

Testimony of Sean M. O'Brien
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Good morning, Chairman Sanders, Ranking Member Cassidy, distinguished members of the committee and my “Sisters” in Labor, Presidents Shuler and Henry. My name is Sean O’Brien. I serve as the General President of the International Brotherhood of Teamsters. Thank you for the opportunity to appear before you today to discuss corporate America’s longstanding, systematic and often illegal attack on working people who organize to form unions.

Union support is at an all-time high. A Gallup survey done in August 2022 found that 71 percent of Americans approve of unions.¹ In 2021, the Cornell School of Industrial Relations published its first annual report tracking instances of workers withholding their labor. In 2022, that report totaled 424 work stoppages involving approximately 224,000 workers. Work stoppages had increased by 52% year to year and the total number of workers involved in work stoppages increased by 60%. During the first nine months of Fiscal Year 2022, union representation petitions filed at the NLRB increased 58%. By May 25, FY 2022 petitions exceeded the total number of petitions filed in all of FY 2021. At the same time, unfair labor practice (ULP) charges increased 16%.²

It’s clear that Gallup’s opinion poll results don’t just reflect unrealized sentiment. Workers are taking action to improve their standard of living, stay safe, and have a voice at work. They are motivated by longstanding inequity in a system rigged against them, but it is the dramatic and tragic experience of many working throughout the pandemic that understandably lit the fuse.

In October of 2022, the Economic Policy Institute (EPI) published a report on the productivity pay gap. The report showed that, unlike prior decades, from 1979 to 2020, net productivity rose 61.8%, while the hourly pay of typical workers increased only 17.5% over four decades. The wealth generated by increased productivity isn’t going to

¹ <https://news.gallup.com/poll/398303/approval-labor-unions-highest-point-1965.aspx>

² [https://www.nlr.gov/news-outreach/news-story/election-petitions-up-53-board-continues-to-reduce-case-processing-time-in#:~:text=In%20Fiscal%20Year%202022%20\(October,1%2C638%20petitions%20field%20in%20FY2021.](https://www.nlr.gov/news-outreach/news-story/election-petitions-up-53-board-continues-to-reduce-case-processing-time-in#:~:text=In%20Fiscal%20Year%202022%20(October,1%2C638%20petitions%20field%20in%20FY2021.)

workers, but it isn't going into a black hole. Additional research by EPI concludes that compensation of top CEOs increased 1,460.2% from 1978 to 2021. Top CEO compensation grew roughly 37% faster than stock market growth during this period and far eclipsed growth in a typical worker's annual compensation. Increased wealth also went into higher profits like returns to shareholders.³

It is against that economic backdrop that, in April 2020, the Bureau of Labor Statistics (BLS) reported that the pandemic-induced unemployment rate had reached 14.8%, the highest rate observed since data collection began in 1948. Many millions of others, including a majority of our union's members, continued to work in essential occupations. As Chair Sanders aptly put it in his recent article for the Nation, while millions of essential workers got sick and tens of thousands died unnecessarily, we were reminded that, like the kings and queens of past eras, the very rich know nothing about how most people live, couldn't care less about real people, and firmly believe they have a divine right to rule.⁴

All essential workers faced danger, hardship, and greedy, callous, and self-interested employers during the pandemic crisis, but unionized workers were able to secure enhanced safety measures, additional premium pay, paid sick time, and a say in the terms of furloughs or work-share arrangements to save jobs. Perhaps most importantly, union workers felt safer to speak out about hazards on the job, whereas nonunion workers faced retaliation for doing so. This should come as no surprise. On average, a worker covered by a union contract earns 11.2% more in wages than a peer with similar education, occupation, and experience in a nonunionized workplace. Union workers are also more likely to be covered by employer-provided health insurance and nine in 10 workers covered by a union contract (91%) have access to paid sick days, compared

³ <https://www.epi.org/productivity-pay-gap/>; <https://www.epi.org/publication/ceo-pay-in-2021/>

⁴ <https://www.thenation.com/article/society/bernie-sanders-angry-about-capitalism/>

with 73% of nonunion workers.⁵ The union difference for workers is real. Encouraging and supporting unionization sets standards within industries that require employers to ensure safe workplaces and family sustaining wages to be competitive — a win for union and nonunion workers. This summer, it is with this truth in mind that Teamsters at UPS will negotiate and ratify the strongest and most comprehensive private sector collective bargaining agreement in the country.

