

A D D E N D U M
to
ENSURING COMPETITION REMAINS ON TAP:
THE AB INBEV/SABMILLER MERGER AND
THE STATE OF COMPETITION IN
THE BEER INDUSTRY

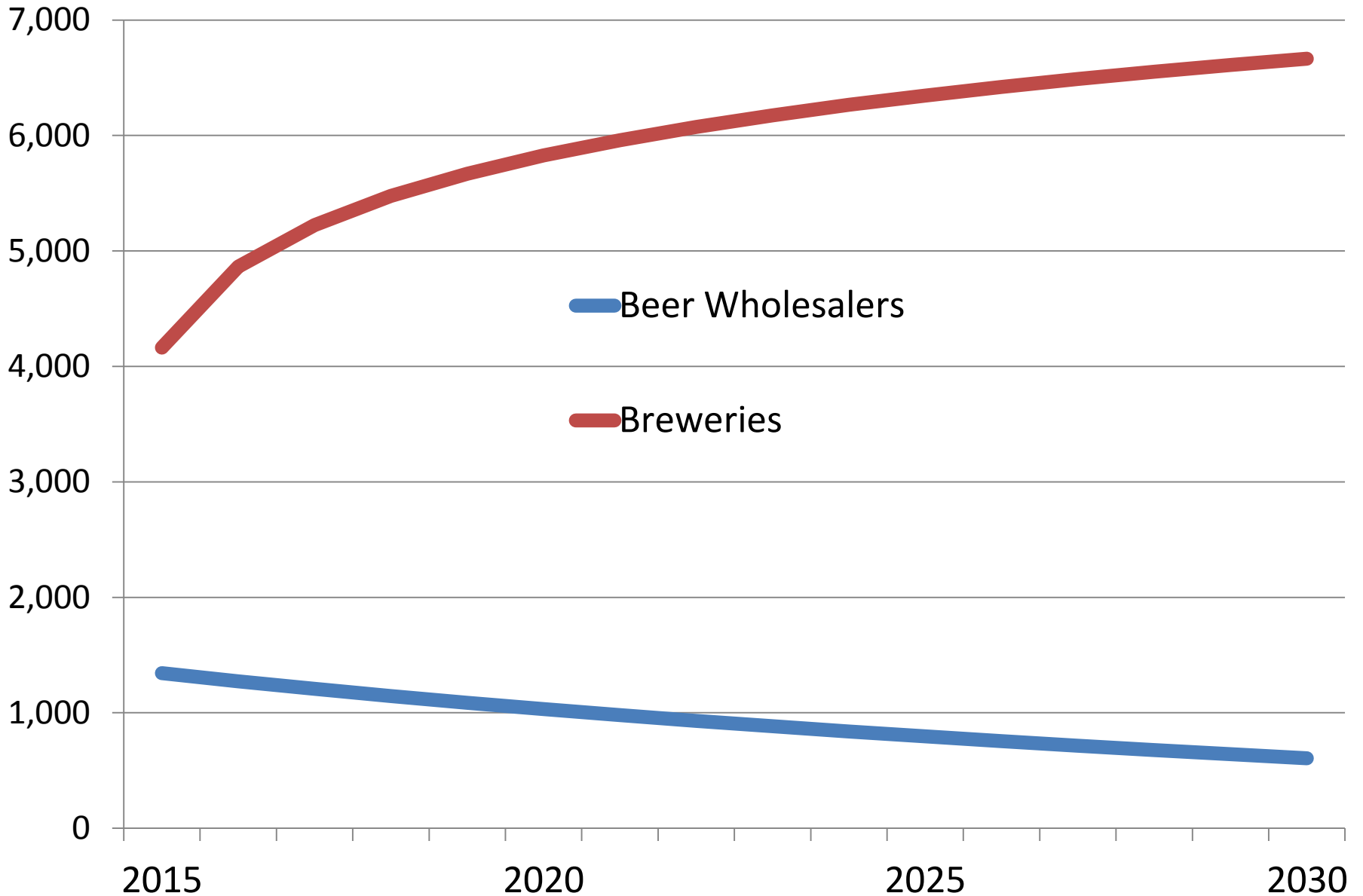
This Addendum is available at:

<https://www.govinfo.gov/content/pkg/CHRG-114shrg52545/pdf/CHRG-114shrg52545-add1.pdf>

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Projected # of Breweries and Beer Wholesalers, 2015-2030



Sources: Brewers Association, Independent Beverage Group, Beverage Business Institute, National Beer Wholesalers Association, Beer Institute, Tax and Trade Bureau

December 18, 2015

The Honorable Michael S. Lee
The Honorable Amy Klobuchar
Senate Judiciary Committee
Subcommittee on Antitrust, Competition
Policy and Consumer Rights
SR-361 Russell Senate Office Building
Washington, DC 20510

Dear Senators Lee and Klobuchar:

On behalf of the membership of the Brewers Association (BA) I appreciated the opportunity to address the Subcommittee at its December 8th hearing on competition in the U.S. beer industry.

An issue the BA would like to clarify for the hearing record is the significant disparity in the hearing testimony over the number of beer wholesalers in the U.S. That issue was not resolved during the questioning. The BA written testimony (p. 2) cites an estimate that by 2020, only about 200-250 full-service beer wholesalers will exist in the U.S. That number is based on an industry analysis presented to the National Beer Wholesalers Association in 2012 by the Independent Beverage Group stating that 200-225 beer wholesalers would distribute 90 percent of the beer sold in the U.S. A BA chart is enclosed showing the trend toward beer wholesaler consolidation in the U.S. along with the increasing number of breweries. The testimony of Anheuser-Busch InBev (ABI) CEO Carlos Brito (p. 5) states that “there is robust competition in the wholesaler system with approximately 3,300 wholesalers across America.” The National Beer Wholesalers Association (NBWA) is cited as the source of Mr. Brito’s assertion. The 2014 NBWA Handbook reports a total of 1,422 beer wholesalers, which is less than half of the number in Mr. Brito’s statement.

