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Bayer Aktiengesellschaft
Gebäude Q 26 (Rechtsabteilung)
Kaiser-Wilhelm-Allee
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Annual Stockholders' Meeting on April 26, 2013

I hereby notify you that I will oppose the proposals of the Board of Management and the Supervisory Board as regards Items 2 and 3 of the Agenda, and will induce the other stockholders to vote in favor of the following counter motions.

Counter motion to Item 2: The actions of the members of the Board of Management are not ratified

The BAYER Group is responsible for many environmental and social problems. The Board of Management bears responsibility for this, and for this reason its actions should not be ratified. The following is a selection of current problem areas.

Labeling of genetically engineered products

BAYER contributed USD 2 million to a campaign operated by chemical corporations in the United States which resulted in an initiative to have genetically engineered food products labeled accordingly being defeated. *Proposition 37*, an initiative put forward in the federal state of California which called for mandatory European-style labeling, went to the ballot on Presidential Election Day, November 6. The companies invested more than USD 40 million in their advertising campaign, roughly ten times more than the proponents of the initiative.

This is a classic example of double standards. In Europe it goes without saying that genetically modified ingredients are declared on the labeling of a food product. In the United States, on the other hand, spurious arguments are put forward to prevent labeling of this kind. This tramples on the rights of consumers.

Exorbitant marketing

BAYER spent nearly EUR 10 billion in the last fiscal year on sales and advertising, a sum equivalent to more than one quarter of its entire sales. In the same period, only EUR 3 billion was spent on research and development.

This expense item includes the entire gray area of pharmaceutical marketing: medication samples, continuing education courses for physicians, pharmaceutical sales reps, donations to medical associations, support for self-help groups, expenditure on lobbying organizations etc.

In spite of these gigantic sums, stockholders have to make do with just eight lines of the Annual Report on the subject of this expense item (see page 213). BAYER has not published an informative breakdown of this figure, despite repeated requests by the *Coordination gegen BAYER-Gefahren*. It is an easy way to conceal enormous amounts of money and prevent them being scrutinized by stockholders or the public. In the Annual Report, the Group states that the increase in sales and advertising costs by more than ten percent is due largely to the launch of new medicines such as Xarelto. Once again, it is clear that the high prices of medicines are due not to the cost of research but to exorbitant marketing.

Fatal clinical trials in India

The Indian government states that hundreds of subjects die every year in the course of clinical trials. A list drawn up by the *Drugs Controller General of India* (DCGI) for 2011 shows that 57 trial subjects died during clinical trials sponsored by Novartis alone. BAYER and Pfizer come next on the list, with 20 fatalities each. Between 2007 and 2010, 138 Indian citizens died during trials sponsored by BAYER, four of them as a result of the side effects of the controversial anticoagulant drug Xarelto. BAYER paid their surviving dependants just USD 5,250 in compensation.

Companies like Novartis, BAYER and Pfizer knowingly put the lives of Indian trial subjects at risk. Investigations in India repeatedly show that trial participants are not informed of the dangers associated with the medications being tested – they often don't even know that they are taking part in a trial. It is therefore hypocritical for pharmaceutical companies to claim that the same standards apply in India as in Europe.

Trials are outsourced to India because the costs are lower there and, more particularly, because of the low level of regulatory oversight. An investigation commission instructed by the Indian parliament recently identified serious shortcomings at CDSCO, the regulatory authority responsible for medicines: "For decades it has served primarily the interests of the pharmaceutical industry and consequently neglected consumer interests," is the conclusion drawn by the report. In marketing authorization procedures for medicines the CDSCO has relied on opinions from experts working at the behest of the pharmaceutical manufacturers. The commission names Xarelto, a product from BAYER containing the active substance rivaroxaban, as an example: "The three expert opinions for rivaroxaban (BAYER), a medicine used to thin blood, are almost identical copies." The health of trial subjects is knowingly being put at risk.

A few weeks ago, BAYER in China was ordered by a court to pay compensation of some EUR 50,000 to a woman who had taken part in a trial with Xarelto. The plaintiff had only barely survived the tests.

