

# How The Search For Anti-Trust Violations Could Impact Your Future Productivity



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## Investigations Could Also Influence The Price You Pay For New Seeds, Technology



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**WASHINGTON, D.C.**

In a free enterprise system, those who work hard, make wise buying and selling decisions, and invest in their future are usually the ones who are able to grow and stay in business. But at what point does a business grow too big and make it almost impossible for others to compete? At what point do buyers or sellers have so much control that they can manipulate prices and negatively impact consumers?

been answered.

“For the past forty years or so, the courts and government have not been the farmer and rancher’s friend. Their decisions have clearly favored big business interests, wrote OCM Executive Director Fred Stokes in his association’s newsletter. “However, I believe there is now reason for hope,” he emphasized, noting that the key agencies seem to be “sympathetic to our situation and posed for constructive action.”

Deputy Assistant Attorney General for the Antitrust Division Philip Weiser spoke to OCM members in August and outlined the history of antitrust enforcement actions, dating back 120 years ago when the Sherman Anti-Trust Act was

## Workshop Schedule

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The current schedule for the workshops is as follows:

March 12, 2010 – Issues of Concern to Farmers – Ankeny, Iowa This event will serve as an introduction to the series of workshops, but also will focus specifically on issues facing crop farmers. Specific areas of focus may include seed technology, vertical integration, market transparency and buyer power.

May 21, 2010 – Poultry Industry – Normal, AL. Specific areas of focus may include production contracts in the poultry industry, concentration and buyer power.

June 7, 2010 – Dairy Industry – Madison, WI. Specific areas of focus may include concentration, marketplace transparency and vertical integration in the dairy industry.

Aug. 26, 2010 – Livestock Industry – Fort Collins, CO: Specific areas of focus will address beef, hog and other animal sectors and may include enforcement of the Packers and Stock-

yards Act and concentration.

Dec. 8, 2010 – Margins – Washington, D.C. This workshop will look at the discrepancies between the prices received by farmers and the prices paid by consumers. As a concluding event, discussions from previous workshops will be incorporated into the analysis of agriculture markets nationally.

The Department of Justice and USDA are also asking for written comments in both paper and electronic form to the Department of Justice no later than Dec. 31, 2009. DOJ sources say they will read all of the comments before considering who will be invited to testify at each respective workshop.

All comments received will be publicly posted. Two paper copies should be addressed to the Legal Policy Section, Antitrust Division, U.S. Department of Justice, 450 5th Street, NW, Suite 11700, Washington, D.C. 20001. The electronic version of each comment should be submitted to [agriculturalworkshops@usdoj.gov](mailto:agriculturalworkshops@usdoj.gov).

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Those are some of the questions that the U.S. Department of Justice (DOJ) and the U.S. Department of Agriculture (USDA) plan to explore next year in a series of workshops held around the country to examine the current agricultural marketplace with an eye toward competition issues. (See dates and locations, below.) Although reaching out to the farm community is not new for the DOJ, concerns were elevated by persistent critics of farm and food industry concentration and shared with then-candidate Barack Obama as he campaigned last year. The workshops deliver on his campaign pledge to investigate.

At this point, the outcomes are anyone’s guess. However, that hasn’t stopped several from speculating. Some say that the investigations will force industry giants like Monsanto, Dean Foods, or maybe even livestock giant JBS to substantially change the way they do business. Skeptics say it will be a public relations stunt, demonstrating concern without actually finding any evidence that can lead to a court case. Others worry about yet another potential outcome: that the whole process will have a chilling effect on much-needed investments in agricultural research – putting U.S. farmers and ranchers at a competitive disadvantage compared to their global counterparts.

### Prayers answered?

Some long-time critics of concentration in agriculture, like the Organization for Competitive Markets, hailed the DOJ/USDA announcement as a sign that their prayers had finally

put in place to prohibit two things:

1. Anticompetitive combinations or coordination among actual or potential market competitors and;
2. Anticompetitive practices as well as exclusionary conduct by firms that have monopoly power.

However, Weiser also noted that, “over the last 20 years, changes in technology and the marketplace have revolutionized agriculture markets, producing substantial efficiencies.” More often than not, those efficiencies have resulted in lower cost products, enabling U.S. consumers to enjoy a bountiful and inexpensive variety of foods.

And therein lies the catch for those who want to break up big agribusinesses or lessen their market dominance. Antitrust regulations exist to protect competition for the benefit of consumers. If those same companies can prove additional consumer benefits without keeping others out of the marketplace, can they be found guilty of anti-trust violations?

For their part, DOJ officials say they intend to collect all comments and see where the process leads.

“We are approaching the upcoming workshops without any preconceptions and cannot promise any particular answers or results,” emphasizes Weiser. “I can assure you, however, that we are committed to a careful examination of the marketplace.” Δ

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