

Guest Column: The Energizer Bunny goes to court

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Energizer Holdings and Walmart are being sued in three proposed class actions for conspiring to raise the prices of disposable batteries.

As Reuters reported, the lawsuits, filed in San Francisco in the U.S. District Court, accuse the companies of violating federal and state antitrust laws and various state consumer protection laws. The plaintiffs seek unspecified compensatory and triple damages and injunctions to block Energizer from tying battery sales to pricing and require Energizer and Walmart to “dissipate” the effects of their conduct.

According to the plaintiffs, Energizer’s share of the U.S. disposable battery market has risen to more than 50 percent from 40 percent in 2018. Energizer has acknowledged adjusting its pricing policies at Walmart’s request.

The global disposable battery market is massive. In 2020, it was valued at \$9.97 billion and is projected to reach \$14.19 billion by 2028.

The use of disposable batteries has dramatically risen in recent years due to the increased demand for small portable electronics, power tools and other items, and the increase in “smart” products such as small and large appliances and automobiles.

The convenience of disposable batteries has led to their widespread use, but this has come at a cost to the environment. Batteries contain metals such as mercury, lead, cadmium, nickel and silver, which can threaten human health or the environment when improperly managed.

Despite the convenience of disposable batteries, rechargeable batteries are a more sustainable option. Manufacturers take a conservative approach and specify the life of Li-ion in most consumer products as being between 300 and 500 discharge/charge cycles.

Rechargeable batteries may be removable or permanently attached to the device, and they can be recharged many times before needing replacement. This reduces the amount of waste generated by batteries and is better for the environment in the long run.

Yet we, as a society, are hooked on disposable batteries. Ask yourself if you would be anywhere near as upset to learn that two mega-companies conspired to fix the price of rechargeable batteries. The vast majority of us wouldn't even notice.

Charlie Cartwright, a personal-injury lawyer in Florida, says in these cases the losers are always the consumer: "Absent these class-action lawsuits, consumers have no power to fight the collusion of two massive corporations. Given how important batteries are to so many people, if the allegations of Energizer and Walmart conspiring to raise prices are true, this hurts consumers and damages trust in these brands."

Where this goes from here is for the parties and the court to identify all individuals who may be included in the "class" in each of these three lawsuits.

The plaintiffs must petition the court and ask that the case be certified as a class action. The court will then determine whether to certify the action as a class action, define the class and the class claims, issues or defenses, and appoint class counsel. Once the class is certified, the court may award reasonable attorney's fees and costs authorized by law or by the parties' agreement.

Expect Energizer and Walmart to fight these suits vigorously.

ABOUT THE WRITER

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