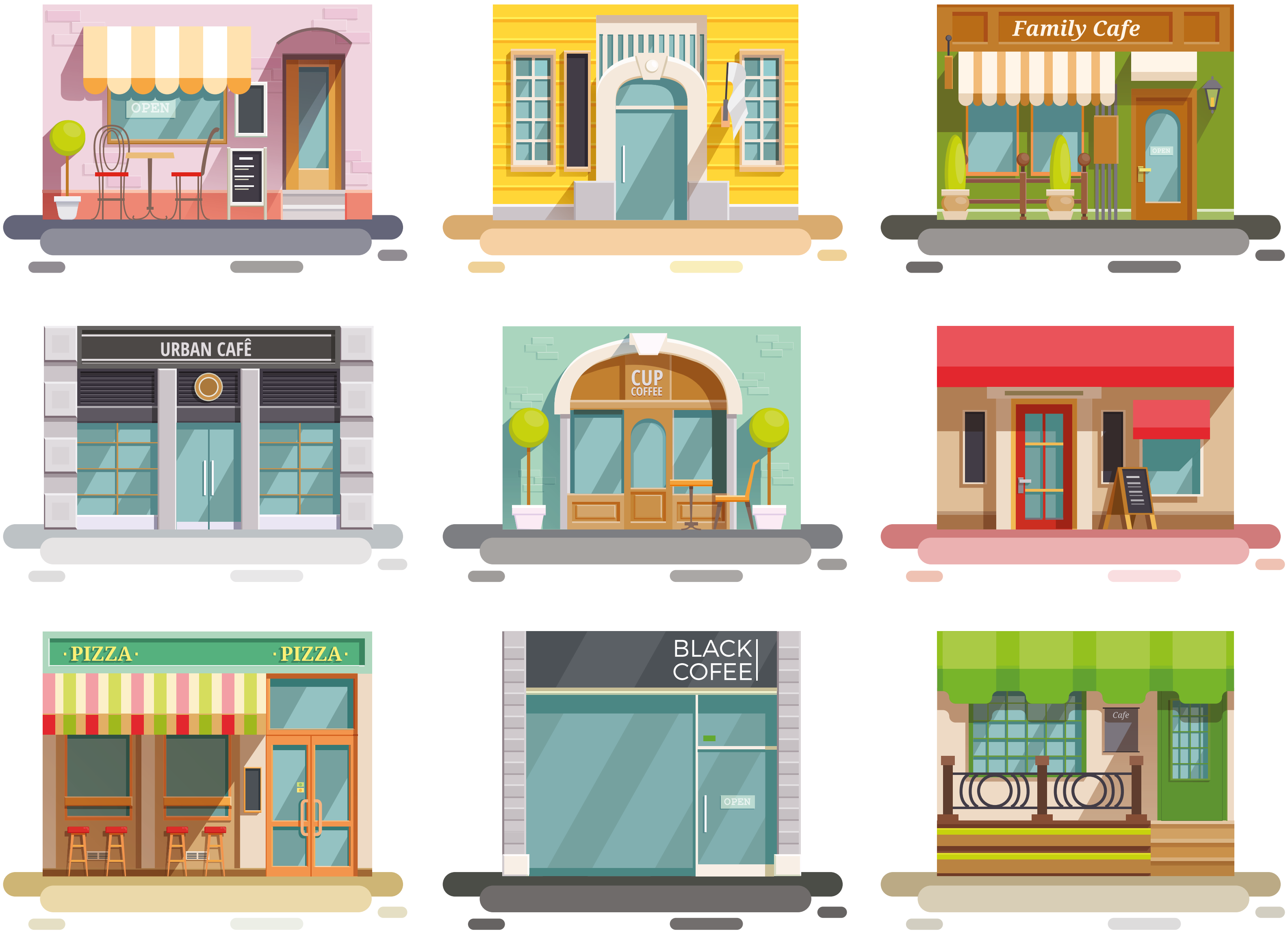
STORE FORMAT AND BUYER POWER IN GROCERY RETAIL COMPETITION



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Store Format and Buyer Power in Grocery Retail Competition

By Henry C. Su

Competition in grocery retail is not only about the pricing, quantity, and variety of goods offered for sale to consumers. Importantly, it also has to do with format — size, configuration, locations, physical vs. online, fulfillment and payment mechanisms, to name a few aspects. Manufacturers, producers, and wholesalers that supply goods to grocery retailers understand and appreciate the significant role that format plays in attracting, reaching, and persuading consumers. Accordingly, the market power that certain retailers wield on the buy side in negotiations with their suppliers may stem principally from the formats they present to consumers on the sell side, thereby constituting a byproduct of the competitive process. Calls for antitrust enforcers to curb supposed abuses by dominant grocery retailers should therefore take care to recognize and distinguish such pro-competitive or competitively benign exercises of countervailing power from manifestly exclusionary and predatory acts aimed at hurting market rivals.

