Written Testimony of Bob Pease

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Subcommittee on Antitrust, Competition Policy and Consumer Rights

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Mr. Chairman, Senator Klobuchar, Chairman Grassley, and members of the Subcommittee, my name is Bob Pease. I am the Chief Executive Officer of the Brewers Association, which represents more than 2,800 craft brewers and 1,100 industry suppliers of agricultural commodities, brewing equipment, packaging, and other goods and services required by modern breweries. I appreciate the opportunity to testify today.

At the outset, I want to make clear that the Brewers Association is not opposed to fair competition. Our members have built thousands of successful small and medium sized business from scratch in a highly competitive environment. Many others have failed in their efforts at great personal loss. We also understand that the antitrust laws are designed to protect competition, and that they are not designed to protect individual companies or industry segments from competition.

The proposed acquisition of South Africa Breweries by Anheuser-Busch InBev (ABI) must be viewed in light of other developments affecting competition in the beer industry.

To understand the competitive landscape, we need to review the basic beer industry regulatory framework. Federal alcohol laws and the Twenty-first Amendment to the U.S. Constitution authorize each state to regulate alcohol beverage sales and distribution within their respective borders. The legal framework for the alcohol beverage industry provides each state with significant latitude to regulate distribution and sale of beer, wine, and spirits. Section 2 of the Twenty-first Amendment is a limited exception to the Commerce Clause of the U.S. Constitution:

> The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

The Webb-Kenyon Act was signed into law in 1913, before national Prohibition. It prohibits shipment or transportation of alcohol beverages into a state in violation of the laws of that state. 27 U.S.C. § 122. The law was essentially moot during Prohibition and was reenacted by Congress in 1935. Congress strengthened the Webb-Kenyon Act in 2000 by establishing a cause of action in federal court so that a state attorney general can enjoin violations of state alcohol beverage laws. 27 U.S.C. § 122a. Numerous U.S. Supreme Court and lower court cases have grappled with the tension between federal and state regulation of alcohol beverages over the last 140 years, but state authority is clearly established in federal statutes and in the Constitution.

So the beer industry does not operate under normal principles of interstate commerce. Beer and other alcohol beverages are subject to 50 different state regulatory systems.

Over the last 30-40 years one major regulatory trend has significantly affected competition in the beer industry. That is the evolution of state licensing laws and special beer franchise protections for beer wholesalers.

State laws in many places effectively mandate the use of beer wholesalers and prevent a brewer from changing wholesalers absent extraordinary circumstances. 48 states have some form of special franchise protection for beer wholesalers that makes it difficult or virtually impossible for a brewer to change wholesalers without establishing good cause, providing lengthy notice and cure periods, and risking protracted litigation, arbitration, and/or substantial compensation or payments to settle litigation. Examples of special wholesaler protections from several state beer franchise laws are provided in Exhibit A attached to this testimony. State beer franchise laws were generally intended to protect the independence of wholesalers, which is a laudable goal. If the wholesale tier of the beer industry is truly independent of the major brewers, it can promote fair competition. But that goal has been thwarted by other developments.

Two of largest international brewers now control more than 70 percent of U.S. beer sales. Exhibit B provides a breakdown of the 2014 market shares of the larger brewers and the craft segment of the beer industry. They also actively fostered rapid consolidation of the wholesale tier and the evolution of multistate wholesaler networks under common ownership. Today, the 30 largest beer wholesalers control almost a third of all U.S. beer sales to retailers. Exhibit C is a list of the largest U.S. beer wholesalers with information on their respective sales and recent acquisitions. The raw numbers mask the true effects of wholesaler consolidation. Based on current trends the Brewers Association believes that by the year 2020, only about 200-250 full-service beer wholesalers will exist in the U.S. if you count commonly owned wholesalers as one. I will submit an analysis of the wholesale tier by the Brewers Association's economist.

Most markets in the U.S. are now served by only two substantial wholesalers, an ABI wholesaler and a MillerCoors wholesaler. While the two primary wholesalers are generally known by the names of the largest brewers, the wholesalers also sell other brands. For example, an ABI wholesaler may also sell Corona, Sam Adams, and dozens of smaller brands.

States generally fail to respond to changes in the beer industry to the detriment of new competitors and new business models. Over the last three decades, the Federal Trade Commission (FTC) has repeatedly called out states for enacting or refusing to change blatantly anticompetitive distribution laws, most of which are still on the books and are aggressively enforced through private and government action. Exhibit D lists several FTC critiques of state alcohol beverage laws and proposed legislation over the last three decades. States have granted exceptions to allow limited self-distribution by craft brewers, but those exceptions are insignificant in terms of the overall market and totally inadequate to address the imbalance that currently exists.

In fifteen states, large brewers such as Anheuser-Busch InBev are allowed to own wholesalers. At present, ABI is the largest beer supplier and one of the largest beer wholesalers in nine states. The states where ABI is currently a major wholesaler include California, Colorado, Hawaii, Massachusetts, New York, Ohio, Oklahoma Oregon, and Washington. Exhibit E lists the cities and states where ABI owns wholesale operations. In major population centers of those states, ABI controls one of the two routes to market that craft brewers must use to effectively sell beer to retailers. Moreover, ABI also enjoys the same licensing privileges and franchise protections that were intended to protect independent wholesalers.

