

SATURDAY MARCH 12th 2022

REFORMING AMERICA'S FOOD RETAIL MARKETS



*Sponsored by the Thurman Arnold Project, the
Information Society Project, and the Yale Sustainable Food Program*

Conference Guide

Yale Law School

New Haven, Connecticut

Updated: March 10, 2022

Register: <https://www.eventbrite.com/e/reforming-americas-food-retail-markets-tickets-184969287117>

About This Conference

Since the mid-20th century, a handful of corporations have grown to dominate America's food retail markets. A recent report found that over 60 percent of grocery categories are dominated by tight oligopolies or monopolies, while only 15 percent could be considered highly competitive. Over the past several decades, the number of grocery stores nationwide has sharply declined, while the market share of the four largest retailers has substantially increased. Walmart alone accounts for \$1 out of every \$3 spent at grocery retailers. Like many other industries, the grocery industry has experienced a wave of vertical and horizontal mergers, with over 300 in 2019. These transformations have had profound effects on small business, food access, public health, wages, the environment, and more.

In recent years, a growing tide of scholars, lawmakers, and members of the public at large have expressed increasing concern that food retail corporations have obtained too much market power. Many critics have called for a revival of stricter antitrust enforcement, more assertive antitrust authorities, and a general rebalancing of economic power.

The aim of this conference, which is co-organized by [The Thurman Arnold Project at Yale](#) (TAP@Yale), the [Information Society Project](#) (ISP), and the [Yale Sustainable Food Program](#) (YSFP), is to explore how antitrust enforcement and competition policy can improve food retail markets in America. We hope the conference will help spark future research, heightened enforcement attention, and new ideas for policy reforms toward achieving more competitive, sustainable, and humane food retail markets.

The conference strives to serve as a focal point for academics, enforcers, policymakers, practitioners, journalists, and beyond, to convene and share ideas for how to jointly address concentration in retail food markets. The conference will discuss what antitrust enforcement and regulatory actions are needed to address the lack of competition in the industry and how these changes should be designed. It will also consider the relationship between competition policy and broader concerns associated with the food system – including racial justice, sustainability, public health, and inequalities facing workers, farmers, and rural communities. In addition, the conference will consider high level policy recommendations, including changes in the interpretation of antitrust laws and doctrines, new legislation, regulations, enforcement practices, and the institutional organization of agencies.

Special thanks to Professor Fiona Scott Morton, Professor Jack M. Balkin, ISP's Executive Director Nikolas Guggenberger, and YSFP's Director Mark Bomford for supporting this conference. Thank you too to Yale undergraduates David Townley and Jack McCordick whose work has been key to making this conference a reality.

Finally, our deep thanks go to the U.S. Department of Agriculture's Agricultural Marketing Service (AMS) and Senior Advisor for Fair and Competitive Markets Andy Green. Their support and guidance made this conference possible. However, the topics and views should not be construed to represent any official USDA or U.S. Government determination or policy.

I look forward to seeing you on Saturday, March 12, 2022.

A handwritten signature in black ink, appearing to read "Austin Frerick". The signature is written in a cursive style with a long, sweeping underline.

Austin Frerick
Deputy Director, Thurman Arnold Project at Yale

Conference Hosts

The Information Society Project (ISP)

The Information Society Project (ISP) is an intellectual center at Yale Law School, founded in 1997 by Professor Jack Balkin. Over the past 20 years, the ISP has grown from a handful of people gathering to discuss internet governance into an international community working to illuminate the complex relationships between law, technology, and society.

The Thurman Arnold Project (TAP)

The Thurman Arnold Project (TAP) launched in fall 2019 in response to the growing interest in competition enforcement from scholars, students, and the general public. The project is named in honor of Thurman Arnold, Yale Law Professor and head of the Antitrust Division from 1938-43, to capture the intellectual and enforcement tradition he represented, as well as his zeal for achieving competitive markets for the people of the United States. The project was founded by Professor Fiona Scott Morton, an economist at the School of Management, and is designed to bring together Yale scholars and students who are interested in antitrust to engage with one another and create rigorous antitrust research and policy, disseminate it, and enable links to enforcement and regulatory policy.

The Yale Sustainable Food Program (YSFP)

The Yale Sustainable Food Program (YSFP) serves as a cross-disciplinary hub for research and teaching on food systems at Yale. YSFP staff and students operate the Yale Farm on the main campus, bringing field-based practical experience into courses on subjects ranging from anthropology to zoology. YSFP staff work to develop new instructional materials, courses, and practicum opportunities that engage Yale students with current concepts and controversies affecting food and agriculture today. The program offers a range of stipends and fellowships for domestic and international travel and study, and increasingly works as a collaborator in multi-institution research networks. In partnership with international collaborators, the YSFP is currently researching the varied social, economic, and political implications associated with the adoption of new information technologies into farming and agri-food supply chains.

Schedule

9:00-9:15am	<p>Welcome and Opening Remarks Austin Frerick</p>
9:15-9:45am	<p>Keynote Eric Schlosser</p>
9:45-10:55am	<p>Panel 1: Meat & Dairy Moderator: Marcia Brown</p> <p><i>The Northeast Dairy Dilemma: How to Regulate a Firm with an 85% Market Share of Conventional Milk Processing?</i> Pete Hardin</p> <p><i>Buyer Power in the Beef Industry</i> Nathan Miller</p> <p><i>Trouble in the Safety Zone: Information Sharing in the Meat Processing Industry</i> Sachin Holdheim Zaakir Tameez</p>
11:00-12:15am	<p>Panel 2: Competition Issues Moderator: Alan Guebert</p> <p><i>The Impact of Food Retail Mergers and Acquisitions on Food Prices and Food Access: Evidence from California</i> Ricky Volpe</p> <p><i>Local Producer Strategies to Combat Exclusionary Slotting Fees in Grocery Retail</i> Charlie Mitchell Sophie D'Anieri</p> <p><i>Anticompetitive Challenges in America's Food Retail Industry: The Power of Category Captains</i> Riley Krotz Gregory Gundlach</p> <p><i>Kickbacks and Corporate Concentration: How Exclusionary Discounts Limit Market Access for Community-Based Food Businesses</i> Claire Kelloway Matthew Jinoos Buck</p>
12:15-12:40pm	<p>Lunch Break</p>
12:45-1:55pm	<p>Panel 3: Legal Issues Moderator: Thomas Dahdough</p> <p><i>Covenants Not to Sell Groceries</i> Christopher Leslie</p>

How to Stop Stop & Shop's Anti-Competitive Land-Acquisition Tactics

Karissa Kang

(Anti)Trust but Verify

Matt Summers

Digging In: Ethics and Disclosure in Food Retail Market Scholarship

Kate Conlow

2:00-2:55pm

Panel 4: Issues for Low-Income Americans

Moderator: Lela Nargi

Exploring Consumer Data Privacy and Retailer Competition Within the USDA's Supplemental Nutrition Assistance Program (SNAP) Online Purchasing Pilot

Isabelle Foster

Charlie Hoff

Angelina Polselli

Kyle Winterboer

Hungry for Antitrust Enforcement: Retail Discounters and Food Deserts in America

Connor Nolan

Sandro Steinbach

Associations Between Food Retail Market Concentration and Racial/Ethnic Inequities in Food Swamp Exposure from 2000 to 2019

Qianxia Jiang

Sandro Steinbach

Kristin Cooksey Stowers

3:00-3:55pm

Panel 5: Online Shopping

Moderator: Clint Rainey

Smile! You're On Camera: Data Collection in Food Retailing Markets

Matene Alikhani

Bruno Renzetti

Privacy Analysis of Apps and Beacons in Food Retail

Sean O'Brien

4:00-5:15pm

Panel 6: Alternative Systems

Moderator: Errol Schweizer

Regional Food Hubs: Adding flexibility and resiliency to the food supply system

JD Scholton

Ellen Walsh-Rosmann

Public Markets, Antitrust and Food Systems

Robert LaValva

Creating the Conditions for Cooperative Groceries and Food Markets

Nathan Beacom

Benya Kraus

Grocery Retail as Sites of Structure-Based Organizing: Past, Present, & Future

J. Noven

Conference Presenters and Moderators

Matene Alikhani, M.B.A. Candidate, Yale School of Management

Nathan Beacom, Director, Lyceum Movement

Marcia Brown, Correspondent, The Capitol Forum

Matthew Jinoos Buck, J.D. Candidate, Yale Law School

Kate M. Conlow, J.D. Candidate, The University of Iowa College of Law

Kristen Cooksey Stowers, Assistant Professor in the Department of Allied Health Sciences, University of Connecticut

Thomas Dahdouh, Attorney Advisor, Federal Trade Commission Chair Khan

Sophie D'Anieri, Graduate Student Researcher, University of Chicago

Isabelle Foster, Co-Founder, unbox

Alan Guebert, Syndicated Columnist and Author

Gregory Gundlach, Coggin Distinguished Professor of Marketing, University of North Florida

Pete Hardin, Founder, The Milkweed

Charlie Hoffs, Co-Founder, unBox

Sachin Holdheim, J.D. Candidate, Yale Law School

Qianxia Jiang, Ph.D. Candidate in the Department of Human Development and Family Sciences, University of Connecticut

Karissa Kang, J.D. Candidate, Yale Law School

Claire Kelloway, Program Manager for Food & Agriculture Systems, Open Markets Institute

Benya Kraus, Executive Director, Lead for America

Riley T. Krotz, Assistant Professor of Marketing and AACSB Emerging Research Fellow, Texas Tech University

Robert LaValva, Placemaking Consultant and Creative Director

Nathan Miller, Saleh Romeih Associate Professor, Georgetown University McDonough School of Business

