



Newsroom

Attorney General Schwalb Joins FTC Lawsuit to Block Anticompetitive Merger Between Albertsons and Kroger



February 26, 2024

Proposed Acquisition Would Reduce Grocery Store Options, Raise Prices for District Residents

WASHINGTON, DC – Attorney General Brian L. Schwalb today joined the Federal Trade Commission (FTC) and a bipartisan coalition including eight states in filing a lawsuit to prevent The Kroger Company (Kroger) from acquiring Albertsons Companies, Inc. (Albertsons). In the District, Kroger operates Harris Teeter and Albertsons operates Safeway. The lawsuit argues that the proposed merger between the nation’s two largest grocery store chains is anticompetitive and likely to reduce options on where to shop for groceries, increasing prices of food and everyday essential items.

“Today, Harris Teeter and Safeway are required to compete for District grocery shoppers by offering lower prices and better services. Their proposed merger would eliminate that competition, increasing prices for consumers and restricting District residents’ already limited access to critical resources, including food,” said Attorney General Schwalb. **“By eliminating Albertsons as a competitor, the proposed transaction would further consolidate an already hyper-concentrated market, reducing District residents’ shopping choices at a time when too many people are already struggling. Our office will continue to use every legal tool available to stand up for District residents and combat anticompetitive activity that harms consumers across the District and the DMV.”**

Background

- In 2022, Kroger, the nation’s largest supermarket chain, announced a proposed \$24.6 billion acquisition of Albertsons, the second largest grocery chain. Within the District, Kroger owns Harris Teeter while Albertsons owns Safeway. If merged, they would operate a total of over 5,000 stores nationwide and employ 700,000 workers.
- The two companies are each other’s top competitors, and the proposed merger would erase this competition and result in higher prices, worse service and quality, and store closures.
- The market shares of the merged chain in numerous markets would be so high that they would presumptively violate federal antitrust law, the lawsuit argues.
- To address antitrust concerns, the companies proposed selling over 400 stores to C&S Wholesale Grocers as a part of the deal. However, similar divestures in the past have failed, including when Albertsons merged with Safeway in 2015 and Albertsons ultimately had to buy back several divested stores when the main divestiture buyer went bankrupt. As a primarily wholesale operation, C&S has only 23 grocery stores and a single pharmacy. It is unlikely to successfully operate the divested stores, much less meaningfully compete with a merged behemoth of Kroger and Albertsons.
- Within the District, OAG and the FTC have determined that Kroger’s 3 Harris Teeters locations and Albertsons’ 12 Safeway stores all meaningfully compete with one another to constrain prices. This merger would provide Kroger with substantially increased market share and eliminate a principal head-to-head competitor. Today, Harris Teeter and Safeway compete intensely for District grocery shoppers by offering lower prices and an array of services. This merger will destroy that competition and leave District residents to foot the bill.
- By joining the FTC and eight states, the District is partnering with the federal government and impacted states to combine resources and empower all parties to effectively work together to protect consumers and workers from anticompetitive behavior across the country.

A public version of the complaint will be available and linked to this news release as soon as possible.

This case is being handled by Assistant Attorneys General Amanda Hamilton and Will Margrabe and Antitrust & Nonprofit Enforcement Section Chief Adam Gitlin.

In joining the FTC's complaint, AG Schwalb is joined by the Attorneys General of Arizona, California, Illinois, Maryland, Nevada, New Mexico, Oregon, and Wyoming.

OAG's Antitrust Enforcement Actions

OAG has a long record of holding companies accountable for antitrust violations that harm District consumers. Most recently, OAG brought a [lawsuit in November of 2023 against RealPage](#) (<https://oag.dc.gov/release/attorney-general-schwalb-sues-realpage-residential>), and 14 of the largest residential landlords in the District for colluding to illegally raise rents for tens of thousands of DC residents. OAG has opposed previous anticompetitive mergers such as those between JetBlue and Spirit, Anthem and Cigna, Staples and Office Depot, and fantasy sports sites DraftKings and FanDuel.

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