
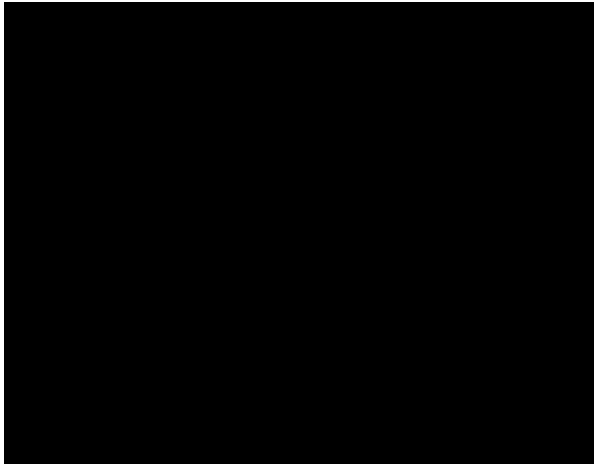















	<u>NATIONAL FRESH PRODUCE MARKET INQUIRY</u>	
----	BAYER (PTY) LTD VEGETABLE SEEDS	
Number	Question	Answer
1	Kindly provide the following information regarding the regulation of vegetable seeds:	
1.1	As per your submission at "A6", explain the differences in regulation that imported vegetable seeds face compared to seeds produced domestically.	<p>There are no differences in regulations that imported vegetable seeds face compared to seeds produced domestically. However, the imported vegetable seeds are additionally subject to the provisions of the Agricultural Pests Act, 1983 which regulates plants, plant products and other regulated articles imported into South Africa.</p> <p>Treated seeds are also subject to the provision of the Fertilizers, Farm Feeds, Seeds and Remedies Act 36 of 1947 which regulates the importation and sale of fertilizers, farm feeds, seeds and certain remedies.</p> <p>Note further that vegetable seeds are imported and there is obviously a foreign exchange impact on costs at local level.</p>
1.2	From a regulatory perspective, is it preferable for Bayer to import seeds into South Africa, as opposed to producing them domestically?	Bayer made a business decision to import vegetable seeds instead of producing them locally due to resources constraints.
1.3	Detail any other known issues pertaining to delays emanating from regulations or acquiring certain approvals for vegetable seeds and crop protection products in South Africa. In addition, kindly provide your views on how these can be remedied.	There are no delays emanating from variety listing and plant breeders' rights regulations.
2.5	Do Bayer's appointed distributors sell your seeds and crop protection products in all 9 provinces? If not, stipulate which provinces are excluded.	Yes
4	Kindly provide the following information regarding Bayer's seed varieties:	

4.1	Regarding the sale of your seeds in South Africa, can any farmer purchase any of your seed varieties, or are certain varieties reserved for sale only to certain farmers? If so, provide details.	All farmers can sell all varieties
4.2	Provide a list (with descriptions) of any intellectual property (IP) owned by Bayer that pertain to your seeds and crop protection products sold in South Africa. In your response, also provide information about registration dates, duration and remaining period until the IP lapse.	 NFPMI%20spreadsheet%20071223.xlsx
4.3	What percentage of the seed varieties that you sell in South Africa have open IPs?	Bayer in South Africa does not own the intellectual property on seed varieties. These are all globally owned by Monsanto in The Netherlands
4.4	Clause 21 of Schedule 2 of the Distribution Agreement with Nuvance states the following: a buyer shall not use the seeds or any other by-product derived from planting the seeds, for any further propagation of the variety, nor sell or market the seeds or their by-products unless the seeds were provided for that purpose or if it is permitted by law. A seller shall be granted access to a buyers' premises, fields and greenhouses etc. to enable the seller to audit the buyer's compliance with stipulated conditions. Please indicate if this extends to producers or farmers who purchase the products, especially the seeds. In other words, are farmers allowed to propagate seeds for own utilisation or planting in the future? If no, kindly explain why and indicate for which products this applies.	The Distribution Agreements are with distributors and not farmers. Accordingly, there are no agreements per se which place limitations on farmers to propagate seeds for own use, but this is frowned upon and it is in general not done by farmers to ensure that the seeds which they plant are pure and not subject to pests or other conditions