Yet despite clear evidence that workers support unions, need unions, and are taking action to form their unions — and despite having the most pro-union President of our time in office — the Bureau of Labor Statistics (BLS) reported in January that the percent of workers who are union members had once again declined over the prior year.⁶ Anti-union forces in business and politics were quick to conclude that workers don't in fact want to be union members, but that's not the truth. The truth is that when workers set about forming their union, they often face insurmountable obstacles. The law is not on their side. Where the law is balanced or favorable to workers, there is a lack of resources to allow for impactful enforcement. And, at the first sign of worker collaboration, employers, armed with seemingly limitless funds, will immediately engage in a campaign of threats and intimidation tactics. In fact, these anti-union campaigns have become so formulaic and commonplace that employers spend \$340 million per year on “union avoidance” consultants who teach them how to exploit weakness in federal labor law to effectively scare workers out of exercising their legal right to collective bargaining.⁷ And when workers do win an election, employers use the same tactics to extend first contract negotiations for years.⁸

A December 2019 EPI report concludes that in 2016–2017, employers were charged with violating workers' legal rights in 41.5% of all NLRB-supervised union elections.

⁵ <https://www.epi.org/publication/why-unions-are-good-for-workers-especially-in-a-crisis-like-covid-19-12-policies-that-would-boost-worker-rights-safety-and-wages/#:~:text=During%20the%20crisis%2C%20unionized%20workers,many%20ways%20unions%20help%20workers.>

⁶ <https://www.bls.gov/news.release/pdf/union2.pdf>

⁷ <https://www.epi.org/publication/fear-at-work-how-employers-scare-workers-out-of-unionizing/>

⁸ <https://files.epi.org/page/-/pdf/bp235.pdf>

Employers were charged with illegally firing workers in at least one-fifth of elections. In nearly a third of all elections, employers were charged with illegally coercing, threatening, or retaliating against workers for union support.⁹

In our over 100-year history, the Teamsters have encountered too many anti-union employers to count. The Teamsters' Union was proud to announce last year that we are engaging in historic efforts to organize mechanics at Delta Air Lines. For years, Delta has persisted as the most vicious anti-union mainline carrier, using its deep pockets to unlawfully interfere with union elections and mislead its employees about organizing efforts. In 2019, Delta infamously hung posters in employee break rooms suggesting that its workforce would be better served with an Xbox, reading that, "A new video game system with the latest hits sounds like fun. Put your money towards that rather than paying dues to the union." Delta's employees were not fooled, and neither are we; we are prepared to defeat Delta's reprehensible union-busting once and for all and welcome its mechanics into the International Brotherhood of Teamsters.¹⁰

The Teamsters represent 10,700 Sysco drivers and warehouse workers. Sysco is the largest broadline foodservice company in the US, with revenue of \$73.6 billion for the calendar year 2022. Like its competitors in the foodservice industry, such as US Foods and Performance Food Group, Sysco has grown primarily through acquisitions of smaller regional foodservice companies. Union members often see their employer change multiple times in their careers as companies are repeatedly acquired or merged. In 2013, Sysco attempted to merge with the second largest broadline foodservice company, US Foods. The Teamsters strongly opposed this merger. It would have created virtual monopoly power for Sysco in numerous markets, and could have resulted in significant facility closures and, in the absence of meaningful competition, downward pressure on foodservice workers' wages nationwide.¹¹

⁹ <https://www.epi.org/publication/unlawful-employer-opposition-to-union-election-campaigns/>

¹⁰ <https://www.vox.com/the-goods/2019/5/10/18564745/delta-anti-union-video-game-poster>

¹¹ <https://teamster.org/2015/04/teamsters-decry-sycos-bullying-rally-washington-dc/>

