

BUSINESS

Kroger bashes 'willfully blind' FTC suit

Grocer says agency's claims are 'baseless'

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Cincinnati Enquirer

USA TODAY NETWORK

CINCINNATI — For nearly a year and a half, Kroger and Albertsons have made sweeping promises of how their controversial, proposed \$25 billion merger will benefit consumers, workers and their communities.

Weeks after regulators at the Federal Trade Commission sued to kill the deal, Kroger filed a response earlier this month defending the deal. As dueling attorneys trade barbs in filings, key issues in the legal battle are emerging — and the fine print behind bold promises is coming into sharper focus.

Here are the highlights of Kroger's initial retort to regulators in court:

'Willfully blind' to realities

In a key argument of its response, Kroger said the competition the FTC is seeking to preserve is changing.

Kroger accused regulators of being "willfully blind to the realities of current grocery competition." The grocer added the agency's case depends on an "archaic fiction" that considers Kroger's competition only other supermarkets. The company said "this purported ... market is artificially narrow and legally baseless."

In 2024, Kroger said regulators should consider that its competitors include "club stores such as Costco and Sam's Club; big-box retailers like Walmart and Target; hard discounters such as Aldi and Lidl; and competitors like Amazon, which not only owns the natural and organic chain Whole Foods but also sells tens of billions of dollars of groceries through its e-commerce platforms, including Amazon.com."

Pledge to not close stores

In its response, Kroger repeated several promises it's made about the deal to push back against the FTC's claims it will hurt competition. The grocer said several times it will cut prices as a result of the merger and that it will be competing against the hundreds of stores it divests to New Hampshire-based wholesaler C&S Wholesale Grocers in a related transaction, so competition won't be hurt.

But Kroger barely mentioned one promise made publicly several times: the pledge not to shutter stores. In the court filing, Kroger only alluded to the promise, in the past tense, once toward the end of the filing:

"Kroger admits that it, Albertsons and C&S (Wholesale Grocers) have stated there will be no store closures as a result of the merger," the grocer said.

Kroger acknowledged the promise in response to a point made by the FTC in its complaint directly challenging the "no store closures" vow. In the regulators' complaint, the agency cited

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Kroger said regulators should consider that its competition expands beyond other supermarkets to club stores, big-box retailers and even Amazon. ALEXANDER COOLIDGE/CINCINNATI ENQUIRER FILE



The multiyear, \$5 million terminal project at the Newark-Heath Airport will be formally dedicated in August this year. PHOTOS COURTESY OF EMMET ANDERSON

Newark-Heath Airport has new \$5M terminal

Building aims to address safety risks and growth

Emmet Anderson

TheReportingProject.org

The Newark-Heath Airport is sporting a fresh look with a brand-new terminal, set for an official dedication on Aug. 24.

The new building at 530 Heath Road in Heath was inspired by anticipated growth and development in central Ohio and safety risks created by the old terminal, built nearly 50 years ago.

The airport's taxiway was moved in 2019 because it was too close to the runway, but its new location was too close to the old terminal and was considered an obstacle by Federal Aviation Administration standards.

And the entire old terminal — knocked down and replaced with airport parking — could fit inside the main room of the airport's new \$5 million building.

The new building is equipped with a pilot's lounge, flight training, a fixed-base operator's room, a small kitchen and a large meeting room.

"I don't really know of another airport of this size that would be as nice a facility as this place," said Terry Treneff, president of the airport's board.

Treneff has been involved with the airport for 39 years and served as president of its board for all but a few in the beginning. The airport is officially named the Newark-Heath Airport Tre-



The new \$5 million terminal at the Newark-Heath Airport is equipped with a pilot's lounge, flight training, a fixed-base operator's room, a small kitchen and a large meeting room.

neff Field — after him.

"Apparently, when you stick around too long, they don't know what else to do with you, so they start to name things after you," he said.

In the past four decades, Treneff has seen the airport change quite a bit, but in recent years, it's grown at an exponential rate, especially since the Intel project was announced in January 2022.

Since the development of the Silicon Heartland project began, Treneff says there has been an increase both in the traffic and demand for the airport, which is visible from the Ohio 79 shopping area — especially when planes fly low over the roadway during takeoffs and landings.

Daily takeoffs and landings have in-

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IRS: \$1B in unclaimed tax returns for 2020 to expire

Anthony Robledo

USA TODAY

More than \$1 billion has yet to be claimed in tax returns, and the clock is ticking.

The Internal Revenue Service said Monday that about 940,000 people in the U.S. need to submit tax returns for the 2020 tax year by May 17.