I. INTRODUCTION

Recent calls for more vigorous antitrust enforcement throughout the American economy have flagged grocery retail as one sector warranting heightened scrutiny.[2] In particular, these calls have focused on the encroachment and rapid growth of hypermarkets like Walmart supercenters and e-commerce platform operators like Amazon (e.g. Whole Foods, Amazon Fresh) in the grocery retail business, and the threat that such ostensibly dominant retailers may pose to the continued survival of smaller independent grocers. They also urge increased attention to potential anticompetitive practices by dominant grocery retailers as buyers of goods, i.e. concerns about the acquisition and exercise of buyer power in this sector.

These voiced concerns about dominant retailers and buyer power are neither new nor particularly original.[3] And whether they are more compelling today than in the past remains to be seen. But in reexamining these concerns, it is paramount that we bear in mind two things: the pivotal role of format in grocery retail competition, and the crucial distinction — when examining buyer power concerns — between countervailing power that flows from the competitive success of a retailer's format and manifestly exclusionary or predatory exercises of market power that seek to disadvantage or injure rival retailers. Specifically, I make two basic points in this piece.

First, format defines and describes how a grocery retailer has chosen to market its goods to consumers and to draw consumers to its stores and, more broadly, to differentiate itself from the competition.[4] Nowadays, in addition to supermarkets, consumers can purchase grocery items from drug stores, mass merchandisers, convenience stores, club stores, dollar stores, supercenters, and even online stores. Notably, format can encompass attributes such as size, scale, and scope that we often associate with a dominant firm. But antitrust law does not penalize a firm for achieving a dominant position through business acumen, for example, and we should therefore take care not to scrutinize dominant grocery retailers based on their market status and success alone, lest we dampen the procompetitive and innovative incentives that spawn these formats, and risk depriving consumers of their potential benefits.

Second, the success of a particular format, and its differentiating factors in the marketplace, do not go unnoticed or unappreciated by manufacturers, producers, and wholesalers seeking to put their goods into retail channels. On the buy side, format can therefore confer countervailing power to a grocery retailer in its negotiations with suppliers. In other words, just as a retailer uses its format to market its goods to consumers and to draw consumers to its stores, it may be able to use that format to attract suppliers and to extract different, and perhaps more favorable, terms from them than its market rivals are able to do.

We should therefore carefully discern and distinguish, in bargaining settings, exercises of format-related countervailing power, which are likely to enhance consumer welfare, from other types of buyer power (e.g. monopsony power) and other exercises of buyer power (e.g. anticompetitive overbuying) that are understood to have harmful or questionable welfare effects. The grocery retail sector has been and remains a fertile ground for innovation and experimentation, as retailers test out not only different pricing strategies but also differing approaches to non-price dimensions like level of service, private label offerings, and assortment size and mix. Retailers may exercise countervailing power to garner supplier support for innovation and experimentation, which generally redounds to the benefit of consumers.

II. STORE FORMAT AND COMPETITION

In the United States, the evolution of the grocery retail sector as we know it today is principally a story about successive innovation in store formats.[5] Professor Paul Ellickson, who has written extensively on this subject, breaks down the evolution into four distinct eras: (1) the chain store

2 See, e.g. Nat'l Grocers Ass'n, Buyer Power and Economic Discrimination in the Grocery Aisle: Kitchen Table Issues for American Consumers (2021), https://bit.ly/30Unz6U; Letter from Peter Lurie, Pres. & Exec. Dir., and Laura MacCleery, Pol'y Dir., Ctr. for Sci. in the Pub. Interest, to Hon. Rebecca Slaughter, Acting Chair, et al., U.S. Fed. Trade Comm'n (Feb. 19, 2021), https://bit.ly/3HLbT79; Inst. for Local Self-Reliance, Report: Walmart's Monopolization of Local Grocery Markets (2019), https://bit.ly/3CMNhqW. I acknowledge that similar concerns have been raised and investigated in other countries, e.g. the United Kingdom and New Zealand, but such efforts are outside the scope of this piece.

