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**INVESTIGATIVE TECHNIQUES SEMINAR**

**ABUSE OF DOMINANCE**

**Leader's Materials**

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**United States Federal Trade Commission  
United States Department of Justice**

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## **SEMINAR SCHEDULE**

### **DAY ONE**

Introduction and discussion of goals of the seminar.

Begin mock interviews. The first interview is with the complaining party.

At the end of Day One, distribute relevant documents. These documents were received in response to subpoenas sent out by the competition authority to the subject and several third parties. Approximately 30 boxes of documents were received. Those that seem particularly relevant to the investigation are distributed.

### **DAY TWO**

Discuss the documents for one to two hours, selecting relevant passages and discussing why they are or are not relevant.

After a discussion of the documents, interviews continue.

### **DAY THREE**

Interviews continue.

### **DAY FOUR**

Finish interviews.

Summarize information from interviews. (A list of questions to be discussed at the end of the seminar will be handed out to aid in the discussion.)

Distribute the guide materials.

## **OVERVIEW OF SEMINAR**

This seminar consists of a series of mock interviews and discussions. The case that is discussed is hypothetical. A general description of the case is attached. All other relevant facts for the investigation will be revealed in the mock interviews and documents, as would occur in a real investigation.

Participants should read the description of the case below and prepare to conduct mock interviews with the hypothetical subject, consumers, competitors and other industry participants to gain as much relevant information as possible about the industry. Sample interview questions will be distributed in advance. The questions are not comprehensive and are only a starting point. Feel free to supplement and modify the questions. In particular, some answers given during the interview may raise other questions you would like to ask. Space is provided below each of the sample questions for more detailed questions and notes on the interviews.

The first interview is with the complaining party (Eastern Brewery Corporation). After that, select which interviews you wish to conduct in your investigation based on information gained in the interview. The case is designed to raise questions about defining a relevant market and determining whether a dominant position (or substantial market power) exists.

The format for interviews is as follows: Trainer (who plays the role of the subject of the interview) is interviewed by one of the seminar participants. The other trainers who are team members may participate in the questioning. Before the interview actually begins, the seminar participants will discuss what information should be sought, and what questions should be asked. Participants should prepare an interview outline by adding their own questions to the sample questions. This should take about thirty minutes. During the interview, the designated seminar participant will do most of the questioning. The rest of the seminar participants will be given an opportunity to ask further questions at the end of each interview. Each interview is expected to take approximately one and a half to two hours. A follow-up discussion of information gained and issues raised will take 30 minutes to an hour.

## **DESCRIPTION OF THE CASE AND RELEVANT LAW**

Western Brewery Corporation is a regional brewery with two major brewing facilities. It has always been the only brewery in West Java and has been the only beer sold in that region. Recently, another brewery, named Eastern Brewery Corporation, which has breweries in East Java, tried to sell in West Java. Eastern Brewery Corporation contacted a few distributors and discovered that Western Brewery Corporation had exclusive contracts with them, preventing them from working with Eastern Brewery Corporation. Eastern Brewery Corporation has asked the competition authority to force Western Brewery Corporation to stop this practice.

Everyone should have a copy of the current sections of the competition law relevant to a

potential abuse of dominance.

## **DISCUSSION OF SAMPLE INTERVIEW QUESTIONS**

The following pages contain sample questions that might be asked during an interview. Before the interview begins, participants will spend about 30 minutes discussing the party to be interviewed, focusing on additional questions that need to be asked.

Two broad categories are defined: producers and consumers. Producers include the firm alleged to have engaged in anticompetitive conduct and any competitors or potential competitors (potential entrants). The consumers that are most useful to interview are firms that purchase on behalf of many final consumers -- grocery stores, restaurants and bars in this case. In this case, there are two relevant markets to consider. First, the beer market in West Java in which Eastern Brewery Corporation is (implicitly) alleging Western Brewery Corporation has dominance/substantial market power. Second, the beer distribution market in West Java which Eastern Brewery Corporation alleges is "tied-up" by Western Brewery Corporation with exclusive dealing contracts. The questions that follow are written to address the first market. However, the same questions (substituting, for example, the words "beer distribution" for "beer") can be used for the second market.