Charlie Mitchell, Journalist and Researcher

Lela Nargi, Journalist

Connor Nolan, J.D. Candidate, University of Arizona James E. Rogers College of Law

J. Noven, Executive Director, The Berkeley Student Food Collective

Sean O'Brien, Lecturer in Cybersecurity & Visiting Fellow, Yale Law School & Information Society Project

Angelina Polselli, Policy Team Lead, unbox

Clint Rainey, Journalist

Bruno Renzetti, LL.M. Candidate & Ph.D. Candidate, Yale Law School & University of São Paulo

Eric Schlosser, Author

J.D. Scholten, Senior Advisor, American Economics Liberties Project

Errol Schweizer, Food Retail Entrepreneur, Ex-Whole Foods Vice President of Grocery

Sandro Steinbach, Assistant Professor in the Department of Agricultural and Resource Economics, University of Connecticut

Matt Summers, Law Clerk for Judge Saris, U.S. District Court for the District of Massachusetts

Zaakir Tameez, J.D. Candidate, Yale Law School

Ricky Volpe, Associate Professor in Agribusiness, California Polytechnic State University

Ellen Walsh-Rosmann, Director of Wellness, Food Service and Nutrition, Harlan Community Schools

Kyle Winterboer, M.P.P. Candidate, University of California Los Angeles

Professional Biographies

Matene Alikhani

M.B.A. Candidate, Yale School of Management

Matene Alikhani is a first year MBA at the Yale School of Management. Prior to attending business school, Matene was a consultant at Compass Lexecon, where he worked on litigation surrounding anti-competitive behavior and antitrust violations with a focus on digital platforms. Matene completed his undergraduate studies at the University of Chicago, where he studied economics and statistics.

Nathan Beacom

Director, Lyceum Movement

Nathan Beacom is the founding Director of the Lyceum Movement in Des Moines, Iowa. He is also a writer and journalist on agriculture, environment, and rural issues. He has worked on state-level food and grocery policy in Nebraska as well as regulatory policy on the federal level in Washington D.C.

Marcia Brown

Correspondent, The Capitol Forum

Marcia Brown is a correspondent for *The Capitol Forum* where she covers antitrust policy. She was previously a writing fellow for *The American Prospect*, where she covered immigration, labor, and criminal justice issues. Her reporting has appeared in *The Intercept*, *The New Republic*, *The Progressive*, *Mother Jones*, and the Food and Environment Reporting Project. She is a graduate of Princeton University, where she majored in history and served as editor-in-chief of *The Daily Princetonian*.

Matthew Jinoo Buck

J.D. Candidate, Yale Law School

Matthew Jinoo Buck is a first-year law student at Yale Law School and a Fellow at the American Economic Liberties Project. Matt has researched antitrust law and antimonopoly policy as a Senior Policy Analyst at Economic Liberties. He has written or co-written articles for *The American Prospect*, the *Washington Monthly*, *ProMarket*, and *The New York Times*, as well as a book chapter with Sandeep Vaheesan on antitrust and labor for *Inequality and the Labor Market* (Brookings Institution Press, April 2021). He is also working on a forthcoming article with Vaheesan on non-compete clauses in work arrangements for the *Michigan State Law Review*. Matt previously worked at the Open Markets Institute and the Antitrust Division of the Department of Justice. He has a B.A. magna cum laude in history and mathematics from Columbia University.

Kate M. Conlow

J.D. Candidate, The University of Iowa College of Law

Kate M. Conlow is a 2L at The University of Iowa College of Law whose scholarly and professional work focuses on antitrust. She was a 2021 ABA Antitrust Section Steiger Fellow, and she is currently a participant in Yale's Thurman Arnold Project. Now Editor in Chief of the Iowa Law Review, her Note is titled Two Faced: How Facebook's Monopoly of the Digital Social Advertising Market Drives Consumer Harms in the Personal Social Networking Market. Kate graduated from Vassar College in 2009 and prior to attending law school was a journalist and editor at a range of publications, most recently the literary journal *The Iowa Review*.

Kristen Cooksey Stowers

Assistant Professor in the Department of Allied Health Sciences, University of Connecticut

Dr. Kristen Cooksey Stowers is an Assistant Professor in the Department of Allied Health Sciences at the University of Connecticut. She has a strong interdisciplinary background in health equity, agricultural economics, public policy, and medical sociology. Her program of research focuses on reducing inequities in diet-related health outcomes by improving macro- and micro-level food environments through sustainable policy solutions. She conducts community-engaged and mixed methods research to examine: (a) the impact of food swamp environments on racial, geographic and socioeconomic disparities in diet-related health outcomes; (b) the potential of inclusive public policy processes (e.g., zoning) to prevent disparities in diet-related health status regardless of racial/ethnic minority and citizenship status; and (c) the influence of micro-level food environments (e.g., food pantries, family child care homes) on health risks in food-insecure populations, communities of color, and other historically marginalized groups.

Thomas Dahdouh

Attorney Advisor, Federal Trade Commission Chair Khan

Thomas Dahdouh is currently an attorney advisor to FTC Chair Lina Khan. From 2013 to 2019, he served as Regional Director for both the San Francisco and Los Angeles FTC offices. From 2012 to 2013, he was Assistant Regional Director for the San Francisco office. Before that, he worked for 14 years as a staff attorney in the San Francisco office, handling both consumer protection and antitrust matters. Previously, he worked at the FTC's Washington, D.C., headquarters for two Commissioners and served as a Counselor to the Director for both the Bureau of Consumer Protection and the Bureau of Competition. He also was on the Executive Committee of the California State Bar's Antitrust, UCL and Privacy Section from 2009 to 2015, holding the position of Chair of the Section from 2014-2015. He received his JD from Harvard Law School and his BA from Yale University.

Sophie D'Anieri

Graduate Student Researcher, University of Chicago

Sophie D'Anieri researches and writes about food, agriculture, labor, and climate issues across the Americas. She holds an MA in Anthropology from the University of Chicago and a BA in Environmental and Urban Studies from Bard College.

Isabelle Foster

Co-Founder, unBox

Isabelle Foster (she/her) is the co-founder of the youth-led organization, unBox. Formed in 2020, unBox is focused on addressing food insecurity through the lens of policy action, data analysis and youth activism. Isabelle is also an Impact Investing Specialist at the World Wildlife Fund and is passionate about the power of impact investing, policy, social entrepreneurship, and innovation for driving change in global nutrition, planetary health, the food system, and beyond. She graduated from Stanford in 2018 with her BA and in 2019 with her MA. In her free time, you can find Isabelle trying to grow a new variety of plant, attempting to learn a new language, or getting lost on a hiking trail.

Alan Guebert

Syndicated Columnist and Author

Alan Guebert was raised on an 800-acre, 100-cow southern Illinois dairy farm. After graduation from the University of Illinois in 1981, he served as either a staff or contributing editor at *Pro Farmer*, *Successful Farming* magazine, and *Farm Journal* before beginning his weekly column on agriculture and food politics and policy, the Farm and Food File, in May 1993. The column has won every award in agricultural journalism and continues to be published weekly in more than 50 newspapers in both the U.S. and Canada. Guebert and his wife, Catherine, reside in Madison, WI.

Gregory T. Gundlach

Coggin Distinguished Professor of Marketing, University of North Florida

Gregory T. Gundlach (PhD, JD) is the Coggin Distinguished Professor of Marketing in the Department of Marketing & Logistic at the University of North Florida and Senior Research Fellow at the American Antitrust Institute in Washington D.C. Before coming to the University of North Florida, Professor Gundlach was the John Berry, Sr. Professor of Business at the University of Notre Dame where he was a faculty member since 1987. Professor Gundlach's research interests focus on marketing and business relationships with particular emphasis on how such associations are managed, their performance, and the nature of business and public policy implications that may result. He has coauthored numerous books on marketing's interplay with society and his research has appeared in leading academic publications in marketing and related fields of public policy. Professor Gundlach has been recognized as among the *Top 50 Scholars in Marketing* based on average annual citations in the "top three" journals and as among the most prolific contributors to the *Journal of Public Policy & Marketing* since its inception.

Pete Hardin

Founder, *The Milkweed*

Pete Hardin's dairy journalism career spans 50 years. In 1979, Pete founded *The Milkweed*, a monthly dairy economics report. Hardin is a native of Sussex County, New Jersey. He earned a B.A. in English from Earlham College (Richmond, Indiana). Later, Pete gained a Master's Degree in Agricultural Journalism from the University of Wisconsin-Madison. Pete and his wife, Rachel, live in Oregon, Wisconsin. They have two "young adults," a son and a daughter. *The Milkweed* focuses on original, investigative reporting. Early in his publishing career, Hardin fended off a \$40 million libel suit – a "slap suit" designed to silence his reporting. Major subjects he's reported include: dairy cooperatives' financial misdeeds, antitrust issues, food mislabeling, and exposing the dangers of Monsanto's recombinant bovine growth hormone. For over 20 years, Hardin has warned about undue concentration in New England's fluid milk industry – his topic today.

Charlie Hoffs

Co-Founder, unBox

Charlie Hoffs (she/her) is a Stanford undergraduate senior studying Chemical Engineering, a field she chose in order to understand the science behind, and potential technical solutions to, human and planetary health challenges. Passionate about food sustainability and justice intersections, she wants to address the barriers that prevent millions of Americans from accessing healthy and affordable food. Charlie co-founded unBox, a youth-led organization working to unite and empower young people to fight U.S. food insecurity through research, policy advocacy, and community activism. She also serves as the Stanford Haas Center Affordability Issue Area Coordinator, and co-manages the nationwide Menus of Change University Research Collaborative (MCURC) Student Fellows program. She enjoys running, writing, outdoor trips, and collecting goofy postcards. Next year, she plans to pursue a Stanford M.S. degree in Community Health and Prevention Research.

