



## Antitrust and Competition Law Resources

**This resource is intended to provide general information and should not be construed as providing legal advice. For advice about how these issues might apply to your individual situation, consult an attorney.**

For an overview of the concept competition and its role in our economy:

- Competition Counts: How Consumers Win When Businesses Compete, Federal Trade Commission, May 2015
  - [https://www.ftc.gov/system/files/attachments/competition-counts/pdf-0116\\_competition-counts.pdf](https://www.ftc.gov/system/files/attachments/competition-counts/pdf-0116_competition-counts.pdf)

For an overview of concentration in the United States food system:

- Mary K. Hendrickson, Philip H. Howard, Emily M. Miller, and Douglas H. Constance, *The Food System: Concentration and Its Impacts*, A Special Report to the Family Farm Action Alliance, May 2021.
  - [https://farmaction.us/wp-content/uploads/2021/05/Hendrickson-et-al.-2020.-Concentration-and-Its-Impacts\\_FINAL\\_Addended.pdf](https://farmaction.us/wp-content/uploads/2021/05/Hendrickson-et-al.-2020.-Concentration-and-Its-Impacts_FINAL_Addended.pdf)

For an overview of competition issues related to the Packers and Stockyards Act:

- Michael Kades, Report: Competition, Protecting livestock producers and chicken growers, Washington Center for Equitable Growth (May 2022)
  - <https://equitablegrowth.org/wp-content/uploads/2022/05/050522-packers-stockyards-report.pdf>

For an overview of antitrust law:

- Antitrust Law: An Introduction, In Focus, Congressional Research Service, July 21, 2022
  - <https://crsreports.congress.gov/product/pdf/IF/IF11234/2>
- The Antitrust Laws, Guide to Antitrust Laws, Federal Trade Commission
  - <https://www.ftc.gov/advice-guidance/competition-guidance/guide-antitrust-laws/antitrust-laws>



For a more detailed overview with an enforcement lens:

- An Antitrust Primer for Federal Law Enforcement Personnel, U.S. Department of Justice Antitrust Division, April 2022
  - <https://www.justice.gov/atr/page/file/1091651/download>

For an overview of the Packers and Stockyards Act:

- The Packers & Stockyards Act, Agricultural Marketing Service, USDA, July 2020
  - <https://www.ams.usda.gov/sites/default/files/media/PSActFactSheet.pdf>
- Frequently Asked Questions on the Enforcement of Undue and Unreasonable Preferences under the Packers and Stockyards Act
  - <https://www.ams.usda.gov/rules-regulations/packers-and-stockyards-act/faq>

For a recent ERS report on concentration and competition in the meatpacking industry:

- James M. MacDonald, Concentration in U.S. Meatpacking Industry and How it Affects Competition and Cattle Prices, Economic Research Service, USDA, January 25, 2024
  - <https://www.ers.usda.gov/amber-waves/2024/january/concentration-in-u-s-meatpacking-industry-and-how-it-affects-competition-and-cattle-prices/>

For an ERS report on concentration and competition the more general agribusiness industry:

- MacDonald, J. M., Dong, X., & Fuglie, K. (2023). *Concentration and competition in U.S. agribusiness* (Report No. EIB-256). U.S. Department of Agriculture, Economic Research Service.
  - <https://www.ers.usda.gov/publications/pub-details/?pubid=106794>

Recent Developments:

- State Antitrust Enforcement Venue Act
  - Limits transfer and consolidation of antitrust cases brought by states
    - Example: [State of Arkansas v. Syngenta Crop Protection et al](#)
    - <https://www.reuters.com/legal/government/us-states-flex-new-power-steer-antitrust-lawsuits-2024-01-19/>
- Transparency in Poultry Grower Contracting and Tournaments Final Rule (Effective Date: February 12, 2024)

