

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Joseph J. Simons, Chairman**
 Noah Joshua Phillips
 Rohit Chopra
 Rebecca Kelly Slaughter
 Christine S. Wilson

In the Matter of)	
)	
US Foods Holding Corp.,)	
a corporation,)	
)	
Services Group of America, Inc.,)	
a corporation,)	
)	
and)	Docket No. C-4688
)	
Food Services of America, Inc.,)	
a corporation.)	
)	
)	

COMPLAINT

Pursuant to the provisions of the Clayton Act and the Federal Trade Commission Act (“FTC Act”), and by the virtue of the authority vested in it by said Acts, the Federal Trade Commission (“FTC” or “Commission”), having reason to believe that Respondent US Foods Holding Corp. and US Foods, Inc. (together “USF”), corporations subject to the jurisdiction of the Commission, and Respondent Services Group of America, Inc., Respondent Food Services of America, Inc., and Amerifresh, Inc., Ameristar Meats, Inc., GAMPAC Express, Inc., and Systems Services of America, Inc. (collectively “SGA”), corporations subject to the jurisdiction of the Commission, have reached an agreement (the “Proposed Acquisition”) in violation of Section 5 of the FTC Act, as amended, 15 U.S.C. § 45, pursuant to which US Foods, Inc. will acquire 100% of outstanding common stock for each of SGA’s Food Group of Companies, which, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the FTC Act, as amended, 15 U.S.C. § 45, and, it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its Complaint, stating its charges as follows:

I. RESPONDENTS

1. US Foods Holding Corp. is a publicly traded corporation organized under the laws of Delaware with headquarters in Rosemont, Illinois. US Foods, Inc. is a wholly owned subsidiary of US Foods Holding Corp. USF is the second-largest distributor of food and food-related products in the United States. USF operates 64 distribution centers from which it provides broadline foodservice distribution throughout the United States. In its fiscal year 2017, USF generated approximately \$24 billion in sales to more than 200,000 customers nationwide.
2. Respondent SGA is a holding company made up of six operating companies. SGA's Food Group of Companies—the five companies at issue in the Proposed Acquisition—include Food Services of America, Inc. ("FSA"), a broadline foodservice distributor; Systems Services of America, Inc. ("SSA"), a systems distributor; Amerifresh, Inc., a specialty produce distributor; Ameristar Meats, Inc., a specialty meat processor; and GAMPAC Express, Inc., a supply chain and logistics company. FSA operates nine broadline distribution centers, and the other Food Group companies operate additional systems and specialty facilities. In its fiscal year 2017, SGA's Food Group of Companies generated approximately \$3.2 billion in sales, of which FSA accounted for approximately \$2.4 billion. SGA is a member of Distribution Market Advantage ("DMA"), a supply chain and marketing cooperative owned by eleven independent regional foodservice distributors that are also its members. Through DMA, FSA provides broadline foodservice distribution to national accounts in coordination with other large regional distributors.

II. JURISDICTION

3. Respondents, and each of their relevant operating subsidiaries and parent entities, are, and at all times relevant herein have been, engaged in commerce, or in activities affecting commerce within the meaning of Section 1 of the Clayton Act, 15 U.S.C. § 12, and Section 4 of the FTC Act, 15 U.S.C. § 44.
4. The Proposed Acquisition constitutes an acquisition subject to Section 7 of the Clayton Act, 15 U.S.C. § 18.

III. THE PROPOSED ACQUISITION

5. Pursuant to a Stock Purchase Agreement dated July 28, 2018, US Foods, Inc. proposes to acquire 100% of outstanding common stock for each of SGA's Food Group of Companies, for a total purchase price of approximately \$1.8 billion in cash.

IV. RELEVANT MARKETS

6. The relevant lines of commerce in which to assess the effects of the Proposed Acquisition are broadline foodservice distribution and broadline foodservice distribution to national customers. Broadline foodservice distribution entails the warehousing, sale, and distribution

of a wide range of product categories to foodservice customers, along with value-added services.

7. The relevant geographic markets in which to analyze the effects of the Proposed Acquisition are: (1) Eastern Idaho, (2) Western North Dakota, (3) Eastern North Dakota, (4) the Seattle Area, and (5) an area no larger than the United States.

V. STRUCTURE OF THE RELEVANT MARKETS

8. USF and FSA are two of the largest providers of broadline foodservice distribution to local customers in Eastern Idaho. Customers in this area are served by USF's distribution facility in Salt Lake City, Utah and FSA's distribution facility in Boise, Idaho. The Proposed Acquisition will reduce the number of major providers of broadline foodservice distribution in Eastern Idaho from four to three and result in a highly concentrated market.
9. USF and FSA are two of the largest providers of broadline foodservice distribution to local customers in Western North Dakota. Customers in this area are primarily served by USF's distribution facility in Bismarck, North Dakota and FSA's distribution facility in Fargo, North Dakota. The Proposed Acquisition will reduce the number of major providers of broadline foodservice distribution in Western North Dakota from three to two and result in a highly concentrated market.
10. USF and FSA are two of the largest providers of broadline foodservice distribution to local customers in Eastern North Dakota. Customers in this area are served by USF's distribution facility in Grand Forks, North Dakota and FSA's distribution facility in Fargo, North Dakota. The Proposed Acquisition will reduce the number of major providers of broadline foodservice distribution in Eastern North Dakota from three to two and result in a highly concentrated market.
11. USF and FSA are two of the largest providers of broadline foodservice distribution to local customers in the Seattle Area. Customers in this area are served by USF's distribution facility in Fife, Washington and FSA's distribution facilities in Kent, Washington and Everett, Washington. The Proposed Acquisition will reduce the number of major providers of broadline foodservice distribution in the Seattle Area from three to two and result in a highly concentrated market.
12. USF and DMA (a consortium of which SGA is a core member), are two of the few firms that provide nationwide broadline distribution to multi-regional and national customers. Because FSA covers an important geography within the DMA network—specifically, the Pacific Northwest—post-acquisition, without FSA, DMA's ability to compete for national customers will be significantly reduced. As a result, the already highly concentrated national market will become more so.

VI. EFFECTS OF THE PROPOSED ACQUISITION

13. The Proposed Acquisition would eliminate direct and substantial price and non-price competition between USF and FSA in the relevant markets. The elimination of this vigorous competition would allow USF to unilaterally exercise market power following consummation of the Proposed Acquisition.
14. The ultimate effect of the Proposed Acquisition would be to increase the likelihood that prices for the provision of broadline foodservice distribution will increase and that the quality associated with such services will decrease in the relevant geographic markets.

VII. ENTRY CONDITIONS

15. New entry or expansion by existing market participants is unlikely to occur in a timely or sufficient manner to deter or counteract the likely anticompetitive effects of the Proposed Acquisition in the relevant markets.

VIII. THE VIOLATION CHARGED

16. The Proposed Acquisition constitutes an unfair method of competition in violation of Section 5 of the FTC Act, as amended, 15 U.S.C. § 45, and if consummated, may substantially lessen competition in the relevant markets in violation of Section 5 of the FTC Act, as amended, 15 U.S.C. § 45, and Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

WHEREFORE, THE PREMISES CONSIDERED, Federal Trade Commission on this tenth day of September, 2019, issues its complaint against said Respondents.

By the Commission.

April J. Tabor
Acting Secretary

SEAL