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To: ATR-Agricultural Workshops <agriculturalworkshops@usdoj.gov>
Subject: comments: Agriculture and Antitrust Enforcement Issues in Our 21st Century Economy
Attach: Comments from OSA on Ag and Antitrust.doc; ATT212007.htm

TEXT THAT FOLLOWS IS DUPLICATE OF ATTACHMENT

Department of Justice,

As an advocate for the ethical development and stewardship of seed, I commend the Department of Justice for collecting comments and launching hearings on the impact of concentration in agriculture. I'll contain my comments to my professional experience in seed issues, but I also encourage the investigations in livestock and dairy. My experience includes having been the CEO of a vegetable seed company, managing a seed conservation foundation, and founding the research and education based public charity - Organic Seed Alliance – for whom I now serve as Director of Advocacy.

Seed is not only an input for crop production, it is a natural resource that demands management in a manner that is ethical, sustainable, profitable, and efficacious in delivery of the necessary agronomic adaptations for the diverse agricultural systems and markets within the United States. Plant genetic resources were once managed and maintained as a public commons with intellectual property rights in the form of PVP and PVPA that were adequate to compensate private innovators. Diversity and competition thrived through most of the twentieth century with public and private breeding programs delivering improved genetics to farmers of all stripes. This changed dramatically with the Supreme Courts upholding of the utility patents on living organisms (*Diamond vs Chakrabarty*, 1980). Large corporations who had little to no previous investments in seed and traits rushed into the market to take advantage of this powerful IP tool. The result is the current dangerous conditions of concentration in seed that we face today.

I trust that many commentators will provide statistics and data regarding the percentage of trait and market control Monsanto maintains, and its deleterious impact on conventional and biotech farmers, independent seed companies, and competition in agriculture. I'd like to focus my comments on the impact of concentration in the organic market. As you may know, organic farming is one of the great success stories of modern agriculture. It has an ever expanding market share, new financial rewards for farmers, biological benefits for the public good, and increasing productivity and efficiency to feed consumers. It is widely recognized within the organic community and by the USDA that the development of organic seed systems has lagged behind as organic has grown, and targeted research grants and investments are attempting to right this. Concentration in the seed industry influences this lag.

Concentration in seed industry has a negative impact on organic farming in that it has resulted in decreased public and private research and development of varieties and breeding populations for minor markets, such as organic. It has created a seed industry climate that lacks the ability to be responsive to an emerging new market. This has resulted in a lack of options for organic farmers, and a lack of availability of organic seed.

In the public sector, Land Grant Universities (LGUs) once actively delivered breeding populations and finished varieties. Multiple studies point to a decrease in public sector breeding, with a subsequent lack of adequate germplasm for minor crops and smaller markets that are not served by the private sector. This decrease is caused by two factors: 1) the Bayh-Dole act which pushed universities towards serving the private sector and

funding their research via patent royalties; and 2) the immense financial investments in public programs from companies like Pioneer (DuPont), Monsanto and Syngenta. LGUs are financially dependent on these private firms to fund infrastructure, graduate students, and breeding programs (as exemplified by Purdue, Iowa State University, Washington State University, South and North Dakota, etc). The goals and outputs of university research then become no more than extensions of Monsanto product line development, rather than serving public interests. The influence these companies have on LGUs impacts not only competition, but distorts objective research and education, and weakens the mission of public institutions. While private and public sector should and can be mutually supportive and have shared benefit, the current situation in agricultural research is one of an extreme imbalance benefitting very few corporations. Ideally the public research sector would be innovative and add competition to the market that would result in innovative germplasm for emerging agricultural markets. Public research materials would be more available to smaller independent seed companies. As the situation stands companies such as Monsanto have first pick of public germplasm due to their research investments, and smaller companies get back shelf material.

In the private sector, concentration in the seed industry continues to limit varietal choice for organic farmers and lack of access to organic seed. There has been continued decline in regional independent seed companies. Monsanto has loudly claimed that there are many independent firms, and often points to the numbers of the Independent Professional Seed Association (IPSA). However, dozens of the members of IPSA are companies that are in actuality owned by a Monsanto holding company, American Seeds Incorporated (ASI). ASI/Monsanto has firm control over the genetics and product line their subsidiaries deliver, as well as the markets they serve. ASI/Monsanto has had a clear and continual strategy of purchasing independent seed companies, many of whom once served the organic market with untreated conventional seed (allowed by the USDA National Organic Program) and even certified organic seed. In general these smaller regional independents have greater flexibility in serving local markets and minor markets such as organic. The loss of these regional independents has limited the number of seed companies investing in conventional and organic, limiting not only availability but also the continued research and development that all markets need to evolve and thrive. There are less than half a dozen seed firms conducting breeding for organic field or vegetable cropping systems. The return of independent seed companies would strengthen seed systems for organic agricultural and result in increased success for this viable and thriving market.

An additional impact of concentration in the seed industry in field crops is the contamination of organic seed by genetically engineered crops. Lack of competition in breeding in field crops by public programs and independent private firms has resulted in situation where companies producing organic hybrid corn seed often have to lease inbred materials from the largest seed firms, whose main focuses are of course in biotech traits. As a condition of the lease these firms do not allow testing of their inbred lines for the presence of biotech traits. Multiple seed companies have had organic hybrids contaminated when they had adequate isolation, and it is widely held belief that the contamination point is from the inbred lines leased from the 3 largest seed companies. Greater competition in the seed industry would result in an increase in commercially available lines from both the public and private sectors and lessen organic seed producers' dependence on leasing from Monsanto, Syngenta and others, resulting in less risk of contamination.

In summary, increased competition strengthens our public education and research institutions, benefits emerging markets, and leads to more vibrant and diverse American agricultural markets.

Thank you for your consideration of these comments.

Sincerely,

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