

United States Senate

WASHINGTON, DC 20510

The Honorable Pam Bondi
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

The Honorable Andrew Ferguson
Chairman
U.S. Federal Trade Commission
600 Pennsylvania Avenue NW
Washington, DC 20580

January 20, 2026

Dear Attorney General Bondi & Chairman Ferguson:

We write to encourage the Department of Justice (DOJ) and the Federal Trade Commission (Commission) to look into potential discriminatory pricing and product supply practices that harm small and medium-sized businesses, particularly in the grocery industry. In addition to your investigative authority, we urge you to utilize all federal laws that empower you to bring enforcement actions against any discriminatory conduct that you may discover in violation of antitrust law, including the *Robinson-Patman Act* (RPA).

Small and medium-sized businesses serve as the foundation for local communities from rural America¹ to the inner city² and have become the most effective source of new job creation.³ Independent businesses are often the only source of groceries, consumer goods or pharmaceuticals⁴ in many small towns and urban centers.⁵ These businesses provide critical competition related to price, quality, choice, service and convenience.⁶

We have heard concerns that it is increasingly difficult for ordinary Americans to access essential goods and services traditionally provided by local grocers and pharmacies, due to discriminatory behavior by firms or intermediaries with market power.⁷ We have also heard concerns that concentrated market power has caused downstream effects that unnecessarily disrupt the supply chain for small and medium-sized businesses.⁸ For example, there have been complaints about how the lack of competition and choice has forced small and medium-sized businesses, in particular independent grocers, to accept increasingly discriminatory terms and

¹ López, Rigoberto, Keenan Marchesi, and Sandro Steinbach. "Dollar Store Expansion and Independent Grocery Retailer Contraction." *Applied Economic Perspectives and Policy*, (2024) <https://ageconsearch.umn.edu/record/329895>.

² Office of Advocacy, U.S. Small Business Administration, *2023 Small Business Profile: United States*, (2023) <https://advocacy.sba.gov>.

³ U.S. Bureau of Labor Statistics, *Business Employment Dynamics*, (2023) <https://www.bls.gov/bdm>.

⁴ Dima M. Qato et al., *Pharmacy Access in the United States: Geographic and Demographic Disparities*, 177 *JAMA Internal Med.* 138, 138–45 (2017).

⁵ Econ. Rsch. Serv., U.S. Dep't of Agric., *Food Access Research Atlas*, <https://www.ers.usda.gov/data-products/food-access-research-atlas>.

⁶ Federal Trade Commission, *Feeding America in a Time of Crisis: FTC Staff Report on the U.S. Grocery Supply Chain and the COVID-19 Pandemic*, (Mar. 2024) <https://www.ftc.gov>.

⁷ *Id.*

⁸ Asil, Aslihan, *Can Robinson-Patman Enforcement Be Pro-Consumer?* (May 19, 2024). Available at SSRN: <https://ssrn.com/abstract=4833711> or <http://dx.doi.org/10.2139/ssrn.4833711>.

conditions for their products, including less favorable pricing, price terms, supply terms and retail packaging.⁹ These businesses allege that sometimes they are unable to access products that are in short supply, while their larger competitors are able to obtain those same products.¹⁰ Industries, such as the grocery business, experience high turnover and low margins, which allow firms with market leverage—whether sellers, purchasers or intermediaries—to engage in discriminatory practices that disproportionately harm independent competitors. This discriminatory behavior has made it untenable for many locally-owned grocers and pharmacies to continue to serve their communities.¹¹

The high level of concentrated market power in agriculture also stands to negatively impact farmers and ranchers by reducing competition and limiting meaningful choice. Currently, only a handful of large firms compete to buy agriculture products, especially in the meat sector. The United States Department of Agriculture (USDA) recently found that discriminatory and coercive practices can serve as a key barrier to entry for smaller meatpacking and meat merchandisers.¹² If left unchecked, these practices could result in even further concentration and supply chain risk, in addition to suppressed prices paid to farmers and ranchers, ultimately leading to higher consumer prices.

