

Profitability for Breeders of Open Source Varieties

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Breeding itself is not usually profitable for breeders of OSSI-Pledged varieties. OSSI breeders make money as farmers or as seed sellers/companies. Breeding is a practice that they enjoy doing, subsidized by other parts of their enterprise.

Under OSSI's arrangements, no restrictions may be applied to third party recipients or purchasers of seed of Pledged varieties. This prevents the use of IPR and contract mechanisms typically used in the seed trade for OSSI-Pledged varieties. However, there are various ways to enhance the income stream from breeding that are acceptable under OSSI's arrangements. These include:

- **Rapid and Early Release.** Unlike most countries, the USA has no “common catalog,” no “value in cultivation and use” (VCU) standards, no multi-location testing requirements, and no official variety registration requirements (PVPA registration is voluntary). And absent the DUS requirements (“distinct, uniform, stable”) mandated by “official” registration to legally define a “registered” or “PVPAed” variety, OSSI breeders are free to release and sell their “varieties” on their own terms and on their own schedules, unencumbered by the need to stabilize the genetics and traits to an official standard. OSSI-Pledged varieties can therefore be genetically diverse and can be released and sold whenever the breeders feel they have a saleable product. They can be dynamic entities inasmuch as they can be made available in continuously improved versions, and some are even populations or “grexes” rather than “varieties.” OSSI varieties can be released more rapidly and in earlier forms and more dynamic/plastic forms than conventionally produced varieties.
- **Multiplication Contracts.** Seed of a new variety must be multiplied from a small amount of breeder's seed to a quantity suitable for commercial sale. This is typically accomplished via a farmer or company that multiplies the seed. The point of multiplication can be a source of “leakage” of a new variety if the multiplier retains some seed of the multiplied crop and subsequently further multiplies and sells it independently. A common practice in the seed trade is to specify a contract with the multiplier solely for the service of multiplication and retention of the entire crop. Since the multiplier is exclusively performing the service of multiplication and there is no transfer or sale of seed for any other purpose, the practice is acceptable under the terms of the OSSI Pledge.
- **Exclusive Release.** Breeders of OSSI-Pledged varieties are under no obligation or compulsion to share or sell seed to anyone who wants it. Breeders may agree or contract with a single seed company for sale of seed of an OSSI-Pledged variety. While no restrictions can be placed on the seed by the seed company, this exclusive release creates a single source of availability and effectively delays – for some years – the multiplication/increase of seed by competitors who can purchase seed, but must increase it for their own sale. This allows the seed company a window of exclusivity which makes the OSSI-Pledged variety profitable for them.

- **Royalties.** While the OSSI Pledge prohibits mandating royalties from all downstream sales of OSSI-Pledged varieties, it does not prohibit royalties per se. Two forms of royalties have emerged from relationships developed between OSSI breeders and seed companies.
 - Voluntary Royalties. A number of seed companies (High Mowing, Fedco, Adaptive) voluntarily send royalties to the breeders of OSSI-Pledged varieties that they offer for sale.
 - Contractual Royalties. At least one company has now moved beyond voluntary royalties to a contractual responsibility to provide royalties.

In sum, there are a variety of ways in which breeders can generate a flow of income from their production of OSSI-Pledged varieties.