

Antitrust Harms to Agricultural Markets and Producers Likely From Proposed Kroger-Albertsons Merger

September 22, 2023

The Honorable Lina M. Khan, Chair
The Honorable Rebecca Kelly Slaughter, Commissioner
The Honorable Alvaro Bedoya, Commissioner
Federal Trade Commission
600 Pennsylvania Avenue NW
Washington DC 20580

RE: Antitrust Harms to Agricultural Markets and Producers Likely From Proposed Kroger-Albertsons Merger

Dear Chair Khan, Commissioner Slaughter, and Commissioner Bedoya:

The undersigned represent an alliance of packinghouse workers, ranchers, farmers, consumers, and rural Americans who work together to produce the agricultural food products sold in stores and served on America's dining tables.

We oppose the proposed merger of The Kroger Company ("Kroger") and Albertsons Companies, Inc. ("Albertsons"). As you know, Kroger and Albertsons are the two largest supermarket chains in the nation and the companies have attempted to justify their proposed merger as, in the words of Kroger, making a post-merger entity "better positioned as an enhanced competitor" to the mega-discounters Walmart and Costco.[1] We are concerned the proposed Kroger-Albertsons merger will intensify the anticompetitive harms we have suffered resulting from market concentration and consolidated buyer power wielded by Walmart and other large retailers.

The rise in Walmart and other large retailers' buying power has driven harmful consolidation up in the food supply chains. Allowing Kroger to balloon comparable to Walmart as a buying power will drive harm through the agricultural sector, particularly in meat supply chains. The pressures resulting from retail consolidation flow to packers and processors who in turn squeeze workers, ranchers, and other producers in the agricultural supply chain.

Retailers have significantly increased their share of the red meat and poultry dollar in the past three decades, which has coincided with a significant concentration of the top food retail companies' share of sales nationally. From 1990 to 2022, the retailers' share of the beef dollar has grown by

fifteen percent, while in pork, the retailers' share has grown by nineteen percent. Meanwhile, from 1990 to 2019, the top four retailers' share of U.S. food sales jumped from about fifteen percent to thirty-five percent, while the top eight retailers' share more than doubled to over half of all food sales at supermarkets, other grocery stores, warehouse clubs, and supercenters according to the United States Department of Agriculture (USDA) Economic Research Service.

Our concern is heightened by the trend toward retailers' vertical integration. By capturing processing capacity, retailers increase their leverage against packinghouse companies which in turn pressures wages and labor standards at the packinghouses and compresses what ranchers and farmers receive. For example, Walmart has acquired its own dairy and beef processing plants and a minority stake in a new largescale beef plant under development in Nebraska. Costco built its own chicken plant in Fremont, Nebraska. Kroger and Albertsons combined would operate a manufacturing network of twenty-one dairies, two cheese plants, two ice cream factories, and one meat processor (in addition to twenty-six other grocery product manufacturing plants) as of early 2023.[2]

The trend toward vertical integration by the largest retailers combines with the potential harms of retail food stores offering "loss leaders", whereby retail products are priced below wholesale cost in order to attract customers and capture increased market share while encouraging convenience-spending on higher-margin products to cover the difference. Walmart can easily charge less for its store brand milk due to its supply network.[3] Kroger sparked a price war with Walmart where both offered milk as a loss leader and eventually caught brand-name producers in the cross-fire according to the Cincinnati Business Courier in 2017.[4] Costco is known for using its rotisserie chickens as an artificially low-priced loss leader, a practice that is in part supported by Costco's own chicken plant.[5]

The eight largest food retailers – which include Walmart, Kroger, and Albertsons - account for over half of all American retail food dollars spent according to the USDA. The largest retailers have amassed outsized purchasing power which has enabled them to push down the prices received by packinghouse companies who in turn extract cost reductions from their suppliers and workers. The damage to agricultural producers is clear. Farmers' and ranchers' share of the consumer beef dollar has steadily declined for forty years by a factor of four-tenths, from sixty-three percent to thirty-seven percent. The size of the cattle herd nationally has declined over the same period to a historical low, while the number of U.S. feedlots has dropped precipitously over the same period. Meanwhile, cheap beef imports doubled in the past three decades. In the past several years cattle prices and retail beef prices have decoupled so that now cattle prices are collapsing while consumers pay record prices at the checkout aisle.

