Robert Schaefer has testified in his testimony as a matter
of fact, and there were also manufacturers worldwide, but
now there is no manufacturer worldwide except for the two
manufacturers in the U.S. which is Novien and Sensient and
only the Indian manufacturers. All the other competition
has been bought.

I would like to highlight that I am not sure
whether it was the intent for Sensient to come into India
and acquire companies, but they were in India trying to have
dialogues with the manufacturers. We are not sure what was
their intent. They offered us, we counter offered, and they
do not accept our offer. Maybe it was not their strategy to
talk one to one. They wanted to talk a team with the one
person, but I don't know what happened. So maybe they had
intention to acquire companies in India which did not work.
That's my assumption. But that is the reason why only the
manufacturers are left in India and nowhere else in the world.

MS. LEVINSON: Mr. Timberlake, there are a number of dye-producing companies in India. For the most part they're devoted to the textile industry.

We discovered last night and I'll ask Roha to correct me if I'm wrong, but that actually allura red as we know it is not permitted for sale in food products in India at all. So that the extent allura red is used in India, which if you look at the questionnaire responses you'll see that there are very limited sales in the home market. But to the extent they are made it's for the pharmaceutical industry and not for the food industry at all.

MR. TIMBERLAKE: One further question for you, Mr. Tibrewala. Under what HTS number does your firm import allura red?

MR. TIBREWALA: I will need to check that. I'm not sure.

MR. TIMBERLAKE: You can provide that in your post-conference brief.

MS. LEVINSON: Mr. Timberlake, it's interesting that you raise that issue. I believe, and I'll check this and I'll submit it in my post-hearing brief, but I think Petitioners correctly identified the HTS number in the petition. It is a basket category which it comes in.
But interestingly enough I think, and we'll give you much more detail about this in our brief, but they have mischaracterized the export category from India. They have relied in part on that export category to estimate volumes coming into the United States and in fact they're way off. We'll give you more details for that in the brief.

MR. TIMBERLAKE: Very good, thank you.

That concludes my questions.

MR. CARPENTER: Mr. DeWinter?

MR. DeWINTER: Good morning and thank you for coming today.

This is a question for Mr. Tibrewala and Mr. Trivedi. If portions of the question have confidential information if you would answer these questions in your post-conference brief I'd appreciate it.

This goes to the qualification process that you've been talking about. With respect to the tier one purchasers, have either of your companies asked to be qualified, one? Number two, if so are you now qualified? And if you are qualified, which companies are you qualified to supply?

MR. TIBREWALA: On behalf of Roha we will answer this question in the briefing that we submit to the Commission.

MR. DeWINTER: Thank you.

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MR. TRIVEDI: Same here. We will answer that in post-hearing.

MR. DeWINTER: Thank you.

One additional point to that question, are you currently selling to any tier one purchasers?

MR. TIBREWALA: We will include that with the names in our post-hearing brief.

MR. DeWINTER: My second question goes to the on-line bidding process. If you could explain that a little bit.

Are there any tier one purchasers participating in this on-line bidding process? Or is this strictly tier two or tier three purchasers?

MR. TIBREWALA: This process significantly started with the tier one customers because it made sense, and how it has gone on to tier two also. We are seeing some instances where the tier two customers are following. But we are, if not required, we don't want to participate in this kind of --

MR. DeWINTER: In the process who initiates this then? You mentioned that some purchasers will go on-line and say this is what we need. Have you seen any suppliers that go on-line and say this is what we have?

MR. TIBREWALA: This is always RFP is the word they use, that is request for procurement which is initiated
by the buyer. Usually this is in consultation or 
coordination with a technical company or a software company 
who developed the software for the buyer, and the buyers use 
this software not for buying colors only. They use the 
software for buying all of their ingredients and color is 
just one part of that. So it is always initiated by the 
buyer.

MR. DeWINTER: And the identities of the buyers, 
of the parties are always kept confidential. No one knows 
who is participating. You can watch the bidding, but you 
don't know who it is.

MR. TIBREWALA: Yeah, this participation is only 
by invitation so if I am not invited by the buyer I cannot 
participate. And yes, we do not know who is the other party 
bidding. We just see the prices bid by the other parties 
and we know our status, whether my price is the best or I am 
not the best. That is all that the screen shows us.

MR. DeWINTER: Okay.

I do have a follow-up question for your post-
conference brief to that first question.

If you have been qualified have you also been 
disqualified? Does this go both ways?

MR. TIBREWALA: We will respond that to our post-
hearing brief.