Over the last several months, ABI demonstrated its ability to expand control of the wholesale tier by leveraging its company-owned wholesalers and relationships with favored wholesalers. While other examples exist, the most recent ABI activity in this regard occurred in Kentucky, Colorado, and California.

During its 2015 session, the Kentucky Legislature enacted legislation to prevent ABI from expanding its company-owned wholesaler in Kentucky. KRS § 243.110. In response, ABI engineered a tax-free transaction by exchanging its Kentucky wholesale operations with a large "independent ABI wholesaler" with operations in Texas and Colorado. ABI exchanged its Kentucky wholesale operation in return for three Colorado locations. Simultaneously, ABI purchased a fourth independent Colorado wholesaler and combined that business with the three others to significantly diminish the number of independent wholesalers in Colorado.

In California, ABI purchased the rights to its own brands from two independent wholesalers in Oakland and San Jose without purchasing the non-ABI brands. Most other brewers served by the two previously independent wholesalers, including the most substantial craft and import brands, were forced into the remaining MillerCoors wholesalers that served the Oakland and San Jose territories. Enormous disruption occurred in the market as the brewers had to abandon long-term business relationships and scramble to establish new sales and distribution operations in a very short time period.

In July, 2015, ABI purchased a significant independent New York City distributor that serves the borough of Staten Island. ABI already owned a large distributor in the Bronx.

If ABI is permitted to maintain ownership of wholesalers, ABI can continue to systematically sell parts of its wholesaler network to other favored wholesalers that ABI effectively controls. Simultaneously, ABI will continue to purchase additional independent wholesalers and discontinue sales of competing brands that the independent wholesalers currently sell. Craft brands will then be forced into the MillerCoors network or to small specialty distributors that lack the ability to fully serve a territory.

ABI's massive economic presence and control over wholesalers allows ABI to engage in these disruptive and harmful tactics. The Colorado and California transactions involved assets worth hundreds of millions of dollars and both involved many subtle tactics to disrupt sales of competing brands totaling hundreds of millions of dollars to independent wholesalers that reduce sales of competing brands. The ABI system is based on a sliding scale with the largest financial rewards to those who limit sales of competing brands to 2 percent, 5 percent, and 10 percent. Anything less than 90 percent gets a "C" rating in the tight AB grading scale. Exhibit F includes a detailed account of the November 2015 meeting where ABI executives described the incentive program to its wholesalers.

While exclusive dealing by a manufacturer is not unusual in other markets for consumer goods, those markets are not subject to the state-mandated distribution system. For beer, that is a critical difference. In communities where ABI or a closely-related wholesaler is one of two choices for a brewer to access the retail market, the wholesale tier is simply not competitive.

Other historic tactics remain a significant factor in ABI's ability to control the wholesale tier of the beer industry in several states. For many years, ABI's predecessor frequently rewarded top executives and their family members with wholesalerships, creating another group of intensely loyal wholesalers, many of whom are also significant shareholders in ABI to this day. So those wholesalers have exclusive territories for ABI and other beer brands, while they are also benefiting from significant investments in ABI. Exhibit G includes links to two detailed descriptions of these special relationships between ABI and certain wholesalers. ABI also used its political acumen in several states and successfully lobbied for laws authorizing ABI to finance the consolidation of wholesalers. *See, e.g.* Florida Statutes § 563.022(14)(c)(3) and Ohio Revised Statutes § 4301.24(G). ABI has a subsidiary called the Wholesaler Equity Development Corporation (WEDCO) that provides attractive financing to its favored wholesalers so that they can purchase neighboring independent distributors and further consolidate ABI's wholesale network.

As a result of these strategic economic maneuvers, ABI has furthered its economic reach into the wholesale tier of the industry through direct ownership, direct financial support of consolidation, and a variety of direct and indirect financial incentives to encourage wholesalers to deal exclusively in ABI products.

We do not expect a Constitutional amendment to regulate beer in the same manner as other consumer products. The Brewers Association and individual state brewers guilds will fight state-by-state battles as we do every year to seek greater equity in state laws. The Brewers Association and individual state brewers guilds must deal with these issues every year and we can provide the Subcommittee with current examples in multiple states.

The federal government does have the ability to limit ABI's ability to engage in anticompetitive tactics in the beer market. The recently-announced ABI acquisition of South Africa Breweries requires Justice Department antitrust review. ABI has already tried to anticipate that review through the sale of South Africa Breweries interest in the number two U.S. brewer, MillerCoors. That action is not sufficient to protect competition in the U.S. beer industry.

As a condition of approving the ABI acquisition of South Africa Breweries, the Brewers Association strongly believes that the Department of Justice should require ABI to—

> Divest its company-owned wholesalers; and
>
> Modify its anticompetitive financial assistance and incentives to wholesalers to refrain from distributing other brands of beer.

Left unchecked, these practices will further restrict competition. Alternatives, such as government oversight, supervision and enforcement would take years of effort. The immediate damage to competition that we have already seen in ABI's recent tactics cannot be remedied by relief provided years after competition is destroyed.

The Department of Justice must also closely scrutinize ABI's activities that affect U.S. and global markets goods and services used by brewers. ABI is already vertically integrated through ownership of agricultural and packaging subsidiaries. Its increasing global presence creates many opportunities to adversely affect competition for goods and services in the beer industry.