Detailed information about these cases can be found on the home page of the *Coordination gegen BAYER-Gefahren* at www.CBGnetwork.de.

Counter-motion to Item 3: The actions of the members of the Board of Management are not ratified

The Supervisory Board does not adequately perform its supervisory role, and its actions therefore should not be ratified. The following are examples of irresponsible group policies supported by the Supervisory Board:

Deformities caused by Duogynon

The victims of the hormone-based pregnancy test Duogynon are not able to pursue legal action against BAYER further because of the five-figure costs involved. BAYER was only able to extract itself from the situation by claiming that the victims' claims are time-barred. Even the responsible judge at the Regional Court of Berlin, Dr. Holger Matthiessen, called on the company to approach the individuals affected, saying: "A globally operating corporation like BAYER should seek a dialogue, I can only urge you to do this!"

The dimensions of the Duogynon affair are comparable only to those of the thalidomide scandal. As with thalidomide, profits were generated for years with a medicine despite all the evidence of potential deformities.

Employees at Schering had warned of the risks associated with Duogynon at an early stage. In November 1967, a scientist working for Schering wrote in a letter to the company management: "The evident correlation between the increase in the number of deformities and sales of the pregnancy test would appear to be rather alarming." In 1969 the British regulatory authority *Committee on Safety of Drugs* requested Schering to provide the laboratory data for Duogynon. After the documentation had been evaluated, a warning was added to the box to the effect that the product should not be used during pregnancy because of the risk of malformations. Schering subsequently removed the indication pregnancy test in the United Kingdom but not in Germany.

It has also been claimed that Schering bribed scientists in the early 1980s to confirm that Duogynon was safe. Bayer has neither effectively contested this claim in court, nor has it disproved it publicly. In the most recent legal proceedings, a former Schering employee was named as a witness.

Dangerous contraceptive pills

For years, the victims of contraceptive pills such as Yasmin and Yaz have been calling for a ban on all pills with a high risk potential. BAYER steadfastly refuses to respond to the call, even though numerous studies have documented the dangerousness of these products.

The Group has contradicted its stance by reaching settlements totaling over USD 1 billion with some 4,800 plaintiffs in the United States. There are additionally 13,600 women with whom no settlement has been reached so far. Women in European countries who have been harmed, on the other hand, have received absolutely no compensation to date.

Overall, in 2012 BAYER had to make provisions for exceptional charges of EUR 1.2 billion for further litigation. This amount exceeds the company's insurance cover.

The cost of Yaz and Yasmin will no longer be reimbursed in the future in France because of the elevated risk associated with these products. The intention of the French government is to contain sales of these products. Moreover, the European regulatory agency EMA is reviewing the marketing authorization for these pills at the request of France.

All products containing the hormone drospirenone must be taken off the market immediately. There is no justification for maintaining the marketing authorization. However, BAYER is unlikely to take voluntary action as long as settlements to victims are lower than profits from selling the products – a cynical calculation!

Animal studies

BAYER performs about six percent of all animal studies carried out in Germany. The Group "used" 147,000 animals last year, and a further 23,000 animals were used by external contract institutes. BAYER has repeatedly collaborated with controversial test laboratories such as *Professional Laboratory and Research Services (PLRS)* and *Huntingdon Life Sciences (HLS)*, which are known for using methods which are cruel to animals.

The example of BAYER's product Lipobay shows that serious side effects cannot be predicted by animal experiments. BAYER had claimed "excellent tolerability" for this product following numerous animal studies. Yet Lipobay caused severe destruction of muscle and the consequent death of more than 100 patients.

Animal studies are irresponsible not only in terms of the animals involved but also in human terms. They do not benefit the safety of patients, they serve primarily to protect the legal position of the pharmaceutical manufacturer. Animal-based procedures are scientifically outdated and no longer ethically acceptable. BAYER is therefore called upon to transfer its pharmaceutical research to procedures which do not involve animals. Computer simulations, tests in cell cultures and tests using biochips are better able to illustrate the metabolism of new active substances in the human body than animal studies.

