



It's Back: the Antitrust Law Designed to Protect Local Businesses from Big Box Competitors

During the Great Depression many “mom and pop” local stores suffered with their neighbors. At the same time, large companies found that by creating chains of retail outlets they could leverage suppliers to give them better prices and terms than small businesses. Congress passed the Robinson-Patman Act (the Act), an amendment to the Clayton Act, to protect these small competitors from price discrimination that gave larger competitors an unfair pricing edge over them. The Act became an important tool to prevent large chains from pushing small stores out of the market. The Act was actively enforced through the late 1970s. The drop off in enforcement resulted from a 1977 U.S. Department of Justice report that said preventing volume discounts to large chains caused consumers to pay higher prices notwithstanding harm to small retailers. The focus on consumer prices by regulators and courts since that time has resulted in far fewer suits under the Act. In effect, by the 1990s, the Act faced a sharp drop in both government and private party lawsuits as the U.S. Supreme Court focused antitrust law sharply on current impact on consumers.

But it is back! In *In the Matter of Southern Glazer's Wine and Spirits*, Case 8:24-cv-02684 (Dec. 12, 2024), the Federal Trade Commission's alleged the distributor's discriminatory pricing practices harmed local stores and smaller retailers around the country by giving much better discounts and terms to large chains based on volume purchase thresholds that only the largest competitors could meet (as well as favorable terms in how the volume test was applied to them). The Trump administration reviewed both the *Southern Glazer's* lawsuit and another Robinson-Patman Act case by the FTC against Pepsi, which were both filed at the end of the Biden administration. The Trump administration decided to pursue *Southern Glazer's* but drop the Pepsi case). In April 2025, the federal district court denied Southern

Glazer's motion to dismiss the FTC's amended complaint.

Small businesses now have an example of a Trump administration lawsuit that shows suppliers must treat them fairly when compared to their larger competitors under the Robinson-Patman Act. Further, different states have laws on pricing that may prevent small shops from big box competitors. Smaller retailers and distributors should review terms and prices from their suppliers in comparison to those given to larger competitors in light of this revival of the Act.

This blog was drafted by [DJ Healey](#), an attorney on the Spencer Fane Antitrust Team. For more information, visit spencerfane.com.

Click [here](#) to subscribe to Spencer Fane communications to ensure you receive timely updates like this directly in your inbox.