3 See, e.g. Albert A. Foer, *Introduction to Symposium on Buyer Power and Antitrust*, 72 Antitrust L.J. 505, 505 (2005) ("The purchasing clout demonstrated by these large buyers, in may enhance the advantage they have vis-à-vis their own competitors. Retailers, such as Wal-Mart and Costco, apparently have such clout suppliers. Is this really something new? From an antitrust perspective, does it matter and should it matter?").

4 For a working glossary of store formats, see Richard Volpe, et al., Store Formats and Patterns in Household Grocery Purchases 3–5 (U.S. Dep't Agric., Econ. Research Serv., Econ. Information Bulletin No. 167, Mar. 2017), https://bit.ly/3d1BQRF.

5 See generally Paul B. Ellickson, *The Evolution of the Supermarket Industry: From A&P to Walmart, in* Handbook on the Economics of Retailing and Distribution, ch. 15, 368–91 (Emek Basker ed., 2016); Bart J. Bronnenberg & Paul B. Ellickson, *Adolescence and the Path to Maturity in Global Retail*, 29 J. Econ. Persp. 113, 115–23 (2015); John M. Connor, *Evolving Research on Price Competition in the Grocery Retailing Industry: An Appraisal*, 28 Agric. & Resource Econ. Rev. 119, 119–20 (1999).

revolution, pioneered by the Great Atlantic and Pacific Tea Company (more familiarly "A&P") in 1912; (2) the introduction of the supermarket format in 1930 by a Kroger employee named Michael Cullen, with offshoots like club stores and superettes in the late 1970s and early 1980s; (3) the advent of computerization and information technology (e.g. bar code scanner, scanning register, inventory management systems) in the 1970s and 1980s, and with such advances, radical increases in product variety, which in turn spurred ever larger formats (i.e. superstores and warehouses); and (4) lastly, the entry of Walmart into the sector with its supercenters in 1988. Here are two important takeaways from Ellickson's illuminating historical treatment.

First, each era featured quantum improvements and transformations in various aspects of the grocery retail business. For example, A&P first standardized the grocery store with an "economy" store format that sold its own branded goods (the precursor to what we now call private labels or store brands), and it took advantage of scale and scope economies by supplying its chain of stores with its own network of factories, warehouses, and delivery trucks. Not surprisingly, chain stores grew in number quickly under this model, becoming a dominant presence in the grocery retail sector and displacing many independent grocers, which simply could not offer as low of prices on goods. The chain store revolution thus provides a textbook illustration of Joseph Schumpeter's theory of creative destruction — an innovative business model supplanting what existed before, forcing incumbent businesses to adapt or perish.

Furthermore, despite the fact that competitive forces largely explain A&P's success (and that of Kroger's, Safeway, and American Stores, as well) and the concomitant demise of many small independent grocers, this revolution would precipitate a legal backlash that included the passage of the Robinson-Patman Act in 1936[6] and federal antitrust prosecution against A&P in the 1940s.[7] A&P would survive these legal and political challenges, however, and instead, it ultimately "became a victim of the creative destruction it had once meted out."[8] A&P's eventual demise foreshadows a similar fate for dominant retailers today, should consumers shift a significant proportion of their grocery purchases from in-store shopping to deliveries and pickups of orders made online. Indeed, the COVID-19 pandemic has provided a natural experiment regarding this question.

Second, each era reflects the sector's response to changing demographics and consumer preferences. For instance, as Ellickson notes, the supermarket format took root and proliferated because more shoppers had automobiles, which allowed them to travel further to stores and to carry more groceries, and refrigerators, which enabled them to buy and store more goods at home and therefore make fewer trips. Also, shoppers' tastes shifted to nationally branded consumer goods, which meant that supermarkets, in contrast to chain stores that primarily carried their own house brands, did not have to have their own manufacturing facilities, and could rely on consumer advertising to draw traffic.

The supermarket format thus illustrates another dynamic that we see playing out even today — experimentation with new retail models that respond to changes in where and how consumers are choosing to live, work, play — and to eat and drink. While there will always be, from time to time, specific business practices (as well as mergers) that may warrant antitrust scrutiny, the general progression in the retail grocery sector has been to advance store formats that promote consumer welfare by offering goods at lower prices, in broader range of quantities and greater variety, and with increasing convenience.