Nonunion foodservice drivers and warehouse workers actively seek out union representation. In the past 10 years, 30 certification elections have been held at Sysco by workers seeking Teamster representation. Sixty percent of those elections were won. Despite an existing bargaining relationship with the Teamsters covering approximately 15% of Sysco's global workforce, Sysco consistently fails to respect labor laws and honor employees' choice to gain union representation. In the past 10 years, over 330 unfair labor practice charges have been filed against Sysco. In the past 10 years, Sysco has filed at least 28 reports with the US Department of Labor (DOL) for retaining labor relations consultants or persuaders. These consultants often hold captive audience meetings with workers to intimidate them and provide them with misleading information to encourage them to vote against union representation.

The Teamsters represent 7,500 Republic Services refuse truck drivers and related employees. Republic Services is the second-largest waste company in the US with revenue of \$13.5 billion for calendar year 2022. Nonunion Republic Services drivers and waste industry workers have a strong history of active organizing. In the past 10 years, 51 certification elections have been held at Republic Services by workers seeking Teamster representation. Fifty-nine percent of those elections were won. Despite an existing bargaining relationship with the Teamsters covering over 20% of Republic's workforce, Republic consistently fails to respect labor laws and honor employees' choice to gain union representation. In the past 10 years, nearly 275 unfair labor practice charges have been filed against Republic Services.¹² In the past 10 years, Republic and its subsidiaries have filed at least 10 reports with the US Department of Labor on engagement of persuaders and consultants.¹³ Four decertification elections involving Teamster-represented locations have been held at Republic in the past 10 years. Decertification is another union busting tactic. All too often, it is promoted by

¹² Both ULP calculations searched for Sysco or Republic Services in the NLRB case search, for closed cases from 1/1/2013-21/31/2022. There may be additional filings made under different subsidiary names not captured here.

¹³ Both OLMS searches covered 2013-2022 and searched for Sysco, Republic Services, Republic Waste, Allied Waste, or BFI in the company or organization name fields. There may be additional filings made under different subsidiary names not captured here.

management through misinformation and false promises of raises and benefits if the union is voted out.

By now, we are well versed in Amazon and Starbucks' anti-union tactics. According to filings with the Department of Labor (DOL), in a single year Amazon spent \$4.3 million on consultants to prevent its employees from unionizing.¹⁴ As part of their anti-union activity, they have surveilled workers' conversations, forced workers to attend closed-door anti-union meetings and discriminated against pro-union workers.¹⁵ Workers have been fired after engaging in lawful union organizing at both Amazon and Starbucks locations, and store locations have been shuttered in an effort to obstruct union activity¹⁶

Amazon has abandoned development plans when local communities have demanded that the company commit to ensuring that the jobs created are good jobs and the environmental concerns that come with Amazon facilities are mitigated. In 2021, Amazon announced that it was building an air cargo hub in Newark, N.J., but pulled out the following year when the Port Authority of New York and New Jersey conditioned the lease on labor and environmental protections. If companies like Amazon cannot bully local officials and communities, then they take their toys and go home.¹⁷

Throughout the second half of 2022, Amazon workers at the company's regional air hub in San Bernardino, CA, took courageous steps to demand higher wages, safer working conditions, and an end to retaliation against worker organizing. In October, over 100 workers set up a one-day ULP strike, walking on a picket line with hundreds of community members there in solidarity. Teamsters from nearby unionized warehouses were proud to be there in support of their fellow brothers and sisters in the industry.