MR. DeWINTER: Thank you. I have no further
MR. CARPENTER: Mr. Thomsen?

MR. THOMSEN: Actually, building on Mr. DeWinter's question, I would like to know if you are trying to qualify at the tier one where are you in the qualification process. Not just whether you have been qualified yet or not.

MR. TRIVEDI: We will address that in our post-hearing brief.

MR. THOMSEN: Also for Mr. Trivedi, right?

MR. TRIVEDI: Yeah, I can also address that in post-hearing brief. But yes, I can tell you that we have, our samples have been approved, a tier one company.

MR. THOMSEN: So when you say your samples have been approved, what would be the next step in a qualification process?

MR. TRIVEDI: There could be all the other elements that will come in in terms of service, price, you know, because being a multinational company they expect drop-off points in various countries, and our capabilities in those countries to have warehouses, whatever we have currently and all that. So all those are part and parcel of the decision.

MR. TIBREWALA: If I am permitted could I answer my, answer this question?

MR. THOMSEN: Please do.
MR. TIBREWALA: Usually the approval process or any, when we are approaching a new customer the price is the last consideration. If I approach a buyer he doesn't even talk to me like, he will just say okay, give me your bid. We give him a bid. He doesn't even evaluate whether it is that part of it what he is buying right now or not. He will direct us to the R&D. R&D, the research and development is the person. If he says okay, I have time, he will evaluate the samples. If he does not have time he will not evaluate the samples. Even though I tell him okay, I can save you 50 percent or 20 percent on your buy, that does not work.

The approval process starts from R&D and then it goes on and ends at the plant approval which most of the tier one customers have to approve our plants. Our plants actually get audited by them. People from their plant or an organization go into our plant, approve our plant.

In just one single case where we have been supplying to a tier one customer that went through our products were tested in their final products. They went and audited our plant. They found our plant to be as per their requirements. And then only we start doing business with them.

So the time duration between the time -- And this regardless on this one instance where we said that we were the only bidders and no one else bid for their business, so
it was an attempt by Roha to be recognized that yeah, we are still interested in the business, and apparently there was no one who is interested they just award that thing at the opening so we did not deteriorate the pricing or anything at that instance.

The time between that bid ended and the time when we first started making a sale to them, even though our pricing was approved, even though we had got the contract it was a duration of two or three months before we actually sold anything to them.

MR. THOMSEN: Okay.

If I may change gears a little bit toward the on-line bidding process, how many on-line auctions have you participated in, won, et cetera? If it's business confidential please answer in your post-hearing brief. But if you want to, please go ahead.

MR. TIBREWALA: This question has been answered by us in great detail in our response to the questionnaire. I would request the Commission to please refer to that answer of ours.

MR. THOMSEN: Okay.

And when you're talking about your distributors for both Alps and for Roha, Roha said you had noted that you have two distributors. Are there redistributors that they then sell to that may have been participating in these on-
For all the distributors that we appoint, before we appoint them we ask them to give us their customer list so that there is no conflict of anyone else calling on those customers, and we make sure that in their customer list there is no redistributor. So we only work with direct customers through our distributors.

Mr. Trivedi?

We basically follow the same policies.

I believe Mr. Tibrewala and Mr. Schaefer had noted that Roha (USA) did not begin selling until 1999. That being the U.S. entity, Roha (USA), did Roha Dyechem in India export to the United States before that time?

Excuse me, Mr. Thomsen, I just want to say that they did not begin selling in 1999.

They began selling in 2000.

2000.

In 2000, but they opened up their operations.

Correct, and they imported in 1999.

Correct.

Before Roha (USA) was established in the U.S. we were selling very very small quantities into
the U.S., but U.S. was never the prime focus of Roha Dyechem. That's the reason that we did not establish an office over here.

We had a distributor over here who would import as and when he would require the product and he would buy it from us. So we actually never, Roha Dyechem did do some things over here, but it was, I can't even quantify that and I can't even value that because it was very very small.

MR. THOMSEN: In your post-conference brief might you be able to give us an idea of how much it is?

MR. TIBREWALA: We can do that. We will do that in our post-conference brief.

MR. THOMSEN: Okay. -- Dyechem business in the United States?

MR. TIBREWALA: For any distributor or manufacturer of food colors the ratio of allura red or any other color would probably be in the same ratio that that color is used in the country. To get the exact figure or a similar figure we could compare the quantities of different colors certified by FDA which has been provided to the Commission as an exhibit to the petition and we could also give you the exact figures from the FDA web site and from our own sales in our post-hearing brief.