Retailers' increased purchasing power has compelled meatpackers to push down their costs by lowering labor standards and suppressing prices paid to farmers and ranchers. Over the past three decades of increasing market dominance by the largest food retailers, we have witnessed increased imports of cheaper beef, increased market share by cheaper poultry, and a diminished cattle herd which has led to less processing and tighter supply yet without a proportional increase in the prices received by the farmers and ranchers who produce and feed the herd. Poultry manufacturing comes

at the expense of beef market share and drags down labor standards across all proteins due to the ease with which poultry manufacturers can pick up and move their operations in the face of an organized workforce as well as poultry's concentration in the former slave-holding states which carry a legacy of labor exploitation and hostility to collective action among workers.

Kroger and Albertsons have been clear from the beginning about their intentions when it comes to the agricultural supply chain. In the words of Kroger, over \$1 billion annually is expected to be generated post-merger largely from "improved sourcing" and "optimization of manufacturing and distribution networks." We have suffered the consequences of retail consolidation for decades and along with our coworkers, neighbors, and family members. The combination of Kroger and Albertsons would only serve to accelerate the decline of rural America and our agricultural economy.

We urge the FTC to block this merger.

Thank you for your consideration of effective antitrust enforcement in agricultural markets to ensure that farmers and ranchers receive a fair price in the market and processing workers protect their hard-won protections and benefits on the job.

Respectfully,

United Food & Commercial Workers International Union

20/20 Vision

350 Ventura County Climate Hub

A Better Balance

AKPIRG

Alaska AFL-CIO

American Economic Liberties Project

American Grassfed Association

American Indian Mothers INC

American Sustainable Business Network

Campaign for Family Farms and the Environment

Ceres Community Project

Chicago Food Policy Action Council

Climate Systems Solutions

Colorado Blueprint to End Hunger

Community Food Advocates

Compañeras Campesinas

Consumer Federation of America

DC Greens

Demand Progress Education Fund

Denver Food Rescue

East Denver Food Hub

Farm Action

Farm Aid

Farm and Ranch Freedom Alliance

Farmworker Association of Florida

Food & Water Watch

Food Chain Workers Alliance
Friends of the Earth
Government Accountability Project Food Integrity Campaign
Green America
HEAL Food Alliance
Healthy Food Strategies
Institute for Agriculture and Trade Policy
Institute for Local Self-Reliance
Jefferson County Food Policy Council
Latino Farmers & Ranchers International, Inc.
Mile High Farmers
Minnesota Farmers Union
Montana Cattlemen's Association
National Black Workers Center
National Family Farm Coalition
National Farmers Union
Natural Resources Defense Council
Nebraska Farmers Union
New Mexico Food & Agriculture Policy Council
North American Marine Alliance
Northeast Sustainable Agriculture Working Group
Northern Plains Resource Council
Ohio Farmers Union
Open Markets Institute
Powder River Basin Resource Council
Public Citizen
R-CALF USA
RAFI-USA
Revolving Door Project
Rocky Mountain Farmers Union
Rural Advancement Fund of the National Sharecroppers Fund
Rural Coalition
Rural People's Voice
Rural Urban Bridge Initiative
RuralOrganizing.org Education Fund
Texas Coalition of Rural Landowners
The Sumner M. Redstone Global Center for Prevention and Wellness
The Wave Foundation
United Food & Commercial Workers Local 7
United Food & Commercial Workers Local 304A
United Food & Commercial Workers Local 328
United Food & Commercial Workers Local 367
United Food & Commercial Workers Local 770
United Food & Commercial Workers Local 1459
United Food & Commercial Workers Local 1889
United Food & Commercial Workers Local 3000
Union of Concerned Scientists
United Food Workers of New Mexico

Western Organization of Resource Councils
Worker Justice Alliance

[1]Senate Question Responses (Kroger) 11/29/2022, p.7

[2]Kroger 10-K for year ended January 2023; Albertsons 10-K for year ended February 2023

[3]<https://www.wsj.com/articles/walmart-kroger-bottle-their-own-milk-and-shake-up-american-dairy-industry-11595872190>

[4]<https://www.bizjournals.com/cincinnati/news/2017/07/31/kroger-price-cuts-hammer-milk-companys-outlook.html>

[5]<https://www.cnn.com/2022/06/24/business/costco-rotisserie-chicken-lawsuit/index.htm>