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Antitrust Concerns Swirl Around Sale of Diebold Voting Machines

By [Kim Zetter](#)  September 14, 2009 | 5:55 pm | Categories: [E-Voting](#)



Sen. Charles Schumer asked the Justice Department's antitrust division on Monday to investigate the recent sale of Diebold's voting machines division to a competitor, saying the deal raises anti-competitiveness concerns and has "adverse implications on how our country votes."

The letter comes just days after another voting machine company filed an anti-trust lawsuit in federal court in Delaware against Diebold and Election Systems & Software.

Earlier this month, Diebold announced the [sale of its voting machine division](#), Premier Election Solutions, to top competitor ES&S for about \$5 million.

The sale gives ES&S, already the largest voting machine maker in the country, a near monopoly on the voting machine industry. According to the company's website, its systems, used in 43 states, counted "approximately 50 percent of the votes in the last four major U.S. elections."

Hart InterCivic, a voting machine firm based in Texas, filed an [antitrust suit](#) (.pdf) on Friday, seeking a temporary and permanent injunction against the sale. According to the suit, the sale "poses a significant and imminent threat of irreparable antitrust injury to plaintiffs."

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The sale also threatens harm to election districts that purchase voting equipment in that it will likely increase the costs of equipment and result in a decrease in the quality of products, the suit alleges. It will also, ultimately, cause "harm to the voters of the United States, in the form of loss of confidence in the integrity and security of the means by which elections are performed."

The suit alleges that Diebold and ES&S have long engaged in anti-competitive practices to win bids “through both legitimate and illegitimate acts and conduct.”

This behavior includes submitting low-ball bids to get contracts, after which the companies allegedly gouge customers with additional expenses for after-market service and upgrades. The suit alleges the companies also exaggerate the capabilities of their systems, misrepresent the status of their certification and exert improper and undue influence on government officials to win contracts.

The suit identifies ES&S as serving 45 percent of the country’s approximately 180,000 voting precincts. Premier serves approximately 23 percent; Sequoia Voting Systems serves 18 percent; Hart InterCivi serves 9 percent; and Dominion Voting Systems serves 5 percent.

Schumer, a New York Democrat, agreed with Hart InterCivic’s assessment of the sale.

“If this acquisition proceeds, one company could control over three-quarters of the U.S. market for voting systems,” Schumer wrote in a letter to Attorney General Eric Holder. “Given other factors, including high barriers to entering the market, I am deeply concerned that local governments and taxpayers will not be getting a fair deal because too much market power will be held in too few hands.”

Schumer also noted that consolidating the election-machine market in fewer hands would make it easier for someone to commit fraud.

ES&S, or its precursor, American Information Systems, was the focus of previous Justice Department interference in 1997. At the time, AIS purchased Business Records Corporation and morphed into ES&S. The DoJ forced the company to relinquish its optical-scan voting equipment business to Sequoia Voting Systems, which became the third largest voting machine company in the country.

The Justice Department did not immediately respond to a call for comment.

Photo: A Diebold voting machine from Oct. 28, 2005. (AP/Kiichiro Sato)

See also:

- [Diebold Unloads Beleaguered Voting Machine Division](#)

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Comments (7)

Posted by: Clarpet | 09/14/09 | 7:57 pm

I have a solution:

Create a government-owned company to build and maintain the machines. The American people will own them, and the jobs created will be given to the public.

No person with any official political affiliation will be allowed to work there to avoid obvious bias issues and tampering.

The voting of the American people is not something that should be allowed to be exploited for capital gains.

Posted by: starstuff | 09/14/09 | 8:08 pm

Clarpet: My thoughts exactly. Here here!

Posted by: Joshnet | 09/14/09 | 8:50 pm

You Americans are so funny. Willing to sacrifice the integrity of your whole democracy because you gotta have the latest voting gizmo. What's wrong with pencils and paper ballots? With proper organization they can be scrutinized and counted within a few hours of a poll closing and, by definition, they leave a paper trail!

Posted by: thinkyhead | 09/15/09 | 4:55 am

And may I add, they should be based completely on open source software.

Posted by: thinkyhead | 09/15/09 | 4:57 am

Actually, Joshnet, nobody asked us. Greetings from the Fascist States of America.

Posted by: slave138 | 09/15/09 | 12:29 pm

Joshnet: Considering the increase in absentee ballots being submitted, I'd say a lot of Americans have opted to go the pencils-and-paper route.

Posted by: vaporland | 09/18/09 | 2:41 pm

take responsibility for vote counting from localities and set up an independent agency to regulate & control this process.

it will never happen because politicians benefit too much from vote fraud chicanery.
