



December 15, 2020

Attorney General Xavier Becerra  
1300 "I" Street  
Sacramento, CA 95814-2919

Re: Request for independent investigation of Anheuser-Busch InBev and Reyes Holdings, LLC beer distribution antitrust violations

Honorable Xavier Becerra:

Alcohol Justice is a state and national alcohol industry watchdog based in Marin County, California. There is no bigger producer of alcohol than Anheuser-Busch InBev (hereafter "ABI"). This global beer manufacturing titan is attempting to dramatically increase its influence in the Golden State with its recently announced desire to acquire the distribution company Ace Beverage LLC of Los Angeles, purchased shortly after unloading a distributorship in Colorado that was under unfair competition investigation and stipulated agreements with a federal agency.

If this California acquisition is allowed, two companies—Reyes Holdings, LLC, and ABI—would control an estimated 85% of the wholesale market in California. While such duopoly in the distribution tier of alcohol regulation has all sorts of market competition and undue influence potential by itself, ABI's role is particularly disturbing. ABI occupies a dominant position in the "producer" tier of California's three-tier approach to enforcing Tied House restrictions, and ABI is the global, national, and state leader in beer manufacturing. Furthermore, ABI crosses into a third tier through its ownership of Golden Road Brewing craft beer and tap rooms.

The monopoly power potential of ABI in California is already great. With significant control in the distribution network ABI can:

- Potentially get inside information on retail activity at nearly every store, on-sale ABC licensee, or small producer.
- Lower and raise beer prices at will.
- Offer generous promotions and swag to retail tier purchasers to force out competitive brands.
- Make it difficult for craft brew producers to get onto their trucks, while under lock-down conditions the craft brew industry is already suffering great economic stress.
- Diminish distribution market share for any remaining independent distributors, forcing them out of business or forcing them to sell their assets and routes to ABI at deep discounts.

Beyond the antitrust concerns of this ABI/Reyes distribution (wholesale) duopoly, there is the possibility that ABI's acquisition of Ace and its dramatically expanded market position in our state could violate the spirit, if not the actual letter, of the October 22, 2018 modified final judgement and order, US Department of Justice Settlement decree. This court-approved settlement decree was entered into by ABI and monitored by the federal government to prevent over-concentration and undue influence by this behemoth manufacturer.

Specifically, the decree "precluded [ABI] from acquiring beer distributors ... without allowing for department review of the acquisition's likely competitive effects." Has the United States Department of Justice reviewed and given their consent to this Ace acquisition? Would it not be in the interest of the State of California for the Attorney General office to advocate for and contribute to Federal monitoring of ABI acquisitions in the State?

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The intent of that federal settlement was made clear by the US Department of Justice in their July 2016 news release, namely to “prevent any increase in concentration in the U.S. beer industry,” and to “preserve the ability of smaller brewers ... to compete against ABI by protecting their access to important distribution networks.” The goal of the July 2016 decree was to preserve the right of “independent distributors that sell ABI’s beer [to] have the freedom to sell and promote the variety of beers that many Americans drink.”

Furthermore, the Department stated in a July 2016 news release their desire not to “substantially lessen competition in the national market for the sale of beer in the U.S. and in at least 58 local markets in the U.S.” Among other things, this active decree “prohibits ABI from instituting or continuing practices and programs that disincentivize distributors from selling and promoting the beers of ABI’s high-end and other rivals” to craft and import competitors. It also acknowledges that despite “many state laws requiring that beer distributors be independent of brewers, ABI exerts considerable influence over ABI-Affiliated Wholesalers.” “90% of the volume of the beer sold” by these ABI distributors are “ABI beer brands.” That is why the acquisition of independent distributors by ABI was of such central concern to the Department in drafting their 2018 Settlement.

As stated in the court-ordered and monitored decree, “the remedy seeks to preserve and promote competition in the U.S. beer industry ... by reducing the influence of ABI on the distribution of beer in the United States ... The remedy also provides for supervision of ABI’s compliance with the restrictions on its distribution practices.”

Yet, on October 1, 2020, ABI went public with their acquisition of Ace Beverage in Los Angeles, so that ABI now controls the distribution of up to 40% of the California beer market. While the Federal court order limits ABI control of distribution to 10% nationally, only 15 states even allow producers to own distribution/wholesale companies, and the relevant California market is well over the reasonable 10% cap on ABI distribution control. ***If 10% distribution market control is bad from a national perspective, then how can 40% in the relevant California market be acceptable?***

Similar concerns surround Reyes Beer Division, since the distributor is aggressively taking over smaller competitors, as noted with their acquisition of Elyxir Distributing, LLC, in the Monterey Bay Area of California.

***We strongly request that your office independently investigate*** ABI’s attempted takeover to determine the extent of that acquisition’s likely anti-competitive effects in the California beer market, along with the ensuing duopoly that will be established between Reyes and ABI here in the state with the largest beer markets in the nation. California antitrust law, the Cartwright Act, and other statutes and case law are relevant and probably violated.

Regardless of the federal government’s willingness to step in to enforce their own antitrust laws and monitored court decree, we believe our state Attorney General has the legal right and obligation to investigate this proposed acquisition and the duopoly that would result if this acquisition is allowed to proceed.

Sincerely,



Bruce Lee Livingston, MPP  
Executive Director / CEO  
Alcohol Justice

cc Kathleen Foote, Senior Assistant Attorney General, Antitrust Section

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