

Fact Sheet

Competitive Prices Act

H.R.2782



Farm Action Fund



Farm Action

The Competitive Prices Act (H.R.2782) was introduced by Representative Katie Porter (D-CA). Representatives Jerrold Nadler (D-NY), David N. Cicilline (D-RI), and Pramilla Jayapal (D-WA) cosponsored the bill. This legislation makes it easier to prosecute antitrust violations in civil cases, and also closes a loophole that allows companies in the same market to inflate consumer prices in tandem with one another.

BACKGROUND

Our economy is built upon the principles of fair and robust competition. In the food and farm system, everyone benefits when companies strive to offer the best price for the best product: farmers, ranchers, food system workers, and families at the grocery store.

Antitrust laws were implemented to prevent companies from engaging in anticompetitive behaviors in order to maximize their profits at consumers' expense. These laws state that coordinating to fix prices or the availability of products and services is anticompetitive and therefore illegal.

Yet decades of destructive court rulings have hollowed out our antitrust laws by establishing sky-high evidentiary standards, which pose a near-insurmountable hurdle for enforcement agencies. An unenforceable law is not an effective deterrent to price-fixing companies, and leads to more settlements than convictions: For greedy corporations seeking to extract profit from farmers and eaters alike, price-fixing settlements have become a standard operational expense.

In our anticompetitive and consolidated food and farm system, corporations are able to price-gouge consumers at the grocery store, stack the deck against farmers, ranchers, and small businesses, and exploit workers. In the absence of effective antitrust laws, they can do all of this with impunity and in collaboration with each other.

To level the playing field for farmers, ranchers, independent grocers, and eaters, antitrust law must be clear on which practices are illegal — and must be enforced to its full extent.

THE COMPETITIVE PRICES ACT PROTECTS AND EMPOWERS AMERICAN FARMERS AND FAMILIES WHILE CRACKING DOWN ON CORPORATE ABUSE BY:

- > Defining as illegal any conscious pricing coordination between companies for their own benefit.
- > Specifying that an agreement to fix prices does not need to be expressly made, and that tacit agreements to fix prices are also unlawful under the Sherman Act.
- > Giving antitrust enforcement agencies the tools they need to bring strong civil cases against price-fixing corporations, thereby holding them accountable for their anticompetitive conduct in the courts.

FIGHTING GREED WITH A HAND TIED BEHIND OUR BACKS

Decades of harmful jurisprudence have provided price-gouging corporations with loopholes to escape accountability, and the standard to prove antitrust violations has become almost impossibly high. As it stands, evidence must include paperwork trails that explicitly illustrate coordinated price-fixing activities, such as messages along the lines of "Let us all agree to raise our prices x% over this amount of time." Such brazen communications are understandably scarce.

By specifying that an agreement to fix prices does not need to be explicitly made, and that tacit agreements are also unlawful, this law has the potential to yield more convictions instead of mere settlements.



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FINES AND PENALTIES: JUST THE COST OF DOING BUSINESS

In 2019, meatpacking giant JBS was sued alongside all other major meatpackers: Tyson Foods, Cargill, and National Beef. The suit alleged that these corporations — the "Big Four" — engaged in a years-long scheme to artificially inflate the price of beef, and thus collectively rake in higher profits at the expense of ranchers and consumers.

The case against the Big Four required multiple grocery stores and ranchers to come together and file a class action lawsuit, which are notoriously time- and resource-intensive. So far, only JBS has settled that suit — but the \$52 million the company had to pay totaled a paltry 1.2% of its profits: according to PolitiFact, in March 2022 JBS reported a record net profit of \$4.4 billion for the past 12 months, which represented a 70% increase over the prior year. Not only was this fine an inadequate punishment for anticompetitive behavior, but the corporation was not required to admit any wrongdoing as part of the settlement.

Price-fixing settlements have become an ineffective deterrent for greedy corporations seeking profit through anticompetitive means. For Big Ag monopolies, they are now merely the cost of doing business. If fines and penalties are going to curb anticompetitive behavior, they have to be significant enough to hurt a greedy corporation's bottom line. The Competitive Prices Act will make bringing these cases easier for our enforcers, leading to more cases and penalties that actually make price-fixing corporations think twice.

The Competitive Prices Act will make it clear that collusion of any kind is a violation of our antitrust laws — and then make it possible to enforce those laws.

This legislation will give the Department of Justice, the Federal Trade Commission, and State Attorneys General the tools they need to prosecute price fixing corporations, curtail anticompetitive conduct, and hold bad actors accountable.



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