

FTC Alleges Consumers Stuck on Loctite and Liquid Nails Brands



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ALERTS

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Background

On December 11, 2025, the Federal Trade Commission (FTC) [announced](#) that it would challenge the \$725 million deal by which German company Henkel AG & Co. KGaA and its U.S.-based subsidiaries (collectively, Henkel), which manufactures Loctite construction adhesives, would acquire Liquid Nails from private equity firm American Industrial Partners. According to the FTC, “[t]he deal would combine the two biggest brands—by far—of construction adhesives sold at retailers” (e.g., Lowe’s) and would therefore “eliminate the fierce competition” between the brands to the detriment of consumers.

Notably, the deal was not announced publicly prior to reports that the FTC would challenge it. The value of the deal far exceeds the HSR reportability threshold, and so it presumably was noticed to the FTC through an HSR filing. Nonetheless, by avoiding public announcement, the parties may have hoped to avoid drawing complaints from affected or interested third parties that might in turn lead to greater scrutiny from the reviewing agency. The strategy plainly was not successful in this case, perhaps due to this Administration’s focus on the politically salient housing sector, but it can be an effective way for private sellers to avoid the spotlight and help ensure that review of the deal is guided primarily by the parties’ HSR submissions.

The FTC’s Case

The FTC’s argument against the acquisition is straightforward. The FTC asserts a relevant market of construction adhesives sold at retailers such as Lowe’s in the U.S. The FTC alleges that Loctite and Liquid Nails are far and away the top two competitors in that market. Accordingly, the FTC alleges that the combination would lead to an increase in concentration that is presumptively unlawful under the 2023 Merger Guidelines and the U.S. Supreme Court’s 1963 *Philadelphia National Bank* decision. Moreover, the FTC alleges that Henkel has expressly planned to raise prices and reduce consumer choice after the acquisition.

Although the theory of harm is simple, the complaint is interesting for the FTC’s limitation of the relevant market to products sold through retailers and its treatment of the likelihood of new entry or expansion in response to any price increases or other consumer harms. The FTC’s decision not to plead an alternative market of all construction adhesive sales suggests that the change in concentration from the merger in that market is not enough to trigger the Guidelines’ presumption of unlawfulness. In other words, the FTC’s choice of market definition suggests that other brands have been successful in sales channels other than retail.

To define a product market limited to retail sales, the complaint depends almost solely on “practical indicia,” following the Supreme Court’s 1962 *Brown Shoe* decision (though it does include a bare

assertion that the more economically rigorous hypothetical monopolist test would be satisfied as well). The FTC’s complaint identifies two allegedly distinct groups of customers: construction professionals, which it acknowledges are price sensitive, and DIYers and professional craftsmen, which it alleges are “highly aware of brands and loyal to their brand of choice.” The FTC then asserts that construction professionals may purchase from distributors, dealers, and lumberyards, while DIYers and professional craftsmen are served primarily by retailers due to convenience. Finally, the FTC alleges that retailers face shelf space limitations and so carry a more limited range of brands and product lines. Because of their “well-known, trusted, and sales-driving brands,” Loctite and Liquid nails have allegedly “dominat[ed] shelf space” for decades. That brand strength has prevented other competitors, who may find success in the distributor, dealer, or lumberyard channels, from penetrating retail. But, in order to win better facing and more shelf space in the retail channel, the two brands have allegedly competed fiercely against each other on price and innovation.

The FTC is in essence alleging that there is a particular group of customers—DIYers and professional craftsmen—who are beholden to a particular sales channel in which the scope of competition, but not its intensity, has been limited by a combination of limited shelf space and brand strength. There is clear tension between the argument that retail customers are brand loyal (necessary to establish differentiated demand characteristics of retail buyers under *Brown Shoe*) and the argument that Loctite and Liquid Nails have been engaged in fierce price competition within the retail channel for better placement (necessary to assert a static harm to competition). The FTC seeks to buttress its competitive harm allegations by also asserting that forward-looking innovation will be reduced as well, but allegations that consumers are quality-sensitive also undermines the FTC’s reliance on brand strength as a barrier to entry.

The complaint suggests that the FTC will seek to resolve this tension by arguing that marginal price and innovation competition may occur between the brands available at retail, but a well-established brand is necessary to claim a seat at the table. The FTC speaks of “brand loyalty” in its market definition allegations but shifts to “brand recognition” when discussing entry. The defendants may argue in reply that “brand recognition” among consumers is ultimately in the retailers’ hands and that the FTC may be overestimating its significance because it is driven by a virtuous cycle centered on winning placement with retailers, which the FTC concedes is based on price, promotions, and support. Whether other brands, which have apparently been successful competing on price with Loctite and Liquid Nails in non-retail channels, could win placement in retail stores and thus establish brand recognition in the face of post-merger attempts to increase price or reduce quality will be a difficult question of fact to resolve in this case.

Conclusion

On its face, this case is a simple application of the concentration thresholds of the 2023 Merger Guidelines. But the apparent need for the FTC to narrow its product market to a particular distribution channel raises interesting questions about the treatment of brand effects and potential entry from closely adjacent markets. The court’s decision in this case may be significant for both consumer goods manufacturers and retailers alike.

For more information, please contact [Michelle Yost Hale](#) or any member of the firm’s [Antitrust and Competition](#) practice.