



## Federal Trade Commission Protecting America's Consumers

**For Release:** June 5, 2007

### FTC Seeks to Block Whole Foods Market's Acquisition of Wild Oats Markets

#### Transaction Would Reduce Competition for Premium Natural and Organic Supermarkets in Locations Nationwide

The Federal Trade Commission today approved a complaint challenging Whole Foods Market, Inc.'s approximately \$670 million acquisition of its chief rival, Wild Oats Markets, Inc., and authorized the staff to seek a temporary restraining order and preliminary injunction in federal district court to halt the deal pending an administrative trial on the merits. According to the complaint, the transaction would violate federal antitrust laws by eliminating the substantial competition between these two uniquely close competitors in numerous markets nationwide in the operation of premium natural and organic supermarkets. If the transaction continues unopposed, the FTC contends that Whole Foods is likely to raise prices and reduce quality and services unilaterally.

"Whole Foods and Wild Oats are each other's closest competitors in premium natural and organic supermarkets, and are engaged in intense head-to-head competition in markets across the country," said Jeffrey Schmidt, Director of the FTC's Bureau of Competition. "If Whole Foods is allowed to devour Wild Oats, it will mean higher prices, reduced quality, and fewer choices for consumers. That is a deal consumers should not be required to swallow."

**The Proposed Transaction:** On February 21, 2007, Whole Foods and Wild Oats entered into a merger plan under which the former would acquire 100 percent of the voting shares of the latter, with WFMI Merger Co., a wholly owned subsidiary of Whole Foods, merging with and into Wild Oats. WFMI Merger Co. would then commence a tender offer for all shares of Wild Oats common stock and after completion, Whole Foods would merge WFMI Merger Co. and Wild Oats. The combined value of the tender offer and merger and assumed debt is approximately \$670 million.

**The Commission's Complaint:** The FTC's complaint charges that Whole Foods' acquisition of Wild Oats, as proposed, would violate Section 5 of the FTC Act and Section 7 of the Clayton Act, as amended. Through the transaction, Whole Foods, the largest premium natural and organic supermarket chain in the United States, would acquire its closest competitor and longtime rival, Wild Oats. In each of the markets in which they overlap, Whole Foods and Wild Oats are each other's closest substitute and compete in quality and prices, according to the Commission. After the merger, Whole Foods likely would be able to raise prices unilaterally, to the detriment of customers of premium natural and organic supermarkets.

In defining the relevant markets, the Commission found that premium natural and organic supermarkets, such as Whole Foods and Wild Oats, are differentiated from conventional retail supermarkets in several critical respects. These include the breadth and quality of their perishables – produce, meats, fish, bakery items, and prepared foods – and the wide array of natural and organic products and services and amenities they offer. In addition, premium natural and organic supermarkets seek a different customer than do traditional grocery stores. Whole Foods' and Wild Oats' customers are buying something more than just the food product – they are seeking a shopping "experience," where environment can matter as much as price.

The complaint alleges that through the transaction, Whole Foods would acquire its closest rival in premium natural and organic supermarkets, reducing direct competition and leading to the exercise of unilateral market power, resulting in higher prices and reduced quality, service and choice for consumers. In addition, according to the complaint, entry would not be timely, likely, or sufficient to replace the competition lost in the relevant geographic markets.

The Commission voted 5-0 to authorize the staff to seek a temporary restraining order and preliminary injunction blocking the transaction pending an administrative trial. The complaint will be filed by June 6, 2007, in the U.S. District Court for the District of Columbia. It will be available on the FTC's Web site as a link to this press release upon filing.

**NOTE:** The Commission issues or files a complaint when it has "reason to believe" that the law has been or is being violated, and it appears to the Commission that a proceeding is in the public interest. The complaint is not a finding or ruling that the named parties have violated the law.

The FTC's Bureau of Competition works with the Bureau of Economics to investigate alleged anticompetitive business practices and, when appropriate, recommends that the Commission take law enforcement action. To inform the Bureau about particular business practices, call 202-326-3300, send an e-mail to [antitrust@ftc.gov](mailto:antitrust@ftc.gov), or write to the Office of Policy and Coordination, Room 394, Bureau of Competition, Federal Trade Commission, 600 Pennsylvania Ave, N.W., Washington, DC 20580. To learn more about the Bureau of Competition, read "Competition Counts" at <http://www.ftc.gov/competitioncounts>.

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