

June 16, 2022

Melissa R. Bailey  
Associate Administrator  
Agricultural Marketing Service, USDA  
1400 Independence Ave SW  
Washington, DC 20250

**RE: USDA Agricultural Marketing Service request for public comment – “Competition in Food Retail and Distribution Markets and Access for Agricultural Producers and Small and Midsized Food Processors” – Docket Number AMS-AMS-22-0026; Federal Register Pages 15194-15198**

Dear Associate Administrator Bailey:

On behalf of North Dakota Farmers Union (NDFU), thank you for the opportunity to comment on competition in food retail and distribution markets. NDFU is the largest general farm organization in the state, representing more than 50,000 farm, ranch and rural members. Our members have long voiced concerns about the impact of concentrated market structures and their impacts on farmers, ranchers, and rural communities. We believe increasing competition and diversity in food retailing and distribution is essential for the health and economic wellbeing of farm families and rural communities.

**Competition and market power in food retailing and distribution**

As USDA’s request for comment on competition in food retail and distribution markets indicates, there has been a distinct trend toward increased concentration in food retail for several decades. The share of single-store firms or local chains has declined from 55 percent in 1977 to 35 percent as of 2007, while the concentration ratio of the four largest food retailers rose from less than 15 percent in 1990 to 34 percent in 2019.<sup>1</sup>

The rise of dominant food retail chains is a key component of market power problems facing farmers and others throughout food and agricultural supply chain. Retailer market power has led to lower prices at the farm gate, retailers’ pricing strategies can increase the volatility of farm income, and there is little evidence that the efficiencies from streamlining and coordinating food marketing through vertical integration have contributed to higher prices at the farm level.<sup>2</sup> Dominant chains use their buyer power to dictate terms and conditions to their suppliers. In turn, distributors employ practices that disadvantage independent grocers and wholesalers and prompt

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<sup>1</sup> USDA Economic Research Service (ERS), “Retail Trends,” Last updated December 22, 2021.  
<https://www.ers.usda.gov/topics/food-markets-prices/retailing-wholesaling/retail-trends/>

<sup>2</sup> Richard J. Sexton, “Grocery Retailers’ Dominant Role in Evolving World Food Markets,” Choices, Agricultural and Applied Economics Association, 2<sup>nd</sup> Quarter 2010 25(2).  
<https://www.choicesmagazine.org/magazine/article.php?article=125>

further consolidation among food manufacturers.<sup>3</sup> Whether consolidation in manufacturing and processing begets more retail consolidation or vice versa is not clear. Nevertheless, continued consolidation means that consumers increasingly have fewer choices in products to shop for, independent businesses struggle to start or sustain their businesses, and farmers, ranchers and smaller food processors have fewer buyers for their goods. The decline in independent food retailing and distribution may also hurt workers through downward wage pressure.<sup>4 5</sup>

### **Structural and logistical challenges for rural food retailers**

Rural grocery stores face unique challenges that have forced many to close in recent years. From 2014 to 2019, North Dakota lost 23.4% of the grocers in communities with a population lower than 2,100 people.<sup>6</sup> The North Dakota Rural Grocery Initiative has analyzed many of the factors that have driven that decline in independent grocers in the state. Among the biggest challenges rural grocery stores face are insufficient profits to maintain or upgrade equipment, and an inability to access some of the products they need.<sup>7</sup>

Many of our members have noted that their rural grocers are forced to offer a more limited selection at a higher price than big box stores and other large retailers. One reason for this is that many of the large wholesalers and distributors require grocery stores to purchase whole cases in quantities too large to sell in a timely manner.<sup>8</sup> Those wholesalers and distributors typically offer the lowest prices. Thus, when a grocery store is unable to purchase goods from the largest, most inflexible suppliers, they either sacrifice profit or raise prices. Consolidation in food processing can, in turn, make it difficult for mid-tier distributors to access the same selection and quality of product.

National and large regional grocery chains invest in distribution centers to improve logistical capacity for their proprietary supply chains. Independent regional distributors need access to similar warehousing especially for cold chain deliveries to reduce transportation costs. In countries outside the United States, these warehousing alternatives are recognized as a critical public infrastructure.<sup>9</sup>

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<sup>3</sup> “Buyer power and economic discrimination in the grocery aisle: kitchen table issues for American consumers,” *The National Grocers Association*, March 2021.