Accordingly, if and when antitrust enforcers investigate concerns about the dominance of a particular firm in the grocery retail sector, they should take care not to penalize that firm for adopting a format that has succeeded *because of the competitive process*, even if that success comes at the expense of smaller, less efficient rivals.[9] For example, Walmart's core advantage over its rivals, according to Professor Emek Basker, comes from its scale, which yields network economies that are unavailable to single-store retailers, and from its early and significant adoption

6 See, e.g. George J. Feldman, *Legislative Opposition to Chain Stores and Its Minimization*, 8 Law & Contemp. Problems 334 (1941).

7 *United States v. N.Y. Great Atl. & Pac. Tea Co.*, 67 F. Supp. 626 (E.D. Ill. 1946), *aff'd*, 173 F.2d 79 (7th Cir. 1949). For an ensuing debate about the merits of the government's case against A&P, *compare* Morris A. Adelman, *The A&P Case: A Study in Applied Economic Theory*, 63 Quarterly J. Econ. 238, 256 (1949) (viewing the Department of Justice as "fighting a nebulous bogey called 'buying power'" . . . [and] hav[ing] confused the maintenance of competition with the protection of particular competitors"), *with* Joel B. Dirlam & Alfred E. Kahn, *Antitrust Law and the Big Buyer: Another Look at the A&P Case*, 60 J. Pol. Econ. 118, 132 (1952) (viewing the Department of Justice's case as an attack on the systematic use of bargaining power to achieve unfair competitive advantages and to bring pressure to bear, selectively, on retail competitors"). For more recent criticism of this prosecution, see Timothy J. Muris & Jonathan Nuechterlein, *Antitrust in the Internet Era: The Legacy of* United States v. A&P, 54 Rev. Indus. Org. 651 (2019).

8 Marc Levinson, The Great A&P and the Struggle for Small Business in America 11–12, 270 (2011).

9 See *Copperweld Corp. v. Independence Tube Corp.*, 467 U.S. 752, 767 & n.14 (1984) ("For instance, an efficient firm may capture unsatisfied customers from an inefficient rival, whose own ability to compete may suffer as a result. This is the rule of the marketplace and is precisely the sort of competition that promotes the consumer interests that the Sherman Act aims to foster.") (quoting in the footnote from *United States v. Grinnell Corp.*, 384 U.S. 563, 571 (1966), and *Brunswick Corp. v. Pueblo Bowl-O-Mat, Inc.*, 429 U.S. 477, 488 (1977)). As MIT economist Morris Adelman aptly pointed out in his critique of the A&P case, "no strong competitor, however pure and upright his methods (no claims are made for A&P), however beneficent his achievements, could avoid affecting adversely other competitors and even putting some of them out of business." Adelman, *supra* note 7, at 256.

of information technology, which facilitates its logistics, distribution, and inventory control.[10] Notably, although its entry into grocery ushered in a "new" era under Ellickson's timeline, what Walmart did was to assimilate and apply with greater fidelity and rigor retailing lessons from previous eras: economies of scale at the distribution level associated with operating a chain of stores, larger store sizes to accommodate greater product variety, and adoption of technologies to assist with managing store operations and tracking the movement of goods.

Moreover, there is evidence that Walmart's business model has benefited consumers. Empirical studies have shown that Walmart's entry into a local grocery retail market causes both a direct price effect (offering a lower price option) and indirect price effect (lowering prices at rival supermarkets) for shoppers, especially those who are price-sensitive.[11] There may also be nonprice effects; one study has found that Walmart's entry decreases stockout rates at nearby supermarkets, suggesting that some grocery competitors may respond by raising their quality (i.e. improving product availability) in lieu of lowering prices.[12]

The existence of these effects further counsels against initiating an antitrust investigation or enforcement based solely on a firm's market status and success. There needs to be some evidence of predatory or exclusionary conduct, or an agreement that unreasonably restrains competition, involving the dominant retailer in question.

