



FACT SHEET

# The Robinson-Patman Act: A Critical Tool for Fair Competition

Many Americans struggle to afford everyday necessities and many communities no longer have access to stores that sell basic goods and healthy foods. Grocery prices, for example, are high and food deserts are widespread. Today, access to affordable, healthy food is a leading concern for American families. These challenges didn't emerge by accident. They are, in part, the result of a policy decision made in the 1980s to stop enforcing a critical law designed to protect fair competition: the Robinson-Patman Act. This fact sheet highlights why restoring enforcement of the law is crucially important to small businesses, consumers, and communities.



## What is the Robinson-Patman Act?

Congress enacted the Robinson-Patman Act (RPA) in 1936 to safeguard the ability of Main Street businesses to compete. It requires suppliers to offer the same pricing and terms to all retail buyers; discounts are allowed only to the extent they reflect actual differences in cost (for supplying a large volume, for example). Reactivating RPA would stop powerful retailers from using their size and financial clout to eliminate independent businesses and dominate markets.

## The decision by the Federal Trade Commission to stop enforcing RPA in the 1980s was one of the most harmful and consequential policy decisions of the last 50 years.

The FTC stopped enforcing the law as part of a broader rollback of antitrust policy driven by a narrow interpretation of antitrust law focused primarily on "efficiency" rather than fairness. The consequences were swift and devastating.

- When the law was enforced from the 1930s to the 1970s, Americans benefited from a highly diverse and competitive retail sector. Larger chains expanded in these decades, but independent retailers continued to thrive, accounting for more than half of all retail sales. This dynamism benefited consumers, workers, and local communities.
- Suspending RPA allowed giants, like Walmart and Amazon, to concentrate control over much of the economy by exerting their power as dominant buyers to extract discounts for themselves while forcing independent retailers to pay more. Independent retailers saw their market share plummet, falling from 53% of retail sales in 1982 to just 22% in 2017, hollowing out communities across the country.

## Reviving RPA enforcement will benefit Americans by leading to more competition.

The harms of price discrimination spread beyond groceries, hobbling bookstores, pharmacies, and many other local businesses across the country. This is a leading issue for independent retailers in many sectors. Robust enforcement of the law will:

- **Help lower grocery prices for consumers.** While there are multiple drivers of high prices, lack of competition is a significant factor. As big retailers grew in size and power following the suspension of RPA, suppliers **responded by merging** with one another to bulk up. The resulting high levels of concentration among both retailers and suppliers paved the way for the **sharp price increases** and **inflated profit margins** of recent years.
- **Compel big retailers to compete based on better service and more efficient operations.** Currently, chains like Dollar General don't have to compete head-to-head with local grocers and other small businesses. They **knock them out of the market** simply by flexing their market power to secure special deals from suppliers. Without RPA enforcement, big companies win by merely being big — not by being better.
- **Help rural and low-income neighborhoods by enabling independent and locally owned businesses to compete.** Lack of RPA enforcement has **fueled** the spread of retail deserts by **undermining** the independent grocers and pharmacies that disproportionately **serve these communities**. Reviving the law will enable local grocery stores that **open in food deserts** to obtain fair pricing, thus significantly improving their chances of success.
- **Create new opportunities for small food producers.** Big retailers favor big manufacturers that can supply their entire national distribution, leaving fewer openings for small producers. More independent retailers will open up **opportunities for smaller companies**. It will make our manufacturing and food production sectors more diversified and resilient.

## It is time for the FTC to stay the course and enforce the RPA.

After decades of virtually no enforcement, the FTC under Chair Lina Khan prioritized robust enforcement of the antitrust laws. This included bringing the first RPA cases in over 20 years, particularly **Southern Glazer's Wine and Spirits, LLC** and **Pepsi Co**. Under the leadership of Chair Andrew Furgerson, the FTC abandoned the case against PepsiCo, leaving the public in the dark on the agency's investigation into Pepsi's preferential pricing to a major big-box retailer, reportedly Walmart. ILSR filed a motion in federal court to unseal the complaint. It is critical for federal enforcers at the FTC to stay the course and enforce this law. Of equal importance is the role state attorneys general (AGs) play in enforcing strong antitrust policy. The future of Main Street depends on it.

### To learn more about the Robinson-Patman Act and the benefits of enforcing the law, please see:

**"The Great Grocery Squeeze"** — Stacy Mitchell, *The Atlantic*, December 2024

**"The Policy Shift That Decimated Local Grocery Stores"** — ILSR Fact Sheet by Stacy Mitchell, November 2024

**"The Real Reason Your Groceries Are Getting So Expensive"** — *New York Times* op-ed by Stacy Mitchell, May 2023

**"Fixing the Food Gap: Antitrust Action and Grassroots Solutions to Check Dollar Stores and Rebuild Local Grocery Stores"** — ILSR event with FTC Commissioner Alvaro Bedoya and community leaders, May 2023

**"Boxed Out: How Big Retailers are Flexing Their Supply Chain Power to Kill Off Small Businesses"** — ILSR report by Stacy Mitchell and Ron Knox, September 2022