



# Statement of the American Farm Bureau Federation

---

**TO THE SENATE COMMITTEE ON THE JUDICIARY**  
**“CONSOLIDATION AND COMPETITION IN THE U.S. SEED AND**  
**AGROCHEMICAL INDUSTRY”**

**SEPTEMBER 20, 2016**

**Senator Charles Grassley’s Questions for the Record for**  
**Dr. Bob Young, Chief Economist & Deputy Executive Director**  
**Public Policy, American Farm Bureau Federation**

---

## Questions

1. Are you familiar with S.3323, a bill I introduced to ensure American companies and consumers have a chance to prove up claims they may have against foreign state-owned entities? Do you believe that this bill will help American companies, farmers and consumers be on the same footing as foreign companies controlled by foreign sovereigns?

There has been conversation between your staff, Senator Grassley, and American Farm Bureau Federation staff covering the concepts in S.3323. The bill covers an important challenge for American consumers and companies that would be particularly important to the United States agricultural sector in light of the proposed purchase of Syngenta by ChemChina. Recognizing this is purely hypothetical, one could see a situation where farmers here in the United States would need to bring suit against the Syngenta/ChemChina complex only to be shut out by the state-owned entity exemption. With the bill becoming law, farmers would still need to make their case in court, but they would at least have the opportunity should the situation dictate.

Given the broad reach of state-owned entities involved in the United States market today, such an action is not just recommended, it is necessary. It is needed for consumers as they purchase product made by subsidiaries of state-owned enterprises in order to have some protection through the courts. It is also needed as companies and farms compete with state-owned enterprises if the state-owned company is allowed to operate with much different liability rules.

2. Larger companies sometimes have trouble innovating due to bureaucracy or market dominance. How do you see these proposed transactions enhancing or hampering the ability to innovate?

One of the major advantages these mergers may have moving forward is the combination of chemistry and genetics in the same company. Today, with these technologies essentially housed in outside companies, it essentially requires a new chemistry, for example, to be fully developed and that it be patented before releasing the technology to a genetics company to allow a new genetic trait to be developed. Recognizing the approval process for the chemistry and the genetic traits can literally take a decade each, having this process occur sequentially rather than simultaneously makes the timeline for bringing new technology to the farmer that much longer. Bringing both chemistry and genetics into the same house will allow research on both to happen simultaneously, before a new chemistry or trait is approved, and should allow things to happen much quicker. Consequently, substantial efficiencies could be gained by the mergers.



# Statement of the American Farm Bureau Federation

---

**TO THE SENATE COMMITTEE ON THE JUDICIARY**  
**“CONSOLIDATION AND COMPETITION IN THE U.S. SEED AND**  
**AGROCHEMICAL INDUSTRY”**

**SEPTEMBER 20, 2016**

**Senator Patrick Leahy’s Questions for the Record for**  
**Dr. Bob Young, Chief Economist & Deputy Executive Director**  
**Public Policy, American Farm Bureau Federation**

---

Questions for Diana Moss (American Antitrust Institute), *Bob Young (American Farm Bureau)*, and Roger Johnson (National Farmers Union)

1. The merging companies all argue that the proposed mergers would not negatively impact competition because each transaction combines one firm strong in seeds and traits with a firm strong in crop protection products. All of the companies testified that their particular transaction is “pro-competitive” because such consolidation would create efficiencies, allowing the post-merger companies to create more integrated products. This argument is similar to ones we have heard in a number of industries lately, including health insurers and telecommunications providers.

- a. In your view, is focusing primarily on the absence of overlapping product portfolios the correct view of how these mergers might impact competition?

It is important to keep the different products in context. Today there is a significant amount of licensing that goes on between chemical and seed companies, as well as from seed company to seed company. Given the revenue stream created by this action, there is no reason to think it will stop even after the mergers. Because of the lack of overlap in the chemistry space, for example, there is essentially the same number of firms developing new products in a post-merger space as existed before this spate of activity.

- b. What impact would the creation of more integrated products within one company have on the market for cross-licensing of seeds and traits that currently dominates the seed industry?

There may be some reduction in the cross-licensing; but again, the revenue stream it represents would have to be made up by the originating firm being able to charge that much higher of a price for its products. Recognizing the competition that will continue to exist in the seed space in particular, it is very likely that same practice will continue in the future.

2. The focus of most of the genetically engineered (GE) traits used in the market today is to build pesticide resistance into the crops in a way that has resulted in a surge in pesticide, which in turn has led to an increased problem with herbicide-resistant weeds, so-called “superweeds,” that has been blamed for an even greater surge of pesticide use. Given this fact, what is the potential for these transactions to exacerbate anti-competitive conflicts of interests whereby farmers must buy expensive pesticide-linked seeds from a firm that sells those same pesticides, and has the market power to increase the price of both those seeds and chemicals?

