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# Investor Relations

## Slide 1: Title (OM)

Good afternoon and thanks for joining us today. I'd like to welcome all of you to today's glyphosate litigation update call.

With me on the call today is Werner Baumann, our CEO. He will be joined in the Q&A session by Wolfgang Nickl, our CFO; Bill Doderer, our Head of Litigation and Liam Condon, CEO for the Crop Science division.

## Slide 2: Objectives (OM)

After our call at the end of May where we presented our five-point plan, we today want to inform you about the progress we are making and our estimation of financial implications of the potential outcomes. The intention of today's call is to give investors additional insights that will allow them to better evaluate the potential financial impact and ultimately allow to define and potentially compartmentalize the two key scenarios one could envision and therefore finally have a stronger focus on the long-term intrinsic value of our company.

## Slide 3: Disclaimer (OM)

I'd like to start the call today by drawing your attention to the cautionary language that is included in our safe harbor statement, as well as in the materials that we have distributed today. With that, I'll hand it over to you, Werner.

## Slide 4: Five-Point-Plan recap (WB)

Thanks, Oliver, and welcome from me as well.

It is important for the company, our owners and our customers that we move on and put the uncertainty and ambiguity related to the glyphosate litigation behind us and focus on the substance, value and perspective of our businesses instead.

To that end, we decided on May 27<sup>th</sup> to discontinue the national class process and presented a five-point plan of legal and commercial actions that allow us to gain more control of the process going forward and to provide a path towards closure of the Glyphosate litigation.

Today, we will discuss further details of the five-point plan, triggering events and the two basic scenarios that will ultimately drive the outcome of the litigation. We will provide you with additional clarity on our next steps, timing considerations and financial implications that will inform you regarding potential financial exposure on the one side and the potential of a significantly better upside scenario on the other side.

#### Slide 5: Possible Supreme Court outcomes

As pointed out in our five-point plan, we are pursuing the appeals process to mitigate, or, in an optimum scenario, virtually eliminate future Glyphosate litigation. We will file our petition seeking US Supreme Court review of the “Hardeman case” in a few weeks, in August.

- This is a two-step approach. **First**, the Supreme Court could either accept or reject the request to hear our case. **Second**, if the Supreme Court accepts the petition for review, it could rule obviously in our favor or against our case. The ruling would likely occur in the course of 2022. Hence, we see two basic scenarios:
- In **Scenario 1**, the Supreme Court accepts our case and rules in our favor. A favorable ruling would be that Hardeman’s state law failure to warn claims are preempted (or barred) by federal law and EPA’s consistent finding that glyphosate is not carcinogenic. The result of such a ruling by the US Supreme Court would effectively end potential future litigation.
- In **Scenario 2**, the Supreme Court either does not take the case OR takes the case but rules against it later on. This outcome would lead to further claims and exposure for the company and ultimately to further payments in years to come.

We see good chances for scenario 1. Given the substantial legal questions at issue in the glyphosate litigation, we believe that the US Supreme Court should give strong consideration to accepting our petition to review the Hardeman case and render a positive ruling. The reasons for this are as follows:

**First**, we believe that the Hardeman case presents important legal topics such as federal preemption as already outlined.

**Second**, new studies and regulatory rulings prove that science continues to be on our side. This includes a brief filed by the EPA with the U.S Court of Appeals for the 9<sup>th</sup> Circuit in May in which it affirmed once again that glyphosate, let me quote the Environmental Protection Agency here, “poses no human-health risk of concern” as well as the most recent review in the EU in June with unconditional confirmation of glyphosate’s safety and non-carcinogenicity.

**Still**, we take scenario 2 as our base case which we’ll discuss later in more detail and consider scenario 1 as a potential upside case.

#### **Slide 6: Short-term measures**

Before we deal with the implications of scenario 2 for future cases, let me briefly update you on our **short-term approach** regarding the settlement of the remaining roughly 30.000 inventory cases. We had a very positive development last week when Judge Chhabria ordered that all remaining plaintiffs in the federal MDL must participate in Ken Feinberg’s claims resolution program and complete their fact sheets, or they risk sanctions or dismissal.

**Considering** the impending potential Supreme Court review, we will be very selective in our settlement approach over the next few months. We are reassessing each of the plaintiff firms’ claims regarding transparency, quality and value and will only settle if all relevant criteria are met.

**If** the Supreme Court **accepts** our petition for review, we will **NOT** entertain any further settlement discussions thereafter.

## Slide 7: Mid-to-long term measures

Now let me come to our scenario 2. Absent a positive ruling by the US Supreme Court, we would have to deal with potential future Non-Hodgkin's Lymphoma (NHL) claims in the **mid to long term**.

- Here, we must consider potential new claims from people who have used the product in the past and prior to the long-term measures that come into effect after 2022.
- In this case we would set up a professionally run "Claims' Administration Program" with pre-determined compensation values - whose amounts will be similar to the values for current inventory settlements **but** obviously **NET** of plaintiff lawyers' commissions.
- Based on available disease statistics for expected annual new cases of NHL, our experience with 96.000 settled cases thus far and a successful pilot program that has been run by Special Settlement Master Ken Feinberg, we can now provide a sound forecast of the potential financial impact of the future cases. As already mentioned, we are using scenario 2 as our base case and will establish an incremental provision in our Q2-2021 closing to account for the company's potential long-term exposure.

