



**“Protecting Consumers Pocketbooks: Lowering Food Prices and Combating Corporate Price Gouging and Consolidation”**

**Testimony before the Subcommittee on Economic Policy  
United States Senate Committee on Banking, Housing, and Urban Affairs**

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## I. Causes of Grocery Price Increases

Chair Warren, Ranking Member Kennedy, members of the committee, thank you for inviting me to testify today. My name is Lindsay Owens, and I'm the Executive Director of the Groundwork Collaborative, an economic policy think tank based in Washington, D.C. I am grateful to the Committee for holding this hearing about how price gouging and consolidation are raising food prices.

By a large margin, when Americans are asked which factors they look at to decide how the national economy is doing, the price of groceries rises to the top.<sup>1</sup> The widespread concern about grocery prices reflects two basic facts. First, nearly every household – from the lowest income to the highest – regularly buys groceries. Second, grocery prices have risen faster than the rate of inflation since the onset of the COVID-19 pandemic. While prices overall have risen by 19 percent in the last three years, families are now paying 25 percent more for groceries than they were before the pandemic.<sup>2</sup>

There are a number of factors that have contributed to high food and grocery prices in recent years. Climate change, international conflicts, and disease in plants and animals, have all led to product shortages that have translated to higher food costs.<sup>3</sup> Rising energy costs have also filtered through to higher food prices. But another factor that is driving up the price Americans are paying for groceries is industry consolidation and resultant profiteering.<sup>4</sup> This profiteering is being facilitated by a confluence of three factors.

First, the food and grocery sectors have become more concentrated.<sup>5</sup> Over the last 25 years, grocery industry consolidation has resulted in a 30 percent decline in the number of grocery stores in the United States.<sup>6</sup> Four grocery retailers account for over a third of national grocery sales and Walmart, America's largest grocer, now single handedly captures nearly a quarter of all grocery dollars.<sup>7</sup> Further, just four food companies control more than 60 percent of sales in most grocery categories.<sup>8</sup>

Consolidation grants the remaining corporate giants the freedom to hike prices without fear of being undercut by the competition and evidence from data analytics firms, academic research, and the Federal Trade Commission shows concentration in the grocery sector has inflated prices considerably. In rural areas where fewer grocery stores mean less competition, grocery inflation is running 2 percent ahead of grocery inflation in large cities. Lower-income neighborhoods,

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<sup>1</sup><https://groundworkcollaborative.org/work/whats-driving-the-rise-in-grocery-prices-and-what-the-government-can-do-about-it/>

<sup>2</sup> <https://fred.stlouisfed.org/graph/?g=1eTFq>

<sup>3</sup> <https://www.gao.gov/products/gao-23-105846>

<sup>4</sup> [https://www.ftc.gov/system/files/ftc\\_gov/pdf/p162318supplychainreport2024.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/p162318supplychainreport2024.pdf)

<sup>5</sup> [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2612047](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2612047)

<sup>6</sup><https://newrepublic.com/article/179220/ftc-ruinous-albertsons-kroger-merger#:~:text=Store%20closings%20are%20another%20likely,%2C%20a%20Washington%2Dbased%20nonprofit.>

<sup>7</sup><https://chainstoreage.com/walmart-led-grocery-dollar-share-2023-followed#:~:text=According%20to%20data%20from%20Numerator,Costco%20was%20third%20with%209.2%25.>

<sup>8</sup><https://www.theguardian.com/environment/ng-interactive/2021/jul/14/food-monopoly-meals-profits-data-investigation>

where grocers are more reluctant to locate, also see higher grocery price inflation. Prices also increase more after grocery mergers in less competitive markets than in more competitive ones.

Second, grocers and producers are using new technologies to facilitate price hikes. Pricing used to be a process where companies made some rudimentary queries about their competitors and balanced what made them a profit against what could attract customers. Then they stuck that price on a sticker and let it be. Today it's a highly engineered science. Technological innovations such as cloud computing, artificial intelligence, and surveillance targeting have enabled companies to collect reams of data on their competitors and their customers. They can use this data to facilitate collusion and price fixing or simply to accelerate their ability to hike prices and maximize profits.

