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Seeds of Antitrust Destruction

DuPont runs to the Justice Department's competition police.

When you can't beat 'em, scream monopoly. That's the vintage gambit now playing out in the farm business, with the encouragement of the Department of Justice.

At the first of a series of workshops this month, Attorney General Eric Holder, antitrust chief Christine Varney and Agriculture Secretary Tom Vilsack presided over a "forum" for farmers, activists and others to discuss competition in the agriculture industry. The occasion looked more like the Obama Administration's latest dunk tank for business. "Recessions and long periods of reckless deregulation can foster practices that are anti-competitive and even illegal," Mr. Holder warned in his speech.

Held in Ankeny, Iowa, the gathering occurred in the backyard of DuPont's seed company, Pioneer Hi-Bred. DuPont/Pioneer has become an ally of the Justice Department's resurrected antitrust posse. DuPont has filed an antitrust suit against Monsanto over its dominance of a sliver of the soybean market, and the company hopes Mr. Holder's trustbusters will grant it success where the market has not.

The controversy involves a soybean-seed technology created and patented by Monsanto in 1996. Called Roundup Ready, the product became a favorite among farmers because the soybean it produces is resistant to weed killer. At first, DuPont aimed to challenge Monsanto directly, developing a product called Optimum GAT. When that failed as a stand-alone product, DuPont came up with plans to use it as a so-called stacked product—a seed that included both Monsanto and DuPont technologies.

Monsanto took DuPont to U.S. District Court in St. Louis on grounds that combining these products violated the two companies' licensing contract. In January, Judge Richard Webber agreed, ruling that DuPont didn't have the right to combine, or "stack," its product on Monsanto's blockbuster. DuPont meanwhile called in the monopoly lawyers. It counter-sued on antitrust grounds, with DuPont General Counsel Thomas Sager vowing that "this litigation is just the beginning."

On cue, the Justice Department antitrust posse saddled up. It opened a formal investigation into Monsanto's alleged monopoly behavior. But any "monopoly" depends on whose definition of competition gets used. If the relevant "market" is herbicide-resistant soybeans, then Monsanto has been a colossus since its first unit was sold. (Round-up Ready is literally the only product that's been developed for this purpose.)

In fact, DuPont holds a slight edge in soybean seed sales, and each company represents about one-quarter of the soybean seed market. Competition is strong in the seed industry, where Monsanto lost market share as a result of its decision to license its soybean technology to other seed producers.

But Ms. Varney, the Justice antitrust chief, has her eye on bigger things. She once worked to organize farm workers and she has said that Justice's Iowa workshops were inspired by her concern that the Bush Administration had allowed too many mergers across the farm industry, creating a culture of Big Agriculture that is bad for America. Besides this litigation, the Justice Department recently filed suit in Wisconsin to prevent further "consolidation" in dairy

processing. The livestock industry, which is dominated by a handful of major producers and was another hot topic at the Iowa workshops, could be next.

Monsanto and farm conglomerates represent evil to the same demographic that believes we should go back to growing our own food. While the increase in organic produce and "buying local" is gospel to urban foodies and those rich enough to afford high prices, large-scale farming has succeeded in the marketplace because its economies of scale make food more affordable and have helped feed the hungry around the world.

An antitrust assault against Monsanto and the broader farm industry will do nothing to advance the competition that Mr. Holder claims to protect. Federal interventions against market leaders typically target companies most likely to innovate and create products that drive progress. Those who invest in research and development have a right to reap what they sow.

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