



## Science & Technology



# Federal Seed Act

## Challenges in Seed Competition and Labeling

On March 6, 2023, USDA-AMS published a report titled “More and Better Choices for Farmers: Promoting Fair Competition and Innovation in Seeds and Other Agricultural Inputs.” This report was a response to Executive Order 14036, which directs federal agencies to take action to promote competition across the American economy. It outlines strategies for ensuring that the intellectual property system, while incentivizing innovation, does not unfairly restrict competition.

During the process of collecting public comments, holding listening sessions, and conducting meetings with farmers, plant breeders, industry experts, and seed companies, concerns were raised regarding the lack of important information available to seed purchasers through advertisements and catalogs.

The report found that withholding crucial details, such as variety names, before delivery can constrain competition and hinder innovation in several ways:

- Marketing a plant variety under different brand names without disclosing the variety name makes it difficult for consumers to determine which IP rights pertain to a variety.
- Withholding variety names from advertising can lead to price discrimination and prevent brands selling the same variety from competing based on other factors like price, seed quality, and customer service.
- Lack of varietal information in advertising also complicates farmers’ strategies to manage on-farm diversity and mitigate risk by planting multiple varieties of the same crop.

As a response to these concerns, USDA published a [notice to trade](#), which underscored that **farmers and other businesses should know the kind and variety of the seed that they are purchasing**. AMS expects purchasers to be informed of kind and variety at the earliest opportunity, usually at the time of purchase

and no later than the commencement of shipment. Sellers may achieve this by allowing the grower to physically review the seed container and its label prior to shipment, by making the labeled claims easily accessible to the grower (e.g., a link to an image of the actual label), or through other appropriate means. The notice to trade aims to ensure that growers have the necessary information to make reasoned and well-informed purchasing decisions. This, in turn, fosters transparency and promotes fairer competition in agricultural input markets.

### **Key labeling information for farmers:**

- You should have access to the variety name of the seed you are purchasing no later than when your seed is scheduled to ship, and usually at the point when you make purchasing decisions.
- This is so you can make decisions about what to plant on your farm, with all the relevant information needed to choose the best seed and supplier for your situation.

### **For additional information:**

Please visit [www.ams.usda.gov/rules-regulations/seed-liaison](http://www.ams.usda.gov/rules-regulations/seed-liaison) or contact the USDA Seed Liaison Initiative at [seedliaison@usda.gov](mailto:seedliaison@usda.gov). For information on how to file a complaint under the Federal Seed Act, please visit [www.ams.usda.gov/rules-regulations/fsa/complaints](http://www.ams.usda.gov/rules-regulations/fsa/complaints) or email [seedcomplaints@usda.gov](mailto:seedcomplaints@usda.gov).