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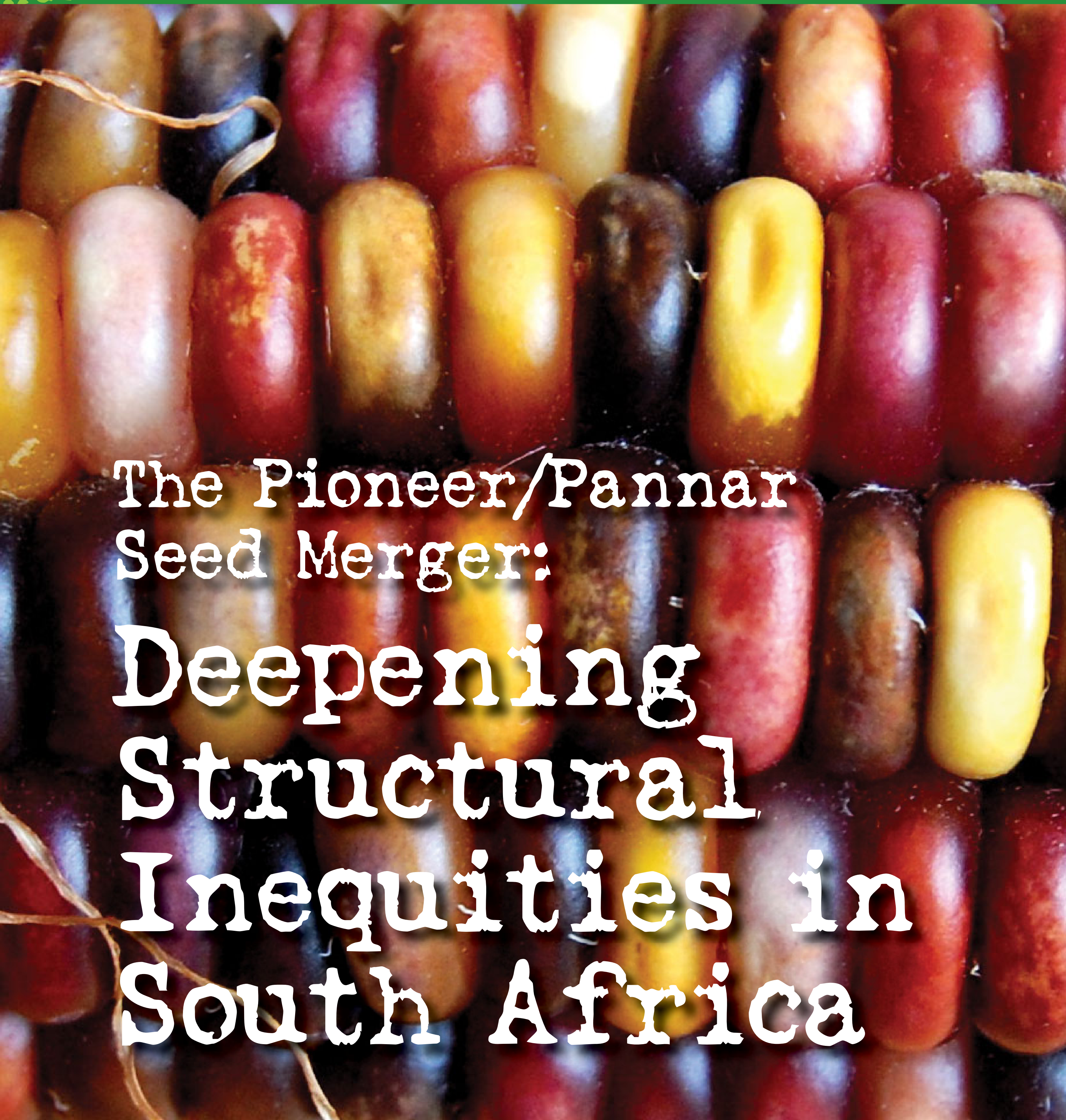

The Pioneer/Pannar Seed Merger: Deepening Structural Inequities in South Africa

african centre for biosafety
www.biosafetyafrica.net

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The African Centre for Biosafety (ACB) is a non- profit organisation, based in Johannesburg, South Africa. It was established to protect Africa's biodiversity, traditional knowledge, food production systems, culture and diversity, from the threats posed by genetic engineering in food and agriculture. It has in addition to its work in the field of genetic engineering, also opposed biopiracy, agrofuels and the Green Revolution push in Africa, as it strongly supports social justice, equity and ecological sustainability.

