The Aggregated Table:
Food Consolidation and the Independent Restaurant

How mergers and acquisitions across the American food supply chain concentrate pricing power against independent restaurants and bars, small farmers, fishers and communities that depend on a competitive food economy.

Executive Summary

Across multiple tiers of the American food supply chain, a common pattern has emerged: The number of companies controlling the flow of food from producer to consumer is shrinking. Four companies now process 85 percent of U.S. beef. One company holds between 36 to 39 percent of U.S. retail berry market, in part through control of the genetic intellectual property that contract growers must license. The nation's dominant foodservice distributor is now seeking to acquire the only national cash-and-carry warehouse chain that independent restaurants use as a pricing check against that same distributor.

Independent restaurants sit at the convergence of these pressures. They cannot pass costs on to consumers beyond the point at which customers stop returning. They lack the purchasing volume that earns chain restaurants preferential pricing from every supplier tier. They operate on margins of three to five percent even under favorable conditions. Those margins have been compressed further by food costs that are 38 percent above 2019 levels and labor costs that are 35 percent above 2019 levels, according to the National Restaurant Association's 2026 State of the Industry report. In 2025, 45 percent of all restaurant operators reported that their businesses were not profitable.

This report documents the economic mechanisms by which consolidation at each tier of the food supply chain transfers costs and risk downward to independent operators, small farmers and fishers while transferring profits upward to large aggregators. It traces those mechanisms through five case studies drawn from primary sources, including federal court records, SEC filings, USDA data, peer-reviewed agricultural economics and direct operator testimony.

The report reaches four principal findings:

- **Independent restaurants face a structural cost crisis, not a cyclical one.** The food and labor cost increases described above are symptoms of structural forces, including processor concentration, distributor consolidation and retail aggregation, that are intensifying, not abating.
- **The supply chain concentrates pricing power against the operators least able to resist it.** Independent restaurants lack the volume, capital and contract

sophistication to negotiate effectively against consolidated processors, distributors and retailers. Every consolidation event in the supply chain reduces their alternatives and increases the costs they absorb.

- **National market share figures are the wrong measure of competitive harm.** Federal courts established in December 2024, in blocking the Kroger-Albertsons merger, that the legally relevant market for food distribution competition is local, from the city to the neighborhood to the distributor route. Kroger and Albertsons held only 22 percent of the national grocery market, yet the court found the merger presumptively unlawful because of what it would do in Denver, Seattle and Chicago.
  The same doctrine applies here with equal force. In the Northeast, California and Florida, where Restaurant Depot locations and concentrations of independent restaurants are greatest, the merger would reduce procurement alternatives from two to one. That is the market that matters to restaurant operators in Brooklyn and Miami, and the market the FTC is obligated to analyze.
- **The ecosystem damage extends beyond restaurants.** Independent restaurants are the primary commercial buyers for small farms, fisheries, artisan food producers and specialty growers. When restaurant economics deteriorate, those upstream businesses lose their markets. When upstream businesses consolidate or fail, restaurants lose access to the locally sourced ingredients that differentiate their menus from chain competitors.

The policy implications of this analysis are specific. Federal antitrust law, as interpreted by the court that blocked the Kroger-Albertsons merger, evaluates food distribution competition at the local market level. If applied consistently, that framework extends to the proposed Sysco acquisition of Restaurant Depot. The Robinson-Patman Act remains on the books as a prohibition on supplier price discrimination that has driven consolidation at every tier of the food system since enforcement lapsed in the 1980s. The Packers and Stockyards Act provide existing authority over the monopsony conditions documented in beef, seafood and produce markets.

The State of Independent Restaurants

Independent restaurants are privately owned operations whose primary revenue comes from food and beverage sales. By this definition, the United States has approximately 500,000 independent restaurants. The broader restaurant and foodservice industry, of which independent restaurants form the backbone, employed 15.7 million people and generated approximately $1.5 trillion in sales in 2025, according to the National Restaurant Association 2026 State of the Industry report. Independent restaurants account for approximately 76 percent of all restaurant and bar establishments, meaning they directly employ roughly 11 million workers. They also support more than five million additional jobs through supply chains that include farms, fisheries, dairies, wineries, equipment manufacturers, linen services and specialty food producers.