We applaud the Subcommittee for asking the hard questions to support aggressive antitrust enforcement and fair competition in the beer industry.

Thank you again for the opportunity to appear before the Subcommittee.

EXHIBIT A

Examples of special state protections granted to beer wholesalers in "beer franchise laws":

Alabama: Brewer must have "good cause" for termination of a distribution agreement. Ala. Code § 28-9-6(a)(3). A wholesaler may seek (1) actual damages, (2) costs and attorney's fees, (3) declaratory judgment, (4) exemplary or punitive damages for failure to act in good faith or unreasonably withholding consent to the any transfer, and (5) injunctive relief. These remedies are not exclusive. Ala. Code § 28-9-11.

Arkansas: Brewer must have "good cause" for termination of a distribution agreement. The brewer bears the burden of establishing that it acted with "good cause." Ark. Code Ann § 3-5-1111. A wholesaler can seek (1) actual damages, (2) costs and (in the court's discretion) attorney's fees, (3) declaratory judgment, and (4) injunctive relief. Ark. Code Ann § 3-5-1106.

California: Brewer cannot terminate a wholesaler "solely for a beer wholesaler's failure to meet a sales goal or quota that is not commercially reasonable under prevailing market conditions." Cal. Bus. & Prof. Code § 25000.7. A brewer "who unreasonably withholds consent or unreasonably denies approval of a sale, transfer or assignment of any ownership interest in a beer wholesaler's business with respect to that manufacturer's brands or brands" to liability for damages not exceeding "the compensatory damages sustained by the wholesaler and the wholesaler's costs of suit." Cal. Bus. & Prof. Code § 25000.9.

Florida: A brewer must demonstrate "good cause" prior to termination. The brewer has the burden of establishing "good cause." Fla. Stats. § 563.022. A wholesaler has 30 days after receipt of written termination notification to submit a plan of corrective action, and an additional 90 days after the submission of the plan to cure any alleged deficiencies. *Id.* A court may grant a wholesaler (1) injunctive relief, (2) damages, (3) costs and attorney's fees, (4) declaratory judgment, and (5) punitive damages (if the court determines that the brewer "acted maliciously"). *Id.*

Georgia: A brewer seeking to terminate a wholesaler or change wholesalers with respect to any brand, or change a wholesaler's territory must file a Notice of Intention with the Commissioner of Revenue and the wholesaler, providing, among other things, the business reasons for the requested change. The Commissioner will hold a hearing to determine whether "cause" exists to support the termination or change. If the wholesaler fails to file an objection to the change in territory within 30 days, then the Commission will automatically approve the change. Ga. Comp. R. & Regs. r. 560-2-4-.02(5)-(8).

Idaho: A brewer has the burden of establishing "good cause" to terminate a distribution agreement. Idaho Code § 23-1107(3). A wholesaler may seek actual damages, court costs, and attorney's fees, as well as to file an action for declaratory judgment or injunctive relief. The statutory remedies do "not abolish any other cause of action or remedy available to the . . . distributor." Idaho Code § 23-1112.

Illinois: A brewer must have "good cause" and have made good faith efforts to resolve disagreements prior to termination. 815 Ill. Comp. Stat. § 720/4. The brewer has the burden of proving the existence of "good cause" if the wholesaler first makes a prima facie showing that "good cause" does not exist. 815 Ill. Comp. Stat. § 720/9(1). An alternative termination process exists for brewers whose brands constitute less than 10 percent of a wholesaler's portfolio. The brewer must offer compensation and an arbitration process is required if the parties cannot agree on the value of the distribution rights. 815 Ill. Comp. Stat. § 720/7(1.5).

Maine: A brewer must demonstrate "good cause" prior to termination. Me. Rev. Stat. Ann. tit. 28-A, § 1454. A brewer must provide a wholesaler with written notice of any alleged deficiencies, and a "reasonable time" (90 days) to cure such deficiencies prior to issuing written notice of intent to terminate. Me. Rev. Stat. Ann. tit. 28-A, § 1455. A wholesaler may seek (1) equitable relief (declaratory judgment and injunctive relief), or (2) punitive damages, costs, and attorney's fees (upon a finding of bad faith or unreasonably withheld consent). Me. Rev. Stat. Ann. tit. 28-A, § 1458.

Michigan: A brewer bears the burden of establishing that it acted with "good cause" in terminating a wholesaler. Mich. Comp. Laws §§ 436.1403(7) & (9). Upon providing written notice of its intent to terminate, a brewer must provide the wholesaler 30 days to submit a plan for correcting the alleged deficiencies, and an additional 90 days to cure such deficiencies. Mich. Comp. Laws § 436.1403(8)(e). A wholesaler may seek (1) actual damages, (2) costs and attorney's fees, (3) declaratory judgment, (4) exemplary damages for failure to act in good faith and (5) injunctive relief. Mich. Comp. Laws §§ 436.1403(28)-(32).

Nebraska: A brewer bears the burden of establishing that it acted with "good cause" in terminating a wholesaler. Neb. Rev. Stat. §§ 53-218(1) & (2). A brewer must give a wholesaler 30 days after receipt of written termination notification to submit a plan of corrective action, and an additional 90 days after the submission of the plan to cure the noncompliance. Neb Rev. Stat. § 53-218(4)(e). A wholesaler may seek (1) actual damages, (2) costs and attorneys fees, (3) declaratory judgment, and (4) injunctive relief. These remedies are "not exclusive." Neb. Rev. Stat. § 53-223.