The ACB has a respected record of evidence based work and can play a vital role in the agro-ecological movement by striving towards seed sovereignty, built upon the values of equal access to and use of resources.

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This briefing is based on the ACB's existing work, experience and knowledge. We have also drawn on papers filed by the ACB with the Competition Commission; the Compeittion Tribunal; and the Competition Appeal Court between 2010 and 2012. The ACB also led evidence before the Competition Tribunal and this too, is captured in this briefing.

Introduction

In May 2012 the Competition Appeals Court (CAC) approved the acquisition of Pannar, South Africa's largest seed company, by Pioneer Hi-Bred, a fully-owned subsidiary of DuPont, a global seed and chemicals company. The ACB was an intervening party, opposing the merger in the public interest. The merger was twice rejected: once by the Competition Commission and then by the Competition Tribunal.

The Competition Commission has applied to the Supreme Court of Appeal (SCA) for leave to appeal against the CAC's findings. If leave to appeal is granted, it will still take some time – perhaps 6 months, before the matter is heard before the SCA.

Although the merger is not yet cast in stone, it is important for us all to understand what is at stake for South Africa and the extent to which it will deepen structural imbalances in our economy.

Evidence Led by ACB

During December 2010, the Competition Commission prohibited the merger and the merging parties referred the Commission's decision to the Tribunal for reconsideration. On the 19th of August 2011 the Tribunal granted the ACB leave to intervene in the merger proceedings on public interest grounds, particularly with regard to the effect the merger would have on small scale farmers. This was itself precedent setting in that it was the first time the Tribunal had allowed NGOs to intervene in merger proceedings.

The ACB led the evidence of an expert who testified that the merger will result in seed price increases and thus undermine the ability of 1.2 million small farmers to produce sufficient food to sustain themselves and their dependants.

The ACB's expert testified that South Africa has approximately 200 000 small-scale commercial farmers and approximately 1 million households which carry out subsistence farming. Both small-scale commercial farmers and subsistence farmers face significant hardships. They struggle to access credit and face adverse environmental challenges. In addition, they struggle to afford the inputs that are essential for farming, for example, fertilizer, seed and labour.

Small-scale commercial farmers have very low profit margins. Thus any significant change in input costs would result in them not being viable. In addition, even a small decrease in yield would have a devastating effect on a small-scale commercial farmer. Small-scale commercial and subsistence farmers are becoming increasingly reliant on hybrid seeds. This is because open-pollinated varieties of seeds are becoming increasingly scarce and difficult to obtain.

The ACB's expert was specifically asked to comment on what the effect of a 10% increase in the price of hybrid seeds would be in respect to small farmers. The expert testified that such an increase would make it impossible for small-scale farmers and subsistence farmers to buy seed and thus to carry on farming. They would thus be deprived of their livelihoods and would have to survive on whatever social welfare was available to them, for example child and pension grants. The expert emphasised that smallholder farmers would also not be able to compensate by reducing other input costs because, unlike with larger farmers, seed constitutes a substantial 50% or more of their input costs. In addition, they are unable to reduce other inputs such as fertilizer, without having a negative effect on their yields.

The expert further testified that while hybrid seeds can be saved and planted the next season, this results in a lower yield. Therefore, any costs that are reduced by saving seed would have to be offset against the consequent loss in yield. Being totally dependent on saved seed would subsequently, within a few years, result in the farmer going out of business. The expert further added that government purchases seeds for small-scale farmers on an infrequent and erratic basis, and even then it is only for a small percentage of farmers. Small-scale commercial farmers therefore cannot rely on government for this type of assistance.