MR. THOMSEN: I'm just trying to figure out if there's a definite advantage from one company to another,
whether one specializes in one color or another.

MR. TIBREWALA: No.

MR. THOMSEN: I guess I have one other question and this goes to your Spheroclean product. This would be good for post-conference brief, but how much of your sales are in the different forms, are Spheroclean versus granule versus the other kind? And also if Petitioners wanted to answer this question themselves that would also be helpful.

MR. TIBREWALA: We will address this in the post-conference brief.

MR. THOMSEN: Thank you. I have no further questions.

MR. CARPENTER: Mr. Wanser?

MR. WANSER: The allura red is an acid dye that could conceivably be used in other markets like maybe textiles or leather or something. Are you aware of any other markets in which it is sold and maybe that would affect the trade data?

MR. TIBREWALA: I am not aware.

MR. SCHAEFER: Allura red is a product that was invented in the U.S. market, developed by Buffalo Color specifically because all of the other reds are used worldwide and are approved by the other world areas in other countries. All of those colors are not permitted, they did not survive the FDA toxicology testing back in the '60s and
'70s. So as a result this product was developed.

It is an inferior red, even for food color use.

It's known to colorists as a dirty red. It doesn't have a good vibrant hue. It is also, the food colors, because of their nature they are unstable dyes which is what makes them good food colors because our bodies are able to decompose them without any harm. That automatically almost renders all of the dyes except one, except for two, virtually useless for technical uses. Allura red is not used to our knowledge, we would concur with Petitioner, it's not useable anywhere else.

MR. WANSER: It was developed for food and drug --

MR. SCHAEFER: Yes.

MR. WANSER: Thank you.

MR. CARPENTER: Mr. McClure?

MR. McCLURE: With respect to what you ship from India to your markets in other countries is the implication there that they are of a lesser quality and would not meet the FDA standard? Am I understanding that? And obviously what you have shipped in here and then subsequently exported to Mexico, I assume that came in here with the possibility it was going to enter the U.S. market as opposed to the Mexican. So where did they land in terms of their standards?

MR. TIBREWALA: Usually when we manufacture any
particular product it meets all the global requirements because they are very similar except for one or two chemical characteristics which are different from a country to the others. But FDA is the most stringent qualification or test that the product has to pass.

In order for us to sell anything into the U.S. or in order for Roha Dyechem to ship anything into Roha (USA) they have to run a series of different tests to make sure that that product complies with the FDA regulations. Because every batch sample goes into FDA for testing.

In that scenario our lab confirms that, and as far as the other countries are concerned, there is no FDA-like authority who is evaluating the product so we feel more comfortable in shipping the product over there.

Once a product is approved by FDA or is FDA approvable quality, it can be shipped anywhere in the world. So that is why I say that -- If I have the material in the U.S. I could ship it out to Mexico, but if my company would ship material directly to Mexico I could not get it in the U.S. because they have not tested it for the FDA status.

MR. McClure: Thank you.

MR. Carpenter: Mr. Tibrewala, I believe it was you who mentioned that FDA approval makes sales in the United States more difficult. Could you explain what you meant by that? How does it make sales more difficult?
1 it the time period that's required for approval or the
difficulty in meeting the approval?

MR. TIBREWALA: I don't recall saying that FDA
approval makes it difficult. If I did it was in error.
What I meant was that the general approval by the buyer
makes it difficult for us to start selling in the U.S.

MR. CARPENTER: Okay.

MR. TIBREWALA: The approval process of the buyer,
not FDA specifically.

MR. SCHAEFER: Mr. Carpenter, if I may, there is a
barrier to entry that is the subject that you're addressing
there in that the FDA, the technology that's used by the FDA
and the standards that are established are somewhat
ambiguous. There's a particular method that's called the
HPLC -- High Pressure Liquid Chromatography -- against which
you have to have your product analyzed and meet a specified
curve. If you have not been through that process before
and worked with FDA and have copies of the curve and know
their exact procedures and preparation, procedures for
preparation of the samples, the odds that you will meet
those requirements stringently the first few times you do it
are pretty low.

It's not insurmountable. Any country that's
technically developed at all that has a university in it
will be able to eventually figure this out, but it is
another one of these barriers that it takes several months
to get through this and get it to a routine point where you
are analyzing and generating the same results that FDA does.
You want to calibrate your results so that it's green with
FDA. So when you test it and it passes your test, you
submit it to FDA because you pay the fee to FDA whether or
not you pass. When they do the analysis you get charged the
fee so you want to make sure before it goes that you are
submitting samples that will pass.