New York: A brewer must demonstrate "good cause" prior to termination. N.Y. Alco. Bev. Cont. Law §§ 55-c(2)(e), (3)-(4). The brewer bears the burden of proving "good cause," but the wholesaler retains the burden of proof in all other respects. N.Y. Alco. Bev. Cont. Law § 55-c(6). N.Y. Alco. Bev. Cont. Law § 55-c(2)(e)(i)(c). A wholesaler has 15 days after receipt of written termination notification to submit a plan of corrective action, and an additional 15 days after the submission of the plan to cure any alleged deficiencies. A court may increase or reduce the cure period to a "commercially reasonable period." N.Y. Alco. Bev. Cont. Law § 55-c(2)(e)(i)(c). A special process exists for small brewers to terminate by paying fair market value compensation with arbitration required if the parties cannot agree on valuation of the distribution rights. N.Y. Alco. Bev. Cont. Law § 55-c(4)(c).

Ohio: A brewer must demonstrate "just cause" prior to terminating a wholesaler. Ohio Rev. Code Ann. § 1333.84(A). A brew must provide 60 days' written notice prior to termination.

Ohio Rev. Code Ann. §§ 1333.85. Available remedies include reasonable damages. Ohio Rev. Code Ann. § 1333.87.

Pennsylvania: A brewer must demonstrate "good cause" prior to termination. 47 Pa. Cons. Stat. § 4-431(d)(1). A supplier must provide 90 days' written notice of its intent to terminate and 90 days to cure any alleged deficiencies. 47 Pa. Cons. Stat. §§ 4-492(19). Available remedies include injunctive relief. 47 Pa. Cons. Stat. § 4-431(d)(4).

Tennessee: A brewer must demonstrate "good cause" prior to terminating a wholesaler and the brewer has the burden of establishing that it acted with "good cause." Tenn. Code Ann. § 57-5-507(3). Prior to termination, a wholesaler has 30 days after receipt of written termination notification to submit a plan of corrective action, and an additional 90 days after the submission of the plan to cure any alleged deficiencies. Tenn. Code Ann. § 57-507(3)(D). A wholesaler's remedies include (1) actual damages, including damage to ancillary businesses, (2) costs and, at court's discretion, attorney's fees, (3) declaratory judgment, and (4) injunctive relief. Tenn. Code Ann. § 57-5-510(a)-(c).

Texas: A brewer must demonstrate "good cause" prior to terminating a wholesaler. Tex. Alco. Bev. Code Ann. §§ 102.73, 102.74. A brewer must provide a wholesaler with 90 days' prior written notification of its intent to terminate a wholesaler. Tex. Alco. Bev. Code Ann. §§ 102.73(b). A wholesaler may seek (1) all "necessary and appropriate" relief, (2) actual damages, including the value of the distributor's business, (2) court costs, and (3) reasonable attorney's fees. Tex. Alco. Bev. Code Ann. § 102.79.

Washington: If a brewer terminates a wholesaler "for any reason other than for cause," the wholesaler is entitled to compensation. Wash Rev. Code § 19.126.040(4). A supplier must provide 60 days' notice of its intent to terminate, and provide the wholesaler 60 days from receipt of such notice to cure any alleged deficiencies. Wash. Rev. Code § 19.126.040(20). A wholesaler may seek (1) injunctive relief, and (2) costs and attorney's fees. Wash Rev. Code §§ 19.126.060 & 19.126.080.

EXHIBIT B

U.S. Market Share of Brewers and Importers in 2014

Name of Brewer or Beer Importer	2014 Shipments to Beer Wholesalers Millions of 31 gal. barrels	U.S. Market Share 2014
Anheuser Busch InBev (ABI)	96,000	44.7
MillerCoors	55,780	26.0
Constellation	14,415	6.7
Heineken USA	8,425	3.9
Pabst	5,330	2.5
Boston Beer (Sam Adams)*	4,093	1.9
Yuengling	2,920	1.4
North American Breweries	2,450	1.1
Diageo Guinness USA	2,275	1.1
Mark Anthony Brands	1,600	0.7
All Other Brewers and Importers*	21,368	10.0
Total	214,656	100.0

Source: Beer Marketer's Insights 2015 Beer Industry Update, available at http://www.beerinsights.com/index.php?option=com_content&view=article&id=11&Itemid=14, last accessed December 6, 2015.

* **Notes on Market Share of Craft Beer in 2014:**

Craft beer share includes production of Boston Beer, and a part of the “All Other Brewers and Importers” category totaling 11 percent of the market in 2014.

Approximately 3,000 craft brewers that package beer for sale to wholesalers produced 21,000,000 barrels in 2014.

Approximately 1,400 brewpubs, which are breweries with restaurants that produce and sell their products on site produced 1,170,935 barrels in 2014.

EXHIBIT C

List of top-30 beer distributors in the U.S. with volume estimates and recent developments:

BBD
BEER BUSINESS
DAILY

March 17, 2014

Top 30 Distributor Ranking

Dear Client:

It's been two years since we've published our top list of beer distributors by volume, and the theme seems to be that the big get even bigger. Several distributors have lost organic volume although many grew by acquisition of both territories and brands. A-B again tops our list, and we estimate that its WOD division lost some organic volume, along with their 30% stake in City Beverage but also gained cases through acquisitions. So without further ado, here are the top 30 distributors by our estimation, with notes.

