

Hearing on “Pressure Cooker: Competition in the Seed & Fertilizer Industries”
Senator Grassley, Chairman
Questions for the Record: Dr. Diana Moss – Progressive Policy Institute (PPI)

1. In your opinion, what practical steps would help aspiring and new entrants in the seed and fertilizer industries reach farmers?

A major step to opening up markets for smaller firms seeking to enter and get a foothold in agricultural biotechnology markets is to prevent large, powerful firms from “tying” the sale of products to related products, or “bundling” proprietary products so that when a farmer breaks the bundle, they lose discounts. These practices can have the effect of limiting entry by smaller rivals. Bundling is likely anticompetitive and raises barriers to entry and prices to farmers. While the FTC is already looking at bundling involving pesticides sold by Corteva and Syngenta, the agencies should take a deeper look at bundling practices in other markets, such as seeds and agrochemicals.

2. The 2023 Merger Guidelines between the Department of Justice (DOJ) and the Federal Trade Commission (FTC) emphasize trends toward concentration, entrenchment of dominant positions, and serial acquisitions. What thresholds and evidentiary showings make sense in seeds and fertilizer? For example, how should agencies treat a roll up of regional seed companies or vertical deals tying traits to chemistry or platforms?

Guidelines 6, 7 and 8 in the 2023 Merger Guidelines address mergers that entrench a dominant position, create a trend toward concentration, are part of successive or serial acquisitions. These guidelines are essential in today’s agricultural markets where dominant firms are not a feature. A starting point for applying these theories of harm to future mergers is establishing the pattern of merger-driven concentration in genetic traits, traited seed, agrochemicals, and fertilizer markets. High levels of concentration are another threshold, and acquisitions that have followed in quick succession, especially in certain product and geographic markets could provide substantial evidentiary support for bringing merger cases under the theories in guidelines 6-8.

3. Does the American Soybean Association (ASA) plan to conduct a study on how concentration in U.S. agriculture impacts prices and farmer choice?

Presumably, the question intended to ask if the Progressive Policy Institute (PPI) plans to launch such a study. Yes, PPI does intend to conduct and study within the next 6 months.

4. As of October 28, 2025, what is the prevailing price per metric ton of monoammonium phosphate (MAP) in the United States compared with Brazil, and what are the principal causes of any price differential(s)?

I would need to do more research to study long term price differentials between MAP in the U.S. and Brazil. A number of factors affect price differentials, including imports, demand, and transportation costs.

Senate Judiciary Committee Hearing
“Pressure Cooker: Competition Issues in the Seed & Fertilizer Industries”
Diana Moss
Questions for the Record
Submitted November 4, 2025

QUESTIONS FROM SENATOR BOOKER

1. In August of this year, President Trump revoked an executive order directing the U.S. Department of Agriculture (USDA) and Federal Trade Commission (FTC) to work together to address consolidation in the food system and promote fairness and competition for farmers and consumers.¹ He also terminated a \$15 million USDA program that provided resources to state attorneys general to support antitrust enforcement and investigations into unfair corporate practices in the food and farm sector.²
 - a. How do these actions affect the federal government’s ability to effectively address anti-competitive practices in the agricultural sector?

Both of the Trump Administration’s actions work to prevent, and even undermine, strong antitrust enforcement in food and agriculture markets. The merger clearance process shows that the FTC or DOJ assign mergers cases based on agency expertise in different parts of the supply chain. For example, DOJ takes all food processing and some agricultural input mergers while the FTC focuses on food manufacturing, retail grocery, and other input mergers. This balkanized division of merger cases impedes the ability of enforcers to consider how competition in one part of the supply chain affects competition in other parts of the supply chain, as well as the impact of consolidation on the entire supply chain. The Executive Order would have focused on improving coordination and strengthening enforcement across both agencies, the states, and USDA, to support competition, consumers, and workers.

- b. How do these actions affect the states’ ability to effectively address anti-competitive practices in the agricultural sector?

The states are a vital part of the “three legged stool” of federal-state-private enforcement in the U.S. Many competition issues in food and agriculture have significant local and regional market impact that highlights the important role of the state AGs. More resources would have enabled the states bring cases, sign on to federal cases, and otherwise improve their capacity to more vigorously approach enforcement in food and agriculture for the benefit of consumers and workers.

¹ Exec. Order, Revocation of Executive Order on Competition (Aug. 13, 2025), <https://www.whitehouse.gov/presidential-actions/2025/08/revocation-of-executive-order-on-competition/>.

