



January 19, 2022

The Honorable David N. Cicilline  
Chairman  
Subcommittee on Antitrust,  
Commercial and Administrative Law  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Ken Buck  
Ranking Member  
Subcommittee on Antitrust,  
Commercial and Administrative Law  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, DC 20515

**“Reviving Competition, Part 5: Reversing the Effects of Economic Concentration on America’s Food Supply”**

Dear Chairman Cicilline and Ranking Member Buck:

Consumer Reports is pleased that the Subcommittee is holding this hearing to examine the problems posed by concentration in the food supply chain.

There is a profound imbalance of power in numerous marketplace sectors. The online tech platform marketplace is one that this Subcommittee has given particular attention in the past few years. But another such sector is agriculture and the food supply chain.

In any sector, effective competition is fundamental to ensuring a marketplace that works for consumers. Competition empowers consumers with the leverage of choice, the ability to go elsewhere for a better deal. That motivates businesses to be responsive to consumers’ interests. So it fosters consumer benefits in the form of a greater variety of higher quality and more affordable products and services, increased innovation, and greater attention to other aspects that consumers value, including safety. And nowhere is it more important that consumers can have confidence in the availability, affordability, quality, variety, and safety of the products they purchase than in the food they eat.

Food is essential to us all. But many consumers, and particularly in remote rural and marginalized urban areas, lack healthy food options that are accessible and affordable – a problem aggravated by over-concentration in grocery retail that has created “food deserts.”

As detailed further in our testimony before the Senate Judiciary Committee last summer,<sup>1</sup> over-concentration in agriculture has had a profound impact on agricultural producers – the farmers

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<sup>1</sup> <https://www.judiciary.senate.gov/imo/media/doc/Slover%20-%20Testimony.pdf>.

and ranchers who must sell their produce and livestock to a dwindling number of increasingly large and powerful processing and distribution outlets. But this is also a problem for consumers. For there to be meaningful options to consumers, there need to be meaningful options at all parts of the input, production, distribution, and marketing chain, from farm to table. For the marketplace to work for consumers, it must be working for businesses that seek to reach them. It must be working for everyone.

When giant food processing corporations in a concentrated buyer marketplace can exert excessive pressure on producers of livestock and poultry and produce to sell at ever-lower prices, at the risk of being cut off, that creates excessive pressure on producers to cut corners, which can impair quality, variety, and safety, and can nip innovation, and better consumer choices, in the bud.

Another important benefit of an open, competitive marketplace that does not always get the attention it deserves in antitrust discussions, but that has become impossible to ignore during COVID, is resiliency. With competition, there are multiple sources for the products and services we rely on – such as food. Acute vulnerabilities in an over-concentrated beef supply chain have recently come into stark relief.

One prominent example is beef processing. Two short generations ago, the top four beef packers accounted for roughly a third of the market.<sup>2</sup> Today, after a cascade of mergers, the top four – Tyson, Cargill, and two Brazil-owned corporations, JBS USA and National – control 85 percent of the market between them.<sup>3</sup> Similar consolidation has taken place in pork, and in poultry.

COVID outbreaks led to widespread meat-processing plant shutdowns, with ripple effects up and down the supply chain. Consumers found empty shelves at the grocery store, while producers were forced to kill off millions of animals that could not be brought to slaughter. Many other food products were also in short supply, and there are some worrying signs that shortages may be returning. And last spring, a ransomware cyber-attack forced Brazil-based JBS Foods to temporarily shut down all its U.S. processing plants – a quarter of all beef sold in the United States.

In these instances, the lack of alternatives available to absorb the shock exposed dangerous vulnerabilities created by over-reliance on just one or a very few suppliers of critical products and inputs. These critical vulnerabilities had been woefully underappreciated in the quest to reduce the values of competition to just sterile economic efficiency.

And when it's the food supply chain that is disrupted, it can be literally a matter of life and death, for many, many consumers.

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<sup>2</sup> USDA, Packers and Stockyards Statistical Report, 2006 Reporting Year, May 2008, p. 44.

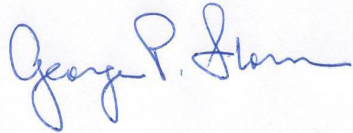
<sup>3</sup> USDA, Packers and Stockyards Division, Annual Report 2019, p. 9, <https://www.ams.usda.gov/sites/default/files/media/PSDAnnualReport2019.pdf>.

But many of the competition problems we see in the food supply chain are the same kinds of problems we see in other concentrated sectors in our economy. And they can be addressed by the sound antitrust reforms that Congress now has under consideration.

And for the meat supply chain specifically, USDA is undertaking, with the President's strong support and encouragement, efforts to promote competitive opportunities for smaller and more innovative processors, without compromising food safety inspection standards, and to improve the competitive functioning of the agricultural supply chain and the marketplaces that constitute it, including reinvigorating the Packers and Stockyards Act's prohibitions against unfair practices.

Improving competition, in the food supply chain can give consumers more and better food choices, at more affordable prices, and will spur more innovation to create even better food choices. And it can give us a more reliable and resilient multiple-options food supply chain that can better weather the storms, foreseen and unforeseen.

Sincerely,



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Consumer Reports



Michael Hansen  
Senior Scientist, Food  
Consumer Reports

cc: Members, Subcommittee on Antitrust, Commercial, and Administrative Law