That process takes six months to a year for a
typical competitor coming into the country.

MR. CARPENTER: Once you pass that period and
you're making routine sales in the United States, how long
is the FDA process typically, for a particular batch?

MR. SCHAEFER: It's the same as it is for the U.S.
competitor, about two weeks.

MR. CARPENTER: Okay.

How common is it to have your material rejected
and if it is rejected what happens? Do you just submit a
new batch? Do you have to destroy that batch? How does
that work?

MR. SCHAEFER: Typically if it's rejected for a
U.S. manufacturer they would simply rework it, purify it
through part of their production process. For us, not
having any manufacturing facilities right now, we would have

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to ship it back to India or depending upon why it didn't pass, it may meet other world -- The FDA's restrictions, the actual technical qualifications are not necessarily tighter than other parts of the world compared to Europe, for instance. They're just slightly different. What doesn't pass here may pass in the European community. We might ship it there or we would send it back to India.

We have had very very few rejections. We did have a series of rejections a few years ago simply because of the samples that we had submitted had been contaminated inadvertently during the process and we resampled all of the product.

So we have not had significant rejections.

MR. CARPENTER: Thank you. That's very helpful. I'd like to ask a couple more questions on the internet bidding.

Mr. Tibrewala, I believe you were making the point that your company was never the first to enter a bid. I'm not sure what the significance of that is. Can you explain what you meant by that?

MR. TIBREWALA: When a bid package comes out there is always a feeling prior to just published that okay, if you have to bid you have to bid but be below that particular bid. And we always wait to see a situation where what if nobody bids? What is going to be the result? Because we
want to go away with this whole process. We don't want to participate in this whole process. You want to see is anyone else interested, or if it is extremely important for us to participate in that bid in order to get qualification.

Considering all of those facts we put in our bid in that process. Usually the bids last for 30 minutes duration. You don't have to bid right when it starts. You can bid at the 29th minute also. So we just wait and see how the market moves before we participate into that.

MR. CARPENTER: Did I understand you to say that you might have the lowest bid but you still might not win the sale because your product may not be qualified with that particular customer?

MR. TIBREWALA: Yes, this is a possibility when a customer -- Now we are only selling FDNC colors. That is the synthetic colors. There is another group which is called the natural colors which Roha is not manufacturing. So when a company is bidding out the entire package -- the bid may be separate. Like he is bidding differently for natural colors and differently for FDNC colors. Even though if I give him a better pricing for FDNC colors, he would not or he may not give the business to me saying that I would want to buy all my colors from one single vendor.

MR. CARPENTER: So the bid may be for more than
just allura red, it could be for a variety of products.

MR. TIBREWALA: Usually the bid is not only for allura, it is for the entire package of synthetic colors that the buyer is using.

My point is apart from synthetic colors there is another group of colors which is called natural colors which is derived from the natural sources like extracts of fruits or insects or whatever the natural source may be and Roha does not carry that line of business.

So if a company is using natural as well as synthetic colors even though we may go ahead and bid good on synthetic colors they would not want to have two suppliers for the colors because there are other people, example Sensient, who has the entire range. They carry the natural and the synthetic colors so they would definitely prefer Sensient or other domestic manufacturers over Roha.

So we have a better chance only with the customers who use this particular group of colors.

MR. CARPENTER: One other statement I was trying to reconcile. I believe you said at one point that the bids were by invitation only. If that's the case, why would a customer invite a supplier to bid if they had not been pre-qualified? Are we talking about different customers here or --

MR. TIBREWALA: That is a very good question and
that is a question that we always have had in our mind and we have always pushed the buyers to qualify us before they invite us for a bid. Because in all these bids there is a catch. They always have two tiers. They say okay, this is one tier where if you are approved supplier you start at an $X$ amount. Then they put a tier like $X$ minus whatever. So if you are not approved you start at this point.

We never want to start at this point because we always want to get ourselves approved so that we don't have that disadvantage. But that is, again, I don't know why the buyers do that and we don't support that and we don't favor it.

MR. SCHAEFER: If I may again, Mr. Carpenter. The reason that they domestic industry would do that, the justification that they give or have given in one of the cases that I witnessed was that if you're at a price of $X$, that's the existing, prevailing price from a domestic producer, and you are approved, there is, as I talked about, there is an approval process that you have to go through to enter these industries. You have to be evaluated, they have to run production quantities, they have to go through the lab time and this is an expensive part of their organization. There is a cost to doing that to the customer.

