POLICY BRIEF

AMERICAN ECONOMIC LIBERTIES PROJECT

Supermarket Squeeze: The Real Costs of the Kroger and Albertsons Deal

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In October 2022, Kroger announced a $24.6 billion deal to acquire Albertsons. The proposed deal is a turning point in the grocery retail industry, as it would combine the second- and fourth-largest grocers in the country, each of which has an extensive geographical footprint and dozens of regional subsidiaries.[1]

Kroger, one of the largest supermarket chains in the United States, operates approximately 2,750 grocery stores in 35 states across the country, under various brand names such as Kroger, Ralphs, and Fred Meyer.[2] The company also owns several subsidiaries, including Harris Teeter, King Soopers, and Smith's. Albertsons has an equally extensive network of around 2,200 stores nationwide, with a number of subsidiaries including Safeway, Vons, Jewel-Osco, Shaw's, and Star Market.[3]

This deal is far from the first major grocery store merger. Over the past three decades, there has been a substantial rise in consolidation within the food retail sector at every level: national, state, metro area, and county.[4] As grocery brands consolidate and no longer face competitive pressures to provide better services at convenient locations, they often close stores. Today, the U.S. has one-third fewer stores than it did 25 years ago, so every

1 Melissa Repko, "Kroger, Albertsons CEOs defend grocery tie-up, say deal won't hurt competition," *CNBC*, November 29, 2022, https://www.cnbc.com/2022/11/29/kroger-and-albertsons-executives-defend-proposed-merger-at-hearing.html.
2 Russell Redman, "Kroger marks 1st year of Boost by Kroger Plus membership program," *Winsight Grocery Business*, July 18, 2023, https://www.winsightgrocerybusiness.com/kroger/kroger-marks-1st-year-boost-kroger-plus-membership-program.
3 "About ACI," accessed October 31, 2023, https://www.albertsonscompanies.com/about-aci/overview/.
4 Eliana Zeballos, Xiao Dong, and Ergys Islamaj, "A Disaggregated View of Market Concentration in the Food Retail Industry," USDA, January 23, 2023, https://www.ers.usda.gov/webdocs/publications/105558/err-314.pdf?v=1526.4.

major grocery merger leads to an even more concentrated market.[5] The Kroger-Albertsons deal is the latest dangerous culmination of this trend.

But the decreasing number of grocery stores is not just about fewer places to shop. Store closures mean layoffs, food deserts, and more negotiating power in the hands of the few national chains, harming consumers, food suppliers, farmers and ranchers, independent grocery stores, and the grocery workers that remain.

Despite clear and consistent evidence of these broader repercussions, regulators over the past decade have waved through grocery mergers with few enforcement limitations.[6] And when seemingly significant divestments were required, those remedies were later proven insufficient or ineffective.[7] Still, Kroger and Albertsons claim their deal is the only way to compete with the likes of Walmart. Both Kroger and Albertsons, along with others, have been using that rationale to defend every supermarket deal for the past 20-plus years.[8]

The merger, however, already faces significant opposition. Upon announcing the deal, Albertsons, which had 78% ownership by private equity firms, paid out a hefty $4 billion dividend, with $1 billion going directly to Cerberus Capital Management. Despite attempts by the Washington state attorney general to legally block the dividend, this payout was made using $2.5 billion in cash and $1.5 billion in debt, which ultimately worsened the financial standing of Albertsons.[9]

However, the companies continue to argue to lawmakers that the merger is not going to harm consumers or workers, but this position clashes with past trends that indicate that

5 "Retail Consolidation: Crisis Across the Food Chain," Farm Action, June 8, 2023, https://farmaction.us/2023/06/08/retail-consolidation-crisis-across-the-food-chain/.

6 Press Release, "The Price Chopper and Tops Markets merger was allowed after divesting just 12 stores to a company that had almost zero geographic footprint in the grocery retail sector," FTC, November 2021, https://www.ftc.gov/news-events/news/press-releases/2021/11/ftc-requires-northeast-supermarkets-price-chopper-tops-market-corp-sell-12-stores-condition-merger. Kroger bought Harris Teeter in 2014 without even a second request from the Federal Trade Commission. FTC, *Early Termination Notice*, January 7, 2014, https://www.ftc.gov/legal-library/browse/early-termination-notices/20140432.

7 Albertsons and Safeway were required to divest 168 stores but later bought many of them back for a profit. The divestment has since been understood as a failure in its attempt to maintain a competitive grocery market in the areas where divestments occurred. See: "Kroger/Albertsons: Companies Have Overlap of more than 1,400 Stores; Khan Highly Critical of Failed Supermarket Divestitures," *Capitol Forum*, November 2, 2022, https://thecapitolforum.com/kroger-albertsons-companies-have-overlap-of-more-than-1400-stores-khan-highly-critical-of-failed-supermarket-divestitures/. The following year, in a divestment remedy, the FTC required Ahold (owner of Stop and Shop, Giant, and Martin's) and Delhaize (owner of Hannaford and Food Lion) to divest 81 stores, but the company later bought two locations back while 16 storefronts shut down. See: Claire Kelloway, "What Kroger and Albertsons' Mega-Merger Means for Shoppers, Workers, Regulators," *Food and Power*, October 2022, https://www.foodandpower.net/latest/kroger-albertsons-merger-10-27-2022.

