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WAL-MART FIRES BACK IN PRICING BATTLE; [ALL Edition]

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Abstract (Document Summary)

Bill Oemichen, administrator with the Department of Agriculture, Trade and Consumer Protection, said the large number of complaints coming from Wal-Mart is "highly unusual" given the fact it had never filed any complaints prior to Wisconsin regulators bringing action against Wal-Mart.

Competitors last year accused Wal-Mart of selling items such as milk, paper towels, toilet paper and cigarettes below cost. Among the competitors filing complaints against Wal-Mart were Woodman's Food Markets, Janesville; Roundy's, Wauwatosa; and Prescott's Supermarkets, Cigarette Outlet and Pharmaceutical Services, all of West Bend. The violations took place at Wal-Mart stores in Beloit, West Bend, Tomah, Oshkosh and Racine, according to the complaint.

"We are reviewing the Wal-Mart complaints to determine their validity," said Oemichen. "If other retailers are violating the Unfair Sales Act we will take action. But this review will not deter us from moving forward on our predatory pricing complaint against Wal-Mart."

Full Text (694 words)

Copyright Madison Capital Times Feb 2, 2001

Wal-Mart Stores is lashing back against the competition.

The world's largest retailer, which is facing charges it violated Wisconsin's predatory pricing laws by selling products below cost, has now flooded regulators here with complaints that competing retailers are doing the same thing.

The Bentonville, Ark.-based discounter has filed 263 valid complaints since Jan. 1, 2000 under Wisconsin's Unfair Sales Act, accounting for 96 percent of the 273 total complaints filed over that period. Wal-Mart has filed another 70 complaints which have been tossed out.

The complaints accuse Wal-Mart's competitors of selling a variety of products below cost, from small items such as mouthwash and baby formula to larger items such as DVD players and televisions.

Wal-Mart has targeted virtually all of the big-name chain retailers in Wisconsin, including Shopko, Pick 'n Save, Best Buy, Target, Farm & Fleet, Pamida, Menards, K-Mart, Home Depot, Cub Foods, Walgreens and Woodman's Food Markets. It also has accused smaller stores such as Dick's Supermarket in Dodgeville and Marketplace Foods in Rice

Lake.

The move follows aggressive action by state consumer protection officials, who in September filed a predatory pricing complaint with an administrative law judge against the retail giant. That case is scheduled for a hearing on May 7.

Bill Oemichen, administrator with the Department of Agriculture, Trade and Consumer Protection, said the large number of complaints coming from Wal-Mart is "highly unusual" given the fact it had never filed any complaints prior to Wisconsin regulators bringing action against Wal-Mart.

"It's also unusual given the position Wal-Mart has taken against the Unfair Sales Act," said Oemichen.

Wal-Mart and others have been critical of the act, a New Deal-era reform that prohibits companies doing business in the state from selling products below cost in an attempt to drive out competitors. A store may sell items below cost but only to match another store's price. And the stores selling below cost must be able to prove they are only meeting the competition.

Competitors last year accused Wal-Mart of selling items such as milk, paper towels, toilet paper and cigarettes below cost. Among the competitors filing complaints against Wal-Mart were Woodman's Food Markets, Janesville; Roundy's, Wauwatosa; and Prescott's Supermarkets, Cigarette Outlet and Pharmaceutical Services, all of West Bend. The violations took place at Wal-Mart stores in Beloit, West Bend, Tomah, Oshkosh and Racine, according to the complaint.

Bill Wertz, spokesman for Wal-Mart, said the retailer is simply trying to point out that violations of the Unfair Sales Act are widespread in Wisconsin. He denied any effort to swamp regulators with scores of complaints.

"The purpose of our filing was to demonstrate the fact this statute is a very difficult one to comply with," he said. "What we're asking is that if the statute is going to be enforced, shouldn't it be done uniformly?"

Oemichen said the filings by Wal-Mart will be treated like any other complaints. Given the volume of complaints, DATCP has been forced to assign one auditor full-time to the investigation. About 70 complaints have already been initially ruled invalid.

"We are reviewing the Wal-Mart complaints to determine their validity," said Oemichen. "If other retailers are violating the Unfair Sales Act we will take action. But this review will not deter us from moving forward on our predatory pricing complaint against Wal-Mart."

Violations of Wisconsin pricing laws can bring fines of up to \$500 for a first violation. Under the law, a store's cost is considered to be the invoice cost, less any trade discounts, plus the cost of transportation.

Wertz said Wal-Mart has been attempting to comply with the statute and has set up a new system to track prices.

"I'm sure the law was well-intentioned at the time," he said. "But the question is what benefits consumers. We believe low prices benefit the consumers and we do all we can to keep prices as low as we can."

Wal-Mart had sales of \$165.01 billion in fiscal 2000 and operates 4,000 stores worldwide. In Wisconsin, the chain employs 17,350 people at 55 Wal-Mart stores, four Super Centers and 11 Sam's Club stores.

The discounter is also facing scrutiny from antitrust officials in Germany for its pricing practices.

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