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Legal Policy Station, Antitrust Division  
U.S. Department of Justice  
450 5<sup>th</sup> Street NW, Suite 11700  
Washington, DC 20001

RE: Competition in the U.S. Seed Industry

I am writing to express the views of Wyffels Hybrids in regard to upcoming public workshops focused on competition in the agricultural sector, specifically the seed industry. As one of the largest remaining independent seed companies in the U.S., Wyffels Hybrids has a vested interest in the outcome of your initiative. I will simply state the facts as I, a very active and informed participant in this industry for nearly 40 years, understand them.

The seed, and specifically seed corn, industry is very competitive, with many brands selling seed to the corn grower. Farmers choosing a seed brand have many, many choices.

Without the ability to license traits from biotechnology companies Wyffels Hybrids could not effectively compete, and would likely be forced into such a niche position that our existence would be in jeopardy.

The Wyffels Hybrids product portfolio has improved dramatically, along with some of the underlying technology, in the last five years. One core reason for this progress is because of our ability to license from companies who have the capability to invest in biotechnology and plant breeding development. Supplementing our internal research and plant breeding programs with third-party products has helped us innovate. As a necessary means to innovation, then, we view licensing agreements as a small price to pay for access to products that can cost hundreds of millions of dollars to bring to market. Licensing does not force us to sell anything, and licensing itself does not control market share – the best products, marketed well, control market share.

We license from four trait developers. About ten years ago, the ability to license traits was just beginning to proliferate, and there was only one commercial option. The availability of traits to independent companies was uncertain. Today, we feel much more positive about future access to biotechnology.

That said, I believe anyone analyzing our seed industry, has to look at the industry as having two distinct parts. The first is the development of the underlying technology – biotechnology, and seed genetics. The second is distribution of the end product – seed, and the brands it's sold under. The two are inevitably linked, but each has very different dynamics, competitors and market conditions. I will briefly discuss each below.

### **Biotechnology and Seed Genetics.**

Innovation in biotechnology is improving farm productivity, and food quality. From this innovation all parties, from manufacturers to farmers to consumers, benefit. Like many industries, one company has achieved more success, due primarily to leadership that anticipated the future more clearly, quickly and accurately, then organized, invested and innovated around that vision.

Today there are at least four major multinational companies engaged in bringing the next generation of biotechnology products – seed traits with drought tolerance and improved nitrogen utilization – to the market, all on similar timelines. Further, there are many more boutique or startup ventures all across the globe working on new biotechnology events. I believe there will be even more intense competition from this point forward, but it will come from companies who have given up a head start to today's biotechnology leader.

Seed genetics are a bit different story. There are far fewer companies with the ability to innovate through seed corn genetics and germplasm. Acquisition has pooled the control of germplasm. This is not a positive situation for the seed industry. Germplasm is the foundation the entire industry is built upon. Open access to genetics is essential for our industry to invest in its future and reach its potential through innovative, higher performing seed products.

### **Seed Production and Distribution.**

There are many companies who can produce seed, and sell it to farmers. In short, the barriers to market entry are much smaller. And, expectedly, farmers have a wide variety of choices – in product characteristics and brands – to buy their end product from.

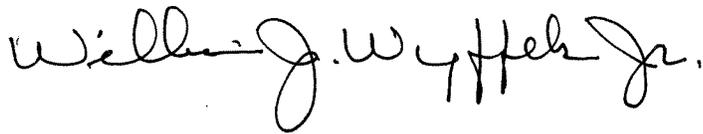
The bigger issue with this segment of the seed industry is the pricing models associated with these seed brands. Today, one of the biggest risks to both Wyffels Hybrids and progress in biotechnology, is that seed brands may NOT fully capitalize on their investment. At Wyffels Hybrids, we agree to pay license fees as a hard cost of doing business with biotechnology companies. However, if seed brands these same biotechnology companies own choose to lower their end product price beyond the raw costs of doing business, we cannot compete and survive.

Selling below the reasonable price of goods is not a competitive situation Wyffels Hybrids, or any other smaller company, can outlast.

In closing, I'd like to state again, there is innovation in the seed industry. That progress has allowed our product line to significantly improve throughout the past decade. And there are two threats to continued innovation. The lack of open access to seed genetics or germplasm. And competitive seed brands who will sell their products below a reasonable cost of goods.

I appreciate the ability to provide our thoughts to you in your important work.

Sincerely,

A handwritten signature in black ink that reads "William J. Wyffels Jr." The signature is written in a cursive style with a large, looped initial 'W'.

William Wyffels, Jr.

President, Wyffels Hybrids