

U.S. to Allow Bayer's Monsanto Takeover

wsj.com, 9th April 2018

The Justice Department has decided to allow Bayer AG's BAYRY 2.27%▲ megadeal to acquire Monsanto Co. MON 6.19%▲, valued at more than \$60 billion, after the companies pledged to sell off additional assets to secure government antitrust approval, according to people familiar with the matter.

An agreement in principle between the companies and the department, brokered in recent days, marked a breakthrough in the U.S. merger review process, which had remained in limbo because of Justice Department concerns about the deal.

Monsanto shares rose more than 6% in recent trading after The Wall Street Journal reported on the Justice Department's decision.

Bayer Chief Executive Werner Baumann and Monsanto CEO Hugh Grant recently met with Justice officials in Washington to help secure an agreement, people familiar with the matter said.

The Bayer deal presented the Justice Department with its second major merger decision under Trump administration leadership, following its move last November to challenge AT&T Inc.'s acquisition of Time Warner Inc., a case that is currently in trial.

Deal makers and investors remain eager for more data points on the administration's approach, but there does appear to be one common thread between the two decisions. In each transaction, the department's antitrust division sought structural changes to the deal, in the form of asset sales, instead of promises from the companies on how they would run their businesses postmerger.

AT&T didn't agree. Bayer did.

Germany's Bayer, a pharmaceutical and chemical conglomerate, is a leading player in the pesticide industry, while Monsanto, based in St. Louis, is a market leader on seeds and crop genes. The deal, which was announced in September 2016, would make Bayer the world's biggest supplier of pesticides and seeds for farmers.

The European Union last month conditionally approved the deal after Bayer agreed to sell off more than \$7 billion worth of assets to rival BASF SE. The sales include Bayer's soybean and cottonseed businesses, as well as Bayer's glufosinate weedkiller, which competes against Monsanto's Roundup.

U.S. antitrust officials continued to harbor concerns. After the EU's move, the Justice Department said the deal could have different competitive effects on American farmers and consumers, citing for example the market for genetically modified seeds, which are widely used in the U.S. but largely prohibited in Europe.

As part of an agreement with U.S. antitrust enforcers, people familiar with the matter said Bayer will divest additional seed and seed-treatment assets and will make concessions related to its digital agriculture business, which provides data-

driven farming advice and services. BASF will also acquire those assets, the people said.

It isn't clear when U.S. approval could be completed.

"As we've said from the beginning, this opportunity is about combining highly complementary businesses and bringing new innovative solutions to our customers," Bayer said in a statement. "We remain confident in our ability to obtain all necessary regulatory approvals and look forward to continuing to work diligently with regulators to support that process. We anticipate closing in second quarter 2018."

A Monsanto spokeswoman pointed to a company earnings statement last week, in which Monsanto said it "continues to be confident in the companies' collective ability to secure the required approvals within the second calendar quarter of 2018 and in the time contemplated by the agreement."

Representatives for the Justice Department and BASF declined to comment.

Bayer's purchase of Monsanto is the third in a series of megadeals that have reshaped the \$100 billion global market in crop seeds and chemicals.

Dow Chemical Co. and DuPont Co. last year completed a merger that united the companies' agricultural divisions, which eventually will be spun out into a new company called Corteva Agriscience. Swiss seed and pesticide maker Syngenta AG last year completed its \$43 billion sale to China National Chemical Corp., expanding the state-owned company's heft in high-tech seeds and pesticides.

This consolidation has raised worries among farmers, who are struggling against a global crop glut that has pushed down prices and farm incomes. Groups including the National Farmers Union have urged antitrust enforcers to block the deals, warning that diminished competition among the global giants that dominate development of crucial farm supplies could lead to higher prices and fewer choices for already-strapped farmers.

"A game of 'musical chairs' among a dwindling set of market players is not a prescription for healthy, competitive agricultural [supply] markets," wrote officials for the NFU, the American Antitrust Institute and Food & Water Watch, in a letter sent to the Justice Department last year.

Bayer and Monsanto executives have said combining would allow the companies to bring better products to market faster by integrating research across chemicals, seed breeding and biotechnology.

The companies still need some additional approvals, including from regulatory bodies in Canada and Mexico.

While analysts have generally expected the deal to close, some have warned of uncertainty around the Justice Department review.

There have been recent public signs that the Justice Department was heading toward allowing the deal.

The department had a group of lawyers preparing for possible litigation on the Bayer transaction in case talks broke down, but a leading member of the team, Julie Elmer, is now working on the department's current litigation against the AT&T-Time Warner deal. Ms. Elmer appeared in court for trial proceedings last Thursday and questioned an AT&T witness on the stand.