The October 2025 IRC and Chase Independent Restaurant Report, which surveyed 1,500 independent restaurant owners, found that independent restaurants drove $3.53 trillion in total economic output in 2024. That figure reflects not only direct sales but also the sector's broader multiplier effect across local economies. One in 10 American workers are employed by or because of independent restaurants. One in three Americans finds their first job in a restaurant.

Food tourism has become a significant driver of U.S. travel decisions. Surveys consistently find that 53 percent of leisure travelers consider food an important factor in choosing a destination and that 72 percent of food-motivated travelers select destinations based on food and drink offerings. Foreign and domestic travelers spent $279 billion at U.S. restaurants in 2019, more than double the amount spent on either recreation or retail, a figure that has increased substantially in the years since, according to subsequent industry estimates.

The economic multiplier of an independent restaurant is substantially greater than that of a chain. Research by Civic Economics found that 64.9 percent of revenue from independent restaurants recirculates within the local economy, compared with 30.4 percent for chain restaurants. The closure of an independent restaurant therefore removes more economic value from a community than the closure of an equivalent chain location. Communities with higher concentrations of independent restaurants generate more sustained local economic activity per food dollar spent.

The independent restaurant sector entered the COVID-19 pandemic after a decade of sustained growth. The number of unique restaurant establishments grew by more than 40 percent during the two decades preceding the pandemic. From February 2010 to February 2020, employment in food services and drinking places expanded by 33.3 percent, a rate exceeded by only two sectors of the U.S. economy, construction and arts & entertainment. Monthly industry revenue increased from approximately $40 billion in 2008 to $66 billion in January 2020, an increase of more than 70 percent in just over a decade.

That record of growth establishes the baseline against which the subsequent deterioration should be measured. The sector did not enter the pandemic from a position of weakness; it had grown substantially and employed millions. The structural forces that have since compressed its margins are the result of cost increases imposed from above by consolidating supply chains, and from below by consumer price sensitivity that limits the ability of operators to recover those costs through menu prices.

By 2025 independent restaurants faced a cost structure that neither the pre-pandemic growth nor current consumer demand could sustain.

Cost Category	Change vs. 2019	Primary Drivers
Total Food and Beverage	**+38%**	Avian flu, beef supply cycle, tariffs on imports, processor concentration. Source: NRA 2026 citing BLS PPI for All Foods
Labor	**+35%**	Minimum wage increases, labor market tightening, immigration enforcement. Source: NRA 2026 State of the Industry
Beef and Veal	**+54%**	Historic cattle inventory lows, drought, four-company processor concentration
Eggs	**+34.6%**	HPAI (avian flu) outbreak reducing commercial flock sizes
Poultry	**+35%**	Feed costs and broader meat-sector inflation; far less disrupted than eggs or beef.
Delivery	**~2x effective cost**	Flat headline commission fees mask iered pricing pushes restaurants into higher brackets, plus stacked processing and required marketing fees.
Utilities and Insurance	Rising	Energy costs, climate-related events, rising commercial insurance claims

Sources: National Restaurant Association 2026 State of the Industry; USDA Economic Research Service Food Price Outlook; University of Kentucky Agricultural Economics, November 2025; Restaurant Business Online.

The result of this cost accumulation is a sector in documented financial distress. The National Restaurant Association's 2026 State of the Industry report presents two closely related estimates of industry profitability. The association's published press release states that 42 percent of operators were not profitable in 2025, while the CEO's letter cites 45 percent. Regardless of the precise figure, both estimates point to the same structural reality: Nearly half the industry operated at a loss. The report also found that

60 percent of operators reported that business conditions had worsened compared to 2024, while only 15 percent said conditions had improved. More than six in 10 operators reported declining customer traffic in 2025.

The IRC and Chase 2025 Independent Restaurant Report, based on surveys of 1,500 independent restaurant owners, describes the cost pressure in operational terms. Average operating costs now range from 92.5 percent to 101.2 percent of revenue, meaning many operators are spending as much as or more than they generate in sales before taxes. Nearly nine in 10 independent restaurant owners surveyed said they raised menu prices to cope with rising costs. More than two-thirds said customers were ordering less, perceived less value in their meals, or were upset by higher prices. Eighty-three percent said customers are tipping the same or less than a year ago.