8 "In 1998, to keep pace with Wal-Mart Stores, both Kroger, the nation's largest supermarket chain, and Albertsons, the second largest, made multibillion-dollar acquisitions of regional chains, setting off a wave of purchases by other competitors." See: Greg Winter, "Agency Approves Sale of Stores In Bankrupt Grand Union Chain," *New York Times*, February 2001, https://www.nytimes.com/2001/02/03/nyregion/agency-approves-sale-of-stores-in-bankrupt-grand-union-chain.html.

9 "Kroger-Albertsons merger, $4 billion dividend will line private equity pockets at the expense of consumers," Private Equity Stakeholder Project, January 20, 2023, https://pestakeholder.org/news/kroger-albertsons-merger-dividend-could-line-private-equity-pockets-at-the-expense-of-consumers-2/.

grocery mergers lead to price increases for shoppers, a ripple effect of consolidation in the food supply chain, and store closures that can ultimately mean more food deserts.[10] With these concerns in mind, the merger is facing opposition from the country's largest private-sector union, United Food and Commercial Workers International (UFCW);[11] a number of public interest groups;[12] and state and federal regulators.

Given the implications of the Kroger-Albertsons merger on food prices, consumer choice, supply chain fragility, and the competitive landscape, the clear harms outweigh any potential benefits touted by the companies. The deal should be blocked by antitrust enforcers.

A HISTORY OF ACQUISITIONS AND CONSOLIDATION

Albertsons and Kroger became national supermarket chains through a series of acquisitions across the country. Market consolidation is, and always has been, a pillar of each company's business strategy. Kroger opened its first store in 1883, and 90 years later, in 1973, it ran the second-largest drugstore chain by number of store locations, and fourth-largest in sales.[13] It only took the company 10 years to launch and dominate that market, as Kroger didn't start buying drugstores until the early 1960s. Kroger's shift into new business lines and geographic expansion took off in the 1980s, and just like the industry as a whole, hasn't stopped since.

These acquisitions made Kroger the second-largest food retailer by the mid 1980s,[14] when a new concept of supermarket chains came to be, where the stores offered not only groceries but beauty products, pharmacy goods, and other household items.[15] Not unlike today, the introduction of a supermarket often shuts down the independent stores nearby. A 1984 New York Times article covering the new supermarket model warned, "Over the next year or

10 Adrienne Crezo, "Merging grocery giants threaten Americans' food security," Center for Science in the Public Interest, August 29, 2023, https://www.cspinet.org/article/merging-grocery-giants-threaten-americans-food-security.
11 Russell Redman, "UFCW International voices formal opposition to Kroger-Albertsons merger," *Winsight Grocery Business*, May 8, 2023, https://www.winsightgrocerybusiness.com/labor/ufcw-international-voices-formal-opposition-kroger-albertsons-merger.
12 Stop the Merger, accessed October 31, 2023, https://www.nogrocerymerger.com/supporters.
13 "First Kroger Opened 90 Years Ago," *Florence Times*, 1973, https://news.google.com/newspapers?nid=1842&dat=19730826&id=xSAsAAAAIBAJ&pg=2516,5072168&hl=en.
14 "Kroger Stores," *New York Times,* August 13, 1984, https://www.nytimes.com/1984/08/13/business/kroger-stores.html.
15 Charlotte Chilton, "How Grocery Stores Have Changed Over the Years," *Good Housekeeping*, November 4, 2020, https://www.goodhousekeeping.com/life/entertainment/g32388143/grocery-stores-history/?slide=16. Kroger called the new supermarket model of the 1980s an evolution to a "combination store." https://www.thekrogerco.com/about-kroger/history/.

two the number of mega stores could triple. And when they come into a market, anywhere from three to five conventional stores close in the first six months."[16]

Despite the warnings, antitrust enforcers took little to no action. In the 1990s, more than 380 mergers in the grocery industry were approved by regulators.[17] Prior to this wave of consolidation, only 17% of shoppers went to the top four supermarkets. Now, that number has risen to roughly 60%.[18]

	KROGER ACQUISITION HISTORY	YEAR ACQUIRED/ LAUNCHED
1	Eagle Grocery (pre-Giant Eagle brand)	1928
2	Henke & Pillot	1955
3	Krambo Food Stores	1955
4	Child's Food Stores	1955
5	Big Chain Stores	1956
6	Sav-On Drug	1960
7	SupeRx (Kroger subsidiary) – Sold in 1988	1961
8	Gasen's Drug Store	1962
9	Market Basket (California business) – Sold in 1982	1963
10	Dillon's	1983
11	City Market (Dillon's subsidiary)	1983
12	Gerbes (Dillon's subsidiary)	1983
13	King Soopers (Dillon's subsidiary)	1983
14	Fry's (Dillon's subsidiary)	1983
15	Kwik Shop (Dillon's subsidiary) – Sold in 2018	1983
16	Quik Stop Market (Dillon's subsidiary) – Sold in 2018	1983