"There's money remaining on the table for hundreds of thousands of people who haven't filed 2020 tax returns," IRS Commissioner Danny Werfel said in a news release. "We want taxpayers to claim these refunds, but time is running out for people who may have overlooked or forgotten about these refunds."

The federal tax collector urges taxpayers to gather their W-2, 1098, 1099 or

5498 from their employer or bank ahead of the deadline. Alternatively, the service recommends ordering a free wage and income transcript using its "Get Transcript Online" tool.

The IRS said taxpayers won't be able to receive any 2020 refunds if they haven't filed a return for 2021 and 2022. The agency said this is to make sure they don't owe money.

The average median refund for the 2020 tax year is \$932, the IRS said.

In Texas, where an estimated 93,400 people have yet to claim their refunds, the average median refund is \$960. The highest average median refund is in Pennsylvania at \$1,031, followed by New York at \$1,029. The agency listed median potential refunds for each state and how many individuals have not filed in the official release.

The deadline to claim old tax refunds is typically on April 15 but the three-year window for 2020 was pushed to May 17 because of the COVID-19 pandemic.

"People faced extremely unusual situations during the pandemic, which may have led some people to forget about a potential refund on their 2020 tax returns," Werfel said. "People may have just overlooked these, including students, part-time workers and others. Some people may not realize they may be owed a refund. We encourage people to review their files and start gathering records now, so they don't run the risk of missing the May deadline."

The nation's 2024 tax season deadline is April 15, 2024. The IRS said it expects over 128.7 million individual tax returns to be filed by then.

BUSINESS REPORT

Dow, S&P fall for 3rd straight session; inflation data awaited

U.S. stocks slipped on Tuesday, giving up modest gains late in the session to send the Dow and S&P 500 to their third straight decline, as investors awaited economic data in a holiday-shortened week to gauge the Federal Reserve's policy path.

Stocks struggled for upward momentum even as Tesla gained 2.92% after CEO Elon Musk unveiled the electric-vehicle maker's one-month trial of its Full Self-Driving technology to existing and new customers in the United States. The stock is up about 4% for the week but remains down more than 28% for the year.

The focus remains on a key reading of the Personal Consumption Expenditures Price Index, the Fed's preferred inflation gauge. The data is due on Friday, when U.S. markets will be shut for the Good Friday holiday.

The index is expected to have risen 0.4% in February and 2.5% annually. Core inflation, which excludes volatile food and energy components, is estimated to have advanced 0.3% last month, keeping the annual pace at 2.8%, economists polled by Reuters said.

The Dow Jones Industrial Average fell 31.31 points, or 0.08%, to 39,282.33. The S&P 500 lost 14.61 points, or 0.28%, to 5,203.58; and the Nasdaq Composite slid 68.77 points, or 0.42%, to 16,315.70.

Uber will now provide rides with car seats in NYC and LA

Uber has launched a new service to help parents on the go: The ride-hail company has teamed up with car seat company Nuna to provide car seats in Uber rides in New York City and Los Angeles.

Uber Car Seat rides remove the burden of lugging a child's chair around town. The seats are available for children between 5 and 65 pounds, either rear- or forward-facing, but only one per ride. There is a \$10 surcharge.

Uber is offering \$10 off two Car Seat rides with code CARSEAT2024 until April 21.

For those outside those two cities, Uber has a waitlist where you can request to be notified once the service expands to your area.

In other family-friendly features, Uber recently added a "spending limits" option to teen accounts. Parents can set a monthly budget in the app for both rides and Uber Eats meals.

J&J in talks to buy Shockwave Medical, WSJ reports

Johnson & Johnson is in talks to buy medical device maker Shockwave Medical, The Wall Street Journal reported on Tuesday, with a deal likely to help the health care giant expand its presence in cardiovascular devices.

Shockwave, a company that makes devices to treat heart disease, has a market capitalization of around \$11 billion, according to LSEG data.

A deal could be finalized in the coming weeks, assuming talks don't fall apart, and it is also possible another suitor could emerge, the report said, citing people familiar with the matter.

J&J did not immediately respond to a Reuters request for comment, while Shockwave Medical said it does not comment on rumors or speculation.

The company makes a device that uses shock waves to break down calcified plaque in heart vessels, similarly to how kidney stones are treated.

J&J also has cardiovascular products in its portfolio, and in 2022 acquired heart pump maker Abiomed for \$16.6 billion.

JPMorgan names new global co-heads of sales and research

JPMorgan Chase appointed Scott Hamilton and Claudia Jury as its new global co-heads of sales and research, according to a memo seen by Reuters.

Hamilton currently serves as global head of macro sales and electronic sales for fixed income, currencies and commodities after two decades at JPMorgan.