In these computer bidding situations what they
typically do, in the one case that I'm speaking of it was specifically stated that way, is the existing producers were allowed to start at this point to be a new entrant, even if your product they thought would be approved, you had to start at a lower level. They would not consider a bid above a lower level. That difference being the cost of the approval. So if they weren't going to recover that cost they were not willing to consider a new supplier.

That is not always the case. It is sometimes, of course.

MR. CARPENTER: Thank you. That's helpful.

MR. TIBREWALA: And that is not only for Roha or any other company, that is for anyone who is not an approved supplier with that buyer.

MR. CARPENTER: Mr. Tibrewala, just one other question. You mentioned a couple of times I think that you do not like to participate in these internet auctions. Could you elaborate on that?

MR. TIBREWALA: The bottom line of -- We all know that these internet auctions were already at below rate pricing because you know who is your competitor bidding and that's what's happening. We have tried to avoid this. We have tried to speak with the buyers to avoid this situation. But if it does not work out then we have left with no options, as I said, because we are not an existing supplier
to them. So we have to follow it, we have to accept
whatever the buyer wants us to do.

MR. SCHAEFER: In the first situation, Mr.
Carpenter, in 2001 was the first such instance in which we
participated. We were contacted by the customer. We did
not go to them, they found us and called us on the phone,
offered to send us the software that was necessary to
install on our system to participate in this bid. I
resisted that for several weeks and in fact we only hastily
installed the software literally the evening before the next
morning in which the bidding took place.

I had also pointed out to the party that we were
not, we were prevented because of patent restrictions and
other things from bidding on part of the basket that they
wanted us to look at. I made the plea that being the new
incumbent we had no idea what we were doing in that
situation because we didn't know them as a customer, we were
not yet approved. They simply basically held a gun to our
heads and said if you don't participate in this, we're just
not ever going to consider you period.

In that situation I waited because I had heard
that there were other producers, that some of the other
potential players were resisting as well. That encouraged
me and I tried to hold back.

The day before I was told point blank by the
company running the internet bidding that the two domestic suppliers were participating and that we would be left out in the cold if we did not.

But that first time I went into that kicking and screaming trying to avoid it, and I had no choice. In fact it was my vote not to participate and we kind of discussed it as a group and decided that we would just because we had to learn, had to find out what was going on.

MR. CARPENTER: Are distributors ever invited to participate in these internet auctions? And if so, would you know whether one of your distributors might be competing against you?

MR. TIBREWALA: As I said earlier, we do not know who are the invitees for this auction because we just know that we have been invited or we have not been invited.

MR. CARPENTER: Okay. Thank you.

That concludes the questions for this panel.

Thank you very much.

Mr. Wanser?

MR. WANSER: Sorry, just one thing.

Are you aware, or in your post-hearing brief could you give the percentage difference between a certified and non-certified supplier? And would a decertified supplier be aware just by the difference in price, the percentage bid, whether it was an uncertified supplier?
MR. TIBREWALA: We can get that figure for the instances that we have. We'll dig up our data and see if we can get you some figures on that.

MR. WANSER: Thank you.

MR. CARPENTER: Thank you again for your participation this morning and for your helpful responses to the questions.

We'll take a five minute recess and then each side will be given ten minutes for rebuttal and closing statements beginning with the Petitioners. Thank you.

(Whereupon, a brief recess was taken)

MR. CARPENTER: Please start when you are ready.

MR. KEVIN O'BRIEN: Thank you Mr. Director.

Let me start just by correcting a mistake of one of our witnesses. The first on-line bid that we are aware of occurred in May of 2001. We might have said it was 2000 during the previous testimony. Let the record be clear that it was 2001.

We're not going to address all of the misstatements of inaccuracies in the Respondents' testimony, we'll leave that for our post-hearing brief but I do want to highlight some of the points.

First of all on the volume and value data, the Respondents are correct, the data is peculiar. There are very good reasons for that. We will detail that in our
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post-hearing brief, but I think the Commission should be well aware that the data that has been submitted requires very very close scrutiny.

In any case, as has been explained during our testimony the shadow cast by the market share of these Respondents is much longer than the actual market share itself.

Roha made the point that it brought product in in 1999 and then did not sell it for a 12 month period. If we assume that to be true what were they doing during that 12 month period? We all know what they were doing. They were going around to customer after customer, lowering and lowering and lowering the price offerings until they could get it down to a point where they could get their foot in the door. They were destroying the pricing structure in the market all during the year 2000 while they made their first sale. That price destruction has simply accelerated.