Congress recognized the benefits that independent businesses and agriculture producers bring to our economy and the threats posed by economic discrimination and excessive consolidation when it enacted laws like the *Sherman Act*, the *Clayton Act* and the *Robinson-Patman Act*.¹³ In particular, the RPA expressly states that it “shall be unlawful for any person engaged in commerce, in the course of such commerce, to be a party to, or assist in, any transaction of sale, or contract to sell, which discriminates to his knowledge against competitors of the purchaser...”.¹⁴ This clearly reflects congressional concern that certain forms of price discrimination between competing purchasers of commodities of similar grade and quality can harm competition.

Antitrust enforcers have not always pursued actions pursuant to the RPA, despite the fact that Congress enacted the law to strengthen the ability of the executive branch to police discriminatory practices that artificially distort the marketplace and harm smaller actors.¹⁵ We recognize that RPA enforcement, like all antitrust enforcement, should be guided by prudential case selection based on a sound and neutral analysis, consistent with the statute’s text and purpose, to make certain that enforcement actions promote competition and protect consumers

⁹ FTC, *FTC Staff Report*.

¹⁰ Federal Trade Commission, *The State of Competition in the U.S. Supply Chain*, (Feb. 2024) https://www.ftc.gov/system/files/ftc_gov/pdf/p162318supplychainreport2024.pdf.

¹¹ Stacy Mitchell, "The Great Grocery Squeeze," *The Atlantic*, (Dec. 1, 2024)

<https://www.theatlantic.com/ideas/archive/2024/12/food-deserts-robinson-patman/680765/>.

¹² U.S. Dept. of Agric., *USDA Strengthens Enforcement of the Packers and Stockyards Act*, (2023) <https://www.usda.gov>.

¹³ 15 U.S.C. § 13(a).

¹⁴ Filippo Lancieri, Eric A. Posner & Luigi Zingales, *The Political Economy of the Decline of Antitrust Enforcement in the United States* (Becker Friedman Inst. for Econ. at the Univ. of Chi., BFI Working Paper No. 2022-104, (Aug. 2022) https://bfi.uchicago.edu/wp-content/uploads/2022/08/BFI_WP_2022-104.pdf.

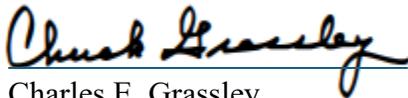
¹⁵ *See Id.*

while addressing economic discrimination that harms small and medium-sized businesses.¹⁶ Therefore, we are encouraged that the current leadership at the Commission and DOJ have recognized the importance of reinvigorating RPA enforcement.¹⁷

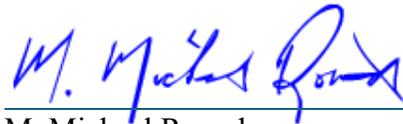
The RPA remains a powerful antitrust tool that the Commission and the DOJ can utilize to combat economic discrimination and maintain a level playing field where the smallest of entrepreneurs can compete with the largest of companies in a fair, open and honest marketplace and where the laws are equally applied to all actors.

We urge both the Commission and the DOJ to make enforcement against economic discrimination targeting small and medium-sized businesses a top priority. In particular, we urge the leaders of both agencies to utilize all of the tools at your disposal, including enforcement of the *Robinson-Patman Act*, to investigate, prevent and halt economic discrimination targeting small and medium-sized businesses, so a business of any size has a fair shot to achieve success. Finally, we would welcome any input from the Commission and the DOJ on how to strengthen federal laws designed to combat anticompetitive conduct and economic discrimination.

Sincerely,



Charles E. Grassley
United States Senator



M. Michael Rounds
United States Senator



Thom Tillis
United States Senator



Joni K. Ernst
United States Senator



Roger Marshall, M.D.
United States Senator



Tim Sheehy
United States Senator

¹⁶ *FTC v. Morton Salt Co.*, 334 U.S. 37, 49–51 (1948).

¹⁷ *FTC v. PepsiCo, Inc.*, 778 F.2d 775 (D.C. Cir. 1985) (affirming FTC authority to challenge price discrimination under the Robinson-Patman Act and recognizing the Act’s continued role in antitrust enforcement).

cc. The Honorable Gail Slater
Assistant Attorney General
Antitrust Division
U.S. Department of Justice

The Honorable Mark Meador
Commissioner
U.S. Federal Trade Commission