16 Winston Williams, "The New Supermarket Takes Shape," *New York Times*, September 2, 1984, https://www.nytimes.com/1984/09/02/business/the-new-supermarket-takes-shape.html.
17 Timothy Richards and Paul Patterson, "Competition in Fresh Produce Markets: An Empirical Analysis of Marketing Channel Performance," USDA, September 2003, https://www.ers.usda.gov/webdocs/publications/85843/ccr-1.pdf?v=0.
18 Ibid.

17	Hook Drugs Inc – Sold in 1986	1985
18	Turkey Hill (Turkey Hill Minit Markets & Turkey Hill Dairy) – Sold in 2018	1985
19	Loaf N Jug – Sold in 2018	1986
20	Florida Choice (Kroger subsidiary)	1986
21	A&P Family Markets	1987
22	Great Scott	1990
23	Hilander Foods	1998
24	Fred Meyer	1999
25	Food 4 Less (Fred Meyer subsidiary)	1999
26	Foods Co	1999
27	QFC (Fred Meyer subsidiary)	1999
28	Ralphs (Fred Meyer subsidiary)	1999
29	Smith's Food and Drug (Fred Meyer subsidiary)	1999
30	Jay C Food Store	1999
31	Pay-Less Super Markets	1999
32	Owens Market	1999
33	Ruler Foods (Jay C subsidiary)	1999
34	Kessel Food Market	1999
35	Baker's Supermarket	2001
36	Scott's Food & Pharmacy	2007
37	The Little Clinic	2010
38	Harris Teeter	2014
39	Vitacost.com	2014
40	Pick 'n Save (Roundy's subsidiary)	2015
41	Mariano's Fresh Market (Roundy's subsidiary) – Sold in 2023	2015
42	Roundy's	2015
43	Metro Markets (Roundy's subsidiary)	2015
44	Hiller's Market	2015
45	Home Chef	2018

Albertsons' acquisition history tells a similar story, where the company used its early market power and access to capital to buy up competitors across the country. One notable observation in the deal history of both companies is the recurring pattern of each company acquiring stores it had previously been forced to sell off. That means, in these instances, that the attempted remedy to maintain competition failed.

For example, to fulfill a divestment requirement when Albertsons bought American Stores Company in 1999, two of Safeway's subsidiaries, Vons and Raley's, purchased more than a dozen stores from Albertsons.[19] Then, in 2015, Albertsons bought Safeway and its subsidiaries. And if the current proposed Kroger-Albertsons deal goes through, another 40 stores from the 1999 divestment will return to Albertsons ownership.[20]

While this is just one example, each company's past ownership shows a well-worn path of buying, selling, rebuying, and rebranding stores across the country, and should raise questions as to the effectiveness of divestments as an antitrust enforcement tool. In theory, enforcers use divestments to maintain a competitive landscape by selling off certain assets, but the result is often that the buyers are too small or ill-prepared to compete with the merged company and are later purchased themselves.

	ALBERTSONS ACQUISITION HISTORY	YEAR ACQUIRED/ LAUNCHED
1	Sugarhouse Drug	1957
2	Greater All American Markets	1964
3	Monte Mart	1974
4	Fazio's Shopping Bag	1978
5	Big Bear Markets	1994
6	Bruno's Inc.	1998
7	Smitty's Super Markets Inc.	1998

19 Press Release, "FTC Agreement with Albertson's and American Stores Requires Selling of 144 Stores in Order to Preserve Supermarket Competition in California, Nevada and New Mexico," FTC, June 22, 1999, https://www.ftc.gov/news-events/news/press-releases/1999/06/ftc-agreement-albertsons-american-stores-requires-selling-144-stores-order-preserve-supermarket.
20 In order to complete the acquisition of American Stores Cos., Albertsons had to sell 144 stores. Forty of those stores and two land sites were sold to Ralphs, a Kroger subsidiary. See: "Analysis of the Draft Complaint and Proposed Consent Order to Aid Public Comment," FTC, June 1999, https://www.ftc.gov/sites/default/files/documents/cases/1999/06/alameristoresana.pdf.