Roha also made the point, and I believe the Commission caught this, that they in fact did import before 1999 but under another company name. That is also an issue in this case and in any event it would be useful to know how much product they did bring in in 1999. We've heard, and I believe it's undisputed, there is a considerable shelf life to this product.

With respect to the prices in other markets, our
general understanding is that the pricing for example in Europe is lower than the U.S. pricing. We will try to get specific information on it, but the notion that they're not selling in the U.S. because the prices are too low is absurd. It simply is an absurd comment. They themselves have done more to lower the price in the U.S. than any other company.

On the issue of Monarch. I believe it's undisputed that Roha was talking to Monarch in mid 1999. Monarch decided to exit the business. We believe that part of Monarch's decision to leave the business was that they knew they could not compete with Roha's low prices.

The reference to the press release that was made when Sensient or Warner Jenkinson purchased the Monarch facilities is exactly correct. We were optimistic. Sensient did want the equipment. Sensient did want to bring the equipment on-line and wanted to move to the form, the higher form of the product that was covered by the Monarch facilities.

The essential point here is that we couldn't do it. The equipment was running at Monarch, it was purchased, and it has never been ramped up anywhere near its capacity. That is the point.

To go to an earlier point, it is not as if some new capacity was built in the U.S. Monarch had been
producing since the early '90s. That capacity existed. There wasn't any price erosion or price destruction before the Indian suppliers entered the market. So it was not the case of additional capacity being delivered into the U.S. market. It simply moved from Monarch to Sensient and we were unable to realize our investment because the pricing deteriorated. Those are the essential points for the Commission.

Mr. Schaefer tried to blame the price erosion on Pointing, a company in the UK which shipped to the U.S. apparently in the second half of the 1990s. I believe the Commission should focus on the fact that nobody is contending Pointing is still selling to the U.S. or even sold during the POI, or as far as we know even before the POI. Where is that price erosion that's occurring right now to be attributed? Where is the price erosion that's undisputable that has occurred in 2001, 2002, and 2003? They cannot point their finger at Pointing. Pointing is not here. Even if it were true, a fact which we dispute in any event, the price erosion is due to the Indian suppliers.

The on-line bidding, I'm glad that you asked several questions because the Commission would have to look long and hard to see a more crass example of price sensitivity.

To get the full context you have 30 minutes to bid
for a 12 month contract. The contract will be awarded on price. Thirty minutes for a 12 month contract at a major customer. No other criteria except the interesting criteria which they said which is if you're not approved you have to start out at a lower point anyway. There simply could not be a more glaring example of price sensitivity driving, indeed controlling the award.

The Roha representative we believe is simply wrong when he says the only on-line bid that Roha received was an event where they were the only one bidding. We've documented that in the questionnaire response, we'll address it in the brief.

To the extent that experience is true, he's talking about another on-line bid which may have occurred not to our knowledge, but certainly we have first-hand knowledge that Roha was actively participating, repeatedly bidding, and was awarded the contract.

The argument that they weren't the first one to bid is absolutely absurd. It doesn't matter who the first one is, what matters is who's driving the price down and indeed who was the last one to bid is a fairly relevant item, too.

On the issue of you can't tell who is doing the business, again the Roha representative is simply wrong. We know who's doing the business. We know which suppliers are...
involved, our customers inform us. There's no mystery to it.

The Roha witness I believe also said that they couldn't bring product in from Mexico because it was not certified. That's not true and it is an important point. You can bring product into the U.S. that is certifiable. You simply can't sell it to a U.S. customer before it is certified. It can sit in inventory indefinitely in certifiable form, in full compliance with U.S. law.

Mr. Schaefer said he left Roha sometime in 2001 which may explain why he simply is not familiar with the price erosion that's occurred in 2002 and in early 2003. But one point that he did make is right, that if you are not approved at a tier one customer you have got to offer a lower price. The notion that the Neelikon witness was trying to argue that you give samples to a tier one customer and then the selection process is driven from R&D is absolutely ludicrous. Unless the tier one customer has a motive to go through the substantial cost of testing the samples, they simply are not going to do it. You have to come in with a lower offer right off the bat or your product is simply not going to get tested.

The next point on the different forms of the product. I do hope the Commission staff understands the
inconsistency that Roha apparently can try and get premiums on its Spheroclean product and at times does get premiums according to their testimony, however Sensient was completely unrealistic in thinking they could get a premium on their Dustmaster product. Now that's just simply, that's simply just utterly inconsistent.