- Amends regulations under the Packers and Stockyards Act to require disclosures and information companies must give to growers.
  - <https://www.ams.usda.gov/rules-regulations/transparency-poultry-grower-contracting-and-tournaments>
  - Final Rule: <https://www.federalregister.gov/documents/2023/11/28/2023-24922/transparency-in-poultry-grower-contracting-and-tournaments>
- Inclusive Competition and Market Integrity Final Rule (Effective Date: May 6, 2024)
  - Amends regulations under the Packers and Stockyards Act to prohibit discrimination, retaliation, and deceptive practices in the livestock and poultry industries.
    - <https://www.ams.usda.gov/rules-regulations/unfair-practices-violation-packers-and-stockyards-act>
    - Final Rule: <https://www.federalregister.gov/documents/2024/03/06/2024-04419/inclusive-competition-and-market-integrity-under-the-packers-and-stockyards-act>
- FTC Statement on Enforcement
  - <https://www.ftc.gov/news-events/news/press-releases/2022/11/ftc-restores-rigorous-enforcement-law-banning-unfair-methods-competition>
- FTC Challenges Kroger's Acquisition of Albertsons
  - <https://www.ftc.gov/news-events/news/press-releases/2024/02/ftc-challenges-krogers-acquisition-albertsons>

Video Resources:

- Peter Carstensen, *The "Pickle in the Middle": The Competitive Issues Facing America's Farmers - Law, Ethics, and Animal Programs at Yale Law School* (2022)
  - <https://www.youtube.com/watch?v=qeMWFxdyQLE>
- *Under Contract Farmers and the Fine Print*, Rural Advancement Foundation International – USA (2021)
  - <https://www.youtube.com/watch?v=yS5GJYIHkp4>
- Laura Bult, *How 4 Companies Control the Beef Industry*, VOX (2021)
  - <https://www.vox.com/videos/2021/9/29/22700589/beef-industry-meat-production-future-perfect>



- James MacDonald, *Webinar: Concentration and Competition in U.S. Agribusiness*, U.S. Department of Agriculture, Economic Research Service, (July 11, 2023)
  - <https://www.ers.usda.gov/conferences/webinar-concentration-and-competition-in-u-s-agribusiness/>

#### Law Review Articles:

- *Collection: Unlocking Antitrust Enforcement*, 127 Yale L.J. 7 (2018)
  - <https://www.yalelawjournal.org/collection/unlocking-antitrust-enforcement>
- Lina M. Kahn, *The Ideological Roots of America's Market Power Problem*, 127 Yale L.J. F. 960 (2018)
  - <https://www.yalelawjournal.org/forum/the-ideological-roots-of-americas-market-power-problem>
- Sanjukta Paul, *Recovering the Moral Economy Foundation of the Sherman Act*, 131 Yale L.J. F. 1 (2021)
  - [https://www.yalelawjournal.org/pdf/131.Paul\\_ujda2i7f.pdf](https://www.yalelawjournal.org/pdf/131.Paul_ujda2i7f.pdf)
- Peter C. Carstensen and Annkathrin Marschall, *Pooling and Exchanging Competitively Sensitive Information Among Rivals: Absolutely Illegal Not Just Unreasonable*, 92 U. Cin. L. Rev. 335 (2023)
  - <https://scholarship.law.uc.edu/cgi/viewcontent.cgi?article=1506&context=uclr>

#### Recent Antitrust Cases Involving Agriculture:

- U.S. v. Koch Foods, Inc., No. 1:23-cv-15813 (N.D. Ill. Nov. 9, 2023)
  - <https://www.justice.gov/atr/case/us-v-koch-foods-incorporated>
  - Plaintiff alleges defendant poultry processor's exit penalties constituted an "unfair practice" under Section 202(a) of the Packers and Stockyards Act and violated Section 1 of the Sherman Act.
    - Competitive Impact Statement (Nov. 17, 2023)
      - <https://www.justice.gov/d9/2023-11/418159.pdf>
    - Stipulation and Order (Nov. 15, 2023)
      - <https://www.justice.gov/d9/2023-11/418163.pdf>