8	Seessel's Supermarket – Sold chain in Memphis in 2002	1998
9	Buttrey Food & Drug Stores Co.	1998
10	American Stores Co. (formerly Skaggs Drugs Cos.)	1999
11	Jewel-Osco (American Stores Co. subsidiary)	1999
12	Osco Drugs (American Stores Co. subsidiary) – Sold in 2001	1999
13	Lucky (American Stores Co. subsidiary)	1999
14	Sav-on drugstore (American Stores Co. subsidiary)	1999
15	Acme Supermarket (American Stores Co. subsidiary)	1999
16	Max Grocery Warehouse	1999
17	Super Saver (launched by Acme)	1999
18	County Market	2000
19	Bristol Farms	2004
20	Shaw's – Sold and bought back in 2013	2004
21	Star Market – Sold and bought back in 2013	2004
22	Raley's (had previously bought stores in the ASC divestiture)	2007
23	United Supermarkets	2013
24	Amigos (United Supermarkets subsidiary)	2013
25	Market Street (United Supermarkets subsidiary)	2013
26	Safeway	2015
27	Carrs (Safeway subsidiary)	2015
28	Vons (Safeway subsidiary – had previously bought stores in the ASC divestiture)	2015
29	Tom Thumb (Safeway subsidiary)	2015
30	Randall's (Safeway subsidiary)	2015
31	Pavilions (brand launched by Vons)	2015
32	Andronico's	2016
33	Haggen	2016
34	Balducci's Food Lover's	2020
35	Kings Food Market	2020

FAILED REMEDIES

In November 2022, members of Congress wrote to the chair of the Federal Trade Commission regarding the proposed merger's potential negative impacts on consumers, workers, and small businesses.[21] The letter also raised the concern that Kroger and Albertsons' proposed divestiture would not be a solution, writing that "history has proved that divestiture does not always remediate the loss of competition caused by a merger and sometimes can further harm consumers and workers."

Nevertheless, in September 2023, Kroger and Albertsons announced a plan to sell 413 stores to C&S Wholesale, a company based in New Hampshire with a limited retail market presence. C&S Wholesale is more of a supplier than a retail operator, and in past acquisitions has purchased the distribution business line but sold off the stores to independent operators.[22] Whether or not C&S Wholesale would be a good steward of the 413 divested stores, it would be far from the size of Albertsons or Kroger prior to the merger, and far from what's needed to maintain a competitive landscape in the national supermarket industry.

Kroger and Albertsons' divestment proposal is ostensibly meant to remedy the competitive harms of the merger that would result from the loss of direct retail competition. However, the remedy is entirely insufficient and, moreover, ignores many of the broader potential harms detailed later in this report: the buyer power of a combined Kroger-Albertsons, the creation of food and pharmacy deserts, and the likelihood of general price increases from consolidation across the entire food supply chain.

Furthermore, divestment remedies have a poor track record of success. In 2015, Albertsons itself was allowed to acquire Safeway after selling 168 stores, with 146 of those going to a company called Haggen. However, Haggen was far from a ready buyer. Before the divestiture, Haggen had only 18 stores in Washington and Oregon. Within a year of

21 Letter from Sens. Pramila Jayapal and Jerrold Nadler, et al., to FTC Chair Khan, Calling on FTC to Scrutinize Proposed Merger Between Kroger and Albertsons, November 21, 2022, https://adamsmith.house.gov/_cache/files/b/a/ba19df2b-7cf0-4b31-baf8-e1607bb97477/4300939BE6ABA2C4810B88D74414D6C1.221121-final-lettertoftconkroger-albertsons.pdf.

22 C&S Wholesale owns two retail brands, Grand Union and Piggly Wiggly. In 2014, C&S Wholesale bought the operating and distribution business behind the southeast branch of Piggly Wiggly but sold the 20 corporate-owned stores to independent operators in the region. See: Jon Springer, "C&S to acquire Piggly Wiggly Carolina," *Supermarket News*, October 2014, https://www.supermarketnews.com/retail-financial/cs-acquire-piggly-wiggly-carolina. In 2021, C&S Wholesale bought Piggly Wiggly Midwest, but is only operating 11 stores. At the time, it was licensing the brand name to 530 independent store operators, again, playing the role of supplier but offloading the retail operations. See: Gina Acosta, "C&S Wholesale Grocers to Acquire Piggly Wiggly Midwest," *Progressive Grocer,* July 14, 2021, https://progressivegrocer.com/cs-wholesale-grocers-acquire-piggly-wiggly-midwest.

acquiring the divested locations, it filed for bankruptcy and Albertsons bought back roughly a quarter of the stores for, on average, one-fifth of what it had sold them for.[23]

This was to be expected, as Albertsons didn't want the competition and made a concerted effort to keep Haggen from gaining any ground. In a lawsuit that was later settled, Haggen claimed Albertsons made "coordinated and systematic efforts to eliminate competition and Haggen as a viable competitor in over 130 local grocery markets in five states," and "made false representations to both Haggen and the FTC about Albertsons' commitment to a seamless transformation of the stores into viable competitors under the Haggen banner."[24]

