FTC Challenges Proposed Acquisition of Conagra's Wesson Cooking Oil Brand by Crisco owner, J.M. Smucker Co.

Merger of Crisco and Wesson would give Smucker power to raise prices of leading canola and vegetable cooking oil brands sold to U.S. retailers, complaint alleges

FOR RELEASE

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The Federal Trade Commission today filed an administrative complaint [a public version of which will be linked to this news release shortly] charging that J.M. Smucker Co.'s proposed $285 million acquisition of Conagra Brands, Inc.'s Wesson cooking oil brand "is likely 'substantially to lessen competition, or to tend to create a monopoly' in violation of the Clayton Act;" and thereby reduce competition in the United States for canola and vegetable oils. Smucker currently owns the Crisco brand, and by acquiring the Wesson brand, it would control at least 70 percent of the market for branded canola and vegetable oils sold to grocery stores and other retailers.

Ohio-based Smucker and Chicago-based Conagra both manufacture and sell a wide range of food products, including canola and vegetable oil, other types of oils, and shortening. Under the proposed acquisition, Smucker would obtain all intellectual property rights to the Wesson brand, as well as inventory and manufacturing equipment.

The complaint alleges that the acquisition is likely to increase Smucker's negotiating leverage against retailers, especially traditional grocers, by eliminating the vigorous head-to-head competition that exists between the Crisco and Wesson brands today. The retailers, and ultimately consumers, would likely face higher prices for branded canola and vegetable cooking oil, the complaint states.

"Cooks across the U.S. benefit from the competition between the staple brands Wesson and Crisco. We are taking this action to preserve the benefits of that competition," said Ian Conner, Deputy Director of the Bureau of Competition. "After attempted price increases by each brand over the last two years were limited by intense competition from the other, this transaction eliminates that restraint and would allow Smucker to raise prices on both brands."

According to the complaint, internal documents from both parties, as well as other evidence, Crisco and Wesson compete intensely for sales to retailers. Smucker's own internal documents acknowledge that eliminating price competition between Crisco and Wesson is a central part of its rationale for the acquisition. The transaction would give Smucker the ability to raise prices to retailers, ultimately leading to higher prices for U.S. consumers.

Among the least expensive cooking oils, canola and vegetable oils are also highly versatile. Cooks nationwide use these oils in baking, frying, and sautéing, as well as in marinades and vinaigrettes. Grocery stores and other retailers across the United States offer canola and vegetable oil in a wide variety of sizes. Most retailers also have their own store brand canola and vegetable oils, which typically are sold at 10 to 20 percent below the price of their branded counterparts, according to the complaint.

Other cooking oils are not competitive alternatives for canola and vegetable oils, according to the complaint. Corn and peanut oils are substantially more expensive, and many consumers perceive that they are of lower quality. Olive oil and various specialty oils tend to be less versatile for many cooking applications and more expensive.

New entry into the market, or expansion by existing firms would not be timely, likely, or sufficient to offset the anticompetitive effects of the proposed acquisition, according to the complaint. Although there are other branded canola and vegetable oils available in the United States, such as Mazola and LouAna, they each control only a small share of the market, and building sufficient brand equity to expand would require substantial investment and take at least several years.

The Commission also authorized FTC staff to seek a temporary restraining order and a preliminary injunction in federal court to prevent the parties from consummating the merger, and to maintain the status quo pending the administrative proceeding.

The Commission vote to issue the administrative complaint was 2-0. The administrative trial is scheduled to begin on Aug. 7, 2018.

NOTE: The Commission files a complaint when it has “reason to believe” that the law has been or is being violated and it appears to the Commission that a proceeding is in the public interest. A complaint constitutes an allegation, but does not constitute a determination that the law has been violated as alleged.

The Federal Trade Commission works to promote competition, and protect and educate consumers. You can learn more about how competition benefits consumers or file an antitrust complaint. Like the FTC on Facebook, follow us on Twitter, read our blogs and subscribe to press releases for the latest FTC news and resources.

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