

Congress of the United States

Washington, DC 20515

May 11, 2025

Ramon Laguarta
Chairman of the Board of Directors and CEO
PepsiCo
700 Anderson Hill Road
Purchase, NY 10577

Dear Mr. Laguarta:

We write regarding our concerns that PepsiCo, Inc. (Pepsi) may be engaging in illegal price discrimination that harms small, independent grocery stores and American consumers. In the past five months, a group of retailers and the Federal Trade Commission (FTC) have sued Pepsi for violating the *Robinson-Patman Act* (RPA), which prohibits sellers from engaging in anticompetitive price discrimination.¹ The lawsuits accuse Pepsi of charging independent retailers more than chain grocery stores for the same products and of extending advantages to major chain retailers that Pepsi did not offer to the chain retailers' smaller competitors.² Just last month, a federal court agreed with the FTC that the RPA "bars a seller from discriminating in price" between competing large and small retailers buying the same products.³ Pepsi's actions may have harmed local mom-and-pop stores' ability to compete against big-box grocery chains, leading to higher prices and fewer options for consumers.

American families across the country continue to struggle to afford groceries, and enforcement of the *Robinson-Patman Act* is part of the solution to help promote competition throughout the food supply chain and ease their financial burden.⁴ To address our concerns about this matter, and to ensure that that Pepsi is treating consumers and small businesses fairly, we are requesting information on Pepsi's pricing decisions.

Pepsi and its subsidiary Frito-Lay are accused of engaging in price discrimination that hurts consumers and small businesses. In February 2025, two small, family-owned convenience stores accused Pepsi and Frito-Lay of violating the *Robinson-Patman Act* by charging independent retailers "higher net prices for identical bags of snack chips compared to what Frito-Lay charges" chain stores.⁵ The lawsuit claims that Frito-Lay charged the plaintiffs over 50 percent more than it charged chain stores for the same goods.⁶ These discriminatory costs were then passed on to

¹ Reuters, "Convenience stores sue Pepsi and Frito-Lay, alleging price discrimination," Mike Scarcella, February 18, 2025, <https://www.reuters.com/legal/government/convenience-stores-sue-pepsi-frito-lay-alleging-price-discrimination-2025-02-18/>.

² *Id.*

³ Federal Trade Commission v. Southern Glazer's Wine and Spirits, LLC, (C.D. Cal., 2025).

⁴ The New York Times, "I Work at the F.T.C. I Know What Is Killing Local Groceries.," Alvaro Bedoya, January 13, 2025, <https://www.nytimes.com/2025/01/13/opinion/ftc-robinson-patman-grocery-food-desert.html>.

⁵ Alqosh Enterprises, Inc. and NMRM, Inc. v. Pepsico, Inc. and Frito-Lay North America, Inc.

⁶ *Id.*

the retail consumers who purchased Frito-Lay chips from small businesses.⁷ The plaintiffs' lawyer stated that Frito-Lay's "discriminatory pricing" forced "millions of consumers" to pay higher prices.⁸

This action follows a January 2025 lawsuit in which the FTC accused Pepsi of violating the RPA, claiming the company provided a major retailer, which is reported to be Walmart, with unfair pricing advantages, while raising prices for competing retailers and consumers.⁹ The FTC claimed that for years, Pepsi has disadvantaged retailers – including both large grocery chains and local convenience stores – by consistently giving benefits and advantages, such as promotional payments, to a big-box store, while denying those same benefits to the store's competitors.¹⁰ Charging discriminatory, high prices to smaller, independent retailers harms those retailers' ability to compete, and often forces consumers to endure unfair price increases. As the National Grocers Association has noted, when "one dominant retailer abus[es] its market power to coerce suppliers into making unreasonable and costly concessions ... [s]uppliers pay dearly for the privilege of doing business with these massive corporations, and the cost gets passed on to everyone else."¹¹

The *Robinson-Patman Act* is an important tool for the FTC to combat illegal price discrimination and concentration, and to provide a level playing field to all businesses. The RPA forbids sellers from charging competing buyers different prices for the same goods when there is a reasonable possibility that the effect of this price discrimination may be to lessen or harm competition.¹² The RPA also forbids sellers from granting special promotional or advertising payments, discounts, rebates, allowances, or services to one buyer unless they are made available to all competing buyers.¹³ On the campaign trail, President Trump promised to lower grocery prices "on Day One," and enforcing the RPA would promote competition in the food industry and ultimately bring down the cost of groceries.¹⁴ FTC Chair Andrew Ferguson has expressed support for enforcing the RPA, saying that there is "bipartisan agreement among the Commissioners that the government cannot simply ignore the Robinson-Patman Act," and that "the Commission should

⁷ *Id.*

⁸ Reuters, "Convenience stores sue Pepsi and Frito-Lay, alleging price discrimination," Mike Scarcella, February 18, 2025, <https://www.reuters.com/legal/government/convenience-stores-sue-pepsi-frito-lay-alleging-price-discrimination-2025-02-18/>.