With the very low bar set by this failed remedy, there is a strong argument to be made that C&S Wholesale is a more worthy buyer than Haggen was. C&S has a more established business in the grocery industry, even if its operating experience is limited. However, a number of factors would indicate that the current plan to divest more than 400 stores to C&S Wholesale would not remedy the competition concerns that the Kroger-Albertsons merger raises. For example, C&S has no retail presence on the west coast, where in Los Angeles and Orange counties alone, 115 of 159 Albertsons stores are located within two miles of a Kroger store. Based on one review, the merger could result in 5,750 jobs lost in the Los Angeles region.[25]

Instead of trying to dice up the market and offload individual stores that raise clear concerns for grocery store access and competition, regulators should recognize the inadequacy of a divestment remedy, especially concerning an industry with just a few major players, and block the deal. Blocking the proposed merger would both ensure that competition in these overlapping areas will persist, and would keep the grocery industry from furthering the race-to-the-bottom trend, in which larger and larger chains get exceptional deals from large suppliers, leaving smaller grocery retailers to pay the difference—often squeezing them out of the market altogether.[26]

23 According to a list of winning bids on the 100 stores Haggen sold in its bankruptcy, Albertsons' successful bid price for more than a half-dozen of the stores was $1 each. See: Brent Kendall, "Albertsons to Buy Back 33 Stores It Sold as Part of Merger With Safeway," *Wall Street Journal,* November 24, 2015, https://www.wsj.com/articles/albertsons-to-buy-back-33-stores-it-sold-as-part-of-merger-with-safeway-1448411193. See: Krista Brown et al., "Courage to Learn: A Retrospective on Antitrust and Competition Policy During the Obama Administration and Framework for a New Structuralist Approach," American Economic Liberties Project, 2021, https://www.economicliberties.us/wp-content/uploads/2021/01/Courage-to-Learn-Final.pdf.

24 Press Release, "Haggen Sues Albertsons for Damage," Haggen Inc., September 2015, https://web.archive.org/web/20160604042135/https://www.haggen.com/haggen-sues-albertsons/.

25 Press Release, "UFCW Members Applaud California's Strengthening of the Grocery Worker Retention Act," UFCW Western States Council, October 8, 2023, https://www.ufcwwest.org/ufcw-members-applaud-californias-strengthening-of-the-grocery-worker-retention-act/.

26 The concept of a race-to-the-bottom strategy in the food industry is well established. A 2021 Food & Water Watch report essentially predicted mergers like Kroger-Albertsons, saying that "Walmart's strategy of race-to-the-bottom prices squeezed out many smaller grocers and other local retailers. Larger supermarket chains responded to Walmart's threat by expanding their own market presence, primarily through purchasing regional chains while retaining the original store brand." See: "The Grocery Cartel," Food & Water Watch, November 2021, https://www.foodandwaterwatch.org/wp-content/uploads/2021/11/IB_2111_FoodMonoSeries1-SUPERMARKETS.pdf.

INDUSTRY CONSOLIDATION AND ITS IMPACT ON PRICES

When it comes to market consolidation, the grocery and food supply sector has been following the same trend that persists in the majority of industries in the United States—ever increasing concentration up and down the supply chain.

RETAIL COMPETITION AND FOOD PRICES

Kroger and Albertsons claim this acquisition will lead to greater efficiency and streamlined supply chain logistics, helping keep costs down for consumers. However, the cumulative effects of progressively more consolidation in the grocery industry, encompassing both retail and suppliers, often results in higher prices for consumers.

With rapidly increasing food prices in recent years, the business practices of these companies should leave us skeptical that lower food prices would come from this deal. The biggest grocers, like Kroger and Albertsons, have raised prices far beyond the increased costs, with Albertsons' profit margin up more than 600% in 2021. That same year, Kroger's CEO spoke on CNN, sharing that "a little bit of inflation is always good for our business."[27]

Some defenders of this trend claim it's not harmful to consumers because the large stores are cheaper. But that analysis ignores the final outcome of this progression, which is the elimination of competition that would keep the large chains from increasing prices at their leisure. According to an analysis by Food & Water Watch, in cities with only a few grocery retailers, grocery prices can be significantly higher than in cities with only moderate competition.[28]

Put in other terms, and as both retailers have claimed, the current consolidation in the industry often yields short-term efficiency and economies of scale, but that does not last. In a report to the White House Competition Council last year, the USDA made clear that the limited benefits do not justify the costs. The agency reiterated that "any short-term

27 "Kroger," Groundwork Collaborative, accessed November 7, 2023, https://endcorporateprofiteering.org/kroger/.
28 Leah Douglas, "FTC Allows Grocery Chains to Further Consolidate Power, Harming Farmers, Workers, and Consumers," *Food & Power,* 2016, https://www.foodandpower.net/latest/2016/08/04/ftc-allows-grocery-chains-to-further-consolidate-power-harming-farmers-workers-and-consumers%E2%80%8B.

efficiency gains are often eclipsed in the longer term when firms with market power use their dominance to charge consumers more, produce fewer or lower quality products, and innovate less."[29] The report backs these concerns up by observing the fragility of our food supply chain during the COVID-19 pandemic, which would have been less significant with more robust competition in the sector.