He has helped the bank achieve top rankings in several products, including rates, while also expanding its digital offerings for clients.

Jury is head of investor client management and platform sales. Over more than 25 years in trading, she has handled many of JPMorgan's biggest clients and was previously co-head of currencies and emerging markets.

Biden administration eyes Ohio steel plant for \$500M project

Alexander Coolidge

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USA TODAY NETWORK

Cleveland-Cliffs announced Monday its Middletown Works steel production complex is in the running to receive up to \$500 million in federal funding to build three new plants to reduce carbon emissions.

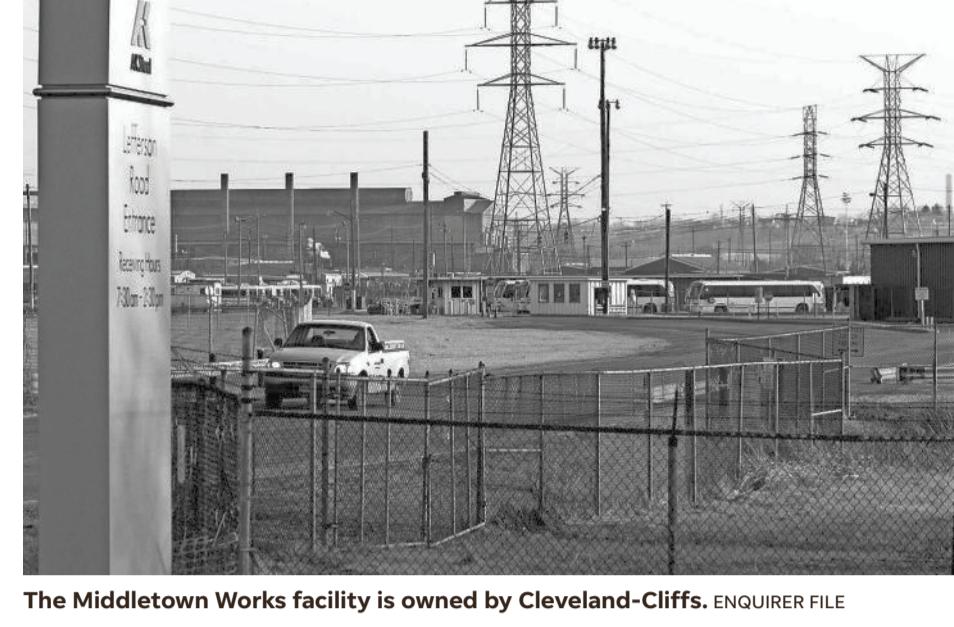
The new facilities would replace a blasting furnace on site with three facilities powered by hydrogen and natural gas. The company said if it wins the money now that it has been selected by the Department of Energy for award negotiations, it would spend \$1.3 billion on the project, which is expected to create 170 new jobs in the region and preserve 2,500 existing jobs.

The federal grant would be awarded from the energy department's Industrial Demonstrations Program, which supports decarbonization projects in energy-intensive industries. The program is funded under the Infrastructure Investment and Jobs Act of 2021 and the Inflation Reduction Act of 2022, both signed into law by President Biden.

Cleveland-Cliffs said in a statement its Middletown site is large enough to build the new facilities near existing ones without interfering with ongoing production of 3 million net tons of raw steel per year.

Once constructed, though, it estimated the new facilities could trim \$450 million in production costs, maintain quality production and reduce its dependence on scrap metal, which is expected to be in shorter supply in years to come.

The new facilities would reduce Middletown Works' iron-making carbon intensity by 50% to 90%, the company said. The company said another site, Butler Works in Lyndora, Pennsylvania,



The Middletown Works facility is owned by Cleveland-Cliffs. ENQUIRER FILE

about 30 miles north of Pittsburgh, is also in the running for a \$75 million grant from the energy department.

Cleveland-Cliffs CEO Lourenco Goncalves credited the company's successful completion of a hydrogen-ready plant in Toledo for helping secure this latest opportunity.

"Completion of our \$1 billion clean hydrogen-ready Toledo DR Plant through the depths of COVID stood as strong evidence of Cliffs' expertise and resolve to drive down emissions," Goncalves said in a statement.

U.S. Sen. Sherrod Brown urged the energy department to approve the grants, noting the federal money would support union workers in the state.

"This partnership will ensure that IAM steelworkers in Middletown remain at the forefront of the global steel industry," Brown, a Cleveland Democrat, said in a statement. "This is why

we passed the Bipartisan Infrastructure Law and the Inflation Reduction Act – to ensure Ohio manufacturing continues to lead the world in the technologies that will drive our economy for decades to come."

News of the possible windfall comes as both Biden and Brown face bruising 2024 re-election bids.

