

**WRITTEN STATEMENT FOR THE RECORD BEFORE THE U.S. SENATE
COMMITTEE ON THE JUDICIARY SUBCOMMITTEE ON COMPETITION POLICY,
ANTITRUST, AND CONSUMER RIGHTS**

**"STRENGTHENING U.S. ECONOMIC LEADERSHIP: THE ROLE OF COMPETITION
IN ENHANCING ECONOMIC RESILIENCY"**

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Dear Chair Klobuchar, Ranking Member Lee and members of the Senate Subcommittee on Competition Policy, Antitrust, and Consumer Rights:

As a leading representative of America's 33 million small businesses, Small Business Majority is pleased to provide written testimony to the Senate Subcommittee on Competition Policy, Antitrust, and Consumer Rights regarding the recent hearing on the role competition plays in fostering a resilient economy.

Small Business Majority is a national small business organization that empowers America's diverse entrepreneurs to build a thriving and equitable economy. From our nine offices across the country, we engage our network of more than 85,000 small businesses and 1,500 business and community organizations to deliver resources to entrepreneurs and advocate for public policy solutions that promote inclusive small business growth. Our work is bolstered by extensive research and deep connections with the small business community that enables us to educate stakeholders about key issues impacting America's entrepreneurs, with a special focus on the smallest businesses and those facing systemic inequities.

Small businesses are at a competitive disadvantage when trying to compete with their larger counterparts and seek a more level playing field

As one of the most critical aspects of a resilient and equitable economy, increased competition between businesses is directly linked to lower prices, higher quality of goods and services, and more innovation – improving not only the consumer experience, but also allowing small businesses to continue to innovate and scale their enterprises. While entrepreneurship and rates of new small business formation continue to grow at a record pace, with nearly 18 million new business applications being filed within the last three years alone, the rise of monopolies and concentration within nearly every sector of the U.S. economy over the last few decades presents a troubling reality for small businesses that simply can't keep up with their larger, wealthier competitors.

In a 2022 Small Business Majority national opinion poll, a majority (56%) of small business owners stated that one or more companies dominate the market in their industry.¹ The same percentage note that it's the larger companies in their industries that dominate the market, and 44% agree that there has been an increase in monopolistic practices in recent years. Additionally, 83% of small business owners believe that large companies have the resources to take small businesses' creative ideas, mass produce them, and drown them out with their market power. This is a concerning reality for several reasons, but the increased market power of larger companies further exacerbates the fact that these companies often have

¹ "Scientific Opinion Poll: Small Businesses Seek a Level Playing Field and Chance to Compete Fairly," Small Business Majority, 2022, <https://smallbusinessmajority.org/our-research/small-businesses-seek-level-playing-field-and-chance-compete-fairly>

greater access to capital and employee benefits, like healthcare, to attract and retain a skilled workforce, putting small businesses, who often face disproportionate barriers in accessing capital and affordable employee benefit plans, at an automatic disadvantage.

The rise of monopolies and its impacts on small businesses have been especially evident within online marketplaces. In fact, 57% of small businesses rely on online marketplaces to sell their products and services. But as our economy becomes more dependent on online marketing and e-commerce services, Big Tech platforms, like Amazon, have become monopolistic powers that now can dictate the success of a small business and its products.² The use of anti-competitive practices, such as self-preferencing and copycatting, have had disproportionate impacts on smaller businesses that don't have the capacity to challenge the actions of a larger platform. Our research has found that over half (53%) of small business owners view practices like self-preferencing, predatory pricing and copycatting as issues facing the small business ecosystem, and nearly 1 in 3 small business owners have been affected by one of these practices directly.³ Small Business Majority urges Congress to pass the American Innovation and Choice Online Act (S. 2033), which would protect competition online and hold Big Tech platforms accountable by preventing the use of anti-competitive practices, including self-preferencing and copycatting.