The labor market data show that these pressures persisted into 2026. As of March 2026, full-service restaurant employment remained at 193,000 jobs, or 3.4 percent, below pre-pandemic levels. The full-service segment lost nearly 3.7 million jobs during the first two months of the pandemic and has yet to fully recover, while limited-service chains have recovered and surpassed their pre-pandemic employment levels. Restaurant staffing levels remain below pre-pandemic levels in 18 states and the District of Columbia as of late 2025.

To restore pre-pandemic profitability margins while absorbing cumulative input cost increases, the average independent restaurant would need to raise menu prices by more than 30 percent. Consumer demand data suggest this is not feasible. In 2024, 91 percent of independent restaurants raised menu prices, most by five to 10 percent. Those that raised prices by more than 15 percent reported declines in customer traffic. The industry’s ability to offset cost increases through additional price increases appears largely exhausted.

A structural feature that distinguishes the current crisis from a normal downturn is the compounding effect of pandemic-era debt and 2025 tariff-related costs. Many independent restaurants took on significant debt from 2020 through 2022 through emergency loans, deferred rent and PPP obligations, and continue to carry that debt while trying to operate profitably in a compressed-margin environment.

The tariff effects are documented directly in the NRA’s 2026 report. Sixty-eight percent of operators said tariffs drove higher food and beverage costs in 2025. Even after some tariffs were lifted in November 2025, restaurants had already absorbed the additional costs and could not easily reverse menu prices that had been raised to offset them. With consumers already reducing restaurant visits — more than four in 10 reported dining out less frequently than a year earlier — further price increases carry significant traffic risk. More than half of operators surveyed said they would reduce headcount if business conditions remained at 2025 levels.

The Independent Restaurant Ecosystem

Independent restaurants do not exist in isolation. They anchor a local food economy that includes farms, fisheries, specialty food producers, craft brewers, dairies, equipment suppliers, linen services and the tax base of the communities they inhabit. When independent restaurants close, that ecosystem contracts, and the contraction is not easily reversed.

Previous analysis found that independent restaurants generate substantially larger local multiplier effects than chains. (Research by Civic Economics found that 64.9 percent of revenue from independent restaurants recirculates in the local economy, compared with 30.4 percent for chain restaurants.) This difference exists because independent restaurants source locally, employ locally, and bank locally in ways that chains do not. Chain restaurants typically route a much larger share of their revenue to corporate headquarters and national suppliers before significant local economic activity occurs in the communities they serve.

According to Economic Policy Institute multiplier analysis, each independent restaurant job supports an estimated 0.50 additional jobs in restaurant and supply chains. With approximately 11 million direct employees, the sector supports more than five million additional jobs in farms, fisheries, dairies, craft breweries, equipment manufacturing and specialty food production. Beyond these indirect jobs, each additional dollar of income earned by restaurant and supply chain employees generates approximately $0.31 in economic activity through spending in local communities, the so-called “induced” multiplier effect.

The 2020 Compass Lexecon analysis for the IRC documented specific examples of small farms and food producers that depended on independent restaurants as their primary or sole commercial buyer. Sacramento Sprouting Company sold more than 90 percent of its microgreens to local restaurants. Norwich Meadows Farm in upstate New York depended on restaurants for 60 to 75 percent of its annual revenue. Abundant Seafood, a South Carolina single-boat fishing operation, relied on independent restaurants for most of its sales.

These relationships exist because independent restaurants create commercial demand for products that large grocery chains will not carry products available in volumes too small, with specifications too variable and supply chains too regional for standardized retail distribution. When independent restaurants close or shift purchasing toward a broadline distributor’s standardized catalog, these producers lose their markets and cannot easily pivot to the grocery retail channel. The farm-to-table ecosystem relies on the restaurant ecosystem, which relies on the distribution ecosystem. When the distribution tier consolidates, the effects propagate in both directions.

Restaurant meals are subject to some of the highest consumer tax rates of any retail category. In most states, restaurant meals are taxed at higher rates than grocery store purchases. As of 2026, more than 40 states and Washington, D.C. exempt groceries from state sales tax entirely, a number that has grown as several states have eliminated grocery taxes in recent years. In California, the restaurant industry accounted for 12.2 percent of the value of taxable transactions in 2019. In cities including Minneapolis, Washington, D.C., and Chicago, restaurant meals carry additional local taxes above standard retail rates.