After a three- week- long hearing, the Tribunal decided to prohibit the merger. The expert testimony led by the ACB had a substantial impact on the decision to prohibit the merger.

Further Implications of Merger

Ownership of seed (genetic resources/germplasm)

South Africa has a history of selling off its genetic resources to the highest bidder. In the late 1990s Monsanto purchased Sensako and Carnia, two of the biggest South African grain seed companies at the time.

If the merger is finally approved by the SCA, more than 50% of all South African seed cultivars will be owned by foreign multinationals, with Monsanto and Pioneer dominating. Pioneer's primary interest is directed at capturing genetic resources that have been developed by food producers over centuries. With Pioneer's acquisition of Pannar, the biggest remaining South African seed company (Klein Karoo Seed) will hold just 5% of total cultivars in the country.

Further corporate concentration in our seed sector – and throughout the agri-food system from input supply to retailing – will exacerbate the existing situation whereby farmers are becoming irreversibly disconnected from breeding processes. Farmers are steadily being converted into mere consumers of what they originally collectively produced and owned.

If the merger is approved, the market will essentially comprise of two players: Monsanto and Pioneer, which will compete to develop and sell more sophisticated and expensive varieties of seed. Any competitor that wishes to enter the market will likely seek to compete on a similar product offering. Accordingly, the merger will increase the barriers to entry to other companies in the maize seed industry. By contrast, Pioneer will be able to use Pannar's extensive experimental infrastructure, and distribution and marketing networks, to reduce its operational costs.

Nationally, higher seed costs will translate into higher production costs, which in turn mean that consumers have to pay higher prices.

Any raise in the price of products and any reduction in the range of products available reduce the choice of consumers and farmers in the downstream market. The welfare of smallholder farmers (who produce partly for their own consumption and partly for the market) will be adversely affected.

Expansion of GM crops

As already mentioned, the merger is likely to negatively impact on the food security of the country, and on small scale commercial and emerging farmers who will not be able to absorb envisaged price increases. This will become particulary acute as hybrid seeds are withdrawn or withheld from the market in favour of genetically modified (GM) seeds, particularly GM maize seeds. This will resulst in such non GM seeds becoming inaccessible to small scale and emerging farmers and will have a concomittant effect on consumers.

Global competition is exerting a great deal of pressure on seed companies to adopt patented genetic modification techniques. Already 77% of all maize produced in South Africa is GM. This technology may increase short-term yields, but at what long-term cost to society? One thing is for sure, embracing this technology leads to further concentration of economic resources and further exclusion and marginalization of many people from productive activity. Farms need to be bigger because GM crops are designed for large-scale commercial agriculture. Farmers need to fit into a debt-driven economy because GM crops require a package of inputs (synthetic agrichemicals, irrigation, seed) that need production credit. The result is a deepening of the structural imbalances in our economy.

The rest of Africa is also affected

Pannar currently operates in more than twenty African countries, and has partnerships with some of the continent's most prominent research organizations. If the merger is to be approved, Pioneer will find itself at the apex of Pannar's African seed network. We have to ask: What will be the characteristics of the seed on offer, who will control these, and what choices will be available to farmers wishing to use different seed? These are the bigger problems with the merger that relate not only to this merger but to the whole commercial and privatised seed system in South Africa, globally and increasingly in Africa.

Pannar Seed

Pannar Seed is South Africa's largest independent seed company. It has been in operation since 1958 and has been a family-run business since inception. Pannar was the first private seed company to introduce its own maize hybrids in South Africa in the 1960s. In the late 1970s it expanded its business into other African countries. After 1990 it was able to further immerse itself into the continent. Presently it has five agricultural research stations in Southern Africa, as well as partnerships with some of the continent's most prominent research organizations including the Kenyan Agricultural Research Institute (KARI), The International Maize and Wheat Improvement Centre's (CIMMYT) Harare station, and the International Institute for Tropical Agriculture (IITA) in Nigeria. Pannar also has significant operations (including research stations) in the USA and Argentina.[1] In 2005 Pannar purchased Pau seeds in the US from Bayer.[2]

As well as having one of the world's largest white maize breeding programmes, Pannar is also one of the world's leading private sorghum breeders (75% of all sorghum varieties registered in South Africa are owned by Pannar[3]). Current research in this field also includes white sorghum for the Sudan.[4] The Department of Agriculture, Forestry, and Fisheries (DAFF) 2010 variety list for seed crops lists 369 varieties owned by Pannar, or its subsidiary Stark Ayres.