I request notification of these counter-motions and the reasons for them pursuant to Sections 125, 126 of the German Stock Corporation Act (AktG).

(Signature)

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Counter motion to Item 2: The actions of the members of the Board of Management are not ratified

The BAYER Group is responsible for a wide variety of ecological and social problems. The Board of Management bears the responsibility for these, so its actions should not be ratified. A selection of current problems is outlined below.

Lipobay:

During the past fiscal year, BAYER has been sentenced to pay damages to Lipobay victims in several cases, for example, in Argentina and Italy. The courts established clear guilt on the part of the Group. Internal documents show that BAYER's management was aware of the serious health risk for patients and even ignored warnings from within the company.

The court rulings are a great source of satisfaction for victims around the world. Nevertheless, Bayer refuses to accept its guilt and pay fair compensation to all those affected.

Blood products:

Last year, hemophilia patient Todd Smith died at the age of 50. In the 1980s, he was infected with HIV and Hepatitis C as a result of blood products from BAYER. His infections could have been avoided if the Group had applied the tests and inactivation processes available at the time.

At that time, BAYER was the world market leader in blood products. Following the ban on untreated blood products in the United States and Europe, the company exported the remaining lots to Latin America and Asia, where further infections occurred. BAYER still refuses to finance a permanent foundation that would enable those affected to live in dignity. Instead, the costs have to be borne by the public.

Pesticides:

The three largest pesticide producers BASF, BAYER and SYNGENTA, which control almost half of the world pesticide market, each market more than fifty highly dangerous active ingredients, which cause, for example, cancer, nerve damage and sterility, damage the hormone system or could jeopardize biodiversity. The World Health Organization (WHO) estimates the number of pesticide poisonings at between 3 and 25 million a year. Around 99 percent of all pesticide poisonings occur in southern countries.

Xarelto:

There are considerable doubts about the safety of the new anticoagulant Xarelto, which BAYER is doing all it can to push onto the market. Data from the *Federal Institute for Drugs and Medical Devices* (BfArM), which the *Coalition against BAYER Dangers* obtained on request, reveal that last year alone there were 58 deaths following the use of this drug and 750 cases of serious side-effects.

In the USA, registration of this product to treat blood clots in the coronary arteries has been delayed. In view of the high risk of bleeding, the FDA recently asked BAYER to submit further data on the risks of Xarelto. In February 2012 the FDA had already criticized BAYER because three deaths had not been documented in the dossiers submitted.

Problems were encountered in the United States in the authorization processes for the indications "prevention of thrombosis in knee and hip surgery" and "prevention of stroke and embolism in patients with atrial fibrillation". The FDA asserts, among other things, that BAYER did not correctly set the dosages for study participants in the control group treated with Warfarin (related to Marcumar).

Experts advise against the use of Xarelto and advocate continued use of the established medication Marcumar. For example, the *Drug Commission of the German Medical Association* stated: "Overall, in the Commission's view, where cardioembolism in patients with atrial fibrillation can be effectively prevented through treatment with vitamin K antagonists such as Phenprocoumon, there are no advantages in treatment with dabigatran or rivaroxaban (Xarelto). Their use should be confined to patients for whom vitamin K antagonists are not a treatment option."

Alongside price considerations – it is 15 times cheaper than Xarelto – the main argument in favor of Marcumar is that an antidote exists that can halt severe bleeding; this is not the case with Xarelto.

It is wrong for BAYER to press ahead with the marketing of a medication simply for profit reasons in the face of considerable doubts about its safety. The Group should have learned from the LIPOBAY, TRASYLOL and YASMIN scandals. On principle, preparations that do not offer any benefit compared with older products should not receive marketing authorization.