<sup>4</sup> Daniel Flaming et al., “Hungry at the Table: White Paper on Grocery Workers at the Kroger Company” (Economic Roundtable, January 11, 2022), <https://economicrt.org/publication/hungry-at-the-table/>

<sup>5</sup> Stacy Mitchell, “Why Small Businesses Matter for Workers,” *Institute for Local Self-Reliance*, April 18, 2018. <https://ilsr.org/how-small-businesses-benefit-workers/>

<sup>6</sup> Capouch, Lori, “Rural Food Access in North Dakota,” Interim Commerce Committee, North Dakota Legislature, August 12, 2019, [https://www.ndlegis.gov/files/committees/66-2019/21\\_5018\\_03000appendixb.pdf](https://www.ndlegis.gov/files/committees/66-2019/21_5018_03000appendixb.pdf).

<sup>7</sup> Capouch, Lori, et. al., “Food Distribution Pilot Project in Northeastern North Dakota, Final Report,” North Dakota Association of Rural Electric Cooperatives, October 3, 2019, [https://www.ndarec.com/sites/ndarec/files/Rural\\_Grocers/111919FinalReport.pdf](https://www.ndarec.com/sites/ndarec/files/Rural_Grocers/111919FinalReport.pdf).

<sup>8</sup> *Id.*

<sup>9</sup> Miller, Michelle, “Identifying Critical Thresholds for Resilient Regional Food Flows: A Case Study from the U.S. Upper Midwest,” *Frontiers in Sustainable Food Systems* 5 (2021): 371

One opportunity to strengthen the rural food retail system is to support development of cooperative or collectively owned distribution centers. Distribution hubs would allow rural grocery stores to compete with the distribution systems their larger competitors are able to develop or benefit from. It would also improve efficiencies in the rural food supply chain, more broadly.<sup>10</sup> Federal investments in rural distribution facility construction, climate-controlled trailers and food lockers, and processing infrastructure can strengthen rural food supply chains.

### **Local and Regional Meat Processing Infrastructure, Rules, and Regulations**

One of NDFU's top priorities for the last several years has been the expansion of local and regional food processing, particularly in the meat sector. The four largest meatpackers currently control over 80% of meat processing capacity in the United States.<sup>11</sup> Market share concentration has also contributed to geographic concentration. In 2020, the top four states controlled 66% of the nation's commercial cattle slaughter, and the top eight states controlled 81% of that capacity. Commercial cattle slaughter in North Dakota amounted to just 0.04% of the nation's total.<sup>12</sup> As a result, geographic concentration in meat processing has limited opportunities for North Dakota's cattle producers.

Strengthening local and regional processing infrastructure is a necessary component of promoting greater competition and opportunities for local and regional retail, distribution, and to provide additional marketing opportunities for farmers and ranchers. NDFU appreciates the \$1 billion USDA made available through loan guarantees, gap financing, and technical assistance to support new and expanding local and regional livestock processing facilities. USDA has also provided various programs to help small and very small processing facilities weather the challenges they faced during the COVID-19 pandemic.

While increasing processing capacity is helpful, it is also important that regulatory frameworks provide reasonable flexibility to small and very small processing facilities. Because many food retail and distribution chains operate across state lines, they are only interested in sourcing products that can be sold in multiple states. However, federal inspection requirements and fees can be burdensome for small facilities, causing many to operate under federally approved state inspection programs. Existing prohibitions on selling state-inspected meat across state lines limit opportunities for small processors to market products within their own state and region. NDFU supports allowing interstate sales of state-inspected meat and providing appropriate regulatory flexibility that reflects the operating conditions in small and very small facilities.

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<sup>10</sup> Capouch, Lori, et. al., "Food Distribution Pilot Project in Northeastern North Dakota, Final Report," North Dakota Association of Rural Electric Cooperatives, October 3, 2019, [https://www.ndarec.com/sites/ndarec/files/Rural\\_Grocers/111919FinalReport.pdf](https://www.ndarec.com/sites/ndarec/files/Rural_Grocers/111919FinalReport.pdf).

<sup>11</sup> United States Department of Agriculture, Agricultural Marketing Service. Packers and Stockyards Division Annual Report 2018 (August, 2019), <https://www.ams.usda.gov/sites/default/files/media/PSDAnnualReport2018.pdf>.

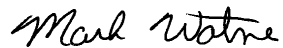
<sup>12</sup> United States Department of Agriculture, National Agricultural Statistics Service, Livestock Slaughter 2021 Summary, (April 2022), <https://downloads.usda.library.cornell.edu/usda-emsis/files/r207tp32d/pg15cj85z/hd76t466z/lsan0422.pdf>.

**Conclusion**

Thank you for the opportunity to submit comments. NDFU stands ready to support USDA's work to build food supply chains that are fair for consumers and producers. Please do not hesitate to contact me if you would like to discuss these comments further.

Sincerely,

NORTH DAKOTA FARMERS UNION



Mark Watne  
President

