



The Honorable Lina Khan
Chair
Federal Trade Commission
600 Pennsylvania Avenue, NW Washington,
DC 20580

The Honorable Rebecca Kelly Slaughter
Commissioner
Federal Trade Commission
600 Pennsylvania Avenue, NW Washington,
DC 20580

The Honorable Alvaro Bedoya
Commissioner
Federal Trade Commission
600 Pennsylvania Avenue, NW Washington,
DC 20580

January 5, 2024

Dear Chair Khan, Commissioner Slaughter, and Commissioner Bedoya:

As a nonprofit 501(c)(3), the American Consumer Institute's mission is to identify, analyze, and protect the interests of consumers in legislative and rulemaking proceedings in information technology, health care, insurance, and other matters. Based on work in this area, we believe that the merger between Albertson's and Kroger can benefit consumers and should be allowed to proceed.

While the FTC has taken a more aggressive approach to large mergers and shown increasing skepticism regarding the competitive effects of large firms, this merger shouldn't elicit those concerns.

Yes, the merger would be large as it is valued at \$24.6 billion.¹ However, the market share would still be smaller than other competitors in the space. While some sources have the resulting market share of almost 16 percent of the market,² others put it much lower at under 7 percent.³ Either way, the combined share would still fall behind the largest grocer, which is Walmart. Additionally, it should be noted that these estimates were made by combining the shares of the

¹ Melissa Repko, "Kroger agrees to buy rival grocery company Albertson's for \$24.6 billion," *CNBC*, October 14, 2022, <https://www.cnbc.com/2022/10/14/kroger-agrees-to-buy-albertsons-for-24point6-billion.html>.

² *Ibid.*

³ Liz Dominguez, "Top 10 Grocery Retailers of 2023," *Retail Info Systems*, June 8, 2023, <https://risnews.com/top-10-grocery-retailers-2023>.

two companies and don't account for the divestment of over 400 stores.⁴ As a result, the actual market share of the combined grocers would be even lower than these estimates.

Furthermore, there is reason to believe that the merger would not negatively affect employees as some opponents fear.⁵ Both Albertson's and Kroger have stated that they do not intend to close any stores, have promised to invest \$1 billion in worker benefits, and plan to put \$500 million towards lower prices should the merger occur.⁶ The pledge of \$1 billion far surpasses estimates from opponents who claim that workers stand to lose over \$300 million.⁷

Even if there is some skepticism over the promises of these grocery chains, high unionization rates amongst the grocers should help to alleviate concerns. The average unionization rate in the private-sector workforce is 6 percent.⁸ However, a majority of employees at both stores are members of United Food and Commercial Workers (UFCW).⁹ This representation should be able to mitigate any employee impact from the merger. Moreover, with declining market share among these two companies, allowing these unionized companies to compete against larger nonunion rivals provides a means to protect these jobs, not jeopardize them.

As a result of these employee protections, the relatively small resulting market share, and consumer benefits, ACI urges the agency to let the merger proceed.

Sincerely,

Tirzah Duren
Vice President of Policy and Research
American Consumer Institute

⁴ Jeff Wells and Catherine Douglas Moran, "Kroger and Albertsons announce \$1.9 billion divestiture plan with C&S" *Grocery Dive*, September 8, 2023, <https://www.grocerydive.com/news/kroger-albertsons-cs-store-sale-merger/693092/>.

⁵ Ben Zipperer, "Kroger-Albertsons merger will harm grocery store worker wages," *Economic Policy Institute*, May 1, 2023, <https://www.epi.org/publication/kroger-albertsons-merger/>.

⁶ Kroger Albertsons, <https://www.krogeralbertsons.com/>.

⁷ Ben Zipperer, "Kroger-Albertsons merger will harm grocery store worker wages," *Economic Policy Institute*, May 1, 2023, <https://www.epi.org/publication/kroger-albertsons-merger/>.

⁸ "Union Membership (Annual) News Release" *U.S. Bureau of Labor Statistics*, January 19, 2023, https://www.bls.gov/news.release/archives/union2_01192023.htm.

⁹ Uday Sampath Kumar and Siddharth Cavale, "Kroger-Albertsons tie-up spurs union lobbying to stop merger," *Reuters*, October 22, 2022, <https://www.reuters.com/business/retail-consumer/kroger-albertsons-tie-up-spurs-union-lobbying-stop-merger-2022-10-21/>.