Counter-motion to Item 3: The actions of the members of the Supervisory Board are not ratified

The Supervisory Board does not adequately perform its oversight function, and its actions therefore should not be ratified. Below are some examples of irresponsible corporate policies for which the Supervisory Board shares responsibility:

Imported coal:

German industry sources 80 percent of its coal from abroad. However, international coal trading takes place largely outside the public domain. In the debate about Germany's "new energy policy," questions about working conditions in the coal mining industry and the ecological follow-on costs are rare.

BAYER, too, imports large quantities of coal, for example, hard coal from Colombia and coking coal from China (so far, BAYER has not provided an exact breakdown). BAYER's subsidiary CURRENTA is a member of the *German Coal Importers Association*. The extensive combustion of coal is largely responsible for BAYER's high greenhouse gas emissions – over 8 million tonnes of CO₂ a year.

Around 10.5 million tonnes of coal were shipped to Germany from Colombia alone in 2012. Nearly five million hectares have been released for mining in this South American country within a decade. Working conditions in Colombian mines are appalling, the risk of accidents is high. According to official statistics, there were about 500 fatalities caused by pit gas explosions between 2004 and 2010. Many miners suffer from silicosis and other occupational diseases.

Mining companies use all possible means to prevent the establishment of labor unions. Paramilitary organizations have repeatedly been used for repression. Several union members have been killed.

Neither miners nor the local population benefit from the high export revenues. Thousands of Colombians have lost their source of livelihood. The interests of the indigenous population and small-scale farmers, in particular, are betrayed. Even Colombia's former Environment Minister Manuel Rodríguez criticizes the fact that his country "prostitutes itself with inadequate ecological and social regulations."

Through coal imports from countries with inadequate ecological and social standards, BAYER shares responsibility for the serious problems that arise there.

Election campaign donations:

The BAYER Group has traditionally been among the most important foreign donors to U.S. election campaigns. Last year, BAYER's so-called Political Action Committee was the biggest German contributor to the Republican Party, with donations totaling USD 261,000. In the preceding mid-term elections, BAYER selectively sponsored candidates who deny climate change and block effective climate legislation. BAYER was also one of the supporters of the *Heartland Institute*, which denies climate change and played a key role in the rise of the reactionary "Tea Party."

BAYER's donations help block progress in environmental and consumer protection. The common good is overridden by the special interests of major corporations. The noble ideal of "*one man, one vote*" expressed in the U.S. Constitution is increasingly mutating into "*one dollar one vote*" as a result of the dependence on corporations.

Sports sponsorship:

For many years, Bayer 04 Leverkusen was sponsored by the company TelDaFax, which later was involved in bankruptcy proceedings on an unprecedented scale. Bayer 04 continued to receive millions even after its managers became aware that TelDaFax was in trouble. By contrast, the roughly 700,000 people affected were left empty-handed.

Last summer Bayer 04 concluded a new sponsoring agreement - with the betting company Betfair.

The German Soccer Association (DFB) and German soccer clubs are supposed to take systematic action to prevent bet manipulation, racketeering and bribery. Instead, Bayer 04 decided to take money from a betting company. The dubious nature of the agreement is shown by the fact that it was canceled only a few months later.

Antibiotics for animals:

The German government has, for the first time, published details of the quantities of antibiotics administered to animals in Germany. The figures show that seven times more antibiotics are used in intensive livestock farming than in human medicine. This fosters the development of resistance to pathogens. More and more people are failing to respond to antibiotics, and this often puts lives at risk.

In particular, the use of third and fourth generation active ingredients should be rejected because they are very important as reserve antibiotics for humans. The BAYER Group markets such a reserve antibiotic from the class of fluoroquinolones as Baytril to fatten animals. Last year, eight tonnes of fluoroquinolones were administered to livestock in Germany. BAYER is therefore partially responsible for the increasing incidence of resistant pathogens.

**Further information can be found on the website of the Coordination gegen BAYER Gefahren:
www.CBGnetwork.org**

Sincerely

(Signature)

Axel Köhler-Schnura

Member of the Board of *Coordination gegen BAYER Gefahren*

Counter motions for the BAYER Annual Stockholders' Meeting on April 26, 2013

This notice is a convenience translation. For the legally binding document, please refer to the original German version which is published on the Internet at <http://www.bayer.de/de/gegenantraege.aspx>

- Coordinadora contra los peligros de la BAYER – Coalition against BAYER Dangers – Coordination contre les méfaits de BAYER -

Coordination gegen BAYER-Gefahren e.V.

