

Congress of the United States
Washington, DC 20515

August 13, 2018

The Honorable Jeff Sessions
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Ave. NW
Washington, D.C. 20530

Dear Attorney General Sessions:

We are writing to express our concerns regarding the Department of Justice's (DOJ) conditional approval of Bayer A.G.'s proposed acquisition of the Monsanto Corporation. Given the scale of this proposal and the potential impact it will have on the farm economy, we urge you to reject this dangerous and unwise merger.

Once complete, the \$66 billion Bayer-Monsanto merger would radically alter the American farm economy, creating the world's largest seller of both seed and agricultural chemicals, squeezing out competition and increasing prices for farmers. The merger comes in the midst of other agro-chemical company mergers (Dow-DuPont, ChemChina-Syngenta) and is only the latest example in decades of consolidation in the industry. Upon completion of the merger, what was once a vibrant, competitive and innovative market will be reduced to dominance by two mega-companies (Dow-DuPont and Bayer-Monsanto) and two smaller players (Syngenta and BASF). This has dramatic implications for the U.S. farm economy and should not be permitted to move forward.

As several agricultural economists at Texas A&M University have established,¹ this monstrous merger is expected to increase seed prices for a variety of crops, including major U.S. commodities like corn, soybeans, and cotton. It is widely known that companies with greater market power can charge more, and given the large debt burdens they incur for a merger, they have every incentive to do so.² Nearly two decades of mergers in the sector are instructive on this

¹ Henry Bryant, Aleksandre Maisashvili, Joe Outlaw and James Richardson, "Effects of Proposed Mergers and Acquisitions Among Biotechnology Firms on Seed Prices," *Agricultural & Food Policy Center, Texas A&M*, September, 2016. https://www.afpc.tamu.edu/pubs/0/675/WP_16-2.pdf

² See, "Information on Prices of Genetically Modified Seeds in the United States and Argentina," *U.S. General Accounting Office, GOA/RCED/NSAID-00-55*, January 2000, at 12. <http://www.gao.gov/products/GAO/T-RCED/NSIAD-00-228>; United States Department of Agriculture, "Rising Concentration in Agricultural Input Industries Influences New Farm Technologies," *USDA Economic Research Service*, December 2012 at 4-5. https://www.researchgate.net/publication/235341940_Rising_Concentration_in_Agricultural_Input_Industries_Influences_New_Farm_Technologies.

point: as the seed and agrichemical industry has consolidated, seed prices have risen and corporate profits have remained stable or increased, while farmer profits and return on capital have declined.³ The Bayer-Monsanto merger will only exacerbate this power and economic imbalance, forcing farmers to pay higher prices to stay in the industry.

American farming communities are in no position to handle the shocks this merger will produce. Farm debt levels are increasing and profit margins are declining at historic rates. Farm income fell by half between 2013 and 2016, the largest three-year drop since the Great Depression.⁴ It is increasingly hard to make ends meet in this industry; it is predicted that over 80% of U.S. farm household income will come from off-farm work this year.⁵ Such economic hardships have forced many to leave agriculture, negatively affecting rural economies and communities. This merger sets them up to fail when we should be helping them thrive.

Unsurprisingly, farmers and consumers are deeply concerned about the merger's impact on their livelihoods, the food supply chain, food security and safety, the environment, and the future of innovation in the seed and agrichemical sectors. A recent survey of U.S. farmers found that 93.7 percent of them are concerned about the proposed Bayer-Monsanto merger and believe it will have a negative impact on independent farmers and farming communities, impacting prices, decreasing choice, and diminishing quality.⁶

Given these factors and the highly consequential nature of this merger, it is imperative that antitrust enforcement under this Administration continue to be treated as a law enforcement matter properly left to the independent judgment of DOJ. Multiple recent news reports have signaled that the White House has exercised outsized influence in the processing of this and other mergers, prompting serious concerns that DOJ is being sidelined in antitrust enforcement.⁷

³ United States Department of Agriculture, "Highlights from the February 2018 Farm Income Forecast," *United States Department of Agriculture*, February 20, 2018.

<https://www.ers.usda.gov/topics/farm-economy/farm-sector-income-finances/highlights-from-the-farm-income-forecast/>

⁴ J.R. Sullivan, "America's Farmers are in Crisis, And They're Looking for Trump Relief," *The New Yorker*, January 23, 2018, <https://www.newyorker.com/news/news-desk/americas-farmers-are-in-crisis-and-theyre-looking-to-trump-for-relief>

⁵ Jessica Bunge and Jesse Newman, "To Stay on the Land, American Farmers Add Jobs," *The Wall Street Journal*, February 25, 2018, <https://www.wsj.com/articles/to-stay-on-the-land-american-farmers-add-extra-jobs-1519582071>

⁶ Maurice Struke and Allen Grunes, "An Updated Antitrust Review of the Bayer-Monsanto Merger," *Konkurrenz Group*, March 6, 2018. <https://1bps6437gg8c169i0yldrtgz-wpengine.netdna-ssl.com/wp-content/uploads/2018/03/2018-FINAL-White-Paper-with-PAN-3-7-2018.pdf>

⁷ Christopher Alessi, "Trump Backing for Bayer's Monsanto Deal Buys Investors," *The Wall Street Journal*, February 20, 2017, <https://www.wsj.com/articles/trump-backing-for-bayers-monsanto-deal-buys-investors-1487592635>; John Gizzi, "Will Trump Support Bayer and Monsanto Merger?" *Newsmax*, January 23, 2018. <https://www.newsmax.com/john-gizzi/bayer-monsanto-merge-agriculture/2018/01/23/id/838961/>; Catherine Lucey, "Relations Between Trump, Global Elites Seem to Thaw at Davos," *Real Clear Politics*, January 28, 2018.

