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N.G.A. REAFFIRMS SUPPORT FOR IMPROVED FTC DIVESTITURE POLICY FOR INDEPENDENTS

ARLINGTON, Virginia (June 20, 2002) – Today, National Grocers Association (N.G.A.) Corporate Counsel, Ron Bloch, sent a letter to the Federal Trade Commission (FTC) in response to its solicitation for written comments on merger remedies. The letter also stated that N.G.A. plans to participate in the future workshop held by the FTC in New York City on merger remedies, where it will present a more complete analysis for the record.

During the last two decades, N.G.A. has been a frequent participant in merger and divestiture issues with the FTC. N.G.A. has been advocating before the FTC the need to improve merger and divestiture policy for the benefit of individual consumers, independents, retailers, and wholesalers. A briefing in September 2000 with FTC Commissioners Orson Swindle and Thomas Leary and key Bureau of Competition staff detailed N.G.A.'s activities with the FTC from 1990.

Bloch's letter reaffirmed three main points that N.G.A. filed in the matter of *Etalissements Delhaize Freres et Cie "Le Lion" S. A., Delhaize America, Inc. and Hannaford Bros. Co.*, which include: (1) small retailers in the geographic market in which divestiture must occur should not be prevented from expanding their businesses and becoming more effective competitors because of the mechanical application of policies preventing incumbents from increasing their market share and requiring that all stores to be divested in the market be sold to a single buyer; (2) the Commission must adopt a fairer, more open and pro-competitive divestiture process in order to assure that qualified buyers have a fair opportunity to bid on and acquire stores that must be divested; and (3) an up-front buyer should not be permitted to acquire the divested stores prior to the entry of the final order. This statement of N.G.A.'s three objectives provides an in-depth analysis of how competition and consumers can benefit from the FTC adopting such objectives.

"N.G.A. looks forward to participating in the New York workshop and will refine and expand its recommendations as the FTC process goes forward," Bloch stated.

The FTC solicits comments on the basic purpose of any merger case remedy; what needs to be divested; what the staff is seeking when it evaluates a proposed buyer and divestiture agreement(s); the staff's concerns about continuing entanglements between parties and buyers; the use of the "buyer-up-front"; and other provisions such as "crown jewels," orders to discuss merger and divestiture policy.

N.G.A. is the national trade association representing the retail and wholesale grocers that comprise the independent sector of the food distribution industry. An independent retailer is a privately owned or controlled food retail company operating in a variety of formats. Some are publicly traded but with controlling shares held by the family. Most independent operators are serviced by wholesale distributors, while others may be partially or fully self-distributing. Independents are the true "entrepreneurs" of the grocery industry and dedicated to their customers, associates, and communities. N.G.A. members include retail and wholesale grocers and their state associations, as well as manufacturers and service suppliers.

