



CONSUMER REPORT

Kroger-Albertsons Proposed Merger Arizona Listening Sessions

FEBRUARY 2024

ANTITRUST AND PRIVACY UNIT
CIVIL LITIGATION DIVISION
ARIZONA ATTORNEY GENERAL KRIS MAYES

Consumer Report:

Ensuring fair competition in the marketplace

The Arizona Attorney General's Office (AGO) represents and provides legal advice to most state agencies, and enforces certain criminal, civil rights and consumer protection laws.

In the Consumer Protection & Advocacy Section of the Civil Litigation Division, a team of attorneys, investigators and legal staff are dedicated to protecting consumers and striving to ensure fair competition in the marketplace.

Under Attorney General Kris Mayes' leadership, the section investigated a proposed merger between Kroger and Albertsons. The merger, announced in October 2022, would combine two of the largest grocery store chains in the country.

In Arizona, Albertsons also operates as Safeway, and Kroger operates as Fry's or Smith's. Both companies are among the top six employers in Arizona with 35,000 employees across 250 stores. If the two companies were to merge it could lead to changes in Arizona communities across the state.



35,000

EMPLOYEES
IN ARIZONA

250

STORES IN
ARIZONA

Top 6

EMPLOYERS
IN ARIZONA



Antitrust laws and Arizona

The Attorney General of Arizona has the power to investigate and attempt to block the mergers. Attorney General Mayes announced in February 2023 her office would conduct an antitrust investigation into the proposed Kroger-Albertsons merger, citing the large impact of the two companies in Arizona.

“In addition to skyrocketing prices, the proposed merger raises questions about the potential for store closures that could force consumers to travel farther for groceries – possibly creating food deserts that disproportionately affect minority communities.”

– ATTORNEY GENERAL KRIS MAYES





Arizona Attorney General Antitrust Powers

The Arizona Attorney General has antitrust investigation authority under several laws including:

SHERMAN ACT (15 U.S.C. §§ 1-7)

Any state attorney general may bring an action for monetary damages under the Sherman Act as *parens patriae* for all natural persons residing within that attorney general's state (15 U.S.C. § 15c).

CLAYTON ACT (15 U.S.C. §§ 12-27; 29 U.S.C. §§ 52-53)

Anyone can file an action seeking an injunction to block a merger under the Clayton Act if they can establish danger of irreparable harm arising from the merger (15 U.S.C. § 26).

ARIZONA UNIFORM STATE ANTITRUST ACT (A.R.S. §§ 44-1401 THROUGH 44-1416)

This law parallels the main two types of claims available under the Sherman Act. Arizona has no state law equivalent to the Clayton Act. Under Arizona law (A.R.S. §§ 44-1407, 44-1408), the Attorney General has the authority to seek injunctions, civil penalties and recover damages.

ENFORCEMENT

The Arizona Attorney General's Office is authorized specifically by Arizona statute to enforce both "state and federal statutes pertaining to antitrust, restraint of trade, or price-fixing activities or conspiracies" and to recover money for the state and its subdivisions under both state and federal antitrust laws, resolving any Arizona State Land Department v. McFate issues about statutory authorization to enforce federal laws (A.R.S. §§ 41-191(D); 41-191.01(A); 41-192(A)(5)-(6)).

State attorneys general typically look at mergers as either an attempted monopolization under Sherman Act § 2 (15 U.S.C. § 2 and Arizona equivalent A.R.S. § 44-1403) or a merger likely to substantially lessen competition under Clayton Act § 7 (15 U.S.C. § 18). Some states have state law equivalents of the Clayton Act, but Arizona does not.

Listening to Arizonans

As part of AGO’s antitrust investigation into the proposed Kroger-Albertsons merger, Attorney General Mayes met with constituents across the state to understand what everyday Arizonans thought about this merger and how it could impact their communities. The Attorney General hosted eight listening sessions, visiting Kingman, Tucson, Prescott, Yuma, Sierra Vista, Phoenix, Green Valley and Show Low. AGO also received feedback through an online comment form.

The same four questions were asked every session. Some of Arizonans’ feedback is below.

WHAT IMPACT DO YOU BELIEVE IT WILL HAVE ON YOUR COMMUNITY?

- Busier stores
- Less produce available
- Fewer good jobs



WHY IS YOUR CURRENT GROCERY STORE IMPORTANT TO YOU AND YOUR COMMUNITY?

- Hosts community events
- Employees take care of others in the community
- People know their clerk

WHAT CONCERNS YOU ABOUT THE PROPOSED MERGER?

- Impact to product pricing
- Increased need for online coupons
- Changes in pharmacies inside stores
- Loss of community jobs
- Quality of products
- Lack of products on shelves
- Long lines at cash registers

WHAT WOULD BE THE IMPACT OF LOSING YOUR CURRENT GROCERY STORE?

