

***Case No COMP/M.6587 -
MOLSON COORS/
STARBEV***

Only the English text is available and authentic.

**REGULATION (EC) No 139/2004
MERGER PROCEDURE**

Article 6(1)(b) NON-OPPOSITION
Date: 06/06/2012

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Brussels, 6.6.2012

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) No 139/2004 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus [...]. Where possible the information omitted has been replaced by ranges of figures or a general description.

C(2012) 3816 final

PUBLIC VERSION

MERGER PROCEDURE

To the notifying party:

Dear Sir/Madam,

**Subject: Case No COMP/M.6587 - MOLSON COORS/ STARBEV
Commission decision pursuant to Article 6(1)(b) of Council Regulation
No 139/2004¹**

1. On 02/05/2012, the European Commission received the notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 by which Molson Coors Brewing Company ("Molson Coors", the US) acquires within the meaning of Article 3(1)(b) of the Merger Regulation control of the whole of StarBev Holdings S.à r.l. ("StarBev", Luxembourg) by way of purchase of shares.

(1) THE PARTIES

2. Molson Coors is the US based ultimate parent company of the Molson Coors group. The Molson Coors group is active world-wide in the brewing, sale, marketing and distribution of beer. Its operations are primarily located in the US, Canada and the UK.
3. StarBev is the parent company of a Central and Eastern European brewing group, registered in Luxembourg and headquartered in the Czech Republic. StarBev is active in the manufacture and distribution of beer primarily in Bulgaria, the Czech Republic, Hungary, Romania, Croatia, Serbia and Montenegro. Its flagship brands include, inter alia, Staropramen (Czech Republic), Borsodi (Hungary), and Bergenbier (Romania). At present, StarBev is currently owned and controlled by investment funds advised and managed by CVC Capital Partners SICAV-FIS S.A. and its affiliates.

¹ OJ L 24, 29.1.2004, p. 1 ("the Merger Regulation"). With effect from 1 December 2009, the Treaty on the Functioning of the European Union ("TFEU") has introduced certain changes, such as the replacement of "Community" by "Union" and "common market" by "internal market". The terminology of the TFEU will be used throughout this decision.

(2) THE OPERATION

4. On 3 April 2012, Molson Coors Holdco – 2 Inc., a wholly-owned subsidiary of Molson Coors, signed an Agreement with StarBev's current owners for the Sale and Purchase of the Entire Issued Share Capital of StarBev. Under the terms of this agreement, following completion of the transaction, Molson Coors Holdco – 2 Inc. will acquire the entire issued share capital of Starbev. As a result, Molson Coors will obtain sole control over StarBev.

(3) CONCENTRATION

5. The proposed transaction consists of the acquisition by Molson Coors, acting by and through its wholly-owned subsidiary, Molson Coors Holdco – 2 Inc., of sole control of StarBev. It therefore constitutes a concentration within the meaning of Article 3(1)(b) of the EU Merger Regulation.

(4) EU DIMENSION

6. The undertakings concerned have a combined aggregate worldwide turnover of more than EUR 5 000 million (Molson Coors: EUR 5 243 million, StarBev: EUR [...] million). Each of them has an EU-wide turnover in excess of EUR 250 million (Molson Coors: EUR 962 million, StarBev: EUR [...] million), but they do not achieve more than two-thirds of their aggregate EU-wide turnover within one and the same Member State. The notified concentration therefore has an EU dimension within the meaning of Article 1 of the Merger Regulation.

(5) COMPETITIVE ASSESSMENT

I. PRODUCT AND GEOGRAPHIC MARKET DEFINITIONS

i) Relevant product markets

7. The proposed transaction concerns the sector of beer. The Commission's decisional practice and the case law of the Court of Justice of the European Union suggest that the relevant product market is that for the production and distribution of beer which is to be distinguished from other beverages². Furthermore, the Commission has generally considered that a distinction between on-trade distribution (that is, beer sold by pubs, bars, restaurants, hotels etc.) and off-trade distribution (beer sold by retail outlets) is relevant³. With respect to some countries, the Commission has also considered that a possible further segmentation by type of beer (e.g., lager, stout or ale in the UK) or by quality (e.g., premium or standard) might be relevant due to demand-side considerations, but ultimately left the market definition open.

² See Case M.582 Orkla / Volvo of 20 September 1995; Case M.2044 Interbrew / Bass of 22 August 200à, Case M.4999 Heineken / Scottish & Newcastle Assets of 3 April 2008.