Sachin Holdheim

J.D. Candidate, Yale Law School

Sachin Holdheim is a first-year student at Yale Law School focused on antitrust law, competition policy, and consumer protection. As part of the Thurman Arnold Project, he hopes to understand the ways in which technology alters long standing legal norms and how these changes may enable the creation of a new anti-monopoly, pro-consumer framework. Prior to law school, Sachin worked at the economic consulting firm Cornerstone Research, where he used economic and statistical analysis to support expert witness testimony for litigation in antitrust and finance cases. He graduated from UC Berkeley with degrees in Economics and Business Administration.

Qianxia Jiang

Ph.D. Candidate in the Department of Human Development and Family Sciences, University of Connecticut

Qianxia Jiang is a Ph.D. candidate in the Department of Human Development and Family Sciences at the University of Connecticut. Her research interests include exploring the factors that contribute to obesity-related disparity and inequities, examining the influences of built environments on health risks in marginalized groups, and applying this knowledge to inform research on community-based interventions to promote healthy living. She conducts interdisciplinary, translational, and collaborative research. Her research often involves the use of multi-method data. She is skilled in various quantitative methods such as regressions, structural equation modeling, and systems dynamic modeling.

Karissa Kang

J.D. Candidate, Yale Law School

Karissa Kang is a first-year student at Yale Law School. For much of her life, Karissa has been more interested in eating food than in researching it. She is grateful to Yale's Thurman Arnold Project for igniting her interest in food retail and competition law. At Yale, Karissa has served as a lead editor of the Yale Law & Policy Review. Her essay, "Anomalous Anatomies: How the TSA Should Screen for Transgender People," was published last year by the Nevada Law Journal. Karissa holds a B.A. in Classics & English from Emory University.

Claire Kelloway

Program Manager for Food & Agriculture Systems, Open Markets Institute

Claire Kelloway is the program manager for fair food and farming systems at the Open Markets Institute. She is the primary writer for Food & Power, a first-of-its-kind website, providing original reporting and resources on monopoly power in food and agriculture. She also oversees Open Markets' policy research into the legal underpinnings of corporations and market concentration in the food sector. Kelloway has written for outlets such as The Intercept, Civil Eats, The American Prospect, and ProPublica. She has appeared on NPR's "All Things Considered," Vox "FuturePerfect" videos, and numerous podcasts. Before joining Open Markets, Claire worked as a sustainability fellow with Bon Appetit Management Company and studied political economy at Carleton College. Kelloway lives and works in Minneapolis, Minnesota.

Benya Kraus

Executive Director, Lead for America

Benya Kraus is the Executive Director of Lead for Minnesota, an affiliate of Lead for America, where she was a co-founder. She serves on the board of directors of the Citizens League, was appointed to the Minnesota Young Women's Cabinet and the Governor's Workforce Development Board, and is involved in her community as a board member of the Waseca Area Foundation.

Riley T. Krotz

Assistant Professor of Marketing and AACSB Emerging Research Fellow, Texas Tech University

Riley T. Krotz, Ph.D. is an Assistant Professor of Marketing and AACSB Emerging Research Fellow at Texas Tech University. Riley's research explores retail and service marketing strategy, with a focus on the organizational frontlines and public policy. Riley's research has appeared in premier Journals such as the Journal of Supply Chain Management, the Journal of Public Policy & Marketing, and has been awarded over \$150,000 in grant funding. Riley was named the 2020 Matthew Joseph Emerging Scholar by the American Marketing Association DocSIG. Other recognitions include 2022 Best Paper Award by the American Marketing Association Retail and Pricing Special Interest Group, the Young Scholar Research Award by the Organizational Frontlines Research Interest Group, the Dr. Marva Rudolph Award for Diversity, Equity, and Inclusion, the Chancellor's Award for Extraordinary Professional Promise, the Haslam College of Business Excellence in Research Award, the PowerUp JAX Innovation Grant, and the Innovation in Education Award.

Robert LaValva

Placemaking Consultant and Creative Director

Robert LaValva is a placemaking consultant and creative director who builds connections between food systems, economic development, and public space. He trained as an architect at the Harvard Graduate School of Design and began his career in New York City, where he helped create and implement the nation's largest urban composting program. In 2005 he established New Amsterdam Market, a reinvention of the public market dedicated to promoting sustainable food businesses and revitalizing New York's oldest commons, on the East River waterfront in lower Manhattan. Robert works with government organizations, cultural institutions, and the private sector. His clients include the New York City Economic Development Corporation; The Thomas Jefferson Foundation (at Monticello); the Durst Organization; and the Lower Manhattan Cultural Council.

Christopher R. Leslie

Chancellor's Professor of Law, University of California Irvine School of Law

Christopher Leslie is a Chancellor's Professor of Law at the University of California Irvine School of Law. Professor Leslie received his J.D. from UC Berkeley, his M.P.P. from the Kennedy School of Government at Harvard University, and his B.A. in Economics and Political Science from UCLA. He has been a Visiting Professor of Law at Stanford, NYU, and Texas. Professor Leslie authored *Antitrust Law And Intellectual Property Rights* (Oxford University Press, 2011). He co-authors *IP And Antitrust: An Analysis Of Antitrust Principles Applied To Intellectual Property Law* (3rd ed. 2016 with annual supplements). He is also a co-author of *Antitrust Law, Policy And Procedure* (8th ed. 2019 with annual supplements). Professor Leslie has published over 50 scholarly articles, including in the flagship law reviews at Columbia, Berkeley, the University of Pennsylvania, Georgetown, Cornell, Vanderbilt, Duke, Northwestern, Texas, and UCLA, among others. He is among the Top 5 Most-Cited Antitrust Professors in the United States.

Nathan Miller

Saleh Romeih Associate Professor, Georgetown University McDonough School of Business

Nathan Miller is the Saleh Romeih Associate Professor at the Georgetown University McDonough School of Business and an editor at the Journal of Law and Economics. His research covers topics in the fields of industrial organization and antitrust economics, with a recent focus on collusion and the competitive effects of mergers. Prior to joining Georgetown University, Professor Miller served as an economist at the U.S. Department of Justice, where he provided economic analysis for antitrust investigations. He holds a Ph.D. in economics from the University of California, Berkeley and a B.A. from the University of Virginia.

Charlie Mitchell

Journalist and Researcher

Charlie Mitchell is a journalist and researcher with a BA in Food Systems from Middlebury College. His work has been published by Vox, The New Republic, Mother Jones, and other magazines and websites.

Lela Nargi

Freelance Journalist

Lela Nargi is a Brooklyn, NY-based veteran freelance journalist covering the food system, social justice issues, science/environment, and the places where those topics intersect for *The Guardian*, *Civil Eats*, *City Monitor*, *JSTOR Daily*, *Hakai*, and *Ensi*, among other outlets; she's currently contributing writer for *The Counter*. Her work has been recognized by The Aspen Institute, the Society for Environmental Journalists, and the Food and Environment Reporting Network (FERN) and reprinted in outlets like *Slate*, *Salon*, *Eater*, and PRI. She's the recipient of a Fromson Fellowship (2019), in which she explored technological agricultural advances in Israel's Negev; 2021 keynote speaker for the Northeastern Indiana Local Food Forum & Expo; presenter at the Solutions Journalism Network; and a regular radio guest. She's also the author of science books for kids, on topics such as honeybees, space, volcanoes, dinosaurs, and ecosystems. You can find her at lelanargi.com and [@LelaNargi](https://www.instagram.com/LelaNargi); find her clips at <https://lelanargi.contently.com/>.

Connor Nolan

J.D. Candidate, University of Arizona James E. Rogers College of Law

Connor Nolan is a third-year law student at the University of Arizona James E. Rogers College of Law. A native of Iowa, Connor sees first-hand the impact of broken food retail markets when he returns home. Whether it be the continual growth of dollar stores in his hometown or driving across Iowa towns where dollar stores are the only stores remaining, these effects are ultimately what motivates his research. Connor previously presented at the 2021 Big Ag & Antitrust Conference and is once again looking forward to joining the discussion on how to reform America's food markets.

J. Noven

Executive Director, The Berkeley Student Food Collective

J. Noven is deeply committed to collective governance & action, and has spent the last 6 years cultivating both while managing a volunteer-run, retail grocery store. The Berkeley Student Food Collective, where they serve as Executive Director, is one of the largest student communities at UC Berkeley, the cheapest grocery store in the Bay Area's poorest neighborhood, & increasingly a site of militant structure-based organizing education & practice. Noven also organizes for community ownership as contract staff at the Network of Bay Area Worker Cooperatives, is a Justice Democrats Movement School Fellow, a co-founder of Monterey County's winning municipal reinvestment campaign Community Before Cops, and wrote two theses on retail cooperative development at UC Berkeley.

Sean O'Brien

Lecturer in Cybersecurity & Visiting Fellow, Yale Law School

Sean O'Brien is a lecturer in Cybersecurity at Yale Law School and a Visiting Fellow at the Information Society Project, where he founded and leads the Privacy Lab initiative.

Angelina Polselli

Policy Team Lead, unBox

Angelina Polselli (she/they) is a recent graduate from University of San Francisco (21'), with a major in Politics and a minor in Public Service & Community Engagement. Throughout her life, Angelina has been fascinated about the raw political power that we all possess on an individual level and how we choose to leverage that power. In April 2020, Angelina joined the dynamic and always inspiring team of unBox as the Policy Team lead to help address the growing food insecurity in communities and brainstorm ways to make long lasting change to the food system. Working now for a private equity and real estate firm, Angelina is exploring ways in which development can help innovative ideas flourish. Outside of work, Angelina loves finding new music, painting old articles of clothing, and exploring new recipes.