Companies like Agri Stats collect troves of proprietary data from the highly concentrated meatpacking sector and use it to help the Big Four meatpackers drive down wages for their workers and the price they pay ranchers, while driving up meatpacking profits by advising packers on when to raise prices and by how much. The result is higher meat and poultry prices for consumers.<sup>9</sup> Additionally, a cottage industry of pricing data service providers like Datasembly, Revionics, and DemandTec are using big data collection, predictive technologies, and artificial intelligence to track prices on products down to the individual store level to help their food producer and retail clients get “faster, lasting implementation of price increases,” ferret out when they are inadvertently keeping prices “too low for too long,” “more quickly react” to competitors’ pricing, and ensure their price hikes “stick.”<sup>10</sup>

And finally, market power and technological advances have come together in the shadow of the pandemic, when inflation gave companies the cover they needed to start rolling out mercenary pricing strategies they'd previously only dreamed of implementing. Any concerns CEOs may have had over damaging reputations and losing market share by executing their most egregious pricing tactics evaporated.

A recent report by the Federal Trade Commission illustrates this point, finding that “some firms seem to have used rising costs as an opportunity to further hike prices to increase their profits, and profits remain elevated even as supply chain pressures have eased.”<sup>11</sup> They also found that “larger retailers and wholesalers with considerable leverage over their suppliers were able to take more aggressive action to protect themselves than were their smaller rivals.” As a result, a recent study from the Council of Economic Advisers found that grocery profit margins since the pandemic have reached their highest level in two decades.<sup>12</sup>

My own organization's research, which looks at the statements corporate executives make on earnings calls with their investors, has similarly found companies hiding behind the cover of inflation to overcharge customers. Andy Callahan, the President and CEO of snackfood company Hostess Brands boasted about the company's “proven pricing power” and “best-in-class margin

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<sup>9</sup> <https://www.foodandpower.net/latest/doj-agristats-suit-oct-23>

<sup>10</sup> [https://datasembly.com/wp-content/uploads/2022/04/Taking-Price\\_CPGRetailerInfographic.pdf](https://datasembly.com/wp-content/uploads/2022/04/Taking-Price_CPGRetailerInfographic.pdf);  
<https://datasembly.com/case-studies/real-time-competitive-data-for-the-win/>;  
[https://datasembly.com/wp-content/uploads/2022/04/Datasembly\\_Infographic\\_Aug2021.pdf](https://datasembly.com/wp-content/uploads/2022/04/Datasembly_Infographic_Aug2021.pdf)

<sup>11</sup> [https://www.ftc.gov/system/files/ftc\\_gov/pdf/p162318supplychainreport2024.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/p162318supplychainreport2024.pdf)

<sup>12</sup> <https://www.nytimes.com/2024/02/01/us/politics/biden-food-prices.html>

structure” before conceding that “customers haven’t fully recognized they were absorb[ing] pricing” and that “when all prices go up, it helps.”<sup>13</sup>

## II. Examples of Pricing Tactics

Because of these changes, what used to be a fairly uneventful weekly trip to the grocery is now rife with tricks, traps, and outright landmines. Consider a few recent examples:

- **Rigged scales.** Walmart, America’s largest grocer, recently settled a class action lawsuit alleging they have rigged their produce scales, inflating product weights for pork, seafood, and citrus, to “deceivingly, misleadingly, and unjustly pilfer, to Walmart’s financial benefits, its customers’ hard-earned grocery dollars.”<sup>14</sup> Millions of Americans are potentially impacted by profiteering at Walmart, which captures more than 50 percent of grocery dollars in hundreds of markets and more than 70 percent in dozens of those.<sup>15</sup>
- **Shrinkflation.** Shrinkflation, or paying more for less, is another common trap customers run into at the grocery store. Unless you closely monitor changes in the price per ounce of many goods (or bring your recycling with you to the grocery store), you may increasingly find yourself bringing home items from chips, to orange juice, to toilet paper that are smaller than the ones you picked up on your last trip. Just last month, corporate executives from the international snack food conglomerate, Mondelez, announced on their quarterly investor call that they’d be shrinking multipacks of their popular Cliff bars from 6 to 5 and 12 to 10 bars, in addition to implementing further price hikes on other snack staples.<sup>16</sup> According to a recent report from my organization, shrinkflation accounts for up to 10 percent of inflation in key product categories.<sup>17</sup>
- **Skimpflation.** Skimpflation, shrinkflation’s more deceptive cousin, is another common grocery trap where companies swap out higher quality ingredients for lower quality, cheaper ones. Food giant Conagra has been caught swapping out oil for water in their popular Wish-bone Italian salad dressing as well as in their Smart Balance margarines. Blue Bunny ice cream was recently found to have substituted whey and coconut oil for milk and cream.<sup>18</sup> Alan Cole, a former senior economist for Senator Mike Lee on the Joint Economic Committee has argued government inflation statistics may be masking total inflation because skimpflation is so pervasive and difficult to observe or measure.<sup>19</sup>

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<sup>13</sup> <https://endcorporateprofiteering.org/latest-research/>

<sup>14</sup> <https://www.fool.com/earnings/call-transcripts/2022/03/02/hostess-brands-inc-twnk-q4-2021-earnings-call-transcript/?source=iedfolr0000001>

<sup>14</sup> <https://www.washingtonpost.com/business/2024/04/08/walmart-settlement-meat-seafood-do-you-qualify/>

<sup>15</sup> <https://ilsr.org/articles/walmarts-monopolization-of-local-grocery-markets/>

<sup>16</sup> <https://seekingalpha.com/article/4687816-mondelez-international-inc-mdlz-q1-2024-earnings-call-transcript>

<sup>17</sup> <https://groundworkcollaborative.org/work/big-profits-in-small-packages/>

<sup>18</sup> <https://www.mouseprint.org/2023/08/21/conagra-skimps-again-wish-bone-salad-dressing-watered-down/>

<sup>19</sup> <https://www.npr.org/sections/money/2021/10/26/1048892388/meet-skimpflation-a-reason-inflation-is-worse-than-the-government-says-it-is>

Instead of copping to cost-cutting, companies pass off these decisions as health conscious or even environmentally friendly. Shake ‘N Bake stopped providing plastic bags for shaking and claimed to be reducing plastic consumption while General Mills shrunk their family size cereal boxes and said they were doing it to fit more cereal boxes on each truck to reduce greenhouse gas emissions.<sup>20</sup>

- Dynamic pricing, artificial intelligence, and surveillance technologies. Supermarkets and other retailers are increasingly turning to data analytics, the “art and science behind pricing decisions,” allowing merchants to rapidly change prices daily. More and more companies like grocery giant Albertsons are using artificial intelligence to target “price optimization” to maximize profits and hike prices sooner, higher, and for longer.<sup>21</sup> Consulting firms like the Boston Consulting Group have reported on the use of “advanced geoanalytics” to help retailers determine what they can get away with charging at each store location; artificial intelligence to help retailers maximize what they can charge for store-brands while still peeling customers away from name brands; and, surveillance technologies to help stores track the prices of key competitors.<sup>22</sup> The ability to collect large amounts of data from competitors across a sector is also facilitating price fixing, as the Agri Stats case reveals.

Digital price tags are becoming commonplace on shelves at stores like Kroger, allowing grocers to raise prices more frequently. These changes pave the way for surge pricing models like those used by ride sharing companies. While surge pricing may be a nuisance when you are trying to leave a crowded sporting event, it’s another matter entirely when shopping for necessities.