The uneven playing field that many small businesses attempt to compete on today has also created imbalances and vulnerabilities within certain industries which rely on domestic and global supply chains to keep their operations running. For example, the food and grocery industry is dominated by a select few distributors and suppliers who effectively control the supply and demand for many small vendors nationwide. In recent testimony before the Senate Subcommittee on Economic Policy, Alap Vora, Small Business Majority network member and owner of Concord Market in Brooklyn, NY, detailed how the biggest food distributors and manufacturers aren't required to be transparent, competitive or cooperative with small vendors like himself.⁴ Mr. Vora also discussed how large distributors take advantage of market changes or supply chain issues to upcharge small vendors, leading smaller vendors to sometimes pay more for a product than the price consumers can buy that same product for at a wholesale club, like Costco. While Concord Market has seen supply prices increase and vary by 20%-30% in some cases, major distributors continue to report record profit growth. Unfortunately, Mr. Vora's story is not unique, as competition issues remain a top priority for business owners in our network. Over time, we have seen that vast market consolidation and the frequent utilization of anti-competitive tactics have not only created wide discrepancies in the distribution of our nation's economic power and wealth but have had disproportionate impacts on the small businesses who serve our local communities.

The rise of monopolies and anti-competitive practices have decreased competition and stifled economic innovation

We must do all we can to help small businesses thrive because of the importance of small businesses to the U.S. economy as a whole. Small businesses drive economic innovation and growth, constantly developing new technologies, products and ideas, while accounting for 99.9% of American businesses and employing over 46% of the nation's private sector workforce.⁵ As noted previously, competition plays a vital role in not only product markets, allowing small businesses to continue to innovate and grow, but also in labor markets, ensuring that businesses are increasing wages and improving working conditions.

Over 75% of industries have experienced an increase in concentration since the late 1990's, and as corporate profits rise steadily year after year, small businesses, particularly those that are women- or

² "FTC Sues Amazon for Illegally Maintaining Monopoly Power," Federal Trade Commission, September 2023, <https://www.ftc.gov/news-events/news/press-releases/2023/09/ftc-sues-amazon-illegally-maintaining-monopoly-power>

³ "Scientific Opinion Poll: Small Businesses Seek a Level Playing Field and Chance to Compete Fairly," Small Business Majority, 2022, <https://smallbusinessmajority.org/our-research/small-businesses-seek-level-playing-field-and-chance-compete-fairly>

⁴ "Alap Vora, Owner of Concord Market, Testifies on the Impacts of Price Discrimination and Consolidation," Small Business Majority, May 2024, <https://smallbusinessmajority.org/policy/alap-vora-owner-concord-market-testifies-impacts-price-discrimination-and-consolidation>

⁵ "Frequently Asked Questions About Small Business 2023," U.S. Small Business Administration Office of Advocacy, 2023, <https://advocacy.sba.gov/2023/03/07/frequently-asked-questions-about-small-business-2023>

minority-owned, continue to face barriers accessing the capital and resources necessary to grow.⁶ Whether it be in the healthcare, aviation, grocery, or broadband industries, a select few companies have come to dominate the respective marketplaces of nearly every sector of the economy.

Excessive monopolization in the healthcare industry is causing indirect economic hardship to small businesses that are struggling to afford coverage for their families and their employees. Hospital mergers and acquisitions have resulted in some hospital networks controlling upwards of 150 hospitals in one region alone.⁷ When hospitals in a geographic area crowd out the competition, insurance companies are compelled to include them in a coverage plan at rates dictated solely by the monopolistic entity. These large, consolidated hospital systems are using their increased market power to drive up costs through anti-competitive contracting and billing practices. Increased costs are ultimately passed down to small businesses and their employees. A recent Small Business Majority national poll found that small business owners that offer health coverage to their employees reported that the cost of either insurance premiums (78%), deductibles (57%), copays (60%), prescription drug copays (60%) and hospital visits (59%) have risen over the past few years.⁸ These apparent cost increases for small businesses and their employees are no doubt driven by some of the vast consolidation that is representative of the American economy in the 21st century.

The proliferation of consolidation has also been magnified by the increasing role private equity firms have played in not only the largest, most lucrative industries, but also the childcare industry. The role of private equity in industries like healthcare and childcare raises concerns about the intentions of private investors who are often trying to turn a profit rather than provide quality, affordable care to patients and children alike. As private equity's involvement in the childcare sector steadily grows, with private equity firms now controlling between 10% to 12% of the private childcare market, these firms continue to find ways to increase costs for parents and minimize operational costs.⁹ Small businesses and their employees are also feeling the impacts of rising childcare costs. Our research found that roughly 60% of small business owners agree that a lack of access to affordable, high-quality childcare created an impediment to starting or growing their business.¹⁰ When small businesses can't access affordable healthcare and childcare, their ability to attract and retain employees decreases, hindering their ability to grow. To begin to address some of these challenges, Congress must act swiftly.