The fact of the matter is that if price was not deriving these purchases you could legitimately charge a premium for forms of the product that are easier to use. A non-price factor would have some effect. But the prices have deteriorated to the point where the non-price factors have no play.

Finally, my final point is on the issue of the distributors. There's a lot to be said on that issue.

Our distributors certainly can clarify the facts for the Commission. Whether Roha has two lawfully appointed distributors and numerous other functionaries that are out there peddling its product, we don't know. But the fact of the matter is that our distributors meet up with numerous Roha distributors competing against one another for price.

And the other issue which wasn't really addressed head on is Roha has been trying to take our distributors way from us. They do not dispute that, apparently. Indeed, Neelikon has been trying to take our distributors away from us. That fact stands unrebutted on the record.
That completes our rebuttal.

MR. CARPENTER: Thank you.

(Pause)

MS. LEVINSON: In considering the merit of this petition I ask the staff to consider the fact that FDA certifies 4.5 million pounds of allura red every year. We don't want to disclose any confidential information but if you look at the questionnaire, Roha has never sold more than 100,000 pounds out of 4.5 million. That market share I think we count it at about between one and two percent. And yet the Petitioners are here complaining when they are the dominant supplier in the market and by their own admission could supply the entire market except for the fact that they keep acquiring companies and increasing their own capacity.

I just was perplexed at why a company that is not utilizing its entire capacity as Mr. Schaefer testified to when he was working at WMJ back in 1997 or 1993, why does this company keep acquiring capacity? And what's happening to that capacity? Is it in fact that capacity that is causing prices to come down?

Ask the same question about the internet. A dominant supplier by Sensient. Why doesn't it put a stop to the internet bids? Why is it participating in these internet bids? Roha explained why it's participating in the internet bids. Mr. O'Brien doesn't counter. They seem to
know all about the internet bids. They seem to be there, they seem to be talking to their customers. Why? If it's designed to bring down price, why?

You heard Mr. Schaefer describe in some detail the erosion that the market has suffered. Mr. O'Brien asked during that year in which Roha had product and inventory, what was it doing? Was it going around lowering its price?

First of all, I submit that if that were the intention it wouldn't have taken a year. You can lower your price -- qualifying may take several months. Lowering your price doesn't take a year. And because this is a factual matter to which the industry representatives are much better informed than I am, I'm going to ask Mr. Schaefer to describe what happened during that year and why did you finally get your first sale?

MR. SCHAEFER: During the first year that we were officially here in the U.S., the year 2000, we were calling certainly on customers. We were looking at how to approach the market. We were establishing relationships with agents, we were searching for them. We did make some calls on customers as early as October of 1999. However, we were at that point running into two, well really one severe problem. We were an unknown in this marketplace. Some people had heard of us but there is a natural bias or used to exist in the U.S. market against the Indian producers as substandard
quality. That image was very vocally and actively
perpetuated by the Warner Jenkinson sales force. We had
many reports of that as customers came to us.

We fought through that. The FDA was alerted to
our presence and I believe, I cannot state this as a fact, I
can only testify to the outcome. But the FDA suddenly did
take a great deal of interest in Roha. We were subject to
the typical FDA surprise visits. They found our records to
be in order. All of our accounting, all of the accounting
for all of the product that was there. What we had sold,
what had certified, what we had in inventory. What we had
used internally to make other products. All of that met
their satisfaction.

They then turned their attention to India and by
the same token they were there, and to use an old adage, we
passed with flying colors. There was no problem with that.

As that took place there were several of the major
producers that were paying attention to us. Having had that
assurance that FDA found us to be in order, and then a few
of them beginning to look at us, having us inspected by
their overseas or even in some cases U.S. operations, they
found us to be a compliant manufacturer.

When we finally did achieve some sales, it really
began to take place when we began to talk about the product
that we were developing for the market. Originally we had a

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granular that was the old-fashioned granular that was not a very good product. When we brought the Spheroclean to market that began to generate some interest. We probably sold a few 25-pound boxes earlier than, before December of 2000. Literally that small. But it was not until the fall of that year that we had any significant sales and our first customers really came because of the interest that was generated over our Dustfree product.

MS. LEVINSON: Mr. Tibrewala, do you want to add something to that?

MR. TIBREWALA: I would just take two points at this time. This talk about Pointing and the Petitioners said that why are we talking about Pointing now, they do not exist. Well, it is a very important point that needs to be considered by the Commission that because if Pointing would not have been acquired by them they would be sitting in this room but against Sensient.

