



OFFICE OF THE ATTORNEY GENERAL

*State of Minnesota*

ST. PAUL, MN 55155

LORI SWANSON  
ATTORNEY GENERAL

October 6, 2016

The Honorable David Bly  
State Representative  
Minnesota House of Representatives  
State Office Building  
100 Rev. Dr. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155-1296

The Honorable Jack Considine  
State Representative  
Minnesota House of Representatives  
State Office Building  
100 Rev. Dr. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155-1296

The Honorable Rick Hansen  
Minnesota House of Representatives  
State Office Building  
100 Rev. Dr. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155-1296

The Honorable Clark Johnson  
Minnesota House of Representatives  
State Office Building  
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St. Paul, MN 55155-1296

The Honorable Jennifer Schultz  
Minnesota House of Representatives  
State Office Building  
100 Rev. Dr. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155-1296

The Honorable Mike Sundin  
Minnesota House of Representatives  
State Office Building  
100 Rev. Dr. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155-1296

Dear Representatives Bly, Considine, Hansen, Johnson, Schultz, and Sundin:

I thank you for your recent correspondence sent to Governor Dayton and to me.

You write about the pressures on Minnesota's family farmers, including low commodity prices and rising costs. You express concerns with continuing consolidation in the agricultural industry, specifically highlighting the recently-announced acquisition of Monsanto by Bayer, along with other pending mergers of the major agrichemical producers. You believe the resulting decrease in competition in this area, and consolidation in the markets for meat processing and farm equipment, will limit choice and increase costs for Minnesota's farmers. You ask Governor Dayton and me to encourage the U.S. Department of Justice to carefully scrutinize all such mergers and transactions for agricultural input suppliers and to do what each of us can to address the situation.

I share your concerns. Agriculture is one the backbones of Minnesota's economy, which ranks fifth in the nation for the total value of crops and livestock products sold. Despite enduring many other challenges in recent years—including double-digit health care premium increases—farmers are now faced with several pending transactions on a global scale that threaten to drastically change the competitive landscape for a variety of agricultural products. I can tell you the following, which I hope will be helpful:

First, competition is the most effective regulator of prices and services. The agricultural industry is already highly consolidated. As you reference, the industry is in the midst of several additional significant consolidations. Pending combinations by Dow and DuPont, and Syngenta and China National Chemical Corporation, affect the markets for seeds and grains in particular, and, in my view, this must be factored into the analysis of the investigation of the Monsanto/Bayer deal. In addition, the fertilizer market faces proposed consolidation, and the U.S. recently sued to block an acquisition by John Deere of Monsanto's high-speed precision planting system. All of these potential changes in the industry could impact the input prices paid by Minnesota farmers.

Second, as a practical matter, any meaningful attempt to change the terms of or block a proposed acquisition of this global magnitude must include federal authorities. Congress recognized this through the enactment of the Hart-Scott-Rodino Act, which requires large merging companies to provide detailed information to the federal government in advance of a merger or acquisition and an opportunity for federal authorities to take action to block a transaction before it occurs. Therefore, I strongly encourage you to also share the concerns you expressed on your constituents' behalf with both the U.S. Department of Justice and the Federal Trade Commission. As you note in your letter, the DOJ has authority to enforce federal antitrust laws in many cases. The FTC also has authority to enforce federal antitrust laws. At this time, given the multiple markets and product lines impacted by all of the pending agricultural mergers, it is my understanding that the DOJ and the FTC are still deciding how authority for review of the mergers will be divided between the two agencies. My Office has and will continue to encourage these federal agencies to closely review these transactions. In the meantime, I encourage you to also contact these agencies as follows:

U.S. Department of Justice  
Antitrust Division  
950 Pennsylvania Avenue, NW  
Washington, DC 20530  
1-888-647-3258  
[antitrust.complaints@usdoj.gov](mailto:antitrust.complaints@usdoj.gov)

Federal Trade Commission  
Bureau of Competition  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
1-877-382-4357  
[antitrust@ftc.gov](mailto:antitrust@ftc.gov)

Third, the United States Congress obviously has more sway over these federal agencies than do any state officials due to the Congressional oversight and budget processes. If you have not yet done so, I recommend that you ask Minnesota's Congressional delegation to similarly encourage DOJ and FTC to carefully review these proposed combinations. I am told that a

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number of committees and subcommittees, including agriculture, antitrust and others, will be holding hearings on the proposed combinations. For that additional reason, it is important that you reach out to and work with Minnesota's Congressional delegation.

Fourth, my Office is working jointly with various other state attorneys general and federal authorities to review the acquisition of Monsanto by Bayer. As you can imagine, this merger spans global markets for not only agricultural products, but also health products and pharmaceuticals. The investigation of the Monsanto/Bayer transaction is still developing, but markets that seem to warrant particular scrutiny given Minnesota's agricultural production include pesticides and seeds for grains and beans.

I thank you again for your correspondence and appreciate your advocacy for Minnesota farmers.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Lori Swanson', written over a horizontal line.

LORI SWANSON  
Attorney General