- Proposed Final Judgment (Nov. 9, 2023)
  - <https://www.justice.gov/atr/media/1325706/dl>
- Complaint (Nov. 9, 2023)
  - <https://www.justice.gov/d9/2023-11/418031.pdf>
- U.S. v. Agri Stats, Inc., No: 0:23-CV-03009 (JRT/JFD) (D. Minn. Sept. 28, 2023)
  - <https://www.justice.gov/atr/case/us-v-agri-stats-inc>
  - Plaintiff alleges defendant violated Section 1 of the Sherman Act by facilitating the exclusive exchange of detailed business information including, “pricing, margins, inventories, and operations,” between the largest meat processing companies.
    - Plaintiff’s Opposition to Defendant’s Motion to Transfer (Nov. 29, 2023)
      - <https://www.justice.gov/d9/2023-11/418390.pdf>
    - Second Amended Complaint
      - <https://www.justice.gov/d9/2023-11/418025.pdf>
    - Amended Complaint
      - <https://www.justice.gov/d9/2023-11/417694.pdf>
    - Order Denying Motion to Seal
      - <https://www.justice.gov/d9/2023-11/417611.pdf>
    - Plaintiff’s Opposition to Defendant’s Motion to Seal
      - <https://www.justice.gov/d9/2023-11/417609.pdf>
    - Complaint
      - <https://www.justice.gov/d9/2023-10/416782.pdf>
- U.S. v. Cargill Meat Solutions Corp., et. al., No. 22-cv-1821 (D. Md. 2023)
  - <https://www.justice.gov/atr/case/usv-cargill-meat-solutions-corp-et-al>
  - Plaintiff alleged defendants violated Section 1 of the Sherman Act and Section 202(a) of the Packers and Stockyards Act by exchanging information on wages and compensation, suppressing competition, and engaging in deceptive trade practices involving the “tournament system” business model.
    - Final Judgement [George’s, Inc. et. al.] (August 22, 2023)
      - <https://www.justice.gov/d9/2023-11/417757.pdf>

- Final Judgment [Weber, Meng, Sahl & Co., Inc. et. al.] (June 5, 2023)
  - <https://www.justice.gov/d9/2023-11/418171.pdf>
- Final Judgment [Cargill Meat Solutions Corp., et. al.] (June 5, 2023)
  - <https://www.justice.gov/d9/2023-11/418169.pdf>
- Competitive Impact Statement (May 17, 2023)
  - Competitive Impact Statement (September 12, 2022)
    - <https://www.justice.gov/media/1244851/dl?inline>
  - Complaint (July 25, 2022)
    - <https://www.justice.gov/media/1238931/dl?inline>
- In re: Deere & Co. Repair Service Antitrust Litigation, No. 3:22-cv-50188, 2023 WL 8190256 (MDL 2023).
  - <https://www.courtlistener.com/docket/63557210/forest-river-farms-v-deere-company/>
  - Plaintiffs allege violations of Sections 1 and 2 of the Sherman Act: conspiracy in restraint of trade, group boycott, unlawful tying arrangement, monopolization, monopoly leveraging, attempted monopolization (alternatively), and conspiracy to monopolize.
    - Memorandum Opinion and Order (Nov. 27, 2023) (Judge denied defendant's motion for judgment on the pleadings).
      - <https://storage.courtlistener.com/recap/gov.uscourts.ilnd.415798/gov.uscourts.ilnd.415798.159.0.pdf>
    - U.S. Department of Justice, Statement of Interest (Feb. 14, 2023)
      - <https://www.justice.gov/atr/case-document/file/1568686/dl?inline>
    - Consolidated Class Action Complaint (Oct. 24, 2022)
      - <https://storage.courtlistener.com/recap/gov.uscourts.ilnd.415798/gov.uscourts.ilnd.415798.85.0.pdf>
    - Original Complaint (Jan. 12, 2022)
      - [https://storage.courtlistener.com/recap/gov.uscourts.ilnd.411542/gov.uscourts.ilnd.411542.1.0\\_2.pdf](https://storage.courtlistener.com/recap/gov.uscourts.ilnd.411542/gov.uscourts.ilnd.411542.1.0_2.pdf)
- In re Peanut Farmers Antitrust Litigation