## Slide 8: Financial exposure

Let's take a more detailed look at **the key assumptions** related to the **scenario 2 financial exposure**.

**First**, we used the NHL epidemiology and the annual number of new cases as reported by the National Cancer Association. Based on the history of the more than 100.000 claims brought against us, we have assumed the same percentage of claims arising from this base of newly diagnosed cases in the early years, with a decline thereafter.

**Second**, and for purposes of the establishment of the provision, we calculate the length of the Claims' Administration program based on the latency of NHL. Although regulators consistently conclude that the large body of science does not support a causal relationship between NHL and glyphosate and despite scientific opinions substantially differing on the latency, 15 years were considered in our estimation.

**Third**, we have assumed that the Claims' Administration program would be funded on similar per case levels as in our inventory settlements, however and as already mentioned, net of plaintiff lawyers' fees.

**Finally**, we assume a number of cases would still be tried in court over the next years to come. As a matter of fact, we would welcome selective litigation given that the already strong scientific evidence has only improved over the years - confirming glyphosate and glyphosate-based products are safe when used as directed and do not cause cancer. No jury so far has had the benefit of considering all this extensive evidence. We expect the odds of succeeding in trials to increase in our favor which is a key consideration for us in deciding to pursue the strategy we describe today.

For this second scenario, we will include an additional gross provision of 4.5 billion US dollars (3.8 billion euro), i.e. before tax and discounting in the second quarter 2021 reflecting the company's potential long-term exposure.

The provision will be incremental to the current provision of \$ 2bn for future cases that would only have covered the first 4 years of the original settlement approach we had proposed to the federal court. Be reminded that the incremental provision would come with a tax shield.

Regarding cash flow, as mentioned during our call in May, we expect cash flow to improve this year compared to the original assumptions and we confirm our mid-term cash flow projection provided during our Capital Markets Day.

The details provided today on the two scenarios should provide you with comfort that, based on the methodology we've shared, the glyphosate litigation exposure should now be reasonably accounted for and leaves significant upside in the event of a favorable Supreme Court decision on the case. This should also remove the uncertainty and ambiguity that has been weighing on the company and allow informed investors to direct their focus on operational performance, the quality of Bayer's businesses and its intrinsic value.

**Slide 9: Long-term measures**

Before we wrap it up, let's look at our **long-term mitigation measures** that we are working on and which would support a scenario 2 outcome beyond the 15 years in our current assumptions:

- **First and most important**, for the U.S. residential market that accounts for the vast majority of claims, we have engaged with our partners about the future of glyphosate-based products in the U.S. residential market, and we can confirm we will be replacing all U.S Lawn & Garden glyphosate-based products with non-glyphosate-based formulations under the Roundup brand beginning in 2023 - assuming timely approval of new formulations by the U.S. and state regulators. Let me be very clear that this is exclusively geared at managing litigation risk and not because of any safety concerns.
- Furthermore, I'd like to stress that **NONE** of these formulation changes will affect the availability of glyphosate-based products in the markets for professional and agricultural users. Indeed, we know that farmers continue to rely on Roundup containing glyphosate to deliver crops to market using sustainable farming practices that reduce soil tillage, thereby reducing soil erosion and carbon emissions.
- **Second**, we are advancing our plans to discuss with the EPA whether there are labeling options for glyphosate-based formulations that provide more information to users about the science as an additional element towards ensuring even more informed purchasing and application decisions.
- **Third**, we will set up a new website by the end of 2021 that will provide even more transparency on the extensive science related to Glyphosate based products.

### Slide 10: Summary

Before we open the line to questions, let me summarize and add a few closing details.

It is important for the company, our owners and our customers that we move on and put the uncertainty and ambiguity related to the Glyphosate litigation behind us and focus on the substance, value and perspective of our businesses instead.

With our decision to discontinue the national class route, we have gained much more control over the process and next steps. With that, we have been able to

comprehensively describe underlying assumptions and financial exposure for the 2 basic scenarios we see.

We believe the U.S. Supreme Court should strongly consider accepting our petition which presents important legal topics such as federal preemption and render a positive ruling. This would effectively and largely end the litigation. Upon acceptance of the case, we will stop all ongoing settlement discussions for the current case inventory.

However, we are taking scenario 2 as our base and will provision an incremental gross amount of 4.5 billion US dollars (3.8 billion euro) assuming an unfavorable outcome with the Supreme Court. This reflects the company's potential long-term exposure and clearly leaves significant upside in the event of a favorable ruling by the U.S. Supreme Court.

Following today's update on the glyphosate litigation the Board of Management is planning to focus more time on driving our business forward in the interests of our customers, patients and shareholders. We have set up a very strong team that reports directly to the Board of Management and is laser focused on the further execution of our five point plan, while the Board of Management will now fully concentrate on business performance and strategy execution. We will of course continue to update you in our standard quarterly reports as part of our financial disclosure.

With that, let me now open it for questions and hand it back to Oliver.

**Oliver:** Thanks, Werner. With that we will open the line for questions.

## **Forward-Looking Statements**

This release may contain forward-looking statements based on current assumptions and forecasts made by Bayer Group or subgroup management. Various known and unknown risks, uncertainties and other factors could lead to material differences between the actual future results, financial situation, development or performance of the company and the estimates given here. These factors include those discussed in Bayer's public reports, which are available on the Bayer website at [www.bayer.com](http://www.bayer.com). The company assumes no liability whatsoever to update these forward-looking statements or to conform them to future events or developments.