One might question the fundamental premise of this question. Recognize there are four factors one must consider with regard to any production system, be it conventional, GMO-based, organic or some other technique. The system must take care of weed pressure, it must take care of insect pressure, it must take care of the plants’ nutrient requirements and it must pay for itself. To deal with weed pressure, farmers for years relied on the application of steel. They tilled the soil

before, during and after planting. Soil tillage promotes soil erosion and increases CO<sub>2</sub> emissions. The shift to herbicide tolerant seed allowed farmers to use chemicals over the top of the crop to control weeds. This has allowed widespread adoption of no-till production practices, which has noticeably lowered soil erosion. One of the challenges, however, is that for several years there was essentially only the one chemistry for general weed control. Long-term over-reliance allowed resistant weeds to emerge.

To their credit, the companies providing the herbicide resistant seed trait warned farmers of over-reliance on a single chemistry and, in cases after the growing emergence of resistant weeds, even provided cash payments for farmers to purchase chemistry from other companies to bring the weeds under control.

The recent development of new seed traits that will allow over-the-top application of multiple modes of action chemistries should go a long way toward alleviating this problem.

It is also worth mentioning that insecticide use has declined since the advent of GMOs, because of traits that are engineered to resist insects. To focus on the herbicide side without acknowledging the benefits of reduced pesticide use is looking at only one part of the whole.

The creation of chemistry/seed trait combined corporations may well induce the development of combined chemistry/seed product lines. After all, isn't that one of the main ideas behind these mergers? But recognize that if one of these combinations were going to occur, then the farming sector is probably better served by having at least two firms capable of operating in this joint space than just one. The Dow/DuPont combination probably begged for either a Monsanto/Syngenta or a Bayer/Monsanto merger just to ensure there were multiple players in the space. With Syngenta still in operation as a separate chemistry company along with others such as BASF, and the existence of a number of other, albeit smaller, seed companies, competition will exist. It may become much more like the agricultural equipment space where farmers for years have used either red (Case) or green (John Deere) paint, but there still will be multiple other firms providing seed and chemistry.

3. I see many similarities and parallels between these proposed mergers and the consolidation and concentrated and coordinated ownership we have had in the dairy sector in recent years. Many blame that consolidation for the unsustainably low prices paid to dairy farmers in this country and in my home state of Vermont. In the case of dairy, it has meant far fewer buyers in the marketplace that has put dairy farmers against each other in a never-ending search for lower milk prices. In considering these proposed transactions and the increased consolidation they will bring to the seed and crop protection markets, what can we do to protect farmers and consumers from the challenges that have plagued the dairy industry?

The dairy industry in general and Vermont dairy in particular are challenges. The dairy industry overall is plagued with farmers frequently producing all of the profit out of the sector. Vermont for years has faced trying to find ways to generate dairy income high enough to combat development pressure. Buyers of milk have left the industry, primarily because of lack of profitability in the processing space.

Consolidation in the seed and chemistry space is a very different dynamic than that in the dairy sector. Technological innovation in the seed/chemistry space is how these companies will maintain and enhance their competitive edge. Because of pricing policy in dairy, processors are hard pressed to use innovation to boost their margins. Boosting demand and raising cheese prices, for example, just leads to higher costs for milk. Essentially, the seed/chemistry companies do not operate with a set “make allowance” as do dairy processors.

#### Question to all witnesses

1. All farmers, whether they use genetically engineered (GE)-traited technologies or not, are still looking for non-GE choices to expand their rotations and to seek higher value markets. Many of you have discussed the impact that the pending seed and chemical company mergers will have on innovation. Some have argued that the mergers will enhance innovation, and others that it will stifle innovation. Those who are concerned about less innovation if the mergers are approved have noted the difficulty in crafting a potential remedy for that concern, as questions about innovation present unique challenges that are far more complex than simply divesting existing businesses or product lines.
  - a. What are the potential opportunities and mechanisms for enhancing public plant breeding capacity to address the loss in diversity of seed choices for farmers, and the many needs of farmers that will not be addressed by the private sector, whether or not we continue to see mergers in seed companies?

We are at an interesting time in the development of plant genetics. Several of the previously patent protected seed traits are now off-patent, or will be soon. This opens up the possibility of public research using these well established and understood technologies to bring new seed to market at potentially lower cost than the latest technologies coming out of the commercial space. This action, however, will require funding for land-grant universities and other research institutions. Recent history has demonstrated that several states have backed away from funding research on traditional row crop genetics.

- b. As you consider the challenges farmers are facing today needing access to seeds that are well adapted to their farming systems, soils, and the changing climate, would you support additional investments in public research on diversification of seed stocks and publicly available plant varieties in this country that could lead to greater genetic diversity?

Farm Bureau has extensive policy supporting national, regional and state investment in agricultural research. If we want to lean more on public funding, we will need to reverse some long-term trends of flat or declining state funding. According to USDA's Current Research Information System, state funding for agricultural research totaled \$1.25 billion in 2004 but came in at only \$1.02 billion in 2014. Farm Bureau has a long history of supporting funding for agricultural research at all levels, but the public research reliance will require a number of states to take a close look at past behavior.



