

Pepsi faces FTC suit over unfair pricing

Article

The news: The FTC sued **PepsiCo** for illegal price discrimination last week, marking its final action under former chair **Lina Khan** as well as the Biden administration's last attempt to shape [antitrust enforcement](#).

The details of the case: The suit is the FTC's second in as many months to invoke the [Robinson-Patman Act](#) (RPA), which makes it illegal for sellers to offer buyers different prices for the same goods unless the difference can be justified by higher distribution costs.

- Pepsi is accused of offering an unnamed big-box retailer—which sources identified to CNBC as **Walmart**—an unfair price advantage over competitors ranging from big grocery chains to local convenience stores.
- The FTC’s suit argues that Pepsi violated the RPA by giving Walmart advantages, such as “promotional payments” and advertising, which it did not offer to rival retailers.

Pepsi “strongly disputes” the allegations and plans to “vigorously present” its case in court, the company said in a statement.

What happens next? Whether the case proceeds depends on current FTC chair **Andrew Ferguson**, who made his displeasure known in a withering dissent that called the suit a “political bludgeon” reliant on “an academic theory devoid of evidence.”

- Ferguson noted that he has no objection to enforcing the RPA, provided there is evidence that a company has violated the act and that it has enough market power to stifle competition.
- But his objection to the Khan FTC’s interpretation of the act underscores the Trump administration’s much more conservative approach to antitrust enforcement—one that will likely have a narrower remit and favor settlements over lengthy court cases.

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