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Number	Question	Answer
1.3	Detail any other known issues pertaining to delays emanating from regulations or acquiring certain approvals for vegetable seeds and crop protection products in South Africa. In addition, kindly provide your views on how these can be remedied.	<ul style="list-style-type: none"> • Agricultural Input Control (AIC) should admit that there is a problem and accept help from industry or any other body which is willing to assist • The unit needs good management and also good leadership • It is suggested that new technical advisors be employed • Capacity building and sustainability of staff • Electronic submission of dossiers/applications is suggested, as well as the electronic evaluation of dossiers • Sometimes extraordinary delays in the registration of products with the Registrar of particularly Act 36 of 1947
2	Kindly provide the following information regarding Bayer's product distribution:	
2.1	Provide copies of the most recent contracts that set out the distribution terms between Bayer and your top 5, as well as your bottom 5 distributors.	<p>New agreement per standard templates have been rolled out and some of these are still awaited.</p> <p>The following signed agreements for the top 5 are alphabetically attached:</p>  <p>The following signed agreements for the bottom 5 are alphabetically attached:</p>

		
2.2	Does Bayer offer identical pricing to its distributors? If not, kindly detail the various pricing structures, particularly those that may be offered to larger distributors.	Yes, Bayer offers the same pricing and commercial offers to distributors
2.3	How many Historically Disadvantaged Persons (HDP) distributors (if any) does Bayer utilise? Provide their relevant details.	<ol style="list-style-type: none"> 1. Nkadani Trading Enterprise CC. Nkateko Mathebula.  2. Thohoyandou Farm City  3. Agri City  4. Phulcorn Agri Holdings  5. Tieva Pty Ltd  6. Agrizor +  7. Greenland Farm Supplies  8. Siphindlela Majojobela  9. Bourne Enterprise  10. Siba Farming House. Nonhlanhla Sibanyoni.  11. Sanki Khulu Concepts. Samuel Poto.  12. Lise Farming. Shadrack Mabuza. 
2.4	Explain whether there is a particular reason why crop protection products are strictly offered through distributors and not directly to growers.	Bayer utilizes distributors to ensure proper sales, distribution and stewardship of our crop protection products in its supply to farmers. Bayer does not have the requisite resources to supply growers directly at this point in time
2.5	Do Bayer's appointed distributors sell your seeds and crop protection products in all 9 provinces? If not, stipulate which provinces are excluded.	Yes
3	In your responses to questions 24 and 25, you mention a number of global	Bayer AG acquired Monsanto Company on a global basis in 2017

	consolidations/acquisitions in the agrochemical space. In this regard, kindly provide a list of all of Bayer's acquisitions in the past 10 years that are relevant to the South African market.	
4.2	Provide a list (with descriptions) of any intellectual property (IP) owned by Bayer that pertain to your seeds and crop protection products sold in South Africa. In your response, also provide information about registration dates, duration and remaining period until the IP lapse.	All Bayer's (Crop Protection) IP registrations are held by Bayer Intellectual Property Gesellschaft mbH in Monheim, Germany. These registrations are registered internationally and vary dependent on active ingredients, specific formulations, production processes etc. We are unable to disclose the confidential information
5	Does Bayer (or any of its parent or subsidiary firms) possess any controlling or non-controlling shareholding in any of the downstream distributors of agricultural inputs in South Africa? If so, provide the relevant details.	No
6	Between 2017 to present, did Bayer (or any of its parent or subsidiary firms) have any directors who held cross-directorships in either a competitor or a downstream distributor of agricultural inputs? If so, provide the relevant details.	No