



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

The Honorable Charles E. Grassley
United States Senate
Washington, DC 20510

Dear Senator Grassley:

This responds to your letter to the Attorney General, dated December 15, 2021, expressing concerns about possible anti-competitive activity in the fertilizer industry. The Department of Justice (Department) appreciates your interest in this matter.

The Department of Justice appreciates and shares your concern about the state of competition in our agricultural markets, including vital upstream inputs such as fertilizer. Agriculture is a vital part of our nation's economy, and the Department is committed to preventing anticompetitive mergers and conduct from harming our agricultural markets, farmers, and consumers. This includes close scrutiny of any proposed transactions in these industries, as well as constant vigilance against any potentially anticompetitive conduct. As Associate Attorney General Gupta recently explained in a speech to the National Farmers Union, and as your letter correctly recognizes, too many of the markets in our agricultural supply chain are characterized by an excessively consolidated structure that gives a handful of firms the ability to dictate terms to their workers, customers, or suppliers, including farmers, to the detriment of competition.¹ The Department is on high alert for evidence of anticompetitive activity enabled by such market structures, and is committed to taking a "whole-of-government" approach to fighting such excessive concentration and improving competition, including partnering with peers at the Department of Agriculture (USDA) and other government agencies to take advantage of the full range of statutory and regulatory tools available.

While Department policy limits my ability to comment on or pre-commit to any particular action in ongoing or future enforcement matters, please rest assured that the Department will continue to treat evidence of criminal or civil wrongdoing in fertilizer and other agricultural markets as a matter of the highest urgency, and will enforce the antitrust laws to their fullest extent.

¹ Vanita Gupta, Associate Att'y Gen., Remarks to the National Farmers Union (Sept. 21, 2021), <https://www.justice.gov/opa/speech/associate-attorney-general-vanita-gupta-delivers-remarks-national-farmers-union>.

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We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

Peter S. Hyun
Acting Assistant Attorney General