1. Anheuser-Busch, Inc.
St. Louis, Missouri
Case Volume: 135 million (est.)
Dollar Sales: $3 billion (est.)
Principals: ABI Management
Notes: A-B still tops our list of U.S. beer distributors. After our last Top Distributors article ran in May 2012, A-B officially acquired 5 million case K&L Distributors in Renton, Washington, that July. Other recent acquisitions had included Eugene's Western Beverage earlier in 2012, Oklahoma City's Premium Beers of Oklahoma in 2011, C&G Distributing in Lima, OH in 2013, as well as a bid for Portland, Oregon's Morgan Distributing, which will be worth an extra 2 million cases. While A-B has purchased cases, it has also shed its stake in City Beverage.

2. Reyes Beverage Group
Chicago, Illinois
Case Volume: 102 million
Dollar Sales: $2.2 billion
Principals: Reyes family
Major Suppliers: MillerCoors, Crown, HUSA
Notes: Acquisitive Reyes has been in BBD most recently for its bid to acquire Coca-Cola franchise in the Chicago-Midwest for an estimated $300 million. Earlier this year Reyes closed on its purchase of 13-million case Allied in SoCal for an amount believed to be around $230 million. And it's been a little over a year now since Reyes purchased Chicago craft beer distributor Windy City for an estimated $50-$70 million.

3. Silver Eagle Distributors
Houston, Texas
Case Volume: 48.2 million
Dollar Sales: $987.7 million
Principals: John Nau III
Major Suppliers: ABI, Crown, NAB
Notes: Last year Silver Eagle announced intentions to open a new facility in Pasadena, Texas, the distributor's eighth facility in the state. Silver Eagle is up nearly $125 million from our 2012 list after adding 2 million cases.

4. Ben E. Keith Beverages
Dallas/Fort Worth, Texas
Case Volume: 39 million
Dollar Sales: $780 million
Principals: Hallam family
Major Suppliers: A-B
Notes: Late last year Ben E. Keith Company's Board of Directors announced changes in executive management, electing John Howard Hallam president and Robert Hallam Jr. executive vice president. Howard Hallam, who served as president for 33 years, was elected vice chairman of the board.

5. Hand Family Co.
Clarksville, Tennessee
Case Volume: 39 million
Dollar Sales: $650 million in revenues
Principals: J.R. Hand
Major Suppliers: ABI
Notes: The Hand Family Co. recently purchased A-B's 30% stake in City Beverage in Chicago. BDT Capital is the 70% owner of City Beverage. Hand also partnered with BDT Capital to purchase River North, Yusef Jackson's former Chicago A-B outfit, to combine with City. Post-deal, BDT and Hand will control over 20 million cases of A-B and some crafts/imports in the Chicago market.

6. L. Knife & Son
Multistate
Case Volume: 35 million (est)
Dollar Sales: $750 million (est)
Principals: Timothy Sheehan
Major Suppliers: A-B, Craft division
Notes: Recall, secured $1.7 million in government incentives to help purchase and renovate an abandoned, industrial building in Everett, Mass. for a new distribution facility to house their Craft Brewers Guild distributor of Boston and central Massachusetts. The Boston unit is part of the "Guild" contingent of L. Knife, whose total companies now operate across roughly 14 states and 21 locations. They also opened a Los Angeles operation last year. Recall that L. Knife recently acquired some of Yuenglings hybrid footprint in Massachusetts in its Seabord Products and A-B territories, but also in Boston with Knife's craft/import only division.

7. Columbia Distributing
Kent, Washington
Case Volume: 35 million
Dollar Sales: $675 million
Principals: Gregg Christiansen
Major Suppliers: MillerCoors, Crown, HUSA, Pabst
Notes: Recall after our 2012 list Columbia was acquired by investment firm Meritage Group LP for an undisclosed amount (estimates ran north of $500 million).

8. Manhattan Beer Distributors
New York
Case Volume: 34,210,000
Dollar Sales: $735 million
Principals: Simon Bergson
Major Suppliers: MillerCoors, Crown, Boston Beer
Notes: MBD moved into a new HQ located in South Bronx in May of last year. The move represented a $65 million investment, with 350,000 square feet of warehouse space including over 100,000 square feet of refrigerated space, and with a goal of reaching the highest level of LEED certification.

9. Glazer's Family of Cos.
Dallas, Texas
Case Volume: 31 million
Dollar Sales: $560 million
Principals: Bennet Glazer
Major Suppliers: MillerCoors, Crown, HUSA
Notes: Glazer's EVP malt beverages Phil Meacham told BBD last year that beer has become increasingly important to their operations. But that's on a market-by-market basis. Recently, the distributor struck a deal to sell about a half-million cases of craft and cider brands that it sells statewide in Missouri (through its wine and spirits house there) to blue-silver Missouri distributor Heart of America, which is then negotiating to

sell the brand rights to other beer distributors throughout the state outside of its territory. Other transactions include Glazer's having sold some craft and import beer brands to A-B house Southern Eagle in NOLA in early 2013.

