

JURY INSTRUCTIONS



The following instructions are to be followed by the jury:

The FTC is asking the court to block the merger of Whole Foods and Wild Oats on the basis that the proposed merger violates Section 7 of the Clayton Act. Your job as the jury is to determine the credibility of each of the witnesses and weigh the evidence that was presented. If you determine by a preponderance of the evidence that a merger between Whole Foods and Wild Oats will substantially lessen competition or tend to create a monopoly in the relevant market, you must find the merger in violation of Section 7 of the Clayton Act. Remember, the FTC contends that the relevant market is limited to “premium natural and organic supermarkets,” and Whole Foods contends that the relevant market includes all supermarkets.