U.S. Secretary of Energy Jennifer Granholm said in a statement the Ohio project was one of 33 projects in 20 states that could get as much as \$6 billion to decarbonize energy-intensive industries, such as steel, iron, aluminum, glass, paper and others.

"Spurring on the next generation of decarbonization technologies in key industries like steel, paper, concrete and glass will keep America the most competitive nation on Earth," said Granholm, who was slated to visit the facility Monday.

Terminal

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creased, and 79 airplanes, the most in airport history, are currently based at the airport. An additional 67 airplanes are on a waiting list for when hangar space frees up.

"Well, I don't have 67 new hangars," Treneff said. "The problem, if you read airport literature, is that practically every airport in the country wants more hangar space. There's more airplanes in the country than there are places."

Of the new terminal's \$5 million cost, the FAA covered about 75%, with the other 25% coming from the Ohio Department of Transportation and Licking County.

"I think the county realized that things were starting to go on (in New Albany) and that it had to be done anyway, and now is a good time to get ahead of it," Treneff said.

Treneff, along with the other members of the board, are not employees of the airport. For them, it's a labor of love.

"They double my salary every year, but it's still zero," he said.

The airport, which is officially owned by the county, leases the property to Aviation Works Inc., which takes care of



Terry Treneff, president of the airport's board, points to pilot-related memorabilia in the new Newark-Heath Airport terminal. COURTESY OF EMMET ANDERSON

day-to-day operations, such as pilot training, fuel sales and airplane rentals and maintenance.

The goal is to build more hangars on the property in the future, but Treneff said it will take a lot of fundraising from the airport board.

Emmet Anderson writes for TheReportingProject.org, the nonprofit news organization of Denison University's Journalism program, which is sponsored in part by the Mellon Foundation and donations from readers.

Kroger

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internal C&S Wholesale Grocers communication by the outgoing CEO expressing a problem with the promise.

In the exchange between former CEO Bob Palmer and his successor, Eric Winn, Palmer asked: "Do we have to say that we won't close stores? (the 'all' is a problem) – the trick is that they stay open as they transition but then what? Are we committed to this?"

For its part, Albertsons in a separate response to the FTC pleaded ignorance of C&S Wholesale Grocers' plans once they acquire the hundreds of divested stores:

Defending C&S Wholesale Grocers

Critical to Kroger's quest for antitrust approval is the divestiture plan to C&S Wholesale Grocers, which will acquire at least 413 stores from the merged Kroger-Albertsons. Not surprisingly, Kroger defended the wholesaler as a strong company that will operate those stores and preserve competition.

The FTC is skeptical of C&S Wholesale Grocers' ability to take over the divested stores and become a viable com-

petitor to the enlarged Kroger.

Regulators cited C&S Wholesale Grocers' small retail operation (23 stores and one pharmacy), its history of selling off retail operations and the "patchwork of assets cobbled together" as a recipe for failure.

Regulators also noted the unsuccessful 2015 divestiture of nearly 150 stores to small regional grocer Haggen as part of the \$9.2 billion merger of Albertsons and Safeway that pushed Haggen into bankruptcy within months.

In its response, Kroger chided regulators for not considering the divestiture to C&S Wholesale Grocers a solution to concerns about maintaining competition. It also dismissed the demise of Haggen and its more than 165 stores (56 of which were repurchased by Albertsons) as a "rare" incident.

"(The FTC) complaint frames the divestiture as irrelevant and bound to fail, citing a rare instance in which a divestiture buyer went bankrupt. But C&S is not a mom-and-pop operation ... it is a sophisticated, well-capitalized company with deep industry experience," Kroger said. "The harm imagined by the FTC is fanciful not only because it ignores the nation's largest grocery competitors, but also because it pretends that the divestiture package and C&S do not exist."

'Vague and ambiguous' terms

Kroger isn't conceding anything in the FTC's case against it. In its response, the grocer sought to undermine the regulators' case by accusing it (23 times) of using "vague and ambiguous" terms, like "supermarket," "retail pharmacies" and "union grocery labor."

The company also used the word "deieves" 213 times in its response.

One FTC argument Kroger denied and said is based on "vague" notions is the proposed merger's impact on the two companies' union labor force. Regulators have argued that the merger will hurt union employees because they would not be able to play Kroger and Albertsons off one another. Part of that argument is claiming unionized grocers are a "market" for labor that should be protected.

Finally, Kroger claimed unions' bargaining power would increase because more workers would be employed by the retailer.

Most of Kroger's unions affected by the proposed merger, including the United Food and Commercial Workers International Union, are opposed to the deal. One local chapter, however, UFCW Local 555 in Oregon, supports the combination.