- Personalized pricing. Since the pandemic, more Americans are shopping for groceries online where companies use dark patterns and vast troves of data, including your personal browsing and purchasing history, to determine the maximum price you are willing to pay for an item. Some grocers are now making a sizable share of their profits from selling grocery shoppers’ data rather than selling groceries. According to a forthcoming investigation in *The American Prospect*, Kroger and Albertsons both have in-house retail media agencies that work with advertisers to sell your purchase history to the highest bidder. These rich databases are very lucrative for the grocers, and the companies purchasing this data aren’t just interested in selling you groceries, but have an interest in what you will purchase from your home, on your phone, and online. Some analysts speculate that the combined data offerings of Kroger and Albertsons are the primary business case for their pending merger. Walmart just acquired smart TV maker Vizio (which news outlet Axios referred to as a “media company masquerading as a manufacturer”) to sell ads for groceries to viewers using their streaming service.

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<sup>20</sup> <https://www.mouseprint.org>

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<https://dlabs.ai/blog/how-ai-helps-retailers-with-price-optimization/#:~:text=Grocery%20store%20Albertsons%20uses%20AI,can%20make%20the%20necessary%20adjustments.>

<sup>22</sup> <https://www.bcg.com/publications/2024/overcoming-retail-complexity-with-ai-powered-pricing>

- Collusion. Last month, the Federal Trade Commission found that Scott Sheffield, the former President and CEO of the large fracking company Pioneer Natural Resources, was colluding with foreign governments in OPEC to drive up the costs of crude oil.<sup>23</sup> According to the complaint, “Mr. Sheffield’s communications were designed to pad Pioneer’s bottom line—as well as those of oil companies in OPEC and OPEC+ member states—at the expense of U.S. households and businesses.” The complaint also identified that “increases in crude oil prices are passed on to Americans through higher gasoline, diesel, heating oil, and jet fuel prices.”

Fuel costs are unsurprisingly a significant factor in the price of food. Oil is one of the primary inputs for tractors and farm equipment and higher oil costs means more expensive transportation costs for food to markets, which typically travel by land. All of these factors can raise the price of food for producers and consumers. Furthermore, natural gas is a major component in the production of fertilizer and the manufacturing of pesticides is highly energy intensive and sometimes uses petroleum as an ingredient. Therefore, when energy costs are up, food costs are too. While it would be too far to single out Pioneer for the entirety of rising energy costs, this case shows how collusion throughout the fuel economy beyond geopolitical shocks can raise prices for consumers.

### III. Common Misconceptions

When faced with evidence that profiteering is exacerbating inflation, some academics and onlookers rush to the defense of corporate boardrooms. Media coverage of a recent report from the Federal Reserve Bank of San Francisco overstated the study’s claims to suggest that price gouging wasn’t a factor for consumers.<sup>24</sup> Instead, the study simply shows that increases in markups in some industries are balanced by decreases in others. A recent study from the Council of Economic Advisers, which used a nearly identical methodology, found that grocery profit margins since the pandemic were at their highest level in two decades.<sup>25</sup> If you need to buy groceries for your family, it is cold comfort to know that researchers think the price hikes you are forced to eat in the grocery sector are being balanced out, on average, by better deals on goods you don’t purchase at all.<sup>26</sup>

Critics also try to dismiss attention to corporate profiteering by noting that it cannot explain all of the burst of inflation since the COVID-19 pandemic began. But experts have not argued that corporate profiteering explains all of the food price increases. Pandemic-related supply chain disruptions, weather conditions, and disease have played a substantial role in food price increases in recent years. But so too has grocery consolidation and companies profiting off of economy-wide confusion to raise their prices beyond what was necessary from market fundamentals, pocketing the extra margin. Techniques like skimp- and shrinkflation, as well as new algorithmic and personalized pricing, make it even harder for consumers to gauge when

<sup>23</sup><https://www.ftc.gov/news-events/news/press-releases/2024/05/ftc-order-bans-former-pioneer-ceo-exxon-board-seat-exxon-pioneer-deal>

