

US Sen. Baldwin: Questions Energizer's 2018 acquisition of Wisconsin-based Rayovac in light of potential plant closures

Posted on Thursday, Apr 6, 2023

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WASHINGTON, D.C. – Today, U.S. Senator Tammy Baldwin (D-WI) demanded answers from the Federal Trade Commission (FTC) about their lack of adequate oversight in allowing Energizer's 2018 acquisition of Rayovac to proceed, leading to price hikes for consumers and now risking hundreds of Wisconsin jobs. Since that merger, Energizer has dominated the market, allowing it to raise prices with limited competition and potentially close two Wisconsin plants in Fennimore and Portage, which may lead to layoffs for 600 union workers.

In 2018, the FTC unconditionally cleared Energizer's acquisition of Spectrum Holdings' battery business Rayovac, resulting in Energizer controlling an estimated 40 percent of the United States' battery market, 60 percent of the world hearing aid battery market, and 85 percent of the total battery market.

“From price increases to the announced closure of two plants in Wisconsin, this merger has been profoundly and predictably damaging to Wisconsin families,” **wrote Senator Baldwin.** “Energizer's dominant position in the battery market even before the acquisition and its post-merger behavior in labor and consumer markets raise material questions regarding the Commission's 2018 decision that demand immediate explanation.”

While the FTC's European counterpart heavily scrutinized the merger and imposed conditions to protect European consumers, the FTC quickly cleared the merger, leading to a highly concentrated U.S. marketplace that has harmed Wisconsinites.

Following the merger in 2021, Energizer announced a price hike for the vast majority of their North American customers, despite already being a profitable company.

“Given its dominant market position, Energizer was able to raise its prices with little fear of losing its customers. These price increases, which contributed to the bottom line of an already profitable corporation, were made possible by a seemingly cursory review by the nation’s top consumer watchdog,” **Senator Baldwin wrote.**

In January of this year, Energizer also announced its plans to close their plants in Portage and Fennimore – both of which were included in the 2018 merger – in favor of offshoring Wisconsin manufacturing jobs and sending other jobs to states with fewer worker protections. The proposed shutdowns could eliminate 600 good-paying, union jobs in Wisconsin.

“These families – who may lose their livelihoods to benefit an already sizeable profit margin – deserve answers from the agency that failed to challenge this merger. Inadequate antitrust enforcement has real and predictable effects on Wisconsin families, including price increases, offshoring, and plant closures,” **continued Senator Baldwin.** “Given the seemingly brief review of the Energizer-Spectrum Holdings merger and the potential loss of 600 good-paying union jobs, Wisconsin families deserve to know why the FTC failed to challenge this deal.”

“Energizer’s proposed plant closings in Portage and Fennimore are an attack on working people,” **said Sean M. O’Brien, President of Teamsters General.** “The Teamsters applaud Sen. Baldwin for scrutinizing Energizer’s plan to kill these good union jobs, and we strongly support her request for antitrust regulators to revisit Energizer’s 2018 merger with Spectrum. These threatened plant closings raise serious questions about why that merger wasn’t challenged. Thanks to Sen. Baldwin’s leadership and the Teamsters’ will to fight, Energizer can be held accountable, Wisconsin families can get some answers, and other greedy corporations can take notice.”

“Mergers like Energizer/Spectrum can and have posed devastating consequences for working people, consumers, and local communities,” **said Krista Brown, Senior Policy Analyst at the American Economic Liberties Project.** “It’s great to see Senator Baldwin stand up for Wisconsinites and work closely with FTC to ensure that deals like this are getting proper review.”

For a copy of the letter, see below or [here](#).

An online version of this release is available [here](#).

Dear Chair Khan:

I write to express deep concerns regarding the effects of Energizer's 2018 acquisition of Spectrum Holdings and to inquire about the basis of the Federal Trade Commission's (FTC) failure to challenge this merger. From price increases to the announced closure of two plants in Wisconsin, this merger has been profoundly and predictably damaging to Wisconsin families. Energizer's dominant position in the battery market even before the acquisition and its post-merger behavior in labor and consumer markets raise material questions regarding the Commission's 2018 decision that demand immediate explanation.