Clint Rainey

Journalist

Clint Rainey is a journalist who covers food and agriculture for national media outlets. He is a contributor to *Fast Company* and *Businessweek*, and has written for *MIT Technology Review*, *The Atlantic*, *The New York Times*, and *Wired*. He previously covered politics, health, and food for *New York Magazine*, where his teams won National Magazine and James Beard awards. His radio appearances include Marketplace and several WNYC shows, and he has been anthologized twice in the *Best American* book series. He's also been a U.C. Berkeley-11th Hour Food and Farming Fellow and a McGraw Business Journalism Fellow. Raised in Texas, he received his master's degree in religious studies and journalism from New York University.

Bruno Renzetti

LL.M. Candidate & Ph.D. Candidate, Yale Law School & University of São Paulo

Bruno Renzetti is a LL.M. candidate at Yale Law School and a PhD candidate at University of ASf (Brazil). Prior to attending Yale, Bruno was an associate in a law firm in São Paulo, where he worked on antitrust cases before the Brazilian Council for Economic Defense. Bruno is also a Professor at Insper and IBMEC, both in São Paulo. Bruno earned his LL.B from the Federal University of Paraná and his Master's degree from FGV Direito SP.

Eric Schlosser

Author

Eric Schlosser is the author of the books *Fast Food Nation*, *Reefer Madness*, and *Command and Control*, a finalist for the Pulitzer Prize for History. He's also helped to produce the films *Food, Inc.*, *Food Chains*, *Hanna Ranch*, *Command and Control*, *The Bomb*, and *There Will Be Blood*. He is working on a book about American prisons and jails.

J.D. Scholten

Senior Advisor, American Economics Liberties Project

J.D. is a former professional baseball player and two time congressional candidate in Iowa's 4th district. He is a 5th generation Iowan; first generation to be raised in town. He continues to be an advocate for rural communities. Currently, he serves as a Sr. Advisor at the American Economics Liberties Project.

Errol Schweizer

Food Retail Entrepreneur, Ex-Whole Foods V.P. of Grocery

Errol Schweizer was born in The Bronx, New York and has over 25 years of experience in the food industry, from grill cook and stock clerk to V.P. of Grocery at Whole Foods from 2009-2016. In that role, his team grew sales to over US\$5 Billion by supporting the launch and commercialization of thousands of local products and emerging brands. He has extensively developed plant-based, Organic, Non-GMO and regenerative meat and dairy supply chains and production standards. Supermarket News has recognized Errol with a Retail Game-changer award and he received a Lifetime Achievement Award from Hemp Industries Association. Since 2016, he has been a Board Member, Co-Founder and Advisor to over two dozen food retail and CPG enterprises. He is active in municipal food policy and healthy food access. Errol is a Forbes contributor and is the host of The Checkout Podcast. Follow him on IG @grocery.nerd & @thecheckoutradio and Twitter @grocery_nerd & @checkoutradio.

Sandro Steinbach

Assistant Professor in the Department of Agricultural and Resource Economics, University of Connecticut

Dr. Sandro Steinbach is an Assistant Professor in the Department of Agricultural and Resource Economics at the University of Connecticut. Dr. Steinbach earned his BS degrees from Humboldt University of Berlin and his MS degrees from Humboldt University of Berlin and the University of California, Davis. He completed his doctoral studies in Economics with the Center for Economic Research at the Swiss Federal Institute of Technology in Zurich, Switzerland. Sandro is interested in international economics with a focus on agricultural and food trade. He conducts collaborative and interdisciplinary research at the crossroad between applied economics and data science, focusing on agriculture and the environment. His research efforts center around the fields of international, health, and environmental economics.

Matt Summers

Law Clerk for Judge Saris, U.S. District Court for the District of Massachusetts

Matt is a current law clerk for Judge Saris on the U.S. District Court for the District of Massachusetts. During law school, he founded the Harvard Law School Antitrust Association and was on President Biden's antitrust policy team for the 2020 general election. His antitrust-related publications include "Facebook Isn't Free" in Behavioural Public Policy and "Rebuilding Antitrust Amidst Forced Arbitration" in the Harvard Civil Rights-Civil Liberties Law Review. Outside of law, Matt is the founder and Board Chair of Debate Spaces, an education non-profit that helps middle schoolers from dozens of countries build public speaking and activism skills.

Zaakir Tameez

J.D. Candidate, Yale Law School

Zaakir Tameez is a first-year student at Yale Law School. He is interested in antitrust law, consumer protection, and plaintiff's side litigation. Previously, he received a master's degree in law and economics as a Fulbright Scholar at Queen Mary University of London - where he studied European Union law and published law review articles on anticompetitive agreements in the pharmaceutical industry. He graduated from the University of Virginia with degrees in Economics and Political & Social Thought.

Ricky Volpe

Associate Professor in Agribusiness, California Polytechnic State University

Ricky Volpe was born and raised near Boston, Massachusetts. After finishing his Ph.D., he spent four years working as an economist at the USDA Economic Research Service in Washington DC. While there he researched a variety of topics, including food price formation, competitiveness in the food industry, and the healthiness of grocery purchases in the U.S. Ricky was also responsible for forecasting retail food price inflation at the national level. Now at Cal Poly, Ricky teaches courses on food retail and supply chain management, transportation and logistics, and data analysis. He also maintains an active research agenda using a variety of large scanner data sets to study issues related to market structure, firm performance, food prices, consumers' food choices, and health outcomes. He also works closely with industry leaders in food retailing, wholesaling, and distribution to facilitate collaboration on public-private partnerships, student internships, and scholarships.

Ellen Walsh-Rosmann

Director of Wellness, Food Service and Nutrition, Harlan Community Schools

Ellen Walsh-Rosmann is a graduate of Iowa State University and farms with her husband, Daniel, and his family in Harlan, Iowa. They farm 700 acres of certified organic corn, soybeans, small grains, popcorn, alfalfa and pasture. They also raise certified organic beef, pork and egg layers, that they sell through diverse markets, including grocery stores, food hubs, restaurants and direct to consumers. Ellen also owns a local food hub called FarmTable Procurement & Delivery that works with small farms from Iowa and Eastern Nebraska aggregate and deliver their products to wholesale markets. Ellen and Daniel also own Milk & Honey, a farm to table restaurant in Harlan, that serves meat and eggs from their farm as well as area producers' vegetables and dairy. Since the pandemic, Ellen assumed the position of Director of Wellness, Food Service and Nutrition at Harlan Community Schools. She is passionate about the food system, revitalizing rural America and food justice work.

Kyle Winterboer

M.P.P. Candidate, University of California Los Angeles

Kyle Winterboer (he/him) is a Master of Public Policy candidate (2022) at UCLA focused on sustainable food system policy. Kyle's passion for food system reform stems from his rural upbringing on an Iowan farm and his time in Los Angeles pursuing a music degree in Tuba Performance and subsequent CA State Waste Management Certifications. With unBox since March 2021, he strives to bridge the urban rural divide that persists in policy making despite both communities facing similar problems like rampant food waste and food insecurity. When Kyle isn't researching local food procurement or the privatization of seed genetics, he enjoys gardening and swinging on the trapeze, albeit not at the same time! In support of his research, Kyle thanks the UCLA Fielding School of Public Health's Food Studies Graduate Certificate Program, the National Science Foundation's Research Traineeship Program centered on Innovation at the Nexus of Food Energy and Waste Systems (INFEWS), and the UCLA Luskin School of Public Affairs.

Abstracts for Panel 1: Meat & Dairy

The Northeast Dairy Dilemma: How to Regulate a Firm with an 85% Market Share of Conventional Milk Processing?

Pete Hardin

During the 40-plus years, I have reported dairy economics and related industry trends in *The Milkweed*, a troubling national trend has been consolidation of fluid milk processing. New England features the nation's most concentrated fluid milk sector. I estimate one firm controls at least 85% of all packaged fluid milk distributed in Massachusetts, Connecticut, Rhode Island, southern New Hampshire and southern Maine. That level of concentration disadvantages all other parties in the farm-to-consumer supply chain: dairy farmers, retailers, competing fluid milk processors, and retailers.

For my presentation, I would propose to:

- Briefly detail the history of fluid milk concentration in the nation, with an emphasis on the New England market.
 - For decades, the Antitrust Division of the United States Department of Justice has literally looked the other way on fluid milk mergers and acquisitions.
 - In the late 1990s and early 2000s, Suiza Foods acquired numerous New England fluid processors.
 - In 2001, DOJ Antitrust allowed Suiza Foods to acquire Dean Foods – the unholy marriage nation's two largest fluid processors. That merged entity then operated as "Dean Foods."
 - Dean Foods continued its buying spree, though burdened by massive debt and poor financial performance. In November 2019, Dean Foods declared bankruptcy.
 - Through bankruptcy, ownership of the vast majority of Dean Foods' milk plants shifted to Dairy Farmers of America. (DFA is the nation's largest milk producers' cooperative). DFA already owned two significant fluid milk processors in New England: Guida Dairy (Connecticut) and Oakhurst Dairies (Maine). DFA's numerous, anti-competitive predations have enmeshed that co-op in numerous private lawsuits. DFA is vertically-integrated -- as the nation's largest milk producers' cooperative and largest fluid milk processor.

I compliment the Conferences end goal – to focus on solutions. I would propose:

- The six Attorneys General in New England convene a Dairy Antitrust Task Force to investigate the farm-to-consumer margins and possible anti-competitive actions in the region's milk industry. (Years ago, economist Dr. Ron Cotterill at UCONN conducted research on farm-to-retail margins in Connecticut. Cotterill is now retired, but his research model would still be valid.)