When independent restaurants close, this revenue disappears. It is not fully replaced by the substitute grocery store spending because grocery purchases are taxed at lower rates if they are taxed at all. The fiscal consequences of widespread restaurant closures extend to the local programs, police and fire departments, and public amenities supported by restaurant tax revenue.

Independent restaurants have historically anchored commercial districts, attracted neighboring businesses and created the street-level activity that sustains community identity. Their loss is not only economic. It is the loss of institutions that define a place and why people travel to it: the Philadelphia cheesesteak shop, the Memphis barbecue joint, the Austin food truck and the New Orleans neighborhood bistro.

How the Supply Chain Works Against Independent Restaurants

The food that arrives on a restaurant table typically navigates five relationships before reaching the diner. At each stage, the parties with greater market power have greater ability to extract economic value. Understanding which parties hold power at each tier of the supply chain, and how consolidation has shifted that power over the past four decades, is essential to explaining why independent restaurant economics have deteriorated.

> **Tier 1: Primary Production**. Farms, ranches, fisheries and dairies. These are the most numerous participants and the most exposed to the bargaining power of buyers above them. The USDA estimates that farmers received approximately 11.8 to 15 cents of every consumer food dollar in 2024, depending on the measure used, a declining share that reflects the increasing extraction of value by intermediaries.
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> **Tier 2: Processing and Packing**. Slaughterhouses, processors, canneries and packers. This tier is highly concentrated in beef, where four companies process 85 percent of U.S. steers and heifers, as well as in poultry (four companies dominate) and certain produce categories. Concentration at this tier strongly influences both what producers are paid and what distributors charge for food products.
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> **Tier 3: Wholesale Distribution.** Broadline distributors (Sysco, US Foods, Performance Food Group), specialty distributors and other intermediaries. This is the primary commercial interface between food producers and restaurants. It is consolidating in ways that reduce competitive alternatives for independent operators.

Tier 4: Grocery Retail. Supermarkets, discount chains and big-box stores. Four retailers — Walmart, Kroger, Costco, and Albertsons — control 69 percent of U.S. grocery spending according to Farm Action's November 2025 analysis. Walmart alone accounts for approximately 35 percent. Retail concentration affects restaurants because large buyers can negotiate preferential pricing that suppliers may offset by charging higher prices to other purchasers, including distributors that supply restaurants.

Tier 5: Consumer. The household or restaurant patron who ultimately pays for food. Consumers influence demand but possess little or no direct bargaining power within the supply chain.

The current wave of food system consolidation can be traced in part to a policy decision in the early 1980s, when federal regulators largely stopped enforcing the Robinson-Patman Act.

Enacted in 1936, the Robinson-Patman Act prohibits certain forms of price discrimination that favor larger buyers. Its enforcement prevented large retailers and distributors from demanding lower prices from manufacturers than their smaller competitors could obtain. As enforcement waned, preferential pricing practices to retailers like Walmart, Kroger and Sysco became increasingly widespread, while not being offered to independent restaurants and grocers, and small distributors That shift tilted the competitive landscape toward scale across every tier of the food system simultaneously.

The Institute for Local Self-Reliance documented in 2026 that diminished enforcement of Robinson-Patman has been a primary driver of the grocery-sector consolidation that pushed prices upward expanded the food desert landscape, which affects 17.1 million Americans in low-income, low-access census tracts. The same pricing dynamics extend into foodservice distribution, where large chain restaurants obtain preferential pricing from broadline distributors while independent restaurants continue to pay higher prices.

When any tier of the supply chain consolidates, pricing power shifts to the aggregator. The effects compound when consolidation occurs simultaneously at multiple tiers, which is the current condition of the American food system.

A rancher sells cattle to one of four beef processors at prices shaped by processor concentration and market dominance. The processor sells to Sysco at prices reflecting both the processor's market power and Sysco's purchasing volume. Sysco then delivers to an independent restaurant at prices reflecting its position in the local distribution market. The restaurant absorbs those prices because it has few viable alternatives. At every step, prices are determined by the party with greater market power. At no step is that party the independent restaurant.