III. STORE FORMAT AND BUYER POWER

In response to the preceding point, those seeking more vigorous antitrust enforcement in the grocery retail sector have called for an examination of a dominant retailer's exercise of buyer power with its suppliers in ways that may disadvantage smaller rivals.[13] This inquiry necessarily calls for a settled definition of "buyer power." According to Professor Zhiqi Chen, the term "buyer power" should be symmetric to the conventional definition of market power on the sell side, and it should be broad enough to encompass both monopsony power exercised against competitive suppliers and countervailing power (also called bargaining power) exercised against suppliers with market power.[14] There is ample economic literature on both species of buyer power and their differing welfare effects in the retail supply chain context.[15] This piece focuses, however, on countervailing power and, specifically, power that flows from various characteristics of a grocery retailer's format.

Retail, including grocery retail, is the last step in the supply chain — it puts goods in the hands (and mouths) of consumers. Hence retailers are in the business of moving goods to consumers, maximizing some combination of quantity, variety, and price under prevailing competitive conditions. As discussed above, format plays a critical role in achieving that business goal; it both attracts and drives shoppers to a particular retailer (e.g. through location, convenience, selection, services) and persuades them to buy some basket of goods (e.g. through placement, promotion, pricing, rewards).

10 Emek Basker, *The Cause and Consequences of Wal-Mart's Growth*, 21 J. Econ. Persp. 177, 179–80 (2007). See also Ali Hortaçsu & Chad Syverson, *The Ongoing Evolution of U.S. Retail: A Format Tug-of-War*, 29 J. Econ. Persp. 89, 104–05 (2015); S. Robson Walton, *Wal-Mart, Supplier-Partners, and the Buyer Power Issue,* 72 Antitrust L.J. 509, 514–18 (2005).

11 Emek Basker & Michael Noel, *The Evolving Food Chain: Competitive Effects of Wal-Mart's Entry into the Supermarket Industry*, 18 J. Econ. & Mgmt. Strategy 977, 979 (2009); Jerry Hausman & Ephraim Leibtag, *Consumer Benefits from Increased Competition in Shopping Outlets: Measuring the Effect of Wal-Mart*, 22 J. Applied Econometrics 1157, 1176 (2007). But see Peter Arcidiacono, et al., *The Competitive Effects of Entry: Evidence from Supercenter Expansion*, 12 Am. Econ. J: Applied Econ. 175, 203 (2020) (finding no evidence that supermarkets lower their prices in response to Walmart's entry and attributing their results to supermarket adherence to simple cost-plus pricing rules).

12 David A. Matsa, *Competition and Product Quality in the Supermarket Industry*, 126 Quarterly J. Econ. 1539, 1582–83 (2011).

13 See, e.g. Buyer Power and Economic Discrimination in the Grocery Aisle, *supra* note 2, at 8 ("Buyer-side market power exists when a purchaser can use its bargaining leverage to secure sub-competitive prices from its suppliers—i.e., prices or terms below those that would exist in a competitive market—or impose discriminatory terms on the purchaser's rivals—i.e., obtain price or supply concessions that are not available to its competitors.").

14 Zhiqi Chen, *Defining Buyer Power*, 53 Antitrust Bull. 241, 246–47 (2008). See id. at 247 ("*Buyer power* is the ability of a buyer to reduce price profitably below a supplier's normal selling price, or more generally the ability to obtain terms of supply more favorable than a supplier's normal terms."). See also Richard Scheelings & Joshua D. Wright, '*Sui Generis*'?*: An Antitrust Analysis of Buyer Power in the United States and European Union*, 39 Akron L. Rev. 207, 209–10 (2006). Scheelings and Wright further observe that if buyer power is broadly defined to encompass a buyer's ability to influence the terms of purchase, then the types of retailer practices that could be cited as evidence of buyer power are potentially endless. *Id.* at 237–38.

15 Chen, *supra* note 14 at 248 ("The distinction between buyer power and countervailing power is critical for the assessment of the likely effects of buyer power on consumer welfare and economic efficiency."). For relevant literature on monopsony power, see, e.g. Roger G. Noll, "*Buyer Power" and Economic Policy*, 72 Antitrust L.J. 589 (2005); Roger D. Blair & Jeffrey L. Harrison, *Antitrust Policy and Monopsony*, 76 Cornell L. Rev. 297 (1991). For relevant literature on countervailing power, see, e.g. David E. Mills, *Buyer-Induced Exclusive Dealing*, 84 Southern Econ. J. 66 (2017); John Kirkwood, *Reforming the Robinson-Patman Act to Serve Consumers and Control Powerful Buyers*, 60 Antitrust Bull. 358 (2015); Alberto Iozzi and Tommaso Valletti, *Vertical Bargaining and Countervailing Power*, 6 Am. Econ. J.: Microeconomics 106 (2014); Roman Inderst & Greg Shaffer, *Retail Mergers, Buyer Power and Product Variety*, 117 Econ. J. 45 (2007); Zhiqi Chen, *Dominant Retailers and the Countervailing-Power Hypothesis*, 34 RAND J. Econ. 612 (2003).