² Lisa Held, *USDA Ends Program to Help States Fight Monopolies*, CIVIL EATS (Sept. 26, 2025), <https://civileats.com/2025/09/26/usda-ends-program-to-help-states-fight-monopolies/>.

- c. What were the benefits of the USDA and FTC working together to address consolidation in the food system?

Antitrust and regulation both play important roles in promoting competition in the food and agriculture sectors. Price discovery is particularly important and USDA made significant strides under the Biden Administration in improving and enhancing the agency's capabilities that would have directly supported antitrust enforcement actions. The same is true of USDA's ability to collect information on anticompetitive practices in agricultural markets, such as those directed at stifling competition from smaller players. This type of cross-agency coordination is both helpful and essential for protecting competition, consumers, and workers.

- d. How do these actions impact the federal government's antitrust enforcement capacity?

By reducing the level of coordination between USDA and the antitrust agencies, the federal government has less ability to anticipate, identify, and take enforcement action against harmful mergers or practices.

2. Given the high levels of market concentration resulting from recent waves of consolidation in the agricultural biotechnology sector, such as the Monsanto-Bayer, Dow-DuPont, and Syngenta-ChemChina mergers, how do you assess the impact of this consolidation on seed prices, product quality, and innovation? Additionally, what are the implications for small and medium-sized biotechnology firms trying to enter or compete in the market?

As I noted in my testimony, the number of larger agricultural biotechnology firms was reduced from six to three in the space of a few years (2016-2018). While the elimination of important head-to-head competition in markets was addressed through targeted remedies in both the Dow-DuPont and Bayer-Monsanto mergers, the cases did not address other important competitive issues resulting from the creation of vertical, multi-level systems. These include: (1) stronger incentives to engineer traits, seeds, agrochemicals, and digital farms not to interoperate with rival products; (2) stronger incentives for the remaining few agbiotechs to "divide up" innovation markets for genetic traits; and (3) higher barriers to entry for small and medium traits, seeds, or chemicals firms to enter markets.

3. In your view, does industry consolidation into three major firms increase the risk of coordination that limits the variety or regional suitability of stacked-trait products for farmers?

Yes. With far less competition than there was before the large agbiotech mergers in the late 2010s, there are stronger incentives to coordinate to divide up product and even geographic markets for certain stacked-trait products. This harms farmers by raising prices for technology, limiting choice, and forcing them to purchase products that they do not want or need.

Senator Peter Welch
Senate Judiciary Committee
Written Questions for Diana Moss
Hearing on “Pressure Cooker: Competition Issues in the Seed and Fertilizer Industries”
Tuesday, October 28, 2025

In today’s seed market, most corn and soybean varieties are sold pre-treated with neonicotinoids coatings, leaving farmers with few or no untreated options even when they don’t want or need these chemicals. Although intended to protect crops from pests, neonicotinoids have become a major factor in pollinator population decline, like honeybees. Compounding the issue, just four companies control more than half of the nation’s commodity seed sales, limiting opportunities for small, independent seed companies to offer alternatives and forcing many farmers to rely on costly brand-name seeds.

1. With Vermont becoming the second state to limit the use of pre-treated neonicotinoid seeds, what steps can we take to increase competition in the market for seeds and ensure farmers who choose to forego neonicotinoid-treated seeds have access to the products of their choice?

Consolidation in the seed markets are a leading reason why U.S. farmers pay higher prices, face less innovation, and have less choice in products. Practices such as bundling products together force farmers to pay for products that they do not need or want, in order to get the products that they do need and want. These factors collectively stifle competition from smaller, independent seed companies. Obtaining conventional, Non-GMO seed and seeds that are not treated or conditioned has gotten more difficult with consolidation, concentration, and high barriers to entry for smaller companies.

Perhaps the best way to facilitate the entry and viability of smaller players is for antitrust enforcers to: (1) more vigorously enforce Section 7 of the Clayton Act (mergers); (2) bring cases under Section 2 of the Sherman Act (monopolization) to combat harmful practices that allow large agbiotechs to maintain and extend monopoly positions in genetic traits, seed, and agrochemical products.

Congress should also take a close look at U.S. patent laws to consider how allowing minor modifications to seed-related patents can extend harmful monopolies and forestall competition from smaller rivals and generics. As part of this effort, the good work of the FTC and lessons learned in combatting the abuse of patent protection to stifle competition in generic drugs can and should port over to the seed industry.