The Fair Seeds for Farmers Act

Senators Elizabeth Warren, Cory Booker, and Peter Welch

The U.S. seed market is highly concentrated, with four companies controlling over 75% of the corn and soybean seed markets and just two companies controlling over 65% of those markets. These dominant companies have used their market power to drive up prices for farmers—which are passed on to consumers in the form of higher prices at the grocery store—as well as crowd out independent seed companies and stifle breeding innovation that is essential to food system resilience.

These companies have maintained their dominance through their control of intellectual property rights for seeds. Congress has enacted two statutes, the *Plant Variety Protection Act (PVPA)* (1970) and the *Plant Patent Act (PPA)* (1930), which specifically govern patent claims over the discovery of new plants. These statutes are limited in scope and were carefully designed to balance the IP rights of seed companies with farmers' and the public's right to research, save, and use seeds. However, dominant seed companies have increasingly been reaching beyond these statutes to claim that seeds and plants are also eligible for utility patents, which sweep far more broadly and do not include exemptions for seed saving, research, or experimentation.

Dominant seed companies have used utility patents to claim intellectual property protection over extremely broad categories of plants, such as "red lettuce" or "onions with high storage ability." Such broad patents, and Big Seed's aggressive enforcement of these patents, has precluded smaller companies from developing their own seeds and forced them instead to sign restrictive licensing agreements with the dominant seed companies. Big Seed has also used its market dominance to force farmers into exploitative contracts with provisions that dictate how farmers must plant the seeds, ban them from saving seeds between seasons (thus forcing them to buy new seeds every year), and restrict them from breeding or experimenting with seeds.

The *Fair Seeds for Farmers Act* addresses such unfair practices in two ways:

- Clarifies that the only intellectual property protections that apply to seeds and plants are the PVPA and PPA. This provision applies to pending and future patents, but not existing patents.
- Prohibits corporate seed companies from contractually prohibiting farmers from saving seeds between seasons or otherwise limiting the use of seeds or plants for research, breeding, experimentation, or propagation.

The *Fair Seeds for Farmers Act* will benefit farmers, consumers, and small businesses. By allowing farmers to save seeds between seasons, the bill will lower input costs for farmers (who spend up to 25% of their operating budgets on seeds each year), which will help lower downstream food prices. By precluding dominant seed companies from claiming such broad patents, the bill will help smaller seed companies break into the market, which will increase competition and help bring down prices.

The *Fair Seeds for Farmers Act* is endorsed by National Sustainable Agriculture Coalition, Farm Action Fund, American Economic Liberties Project, Open Markets Institute, RAFI-USA, National Family Farm Coalition, Environmental Working Group, Northeast Organic Farming Association Massachusetts, and Organic Seed Alliance.