

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

FOOD LION, LLC, and MARYLAND)
AND VIRGINIA MILK PRODUCERS)
COOPERATIVE ASSOCIATION,)
INC.,)

Plaintiffs,)

v.)

DAIRY FARMERS OF AMERICA,)
INC.,)

Defendant.)

1:20-CV-442

ORDER

The plaintiffs, Food Lion, LLC and Maryland and Virginia Milk Producers Cooperative Association, have sued the defendant, Dairy Farmers of America, alleging that DFA's acquisition of three milk-processing facilities in North and South Carolina violates federal antitrust law. The plaintiffs seek injunctive relief only pursuant to 15 U.S.C. § 18, also known as Section 7 of the Clayton Act, and 15 U.S.C. § 2, also known as Section 2 of the Sherman Act. Specifically, the plaintiffs ask for an injunction requiring DFA to divest at least one of the Carolina facilities to an independent purchaser.

DFA moves to dismiss the complaint for lack of subject-matter jurisdiction and for failure to state a claim. Doc. 30. Upon full consideration of the arguments in the briefing, the motion will be denied. The complaint plausibly alleges facts giving rise to subject matter jurisdiction and to plausible claims for relief, and the issues raised by the

defendant are more suited for evaluation on a better developed factual record. The denial is thus without prejudice to a motion for summary judgment.

It is **ORDERED** that the defendant Dairy Farmers of America, Inc.'s motion to dismiss, Doc. 30, is **DENIED**.

This the 24th day of July, 2020.


UNITED STATES DISTRICT JUDGE