If the Petitioners can give one concrete example of a competition that came in the U.S. and has succeeded and has not been acquired we would say that we have, it should not be considered. But the only fact that we did not get acquired or we are giving competition to them is the only reason that we are the only one in the whole history of whatever years they have been in business that we are sitting in this room defending ourselves against them is

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because we are not for acquisition.

The other point that they said is whenever they receive an invitation or a response for procurement on the on-line bidding their buyer tells them who the other bidders are. Well if that is the situation that is only because of their relationship with the buyer. We at the other end, who do not have relationship with the buyer, do not know who the other participant in the bid is. That is another unfair situation which will have faces on each and every customer. We don't know all the -- We don't know anything that is happening or that the domestic people are doing, but the domestic buyers, because of their long-lasting relationships, are able to get what we call them, they are able to get what we are talking to them because of their relationships.

And then I don't know. If they have such a good relationship with the buyers why can't they put a stop to it? Why can't the convince them not to buy from Roha?

This is one unfair situation which we have come across every time where buyers share all our information with them but they do not share even one percent of information with us. So we don't have figures, we don't have facts to put in front of the Commission as to what's happening in the market. And this is a proof which they have accepted, that the buyer tells them who the other

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participant is on the on-line bidding and they don't tell us.

I pick this point right now because I have a bid of proving my point. I didn't put this earlier because I had no evidence of proving it earlier to the Commission that there is an unfair play against Roha in this country.

MS. LEVINSON: Finally we'd like to put to rest the allegation that somehow Roha is soliciting Sensient's distributors. Mr. O'Brien is wrong when he says it's unrebutted. It is very much rebutted.

Mr. Schaefer, have you ever solicited their distributors?

MR. SCHAEFER: In one case early on I did strike up a conversation, I truthfully do not remember who initiated it, with a distributor of color in the market. Mr. Morris correctly asserted that Warner Jenkinson attempts in its appointment of distributors to make those relationships exclusive. They all resist, some of them successfully and vehemently. The one distributor I talked to I have personal knowledge bought from anybody and everybody that was in the market in previous years.

I had approached them, but we never did any business with them because I could not get close enough to them. I did not trust them to not erode the price by taking the price back to Warner Jenkinson and then reporting us

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where it had eroded and try to get us to quote lower. I wasn't going to play that game and we walked away.

They pursued us for several months afterwards, made several visits to St. Louis to look at our facilities and talk to us about it. I won't say several, but two or three, multiple visits. We did not do business with them.

As Roha testified before, we have not solicited any other distributors and in fact have a strategic reason not to. In a market like this where we're the new entrant trying to get approvals, it does not lend itself to giving that task to someone who is not committed to your business, who has other business interests in the other lines he also represents. He just isn't going to focus the energy that's needed to get that approval process done in the first place.

In the second place -- eight percent commissions to do business on a specialty commodity item like this where the volumes are low and you have to have a fairly high commission rate in order to make any money. The margins simply don't support that kind of added expense and we have no interest in pursuing distributors at this point.

The one distributor that we do have that is actively working for us is a very high quality distributor who sells value-added products, has a reputation for doing so and has for multiple generations in the family of that business. The business is dedicated to the food industry.
and the President of the company is a personal friend of mine. That's how the relationship started. They have never
distributed food colors before and that's the extent of that relationship.

No other distributors exist in this country. The agents we had who did not take title to the goods simply
represented us and did the work of a salesman for a commission, save one, have all left. Again, because the margins simply aren't there and they can't find progressive enough pricing.

I think if you look at the information that we provided to you in our disclosure you will see that there are no customers there that would fall into this category. I don't know how else to say it, but we're not chasing distributors.

MR. CARPENTER: Thank you very much for those comments.

Thank you to all participants today. We appreciate your coming here and your testimony.

The deadline for both the submission of corrections to the transcript and for briefs in the investigation is March 28th. If briefs contain business proprietary information a non-proprietary version is due on March 31st.

The Commission has scheduled its vote on the

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investigations for Thursday, April 17th at 11:00 a.m. and will report its determination to the Secretary of Commerce on April 18th. Commissioners' opinions will be transmitted to Commerce a week later on April 25th.

This conference is adjourned.

(Whereupon, the hearing was adjourned at 12:57 p.m.)
REPORTER'S CERTIFICATE

DOCKET NO.: 701-TA-433 and 731-TA-1029

CASE TITLE: Allura Red Coloring From India

HEARING DATE: March 25, 2003

LOCATION: Washington, D.C.

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the

Date: March 25, 2003

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