- DFA be custom-fitted with a revived, modern version of the Consent Decree forced by the DOJ's Antitrust Division upon the cooperative owners of H. P. Hood in the early 1980s. The key provision in that Consent Decree required that the co-op's sales of farm milk to fluid processors competing with H. P. Hood be priced on the same terms as milk sold to Hood. Equalization of costs for fluid processors is a critical competitive balance.
- Rules of the Northeast federal milk order be amended to terminate so-called, "Pooling Requirements." Those requirements specify that handlers buying farm milk within the Northeast region must sell a certain percentage of their total milk supply for the fluid market. But with one firm holding an estimated 85% (or more) of fluid milk sales in New England, the few, remaining smaller marketers of farm milk must kow-tow to the giant firm.
- A "Ma Bell"-type solution be brought against Dairy Farmers of America ... i.e., break down the co-op into its seven operating regions. Further, such a break-up should require:
 - No common ownership of the dairy processing businesses.
 - No common management or directors between regions.
 - No common indebtedness between or among the separate operating regions.
- Finally, 2022 is the 100th anniversary of the federal Capper-Volstead Act – the federal law that gives agricultural cooperatives special powers in the market place. At the 100-year mark, in my opinion, it's time to review and modernize that law – perhaps to limit the cooperative's functions strictly to the assembly, transportation and sale of raw agricultural products.

Buyer Power in the Beef Industry

Nathan Miller, Francisco Garrido, Minji Kim & Matthew Weinberg

Agricultural supply chains in the United States often feature market interactions between farmers – of which there are hundreds or thousands – and large agribusinesses that process the product and distribute it to domestic retailers and wholesalers or export it abroad. To what extent do transaction prices reflect the marginal value of farmers' product, as they would in a competitive market, and to what extent do agribusinesses exercise oligopsony power to depress payments to farmers?

We study these questions in the context of the beef industry. The supply chain features ranchers that raise calves to 600-700 pounds, feedlots that bring the cattle to about 1250 pounds, and beef packers that slaughter the cattle and sell beef downstream. We focus on the transactions between the (many) feedlots and the (few) beef packers that purchase their product. The bulk of these transactions historically have occurred in auction barns that we refer to, collectively, as the cash market. However, especially recently, feedlots and packers have employed so-called formula contracts. These contracts provide assurance to feedlots that they can sell their cattle at the appropriate time, and help ensure a steadier supply of cattle to packing plants. Payments in the formula contracts are pegged to realized cash market prices around the time that the cattle change ownership.

We start with a model in which each packer operates one or more spatially-differentiated plants, and set cash market prices to feedlots, taking as given its marginal costs of production and downstream prices for beef. We allow for discriminatory cash market prices, in the sense that packers can adjust their prices based on the locations of the feedlots and the locations of their competitors. The packers also take into account the quantity of cattle that they have committed to purchase with formula contracts. This creates a distortion in pricing incentives: by reducing prices in the cash market, a packer can also reduce payments on formula contracts. We show that the magnitude this distortion is multiplicative with the packer's market share. The downward pressure that formula contracts exert on the prices paid to feedlots is greater, the greater is the market concentration among packers.

We estimate the model with aggregated data on market outcomes over 2005-2019, such as region- level average prices and total purchases. We also make use of data from the Census of Agriculture on the location of cattle (in feedlots) and proprietary data on the location and capacities of packer plants. As plant-level prices and quantities are unavailable, we apply the nonlinear least squares approach of Miller and Osborne (2014 RAND). At our point estimates, the model obtains the aggregate market-level outcomes that we seek to match, and also fits out-of-sample outcomes that are withheld from estimation. Our results inform the magnitude of the markdowns that packers impose on feedlots. In counterfactual analyses, we explore the implications of formula contracts, buyer concentration, and mergers among packers on market outcomes. We also examine regulatory approaches that have been proposed to limit the buyer power of packers.

Trouble in the Safety Zone: Information Sharing in the Meat Processing Industry

Sachin Holdheim & Zaakir Tameez

Beginning in 2008, poultry prices dramatically increased and have remained high in the fifteen years since. Many allege that these high profits are artificially maintained by a business cartel. This cartel is alleged to be partly enforced by an information sharing regime maintained using data furnished by the privately-held data analytics company Agri Stats. Agri Stats buys and sells highly detailed information from firms across the meat processing industry, including 97% of all firms in the domestic poultry industry. The company's data includes animal sizes, bird hatching patterns, financial returns, and product mixes for each participating firm, down to the level of their individual plants.

Agri Stats argues that its data sharing scheme does not violate antitrust laws because the data is historical and anonymized. However, much of Agri Stats' historical data includes information on input products that directly corresponds to future production. Agri Stats also does little to ensure that meat producers cannot reidentify so-called anonymized data.

Meat producers and Agri Stats have been named in nearly 100 lawsuits in the past five years. Yet the information exchange facilitated by Agri Stats is generally immunized from enforcement by the FTC and DOJ. Since 1996, the agencies have applied a "safety zone" analysis where they will not, in general, challenge an information exchange that meets three characteristics thought to discourage anticompetitive behavior. This safety zone is defined by three factors:

1. The exchange is managed by a third-party, like a trade association;
2. The information provided by participants is more than three months old; and
3. At least five participants provide the data underlying each statistic shared, no single provider's data contributes more than 25% of the "weight" of any statistic shared, and the shared statistics are sufficiently aggregated that no participant can discern the data of any other participant.

This paper argues that all three of the agencies' safety zone factors are outdated in light of modern data sharing capabilities and behavior. The paper proposes three reforms to the agencies' information exchange guidance. First, the agencies should remove the third-party management factor. Third-party data brokers, such as Agri Stats, may have sufficient economic incentives to promote collusion across clients. Second, the agencies should qualify that the exchange of historical data should not include data on inputs that directly correspond to future production, such as Agri Stats' disclosure of the number of egg-laying hens in each plant. And finally, the agencies should issue specific guidelines on when data is considered appropriately anonymized – as foreign regulators, such as those at the European Commission, have already done.

By reforming the “safety zone” analysis, the FTC and DOJ can better disincentivize information-sharing collusion – not only in the meat processing industry, but across the entire economy as well.

Abstracts for Panel 2: Competition Issues

The Impact of Food Retail Mergers and Acquisitions on Food Prices and Food Access: Evidence from California

Ricky Volpe, Xiaowei Cai, Benjamin Scharadin & Alexander Stevens

The food retailing industry has become increasingly consolidated in recent decades, via a wave of mergers and acquisitions that continues to this day. Relatively little is known about the economic impacts of these mergers and the ongoing structural changes in the industry. Economic theory suggests that increased market concentration results in higher prices due to the increased application of market power, and that mergers may result in diminished food access due to decreases in store counts. Our research, which is a collaboration with the USDA Economic Research Service, uses proprietary Nielsen and IRI store-level data to investigate these potential impacts in the wake of the 2014 Albertsons-Safeway merger. Using shopping basket prices calculated annually and at the store level, we employ a difference-in-difference framework to investigate price impacts in California, the state featuring the highest concentration of supermarkets involved in the merger. We find that the merger resulted in significantly higher food prices at stores involved in the merger, but had no statistically significant impact on competing stores. To investigate impacts on food access, we calculate county-level measures of food access using the USDA Food Access Research Atlas and we combine this with per-capita merger store counts. We find that, according to 81% of the USDA metrics available, food access worsened in counties affected by the merger, relative to those unaffected. We discuss practical and policy implications of our findings.

Local Producer Strategies to Combat Exclusionary Slotting Fees in Grocery Retail

Charlie Mitchell & Sophie D'Anieri

New food producers looking for a chance to put their product on the shelf in a retail store often face a crucial and under-discussed barrier: slotting fees. Grocery retailers have long charged flat rates per product to new brands, which entrenches incumbent products sold by the largest manufacturers and limits entry for small, local food producers. Experts charge that these slotting fees are the highest revenue driver in grocery retail, claiming that at some supermarkets, “every inch of shelf space is bought and paid for.” This paper investigates the following questions: How do slotting fees reproduce corporate control of the food system? How do small food producers – particularly female and POC-owned businesses with a focus on regional food economies, equity, environmental sustainability, and alternative ownership models like cooperatives – experience these slotting fees as an important obstacle to building a profitable business? In exploring these problems, we unravel the landscape of solutions propelled by small food producers, such as supermarket negotiation strategies, legal action, coalition-building, and partnerships with independently-owned grocery stores. Through a series of qualitative interviews with small-scale food producers across the United States, we explore the creative solutions that our interlocutors employ in order to challenge corporate domination in grocery stores. This article illuminates the workings of corporate power in the food industry from a new perspective while proposing practical solutions towards a more equitable and diverse regional food network in the United States.

Anticompetitive Challenges in America's Food Retail Industry: The Power of Category Captains

Riley Krotz & Gregory Gundlach

Category management is a common yet controversial marketing practice wherein the products of a food retail establishment are divided up into categories (e.g., meat, produce, soft drinks, condiments, etc.) and then managed as if each category were a free-standing business. The most popular approach to category management involves outsourcing category decisions to a single, often leading or dominant manufacturer in a category. Through their role, the “category captain” (hereafter “CC”) offers its resources in return for the ability to influence decisions in the planning and management of a food retail category – including those involving rival competitors. As competition policy and law focuses on the ability of market participants to adversely affect the competitive process, the status of some CCs and the breadth of their influence has caused anticompetitive and antitrust concerns.

Both retailers and manufacturers have expressed fear that a powerful CC may act opportunistically and favor their own brands at the expense of rival manufacturers and the broader category. These challenges have been exacerbated by the increased diversity of retail channels and associated technologies used by food retailers. Thus, the ability of CCs to distort competition and harm consumers has attracted the attention of public policy officials and competition enforcement authorities (e.g., the FTC, the European Commission, and the United Kingdom Groceries Code Adjudicator). These investigations have led to calls for increased scrutiny of powerful CCs and their competitive and consumer consequences.

