

January 22, 2024

The Honorable Lina Khan
Chair
Federal Trade Commission
600 Pennsylvania Ave, NW
Washington, D.C. 20580

The Honorable Jonathan S. Kanter
Assistant Attorney General for the Antitrust Division
U.S. Department of Justice, Antitrust Division
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Re: Koch Industries' planned acquisition of OCI Global's Iowa Fertilizer Company

Dear Chair Khan and Assistant Attorney General Kanter:

We urge the Federal Trade Commission (FTC) and Department of Justice (DOJ) to thoroughly investigate — and, if evidence warrants, to take action against — Koch Industries' planned \$3.6 billion-dollar acquisition of OCI Global's Iowa Fertilizer Company (IFCO), a major nitrogen-enrichment facility in Wever, Iowa. IFCO was built with substantial local, state, and federal investment, with its proponents citing the opportunity to challenge Koch Industries' dominance in fertilizer markets.¹ Should the acquisition be allowed to proceed, taxpayers will have effectively subsidized the expansion of Koch's control over a critical and heavily concentrated sector of our agricultural economy.²

The IFCO plant currently employs more than 250 workers and produces approximately two million tons of fertilizer annually.³ Proposed in 2012, the IFCO plant was anticipated to decrease fertilizer costs for farmers by introducing competition into the highly consolidated fertilizer industry.⁴ The promise of jobs and a stable, domestic source for nitrogen enabled the plant to garner the largest tax incentive package in Iowa's history:⁵ \$133 million in local giveaways, another \$112 million in state giveaways, and an estimated \$300 million in federal tax giveaways.⁶ The unrestricted federal funds left the door open for Koch Industries to purchase the company just six years after the plant opened.

¹ Syroka, Scott. December 28, 2023. A bad deal gets worse: Koch trying to buy Iowa fertilizer plant. *Bleeding Heartland*. Available at <https://www.bleedingheartland.com/2023/12/28/a-bad-deal-gets-worse-koch-trying-to-buy-iowa-fertilizer-plant/>

² Carden, Sarah. January 19, 2022. Big Fertilizer: Measuring the Impacts of Food and Farm System Concentration. Available at <https://farmaction.us/bigfertilizer/>

³ Jordan, Erin. December 19, 2023. Koch Industries buys Iowa Fertilizer Co. for \$3.6B. *The Gazette*. Available at <https://www.thegazette.com/agriculture/koch-industries-buys-iowa-fertilizer-co-for-3-6b/>

⁴ Swoboda, Rod. April 24, 2027. New \$3 billion fertilizer plant opens in Iowa. *FarmFutures*. Available at <https://www.farmprogress.com/business/new-3-billion-fertilizer-plant-opens-in-iowa>

⁵ *Ibid.*

⁶ Syroka, Scott. December 28, 2023. A bad deal gets worse: Koch trying to buy Iowa fertilizer plant. *Bleeding Heartland*. Available at <https://www.bleedingheartland.com/2023/12/28/a-bad-deal-gets-worse-koch-trying-to-buy-iowa-fertilizer-plant/>

We note that FTC and DOJ's recently updated merger guidelines contain language pertinent to this proposed acquisition: specifically Guideline 1, which states that "Mergers Raise a Presumption of Illegality When They Significantly Increase Concentration in a Highly Concentrated Market."⁷ Guideline 6 states that "Mergers Can Violate the Law When They Entrench or Extend a Dominant Position."⁸ Fertilizer is one of the most highly consolidated sectors in American agriculture, with the top four firms collectively controlling 75% of fertilizer markets.⁹ Koch Industries is in fact one of these four fertilizer firms,¹⁰ in addition to being one of the largest privately held companies in the country.¹¹

While we would harbor grave concerns about any acquisition that further consolidates an agricultural sector as concentrated and as critical as fertilizer, those concerns are much more serious given this deal involves hundreds of millions in taxpayer dollars. To safeguard our economy and indeed our democracy, our enforcers must prevent dominant firms from capitalizing on investments made with public resources.

We urge your agencies to swiftly and thoroughly investigate this acquisition. If the investigation determines that this deal would further entrench Koch Industries' already dominant position in the fertilizer sector, we call on your agencies to oppose it with the full weight of your respective authority.

Sincerely,

20/20 Vision

American Economic Liberties Project

American Grassfed Association

Campaign for Family Farms and the Environment

Family Farm Defenders

Farm Action

Farm and Ranch Freedom Alliance

Food & Water Watch

Iowa Citizens for Community Improvement

Institute for Agriculture and Trade Policy

Institute for Local Self-Reliance

National Family Farm Coalition

National Farmers Union

Open Markets Institute

R-CALF USA

Revolving Door Project

Sooner Food Group

Union of Concerned Scientists

⁷ U.S. Department of Justice and the Federal Trade Commission. December 18, 2023. Merger Guidelines. Available at https://www.ftc.gov/system/files/ftc_gov/pdf/2023_merger_guidelines_final_12.18.2023.pdf

⁸ Ibid.

⁹ Carden, Sarah. January 19, 2022. Big Fertilizer: Measuring the Impacts of Food and Farm System Concentration. Available at <https://farmaction.us/bigfertilizer/>

¹⁰ Ibid.

¹¹ Murphy, Andrea. November 14, 2023. America's Largest Private Companies. *Forbes*. Available at <https://www.forbes.com/lists/largest-private-companies/>