For the protection of the environment and secure jobs with BAYER worldwide!

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Counter motion to Item 2: The actions of the members of the Board of Management are not ratified

BAYER is staging a number of costly celebrations to mark its 150th birthday, yet the numerous crimes committed by the Group in the past are not mentioned at all in the commemorative publications. Instead of acknowledging responsibility for forced labor, poison gas and fatal pharmaceutical products, the company's history is wholly ignored. The *Coordination gegen BAYER-Gefahren* has therefore launched a campaign to highlight the dark side of the company's past: www.cbgnetwork.org/4871.html

For its 150th anniversary, BAYER is organizing numerous celebration events with prominent guests. An airship built by the company itself will advertise for the Group on all five continents. An exhibition has also been sent around the world from Leverkusen.

Despite this, the unpleasant periods of the company's history have simply been omitted from the celebrations. Topics such as environmental contamination, pesticide poisoning, worker protests and collaboration with the Third Reich are simply ignored.

One example: every company brochure includes a reference to the invention of ASPIRIN, but makes no mention of the fact that BAYER introduced the product HEROIN onto the market almost simultaneously, among other things as a cough treatment product for children. Very shortly after its market launch, physicians pointed out the addictive potential

of HEROIN. Nevertheless, BAYER carried out a global advertising campaign for the new product for 15 years.

Other facts from BAYER's history:

- Carl Duisberg, the General Director of BAYER for many years, was personally involved in the development of poison gas in the First World War and pushed for its use on the front – contrary to international law. Duisberg was also partly responsible for the deportation of tens of thousands of Belgian forced laborers and he encouraged the annexation of large areas of eastern Europe.
- For many decades, Duisberg strongly supported the merging of the German chemical industry to create IG FARBEN. The Group, which was founded in 1925, was the largest in Europe. The firm rejected the Weimar Republic and large donations went to national conservative parties and later to the NSDAP.
- In the Third Reich, IG FARBEN was involved in the cruelest crimes in human history. It supplied Zyklon B for the gas chambers and built a giant new factory in Auschwitz. To accommodate the slave workers, IG FARBEN also operated its own concentration camp. Tens of thousands of people died there.
- IG FARBEN was closely involved in the war of conquest of the Third Reich. The company followed the armed forces into the conquered countries of Europe and took over considerable parts of the chemical industry there within a few weeks. It also took coal mines and oil production. The later BAYER Chairman of the Board of Management, Kurt Hansen, played a leading role in these robberies.
- In the war criminal trials in Nuremberg, IG FARBEN also faced a trial of its own. One section, for example, states the following: *“It is undisputed that criminal experiments were undertaken by SS physicians on concentration camp prisoners. These experiments served the express purpose of testing the products of IG FARBEN.”*
- The managers condemned in Nuremberg were able to continue their careers unhindered after sitting out their sentences. Fritz ter Meer, for example, became Chairman of the Supervisory Board of BAYER. During his interrogation in Nuremberg, he said that the forced laborers in Auschwitz had *“not been made to suffer particularly badly as they were to have been killed anyway.”* BAYER even named a study foundation after him, the "Fritz ter Meer Foundation".
- In BAYER laboratories, research was carried out into chemical war gases even in the Third Reich. The inventor of SARIN and TABUN, Dr. Gerhard Schrader, was head of the BAYER pesticides department after the war. During the Vietnam war, BAYER was involved in the development of AGENT ORANGE. Production was carried out at the firm MOBAY, founded jointly by BAYER and MONSANTO.