The Narrowness of Competition Issues

The Competition Appeal Court has accepted at face value Pannar's contention that it does not have enough resources of its own to compete with Monsanto and the other multinationals, and therefore an acquisition is necessary. The debate, within the realm of the Competition legislation and institutions, is limited to the comparison between Pioneer acquiring Pannar versus Syngenta or another multinational company.

Competition in the maize seed market is only one part of a bigger story of increasing concentration of ALL genetic resources in the hands of a few multinationals. It does not matter which multinational acquires Pannar. We are opposed to selling genetic resources to ANY foreign company, and argue that these genetic resources are a national and continental asset. We believe they must remain in public ownership for the benefit of all food producers and consumers, not for the private profit of multinational companies.

Crumbs on the Corporate Table

Pioneer and Pannar have offered South Africa the establishment of a R20 million fund to increase the productivity, knowledge and welfare of small-scale and developing farmers. But this is no more than public relations. As long as smallholders themselves are only passive recipients of largesse from the corporations, and the companies determine the content of this 'knowledge' and how best to secure 'productivity' (which for them will be assisting smallholder farmers to use GM seed more effectively) these systems will be designed to benefit the ongoing insertion of private profit making into food systems in Africa.

The merging parties are also proposing a research hub, which will be entirely under the control of the merged entity. That is what their business is, so there is nothing new they are offering here. On the contrary, it offers them an opportunity to further capture the remnants of South Africa's public sector agriculture R&D infrastructure for their own ends, by "providing advisory services" to these institutions, i.e. orienting these institutions to support their agendas. This process is already far advanced in the Agricultural Research Council, where a dribble of government funds must be supplemented with private sector funds to ensure the institutions stay alive. He who pays the piper calls the tune.

It is no surprise that this is happening at the same time as seed laws in South Africa are being tightened up in favour of private owners of germplasm; to the detriment of food producers and ultimately consumers – that is all of us. This path leads towards greater control and concentration in the hands of a few so the few can profit at the expense of resource-poor farmers and consumers everywhere.

Conclusion and Way Forward

Eighteen years after political democratisation in South Africa, economic power remains in the hands of a small elite, with widespread poverty and lack of access to the production assets of society.

We believe that this economic concentration must be reversed, that a broad and diverse production base, with a more equitable distribution of productive assets is essential for the redress of historical injustices and for an inclusive economic future.

For these reasons, we reiterate our opposition to the merger. We will continue to look for ways to expose the unsustainability of the path being followed by these corporations, as well as to look for practical solutions based on farmer-controlled seed breeding, sharing of germplasm and agro-ecological production methods that do not rely on synthetic, fuel-based fertilisers and seeds manufactured in laboratories.

We believe there is a basis for alternatives in existing farmer practices – both black and white – of on-farm seed saving and farmer-to-farmer exchange and knowledge sharing amongst farmers, supported by scientific experts, especially in our public sector agricultural research institutions.

We call on Parliament to pass laws prohibiting the alienation of genetic resources, and to recognise that these resources are a public good that should be nurtured and developed outside the framework of private ownership and profit making.

We further call on Parliament to pass laws enabling the breaking up of existing corporations in the agri-food system and the redistribution of the concentrated resources under their control, in order to widen the base of productive activity so that all may benefit.

References

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2 ACB (2009). **Biotechnology, seed and agrochemicals – Global and South African Industry structure and trends**.
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4 Ibid.