Main Street
COMPETITION COALITION

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WASHINGTON, DC — Today, the Federal Trade Commission (FTC) doubled down on the Robinson-Patman Act by taking action to address excessive use of buyer power in the grocery and food retail marketplace. The FTC voted 3-2 to challenge price discrimination demanded by a dominant retail chain that put independent retailers at a disadvantage and harm competition in the food retail sector.

Just one month ago, the FTC filed the first Robinson-Patman enforcement case in decades, accusing the nation's largest alcohol distribution company of illegal price discrimination. Today's case revives prohibitions in the RPA intended to address price discrimination through advertising and promotional allowances. The move by the FTC signals that the agency is serious about any attempt to undermine all of Robinson-Patman's prohibitions against price discrimination. It will give food product suppliers and agriculture producers the ability to say "no" to costly and unjust demands of power buyers and will help food producers run their businesses, not their largest customers.

"The FTC's lawsuit focuses on the core of the problem, one dominant retailer abusing its market power to coerce suppliers into making unreasonable and costly concessions," said Chris Jones, Chief Government Relations Officer & Counsel at the National Grocers Association. "Suppliers pay dearly for the privilege of doing business with these massive corporations, and the cost gets passed on to everyone else."

"America's independent convenience stores are thrilled with today's FTC Action," said Rob Underwood, President & COO of the Energy Marketers of America. "The RPA will level the playing field for retailers across all channels of trade who are forced to purchase products at higher prices than are offered to the nation's largest retail chains."

The prohibition in Robinson-Patman that curbs buyer power coercion has been all but nullified by the courts in the 90-year legal history of the Act. The sharpest tools available to the FTC are the supplier prohibitions, which have to be proved in order to bring enforcement action against retail power buyers. The Main Street Competition Coalition consists of agriculture producer groups who recognize the importance of robust enforcement of seller provisions to realign bargaining asymmetries used to undermine the competitive process.

"While this new suit targets a major beverage company, it's the nation's largest retailers that make unreasonable demands every day to agriculture producers and even demand trade terms that break the law" said Sarah Carden, a farmer and Research and and Policy Development Director at Farm Action. "The FTC's two Robinson-Patman enforcement actions will give our agriculture producers more power to reject trade terms by large grocery retailers that harm our growers and our ability to sell our products under fair terms to all of our customers."

The Main Street Competition Coalition, a broad alliance of businesses of all sizes, as well as farmers and ranchers, has fought for years to bring attention to market abuses that make it harder for Americans to get a good deal at the checkout counter. The coalition urges the FTC and Congress to focus on 21st-Century solutions to close the loopholes allowing powerful corporations to ignore the law.

National Trade Association members of the MSCC include the National Grocers Association, National Community Pharmacists Association, American Beverage Licensees, National Association of Convenience Stores, Energy Marketers of America, the Independent Restaurant Coalition, Organic Farmers Association, the Asian American Hotel Owners Association, National Association of Truck Stop Operators, R-CALF, the US Cattlemen Association, Farm Action, and the Western Growers Association.

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