Symptomatic of the way BAYER handles its history is the award of the *Hansen Family Award* in March 2013. The prize, presented by Marijn Dekkers in Berlin, was donated by the former Chairman of the Board of Management, Kurt Hansen. Hansen joined the NSDAP in 1931. In IG FARBEN, he became head of the “Central department for the procurement of raw materials,” which played a major role in the war (see above). In the shape of Kurt Hansen,

the seamless transfer from IG FARBEN to the BAYER Group once again becomes very clear.

BAYER's 150-year old company history was accompanied by protests from the very beginning. Back in the 19th century, there was massive resistance from residents and the workforce to the constant pollution of the air and water. In many cases, they managed to win improved safety at work and environmental protection. Until now, however, BAYER has not undertaken any independent study of the company's history.

The Board of Management is responsible for the misleading portrayal of the company history in its anniversary year. Its actions should therefore not be ratified.

Countermotion to Item 3: The actions of the members of the Supervisory Board are not ratified

Reason: The Supervisory Board has inadequately performed its supervising function and its actions should therefore not be ratified. For example, the Supervisory Board has supported the introduction of genetically modified seeds although they are connected with immense ecological problems.

In 2003, the BAYER Group applied for the first time for an EU import license for genetically modified rice. The variety *Liberty Link RICE 62* is tolerant against the herbicide Glufosinat, which is also produced by BAYER.

Until now, *Liberty Link* rice has never been cultivated commercially anywhere in the world. The targeted EU license and the European export market are intended to serve as a "door opener" in Asian and South American countries for local cultivation licenses.

In the votes taken so far, the majority of EU countries have expressed concerns about licensing. Ten years after submission of the application, approval has still not been granted.

The licensing of *Liberty Link* rice should be refused in particular against the background of the health hazards emanating from Glufosinat. The active ingredient is classified as toxic to reproduction, and can cause deformities in fetuses. Glufosinat belongs to the group of the 22 active ingredients that, according to the EU pesticides legislation, should not have their license renewed.

Whereas BAYER has voluntarily dispensed with the licensing of the herbicide Liberty (active ingredient Glufosinat) in Germany, the company announced in February 2013 that it would again increase the production of Glufosinat for export. It is irresponsible to promote a cultivation technology abroad connected with the use of a highly toxic pesticide that is banned in Germany. The fate of the agricultural workers in Latin America or Asia is apparently of no concern to the company.

The ecological risks are also immense: it is known that the cultivation of genetically modified, herbicide-tolerant plants leads to the increased use of pesticides. The suppression of locally adapted varieties also leads to a reduction in the gene pool, which can, in the long term, result in problems fighting rice diseases.

In the event of large-area cultivation of *Liberty Link* rice, contamination of traditional varieties would be inevitable. Even the *European Food Safety Authority (EFSA)* describes the risk of outcrossing as high (source: EFSA Journal, (2007) 588, 1-25). Because there is no intention of cultivating it in Europe, however, the risk was not included in the EFSA evaluation. The risks to "diversity of the species" and the health of farmers were therefore not considered in the EFSA report.

How justified the concerns about approval of genetically modified rice really are is illustrated by the example of contamination of the American rice harvest with the variety LL RICE 601, which is also tolerant towards Glufosinat. The long-grain variety found its way onto the market in 2006, although no license had been issued for it. The damage to the trade and farmers amounted to over 1 billion US dollars. Only after a lengthy legal dispute did BAYER declare its willingness to pay damages amounting to around 750,000 million dollars.

The introduction of herbicide-tolerant seeds is the wrong approach. Within a short time, it leads to the formation of resistant wild weeds that have to be combated with more and more pesticides. There is no improvement in harvests.

Despite the high risks for the environment, farmers and consumers, BAYER, ten years after submitting the original application, is determined to gain a license for *Liberty Link* rice. The actions of the members of the Supervisory Board should therefore not be ratified.

The stockholders are asked to transfer their voting rights to the *Coordination gegen BAYER-Gefahren*.

We would ask for notification of these countermotions with the subsequent reasoning in line with §§ 125, 126 AktG.

On behalf of the *Coordination gegen BAYER-Gefahren*



Philipp Mimkes



Jan Pehrke