⁹ CNN, "Pepsi hurt small businesses by giving big-box retailer financial advantages, the FTC claims," Auzinea Bacon, January 17, 2025, <https://www.cnn.com/2025/01/17/business/pepsi-walmart-ftc-prices/index.html>.

¹⁰ Federal Trade Commission, "FTC Sues PepsiCo for Rigging Soft Drink Competition," press release, January 17, 2025, <https://www.ftc.gov/news-events/news/press-releases/2025/01/ftc-sues-pepsico-rigging-soft-drink-competition>.

¹¹ National Grocers Association, "NGA Applauds FTC Efforts to Hold Power Buyers Accountable & Protect Independent Grocer Competition," press release, January 17, 2025, <https://www.nationalgrocers.org/news/nga-applauds-ftc-efforts-to-hold-power-buyers-accountable-protect-independent-grocer-competition/>.

¹² 15 U.S.C. 13.

¹³ *Id.*


¹⁴ CNN, "Trump pledged to bring down food prices on Day One. Instead, eggs are getting more expensive," Alicia Wallace, January 28, 2025, <https://www.cnn.com/2025/01/28/economy/trump-inflation-price-promises/index.html>; Letter from Senator Elizabeth Warren and Representative Jim McGovern to President Donald Trump, January 26, 2025, https://www.warren.senate.gov/imo/media/doc/letter_to_trump_re_egg_prices.pdf; Letter from Senator Elizabeth Warren and Representative Mary Gay Scanlon to FTC Chair Lina Khan, March 28, 2024, <https://www.warren.senate.gov/imo/media/doc/2024.03.28%20Letter%20to%20FTC%20re%20Robinson%20Patman%20Act1.pdf>.

enforce the [Robinson-Patman] Act where it has solid evidence of a violation.”¹⁵ As food prices remain sky-high, the FTC should continue to enforce the RPA to promote fair competition in the food industry.

To better understand Pepsi’s pricing strategies and to ensure protections for small businesses and consumers, we ask that you answer the following questions by May 25, 2025:

1. How does Pepsi decide the prices to charge individual retailers or classes of retailers for Pepsi products?
2. How much does Pepsi charge a chain grocer for a 12.5 oz bag of Frito-Lay chips?
3. How much does Pepsi charge convenience stores and small grocery stores for a 12.5 oz bag of Frito-Lay chips?
4. Does Pepsi or any of its subsidiaries confer advantages such as special prices, price negotiations, discounts, rebates, or advertising to larger retailers for carrying Pepsi products that the company does not offer to smaller retailers? If yes, please elaborate on the terms of these advantages.
5. How do Pepsi’s pricing strategies ensure all retailers, including small independent retailers, have an opportunity to compete fairly for the same Pepsi products?
6. Do lower prices for Pepsi products at larger chain retailers compel consumers to shop for Pepsi products at chain retailers, rather than at smaller, independent retailers?
7. Have Pepsi or any of its subsidiaries changed their pricing strategies in response to the FTC’s or the small businesses’ lawsuit? If yes, what changes has the company made?
8. Pepsi recently hired a competition lobbyist “to refute allegations that it engaged in price discrimination against retailers.”¹⁶ How much will Pepsi compensate the lobbyist for this work?

Sincerely,



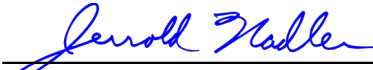
Elizabeth Warren
United States Senator



Cory A. Booker
United States Senator

¹⁵ Federal Trade Commission, “Dissenting Statement of Commissioner Andrew N. Ferguson,” January 17, 2025, pp. 3, 5, https://www.ftc.gov/system/files/ftc_gov/pdf/dissenting-statement-commissioner-ferguson-regarding-non-alcoholic-beverages-price-discrimination-investigation.pdf.

¹⁶ Politico, “Pepsi hires an antitrust lobbyist,” Caitlin Oprysko, April 9, 2025, <https://www.politico.com/newsletters/politico-influence/2025/04/09/pepsi-hires-an-antitrust-lobbyist-00282762>.



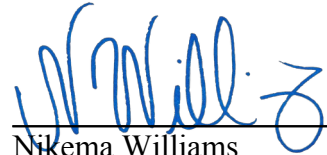
Jerrold Nadler
Member of Congress



Rashida Tlaib
Member of Congress



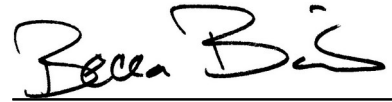
Pramila Jayapal
Member of Congress



Nikema Williams
Member of Congress



André Carson
Member of Congress



Becca Balint
Member of Congress



Maggie Goodlander
Member of Congress



Summer L. Lee
Member of Congress