In 2018, the FTC unconditionally cleared Energizer's acquisition of Spectrum Holdings. This approval shocked Energizer's own investors – and understandably so. The deal, which was estimated to give Energizer control of 40 percent of the United States' battery market, 60 percent of the world hearing aid battery market, and 85 percent of the total battery market, was a boon to investors. A market analyst noted at the time that the merger created a “functional duopoly” that was expected to “yield pricing and margin benefits for both companies for years to come.”

Such a drastic restructuring to the benefit of two dominant firms would seem to “scream out” for an in-depth transaction review. In fact, the deal garnered a more thorough review in the European Union. Unlike the FTC, the European Commission found that the proposed transaction “would have significantly reduced competition” for disposable household batteries, rechargeable household batteries, specialty batteries, hearing aid batteries, and portable battery chargers. The potential harm from increased prices and reduced choice was great enough that the European Commission required divestitures of certain business lines and exclusive supply and license agreements to mitigate these consumer-damaging effects – despite the European market being comparatively less concentrated. The FTC, on the other hand, seemed to only pursue a cursory investigation of the merger by foregoing a standard second review, leading to a duopoly that continues to dominate the U.S. market.

This duopoly has caused predictable harms to consumers. In June of 2021, Energizer notified customers in the United States and Canada of its intent to implement

higher prices across 85 percent of its North American portfolio, despite net sales growth, increased adjusted free cash flow, and higher adjusted earnings. Given its dominant market position, Energizer was able to raise its prices with little fear of losing its customers. These price increases, which contributed to the bottom line of an already profitable corporation, were made possible by a seemingly cursory review by the nation's top consumer watchdog.

Even worse is that this merger may potentially lead to the loss of hundreds of union jobs in Wisconsin. In January of this year, Energizer told union representatives that it plans to offshore Wisconsin manufacturing jobs and send other jobs to states with fewer worker protections. In February, Energizer posted "Shutdown Plans" in employee breakrooms, detailing the phased closure of plants in Portage and Fennimore, both of which were included in the 2018 merger. These proposed shutdowns, which appear to be part of the company's "Project Momentum," could lead to the elimination of 600 good-paying, union jobs in Wisconsin. These families – who may lose their livelihoods to benefit an already sizeable profit margin – deserve answers from the agency that failed to challenge this merger.

Inadequate antitrust enforcement has real and predictable effects on Wisconsin families, including price increases, offshoring, and plant closures. While I appreciate the Commission's renewed commitment to antitrust oversight and enforcement, this appropriate oversight must benefit Wisconsin workers and consumers. Given the seemingly brief review of the Energizer-Spectrum Holdings merger and the potential loss of 600 good-paying union jobs, Wisconsin families deserve to know why the FTC failed to challenge this deal. To that end, I respectfully request answers to the following questions by May 6, 2023:

- On what basis did the Federal Trade Commission approve the 2018 merger between Energizer and Spectrum Holdings?
- Why did the Commission decline to make a second request for information regarding the acquisition, a decision that was incongruent with other mergers reviewed at the time?
- To what extent did promised "efficiencies" contribute to the FTC's assessment of the merger? Did these "efficiencies" include potential plant closures, job relocations, or offshoring?
- What procedures are in place, if any, for the Commission to study the later effects of consummated mergers?
- Under what circumstances would the Commission deem it appropriate and important to reopen an earlier investigation into a completed merger?

- To what extent did the Commission consult with the Wisconsin Department of Justice regarding the proposed merger?
- How did the Commission define the relevant market when examining the proposed merger between Energizer and Spectrum Holdings? To what extent did the Commission consider specific market segments – e.g., hearing aid batteries – when examining its potential effects?
- To what is the different approach to the merger as compared to the European Commission attributable – i.e., why did the FTC decline to require divestment of certain business lines or other protective measures?
- To what extent did the Commission consider the effect of the merger on workers employed by Energizer and Spectrum Holdings?
- To what extent did the Commission examine the potential for price increases across the consumer battery market because of the merger?

Thank you for your prompt attention to this matter.

Sincerely,