An important threshold question in competition-based forensic investigations and legal analyses involving CCs is whether they possess enough market power to adversely affect competition. Where this power is low, harm to competition and consumers is considered unlikely. However, where this power is high, there exists the potential that a CC could distort competition and harm consumers in significant ways. Accordingly, investigations and lawsuits involving allegations of CC misconduct can hinge on the question of market power. We address these dual needs by investigating and elaborating on the nature and sources of the two types of power that have been identified to confer power to a CC – horizontal market power and vertical interfirm power.

Our research develops and offers an organized basis for identifying and understanding the different types and sources of CC power and their interaction. We then provide an informed approach and conceptual framework that can be applied in forensic analyses and legal investigations of CC power to identify circumstances where a CC possesses the power to distort competition and harm consumers. We also organize and describe multiple approaches and strategies for managing the power held by a CC, including both structural and behavioral approaches that may be employed by food retailers and competition enforcement officials to maximize the benefits of CC arrangements while safeguarding against anticompetitive concerns associated with a powerful CC. Together, our efforts contribute to the growing body of literature that advances understanding of category management involving CC arrangements in public

policy and marketing. We conclude by discussing the implications of our work for public policy, food retail, business practice, and future research.

Anticompetitive Challenges in America's Food Retail Industry: The Power of Category Captains

Claire Kelloway & Matthew Jinoo Buck

After the COVID-19 pandemic disrupted food supply chains, many food policy experts promoted more structurally diverse and regional food systems as a solution for improving resiliency. Indeed, for decades scholars and activists have touted the benefits of more regional, democratic, and community-driven food systems for the environment, rural economies, and communities excluded from or exploited by the current U.S. food system, which is largely controlled by a shrinking number of corporations, financiers, and wealthy white families.

While direct-to-consumer food sales, such as farmers' markets or community-supported agriculture, have grown over the past few decades these channels remain marginal, accounting for just 0.7% of all food sales in 2017. Community-based food businesses need greater market access to the outlets where most people buy and consume food: grocery stores, restaurants, and institutional cafeterias within schools, universities, businesses, and other venues.

Consolidated food manufacturers and equally consolidated retailers abuse their market power to corner these key retail and food distribution markets. This paper will examine the effects of one of these unfair tactics: exclusionary payments. Dominant food vendors can offer retailers incentives or penalties for not dealing with rivals or limiting business with them, such as offering rebates tied to reaching a set sales volume or a portion of all purchases. Using qualitative data from interviews with food retail professionals, industry studies, and academic research, we will analyze both the prevalence of exclusionary discounts in food retailing and the barriers they may pose to market access for new, small, or community-based food businesses.

Our preliminary research suggests that discounting schemes in foodservice management have more de facto exclusionary characteristics than trade promotions in the grocery sector. As exclusionary payments become a key revenue stream in the foodservice management business model, dominant firms can corner the lion's share of their food spending. Policymakers have several legislative and administrative options to contain exclusive arrangements.

Abstracts for Panel 3: Legal Issues

Covenants Not to Sell Groceries

Christopher Leslie

Millions of Americans live in food deserts, a term that describes urban neighborhoods and rural regions where residents do not have access to healthy, affordable food. Food deserts are neither natural nor inevitable. They result from the deliberate choices of supermarkets to maximize their profits by shifting resources from inner cities to the suburbs, while using covenants to block other grocery stores from operating in the supermarkets' abandoned locations. This Article examines the history, business logic, and illegality of these corporate decisions.

In many ways, food deserts are a tale of two covenants: racial covenants and anticompetitive covenants. During the era of white flight, racial covenants restricted ownership of suburban property to white families, and their lingering effects prevented Black families from moving to the suburbs. Supermarkets followed white families out to the new suburban communities. Not content simply to expand into new locations in the suburbs, many supermarket chains abandoned their inner-city stores. When they sold these locations, many supermarkets imposed covenants in their deeds of sale that forbade any future owner from operating or allowing a supermarket at that location for several decades. These anticompetitive covenants prevented any other large grocery store from serving the nonwhite families left behind in the neighborhoods that the departing supermarkets had abandoned. This one-two punch of hemming nonwhite families into certain neighborhoods and then preventing supermarkets from existing in these same neighborhoods devastated the physical health of racial minorities and the economic health of their communities.

Using antitrust principles as a lens, this project explains why covenants that block businesses from selling food are akin to racial covenants and those covenants against competition that are generally unenforceable. Restrictive covenants that run with the land pose a greater anticompetitive threat than garden-variety conspiracies in restraint of trade that courts routinely condemn as *per se* illegal. Yet, courts fail to appreciate the significance of anti-supermarket covenants because judges define markets too broadly based on the attributes of an "average" consumer: wealth and mobility. Consequently, these covenants result in millions of Americans, especially nonwhite families from having access to healthy, affordable food.

The policy solution is straightforward: courts and legislatures should treat covenants not to sell food or groceries as inherently unreasonable. This project will present the relevant law of covenants, situate covenants not to sell groceries in this body of law, and explain why these covenants should be unenforceable. Because of the vestiges of residential segregation, covenants not to sell groceries often operate as *de facto* racial covenants. This should inform the legal analysis of these covenants. Empirically, the expiration of these covenants increases access to food. The wholesale invalidation of these restrictive covenants will hasten this process. The

project will propose legislation as well as provide a roadmap for courts evaluating these covenants.

How to Stop Stop & Shop's Anti-Competitive Land-Acquisition Tactics

Karissa Kang

Ordinarily, it would be financially imprudent for a company to buy a vacant parcel of land for the purpose of keeping it vacant. But Stop & Shop has relied on this tactic as an investment strategy to block competition. For over a decade, Stop & Shop has been purchasing vacant properties that are close to its own stores and well-suited to the sale of groceries. Instead of moving into these properties, however, the company has either kept them empty or sold them with deed restrictions that prohibit the sale of produce, dairy, meat, and other groceries. Stop & Shop is not alone in using this tactic. Giants like Walmart have employed similar land-acquisition tactics to suppress competition. Thus far, the strategy has paid off handsomely for the supermarkets that employ them.

Unfortunately, Stop & Shop's land-acquisition tactic has harmed other parties in at least three respects. First and most immediately, Stop & Shop's tactic has prevented competing supermarkets from operating nearby. Second, and as a result of the first harm, the company's tactic has severely curtailed options for consumers who wish to buy cheaper or alternative goods. Third, Stop & Shop's tactic has hurt businesses other than supermarkets. The company's practice of keeping lots vacant has tended to leave shopping plazas devoid of an anchor store. The smaller retailers in the plaza are thus bereft of consumer foot traffic, and, consequently, some of these retailers have gone out of business.

Because of these harms, in 2010, Connecticut residents called for the state's Attorney General to investigate Stop & Shop. Upon review, however, the Attorney General determined that Stop & Shop's actions did not violate state antitrust laws. Since then, Stop & Shop has continued to use its anti-competitive land-acquisition tactics across Connecticut and Massachusetts. In this paper, I will explain why various laws – including the Connecticut Antitrust Act, the Sherman Act, and the Federal Trade Commissions Act – have failed to curb Stop & Shop's anticompetitive tactic. In light of such failure, this paper will propose a new set of legal rules that could effectively prevent companies like Stop & Shop from using land-acquisition tactics to reduce competition.

(Anti)Trust but Verify

Matt Summers

The central tool antitrust regulators have to fight for consumers, consent orders, needs to be strengthened. The FTC's consent order in the Safeway-Albertsons grocery merger highlights a necessary reform. This article advocates for creating a private right of action to enforce agency consent orders, analyzes corresponding effects on food retail markets, and outlines three paths forward.

The FTC's Safeway-Albertsons order illustrates the ineffectiveness of many consent orders. Senator Elizabeth Warren observed that “[e]ven when companies meet conditions, like selling off some assets, they sometimes just turn around and buy back the same assets they originally sold off. . . . [When] Albertsons was allowed to merge with Safeway[,] the divested parts of the business declared bankruptcy, and the bigger compan[y] just bought back part of the compan[y] they sold off.” This type of non-compliance is dangerous because the overwhelming majority of enforcement actions result in consent orders.

Creating a private right of action to enforce consent orders would enable more vigorous protection of consumers like Safeway-Albertsons shoppers both ex ante and ex post. Ex post, private action reduces reliance on the agencies. Too often, under-resourced agencies cannot maintain sufficient monitoring or initiate enforcement actions for consent order violations. A private right of action would allow affected companies and consumers to identify and punish violations without drawing down agency resources. Creating a private right of action also fosters more consumer-protective consent orders ex ante. Enforcing consent orders can be so challenging that agencies sometimes unilaterally abandon certain types of conditions. For example, former Assistant Attorney General Makan Delrahim renounced the use of behavioral remedies entirely. Making enforcement easier shifts the agency's cost-benefit calculus by reducing the cost of enforcement, which incentivizes negotiating more ambitious consent orders.

There are three paths forward. First, in the status quo, private plaintiffs may be able to bring suits for damages as third-party contract beneficiaries. This path is arguably foreclosed by precedent, but could become feasible if the agencies re-introduce third-party beneficiary language into orders. Second, the agencies could leverage civil penalties to incentivize private parties to do the heavy lifting for them. Whichever law firm identifies a violation or provides litigating support to help the agency bring charges could reap any civil penalties the agency wins. In Safeway-Albertsons, “each violation of [the] order [could trigger] a civil penalty of up to \$16,000 per day,” providing ample possible incentive for private parties to help the agency bring suit. Third, legislative changes could formally create a private right of action for any affected party. This reform would fit neatly into existing popular, bipartisan reform bills that seek to enhance agency enforcement muscle. Creating a private right of action would increase enforcement effectiveness without costing tax dollars.