BUYER POWER AND THE FOOD SUPPLY CHAIN

The consolidated buying power of large supermarket chains like Kroger and Albertsons gives them the bargaining position over suppliers to unfairly disadvantage their smaller competitors, and it also creates pressures for further consolidation up the supply chain. In 2021, the National Grocers Association (NGA), representing independent grocers around the country, released a white paper highlighting how dominant retailers exploit their market power over suppliers and disadvantage smaller grocers.[30] In a letter to Congress, the NGA pointed out that with their buyer power, the large supermarket chains can demand lower prices and more favorable terms from suppliers, leaving independent grocers to pay more for inventory and often forced to charge higher prices to consumers.[31]

In that letter, NGA stated, "independent grocers are unable to secure many of the must-have products and face supplier prices up to 53 percent higher than what their larger competitors are selling the product for at retail." This is because dominant chains like Kroger and Albertsons abuse their buyer power to "demand suppliers provide lower prices and more favorable supply terms … leaving independent grocers to pay the price."[32]

These advantages are made even stronger when considering the vertically integrated nature of Kroger and Albertsons, which not only serve as grocery retailers but also have their own processing plants. Keeping food processing in-house harms both the competing independent retailers and the farmers and ranchers that sell to retailers. As was reported

29 "Agricultural Competition: A Plan in Support of Fair and Competitive Markets," USDA, May 2022, https://www.ams.usda.gov/sites/default/files/media/USDAPlan_EO_COMPETITION.pdf.
30 "Buyer Power and Economic Discrimination in the Grocery Aisle: Kitchen Table Issues for American Consumers," National Grocers Association, March 2021, https://www.nationalgrocers.org/wp-content/uploads/2021/03/NGA-Antitrust-White-Paper25618.pdf.
31 "Pandemic Worsens Dominant Food Retailers' Anti-Competitive Tactics Against Local, Independent Grocers," National Grocers Association, March 16, 2023, https://www.nationalgrocers.org/news/pandemic-worsens-dominant-food-retailers-anti-competitive-tactics-against-local-independent-grocers/.
32 Ibid.

by Food & Power, this deal would combine 52 food manufacturing facilities and thus shrink the number of buyers that farmers and ranchers rely on.[33]

Each of these harms leads to increased prices. While the most straightforward effect is from the direct loss of retail competition, prices also increase from the ripple effects of the increasingly concentrated retail industry—mainly due to pressure on suppliers that themselves consolidate to gain equal footing. In 2017, IPES Food found that the increasingly dominant retail and processing firms have "driven concentration along the chain in order to provide the requisite scale and volume, enforcing a de facto consolidation of agriculture. Meanwhile, upstream consolidation has left farmers hostage to a handful of suppliers and mounting commercial input costs."[34] A Kroger-Albertsons merger would shrink the number of suppliers even more so.

Accordingly, the supply side of agriculture and food processing has consolidated just as retail has. Just a few powerful companies control almost 80% of dozens of everyday grocery items.[35] Again, as a result of decades-long industry consolidation in the food sector, there are just a handful of suppliers in everything from poultry, beef, eggs, and dairy. This lack of diversity creates a risk not only of empty shelves but also of price-gouging behavior, something the egg and poultry producers have been accused of this year.[36] This point was reiterated in a recent Wall Street Journal article about food prices. "The big national brands that dominate the center store also have greater leverage to negotiate higher prices."[37]

A separate but equally important harm is the decline in farmers' income due to supply-side consolidation. As of 2020, farmers made on average 14.6 cents for every dollar consumers spent on food. More specifically, when looking at beef prices, there was a 25% increase in 2020 but a 17% decrease in what farmers could sell livestock for.[38] Based on a survey by the National Farmers Union, when a customer buys a $9.99 sirloin steak at the grocery store,

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33 Claire Kelloway, "What Kroger and Albertsons' Mega-Merger Means for Shoppers, Workers, Regulators," *Food & Power*, October 27, 2022, https://www.foodandpower.net/latest/kroger-albertsons-merger-10-27-2022.
34 "Too Big to Feed," International Panel of Experts on Sustainable Food Systems, 2017, https://www.ipes-food.org/_img/upload/files/Concentration_FullReport.pdf.
35 Nina Lakhani, "Revealed: The True Extent of America's Food Monopolies, and Who Pays the Price," *The Guardian,* July 14, 2021, https://www.theguardian.com/environment/ng-interactive/2021/jul/14/food-monopoly-meals-profits-data-investigation.
36 Nik Popli, "Your Egg Prices Could Be So High Because of Price Gouging, Farm Group Says," *Time*, January 2023, https://time.com/6249041/egg-prices-high-gouging/; Jonathan Stempel, "US chicken producers ordered to face price-fixing claims," *Reuters*, June 30, 2023, https://www.reuters.com/legal/us-chicken-producers-ordered-face-price-fixing-claims-2023-06-30/.
37 Jesse Newman, "The Supermarket Aisle Where Prices Are Still Soaring," *Wall Street Journal,* July 8, 2023, https://www.wsj.com/articles/inflation-groceries-cookouts-chicken-eggs-prices-88ac75d0.
38 "Understanding the Economic Crisis Family Farms are Facing," Farm Aid, September 2020, https://www.farmaid.org/blog/fact-sheet/understanding-economic-crisis-family-farms-are-facing/.