¹⁴ <https://www.nytimes.com/2022/04/02/business/amazon-union-christian-smalls.html>

¹⁵ https://www.huffpost.com/entry/amazon-anti-union-consultants_n_62449258e4b0742dfa5a74fb;
<https://www.bloomberg.com/news/articles/2022-05-19/amazon-threatened-workers-over-union-vote-labor-officials-find>

¹⁶ <https://www.cnn.com/2022/11/02/business/starbucks-union-organizers-risk-takers-22-ctrp/index.html>

¹⁷ <https://www.nytimes.com/2022/07/07/business/economy/amazon-newark-airport-new-jersey.html#:~:text=the%20main%20story-,Amazon%20Hub%20in%20Newark%20is%20Canceled%20After%20Unions%20and%20Local,of%20dollars%20over%20%20years.>

In a recent op-ed, San Bernardino Air Hub worker Sara Fee described her motivations for organizing: “I would like to get paid a dignified wage. I literally barely make enough to support myself.... I would also like the warehouse to be a safe place; we have high rates of musculoskeletal injuries, concussions, heatstroke, and repetitive motion injuries.¹⁸ And I would like it to be a place where you are not in fear of losing your job all the time. Where you could have a career or stay there and have a good job for a while. That’s why last summer we started our group of KSBD employees, Inland Empire Amazon Workers United, and went on one-day strikes in August and October.”¹⁹

With workers coming together in serious numbers, what did Amazon do in return? High-priced union-avoidance consultants began to surveil Sara and others who were organizing, isolating them, and attempting to divide and conquer. When Sara spoke up about this, she was suspended. In response, the San Bernardino workers began wearing stickers saying, “Where’s Sara?” Management noticed this, and Sara soon returned to work. Despite Amazon’s ruthless attempts to target Sara, clear-cut worker power protected Sara in the end.

Both Andy Jassy and Howard Schultz have publicly asserted that their employees are better off without a union. Both make the claim that a union will interfere with the workers’ direct line of communication with management and each individual employee’s ability to advocate in their self-interest.²⁰

This image of “familial harmony” between management and workers at Amazon is especially tough to swallow. Amazon’s anti-union tactics are not just about captive audience meetings and direct threats to workers engaged in organizing. Their entire business model depends on worker exploitation and fosters worker turnover to stifle organizing and avoid investment in and responsibility for its employees. The company

¹⁸ [What it's like working at Amazon during a heat wave - Los Angeles Times \(latimes.com\)](https://www.latimes.com/business/la-fi-amazon-heat-2022-08-11)

¹⁹ <https://labornotes.org/2023/02/how-my-co-workers-got-me-reinstated-amazons-san-bernardino-air-hub>

²⁰ <https://www.axios.com/2022/11/30/andy-jassy-sticking-with-anti-union-talking-points>;
<https://www.cnn.com/2023/02/21/business/howard-schultz-unions/index.html>

uses anticompetitive business practices to increase its dominance and drive down labor standards within its core industries. In order to do this, the company relies on weak and outdated labor, occupational safety, and antitrust law, underfunded and understaffed enforcement agencies, and holes in regulatory jurisdiction.

Last June, leaked documents showed that Amazon had a 150% turnover rate. The documents warned, “If we continue business as usual, Amazon will deplete the available labor supply in the US network by 2024.”²¹ According to a report by the Strategic Organizing Center (SOC), Amazon’s punishing pace-of-work results in worker injury rates that are nearly twice as high as that of all other non-Amazon warehouse facilities.²² As of last month, OSHA has cited six Amazon warehouses for failure to provide a safe workplace due to unsafe conditions and ergonomic hazards.²³

Amazon’s Delivery Service Partner (DSP) program is a textbook example of how Amazon utilizes weaknesses in both labor and antitrust law to obstruct worker organizing. Amazon has set up more than 2,000 nominally independent DSPs in the U.S. to deliver its packages, employing an estimated 115,000 drivers. Amazon dictates the order of deliveries, the route, the progress and speed of each delivery. From the delivery vehicles to the drivers - DSP employees and their trucks or vans are branded with the Amazon logo. Amazon monitors DSP drivers through an app called Mentor that is installed on navigation devices DSP drivers must use. Amazon dictates prices for each delivery and limits the size of DSPs by limiting the number of routes it assigns to each. There are reports that Amazon terminates DSPs who attempt to reduce their drivers’ grueling workload or increase their pay. DSPs and their workers cannot fight back. When they do, Amazon can simply terminate their contracts and shift this work to other DSPs. Keeping each DSP small and thus

²¹ <https://www.theguardian.com/technology/2022/jun/22/amazon-workers-shortage-leaked-memo-warehouse>