Creating a private right of action for consent orders is especially important for regulating food retail markets. Some mergers may be necessary to ensure grocery availability in hard-to-serve geographies, but these same transactions could threaten competition elsewhere. For vulnerable

consumers, this issue has life-and-death consequences. Creating a private right of action for consent orders is an important step toward ensuring that these orders work for all consumers in all U.S. retail food markets – in other words, for all of us.

Digging In: Ethics and Disclosure in Food Retail Market Scholarship

Kate Conlow

Who writes food retail market scholarship and why? In this paper, I address the ethics of academic economic publishing and disclosure policies in the context of grocery and food retail market literature. Regulators, judges, elected officials, and academics rely on economic scholarship to guide competition and market-related decisions that impact the greater public. However, many economists consult for or receive research funding from corporations, and these financial ties can undermine the integrity of the scholarship when conflicts of interest are not disclosed. Recognizing the need for ethical standards, the American Economic Association implemented a disclosure policy in 2012, which has since been adapted by the Agricultural and Applied Economics Association. While these disclosure policies are a start, issues arise. First, even if the disclosure policies are fully enforced, they only apply to the associations' journals – not other academic publications. Second, these ethical guidelines were only implemented a decade ago, while much that has been written about competition in food markets precedes that date, leaving open questions of integrity. As a result, when authors are not forthcoming about their conflicts of interest, legal partitioners and policymakers may unwittingly advance private interests to the detriment of the public. This paper takes a closer look at private funding of scholarship and puts forth a solution to foster disclosure.

Abstracts for Panel 4: Issues for Low-Income Americans

Exploring Consumer Data Privacy and Retailer Competition Within the USDA's Supplemental Nutrition Assistance Program (SNAP) Online Purchasing Pilot **Isabelle Foster, Charlie Hoff, Angelina Polselli & Kyle Winterboer**

First established in 2014 but not widely rolled out until 2020, the Supplemental Nutrition Assistance Program Online Purchasing Pilot (SNAP OPP) was introduced by the United States Department of Agriculture (USDA) to allow SNAP beneficiaries to redeem SNAP benefits with online grocery retailers. Not only was the program meant to modernize SNAP to match recent grocery retail technology advances, but it also sought to expand food access for low-income shoppers living in areas with few physical grocery stores. However, rather than being an immediate panacea to US food insecurity, our research shows how SNAP OPP has raised a series of competition, public health, and consumer privacy concerns which must be addressed.

By examining how the current USDA SNAP OPP program guidelines leave latitude for retailers to violate the California Consumer Privacy Act, US federal digital privacy and anti-competition laws, and offerings from the European Union's General Data Protection Regulations, we seek to analyze and assess several of the emerging challenges surrounding SNAP OPP.

One of the initial concerns with the program has been limited competition amongst SNAP OPP retailers. To be able to participate, online grocers must first be approved by the USDA. This meant that for the majority of 2020, the only two approved retailers were Amazon and Walmart, and while smaller retailers were ready to join, they were largely barred from doing so due to stringent USDA regulations. While more stores have since been onboarded, we will show how ongoing retailer requirements act as barriers for smaller stores, preventing many from participating and reducing competition; locking out all but the largest retailers.

Additional concerns arise around advertising techniques and tactics. Targeted marketing, which has been previously studied in physical grocery stores, appears to have migrated to the online marketplace and may be exacerbated in this relatively unregulated frontier. This, compounded by questions about data privacy and data collection of SNAP users, are emerging areas of study and discussion that necessitate scrutiny and in some cases regulation. Our analysis assesses what protections are assured or lacking within the USDA's SNAP OPP legal documentation; to determine the degree to which it upholds and respects digital privacy; and to evaluate whether the tenants included by the USDA are sufficient for protecting customers' rights or what gaps might remain. By comparing digital privacy legislation under other jurisdictions in the United States as well as internationally, we will do a comparative analysis to assess where SNAP OPP falls along the spectrum of customer protection assurances and how it could be improved during this critical growth period.

Ultimately, by analyzing the SNAP Online Purchasing Pilot, we hope to highlight how the unregulated digital marketing practices in combination with barriers of entry into the program has created an Online SNAP food marketplace that lacks competition between retailers and may

not have proper safeguards to protect customers. These concerns pose serious concerns for equitable program issuance and need to be brought into line to better fit the USDA's ultimate goal of addressing food insecurity.

Hungry for Antitrust Enforcement: Retail Discounters and Food Deserts in America

Connor Nolan & Sandro Steinbach

The massive rise of discount dollar stores wreaks similar havoc from Haven, Kansas to Birmingham, Alabama. With dollar stores now accounting for nearly half of retail store openings in the United States, this paper uses qualitative and quantitative analytical methods to address critical questions starving for answers: What has fueled this historic growth? How do dollar stores affect the communities they enter? Finally, this paper seeks to address why antitrust law failed to curtail their growth and what role, if any, antitrust reform can play in fixing these failures. The dollar store playbook is straightforward: open stores in low-income areas, particularly those with limited access to transportation or where a person's rural location leaves them with no other nearby options. Using descriptive and regression analysis, our findings suggest dollar store entry into these areas has a significant effect on the exit of independent grocers. The exit of independent grocers who previously operated in these markets creates wide-ranging negative effects.

First, communities see a decline in the quantity and quality of jobs available to them. Data pulled from the National Establishment-Time Series (NETS) shows that food retail employment is significantly lower in census tracts where dollar stores have entered. This negative effect has increased over time, implying that dollar store entry has a delayed and amplifying adverse impact on food retail employment. Declines in the availability of employment give dollar stores monopsony power that they can use to push down employee wages and limit hours to less than full time, passing their health insurance bills to the federal government. Second, the physical well-being of communities is hurt by the entry of dollar stores. The bulk of ongoing research shows that dollar stores limit access to healthy food. Dollar stores provide a narrow range of canned and processed foods while selling little to no fresh produce. Third, farmers lose their ability to sell their products to independent grocers. The loss of these buyers may force farmers out of business or into contract farming for larger distributors.

Misguided federal antitrust policies have enabled the growth of dollar stores. President Biden's Executive Order on promoting competition should be construed as a green light to reform broken policy. Enforcement agencies should no longer narrowly define relevant markets as they have done with dollar stores, defined only as "discount merchandise retail stores." This narrow definition leads to dollar stores not being seen as competitors with independent grocers, even though the opening of a dollar store can lead to a 40% drop in sales for nearby grocers. Next, a revival of the Robinson-Patman Act would eliminate illegal competitive advantages dollar stores possess with their purchasing power. Changes to antitrust enforcement alone won't be enough to fix the dollar store system. Supplemental legislation will also be needed. Nonetheless, these changes are a starting point and would help prevent similar problems in other vital industries.

Associations Between Food Retail Market Concentration and Racial/Ethnic Inequities in Food Swamp Exposure from 2000 to 2019

Qianxia Jiang, Sandro Steinbach & Kristen Cooksey Stowers

Background: The market structure of U.S. food retailing is changing rapidly. This trend has significantly impacted retail competition and the healthfulness of consumer choices. Empirical studies show that concentration in the food retail market may influence individuals' access to grocery stores and supermarkets. Previous research also links neighborhood food swamps (i.e., geographic areas where relative access to less healthy food retailers is higher) to residential segregation and disparities in individuals' dietary behaviors and diet-related health outcomes. Yet, little is known about the relationship between market concentration, community racial and ethnic composition, and neighborhood food exposure. The purpose of this study is to assess how changes in food retail market concentration relate to racial and ethnic inequities in food swamp exposure over time.

Methods: We analyzed food retail establishment data for 69,972 census tracts spanning all U.S. states from the National Establishment Time-Series (NETS) from 2010 to 2019. The Herfindahl index of concentration (square sales share of all food retail-related establishments) and components of the Herfindahl index by establishment groups (square sales shares by food retail industry types) were calculated at the census tract level to assess market structure changes. Tract-level food swamp exposure was measured based using the Modified Retail Food Environment Index (mRFEI), reflecting the relative availability of healthy to less-healthy food at the census tract level. The race and ethnicity proportion and control variables (i.e., population, education attainment, poverty rate) were obtained from the American Community Survey for 2010 to 2019. Linear regression models that control for unobserved time-invariant heterogeneity and time-variant confounders with census tract and state-by-year fixed effects were conducted to explore the associations between food retail market concentration and racial/ethnic inequities in food swamp exposure. Standard errors were clustered at the census tract level to account for arbitrary sources of correlation. Several robustness checks were conducted to ensure the validity of the research design.

Results: Our findings suggest that the concentration in U.S. food retail markets has increased substantially since 2010. Food swamps expanded over time in areas where food retail outlets with limited healthy food choices grew substantially and independent and grocery stores fell behind. We also find evidence for substantial spatial and temporal heterogeneity. Market concentration increased more in rural and low-income communities, which also experienced a substantial increase in food swamp exposure. The regression results show that the group Herfindahl index is negatively associated with mRFEI ($\beta = -.022$, $p < .05$, 95%CI = [-.038, -.005]). The proportion of Hispanic people was also negatively associated with mRFEI ($\beta = -.0002$, $p < .05$, 95%CI = [-.0003, -.00002]).