How Consolidation and Aggregation Harm Independent Restaurants and Their Partners

Consolidation and aggregation across the food supply chain do not affect all participants equally. The costs of consolidation and aggregation are borne most heavily by the parties with the least market power: independent restaurants, the farmers and fishers who supply them, the craft brewers and artisan producers who depend on them as a commercial channel, and the communities that rely on all of them as economic anchors. The mechanisms differ by tier but share a common structure. As the number of buyers or sellers in a market shrinks, participants with fewer alternatives absorb more costs, accept less favorable terms and lose the ability to discipline prices through competition. That is the condition consolidation creates, and it is the condition that independent restaurants and their supply chain partners now face across multiple tiers of the food system simultaneously.

Independent Restaurants

Independent restaurants sit at the end of every consolidation event occurring above them in the supply chain. When beef processors concentrate, beef prices rise and restaurants absorb the increase. When a broadline distributor acquires a competitor, negotiating alternatives narrow and delivered costs increase. When a produce aggregator gains control of key intellectual property in berry genetics, costs rise for buyers throughout the supply chain. Independent restaurants cannot pass these accumulated costs on to consumers beyond the point at which customers stop returning, and they lack the purchasing volume that would earn them the preferential available to large chain operators from the same suppliers.

The proposed acquisition of Restaurant Depot by Sysco illustrates this dynamic with particular clarity. Restaurant Depot is the primary cash-and-carry wholesale channel through which independent can benchmark and challenge broadline distributors pricing. When a Sysco price rises, operators can compare it against Restaurant Depot's shelf price and push back. If the acquisition proceeds, that source of price discipline would largely disappear. In the markets where Restaurant Depot locations are concentrated, including the Northeast, California and Florida, independent restaurants would lose their most significant independent cash-and-carry alternative to Sysco. Federal antitrust law, as interpreted by the court that blocked the Kroger-Albertsons merger in December 2024, evaluates food distribution competition within specific local markets — from the city to the neighborhood to the distributor route. Applied consistently, that framework reaches this transaction.

The cumulative effects of consolidation across multiple tiers is visible in industry cost data. Independent restaurant food costs ended 2025 at approximately 38 percent above 2019 levels, according to the NRA's Producer Price Index tracking. That increase cannot be4 explained by general inflation alone. It also reflects the growing leverage exercised by consolidated processors, distributors and retailers as competition has diminished. According to the IRC and Chase 2025 Independent Restaurant Report, restaurant operating costs now range from 92.5 percent to 101.2 percent of total revenue. Nearly half of the industry reported operating at a loss in 2025. These outcomes are not cyclical. They are the measurable consequences of a food system that has become structurally misaligned with the economics of independent operators.

Farmers and Ranchers

Farmers and ranchers occupy the lowest tier of a supply chain that increasingly concentrates value upward. As mentioned earlier, farmers now receive only a small fraction of the consumer food dollar — approximately 11.8 to 15 cents. This is not a natural market outcome. The decline is the result of a series of policy decision and reflects multiple structural changes in the food economy, including over four decades of consolidation and diminished enforcement of the Robinson-Patman Act.

In beef, processing has consolidated into four companies that control 85 percent of U.S. steer and heifer purchases, giving those processors substantial monopsony power over cattle producers. In that market, ranchers have little ability to seek better prices because decades of acquisition have reduced the number of competing processors to the point where meaningful price competition no longer exists. The Department of Justice has conducted criminal investigations into whether that concentration may have enabled coordinated price suppression of cattle prices. The USDA's Packers and Stockyards Annual Report documented the 85 percent concentration figure, providing the factual predicate for that inquiry.

For specialty and small-scale produce farmers, the harm operates through a different but related mechanism. Specialty producers whose heirloom tomatoes, heirloom greens or artisan products reach consumers primarily through independent restaurants are directly exposed to the deteriorating economics of those restaurants. As restaurant margins compress, operators shift purchasing toward broadline distributors' standardized catalogs, which offer lower per-unit costs but often exclude local and variable-supply products. Farmers lose commercial relationships not because the products are inferior but because restaurants can no longer absorb the premiums associated with specialty sourcing. Wild blueberry growers in Maine illustrate the scale of this pressure: growers received approximately $0.52 per pound in 2024 against production costs ranging from $0.42 to $0.76 per pound, leaving them at breakeven in the best case and at a loss in the worst.