²² <https://thesoc.org/news/report-shows-amazon-workers-injured-more-than-twice-industry-average/>; <https://thesoc.org/what-we-do/the-injury-machine-how-amazons-production-system-hurts-workers/>

²³ <https://www.osha.gov/news/newsreleases/national/02012023>

fragmented allows Amazon to prevent DSPs from challenging Amazon's power over them. For example, Amazon - DSP contracts contain "de facto" noncompete clauses that require DSPs to accept delivery request "Monday through Sunday, 365 days a year, at times and days designated by Amazon." By preventing DSPs from working with competitors and growing their "so-called" independent operations, Amazon ensures it remains the only source of income for DSPs, and that they never build the power necessary to confront Amazon on their own.²⁴

Despite this extensive control and branding by Amazon, Amazon asserts that DSPs are independent businesses and disclaims corporate responsibility for the DSPs and employment responsibility for DSP drivers. Yet, in numerous instances, federal wage and hour lawsuits filed by drivers against DSPs name Amazon as a co-defendant. In fact, Amazon has settled multiple cases in which it was a named defendant, accepting no liability under the terms of the settlement agreements. Thus, the company has avoided lengthy litigation that could ultimately determine Amazon to be a joint employer. By avoiding this classification, it enjoys all the control associated with having its own in-house fleet without concern for unionization efforts. With its dominance, Amazon uses the DSP arrangement to eradicate labor market competition by dictating standards to its supposed competitors, while also making them rely on Amazon for their business. Amazon is also replicating the DSP model in the tractor trailer middle mile segment with its Amazon Freight Partners. Amazon's freight operations serve both inter-facility movement of Amazon products and third-party shippers. These small trucking operations are often poorly vetted and a recent Wall Street Journal investigation showed that Amazon routinely hired companies with poor safety track records.²⁵

²⁴ <https://www.cnn.com/2021/09/22/tech/amazon-dsp-portland/index.html>;
<https://www.vice.com/en/article/wxdbnw/i-had-nothing-to-my-name-amazon-delivery-companies-are-being-crushed-by-debt>

²⁵ Christopher Weaver, "Amazon Routinely Hired Dangerous Trucking Companies, With Deadly Consequences," Wall Street Journal, Sept. 22, 2022.

Unjust barriers to union representation and collective bargaining rights permeate federal labor law. For decades, FedEx has exploited what is sometimes referred to as the “express carrier loophole,” placing tens of thousands of unequivocally non-airline employees, including truck drivers and package handlers, under the Railway Labor Act (RLA), instead of the NLRA.²⁶ For a company that once circulated a manual to managers entitled “Keeping the People Philosophy Alive: Making Unions Unnecessary,” any insinuation that this is simply a fortuitous statutory quirk should be dismissed.

Because the RLA requires an “all or nothing” approach to craft bargaining, this means that upwards of 100,000 employees would have to be organized simultaneously into a single unit, as opposed to the NLRA, which allows location by location organizing, as would be found at any FedEx competitor. This status, which FedEx has spent millions of dollars lobbying to preserve, is not rooted in well-reasoned labor law, but in a desire to deny rights to its employees.

There is a misconception that unions stifle economic growth and entrepreneurship. There is a fear in these halls about speaking ill of anyone deemed a “job creator.” But many longstanding union companies like UPS are growing aggressively, taking in over \$100 billion in profits in 2022,²⁷ while I wouldn’t wish the kinds of jobs that Amazon creates on my worst enemy.