We believe that the estimate cited by Mr. Brito may be based on an old figure from the NBWA based on the total number of beer wholesaler permits issued by the government agencies. That count is a meaningless for an antitrust analysis. In fact, page 2 of Mr. Brito’s statement also states that ABI has “more than 500” wholesalers. That means ABI, the largest brewer in the U.S. with a market share of more than 45 percent, has only 15 percent of the total number of U.S. wholesalers. That fact alone is an indication of significant concentration in the wholesale tier as most ABI wholesalers currently sell other brands and sell well over 50 percent of all beer consumed in their respective territories.

The high number of beer wholesaler permits issued by the federal government is due in part to federal regulations requiring many businesses in the alcohol beverage industry to obtain wholesale permits. (*See, e.g.* 27 CFR 1.22.) For example, many individual retailers hold wholesale permits so that they can purchase and resell small volumes of specialty products to

other small businesses, such as local caterers. Another reason for the disparity is that commonly owned wholesalers are required to hold permits for each location where they transact sales. The Alcohol and Tobacco Tax and Trade Bureau (TTB) maintains a publicly available database that substantiates the fact that many businesses that hold federal wholesale permits are engaged in very limited activities and are not comparable to the ABI and MillerCoors wholesalers described in the BA testimony.

The critical number in looking at the wholesale tier of the beer industry is the group that the BA's testimony describes as "full-service wholesalers." They are wholesalers who operate under distribution agreements with brewers and actively sell beer to all licensed retailers in a defined market. As the BA testimony states, most markets are only served by two full-service wholesalers. In the immediate post-Prohibition era, Treasury Department records indicate that more than 18,000 alcohol beverage wholesalers existed in the U.S., so the wholesaler consolidation trend is quite dramatic over a longer time frame.

As Exhibit C (pp. 11-17) of the BA written testimony shows, the top 30 beer wholesalers sold just under one third of all beer consumed in the U.S. during calendar year 2014. Exhibit C looks beyond the number of licenses issued and shows the actual ownership and control of the wholesale tier with enormous volumes and revenues concentrated in 30 businesses. Those businesses may hold dozens of wholesaler permits, but they are centrally managed and operate in multiple states. ABI is the largest entity among the top-30 wholesalers. During 2014, the company distributed more than 135 million cases of beer in ten states with an estimated sales value \$3 billion. While ABI tries to minimize its presence in the wholesale tier, the volume and revenue tell a very different story about the presence and scale of ABI in the wholesale tier.

To build a competitive brand in the beer industry, craft brewers are generally required by state law to assign exclusive territories to full-service wholesalers. The Subcommittee should understand that the universe of full-service wholesalers is much smaller than the estimate provided by Mr. Brito and that the level of competition among "full-service wholesalers" is very limited. At the same time, the size of most full-service wholesalers, their dominant positions in each market, and the fact that their distribution rights are protected by state law mean that launching a competitive new entrant in the wholesale tier is practically impossible. These factors are essential to understand the competitive landscape of beer distribution and the reason that the BA is urging the Subcommittee to support divestiture of ABI's company-owned wholesalers and an end to other anticompetitive practices.

In addition to clarifying the number of wholesalers in the U.S., the activities of ABI and some of its independent wholesalers was a recurring theme at the December 8th hearing. The information provided on pages 3-4 and Exhibits F and G of the BA written testimony as well as the testimony of J. Wilson of the Iowa Brewers Guild summarize recent ABI actions that are harmful to competition. The Subcommittee should also review recent decisions by "independent wholesalers" in response to ABI incentives to refrain from selling competing brands. These actions demonstrate

strategic and tactical efforts by ABI to utilize its ownership of wholesalers and its strong control over “independent wholesalers” to diminish competition in several state and regional beer markets. We urge the Subcommittee to obtain first-hand information from craft brewers who were harmed by recent transactions in California, Missouri, Vermont, and Washington.

Thank you again for the opportunity to participate in the Subcommittee’s deliberations. The BA is prepared to assist in any way we can to further develop the hearing record and to support our recommendations for aggressive antitrust enforcement action by the Department of Justice.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bob Pease', with a stylized flourish at the end.

Bob Pease
CEO, Brewers Association

Breweries

- Thomas Hooker Brewing Company
- Olde Burnside Brewing Company
- New England Brewing Company
- Cottrell Brewing Company
- City Steam Brewery Cafe
- Back East Brewing Company
- Half Full Brewery
- Relic Brewing
- Two Roads Brewing Company
- Beer'd Brewing Co.
- Thimble Island Brewing Co.
- Southport Brewing Company Restaurant & Brewery
- Shebeen Brewing
- Top Shelf Brewing
- Broadbrook Brewing
- Firefly Hollow Brewing
- Stubborn Beauty Brewing
- Overshores Brewing Co.
- DuVig Brewing Co.
- Black Hog Brewing Co.
- Stony Creek Brewery
- Powder Hollow Brewery
- Black Pond Brewing
- Outer Light Brewing Co.
- Still Hill Brewery
- Cold Creek Brewery
- No Worries Brewing
- Kent Falls Brewing
- OEC Brewing
- Veracious Brewing
- Steady Habit Brewing
- Weed Brewing Company
- Safe Harbor Beer
- Beaver Beer Co.
- The Hartford Better Beer Co

Breweries coming to CT

- Witchdoctor Brewing Co.
- Hog River Brewing Co.
- New Park Brewing Co.
- Lock City Brewing Co.
- Brewery Legitimus