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Subject: Comment on upcoming Concentration in Agriculture hearings
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U.S. Department of Justice
Legal Policy Section
Antitrust Division

Thank you for the opportunity to provide comments on the unprecedented series of joint hearings that the United States Department of Agriculture and the Department of Justice will hold in 2010 on the concentration of ownership and restriction of competition in agriculture.

Such scrutiny is long overdue and NOFA applauds this investigative and enforcement activity. These hearings should at long last address the broad implications of ongoing anti-competitive practices in the agriculture sector. A combination of vigorous enforcement, regulation, and legislation will be needed to restore competition and level the playing field.

Due to consolidation a handful of companies dominate our food supply. As a result, prices are rising, research and innovation are restricted, fair contracts are difficult to negotiate, and farmers' and consumers' choices are limited. The problem is accelerating and getting much worse as the effects of concentration affect all aspects of the food system from seed research to what is available on the supermarket shelf.

The Northeast Organic Farming Association (NOFA) is a regional, grassroots, non-profit organic farming organization representing over 5,000 farmers, gardeners and consumers. NOFA is one of the oldest organic farming associations in the country and is comprised of seven separate state organizations: NOFA-NY, NOFA-VT, NOFA-NH, NOFA/MASS; CT-NOFA, NOFA-RI and NOFA-NJ. NOFA works regionally with groups in the North East Sustainable Agriculture Working Group (NESAWG) and is a charter member of both the National Organic Coalition (NOC) and the National Sustainable Agriculture Coalition (NSAC). Further information may be found at our website: www.nofa.org

NOFA members continue to negatively experience the excessive concentration in the food system in numerous ways:

- Over the past five years, the price of seed for farms and gardens has risen dramatically due to the consolidation in the seed industry. Many small regional seed companies have been swallowed up by larger seed companies. Varieties that are well-adapted to specific regional areas are no longer available for sale.

- Certified organic farmers have not been able to use favored varieties because of contamination of the seed by GMOs as was the case in 2008, when the supply of a popular sweet corn variety was contaminated with GMOs.
- Farmers do not have the explicit right to bargain collectively, which they need in order to level the playing field and negotiate fair contracts.
- Similarly, prices for certified organic and natural food products have risen faster than the cost of living because a single supplier, United Natural Foods, has bought up dozens of smaller, cooperative warehouses, exercising monopoly control of the distribution of packaged natural foods in the NE.
- Small scale produce processing plants and meat processing plants have been put out of business by larger scale companies. New York State livestock farmers, for instance, must travel to Pennsylvania to obtain the services of a USDA certified meat processing plant.
- Where competing processors for apple products used to provide apple farmers with a choice of markets, Motts now dominates the market in NYS and sets the prices for processing apples. Farmers who do not cooperate with Mott may find themselves without a buyer.
- The price of milk paid to dairy farmers has been at a multi-year low in 2009 because of the absence of processor competition in the milk market.
- Farmers seeking non-GMO seed for corn and soybeans have a difficult time locating seed sources because of the dominating control by Monsanto. Farmers fear Monsanto will extend this control to vegetable seed because of their 2005 purchase of Seminis, the world's largest vegetable seed company. Further, farmers are losing their right to save seed, and independent seed companies are disappearing. More than 200 have been bought up or gone out of business since 1996.
- Seed cost and other inputs are rising to historic highs while the prices farmers receive for their crops are falling.
- Patents and licensing agreements severely restrict plant breeders' and researchers' access to genetic material and prevent researchers from testing existing varieties.
- Public universities and land grant programs are increasingly dependent on funding from private companies instead of public funds. As a result, publicly-owned seeds and breeds are dwindling, and innovation is declining.
- Manufacturers of GE crops are not held liable for contamination of farmers' crops, while farmers are being aggressively pursued by seed company legal departments for possessing proprietary traits resulting from that contamination, even when the GE content provides no economic benefit.
- Secretive contracts often leave farmers with little financial or legal control over their situations and take away their right to

privacy.

- The Packers and Stockyards Act prohibits unfair practices in the poultry industry, but it is rarely enforced because enforcement authority is split between the USDA and the Justice Department.
- Lack of regional competition and unstated collusion between poultry companies restrict contract farmers' options. Further, the ranking system for contract poultry farmers is not based on true competition, and farmers who lose poultry contracts are not able to recapture their initial investments.

Farmers and consumers deserve an open and vital marketplace -- and fair practices demand it. The future of a free and unbound agriculture in this country depends on a vital family farm infrastructure working together with independent companies and publicly-supported research. These hearings have the potential to be an important step in restoring fairness and competition. We hope the Justice Department working with USDA will use these comments to determine the scope and the tenor of the upcoming hearings.

Thank you for this opportunity to comment on these important issues.

Sincerely,

Steve Gilman
NOFA Policy Coordinator