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Mr. James Tierney
Chief
Networks and Technology Enforcement Section
Antitrust Division
U.S. Department of Justice
450 Fifth Street NW, Suite 7100
Washington, DC 20530

May 31, 2013

RE: Proposed Settlement with Anheuser-Busch InBev SA/NV (ABI) and Grupo Modelo S.A.B. de C.V.

BY ELECTRONIC MAIL AND POST: antitrust.atr@usdoj.gov

Dear Mr. Tierney:

The non-profit consumer advocacy organization Food & Water Watch and 1,477 of our undersigned supporters respectfully object to the U.S. Department of Justice's proposed settlement with Anheuser-Bush InBev and Grupo Modelo. The hyper-consolidation in the U.S. food supply lowers the prices farmers receive, raises the price that consumers pay and significantly constrains consumer choice. The beer industry is among the most concentrated of all food and beverage segments and the largest two players (InBev and SABMiller) wield overwhelming market power that disadvantages competitors through scale, market share and vertical integration of distribution that significantly disadvantages consumers.

Food & Water Watch was heartened by the Department's willingness to block the merger as originally proposed, but the proposed settlement is inadequate to address the increased and overwhelming market power of ABInBev. Food & Water Watch believes the proposed merger should be blocked and not settled.


The proposed settlement gives ABInBev greater control over the world's beer markets, especially the coveted Latin American marketplace, by ensuring the company keeps the Modelo brands outside of the U.S. market. Nonetheless, Food & Water Watch has little confidence that selling the Modelo brand licensing, Crown Imports and brewery assets to Constellation Brands, Inc. will actually maintain Modelo's vital role as a price competitor with not only ABInBev but also with SABMiller.

Constellation lacks experience in the brewery industry and will be unlikely to present a significant third competitor in a market where the top two firms control the vast majority of beer brands, sales and distribution. For the foreseeable future, Constellation will depend on ABInBev for essential inputs and about 40 percent of production until Constellation ramps up production at the newly owned Piedras Negras facility. While Grupo Modelo challenged the apparent mutual price setting of the ABI-SAB duopoly, it is unlikely that a novice market entrant that depends on the benevolence of one of the biggest players will take up the mantle of a dynamic price competitor.

Moreover, the settlement does nothing to constrain the collusive vertical control that ABInBev exerts through its distribution networks. Its distribution control prevents new market entrants from getting into retail space, which freezes out competitors and constrains consumer choice. The beer market suffers from a significant choice illusion, where ABInBev offers over 200 brands and SABMiller sells nearly 400 brands. Consumers see a variety of options at their retailer, but only two competitors that control distribution predominantly control these consumer choices. The settlement does nothing to curtail the anti-competitive conduct of this vertically integrated distribution chain.

American consumers are more and more interested in the source of their food and beverages, but the consolidation at every level of the food and agriculture marketplace has inhibited consumer choices, contributed to rising consumer prices and disadvantaged U.S. farmers. While the proposed settlement prevents the worst anti-competitive effects of the originally proposed deal, it is inadequate to prevent the growing consolidation and increased market power inside the supermarket. The Department of Justice would have been justified in blocking the proposed merger outright and Food & Water Watch urges the reconsideration of the proposed settlement and rejection of any proposed merger between ABInBev and Grupo Modelo.

Sincerely,



Wenonah Hauter
Executive Director
Food & Water Watch