

**Prepared Statement of Senator Chuck Grassley of Iowa
Chairman, Senate Judiciary Committee
Hearing on “Consolidation and Competition in the U.S. Seed and Agrochemical Industry,”
Tuesday, September 20, 2016**

Good morning everyone. Today’s hearing will focus on mergers and acquisitions in the seed and agrochemical industry. This industry, which provides basic inputs to farmers for growing crops, is seemingly on the precipice of a significant structural transformation.

Currently, there are 6 major companies in the biotech seed industry – Monsanto, DuPont, Syngenta, Bayer, Dow and BASF. They all compete for market share with one another, while at the same time working with each other through cross licensing agreements.

Now 5 of the “Big Six” companies are engaged in merger and acquisition discussions that will further concentrate an industry that’s already undergone massive consolidation.

I’d like to give a little context on the state of agriculture at the moment.

There’s no doubt that right now, the agriculture industry is in a downturn. During the 2012 drought, the monthly average price of corn hit an all-time high over seven and a half dollars. Today, corn at my home elevator in New Hartford, Iowa, is trading at under \$3 per bushel.

Using yearly average prices, we’ve lost around \$3.50 per bushel from 2012 to today. Multiplying that loss by 174 bushels – which is the 10 year county average yield in Butler County, Iowa, where I farm with my son Robin – you get a revenue loss per acre over \$600.

Similar trends can be seen with soybeans, wheat and other crops.

We know farmers are under tremendous financial pressure. And I know firsthand that seed costs have gone up exponentially over the last several decades. When I first started farming, a bag of seed corn cost between \$12 and \$15. Today, seed corn lists for around \$300 a bag, although it’s usually sold cheaper than that after discounts are applied.

Data from Iowa State University shows that the collective costs of seed, chemicals, and fertilizer for an acre of soybeans has gone up 94% over the last 20 years.

With respect to the seed and agrochemical industry, we’ve seen multiple waves of concentration through mergers, acquisitions, collaborative ownerships and cross-licensing deals. This consolidation wave started in the early 1990s, when Monsanto began acquiring smaller seed companies to form the current company which today is the largest seed company in the world as measured by market share.

Clearly, the collective ag biotech industry has produced cutting edge innovations, higher yields, and multiple efficiencies for the agriculture industry. Because of biotechnology, crops are more resilient and better able to withstand threats ranging from insects to drought. The yields

achieved today were unimaginable to farmers just a few decades ago. The innovations of the companies in this room today have helped the world reach productivity levels which ease fears over meeting the long-term demands of our growing global population.

However, when does the size of companies and concentration in the market reach the tipping point, so much that a market becomes anti-competitive? In addition to the transactions involving 5 of the “Big 6” in the seed and agrochemical industry, just recently in the fertilizer industry, two Canadian companies – Potash Corp. and Agrium – announced they were merging to create the largest fertilizer company in the world.

To me, it looks like this consolidation wave has become a tsunami.

It’s no secret that I’ve long been concerned about concentration and competition in the agriculture sector. Farmers are unique, their profession involves accepting prices from input providers and commodity markets, while hoping for good weather in-between. Farmers don’t have the ability to simply raise the price of their crops when they sell them to pass on higher input costs.

I’ve been concerned about vertical integration in agriculture where companies own the entire process – from conception to consumer. Vertical integration can leave the farmer with even fewer choices of who to buy from and sell to, and it hurts a farmer’s ability to get a fair price for his products. Vertical integration also can lead to consumers having fewer choices and higher costs at the grocery store.

So I’m concerned that all these companies merging at the same time will have an enhanced adverse impact on competition in the industry and will raise barriers to entry for smaller companies by altering agricultural input markets for seeds and chemicals. I’m concerned that vertical integration of traits, seed and chemicals will make it more difficult for smaller biotech companies, independent producers and independent crop input companies to compete.

I’m concerned that further concentration in the industry will reduce choice and raise the price of chemicals and seed for farmers, which ultimately will effect choice and costs for consumers. I’m concerned that further consolidation will diminish critical research and development initiatives which drive innovation and technological advances for the agricultural sector.

Each of these transactions raises unique questions about competition and the future of the seed and agrochemical industry.

Questions have been raised about how these transactions will impact market structure and elevate concentration in the seed, traits and chemical markets. For example, for the Dow-DuPont and Bayer-Monsanto mergers, concerns have been raised about the market share for cotton, corn and soybean seed.

Concerns have been raised about the loss of head-to-head competition of these transactions, and whether they will reduce incentives to invest in research and development. Concerns have been raised whether these transactions will result in foreclosure of market access by competing seed

companies to traits and germplasm, and whether they will enhance these companies' ability to engage in exclusionary conduct.

Furthermore, unique with respect to ChemChina's purchase of Syngenta, multiple concerns have been raised about the competitive advantages that are likely to result from that transaction. These concerns range from the Chinese regulatory process favoring Syngenta's biotech traits over those developed by competing biotech companies, to the fact that ChemChina is a state owned enterprise of the Chinese government that can enjoy favorable trade and litigation treatment as compared to regular companies. Not only that, the Chinese government's stake in ChemChina raises concerns about the impact of the acquisition on our nation's food supply. I've always said that we are nine meals away from a revolution, so a safe and sustainable food supply is critical to our national security.

The Justice Department has been tasked with reviewing the Dow-DuPont merger, while the Federal Trade Commission has been charged with the review of the ChemChina-Syngenta acquisition. Bayer-Monsanto was just announced last week, so we have yet to learn which antitrust regulator will review that deal. But because these transactions involve the same underlying market, it's crucial that the Justice Department and FTC work together, with the assistance of the Department of Agriculture, as they conduct their antitrust reviews.

In fact, in early August, I asked that the two antitrust agencies collaborate, as appropriate, in their analysis of the agricultural biotechnology and seed industry, to ensure that the multiple transactions under consideration do not substantially lessen competition. I urged them not to review these transactions in a vacuum because of the already concentrated agriculture industry. Further, I urged them to seek input from the Agriculture Department because of its expertise in this complex and dynamic sector of our economy.

I just heard back from these agencies last week that they'll be heeding my advice and collaborating, as appropriate, on their analysis of the impact of the proposed mergers in the agricultural sector. I guess that's somewhat reassuring, if the regulators actually take a hard look at both the efficiencies and benefits the companies believe will result from these transactions, as well as the concerns raised by independent and smaller players in the market, farmers and consumers.

So today's hearing is very timely. There's a lot of interest in how these transactions will recalibrate the seed and chemical world, and whether they'll pass regulatory muster. Ultimately, it's absolutely crucial that competition is preserved in this important sector of our economy. And in Iowa, my constituents – including farmers, company employees and regular consumers – are interested in hearing how these mergers will impact price, choice and jobs.

I want to thank the witnesses for participating in today's panel. I'd like to note that I was disappointed that ChemChina turned down our invitation to testify. But I look forward to hearing from the witnesses before us and the unique prospective each of them brings to our discussion.