

## Labor-Market Monopsony

October 2023

tl;dr

**Background:** [Concerns](#) have been raised that the proposed merger of grocers Kroger and Albertsons may leave the combined firm with monopsony power in the markets for wholesale produce and for grocery workers. This follows last year's [ruling](#) by a federal court blocking the merger of Penguin Random House LLC and Simon & Schuster, similarly on grounds of labor-market monopsony. The argument is that the company would dominate in areas where the merging firms formerly competed for employees and other inputs. The combined firm could then use that power to suppress wages, reduce employment, or impose unreasonable working conditions on workers.

This isn't the first time U.S. antitrust regulators have targeted monopsony in labor markets. In addition to merger review, other recent efforts have included [lawsuits](#) against "no-poach" agreements, as well as the Federal Trade Commission's (FTC) recent [proposal](#) to ban noncompete agreements in employment contracts.

**But...** Monopsony power often derives from labor-market frictions that antitrust can't address. Most labor markets aren't highly concentrated and most workers have multiple potential employers from which to choose. In other words, labor markets are generally poor targets for antitrust enforcement. As explained below, this raises several significant challenges for antitrust enforcers.

### KEY TAKEAWAYS

#### MOST LABOR MARKETS ARE COMPETITIVE

So-called "company towns," in which one firm dominates or actually owns a community, are rare. Most workers in the labor force have a broad range of employment opportunities across occupations, industries, and locations. A supermarket cashier can find employment at another supermarket, at another retail outlet, or [shift their occupation](#) to hospitality, food service, or distribution and logistics. They can also move to locations with better employment opportunities. A merger of supermarkets won't suppress those opportunities.

The most compelling monopsony claims tend to concern labor markets that demand extensive or idiosyncratic skills, which couldn't easily be transferred to other occupations or industries. For example, the Penguin/Simon & Schuster case centered on writers of bestsellers whose book advances exceed \$250,000.

#### PRODUCT MARKETS IN ANTITRUST

All antitrust claims require defining a relevant market, but the endeavor is significantly more complicated in the context of labor markets.

For example, what is the relevant labor market for supermarket employees? Surely, Costco employees should be included, even if Costco does [not technically](#) qualify as a "supermarket," but what about employees of other retailers? What about hospitality and fast-food workers?

When examining the labor market for workers who lack extensive or idiosyncratic skills, just about any reasonable definition of the relevant market would be too large to allege that any one firm possesses market power.

In a perfect world, these questions could be tested empirically. Unfortunately, antitrust enforcers often don't have the requisite data and must rely on anecdotal evidence to delineate labor markets.

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### GEOGRAPHIC MARKETS IN ANTITRUST

U.S. workers are highly mobile. Roughly half of American adults live in a state other than the one in which they were born. Indeed, much of U.S. demographic history concerns people relocating for work. This makes it especially challenging to define a relevant geographic market for labor-monopsony claims.

This is particularly true in urban environments, where there are many employment opportunities within commuting distance, especially for workers with fewer skills or less experience. Hence, stronger claims of labor-market monopsony tend to concern rural markets with limited job opportunities. It's much easier to claim that Walmart holds labor-monopsony power in a small town than in even a medium-sized city.

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### UNION POWER AND ANTITRUST

Antitrust enforcers also need to account for the countervailing market power held by labor unions. Obtaining and exerting market power is unions' *raison d'être*. As the old [song](#) says: "There is power in a union."

For instance, if the FTC challenges the Kroger-Albertsons merger (as is [expected](#)) by alleging labor-market monopsony, the agency will have to contend with the fact that roughly 60% of the merged company's workforce will be unionized. Attempts to exercise monopsony

power would likely be dampened by the effects of unions collectively bargaining to maintain high wages and prevent layoffs.

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### BALANCING CONSUMER & WORKER WELFARE

The final challenge to labor-monopsony cases is that the primary purpose of antitrust enforcement is widely accepted to be protecting against harms to competition or to consumers. In labor cases, this will almost inevitably require important tradeoffs.

While a merger might suppress the wages that would otherwise be paid by the merging companies, these wage reductions may then be passed on to consumers in the form of lower prices. Reduced labor input for a particular type of worker or workers does not mechanically translate into [reduced output](#) for consumers. This can be the case, for example, when a merger results in restructuring.

In evaluating a merger, the agencies and the courts must balance the anticipated harms to employees against the potential benefits to consumers. This is a daunting task that may prove insurmountable in many cases.

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For more on this issue, see the International Center for Law & Economics (ICLE) issue brief "[Five Problems with a Potential FTC Challenge to the Kroger/Albertsons Merger](#)." See also, "[FTC Should Allow Kroger-Albertsons Merger to Go Through](#)" by Eric Fruits and Geoffrey Manne.

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