In October of 2013, Glazer's opened its new $30 million 518,000-square-foot facility in San Antonio, the company's largest space. (Note: our 2012 list did not include Glazer's purchase of Halo Distributing in San Antonio.)

Dallas Business Journal reported last year that more recent leadership from former investment banker Shelly Stein has brought Glazer's, a top five alcohol wholesaler, more into the green - they reportedly finished 2012 with $3.8 billion in sales overall. Shelly had overseen about nine acquisitions and joint ventures as of January 2013.

10. L&F Distributors, LTD
The Rio Grand Valley, Texas
Case Volume: 30 million (est)
Dollar Sales: $480 million (est)
Principals: LaMantia family
Major Suppliers: ABI

11. Crescent Crown Distributing
Phoenix, AZ / New Orleans, LA
Case Volume: 28 million
Dollar Sales: $520 million
Principals: James R. Moffett Jr.
Major Suppliers: MillerCoors, Crown, HUSA

12. Gold Coast Beverage Distributors Inc.
Miami, Florida
Case Volume: 27 million
Dollar Sales: $648 million
Principals: Frank Schwiep
Major Suppliers: MillerCoors, Crown, HUSA

13. Andrews Distributing Cos.
Dallas, Texas
Case Volume: 26,635,145
Dollar Sales: $587,102,371
Principals: Barry Andrews
Major Suppliers: MillerCoors, Crown, HUSA
Notes: Andrews has an agreement to acquire Coors distributing out of Fort Worth. The deal is believed to be north of $100 million.

14. JJ Taylor Companies
Jupiter, Florida
Case Volume: 26.5 million
Dollar Sales: $495 million
Principals: John J. Taylor III

Major Suppliers: MillerCoors, HUSA, Boston Beer
Notes: In late 2012 J.J. Taylor Minnesota announced an agreement to acquire Chisago Lakes Distributing.

15. DBI Beverage
San Francisco, CA
Case Volume: 25,979,763
Dollar Sales: $497,321,075
Principals: Jeff Skinner
Major Suppliers: MillerCoors, HUSA, Boston Beer

16. Topa Equities, Inc. (Anderson)
Los Angeles, California
Case Volume: 20 million (est.)
Dollar Sales: $420 million (est.)
Principals: John Anderson
Major Suppliers: ABI, Crown, Boston Beer

17. RA Jeffreys
North Carolina
Case Volume: 20 million (est.)
Dollar Sales: $360 million (est.)
Principals: Robert A. Jeffreys
Major Suppliers: A-B

18. Hensley Beverage Co.
Phoenix, AZ
Case Volume: 19,978,123
Dollar Sales: $372 million
Principals: Robert Delgado, the McCain family
Major Suppliers: A-B
Notes: Early last year New York-based Angelo, Gordon & Co., a hedge fund, paid $76 million to acquire three of Hensley's distribution centers in a lease-back arrangement. That's an average of $131.68 per square foot. Hensley is just shy of a 20 million case distributorship.

19. Origlio Beverage
Philadelphia, PA
Case Volume: 19 million
Dollar Sales: $365 million
Principals: Origlio/Honickman
Major Suppliers: MillerCoors, Yuengling, Pabst
Notes: These numbers are representative of the acquisition of All Star Distributing in September 2013.

20. Superior Beverage Group
Columbus, Ohio
Case Volume: 18 million
Dollar Sales: $339 million
Principals: John M. Antonucci
Major Suppliers: MillerCoors, Crown, HUSA
Notes: Same case volume but a $30 million increase in sales.

21. The Banko Family
New Jersey
Case Volume: 17 million (est)
Dollar Sales: $240 million (est)
Principals: Mary Ellen (Banko) Racz
Major Suppliers: MillerCoors, Crown, HUSA
Notes: Invested $7 million last year to nearly double the size of its old headquarters and expects to move into new HQ in March.

22. Heidelberg Distributing
Midwest
Case Volume: 16,614,779
Dollar Sales: $296,193,860
Principals: Vail Miller Jr.
Major Suppliers: ABI, Crown, HUSA

23. Standard Sales Co., LP
Colorado Springs, CO
Case Volume: 15.6 million
Dollar Sales: $310 million
Principals: Lanny Layman
Major Suppliers: A-B
Notes: Recently broke ground on a $20 million, 150,000-square-foot facility in Odessa, Texas.

24. Frank B. Fuhrer Wholesale Co.
Pittsburgh, PA
Case Volume: 15,460,439
Dollar Sales: $242,378,905
Principals: Frank Fuhrer II
Major Suppliers: A-B, Boston Beer, Crown
Notes: Fuhrer sued MillerCoors in August 2013, condemning the brewer's refusal to consider the wholesaler for MillerCoors craft brands simply because Fuhrer sells A-B heavy hitters from Bud Light to Black Crown. The case was dismissed.

25. Monarch Beverage
Indianapolis, Indiana
Case Volume: 15,056,274
Dollar Sales: $254 million
Principals: Phillip A. Terry
Major Suppliers: MillerCoors, Crown, HUSA
Notes: Down 500,000 cases in volume and $25 million decrease from sales last year in a tough market.