Fishermen and Fishing Communities

Commercial fishers face a version of the same monopsony problem that confronts cattle ranchers, compressed into coastal markets that leave individual boat operators with few or no alternative buyers. Dockside prices paid to fishers are determined less by open competition among buyers than by the aggregate market power of the seafood processors and distributors that dominate regional purchasing. Federal litigation on the West Coast has alleged that seafood buyers used monopsony power, secret agreements and coercion to suppress dockside prices paid to Dungeness crab fishermen across California, Oregon and Washington. Whether or not those allegations are ultimately proven, they describe a market structure characterized by concentrated buying at the point of first sale, a pattern common across domestic seafood markets and one that the USDA's authority under the Packers and Stockyards Act was designed to address.

The connection to independent restaurants is direct. Small-boat fishing operations and small-scale seafood purveyors depend on independent restaurants as their primary market outlet for species and quantities that large-scale seafood distributors will not purchase or handle. Abundant Seafood, a South Carolina single-boat fishing operation documented in the 2020 Compass Lexecon IRC analysis, relied on independent restaurants for most of its annual sales. When an independent restaurant that purchases a day's catch closes or shifts to a broadline distributor's standardized seafood program, the fisher loses a buyer that cannot easily be replaced through another commercial channel. Consolidation in foodservice distribution therefore transmits harm not only to restaurant operators but also to the fishing communities that depend on those restaurants

Craft Brewers and Artisan Beverage Producers

Independent restaurants are the primary on-premise sales channel for the American craft brewing industry, which, according to the Brewers Association, comprised approximately 9,600 operating breweries in 2024 and accounted for roughly one-quarter of U.S. beer volume by retail dollar value. Unlike chain restaurants, which often purchase beer through national beverage distribution contracts that favor large national and international brands, independent restaurants curate local and regional tap lists. They also provide the venue exposure that builds craft brewery brands in their home markets and purchase at volumes that make individual brewery accounts commercially meaningful. The Brewers Association has documented that on-premise sales through bars and restaurants represent a disproportionately large share of craft brewery revenue because restaurant relationships support premium pricing and brand development that retail shelf placement does not.

Consolidation in the three-tier beverage alcohol distribution system compounds this exposure. In most states, craft breweries must sell through licensed distributors to reach the on-premise restaurant market. That distribution tier has consolidated sharply over the past four decades. According to the National Beer Wholesalers Association, the number of traditional beer distributors fell from 4,595 in 1980 to approximately 3,000 today. As distributors consolidate, their sales forces increasingly focus on the high-volume national brands that generate the most revenue per delivery stop, and independent craft brands receive declining attention and shelf presence. When this distributor consolidation coincides with closures among the independent restaurants that provide craft brewers their most reliable on-premise outlet, the cumulative effect places substantial pressure on small brewery economics.

Communities and the Public Fiscal Base

The USDA's Food Access Research Atlas documents that 17.1 million Americans, or 5.6 percent of the population, live in low-income, low-access census tracts without a nearby supermarket. The Institute for Local Self-Reliance's 2026 analysis found that large grocery chains have used restrictive deed covenants, some valid for up to 50 years, to prevent competing stores from opening in locations they have vacated and precluding new entrants from establishing grocery stores in underserved neighborhoods. Consolidation of grocery retail and food distribution therefore affects more than restaurant economics; it also reshapes the physical geography of food access.

As independent grocers and independent restaurants disappear, communities lose important local economic multipliers. Local food systems increasingly become mechanisms for transferring value to distant corporate headquarters rather than circulating it locally. Full-service restaurant employment, the segment most heavily comprised of independent operators, remained 193,000 jobs below pre-pandemic levels as of March 2026. Restaurant staffing is below pre-pandemic levels in 18 states and the District of Columbia. In many communities, these losses have not been replaced by comparable business or employment opportunities. Communities lost economic anchors.

Existing law provides multiple mechanisms for addressing the market failures documented in this report. The Robinson-Patman Act remains a prohibition against supplier price discrimination that has driven consolidation across the food system the 1980s, when enforcement lapsed. The Packers and Stockyards Act provides authority to address monopsony conditions documented in beef, seafood and produce markets. State attorneys general, following the Washington state model, retain independent authority to require mergers that create local competitive harm. The analytical framework established in the Kroger-Albertsons ruling, evaluating competitive harm at the local market level rather than by national market share, also applies to the consolidations reshaping foodservice distribution. Together, these legal tools address documented mechanisms through which the current wave of consolidation transfers costs and risk to the parties least able to bear them.