When a particular format succeeds, the retailer is of course not the only one who benefits. Manufacturers, producers, and wholesalers that supply goods to that retailer also indirectly benefit—through purchase and consumption of their goods by consumers and, more importantly, through access to consumers (often particular segments) and creation of (hopefully long-term) relationships with them.

It is therefore not hard to see how and why a successful format could confer bargaining power to a retailer in its negotiations with suppliers. Like a two-sided digital platform, a grocery retail format can exhibit indirect network effects — the more consumers there are on the sell side, the more attractive the format becomes to suppliers on the buy side. And vice versa, at least to some degree.[16] A format's attractiveness to suppliers can also be viewed as a form of derived demand: the more inelastic that downstream demand from some segment of inframarginal consumers is for goods sold through a particular format, the more valuable that format will be to suppliers seeking to reach that particular segment. Whether viewed as indirect network effects or principles of derived demand, what is important to keep in mind here is that these mechanisms principally result *from the competitive process*.

Competing grocery retailers present similar or differentiated formats to consumers, each in a bid to attract more consumers, or particular segments of consumers, to shop at its stores. They in turn leverage the comparative and relative success of their formats to attract more suppliers, or particular suppliers, to contract with them, and on terms that they prefer. In short, format-related buyer power is market power that typically arises from competition, and, in that respect, it should be distinguished from buyer power that arises, say, from a merger with a horizontal rival. Antitrust law rightly cares about the effects of the latter, but it should approach delicately concerns leveled about the former.

A key reason is that grocery retailers are apt to exercise format-related countervailing power in an effort to align suppliers, through contractual terms, with their business model. Such efforts are likely to be procompetitive and welfare-enhancing because they foster more vigorous downstream competition among retailers. For example, former Walmart chairman Rob Walton explained in an *Antitrust Law Journal* essay on buyer power that Walmart views its relationships with suppliers as symbiotic partnerships because, at the end of the day, they are both "selling to the same customer: the retail consumer."[17]

Walton added that "Wal-Mart's business is desirable to suppliers because we offer them the opportunity to make more money — by giving them tools to help them better manage their own businesses."[18] Walmart's perspective is consistent with some findings in the economic literature indicating that a retailer's exercise of countervailing power, at least under certain market conditions, can stimulate supplier innovation and efficiency.[19]

As a general matter, such findings make intuitive sense. Grocery retailers facing robust downstream competition are likely to turn to their suppliers for assistance and support with cost, variety, quality, and timing of delivery, which will preferably be consistent with and reinforce whatever format they are presenting consumers. For example, a grocery retailer with a supermarket format likely will make different demands of its suppliers than a grocery retailer with a convenience store format. The former presumably will want a greater variety of goods, and goods in a broader array of package sizes, than the latter.

On the flip side, suppliers bargaining with grocery retailers will have to decide not only the relative importance of a particular firm as an outlet for their goods in a given local market, but also the comparative value of a particular format in presenting their goods to consumers.[20] Indeed, if one retailer's format yields significantly greater incremental gains from each sale than another's, that may incentivize a supplier to devote more resources towards working with that retailer in order to maximize those gains. The greater the alignment between the retailer and its supplier, the greater are the potential gains that the parties can split.

A key observation here is that the incremental gains of sale, the division of which is the subject of supplier–retailer negotiations, are not necessarily fixed and static. Rather than walking away from the negotiation and accepting the disagreement payoff, each party may

16 Some consumers may care more about variety in suppliers for a particular good. Those who are loyal to a particular brand that the retailer carries may be indifferent.

17 Walton, *supra* note 10, at 519.

18 *Id.* In his essay, Walton proceeds to discuss examples of areas where Walmart seeks to align suppliers with its business model, e.g. quoting net-net prices and identifying opportunities to lower delivered costs. *Id.* at 519–21.