Teamsters have fought for nearly 120 years to ensure delivery and logistics work can support families with benefits and sustain middle class careers, but Amazon’s power and approach to employing workers are gutting these industries. Bureau of Labor Statistics data show that, when adjusted for inflation, average annual pay for workers in the General Warehousing and Storage Industry (NAICS 49311) have declined 8.6% in the last 10 years, despite employment increasing substantially. Similarly, in the Couriers

²⁶ <https://www.politico.com/story/2010/06/ups-fedex-worlds-apart-on-labor-law-039079>

²⁷ UPS Form 10-K, Filed 2/21/2023

and Express Messengers Industry (NAICS 4921), where the vast majority of Amazon DSPs are categorized, inflation-adjusted average annual pay dropped by 10.8%.²⁸

A 2020 investigation into Amazon's labor practices by Bloomberg resulted in an exposé titled "*Amazon has turned a Middle-Class Warehouse into a McJob.*"²⁹ The article concludes that, "despite a starting wage well above the federal minimum, the company is dragging down pay in the logistics industry." The article cites a report by the Government Accountability Office (GAO) stating that Amazon is a close 4th behind Walmart, McDonalds and two dollar-store chains for having the largest number of employees, including full-time employees who struggle to pay their bills and who must utilize Supplemental Nutrition Assistance Program (SNAP) benefits.³⁰

The Strategic Organizing Center (SOC) conducted a survey of locations where Amazon directly employs a significant percentage of workers in the warehousing and storage industry and, based on evidence from the Bureau of Labor Statistics and other publicly available sources, identified several local labor markets where average wages in the industry fell after Amazon's arrival. The data detailed below were submitted to the Federal Trade Commission in February of 2020, calling on the FTC to open an investigation into Amazon's anti-competitive practices.³¹

Amazon opened its largest New Jersey fulfillment center in Mercer County in June 2014. Mercer County's annual salary and weekly earnings averages in warehousing and storage have both fallen by 18 percent since the year of Amazon's arrival. A \$45,699 average annual salary for warehouse work in 2014 had fallen to \$37,546 by 2018. This was not part of a pre-existing trend. Prior to Amazon's emergence into this local labor market, wages in warehousing and storage had risen for three consecutive years at both the county and state levels.

²⁸ Bureau of Labor Statistics Quarterly Census of Employment and Wages, 2010-2020.

²⁹<https://www.bloomberg.com/news/features/2020-12-17/amazon-amzn-job-pay-rate-leaves-some-warehouseemployees-homeless>

³⁰ <https://www.gao.gov/products/gao-21-45>

³¹ <https://thesoc.org/wp-content/uploads/2021/09/Petition-for-Investigation-of-Amazon.pdf>

Amazon is also one of the largest direct employers in Lexington County, South Carolina, and the county's largest source of warehousing and storage employment. After Amazon opened a fulfillment center in Lexington County in October 2011, the average annual salary and weekly earnings for warehousing and storage work in the county both fell by 21 percent. The story is the same in Chesterfield County, Virginia. Since Amazon opened a fulfillment center in Chesterfield County in October 2012, the average annual salary and weekly earnings for warehousing and storage work in the county have also fallen by 21 percent.

The SOC concluded that Amazon's establishment of warehouses in concentrated labor markets where it can easily drive down wages for warehousing and storage labor is not by accident, but rather by design. Amazon leases more of its warehouses from Prologis, a corporate real estate developer, than from any other landlord. Prologis assists clients like Amazon with locating their warehouses strategically, not only in a manner that is most efficient for logistics operations, but in a manner that allows them to take advantage of vulnerable workers and weak local economies.

For instance, one Prologis site selection document identifies a high unemployment rate and low local median income as being the "labor advantages" of one site's location outside of Atlanta, where Amazon also has a warehouse. In another Prologis document, the "labor advantages" for a second area where Amazon has a facility are presented as a "combination of low wages... in a nonunion environment." These site selection preferences raise the prospect that when Amazon does act as a direct employer, it may knowingly distance its warehouses from tighter local labor markets with higher wage expectations and place them instead in looser labor markets where workers are more likely to accept suppressed pay rates because of a lack of employment options. This strategy would allow Amazon to depress wages and exploit workers, particularly ones who lack union representation.³²

³² <https://thesoc.org/wp-content/uploads/2021/09/Petition-for-Investigation-of-Amazon.pdf>, pages 15-16. <https://freightpartner.amazon.com/marketing/>; <https://relay.amazon.com/>

