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James Tierney
Chief, Networks and Technology Enforcement Section
Antitrust Division
United States Department of Justice
450 5th Street, NW
Suite 7100
Washington, DC 20530
James.tierney@ATR.usdoj.gov

Dear Mr. Tierney,

I am submitting this letter pursuant to the Antitrust Procedures and Penalties Act (APPA).

On behalf of myself and my clients, and, I believe, the people of the United States, it is my hope that you will prohibit Anheuser-Busch In-Bev (ABI) from purchasing controlling interest in Modelo.

I respectfully submit to you that the revision of the agreement by ABI is a sham, and that the effect will be the very same as what it would have been when the Department of Justice originally filed their complaint.

I am attaching a copy of the Complaint I filed on behalf of my clients in the Northern District of California. As you can see, it incorporates a substantial part of the evidence compiled by the Justice Department and apparently revealed in the Hart-Scott-Rodino production of documents.

As the Department noted, ABI In-Bev has continually and consistently attempted to raise prices throughout the country. As further noted, Miller-Coors was a regular follower. The only constraint in the market was Modelo.

Obviously, Mr. Brito and ABI understood that they could not continue to increase price, curtail innovation, without eliminating Modelo as a competitor.

As I am sure you know, since 2008 when In-Bev bought AB and when Coors bought Molson/Miller (both combinations which were approved by the government,) the profits have soared without commensurate production: The profits for ABI from 2008-2011 increased from \$1.9 billion to over \$5.8 billion, a three-fold increase; and profits for Coors / Miller went from \$2.9 to \$5.6 billion, nearly double. The profits increases substantially outpaced the Consumer Price Index without substantial increases in production and during the largest downturn in the U.S. economy since the Great Depression.

When ABI's Mr. Brito decided to buy and eliminate the competition of Modelo, the government rightly intervened. Additionally, the government was not fooled by the effort to pretend to transfer control of the American import company (Crown) to Constellation.

The government understood that Constellation had no brewery, no experience with regard to beer production, marketing or sales except through Crown and that Constellation had been a consistent irritant to Crown's effort to compete. Again and again the evidence shows that Constellation representatives continually harassed the Crown executives to increase price along with and following ABI.

The DOJ then negotiated a revision on that agreement. That revision is not sufficient to prevent Constellation from opening the flood gates and allowing ABI to collect profits that it would not otherwise receive because of the former competition on Crown.

In addition, as the government knows, the total supply of all products to Crown will be sourced from ABI, including yeast, malt, hops, aluminum for can and glass bottles.

It is respectfully submitted that it is naïve to believe that Crown will not be controlled by ABI through Modelo. In our country, we believe that our custom of trade is competition, not combination.

On behalf of myself, my client and I suspect a few others, I respectfully request that you reject ABI's proposal. Constellation has neither the experience, the money nor the will to compete vigorously against ABI. Modelo had that experience, had the money and had the desire. That competition should be preserved and not eliminated by the most powerful brewer in the world.

Very Truly Yours,

Joseph M. Alioto