19 See Zhiqi Chen, *Supplier Innovation in the Presence of Buyer Power*, 60 Int'l Econ. Rev. 329 (2019) (finding that buyer power can enhance supplier incentives to engage in product innovation if demand elasticity is not too high); Christian Köhler & Christian Rammer, *Buyer Power and Suppliers' Incentives to Innovate (ZEW—Centre for European Econ. Research Discussion Paper No. 12-058, 2012) (finding that buyer power can stimulate supplier incentives to engage in product innovation if downstream price competition is high), available at* https://bit.ly/3xQFN5g; Roman Inderst & Christian Wey, *Countervailing Power and Dynamic Efficiency*, 9 J. European Econ. Ass'n 702 (2011) (finding that buyer power creates additional incentives for suppliers to reduce marginal costs).

20 See, e.g. Anthony J. Dukes, et al., *Channel Bargaining with Retailer Asymmetry*, 43 J. Marketing Research 84, 84–85 (2006).

realize that there are latent opportunities to increase the incremental gains, thereby making an agreement more attractive relative to its outside option.

IV. CONCLUSION

Size alone does not necessarily define a grocery retailer as dominant, and the fact that a grocery retailer is seen as dominant today does not guarantee that it will be dominant tomorrow. The past century of evolution in this sector has taught us that format plays a pivotal role in competition, allowing some retailers to capture an increasingly greater share of sales at the expense of their rivals, and that the introduction of a new format can lead to the creative destruction of incumbent business models that previously flourished. Indeed, we see these competitive forces at work today, as the coronavirus pandemic has forced consumers to rethink how and where they want to buy their groceries.[21]

For example, some consumers have opted to have their groceries delivered to them rather than to set foot in the store, and if this preference holds after the pandemic is finally over, it may well cause retailers to shift away from formats that are aimed at generating and accommodating significant consumer traffic. They may instead invest more in logistics, like delivery trucks and platforms for ordering groceries. As a result, formats that have made some retailers dominant today may not keep them in that market-leading position tomorrow.[22]

Any assessment of a grocery retailer's buyer power must account for and distinguish countervailing power that flows from that retailer's format. Buyer power is not just about the retailer's size. The more successful a retailer's format is in generating sales of a particular supplier's goods, the more attractive that retailer will be to that supplier, relative to its outside options. A supplier may see a retailer as an important channel for its goods, even if that retailer does not account for the majority of sales in a local market. Furthermore, in negotiation it is reasonable to expect a retailer to demand terms that will promote the success of its format, especially if downstream competition is robust.

For example, a retailer may want its supplier to quote prices that facilitate its own pricing strategy to consumers. Or it may want its supplier to respond more quickly to inventory levels, in order to minimize stockouts. Such exercises of countervailing power generally should be seen as procompetitive and welfare-enhancing because they seek to better align suppliers with a retailer's format, which leads to more vigorous downstream competition, and lower prices, higher quality, and greater selection for consumers. Suppliers stand to benefit too because better alignment may make the format more effective and thereby increase the incremental gains of sale that they bargain over with the retailer.

This essay neither dismisses nor discounts the possibility that dominant grocery retailers may engage in exclusionary or predatory tactics aimed at disadvantaging rivals, which the antitrust laws can and should address.[23] Nor does it address buyer power that may arise from retail mergers. But the exercise of format-related countervailing power deserves careful and thoughtful treatment by antitrust enforcers. Because retail formats differ from one another to varying degrees, the terms negotiated by retailers with suppliers may vary accordingly. Such differences generally do not constitute the type of economic discrimination that should concern enforcers. On the contrary, they are a byproduct of the competitive process and an essential feature of format competition, allowing retailers to better differentiate themselves from their market rivals. If misdirected or misapplied, antitrust enforcement could dull the intensity of format competition and dampen the market incentives to engage in format-related innovation.

21 See Shira Ovide, *Tech Shakes Up the Supermarket*, N.Y. Times: On Tech (updated June 17, 2021), https://nyti.ms/3y8Sg4E.

22 Accenture recently reported that consumers "now value convenience, inspiration, community and sustainability," suggesting there will be windows of opportunity for local independent grocers to distinguish themselves from national giants. Jen Pritchard & Matt Jeffers, *Retail Consumers Seek a Different Grocery Experience*, Accenture Retail Blog (Aug. 11, 2021), https://accntu.re/3py33kO.

23 See, e.g. Steven C. Salop, *Anticompetitive Overbuying by Power Buyers*, 72 Antitrust L.J. 669 (2005).