the farmer only makes $2.91.[39] The squeeze on farmers has led to an increased number of farmer bankruptcies, all while grocery prices hit record highs.[40]

If these negotiations are not enough to deliver desired profits, consolidation—especially in the food supply sector—facilitates higher prices through collusion and price-fixing.[41] A number of recent lawsuits point to multiple cases of this collusion and price-fixing, including in the tuna and pork industry.[42]

Even when there is no overt collusion, concentrated sectors mean the few companies that control them have pricing power. A commodities analyst, Alex Turnbull, whose job it is to invest based on market trends, very plainly told *The Guardian* that high levels of concentration breed higher prices. "When you go from 15 to 10 companies, not much changes," he said. "When you go from 10 to six, a lot changes. But when you go from six to four – it's a fix."[43]

And this consolidation presents risks even beyond higher prices. Just this month, a fruit supplier for Walmart, Kroger, Whole Foods, and Wegmans filed for bankruptcy.[44] While the company claims it will not disrupt delivery to these grocers, the consolidated dependence on a single supplier highlights how susceptible the consolidated industry is to a disruption in the supply chain.

INDUSTRY CONSOLIDATION AND FOOD DESERTS

Grocery consolidation comes with store closures. These large supermarket chains have a different financial plan than smaller regional or independent grocery stores. These

39 "The Farmers Share," National Farmers Union, 2020, https://nfu.org/farmers-share/.
40 "Understanding the Economic Crisis Family Farms are Facing," Farm Aid, September 2020, https://www.farmaid.org/blog/fact-sheet/understanding-economic-crisis-family-farms-are-facing/.
41 Claire Kelloway, "U.S. Food Prices Are Up. Are the Food Corporations to Blame for Taking Advantage?," *Time*, January 14, 2022, https://time.com/6139127/u-s-food-prices-monopoly/.
42 Seth Stevenson, "How America's Canned Tuna Industry Went Belly Up," *Slate*, August 17, 2020, https://slate.com/business/2020/08/canned-tuna-industry-price-fixing-starkist-bumble-bee.html; Mike Scarcella, "Pork consumers' $75 million price-fixing accord with Smithfield approved," *Reuters*, April 12, 2023, https://www.reuters.com/legal/pork-consumers-75-million-price-fixing-accord-with-smithfield-approved-2023-04-12/.
43 Nina Lakhani, "Revealed: The True Extent of America's Food Monopolies, and Who Pays the Price," *The Guardian,* July 14, 2021, https://www.theguardian.com/environment/ng-interactive/2021/jul/14/food-monopoly-meals-profits-data-investigation.
44 Bill Wilson, "Kroger, Walmart fruit supplier files for Chapter 11," *Supermarket News,* October 16, 2023, https://www.supermarketnews.com/produce-floral/kroger-walmart-fruit-supplier-files-chapter-11.

differences stem from the need, or lack thereof, to uphold a good reputation to maintain a customer base.

In 2021 alone, Kroger closed half a dozen stores throughout towns in rural Arkansas, including in Searcy, Brinkley, England, DeWitt, and Morrilton, with a final closure across state lines in McComb, Mississippi. Kroger can do this because it has such a large geographic footprint, so maintaining a presence in one area over another becomes less important. If Kroger and Albertsons merge, the combined geographic footprint will be even greater, allowing the merged company to consider further removal from areas that require investment for store upkeep or that become "too costly" to keep store shelves filled. As is highlighted in Kroger's Arkansas closures, rural and low-income areas are almost always the hardest hit.

According to the USDA, independent grocery stores play an important role in rural and low-income communities because large supermarket chains tend to not operate there.[45] So, communities rely more on these independent retailers for food access. But given that consolidated suppliers favor the national chains, these independent grocery stores and the communities they serve are facing significantly higher prices. As with many independent retailers that face increased prices, many of these storefronts end up closing, and leave the community with inadequate access to food—ultimately creating poor health outcomes.[46] With the combined harm of increased prices and worse access, these already underserved communities face some of the greatest harms that stem from mergers like Kroger-Albertsons.