## SAMPLE CONSUMER QUESTIONS

- (1) Would you please tell us about your background and the background of your firm?
- (2) What service or products does your firm produce and what is your function at the firm?
- (3) Do you recall a period during which the price of beer changed significantly? If so, what was the effect on the quantity of beer that you sold? Did some of your customers switch from beer to other products? If so, what products and how much?
- 4) How much would the price of beer have to increase to cause you to substitute other products? What product(s) would you substitute? If the price of beer decreased would you purchase more beer? How much more beer for how much of a price decrease?
- (5) Do you purchase any beer from a company besides Western Brewery Corporation? Why? Why not? From whom?
- (6) Do you recall a time when the price of Western Brewery Corporation beer changed relative to the price of other beers? If so, what happened? How much would the price of Western Brewery Corporation beer have to increase to cause you to shift your purchase to other brands? What beer would you switch to? If the price of Western Brewery Corporation beer decreased would you purchase more Western Brewery Corporation beer? How much more beer for how much of a price decrease?
- (7) Are there other costs that you incur as a result of using a non-local supplier (for example, greater uncertainty of delivery or a longer period between order and receipt of shipment)?
- (8) Do you purchase only locally-produced beer, or do you also purchase beer from distant domestic producers? Do you purchase from foreign producers? How much would the price of domestic beer have to increase for you to consider purchasing foreign beer?
- (9) Other than producers already mentioned, who do you believe could supply you with beer right now? Who could supply you with beer within the year? Within two years?

(10) Would you or have you ever considered entering into the production of beer yourself? Why or why not? How much would prices have to increase for you to do so? When could you begin producing?

(11) What other distributors would you consider using to purchase beer? Are there other ways to purchase beer besides through a distributor? Please elaborate.

(12) In what ways, if any, have you or your customers benefited or been harmed from having one distributor of Western Brewery's beer as your exclusive supplier? Are supplies more or less reliable or timely? Do you receive more or less help with your promotional materials? Have you noticed if Western Brewery's beer is being carried by more or fewer restaurants or retail stores? Have the prices that you charge on the sale of Western Brewery's beer increased or decreased? Have your costs for supplies of Western Brewery's beer increased or decreased?

## SAMPLE PRODUCER QUESTIONS

- (1) Would you please tell us about your background and your firm's background?
  
- (2) What service or products does your firm produce and what is your function at the firm?
  
- (3) Are you familiar with the history of the beer production process in Javaland? If so, could you please describe it?
  
- (4) Please describe the current beer production process. What is your understanding of how this compares to the production process in other countries?
  
- (5) What other products, if any, compete with beer (e.g., other beverages)? Do you recall a period during which the price of beer changed significantly? If so, what was the effect on the quantity of beer sold?
  
- (6) Are there any other beers that compete with Western Brewery Corporation beer? Do you recall a time when the price of Western Brewery Corporation beer changed relative to the price of other beers? If so, what was the effect on the sales of Western Brewery Corporation beer relative to other beers? If not, how much do you think the price of Western Brewery Corporation relative to other beers would have to increase (decrease) to cause a significant number of consumers to change to (from) other beers?
  
- (7) Where do you ship beer?
  
- (8) What are the costs associated with shipping beer? How do they vary according to volume or mode of transportation? What is the cost of crossing a country's border?
  
- (9) What price would you need to receive to be willing to ship beer into West Java? What would be involved with and how long would it take to set up the necessary distribution system to begin shipping?

(10) Is foreign beer being sold in West Java? Does this beer compete with Western Brewery Corporation? Is the foreign beer more or less expensive than Western Brewery Corporation? Who buys it? Do you view this foreign beer as a competitive threat?

(11) Do you currently supply beer into West Java? How much do you sell in West Java? How much do you produce? Where are your production facilities located? What is your current capacity at each facility? Do you have any plans to change that capacity? How much would it cost to increase your capacity?

(12) Who else supplies, or could supply, beer to West Java? Do you know how much they sell in West Java or what their capacity is?

(13) Are you aware of any recent entrants in the beer market in West Java? Anywhere in Javaland? If so, did they modify existing facilities or build new facilities? If they modified existing facilities, what did the facility previously produce? Do you know what modifications were necessary and how much they cost? Are there other facilities that could be modified to produce beer?

(14) How would one build a beer manufacturing facility? Please describe all the steps that would be involved. What would it cost? How long would it take, from start to finish? Do you think that new entry is likely to occur?

(15) Are there existing breweries not currently selling in Javaland (or West Java depending on the geographic market definition) that might sell there in the future? Who? If not, what would it take for breweries outside the geographic market to begin selling? Who is most likely to begin selling?

(16) What distributors are available to distribute beer in West Java? Besides selling through existing distributors, what other methods are available for selling beer in West Java? Please elaborate.

(17) What are the advantages and disadvantages, including any cost savings, to having an exclusive contract with your distributors?

(18) What, if any, change have you had in the volume of your sales? What, if any, change have you made in the use of your production capacity? What, if any, changes have you made in the way that you produce beer? What, if any, changes have you experienced in your distribution costs?