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## Germany Says Wal-Mart Must Raise Prices

By EDMUND L. ANDREWS

German competition regulators accused Wal-Mart Stores of being too competitive today, and ordered the giant retailer to raise its prices for household staples like milk, flour, butter, rice and cooking oil.

The decision is Wal-Mart's latest and strangest setback in Germany, where it arrived two years ago with big plans to overwhelm competitors through lower prices, better selections and friendly store clerks.

After months of investigation, Germany's federal cartel office accused Wal-Mart of inciting a price war in which it and two German supermarket chains illegally sold products below their wholesale costs. The regulators said they acted to prevent Wal-Mart and other big chains from using "unfair" tactics to devastate smaller stores.

Wal-Mart, which converted 95 stores it bought from two German chains, ignited an intense price war when it began promoting aggressive price "rollbacks" last January. Big German retailers like Metro A.G. and the privately held Aldi chain fought back with their own price reductions, creating intense pressure at a time when German consumers were being persistently stingy about spending money.

Indeed, Wal-Mart has had a surprisingly difficult time building up its own business. The German operations lost money last year, partly because of start-up costs but also because of tough competition. Analysts say the biggest problem has been an inability to acquire enough stores to duplicate the legendary Wal-Mart efficiency in the United States.

Last summer, Wal-Mart was widely reported to be in acquisition talks with Metro, Germany's biggest retailer, but Metro's controlling shareholders then announced their determination not to sell out.

Most of Germany's big retailers have been straining under the twin pressures of intense price competition and the refusal of German consumers to spend freely. The result has been flat sales and depressed profits. Metro has been one of Germany's worst-performing blue-chip stocks in the last year, and the pressure on smaller companies scattered through hundreds of smaller towns has been even more severe.

In its action today, the German cartel office accused Wal-Mart along with Lidl Markets and Aldi Nord of what amounts to predatory pricing.

"The benefit to consumers is marginal and temporary, while the damage to competition through illegal obstruction of small and medium-sized companies is

lasting and significant," said Ulf Boge, director of the cartel office.

Analysts were unsure whether today's action would severely restrict Wal-Mart from competing aggressively on prices. They noted that the cartel office raised objections about only 19 products, 6 of them sold by Wal-Mart and the others by its rivals. Though most of the items are staple products that consumers buy regularly, they still represent just a tiny share of the thousands of goods available.

"It is difficult to say what the effect will be, because you have to know what the percentage of total sales are involved," said Matthias Reschke, a retailing analyst at Salomon Smith Barney in London.

But the case highlights the sharp contrast between German and American notions of competition, at least when it comes to stores.

German law is heavily tilted toward protecting small shopkeepers in the thousands of towns scattered across the country. Despite widespread unhappiness among many shoppers, federal laws still prohibit most stores from staying open past 8 p.m. on weekdays or opening at all on Sundays. Despite years of popular complaints about the restrictions, which have been championed by small-shop owners, Chancellor Gerhard Schroder dismissed proposals just last week that would have liberalized the rules.

Indeed, stores in most smaller towns do not even stay open as long as they are allowed under current rules. Instead, shopkeepers in scores of communities have banded together and, like mini-cartels, reached an agreement among themselves to close at 6 p.m. on weekdays and 2 p.m. on Saturdays.

German competition laws also prohibit a wide variety of discount and rebate plans. Though stores routinely post signs promoting "special offers" and "30 percent off," companies are prohibited from offering discounts to people who enroll in loyalty or other special programs.

In the case of Wal-Mart and its rivals, government officials asserted that the price wars were little more than a series of tricks to lure customers from one store to another with temporary bargains that would soon disappear.

This was the first time German authorities had concluded that retailers were selling products below their own purchase costs. Given the complexity of bargains struck between big retailers and their suppliers, such cases are usually difficult to prove. The cartel office opened investigations of several other big retailers earlier this year, but dropped the cases after deciding the reductions were justified.

Wal-Mart reacted cautiously to the decision. In a statement, the company said it would "orient our pricing in the line of these recommendations." But it also insisted that it would "remain committed to lowering the cost of living in Germany" and would "fully utilize the benefits of our merchandising system in order to continue to pass on savings to customers."