Congress can do a lot to address the weaknesses in law that have allowed corporate America to violate workers' rights and degrade labor standards to their own enrichment. And, specifically to address the disconnect between workers' desire to form a union and their ability to form a union. I suspect that my fellow Presidents on the panel today and I share many of the same ideas. Here are a few:

1. **Pass the Protecting the Right to Organize (PRO) Act.** The PRO Act would address weaknesses and close loopholes in federal labor law. Especially relevant to this testimony, the bill would bring clarity and accuracy to legal definitions of joint employment and independent contractor status; impose meaningful penalties on employers who violate the NLRA; ban captive audience meetings; expedite first contract negotiations, and protect the right to strike. We must never forget that workers' right to organize is a constitutional right — freedom of association and the power to picket are guaranteed by our First Amendment, and the right to strike is enshrined in our Thirteenth Amendment.
2. **Hold Corporate CEOs Accountable.** Recently, Starbucks CEO Howard Schultz was invited to testify before this Committee about why the National Labor Relations Board has lodged over 75 complaints against Starbucks for violating federal labor laws. Mr. Schultz declined. The Teamsters urge this Committee to use all available avenues to compel Mr. Schultz to publicly answer for his union busting actions.
3. **Fully Fund the NLRB and OSHA.** The recent surge in collective worker action means more work for the NLRB and for OSHA. Both agencies have been starved for resources for too long. We can pass model legislation, but it means little without meaningful enforcement.
4. **Modernize Antitrust Laws and Address the Impact of Excessive Concentration and Anti-competitive Action on Labor Markets.** The Teamsters will continue to support robust antitrust enforcement and reform. Our agenda is defined by three objectives: 1) curtailing concentrations of corporate power that harm workers, 2) attacking unfair and abusive business models and practices that threaten workers, and 3) empowering working people to engage in collective action against corporate criminals who seek to deny their fundamental right to organize. Congress can take a first step in advancing this agenda by passing Senator Klobuchar and Grassley's American Innovation and Choice Online Act. This legislation is the tip of the spear of a broader pro-worker antitrust agenda, and would stop predatory Big Tech platforms like Amazon from placing their own products and services at an unfair advantage over high-road employers in the warehousing and logistics sector. In addition to supporting greater oversight of the labor market impacts of companies like Amazon, we support enforcement and regulation efforts to treat pernicious practices such as use of vertical restraints and misclassification schemes as unfair methods of competition. The labor dispute

exemption to antitrust law must also be respected, and if necessary Congress should clarify for the courts what our labor and antitrust laws already state clearly: worker organizing efforts to improve labor conditions are exempt from antitrust scrutiny, in acknowledgement of workers fundamental right to organize.

5. **Pass the Public Service Freedom to Negotiate Act:** The PSFNA gives public employees in every state the freedom to join together in a union and collectively bargain over wages, hours, and terms and conditions of employment.
6. **End Special Tax Treatment for Union Busting Activity:** The No Tax Breaks for Union Busting Act would end the taxpayer subsidization of anti-union activity by corporations. The bill would classify business' interference in worker organization campaigns as political speech under the tax code and therefore not tax deductible.
7. **Deny Federal Contracts to Union Busting Companies:** Full stop.
8. **Increase the presence of workers on the boards of corporations that are privately owned.**
9. **Enforce the DOL Rule on ESG Investment:** And ensure that union workers can put their own pension money to work in their best interest.
10. **Close the Express Carrier Loophole:** And ensure that tens of thousands of misclassified non-airline workers are appropriately covered by the NLRA.

Referencing again Chair Sanders' recent article, for much of the 20th century there was a shared understanding of the role unions needed to play, not just in improving the circumstances of workers but in providing a counterbalance to powerful business interests. The corporate world understands that strong unions can put a check on the kinds of greed, exploitation, and unilateral decision-making that exist in non-union companies.³³

We are at a critical moment. Workers are drawing a line against employers who refuse to bargain fairly with them while conservative courts chip away at the constitutionally protected right to organize and engage in lawful, protected concerted activities. Earlier this year, Supreme Ct. heard oral argument in *Glacier Northwest, Inc. v. International Brotherhood of Teamsters Local Union No. 174*. At issue in this case is whether the

³³ <https://www.thenation.com/article/society/bernie-sanders-angry-about-capitalism/>

declared policy of the United States to promote collective bargaining involving both small and large, multi-state companies will be allowed to disintegrate into 50 or more separate state labor laws and rules or whether that declared policy will remain part of a long-established, uniform, federal administrative system. If it devolves into separate, non-uniform systems administered by state and local politicians and corporate interests who contribute to their campaigns, then workers across the country will continue to be crushed by the weight of huge, corporate syndicates that put profit over lives, families, communities, and sheer common decency.

