

Interest and Experience of the FTC

The FTC enforces laws prohibiting unfair methods of competition and unfair or deceptive acts or practices in or affecting commerce.³ Pursuant to this statutory mandate, the Commission seeks to identify and prevent, where possible, business practices and regulations that impede competition without offering countervailing benefits to consumers.⁴ The Commission and its staff have considerable experience in analyzing the competitive impact of regulations affecting the alcoholic beverage industry. For example, FTC staff has commented in the past on various restrictions on the vertical relationships between alcoholic beverage producers and wholesalers.⁵

FTC staff also has extensively analyzed the effects of bans on direct wine shipping. In October 2002, the Commission held a workshop to evaluate possible anticompetitive barriers to e-commerce in wine and many other industries (“E-Commerce Workshop”).⁶ At the workshop, FTC staff heard testimony from several parties with divergent interests, including wineries, wholesalers, and state regulators. The staff also gathered evidence from package delivery companies, the Alcohol and Tobacco Tax and Trade Bureau (“TTB”),⁷ and regulators in states that allow direct shipping. In addition, as discussed in more detail below, FTC staff conducted the first empirical study of a wine market in a state that banned interstate direct shipping. In July 2003, FTC staff issued a comprehensive report on the competitive effects of bans on direct shipments of wine (“FTC Wine Report”),⁸ and in October 2003, the staff testified at a related

³ Federal Trade Commission Act, 15 U.S.C. § 45.

⁴ Specific statutory authority for the FTC’s competition advocacy program is found in Section 6 of the FTC Act, under which Congress authorized the FTC “[t]o gather and compile information concerning, and to investigate from time to time the organization, business, conduct, practices, and management of any person, partnership, or corporation engaged in or whose business affects commerce,” and “[t]o make public from time to time such portions of the information obtained by it hereunder as are in the public interest.” *Id.* § 46(a), (f).

⁵ *See, e.g.*, Letter from FTC Staff to Ohio State Rep. Bill Seitz (Dec. 12, 2005), at <http://www.ftc.gov/os/2005/12/051212cmntohiolegiswinefranchis.pdf>; Letter from FTC Staff to Cal. State Sen. Wesley Chesbro (Aug. 24, 2005), at <http://www.ftc.gov/os/2005/08/050826beerfranchiseact.pdf>; Letter from Chicago Regional Office to Ill. State Sen. Dan Cronin (Mar. 31, 1999), at <http://www.ftc.gov/be/v990005.htm>; Letter from Atlanta Regional Office to North Carolina State Sen. Hamilton C. Horton, Jr. (Mar. 22, 1999), at <http://www.ftc.gov/be/v990003.htm>; Statement of Phoebe Morse, Dir., Boston Regional Office to the Mass. Alcoholic Beverages Control Comm’n (June 26, 1996), at <http://www.ftc.gov/be/v960012.htm>.

⁶ Public Workshop: Possible Anticompetitive Efforts to Restrict Competition on the Internet, 67 Fed. Reg. 48,472 (July 24, 2002). The workshop’s homepage is at <http://www.ftc.gov/opp/e-commerce/anticompetitive/index.htm>.

⁷ The TTB was formerly known as the Bureau of Alcohol, Tobacco, and Firearms.

⁸ POSSIBLE ANTICOMPETITIVE BARRIERS TO E-COMMERCE: WINE, FTC STAFF REPORT (2003), at <http://www.ftc.gov/os/2003/07/winereport2.pdf>. A copy of this report is enclosed herewith.

