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Editorial: Big and bigger / Minnesota grain merger needs scrutiny

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The late Sen. Paul Wellstone used to worry out loud about concentration in agricultural markets, warning that big grain merchants might gain the power to squeeze farmers and gouge consumers. A transaction with exactly that potential has just occurred in Minnesota. It would have worried Wellstone, and it should worry the federal judge in Washington who has final authority to approve it.

The acquisition involves Archer Daniels Midland (ADM), the agribusiness giant based in Decatur, Ill., and Minnesota Corn Processors, a farmer cooperative in Marshall, Minn. The acquisition combines two of the nation's biggest corn processors, and while the market data are subject to debate, it would give ADM a commanding market position in corn sweeteners, a ubiquitous ingredient in soft drinks, candy and hundreds of other grocery store items.

The U.S. Justice Department has approved the acquisition, with one or two key reservations, and has placed a decree before a federal judge in Washington. But last month a group of Midwestern law professors, former regulators and farm groups filed a challenge, arguing that the Justice Department hasn't put the whole story before the judge.

It turns out that ADM and Minnesota Corn Processors are also the nation's top two producers of ethanol, and that the merger would give ADM a stunning 40 percent share of the nation's ethanol market. "The government knew these facts, it must have known these facts, yet it decided that ethanol was not an issue for the judge," said Peter Carstensen, a law professor at the University of Wisconsin in Madison and a former Justice Department attorney.

The advocates, known as the Organization for Competitive Markets, also challenge the Justice Department's reading of the corn sweetener market. They note that, even though Minnesota Corn Processors had to sever its ties to a third related firm, the acquisition will still make ADM, already the nation's biggest corn-sweetener producer, even bigger. "This is an acquisition that moves production from a smaller firm to a bigger firm," Carstensen said. "That is presumptively anticompetitive in a concentrated market like this one."

An ADM executive says that the public and industry competitors had plenty of time

to comment on the deal and that Justice Department lawyers are satisfied with the decree. As for the ethanol question, he said the industry is growing so fast that ADM's market share will shrink rapidly within a few years.

But this transaction deserves closer scrutiny than it has received so far. Grain merchants and processors tend to be very big and nearly invisible -- a combination that is hazardous to effective competition and efficient markets. The result is a long history of price fixing and market manipulation, a prospect that the courts should take pains to foreclose.