PHARMACY DESERTS

In addition to food deserts, this merger will likely also create pharmacy deserts. Not all grocery stores have pharmacies, but big national chains, like those owned by Kroger and Albertsons, often do—2,254 Kroger-owned stores have pharmacies,[47] while 1,700 Albertsons supermarkets have pharmacies.[48] That means more than 80% of both Kroger and

45 Clare Cho and Richard Volpe, "Independent Grocery Stores in the Changing Landscape of the U.S. Food Retail Industry," USDA, November 2017, https://www.ers.usda.gov/webdocs/publications/85783/err-240.pdf?v=0.
46 "Retail Consolidation: Crisis Across the Food Chain," Farm Action, June 8, 2023, https://farmaction.us/2023/06/08/retail-consolidation-crisis-across-the-food-chain/.
47 "Our Business and Operation," Kroger, accessed October 30, 2023, https://www.thekrogerco.com/about-kroger/our-business/.
48 Press Release, "Albertsons Companies Pharmacies Announces New Vaccine Services to Protect Local Communities Against the Upcoming Respiratory Virus Season," Albertsons, September 27, 2023, https://www.albertsonscompanies.com/newsroom/

Albertsons storefronts operate pharmacies. In communities served by these pharmacies, the risk of losing a grocery store expands to also losing a pharmacy.

Pharmacy deserts are a growing concern due to the trend of pharmacy retail chains closing in rural and low-income areas, where alternatives are already sparse. Independent pharmacies once served a large swath of the population, but they have been closing at a high rate, due in part to the expansion of retail chains that enter the market.[49] The trend in storefront closures is also due to under-reimbursement from pharmacy benefit managers, or PBMs, that steer patients to their own mail-order pharmacies.[50] Despite this downward pressure on all retailers, the national chains have more negotiating leverage with pharmacy suppliers, which leads to preferential deals that cut costs and allow for lower prices. This leaves the independents with higher costs, and thus higher prices, driving customers to the large chains.[51]

While customers may get a short-term benefit from lower-priced products, the long-term impact can be devastating. After a chain puts the independent pharmacy out of business, it often faces little to no competition. Unfortunately, that means customers are much more susceptible to pharmacy deserts, because if and when a merger like Kroger-Albertsons occurs, the inevitable closures leave entire communities, and most often impoverished areas, with no pharmacy at all.

The California attorney general recently announced his investigation into the merger and his explicit concern with its implications for pharmacy deserts.[52] While the deal is harmful enough when considering its impact in the grocery market, the risk of additional damaging outcomes due to Kroger and Albertsons' presence in the pharmacy retail sector makes it all the more important for enforcers to outright block the transaction.

press-releases/news-details/2023/Albertsons-Companies-Pharmacies-Announces-New-Vaccine-Services-to-Protect-Local-Communities-Against-the-Upcoming-Respiratory-Virus-Season/default.aspx.

49 Nathaniel Meyersohn, "CVS, Walgreens and Rite Aid are closing thousands of stores. Here's why," *CNN*, October 16, 2023, https://www.wvtm13.com/article/cvs-walgreens-and-rite-aid-are-closing-thousands-of-stores-here-s-why/45550109.

50 Sara Sirota, "PBMs are modern-day drug price gangsters and must be held accountable," *Ohio Capital Journal,* April 24, 2023, https://ohiocapitaljournal.com/2023/04/24/pbms-are-modern-day-drug-price-gangsters-and-must-be-held-accountable/.

51 Elizabeth Seeley and Surya Singh, "Competition, Consolidation, and Evolution in the Pharmacy Market," The Commonwealth Fund, August 2021, https://www.commonwealthfund.org/publications/issue-briefs/2021/aug/competition-consolidation-evolution-pharmacy-market.

52 Diane Bartz, "California probes 'pharmacy deserts' in Kroger's Albertsons deal-sources," *Reuters*, August 18, 2023, https://www.reuters.com/markets/deals/california-probes-pharmacy-deserts-krogers-albertsons-deal-sources-2023-08-18/.

CONCLUSION

There is a well-established trend in the grocery industry that consolidation often results in higher prices for consumers. This consolidation extends to both the retail and supplier sides of the industry, leading to fewer options and less competition. Larger supermarket chains exploit their buyer power over suppliers, disadvantaging smaller grocers and pressuring suppliers to consolidate and bulk up in response.

Kroger and Albertsons have significant leverage as is, and they are each other's biggest competitor in a significant number of markets across the country.[53] Erasing the competitive pressure they exert on each other will only harm consumers, workers, and the economy at large. The industry itself is in a race to the bottom: Every merger creates more market power, which then forces surviving businesses to merge themselves. Antitrust enforcers are the only backstop.

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The American Economic Liberties Project is a non-profit and non-partisan organization fighting against concentrated corporate power to secure economic liberty for all. We do not accept funding from corporations. Contributions from foundations and individuals pay for the work we do.

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53 Kroger lists major competitors in its fact book, with Albertsons as one of two major competitors in more than 10 major markets. See: "2021 Fact Book: Kroger at a Glance," Kroger, 2021, https://s1.q4cdn.com/137099145/files/doc_downloads/irw/fact_books/2022/2021-PDF-Fact-Book.pdf.