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Judge Sides With Whole Foods on Deal for Wild Oats

By ANDREW MARTIN

In the end, the online ramblings of Rahodeb didn't scuttle the plans of [Whole Foods Market](#) to buy [Wild Oats Markets](#).

Yesterday, Judge Paul L. Friedman of Federal District Court in Washington refused the Federal Trade Commission's request to block the merger of the grocery chains.

The federal agency had argued that the merger would limit competition in the market for natural and [organic food](#) and increase prices, and it used the words of Whole Foods' chief executive and co-founder, [John P. Mackey](#), to support their argument, including remarks he made using an anonymous online pseudonym, Rahodeb.

Judge Friedman's 93-page opinion remained under seal, but Clifford H. Aronson, a lawyer for Wild Oats who had quickly read the decision, said the judge simply did not believe that there was a unique market for natural and organic foods, as the F.T.C. had argued. He said the online postings from Mr. Mackey did not sway the judge.

"It was a sideshow, but it doesn't make an antitrust case," Mr. Aronson said.

The judge's ruling was a major victory for Whole Foods, which has been on the defensive since the F.T.C. filed its case in June. Whole Foods announced its intentions to purchase Wild Oats for \$565 million in February.

"This obviously has got to be a setback for the F.T.C.," said William J. Baer, a Washington antitrust lawyer and a former director of the trade commission's Bureau of Competition. "I think they thought this was a slam-dunk."

Whole Foods officials argued that the merger was necessary because, as the market for organic and natural foods has grown, the chain's competition had expanded to include everyone from [Wal-Mart](#) to conventional grocery stores like [Safeway](#). Whole Foods and Wild Oats need to combine forces to remain competitive, company officials maintained.

"The district court's ruling affirms our belief that a merger between Whole Foods and Wild Oats is a winning scenario for all stakeholders," Mr. Mackey said in a statement.

But Jeffrey Schmidt, the director of the Bureau of Competition, said in a statement that the court's decision was a loss for consumers and competition.

"We respect the court's decision, which we are currently reviewing," he said. "We brought this challenge

because the evidence before us showed that the merger would most likely result in higher prices and reduced choices for consumers who shop at premium natural and organic supermarkets.”

The companies have agreed not to close the deal until at least noon Monday, giving the F.T.C. time to file an appeal, and perhaps to obtain a stay pending the outcome of the appeal.

Shares of Whole Foods were up \$3.33 in after-hours trading, to \$44.40.

As the anonymous Rahodeb, Mr. Mackey was a regular on [Yahoo](#) Finance’s bulletin board for a period of seven years, usually extolling the virtues of Whole Foods and on occasion, blasting its longtime rival, Wild Oats.

Last month, Whole Foods said federal regulators from the Securities and Exchange Commission and its own board were investigating the postings. At that time, Mr. Mackey issued an apology for his “error in judgment in anonymously participating on online financial message boards.”

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