³ Case C-234/89 [1991] ECR I-977 Stergios Delimitis v. Heninger Brau

8. The notifying party considers that it is not appropriate to sub-divide the lager segment between premium and standard lager because of a high level of supply-side substitution. The notifying party maintains that there are no switching costs when switching between the production of premium and standard lager and that there are numerous examples where standard beers incur higher marketing costs than premium beers. It has nonetheless provided market share data also for the segments of premium and standard lager.
9. In the present case, the exact product market definitions can be left open since the notified operation does not raise competition concerns irrespective of the market definition.

ii) Relevant geographic market

10. In line with all of the Commission's previous decisions mentioned above, the notifying party submits that the relevant geographic market is national in scope.

II. COMPETITIVE ASSESSMENT

11. As StarBev is primarily active in the Central and Eastern European markets from which Molson Coors is absent, the only potential overlap between the activities of the parties arises in the production and distribution of beer in the UK, where Molson Coors has an established presence. In the UK, Molson Coors sells beer under its own brands (e.g., Carling, Coors Light, Caffrey's and Worthington's Creamflow) as well as brews and/or distributes certain third party products.
12. Although StarBev has no direct sales presence in the UK, it is active through an exclusive distributor in the sale of one of its flagship bands, Staropramen. As of [...], Starbeve entered into an exclusive distribution arrangement with Carlsberg UK Limited ("Carlsberg", UK) for the distribution of Starbeve's Staropramen branded beer in the UK for an initial period of [...], replacing Starbeve's prior distribution arrangement with ABInbev ("ABInbev", UK).
13. According to the notifying party, Starbeve has no influence over the market share of Staropramen in the UK and therefore, the transaction does not give rise to any affected market. However, under the terms of the distribution agreement in relation to Staropramen in the UK, Carlsberg has only distribution rights, while Starbeve retains all intellectual property rights, maintains trademark registrations and co-agrees with Carlsberg the annual operating plan for the marketing, advertisement and promotion of Staropramen, [...]. In view of this, the sales of Staropramen in the UK are attributable to Starbeve.
14. In such a scenario, according to the notifying party, the combined market share of the parties would amount to affected markets only in the following segments: (i) the UK overall beer market, (ii) the UK all beer on-trade segment and (iii) the UK lager beer segment. The table below shows the market shares held by the parties by value and volume in 2011, in the above mentioned markets.

Market Shares of the parties (value and volume, 2011)

	All Beer UK		All Beer On-Trade UK		Lager Beer UK	
	value	volume	value	volume	value	volume
Molson Coors	[10-20]%	[10-20]%	[20-30]%	[20-30]%	[20-30]%	[20-30]%
StarBev	[<5]%	[<5]%	[<5]%	[<5]%	[<5]%	[<5]%
Total	[10-20]%	[10-20]%	[20-30]%	[20-30]%	[20-30]%	[20-30]%

Source: CGA Strategy (for on-trade) and Nielsen (for off-trade)

15. Based on the figures above, the increment added by Starbev remains less than 1% under any market segment affected by the proposed transaction. In addition to its own brands, Molson Coors brews, sells and/or distributes certain brands on behalf of third parties⁴, and also sells⁵ certain factored brands. However, the inclusion of these activities would not affect the competitive assessment of the present case since Molson Coors's market share would not change materially and the increment added by StarBev would in all cases remain [<5]%, since Starbev is active only with its own brand. In addition, according to the notifying party, the merged entity will continue to face competition from a number of significant players, including Heineken (with a market share of [20-30]%), Carlsberg (with a market share of [10-20]%) and ABInBev (with a market share of [10-20]%).

16. In view of the negligible increment brought by Starbev, the relatively low combined market shares of the parties and the presence of several strong competitors, the notified operation does not give rise to competition concerns under any of the possible market segments in the production and distribution of beer in the UK.

(6) CONCLUSION

17. For the above reasons, the European Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of the Merger Regulation.

For the Commission
(Signed)
Joaquín ALMUNIA
Vice-President

⁴ Molson Coors currently has contract brewing agreements in place with (i) Heineken in respect of Fosters and Kronenbourg; (ii) Carlsberg in respect of Tetley. Molson Coors has no involvement in the distribution or selling of the beer, it is collected on-site by Heineken and Carlsberg, respectively.

⁵ Molson Coors has distribution agreements in place with (i) Grupo Modelo S.A.B. de C.V. ("Modelo") in respect of brands including Corona, Coronita, Negra Modelo, Pacifico; and (ii) Boon Rawd Trading International in respect of Singha.