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Justice Department Statement on the Decision to Close Investigation of ABI's Acquisition of Devils Backbone in Light of Distribution Relief Obtained in ABI/SABMiller Settlement

Department Will Continue to Carefully Monitor ABI's Compliance with Distribution Obligations and Competitive Effects of ABI's Craft Acquisitions

Deputy Assistant Attorney General Juan Arteaga of the Justice Department's Antitrust Division released the following statement today on the division's decision to close its investigation into Anheuser-Busch InBev's (ABI) acquisition of Virginia-based craft brewer, Devils Backbone.

"Over the past 30 years, the American beer industry has experienced a renaissance that has resulted in the most diverse, innovative and dynamic brewing culture in the world. This revival of the U.S. beer industry – an industry in which millions of Americans spend over \$100 billion per year – is largely due to the hard work and growth of craft and other high-end brewers, which have provided consumers with a large number of new and high quality beer options.

"In addition to enhancing the diversity and quality of beer sold in the U.S., high-end brewers have served as an important constraint on the ability of large brewers – such as ABI and MillerCoors – to raise the prices on their premium beers. High-end beers such as craft beers constrain the ability of ABI and MillerCoors to continue to raise the prices on their beers because consumers are increasingly willing to trade-up from premium to high-end beers if the prices for premium brands come too close to the prices of high-end brands.

"In recent years, the division has successfully fought to preserve the competitive role that high-end brewers play in the U.S. beer industry. In 2013, for example, the division sued to challenge ABI's acquisition of Mexican brewer Grupo Modelo, which resulted in the companies' agreeing to divest Grupo Modelo's entire U.S. business – including the rights to sell popular beer brands such as Corona and Pacifico in the U.S. – to an independent competitor. Since this divestiture, these popular beer brands have continued to grow and vigorously compete for the hard earned dollars of consumers.

"Earlier this year, the division approved ABI's acquisition of SABMiller only after ABI agreed to divest SABMiller's entire U.S. business – including SABMiller's ownership interest in MillerCoors – and to cease business practices and programs that restrict the ability and incentive of independent beer distributors to sell and promote the beers of ABI's rivals. The division insisted on ABI's agreement to distribution-related relief because craft and other brewers cannot grow in scale and effectively compete in the U.S. beer industry without meaningful access to efficient beer distribution networks, such as the network that distributes ABI beer.

"After careful consideration, the division has determined that, in light of the distribution relief secured in the ABI/SABMiller settlement, the competitive implications of ABI's acquisition of Devils Backbone are too uncertain at this time to warrant further investigation. However, the division will be carefully monitoring ABI's compliance with its distribution obligations under this settlement. The division will also carefully scrutinize any future craft acquisitions by ABI. The ABI/SABMiller settlement provides the division the opportunity to review certain of ABI's future craft acquisitions – including acquisitions that may fall below the Hart-Scott-Rodino Act's reporting thresholds.

“In reviewing any such future acquisitions, the division will consider whether these transactions, either singularly or collectively, are likely to harm competition by, among other things, giving ABI the ability to prevent its craft rivals from effectively getting their products to the market or the ability to increase high-end beer prices which, in turn, would enhance ABI’s ability to raise prices in the premium and sub-premium beer segments. If the division sees evidence that ABI may be circumventing its distribution obligations or has used multiple craft acquisitions to impair competition, it will consider all its enforcement options – including re-opening its investigation of ABI’s acquisition of Devils Backbone – and all appropriate relief.”

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Antitrust Division

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