- No 2:19-cv-00463, 2021 WL 3174247 (E.D. Va. July 27, 2021) (Memorandum Opinion and Order granting plaintiffs' motion for final approval of settlement with defendant, Golden Peanut and plan of distribution of settlement fund.)
  - <https://aglaw.psu.edu/wp-content/uploads/2022/09/In-re-Peanut-Memo-Opinion-7.27.21.pdf>
- Plaintiffs alleged defendants conspired to fix prices of runner peanuts, violating Section 1 of the Sherman Act.
  - The Penn State Center for Agricultural and Shale Law has a summary of the case and links to relevant filings here: <https://aglaw.psu.edu/research-by-topic/issue-tracker/agricultural-antitrust-litigation/#in-re-peanut-farmers>
- In re Cattle Antitrust Litigation
  - The Penn State Center for Agricultural and Shale Law has a summary of the case and links to relevant filings here: <https://aglaw.psu.edu/research-by-topic/issue-tracker/agricultural-antitrust-litigation/#in-re-cattle>
  - Plaintiffs alleged that meat packing companies conspired to suppress prices of fed cattle, thus raising profit margins, violating the Sherman Act, the Packers and Stockyards Act, state laws, and the Commodity Exchange Act.
  - This case was consolidated with In re Direct Purchaser Plaintiff Beef Antitrust MDL, No. 0:20-cv-1319 (D. Minn.) on Sept, 1, 2021.
    - <https://aglaw.psu.edu/wp-content/uploads/2022/09/In-re-Cattle-Antitrust-Litigation-Consolidation-Order-9.1.21.pdf>
- In re Cattle and Beef Antitrust Litigation
  - The Penn State Center for Agricultural and Shale Law has a summary of the case and links to relevant filings here: <https://aglaw.psu.edu/research-by-topic/issue-tracker/agricultural-antitrust-litigation/#in-re-cattle-beef>
  - Consolidated Cases, No. 19-cv-1222, No. 19-cv-1129, No. 20-cv-1319, No. 20-cv-1414 (D. Minn. September 14, 2021) (Memorandum Opinion and Order denying Defendants' Motions to Dismiss the federal claims but granting Defendants' Motion to Dismiss some state law claims and granting Plaintiff's motion for alternative service.)

- <https://aglaw.psu.edu/wp-content/uploads/2022/09/In-re-DPP-Beef-Memo-Opinion-9.14.21.pdf>
- On August 31, 2022, the court issued an Order Granting Direct Purchaser Plaintiffs' Motion for Final Approval of Class Action Settlement with JBS Defendants, No. 20-cv-1319 (D. Minn. August 31, 2022)
  - <https://aglaw.psu.edu/wp-content/uploads/2022/09/In-re-DPP-Beef-Antitrust-Litigation-Order-8.31.22.pdf>
- On August 17, 2023, the court granted Defendant's Motion to Dismiss, holding that, as to the Specht Class, the cow-calf rancher plaintiffs failed to establish antitrust standing under the Sherman Act and that antitrust standing was necessary to maintain a claim under the Packers and Stockyards Act. The court held that antitrust standing was necessary for state consumer protection claims and that the cow-calf rancher plaintiffs failed to state a claim under state law.
  - No. 22-cv-3031 and 22-cv-2903, 2023 WL 5310905 (JRT/JFD) (D. Minn. August 17, 2023)
  - <https://casetext.com/case/in-re-cattle-beef-antitrust-litig-1>
- On November 21, 2023, the court granted commercial and institutional indirect purchaser plaintiffs' motion for final approval of the class action settlement with defendants JBS USA Food Company, Swift Beef Company, JBS Packerland, Inc., and JBS S.A.
  - No. 22-cv-3031, 2023 WL 8098642 (JRT/JFD) (D. Minn. Nov. 21, 2023).
  - <https://casetext.com/case/in-re-cattle-beef-antitrust-litig-2>
- In re Pork Antitrust Litigation, No. CV 18-1776, 2023 WL 6279354 (JRT/JFD) (D. Minn. Sept. 26, 2023)
  - Plaintiffs allege pork packer Defendants violated the Sherman Act and Packers and Stockyards Act by exchanging competitively sensitive information through Agri Stats and using this information to fix prices and restrain trade.
    - <https://casetext.com/case/in-re-pork-antitrust-litig-13>
    - The Court denied Defendants' Motion to Dismiss, concluding that the plaintiffs' allegations of fraudulent concealment, price fixing, and injury due to Defendants' violation of the Packers and Stockyards Act were adequate.