- Longer travel distances to get fresh food
- Longer lines and emptier shelves
- Busier stores
- Changes in prescriptions or coupons



Concerns of workers

Both Kroger and Albertsons have a union presence, but unionization occurs on a store-by-store basis. Almost all stores are unionized. Attorney General Mayes met with members of the Teamsters Local Union No. 104, which represents 1,700 workers at Kroger and Safeway stores in Arizona. She and Federal Trade Commission Chair Lina Khan cohosted a listening session in Phoenix with hundreds of grocery store employees and union workers.

Unionized Stores

Albertsons	Kroger
106	130

GROCERY STORE EMPLOYEES' INSIGHTS AND CONCERNS

- Loss of jobs
- Loss of benefits
- Loss of benefits of seniority
- Smaller staff
- Confusion in the transition



Phoenix metro feedback

Phoenix Stores

Albertsons
74

Kroger
77

“This should not be allowed! This would cause Kroger to own the majority of grocery stores and that would end competition. I imagine stores would be closed/merged and that would cause a loss of job for a lot of individuals. This should be a no-brainer and not allowed to go through!”

- GLENDALE RESIDENT

“In my conversations with people in my neighborhood in Maryvale, there are concerns already about the lack of access to fresh produce. You have to drive to be able to get to grocery stores in our community and there are concerns that this merger would have an impact on that. These are all things that might seem small on the surface but for someone living paycheck-to-paycheck it’s a huge barrier to having fresh food, affordable food and just be able to live an affordable life.”

- PHOENIX RESIDENT



“This big merger is just going to be a big old giant nightmare and I don’t really care for it and a lot of my coworkers are worried.”

- PHOENIX RESIDENT





PHOENIX SUPERMARKET INVENTORY

	Central	South	West	East	North East	North West
TOTAL	174	4	49	135	7	37
KROGER BRANDS	29	1	10	29	1	7
ALBERTSONS BRANDS	34	0	5	24	1	10
WALMART BRANDS	21	1	14	25	1	8
BASHAS' BRANDS	34	1	5	16	2	3
TRADER JOE'S	6	0	1	2	0	1
ALDI	2	0	3	4	0	1
SPROUTS	14	1	2	10	1	2
COSTCO	7	0	2	5	0	1
WHOLE FOODS	4	0	0	1	0	0
99 RANCH	0	0	0	1	0	0
WINCO	1	0	1	4	0	1
TARGET	15	0	5	10	1	3
LOS ALTOS RANCH MARKET	5	0	1	1	0	0
NATURAL GROCERS	2	0	0	3	0	0

All data accurate as of the date of the listening session near these locations.

Central: Phoenix, Tempe, Scottsdale

South: Maricopa

West: Avondale, Buckeye, Glendale, Goodyear, Litchfield Park, Tolleson

East: Apache Junction, Chandler, Gilbert, Gold Canyon, Mesa, Queen Creek, San Tan Valley

North East: Carefree, Cave Creek, Fountain Hills, Paradise Valley

North West: Anthem, Peoria, El Mirage, Sun City, Sun City West, Surprise

Southern Arizona feedback

Tucson Stores

Albertsons	Kroger
19	12

Green Valley Stores

Albertsons	Kroger
1	0

Sierra Vista Stores

Albertsons	Kroger
1	1



“Kroger used to say for their pro-points that people in small areas or seniors or people that can’t get out can always hop online. Having worked with low-income people, it’s very expensive to keep an internet running, you have to have a lot of knowledge, you couldn’t have a bit of dementia, and if this would not happen, seniors could not order food online.”

- GREEN VALLEY RESIDENT

“When you’re like me, I get social security, state retirement, a fixed income. It’s a challenge now. So I think the public can tell you the cost of utilities, the cost for gas. It keeps going up, but for a senior like me, my income doesn’t go up.”

- TUCSON RESIDENT





“There’s no reason why prices couldn’t keep going up if you’re the only grocery store in the area. Let alone all the other dynamics about transportation, about employees, about our workforce...I want to vehemently oppose any merger between two significant grocery store chains that would create a monopoly.”

- SIERRA VISTA RESIDENT

“As a bedroom community, jobs are not easy to come by. We want our youth to stay and feel like they have place and a home here. Usually coming out of high school or in high school, jobs at your convenience stores or grocery stores and restaurants and fast food establishments are the primary place for those jobs to occur.”

- GREEN VALLEY RESIDENT



“We would be crushed if our Safeway were to close. We pay a little more because we only have one grocery store.”

- BISBEE RESIDENT

“It doesn’t take an economist to understand that there will be stores closures, there will be layoffs, there will be an increase in prices.”