<sup>24</sup><https://www.cnn.com/2024/05/15/business/inflation-biden-rate-fed/index.html#:~:text=Yet%20new%20re%20search%20from%20the,surge%20of%202021%20to%202022.>

<sup>25</sup> <https://www.nytimes.com/2024/02/01/us/politics/biden-food-prices.html>

<sup>26</sup><https://www.frbsf.org/research-and-insights/publications/economic-letter/2024/05/are-markups-driving-up-s-and-downs-of-inflation/>

they're being overcharged. Now, supply chains are effectively restored, but prices have stayed locked at levels that were only justifiable under conditions of a global health crisis. Companies that were quick to pass along their rising costs to consumers have been slower to pass along their savings.

Some defenders of monopolies claim that larger firms enjoy unparalleled economies of scale to reduce their cost-per-unit. But the problem is not that it is too costly for firms to produce what they sell, it is that firms are raising prices dramatically beyond what it *does* cost to produce units and take home a sensible margin. This is only possible in uncompetitive and underregulated markets where there is no meaningful check on a dominant firm. More competition, not less, would reintroduce that check.

#### **IV. Policy Recommendations**

The Biden-Harris Administration has taken a number of steps to bring down food prices and curb profiteering in the food and grocery sector including challenging the Kroger Albertsons merger, suing Agri Stats, launching a Strike Force to combat unfair and illegal pricing, and shoring up supply chains.<sup>27</sup> The administration has also helped families afford rising food costs by expanding nutrition assistance (SNAP) to keep up with and even outpace rising food costs and provided funds to state governments to support local producers.<sup>28</sup>

Still, there is more this administration can do to help ensure the grocery and food sectors are competitive including cracking down on exclusionary pay-for-play contracts like slotting fees that prevent new brands from accessing shelf space; enforcing the Robinson-Patman Act to ensure large firms aren't getting special deals; and, continuing to partner with USDA and DOJ to ensure that agricultural and grocery markets are competitive.<sup>29</sup>

But Congress has a role to play as well. Congress should take up new legislation from Senator Casey, the Shrinkflation Prevention Act, to prohibit shrinkflation by ensuring it is considered a deceptive practice under the FTC Act. Congress should also take up Senator Klobuchar's legislation, the Preventing Algorithmic Collusion Act, which would codify that price fixing via algorithm is illegal, as the Federal Trade Commission has already stipulated, and would be a welcome step in preventing abuses by firms like Agri Stats.

Finally, Congress should take up broad-based anti-price gouging legislation, like Senator Warren's Price Gouging Prevention Act of 2024, to ensure that firms are not profiting off of crises with excessive price hikes. This legislation would not only combat price gouging in the

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<sup>27</sup> <https://time.com/6977026/democrats-biden-executive-authority-grocery-prices/> & <https://www.justice.gov/opa/pr/four-states-join-justice-departments-suit-against-agri-stats-organizing-and-managing> & <https://www.whitehouse.gov/briefing-room/statements-releases/2024/03/05/fact-sheet-president-biden-announces-new-actions-to-lower-costs-for-americans-by-fighting-corporate-rip-offs/#:~:text=This%20Strike%20Force%20will%20strengthen,deceptive%2C%20or%20fraudulent%20business%20practices.>

<sup>28</sup> <https://groundworkcollaborative.org/work/whats-driving-the-rise-in-grocery-prices-and-what-the-government-can-do-about-it/>

<sup>29</sup> <https://prospect.org/economy/big-business-games-the-supply-chain/>

grocery sector but also address price gouging upstream that raises food prices, as we've seen in the energy sector.

High food costs are taking a toll on Americans, particularly low-income ones. Food is a necessity, not a luxury, and when grocery profiteering and price gouging are spiking food prices, Congress must act. American families can't afford to wait and see if the Chair of the Federal Reserve manages to bring down prices: Dinner needs to be on the table tonight.