Congress must act to provide oversight of consolidated industries and provide federal antitrust enforcement agencies with the resources necessary to hold monopolies accountable

To ensure small businesses can compete on a level playing field in today's economy, Congress must act alongside federal enforcement agencies to hold the major players in our economy accountable. Small business owners are urging the federal government to act as well – 80% of small business owners support better enforcement of existing antitrust laws and other provisions protecting small businesses against anti-competitive practices.¹¹

⁶ "Are US Industries Becoming More Concentrated?" Review of Finance, April 2019, <https://doi.org/10.1093/rof/rfz007>

⁷ "Small Business Majority submits comment regarding FTC and DOJ on draft merger guidelines," Small Business Majority, September 2023 <https://smallbusinessmajority.org/sites/default/files/policy-docs/08232023-FTCDOJ-MergerGuidelines.pdf>

⁸ "Opinion Poll: Small Businesses Struggling with Rising Healthcare Costs, Support Bipartisan Policy Solutions," Small Business Majority, February 2024, <https://smallbusinessmajority.org/our-research/healthcare/small-businesses-struggling-rising-healthcare-costs-support-bipartisan-policy-solutions>

⁹ "As Private Equity's Role in Child Care Increases, Concerns Arise," New America, May 2024, <https://www.newamerica.org/education-policy/edcentral/as-private-equitys-role-in-child-care-increases-concerns-arise/>

¹⁰ "Opinion poll: Small businesses support policy solutions to address our nation's childcare challenges," Small Business Majority, April 2024, <https://smallbusinessmajority.org/our-research/workforce/opinion-poll-small-businesses-support-policy-solutions-address-our-nation-s-childcare-challenges>

¹¹ "Scientific Opinion Poll: Small Businesses Seek a Level Playing Field and Chance to Compete Fairly," Small Business Majority, 2022, <https://smallbusinessmajority.org/our-research/small-businesses-seek-level-playing-field-and-chance-compete-fairly>

While federal enforcement agencies, including the Department of Justice (DOJ) and Federal Trade Commission (FTC), have many current tools and policies in place to pursue antitrust violations, both agencies require additional funding and resources due to recent increases in anti-competitive practices and proposed mergers. Small Business Majority urges Congress to enact the Competition and Antitrust Law Enforcement Reform Act (S. 4308), which would authorize increases to both the FTC's and DOJ's annual budget and strengthen merger guidelines to ensure additional harmful mergers, that may have previously flown under the radar, can be fully evaluated and blocked by enforcement officials.

An additional result of decreased competition has been increased instances of price gouging. When a single company has complete dominance over an industry, they often take advantage of this power to charge consumers more than necessary to cover slight increases in their costs. Over the past year, input costs for producers have risen only 1% compared to consumer prices, which have risen 3.4%.¹² To address this misuse of power, we encourage Congress to pass the Price Gouging Prevention Act of 2024 (S. 3803) to prohibit corporate price gouging by authorizing the FTC and state attorneys general to enforce a ban on excessive price increases which disproportionately impact small businesses and their customers.

Lastly, Congress must provide robust funding and resources to the FTC for the reinvigoration of Robinson-Patman Act enforcement, which cracks down on sellers who charge competing buyers different prices for the same product. This common practice, referred to as price discrimination, often impacts smaller businesses that are sometimes charged more than their larger competitors for goods and services. In his congressional testimony, Mr. Vora cited instances of multiple small vendors paying different prices for the same product and noted that he has found price increases as much as 50% - 100% based on who is buying the product. To ensure the FTC prioritizes this enforcement, Congress should also ensure that in the FY25 budget, \$10,000,000 is set aside to carry out investigative and enforcement activities under section 2 of the Clayton Act (15 U.S.C. 13)."

We are glad to see Congress is examining the impacts of anti-competitive practices and consolidation within the American economy understanding that any effort to increase competition will ultimately benefit America's smallest businesses. We thank the Subcommittee for the work it has done to hold monopolies accountable and look forward to working with Member offices on solutions moving forward. For any questions or additional information, please contact Government Affairs Director Alexis D'Amato at adamato@smallbusinessmajority.org.

Sincerely,



John Arensmeyer
Founder & CEO
Small Business Majority

¹² "Inflation Revelation: How Outsized Corporate Profits Drive Rising Costs," Groundwork Collaborative, 2024, <https://groundworkcollaborative.org/wp-content/uploads/2024/01/24.01.17-GWC-Corporate-Profits-Report.pdf>