

# The Hometown Advantage

Reviving Locally Owned Business

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## **WAL-MART CHARGED WITH PREDATORY PRICING**

In September, Wal-Mart was hit with three separate charges of predatory pricing. Government officials in Wisconsin and Germany accused the retailer of pricing goods below cost with an intent to drive competitors out of the market. In Oklahoma, Wal-Mart faces a private lawsuit alleging similar illegal pricing practices.

The Wisconsin Department of Agriculture, Trade and Consumer Protection filed a complaint with an administrative law judge accusing the retailer of violating the state's antitrust law. The complaint says Wal-Mart sold butter, milk, laundry detergent, and other staple goods below cost in stores in Beloit, Oshkosh, Racine, Tomah, and West Bend. The company intended to force other stores out of business, gain a monopoly in local markets, and ultimately recoup its losses through higher prices.

State officials filed the complaint after Wal-Mart failed to take corrective action following several warning letters sent as early as 1993. The administrative law judge will review the charges and recommend further action to the department's secretary. The complaint carries a total of 352 violations, each of which could incur a fine of \$500.

In Germany, Wal-Mart was charged with similar predatory tactics. The federal Cartel Office accused Wal-Mart and two other large supermarket chains of selling goods below cost and ordered the companies to raise prices immediately. Wal-Mart could face fines of DM1 million (\$434,000) if it fails to comply.

The items in question include about a dozen staple products like milk and vegetable oil. A common Wal-Mart strategy is to price such staples, known as "corner products," very low. Corner products are items for which consumers know the going price. By setting prices on these items very low, Wal-Mart creates an overall impression of having very low prices, when in fact much of its merchandise may not be such a good deal.

German law prohibits below cost pricing, because of its impact on small businesses. In this case, authorities feared a price war among the country's three largest food retailers would decimate independent shops, ultimately leaving consumers with fewer options and higher prices. "The material benefit [of below cost pricing] to consumers is marginal and temporary, but the restriction of competition by placing unfair obstacles before medium-sized retailers is clear and lasting," said the Cartel Office.

In Oklahoma, Crest Foods, a three-store supermarket chain, filed a predatory pricing suit against Wal-Mart. The suit contends that Wal-Mart sold goods below cost at its store in Edmond in order to force Crest Foods out of business. Wal-Mart employees---including on one occasion former chief executive David Glass himself---regularly visited the Crest store to monitor prices. According to the suit, Wal-Mart then targeted price cuts to undermine Crest Foods, often dipping well below its own costs to beat out its rival. Such tactics are illegal under two state laws, the Unfair Sales Act and the Antitrust Reform Act. The suit is expected to go to trial in about one year.