



## Press Release

# Pepsi and Coke Targeted for Price Discrimination

PAULINA ENCK | JANUARY 30, 2023

The Federal Trade Commission (FTC) launched a preliminary investigation into Coca-Cola and PepsiCo alleging that the beverage makers offered lower prices to larger retailers and are thus in violation of the Robinson-Patman Act (RPA), a law that prohibits price discrimination between large and small retailers for like products. In a new insight, Competition Economics Analyst Fred Ashton discusses the potential case against PepsiCo and Coca-Cola and warns against the harmful implications to consumers of reviving the RPA.

### Key points:

- President Biden's executive order on Promoting Competition in the American Economy inspired the revival of the long-dormant RPA as the FTC continues to advance its "return to fairness" doctrine and replace the nearly 50-year-old consumer welfare standard of enforcement.
- If the FTC is successful in its potential challenge, companies would likely respond by raising prices for large retailers, perhaps leading to a shift from savings for consumers to profits for suppliers.
- Using the RPA to protect small businesses would translate into higher prices for the end consumer, an easily avoidable outcome if the FTC had simply followed the consumer welfare standard.

[\*Read the analysis\*](#)