For over six decades, this Court has consistently recognized that, in exercising its authority under the Supremacy Clause of the United States Constitution, Congress established a regulatory system governing the process of collective bargaining for employers and unions across the country. In addition to creating federal labor standards through the National Labor Relations Act, it established the National Labor Relations Board as the agency to administer the NLRA. This included administratively determining what conduct is protected or prohibited by its provisions. In the *Garmon* case, which was decided in 1959, the Supreme Court balanced the federal interests embodied in the NLRA and certain state interests so as to avoid state law interference with federal labor policy while preserving the states' authority over matters of local concern. While preserving the role of the federal statute and agency over labor relations, the Court recognized certain *specific* areas involving deeply rooted state interests are not displaced by the federal statutory scheme: namely situations involving violence and threats of violence, including sabotage and breach of the peace.

In the *Glacier* case, the company claimed that cement drivers who lawfully went on strike against it returned their vehicles with cement still in the drums. The drums were left rolling and that kept the cement intact. But because the company's managers could not figure out how to unload or deliver the concrete to the company's customers, it decided to unload and waste its concrete. The company then retaliated against those drivers by imposing discipline on them. The NLRB later issued a complaint against the company. A decision by the NLRB is pending. In making its decision, the NLRB will

determine whether the drivers' conduct of safely returning the cement in the cement trucks to the employer after they lawfully went on strike was lawfully protected conduct.

While the NLRB case is going on, the company has urged the Supreme Court to ignore the existing law and circumvent the NLRB altogether and to let companies run wild into state courts to enjoin and even attempt to criminalize all strikes. For many decades, federal law has protected workers' right to strike in order to improve their wages, hours and working conditions, and it has required that labor disputes be handled in a consistent, uniform way that promotes United States labor policies. The anti-worker case before the Court is undemocratic and disregards long-standing legal precedent. It is about corporations using the legal system to try to deny workers their inherent rights. Regardless of the outcome, American workers will never be broken.

For both the American worker and our entire country, the Supreme Court must affirm the lower court's ruling that the legality of the strike falls exclusively within the jurisdiction of the National Labor Relations Board.

Unions are good for workers, good for the economy and good for business.³⁴ President Biden has been quite clear that his Administration is built on the principle that a strong America relies on strong unions. The Teamsters stand with workers wherever and whenever they are ready to claim their power at work. I know I am the one answering your questions today, and I am encouraged by the convening of this hearing with this panel and by Chair Sanders' leadership, but I have to ask: what is Congress going to do to ensure that workers are free to exercise their labor rights without the threat of coercion and intimidation? Why is the PRO Act not passed overwhelmingly with bipartisan support? Why is there not a single Senate Republican co-sponsor on that bill? Why is Congress allowing corporate criminals to destroy good middle class careers and create dead-end low-wage jobs in their place? As Senator Ted Kennedy once remarked, "Federal Express is notorious for its anti-union ideology, but there is no

³⁴ <https://www.ilr.cornell.edu/scheinman-institute/blog/outreach/unions-are-having-moment-heres-how-can-be-good-labor-and-business>

justification for Congress becoming an accomplice in its union-busting tactics.”³⁵ At the Teamsters union, we often say that fighting for workers’ rights is a full contact sport. The Teamsters are in this fight to win. Whose side will you be on?

I thank you for your time and attention and look forward to your questions.

³⁵ <https://www.nytimes.com/1996/10/01/us/senate-fight-over-phrase-demonstrates-words-effect.html>