

FTC Secures Landmark Robinson-Patman Act Settlement With Southern Glazer's Wine and Spirits

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On October 2, 2026, the Federal Trade Commission (FTC) announced a settlement with Southern Glazer's Wine and Spirits, the nation's largest wine and spirits distributor, resolving the agency's closely watched Robinson-Patman Act price discrimination suit. The settlement is the first successful conclusion of an FTC Robinson-Patman Act enforcement action in 26 years, but does not necessarily signal the agency's intention to broadly apply the statute in similar instances.

Background

In December 2024, the FTC sued Southern Glazer's in the US District Court for the Central District of California, alleging that the company had violated Section 2(a) of the Robinson-Patman Act by selling wine and spirits to small, independent retailers at prices drastically higher than the prices it charged large national and regional chains, such as Total Wine, Costco and Kroger. According to the FTC's complaint, Southern generated approximately \$26 billion in revenue from wine and spirits sales in 2023 – selling roughly one in three bottles of wine and spirits purchased in the United States – making it one of the 10 largest privately held companies in the country. The complaint alleged that, beginning at least in 2018, Southern routinely charged small, independent retailers significantly higher prices than larger retailers nearby for identical bottles of wine and spirits sold within overlapping time periods. Southern did this through large-volume quantity discounts, cumulative quantity discounts and scan rebates that were generally unavailable to independents and not justified by Southern's actual costs of distribution.

This is fundamentally a legacy Biden-era case. The FTC's vote to authorize the original 2024 suit passed 3 – 2 with then-Commissioner Andrew Ferguson and Commissioner Melissa Holyoak dissenting. Commissioner Alvaro Bedoya, joined by then-Chair Lina Khan and Commissioner Rebecca Kelly Slaughter, defended the action as the long-overdue revival of the 1936 statute to prevent large chains from using size-based leverage to extract secret discounts and rebates unavailable to smaller competitors, framing the case as a straightforward secondary-line claim. Ferguson dissented from the outset, writing that while the government does not have the power to suspend a law merely because it disagrees with the law's underlying policy, the FTC nonetheless has an obligation to carefully choose how it will spend its limited resources.

Outcome

Under the terms of the proposed stipulated consent order, Southern will face defined limitations on its ability to charge small, independent retailers higher prices than it charges competing large retail chains, without admitting liability or wrongdoing. The order covers nearly all of Southern's wine and spirits sales to the five largest chain retailers across 26 states, including California, Florida, New York, Texas and Washington, among others.

Instead of a blanket nondiscrimination rule, the consent decree sets up a compliance framework built around "Paired Transactions," a sale by Southern to a top-five retailer by sales volume in a state made around the same time as a sale of a similar product to a nearby small, independent retailer with 75 or fewer locations:

- A Paired Transaction becomes a "Discriminatory Paired Transaction" if the price gap exceeds a "Safe Harbor" threshold (state-specific operating costs plus a 2.5% margin).
- Southern is considered in violation if excess payments to a given independent retailer add up to more than \$5,000 within any rolling 12-month period.
- Southern can cure a violation by paying the affected retailer 1.5x the excess amount.
- If Southern does not cure, and the FTC later wins an enforcement action, Southern must pay the independent retailer double the aggregated price differentials.

- An independent monitor, chosen jointly by the FTC and Southern, will oversee compliance for the order's six-year term.

FTC Bureau of Competition Director Daniel Guarnera called the settlement “a significant milestone for the FTC in its enforcement of the Robinson-Patman Act,” adding that the agency “is committed to ensuring that all businesses, no matter their size, can compete on a fair and level playing field.”

Chairman Andrew Ferguson, on the other hand, has been blunt about his position on the case, stating he “disagreed with the Democrat Commissioners’ imprudent decision to tie up the Commission’s budget and staff for years to come,” and that he remained, “utterly baffled by [his] former colleagues’ decision to commit thousands of man-hours and millions of dollars of resources to a case addressing an issue that was not injuring American consumers.” Ferguson has maintained that the FTC “should exercise sound discretion to pursue only those Robinson-Patman Act cases where both retailers and consumers are injured by second-line price discrimination.” Commissioner Mark Meador has echoed that consumer harm focus, writing that alcohol distribution’s “unusually poor” regulatory regime “shape[s] pricing and discount practices in ways that make application of the Robinson-Patman Act particularly complicated and can produce pricing differences whose motivation and legal significance depend on state-specific regulatory requirements rather than straightforward evidence of competitive injury or consumer harm.” He instead supports focusing on instances where there is clear consumer harm “in a sector that more directly impacts the cost of living for American families, such as food and groceries.”

Why this matters

For suppliers and distributors operating tiered retail channels, several practical takeaways emerge:

- **The Southern Glazer’s settlement is significant, but is not necessarily a signal of a Robinson-Patman revival.** Although the settlement is noteworthy, it does not signal a resurgence of Robinson-Patman Act enforcement. As the FTC’s first successful Robinson-Patman action in roughly a generation, the case confirms that the agency remains willing to use the statute when warranted. However, Ferguson and Meador unambiguously emphasized that enforcement should focus on cases involving clear consumer harm, limiting the circumstances where the act is likely to be deployed.
- **Discount and rebate justifications need contemporaneous support.** The order requires Southern to retain documentation supporting any cost justification, meeting competition or changed market conditions defense for three years. Suppliers should assume the same evidentiary burden applies to them and should document, in real time, the cost basis for any pricing that favors larger customers.
- **Internal pricing governance is now an enforcement expectation.** The order mandates a formal compliance program, designated compliance officer, mandatory training for commercial and revenue management staff, and confidential reporting channels. Companies with tiered retail channels should consider similar internal controls before the FTC or a private plaintiff comes calling.

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