- The Penn State Center for Agricultural and Shale Law has a summary of the case and links to previous relevant filings here: <https://aglaw.psu.edu/research-by-topic/issue-tracker/agricultural-antitrust-litigation/#in-re-pork-antitrust-litigation>
- In re Broiler Chicken Antitrust Litigation, No. 1:16-cv-08637, 2023 WL 7220170 (N.D. Ill. November 2, 2023). (Granting in part and denying in part motions for summary judgment.)
  - Plaintiffs allege Defendants engaged in price fixing in violation of the Sherman Act by conspiring to decrease production and increase prices.
    - <https://casetext.com/case/in-re-broiler-chicken-antitrust-litig-24>
  - The Penn State Center for Agricultural and Shale Law has a summary of the case and links to previous relevant filings here: <https://aglaw.psu.edu/research-by-topic/issue-tracker/agricultural-antitrust-litigation/#in-re-broiler-chicken>
- In re Turkey Antitrust Litigation, 642 F. Supp.3d 711 (N.D. Ill. November 21, 2022). (Denying Defendants' joint motion to dismiss).
  - Plaintiffs allege Defendants conspired to exchange competitively sensitive information and fix prices by limiting the turkey supply, thus violating the Sherman Act.
    - <https://fingfx.thomsonreuters.com/gfx/legaldocs/mopaknqegpa/turkey-motion-dismiss-2022-11-21-order.pdf>
- Lutz v. Case Farms, LLC, No. 5:20-cv-00103, 2020 WL 5111217 (KDB/DCK) (W.D.N.C. August 31, 2020)
  - Plaintiff (chicken grower) alleged that Defendant's termination of his contract violated the Packers and Stockyards Act. The Court granted Plaintiff's motion for preliminary injunction, ordering the termination null and void because the contract violated the Packers and Stockyards Act. The court also invalidated the arbitration clause in the contract due to its violation of the Packers and Stockyards Act.
    - <https://casetext.com/case/lutz-v-case-farms-llc>

- Sitts v. Dairy Farmers of America, Inc. and Dairy Marketing Services, LLC, 417 F.Supp.3d 433 (D. Vermont) (September 27, 2019) (Granting in part and denying in part Defendants’ motion for summary judgment.)
  - Plaintiffs (dairy farmers) alleged Defendants (dairy marketing cooperative and milk marketing agency) conspired with milk processors to restrain competition, fix prices, and “monopsonize” the milk market in violation of the Sherman Act.
    - <https://casetext.com/case/sitts-v-dairy-farmers-of-am-3>
  - U.S. Department of Justice Statement of Interest (July, 27, 2020)
    - <https://www.justice.gov/atr/case-document/file/1298411/dl?inline>
- Wheeler v. Pilgrim’s Pride Corp., 591 F.3d 355 (5th Cir. 2009)
  - Plaintiffs (chicken growers) showed that another grower was given different and preferential contract terms, alleging Defendant’s conduct violated the Packers and Stockyards Act because it was “deceptive, unlawful, unfair, capricious, arbitrary and discriminatory.”
  - This *en banc* ruling from the Fifth Circuit held that “the purpose of the Packers and Stockyards Act of 1921 is to protect competition and, therefore, only those practices that will likely affect competition adversely violate the Act.” The plaintiffs must prove an “actual or potential adverse impact on competition.”
    - <https://casetext.com/case/wheeler-v-pilgrims-pride-corp/>
- Been v. O.K. Industries Inc., 495 F.3d 1217 (10th Cir. 2007)
  - Plaintiffs (chicken growers) alleged Defendant’s contract terms and “competitive ranking” method of calculating pay violated section 202(a) of the Packers and Stockyards Act.
  - This appeal was a matter of first impression for the Tenth Circuit on whether the Packers and Stockyards Act requires plaintiffs to prove “an allegedly ‘unfair practice’ injures or is likely to injure competition.” The Court ruled the plaintiff must show that the practice “injures or is likely to injure competition” and the plaintiff must prove the Defendant’s likely or actual effect depressing or increasing prices (market manipulation).
    - <https://casetext.com/case/been-v-ok-industries-5>