26. West Side Beer Distributing
Grand Rapids, Michigan
Case Volume: 15 million (est.)
Dollar Sales: $290 million (est.)
Principals: Don and Keith Klopcic
Major Suppliers: A-B, Boston Beer, NAB

27. Gulf Distributing Holdings
Alabama
Case Volume: 13,574,000
Dollar Sales: $249.5 million
Principals: Elliot Maisel
Major Suppliers: MillerCoors, HUSA, Crown

28. The House of LaRose
Brecksville, Ohio
Case Volume: 11.8 million
Dollar Sales: 182 million
Principals: LaRose family
Major Suppliers: ABI

29. Houston Distributing Co.
Houston, Texas
Case volume: 11 million
Dollar sales: $210 million
Major Suppliers: MillerCoors, HUSA, Gambrinus
Principal: Bo Huggins

30. Clare Rose
East Yaphank, New York
Case Volume: 10,950,000
Dollar Sales: $210 million
Principals: Sean Rose
Major Suppliers: ABI, HUSA

Source: Beer Business Daily, March 17, 2015.

EXHIBIT D

Federal Trade Commission Critiques of State Alcohol Beverage Laws

FTC Staff Comment Before the Council of the District of Columbia Concerning C.B. 6-442, The Wine, Beer, and Spirits Franchise Act of 1986, August 1986, a bill that was ultimately defeated, but it mirrors many franchise laws summarized in Exhibit A and in many other states. Full FTC comment is available at

https://www.ftc.gov/sites/default/files/documents/advocacy_documents/ftc-staff-comment-council-district-columbia-concerning-c.b.6-442-wine-beer-and-spirits-franchise-act-1986/p864665.pdf

https://www.ftc.gov/policy/policy-actions/advocacy-filings/1986/08/ftc-staff-comment-council-district-columbia

FTC Staff Comment to the Hon. Tom Alley Concerning Michigan H.B. 5236 to Allow Beer Manufacturers to Sell Beer at Retail in Limited Instances, February 1990, available at:

https://www.ftc.gov/policy/policy-actions/advocacy-filings/1990/02/ftc-staff-comment-hon-tom-alley-concerning-michigan

FTC Staff Comment to the Honorable Wesley Chesbro Concerning the Proposed California Franchise Act to Govern Contractual Relationships Between Beer Manufacturers and Wholesalers, August 2005, available at:

https://www.ftc.gov/policy/policy-actions/advocacy-filings/2005/08/ftc-staff-comment-honorable-wesley-chesbro-concerning

James C. Cooper, Joshua D. Wright, Federal Trade Commission Bureau of Economics, State Regulation of Alcohol Distribution: The Effects of Post & Hold Laws on Consumption and Social Harms, Working Paper: 304, August 2010

The Twenty-first Amendment repealed prohibition, but granted the states broad power to regulate the distribution and sale of alcohol to consumers within their borders. Pursuant to this authority, states have established a complex web of regulations that limit the ability of beer, wine, and liquor producers to control the distribution of their product. From a consumer welfare perspective, one of the most potentially harmful state alcohol distribution regulations are “post and hold laws (“PH laws”). PH laws require that alcohol distributors share future prices with rivals by “posting” them in advance, and then “hold” these prices for a specified period of time. Economic theory would suggest that PH laws reduce unilateral incentives for distributors to reduce prices and may facilitate tacit or explicit collusion, both to the detriment of consumers. Consistent with economic theory, we show that the PH laws reduce consumption by 2-8 percent. We also test whether, by reducing consumption, PH laws provide offsetting societal benefits in the form of reducing drunk driving accidents and underage drinking. We find no measurable relationship between PH laws and these social harms. These results suggest a socially beneficial role for antitrust challenges to PH laws and similar anticompetitive state regulation. If states wish to reduce the social ills associated with drinking, our results also suggest that directly targeting social harms with zero tolerance laws and lower drunk driving thresholds are superior policy instruments to PH laws.

Full paper available at https://www.ftc.gov/reports/state-regulation-alcohol-distribution-effects-post-hold-laws-consumption-social-harms

FTC Staff Comment to the Hon. Alice H. Peisch, Massachusetts House of Representatives, Concerning Legislation Imposing Additional Restrictions on Malt Beverage Suppliers and Supplier-Wholesaler Relationships, May 2011, available at:

https://www.ftc.gov/sites/default/files/documents/advocacy_documents/ftc-staff-comment-hon.alice-h.peisch-massachusetts-house-representatives-concerning-legislation-imposing-additional-restrictions/1105alcoholwholesaler.pdf

EXHIBIT E

States and Communities in which ABI owns beer distributors:

Alamosa, CO

Colorado Springs, CO

Denver, CO

Durango, CO

Loveland, CO

Los Angeles, CA

Oakland, CA

Pomona, CA

Riverside, CA

San Diego, CA.

San Jose, CA

Oahu, HI

Boston, MA

New York, NY

Canton, OH

Oklahoma City, OK

Tulsa, OK

Eugene, OR

Renton, WA

Source: http://anheuser-busch.com/index.php/our-company/operations/wholesale-operations/ and Anheuser-Busch InBev corporate filings and press releases.