# Statement of the American Farm Bureau Federation

---

**TO THE SENATE COMMITTEE ON THE JUDICIARY**  
**“CONSOLIDATION AND COMPETITION IN THE U.S. SEED AND**  
**AGROCHEMICAL INDUSTRY”**

**SEPTEMBER 20, 2016**

**Senator Ted Cruz’s Questions for the Record for**  
**Dr. Bob Young, Chief Economist & Deputy Executive Director**  
**Public Policy, American Farm Bureau Federation**

---



## Questions

1. Earlier this month, the Agricultural and Food Policy Center (AFPC) at Texas A&M University issued a report, "Effects of Proposed Mergers and Acquisitions Among Biotechnology Firms on Seed Prices." This report concludes that the proposed mergers between Dow and Dupont and Monsanto and Bayer will increase seed prices for corn, soybeans, and cotton. Notably, the report indicates that the price of cotton could increase by almost 20%. Do you have any response to these findings? Will seed prices increase? If not, what did the report get wrong?

One of the consequences of the Bayer/Monsanto merger is the large concentration of cottonseed production. Recall that when Monsanto acquired Deltapine, it was required to sell off some of its cotton seed capability. Bayer picked up those products. Bringing those two together now under the merger would give the combined company a significant market share. The analytical technique used by AFPC would obviously result in the largest potential price increase coming in cotton seed. Given past action to split up cotton seed in particular, it would not be at all surprising if similar action were required at this point.

Overall it is also important to note that the Bryant et. al. paper brings up this line: "Decreased marginal cost can lead to lower post-merger prices if  $\theta_j^M$  does not increase too much." where  $\theta_j^M$  was defined as the post-merger price markup. One of the potential benefits of these mergers is efficiency gains, which would translate into lower marginal costs. It was not clear in the analysis if any effort was made to assess the effects to which marginal cost improvements would be needed to offset increased concentration effects.

2. In the last quarter century, the agricultural industry has consolidated dramatically into the "Big Six" companies that now control the market. With these proposed mergers, it looks like we're heading toward a "Big Four." In her written testimony, Dr. Moss states that the Dow/DuPont and Monsanto/Bayer mergers "will likely raise entry barriers for smaller innovators and increase the risk that they are foreclosed from access to technology and other resources needed to compete effectively." Can you respond to this? How would these mergers affect the smaller businesses and entrepreneurs in Texas?

One should probably ask the question why these mergers are happening in the first place. If the industry was as profitable and as easy to get into as some would suggest, why do we not see more entrants rather than consolidation? Costs in this industry are substantial. They derive not only from the scientific challenge of researching new chemistries and seed traits, but increasingly also due to regulatory and litigation challenges. One of the consequences of longer and longer trait or chemistry approval times is less time for a product to reach the market on patent.

Without question one of the other reasons for the decline in firm entry, particularly at this point in time, is the decline in farm income. Moving from over

\$120 billion in net farm income to less than \$60 billion in a period of three years has made everyone involved rethink their strategies moving forward.

3. Several of the people I have spoken with in the farm and agricultural industry believe that effects stemming from these mergers should be reviewed collectively. If you disagree, could you please explain why?

We would very much agree with that sentiment. Any one of these proposed mergers would probably be taken as the normal course of doing business. The challenge is not only the three that got the most discussion at the hearing, but consolidation in the plant nutrient space as well. All of these coming together in a matter of months is what probably raises the most concern.

4. The Wall Street Journal has noted that Federal Reserve policies after the financial crisis inflated asset prices, and more recently, that the end of Fed stimulus has led the dollar to rise sharply, which has given us falling prices in many farm commodities. We have seen this effect very clearly in Texas's energy industry, which has seen prices fall by more than half since 2014, hitting the entire regional economy. Do swings in commodity prices, specifically crop prices, have a negative impact on the agricultural industry as whole?

There are a number of factors that have led to a drop in commodity prices. Others have made the case that commodity prices had remained low relative to the prices of other goods and services up until the overall commodity price spikes in the late 2000s. We are probably all familiar with the old adage, "the cure for high prices is high prices." Certainly that has shown up in nearly the entire expanse of the commodity space. High oil prices drove increased exploration and development of new technologies. Increased supplies of fuels across the board, from fracking to shale oil, have led to what is essentially an oversupply situation.

This has certainly been the case in agricultural markets. We generated record-high crop prices in 2012 due in part to drought, but also to strong demand growth both for fuel and export purposes. Farmers responded and are now facing substantially lower prices. For crop producers, these lower prices are obviously having a negative impact on cash flow and on equity positions. Livestock producers on the other hand use these products as inputs and as such are seeing lower feed costs. Livestock producers however have also responded to the higher price signals of years past and have boosted production – particularly in the poultry, pork and dairy spaces – to the point where prices for those commodities also have declined substantially.

With respect to Fed action and the value of the dollar, it is true the ending of the various quantitative easing programs has placed the United States somewhat out of sync with other countries/regions now operating at negative interest rates. But other events in the marketplace, such as BREXIT, have also contributed to the flight to the U.S. dollar.