Conclusion: Our findings suggest that changes in U.S. food market concentration are associated with increased food swamp exposure. In addition, our results point to disparities in food swamp exposure by ethnicity (where census tracts with more Hispanic people have fewer healthy

food retailers than unhealthy ones) and rural status. This research may guide food systems planning and identify racial/ethnic minority neighborhoods burdened by inequitably built food retail environments. Competition policies play a crucial role in ensuring equitable access to healthy food, particularly in communities of color. U.S. food policies and economic incentives need to address the widening disparities in neighborhood food environments and foster an inclusive, healthy, profitable, equitable, and sustainable food system

Abstracts for Panel 5: Online Shopping

Smile! You're On Camera: Data Collection in Food Retailing Markets

Matene Alikhani & Bruno Renzetti

Surveillance capitalism is an undeniable reality in current society. The small device that we carry in our pockets tracks our geolocation, listens to our conversations and stores every other bit of personal information. Such behavior is commonly associated with the online environment and the constant tracing of clicks in digital advertising. There are few places in which the consumer may still feel self-reliant, safe from the eyes of big tech companies, and the grocery store is one of them. There is no apparent motive for the consumer to fear going to her favorite grocery store for weekly supplies – after all, it is an ordinary offline activity. However, the food retail market appears to be the next frontier for data collection. Amazon, the e-commerce behemoth, is pursuing a somewhat paradoxical goal: establishing a brick-and-mortar presence in the retail grocery space.

Following the acquisition of Whole Foods in 2017, the company launched Amazon Go, a real-life grocery store, bringing together the power of the e-commerce giant with cutting edge technology to provide a distinct grocery experience. Most Amazon Go stores allow only customers with Amazon accounts to shop: the stores do not have cashiers and the customers can simply walk out of the store with the product. There are a few locations in which customers can enter the store by dipping their credit card at the gate. Employing Internet of Things technology allows cameras to capture every move of the customer in the store and directly charge their Amazon account afterwards. If in the online environment Amazon tracks consumer preferences by how they add and drop product from their shopping cart, in the offline world Amazon surveilles customer preferences by how they contemplate the aisle and reach for products on the shelves. The data collected by Amazon has the potential to create an exhaustive profile of the shopper, pinpointing their needs and preferences, granting Amazon the possibility of leveraging its business position in other markets, such as targeted advertisements. An additional concern is the possibility of price discriminating consumers based on their previous purchase history.

In summary, Amazon replicates online surveillance in the offline domain. This paper tackles issues related to the potential harms caused by Amazon's comportment. First, it addresses how the development of new technology has made it possible for food retailers to surveil customers, collecting, storing and exploring their personal data; second, it addresses the potential anticompetitive concerns related to it and issues related to privacy and data protection, including the potential licensing of the technology to different markets. The paper concludes with a discussion of policy solutions, drawing on existing antitrust and data privacy legislation, and how the recent developments on food retailing markets present a challenge to them.

Privacy Analysis of Apps and Beacons in Food Retail

Sean O'Brien

Food retail faces increased challenges in the digital arena due to the COVID-19 pandemic. Reliance upon online shopping, coupled with repeated lockdowns and closures, has placed renewed emphasis on the merger of ecommerce with physical storefronts. Over the past decade, smartphone apps and Bluetooth low-energy (BLE) beacons have emerged as central components of nationwide strategies to bring digital retail to supermarket aisles. This shift now coincides with the pandemic-era usage of BLE and other proximity-based tracking technologies for hygienic transactions and checkout processes. In this paper, popular smartphone apps for brick-and-mortar retail and checkout are investigated using static analysis and network packet inspection to identify data flows and potential privacy issues. BLE methods of proximity tracking are described, correlating this frontier of consumer location detection with current trends in advertising and food retail technology. Last, recommendations are made for increased transparency and control of consumer data by the smartphone owner, including approaches to Android and iPhone app development that focus on software supply chain and reduce reliance upon third-parties.

Abstracts for Panel 6: Alternative Systems

Regional Food Hubs: Adding flexibility and resiliency to the food supply system **JD Scholten & Ellen Walsh-Rosmann**

Consolidation in America's food supply chain pre-dates the COVID pandemic but it was the pandemic that put a spotlight on it and exploited the system's lack of flexibility and adaptability. As Secretary of Agriculture Tom Vilsack says "Food security is national security." Coming out of this pandemic, it is clear that America needs to decentralize their food system. Enforcing our antitrust laws is a major step in doing this but it can't be the only step. Investing in regional food hubs will create the infrastructure for a market that will lead to adaptability and q.

This paper focuses on the importance of regional food hubs in three important ways: 1) decentralizing the food system; 2) rural development; 3) combating climate change.

This paper will also identify multiple ways this system can be built while enhancing the economic viability of small and mid-scale farms and their communities. We will look into ways to be cost effective and more environmentally conscious when it comes to cold storage and delivery/transportation use. We will analyze existing food hubs' economic plans to find best practices and potential for partnerships from private, public, government/military, university sectors and more.

Public Markets, Antitrust and Food Systems

Robert LaValva

Comprised of multiple small businesses that operate in a competitive, regulated environment, public markets are an embodiment of Antitrust. As importantly, public markets have always been more than places where people buy and sell. When designed and managed with intention, public markets generate economic development, foster social interaction; build community; restore trust in governance; and serve as inclusive destinations that shape local identity. As such, public markets are not only retail destinations but a form of civic infrastructure that merits renewed consideration.

As noted by the historian Helen Tangires, “The history of public markets in nineteenth-century America reminds us that for a long time we had a mechanism for monitoring the moral economy at the local level - where familiar people, in a familiar place, could see, hear, touch, taste, and smell whether government was doing its job.” This paper examines how public markets can serve contemporary needs and play a role in shaping future food systems that are aligned with the goals of Antitrust. Two New York City markets will serve as case studies: the Greenmarket system of farmers markets run by GrowNYC; Essex Market, a municipally owned and operated public market first established in 1818 in Manhattan’s Lower East Side.

Creating the Conditions for Cooperative Groceries and Food Markets

Nathan Beacom & Benya Kraus

The disruptions to the meat sector in 2020, due to factory closures amid Covid-19 outbreaks, revealed the vulnerability of our highly concentrated food supply chains. In the face of the bottlenecks and uncertainty that faced meat producers, many communities explored alternative models for processing their meat, and, among these, were cooperative ownership of herds and/or of processing facilities. Something parallel has been seen in the grocery market itself. Rural areas and urban food deserts have both seen the loss of their local independent groceries over the last several decades to a handful of larger grocery chains. Where local groceries have stayed rooted, and thrived, in the face of these pressures, there is often cooperative ownership.

This paper will explore how cooperative ownership models have the potential to provide a resilient alternative to the forces of market concentration that have ill effects on disinvested communities, on farmers, on certain local economies, and on the environment. The paper will be structured around interviews with individuals involved in cooperatively owned grocery stores in the upper midwest, as well as those involved in cooperative farming, food distribution, and other parts of the supply chain. It will explore the reasons for the resilience of this model, including the benefits of dispersed ownership, local control, democratic structure, and the wider environment of social and economic solidarity. The paper will explore the interplay between cooperative ownership and civic and social trust and cooperation. Finally, the paper will offer reflections, drawn from the interviews and case studies explored, on the practical feasibility of cooperative ownership having a positive impact at scale, and recommendations on economic, policy, social conditions that could make cooperative ownership a more widely practicable model for grocery store ownership and local food markets more broadly.

Grocery Retail as Sites of Structure-Based Organizing: Past, Present & Future

J. Noven

Grocery stores have always operated as de facto civic forums in the United States, where shoppers and members operate not only as consumers but as active participants in shaping their food systems in ways far beyond the contemporary notion of “conscious consumerism.” Consumer cooperative grocery stores – regionally specific, high-engagement enterprises – were, throughout much of the 20th century, the most salient model for a particular type of community organizing, which was generally driven by poor immigrants and women. This was because small-to-medium-sized grocers (and co-ops especially) served as unique examples of what labor historian and organizer Jane McAlevey would refer to as “structured organizations,” where people from all different races, classes, and political stripes would gather, creating the opportunity for deeper organizing in support of food justice causes at home and beyond.

Our work operating the small-but-mighty nonprofit youth-governed grocery store, the Berkeley Student Food Collective, looks for organizing inspiration from the Consumers’ Cooperative of Berkeley, which lasted from 1933 to 1988 and at its peak had 100,000 dues-paying member-owners while also serving as an essential community organizing hub. Their campaigns included removal of products from shelves during farmworker boycotts; pushing for – and winning – affirmative action policies in the heavily segregated Berkeley of the 1940s; and creating some of the first systems for expiration-date labeling and organic food labeling, paving the groundwork for formal policy frameworks on these issues. Grocery stores’ consolidation from the 1970s onward has meant retail grocery’s estrangement from local politics and local control, effectively stifling the once-vibrant relationship between community life and grocery retail.

In Berkeley, California, today, our tiny nonprofit grocery hub is run by nearly 200 weekly volunteers who use the shop’s centrality to the neighborhood food system as an opportunity to do structured organizing for food systems concerns – like the HelloFresh union drive in nearby Richmond, CA or for support for AFSCME 3299’s contract negotiations. Our efforts in many ways mirror longstanding grocery-specific volunteering and organizing: our organization is overwhelmingly female with outsized POC representation, though the broader base of people we engage is truly cross-sectional of the broader neighborhood.

With access to nearly 30 yards of archival material on the Consumers Cooperative of Berkeley, this paper will attempt to reconcile primary source data about historic independent retail markets and their connection to broader community organizing and advocacy on food systems issues. Then, it will trace how these markets’ obliteration by larger consolidated supermarkets marginalized this type of civic engagement. The paper will incorporate race, class, and political-economic lenses to examine the composition of volunteer organizers in and around independent retail grocers, briefly discussing how the rise of self-selecting nonprofit advocacy groups can be traced back to grocery mergers, acquisitions, and sales in the 1970s-1990s. Finally, we will incorporate practical lessons from the Berkeley Student Food Collective’s organizing and retail vending experience over the last 10 years to discuss how the reintegration of small groceries and community organizing might look in a digital, 21st century world.