- TUCSON RESIDENT



SOUTHERN ARIZONA SUPERMARKET INVENTORY

	Tucson	Green Valley	Sierra Vista	Marana	Oro Valley	Sahuarita	Nogales	Bisbee
TOTAL	83	1	5	8	8	4	5	1
KROGER BRANDS	12		1	3	2	1		
ALBERTSONS BRANDS	19	1	1	1	1	1	1	1
WALMART BRANDS	16		1	1	2	1	1	
BASHAS' BRANDS	12		1				1	
COSTCO	2			1				
TRADER JOE'S	3				1			
WHOLE FOODS	3							
SPROUTS	4			1	1	1		
TARGET	5		1	1	1			
EL SUPER	1							
NATURAL GROCERS	4							
LOCAL STORE	2						2	

All data accurate as of the date of the listening session near these locations.

Western Arizona feedback

Kingman Stores

Albertsons	Kroger
2	1

Yuma Stores

Albertsons	Kroger
2	2

“I saw when Safeway bought Vons that they closed a lot of stores. Albertsons was here for a long time and then when they bought Safeway, they closed Albertsons.”

- KINGMAN RESIDENT



“The pharmacy in town accepts military, but the one [Fry’s] in the Foothills does not...There is no Albertsons in the Foothills.”

- YUMA RESIDENT



“I keep seeing this all the time with all my customers coming through, struggling to make ends meet. The prices, the bills, they keep doubling. I’m worried that this merger is going to make that even worse...It’s frustrating.”

- KINGMAN RESIDENT





WESTERN ARIZONA SUPERMARKET INVENTORY

	Yuma	San Luis	Kingman	Bullhead City	Fort Mohave	Lake Havasu
TOTAL	16	3	5	6	3	6
KROGER BRANDS	2		1	1	1	1
ALBERTSONS BRANDS	2		2	1	1	2
WALMART BRANDS	5	1	1	2	1	1
BASHAS' BRANDS	2	1	1			2
TARGET	1			1		
SPROUTS	1					
DEL SOL MARKET	2	1				
SMART & FINAL	1			1		

All data accurate as of the date of the listening session near these locations.

Central Arizona Feedback

Prescott Stores

Albertsons	Kroger
2	2

Prescott Valley Stores

Albertsons	Kroger
1	1



“You see SNAP dollars being redeemed routinely at full service grocers — Walmart, Safeway, Kroger — and so you take away a single one of those, you see, all of the sudden, food insecurity. Where am I going to redeem SNAP benefits?”

- PRESCOTT RESIDENT

“If there is any way to stop this action it would be wonderful. I am just reiterating what I am sure you have heard throughout AZ that any more consolidation will be extremely detrimental to consumers who already often have to travel in excess of 10 miles to a grocery store of any kind. This would leave Dewey, Mayer, etc. folks with nothing closer than Glassford Rd in PV.”

- DEWEY-HUMBOLDT RESIDENT

“You can’t let it happen. You have to protect the people that you are responsible to.”

- PRESCOTT RESIDENT





CENTRAL ARIZONA SUPERMARKET INVENTORY

	Prescott	Prescott Valley	Chino Valley	Cottonwood	Cornville	Clarkdale
TOTAL	10	6	1	6	0	0
KROGER BRANDS	2	1		1	Nearest 6 miles	
ALBERTSONS BRANDS	2	1	1	1		Nearest 5 miles
WALMART BRANDS	2	1		1		
BASHAS' BRANDS				1		
COSTCO	1					
TRADER JOE'S	1					
SPROUTS	1	1				
NATURAL GROCERS	1					
LOCAL STORES		2		2		

All data accurate as of the date of the listening session near these locations.

Eastern Arizona Feedback

Show Low Stores

Albertsons	Kroger
1	0

Holbrook Stores

Albertsons	Kroger
1	0



“Most of the employees’ in the stores right now main concerns are them losing benefits because of store shut downs. We are unionized at Safeway. Most of the employees there have an employee health benefit that that’s the reason they are there and they are super concerned because where else do they have in their background? All of them are 30-plus years in customer service.”

- SHOW LOW RESIDENT

“I would say that the Indigenous community and the Hispanic community are going to really be hurt. And right now, as Walmart goes, it’s way over busy. And if we would close the Safeway store...I don’t know how it could be handled with the amount of business Walmart already gets in this town.”

- SHOW LOW RESIDENT



“We’re against it because it could hurt us in the long run.”

- SHOW LOW RESIDENT



EASTERN ARIZONA SUPERMARKET INVENTORY

	Show Low	Holbrook	Winslow	Taylor	Pinetop- Lakeside	St. Johns	Window Rock
TOTAL	2	1	2	2	2	1	1
KROGER BRANDS							
ALBERTSONS BRANDS	1	1	1		1		
WALMART BRANDS	1		1	1			
BASHAS' BRANDS				1	1		1
LOCAL STORES						1	

All data accurate as of the date of the listening session near these locations.

KRIS  MAYES

ANTITRUST AND PRIVACY UNIT
CIVIL LITIGATION DIVISION
ARIZONA ATTORNEY GENERAL KRIS MAYES

FEBRUARY 2024