https://www.realclearpolitics.com/articles/2018/01/28/relations_between_trump_global_elites_seem_to_thaw_at_davos_136118.html. See also Cecilia Kang, "AT&T Chief Visits Trump With Time Warner Deal Looming Large," *The New York Times*, January 12, 2017. <https://www.nytimes.com/2017/01/12/business/donald-trump-att-time-warner-deal.html>; Landon Thomas, Jr., "The World's Top Tech Investor Is Betting Big on Trump," *The New York Times*, March 3, 2017.

<https://www.nytimes.com/2017/03/03/business/dealbook/masayoshi-son-sprint-and-a-bet-on-the-trump-economy.html>; Shelby Livingston, "Anthem hopes to close Cigna deal under Trump Justice Department," *Modern Healthcare*, February 21, 2017. <http://www.modernhealthcare.com/article/20170221/NEWS/170229980>

Full analysis of mergers must be undertaken by DOJ, free from concern of interference from the White House.

You have committed to enforcing antitrust law and stated in your confirmation hearing that “there will be no political influence in [the merger] process.” You have also committed to maintaining use of the “Mukasey” memorandum, which is intended to limit both the possibility and the perception that the White House might be politicizing law enforcement decisions, including for antitrust matters.⁸ We strongly urge you to maintain these commitments when it comes to the Bayer-Monsanto merger.

The Bayer-Monsanto merger is a giant leap in the wrong direction for American agriculture. Allowing this merger to proceed is a mistake and will only cause farmers and consumers to suffer at the expense of Bayer and Monsanto’s profits. While DOJ has conditionally approved this merger, given the significant size and economic impact that it will have on our nation’s farmers, we urge you to reject this acquisition.

Sincerely,



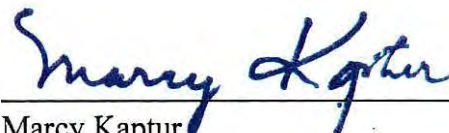
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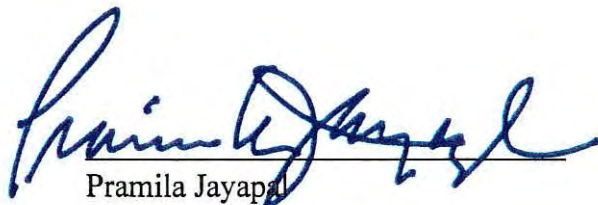
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⁸ Senator Jeff Sessions, Responses to Questions for the Record Submitted by Senator Sheldon Whitehouse, Senate Judiciary Committee, January 17, 2017 at 14. See <https://www.judiciary.senate.gov/imo/media/doc/Sessions%20Responses%20to%20Whitehouse%20QFRs.pdf>


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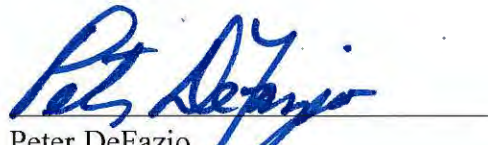

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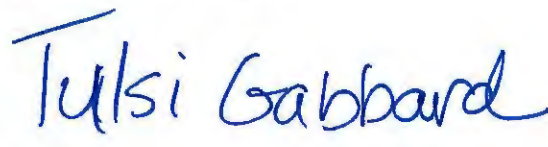

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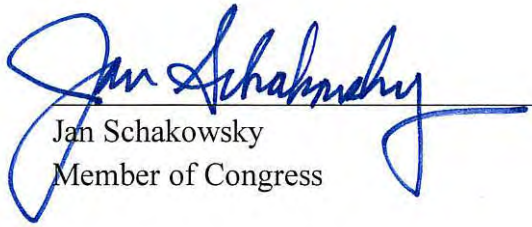

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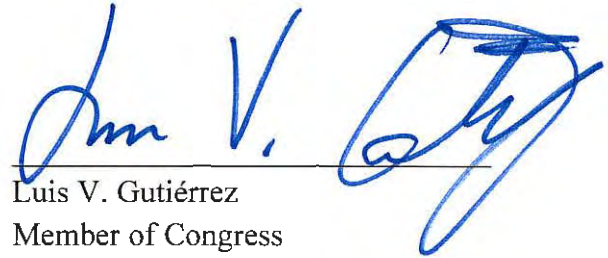

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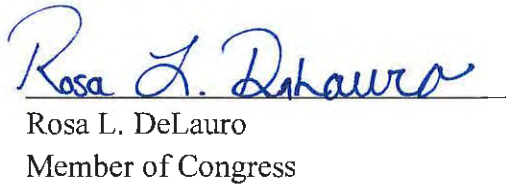

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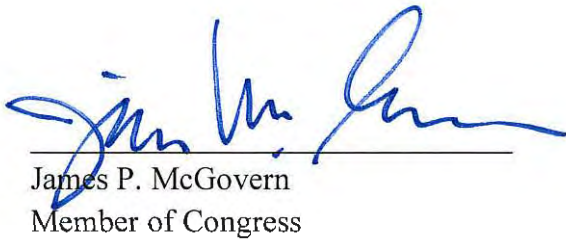
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