EXHIBIT F

Beer Industry Trade Press Account of 2015 ABI Incentive Program to Encourage Wholesalers to Reduce Sales of Competing Brands:

<u>AB Unveils 3 Yr "Win Together" Plan Developed With Distribs; A "Turning Point," Sez João</u>

AB's Nov 17 "Win Together" meeting with distribs in St Louis is "a turning point in our relationship," said AB ceo João Castro Neves, adding it's "a new beginning" and "a chance for change." Those were João's opening words as he intro'd 3 yr plan developed jointly with AB wholesaler panel. AB "worked closely" with panel to "build our future together," João said. During q&a session, several distribs on panel spoke of the depth of give-and-take and how AB and its distribs jointly developed plan in close, collaborative process that involved 12 long working sessions over last 8 mos. Immediate past-panel chairman Don Klopcic described his initial "skepticism" and how he gradually developed "hope that we've made a turn in our relationship."

$150+ Mil Incremental Spending in 2016 Next yr, AB's focus will be on four pillars of its commercial strategy: "elevate the core," "win the high end," "evolve the innovation model" and "win together attitude." In effort to "win together," and execute against those other objectives, AB will bring lotsa incremental resources to bear in 2016. Indeed, AB will spend an incremental $150 mil on mktg and sales next yr. It will spend an incremental $100 mil on mktg, including 17% more on core brands, 4% more on innovations and brands like the Ritas, and 20% more against its growing high end. AB will also spend $50 mil more on sales investments, including doubling its investments on premise. AB has gained share in tuff on-premise channel for last 9 months.

Revamped VAIP; Voluntary Incentive for Performance A major component of the meeting was a new more "inclusive" VAIP, or voluntary Anheuser Busch incentive for performance program. AB is trying to get more "focus" and "performance" on its brands, said veep Bob Tallett. The current VAIP has become "outdated," AB acknowledged. Only 38% of distribs participate, down from 61% just 3 yrs ago. AB used to fund $15 mil, but that's now down to $7 mil. And the average distrib only gets $30,000. To get the incentives under old program, a distrib had to be either 100% AB volume or greater than 97% AB volume. That "doesn't reflect the realities of the marketplace." Unlike in old 100% share of mind days, the word "exclusive" wasn't used once.

Broader Reach; Increased Funds Available With the new VAIP, "there is something for everyone," said João. AB expects that 70% or more of distribs will participate and they will get benefits that average $200,000. How does it work? The program will be simplified so that wholesalers who qualify will simply get reimbursed from their minimum marketing spend commitments. The value varies per wholesaler. So if a distrib is 98% or greater aligned (A+), it will get 75% reimbursement of its minimum marketing spend on an annual basis. If distrib is "A" level, at 95%, it's eligible for 50% reimbursement. And even those who are 90% aligned, would still get 10% reimbursement. That 3d level is new.

Relaxed Restrictions; Accommodating Local Craft In addition to those enhanced elements of VAIP, AB tried in several ways to make funds available even to distribs whose portfolios are less than 90% aligned. For distribs who score 850 on AB's Ambassadors of Excellence program, the benefit is a 25% reimbursement of their minimum marketing spend. That's available regardless of % of volume that's AB. Incidentally, CBA brands are aligned and Constellation aligned but only through Jun 2016. AB also will give 50% reimbursement to distribs who have separate sales force for AB brands regardless of alignment. And in concession to importance of small craft at the A+ level, wholesalers can sell all the small craft brewers they want provided they are 15,000 bbls or less or if they only sell beer in 1 state. And they won't be counted against their % of aligned volume.

In another change, wine, spirits, NAs, don't affect a distrib's standing. But selling other brands outside AB territorial footprint disqualifies a distrib from getting any of these incentives. So a number of AB's larger distribs won't get VAIP benefits. A number of others are only 60% or so AB and unlikely to participate. Same for most who sell Constellation after June 2016. Etc. Yet AB did try to craft the VAIP to appeal to a much larger # of distribs.

Facilitating Consolidation AB also implemented several new incentives to facilitate consolidation. It will help finance deals where allowed. It will double the minimum marketing spend investment to consolidating wholesalers for 2 yrs. And at its discretion, it will allow distribs to have equity agreement managers with less than 25% ownership for a period of time.

"Encouraging" New Direction; Resetting the Relationship All of these moves taken together with an improved tone and enhanced dialogue showed AB headed in a new direction. Several distribs called this "encouraging" and "positive" during Q&A at the end. And another e-mailed: "At least they're trying to build a relationship." Privately, some distribs complained of high inventories again, but nobody brought that up during Q&A as if they didn't want to rain on parade. Interestingly, very little said about actual business trends at this meeting. It was more about resetting the relationship, and offering a "framework" that can be built upon through the 3-yr plan. And tho there's still mistrust in the network, and many statements along the lines of "proof will be in the pudding," AB did take an early but significant step in improving its relationships and dialogue with wholesalers through this "Winning Together" platform.

Source: Beer Marketer's Insights, Insights Express, Vol 17, No 185, November 19, 2015.

EXHIBIT G

Two stories from independent media describing A-B's special relationships with certain wholesalers:

> The link below is to a good article on the A-B dynamic with its wholesalers written by a St. Louis business reporter who has a solid understanding of A-B:
>
> http://www.stltoday.com/business/local/beer-battle-between-wholesalers-brewers/article_d7985f04-96d5-11e1-920a-001a4bcf6878.html
>
> This link show how Busch family members and former senior executives (who also still hold thousands or even millions of share of Anheuser-Busch InBev stock) are still heavily involved in the wholesale tier:
> http://www.bizjournals.com/stlouis/stories/2008/06/23/story7.html