ANALYSIS OF AGREEMENT CONTAINING CONSENT ORDERS TO AID PUBLIC COMMENT

In the Matter of Pernod Ricard S.A., FTC File No. 081-0119

I. Introduction

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an Agreement Containing Consent Orders ("consent agreement")from Respondent Pernod Ricard S.A. ("Pernod Ricard") in connection with its proposed acquisition of V&S Vin & Sprit AB (Publ)("V&S") from The Kingdom of Sweden. Among other things, the consent agreement requires that Pernod Ricard, currently the distributor of Stolichnaya Vodka, as a condition to acquiring V&S and its Absolut Vodka brand, cease distributing Stolichnaya Vodka. Pernod Ricard obtained the rights to distribute the Stolichnaya Vodka brand from its owner, Spirits International BV ("SPI"), a corporation headquartered in Geneva, Switzerland, and organized and doing business under the laws of The Netherlands. Absolut Vodka and Stolichnaya Vodka are "super premium" vodkas and, for a substantial number of consumers, they are close price substitutes. Total annual United States retail sales of these two brands are about $1.9 billion.

The Commission and Respondent Pernod Ricard also have agreed to entry of an Order To Hold Separate and Maintain Assets ("Hold Separate Order"). The Hold Separate Order requires Pernod Ricard to maintain the competitive viability of assets relating to the distribution of Stolichnaya Vodka during the six-month period that the consent agreement permits it to own Absolut Vodka while also distributing Stolichnaya. The Hold Separate Order further requires that Pernod Ricard refrain from exercising direction or control over the Stolichnaya Vodka distribution business. Pernod Ricard must nevertheless maintain all Stolichnaya Vodka operations in the regular and ordinary course in accordance with past practices. Compliance with the terms of the Hold Separate Order will be supervised by an interim monitor.

The proposed consent agreement will also remedy information exchange concerns in four additional distilled spirits markets: Cognac, domestic cordials, coffee liqueur, and popular gin. The Commission's concerns in these four markets arise because of an ongoing joint venture between V&S and Beam Global Spirits & Wine, Inc. ("Beam Global"), a Fortune Brands, Inc., subsidiary, for the joint management of all of their distilled spirits distribution businesses. After the acquisition, Pernod Ricard will assume the management function role held by V&S for the joint venture brands and have access to competitively sensitive information about Beam Global brands which compete with Pernod Ricard brands that are not in the joint venture. The consent agreement requires Pernod Ricard to set up strict procedures that limit the flow of information to its employees, both within the joint venture as well as within Pernod Ricard itself. Because neither party to the joint venture profits from actions by the joint venture in connection with the sale of products, the Commission does not believe that a structural remedy in the form of a required divestiture of Pernod Ricard's brands that compete with the Beam Global brands in the joint venture is necessary. Total annual United States retail sales in the four markets combined are about $2.4 billion.

II. Respondent Pernod Ricard

Respondent Pernod Ricard is a corporation organized, existing and doing business under and by virtue of the laws of the French Republic, with its office and principal place of business located at 12, place des Etats-Unis, 75783 Paris Cedex 16, France. In the United States, Pernod Ricard operates through a wholly-owned subsidiary corporation, Pernod Ricard USA, Inc., with offices located at 100 Manhattanville Road, Purchase, New York 10577. Pernod Ricard's United States revenues from all distilled spirits products in the year ending June 30, 2007, totaled about $2.5 billion.

Pernod Ricard produces distilled spirits that it distributes, markets, and sells in the United States. Some of its more popular brand lines of distilled spirits are Martell Cognac, Hiram Walker Cordials, and Kahlua Coffee Liqueur. Pernod Ricard also produces, markets, distributes, and sells, Chivas Regal, Ballantine's, The Glenlivet Scotches, Jameson Irish Whiskey, Beefeater Gin, and the line of Wild Turkey Bourbons. Pernod Ricard also markets, distributes, and sells, but does not produce or own, the line of Stolichnaya Vodkas.

III. V&S (the acquired company)

V&S is a corporation wholly-owned by The Kingdom of Sweden, and is organized, existing and doing business under and by virtue of the laws of The Kingdom of Sweden. Its office and principal place of business is located at Formansvagen 19, S-100 74, Stockholm, Sweden. In the United States, V&S operates its distilled spirits business through a wholly-owned subsidiary, The Absolut Spirits Company, Incorporated ("ASCI"). ASCI is a Delaware corporation with its office and principal place of business located at 401 Park Avenue South, New York, New York 10016. V&S produces and sells distilled spirits products from facilities that it owns and operates. The brands of V&S include the lines of Absolut Vodka, Level Vodka, Plymouth Gin, and Cruzan Rum. V&S's United States revenues from all distilled spirits products in 2007 were about $800 million.

IV. The Future Brands Joint Venture

Future Brands LLC ("Future Brands") is the joint venture corporation of ASCI and Beam Global. Future Brands is a Delaware corporation with its office and principal place of business located in the offices of Fortune Brands at 300 Tower Parkway, Lincolnshire, Illinois 60069. Future Brands distributes all of the distilled spirits products of ASCI and Beam Global in the United States. The Future Brands joint venture corporation was created in 2001 and under the terms of that agreement, is scheduled to end in 2012. Future Brands had total revenues, in 2007, of about $1.48 billion.

The brands of Beam Global include: the lines of Courvoisier Cognac; DeKuyper Cordials; Starbucks Coffee Liqueur; Jim Beam, Knob Creek, Bakers, Basil Hayden, and

Booker's Bourbon; Laphroig and Teacher's Scotch; and Gilbey's Gin. Beam Global and ASCI sell distilled spirits that fall into different marketing and price point segments.

The principal economic benefit to Beam Global and ASCI of their Future Brands joint venture is cost savings or efficiencies from the joint marketing, selling, and distribution of their products. The economic benefit from the actual sale of the products that are distributed by the Future Brands joint venture are maintained by Beam Global and ASCI, as brand owners, and not by Future Brands.

V. The Transaction

On March 30, 2008, Respondent Pernod Ricard and The Kingdom of Sweden entered into their Share Purchase Agreement Regarding the Shares in V&S. Under the terms of the acquisition agreement, Pernod Ricard will acquire all of the shares of V&S for a sum equal to a combination of euros, dollars, and interest payments totaling approximately $9 billion.

VI. The Complaint and Competitive Effects

A. The Stolichnaya - Absolut Overlap in the "Super Premium" Vodka Segment

The Commission also made public a Complaint that it intends to issue. According to that Complaint, Pernod Ricard, with Stolichnaya Vodka, and V&S, with Absolut Vodka, are direct and significant competitors in the super-premium vodka segment. The Complaint further alleges that Stolichnaya Vodka and Absolut Vodka are vodka brands that are close substitutes for a substantial number of customers of these brands.

The proposed acquisition raises competitive concerns because it would eliminate substantial competition between Pernod Ricard and V&S in connection with the distribution, marketing, and sale of Stolichnaya Vodka and Absolut Vodka. If Pernod Ricard owns Absolut Vodka while also being the distributor of Stolichnaya Vodka, it could profitably raise the price of either Absolut Vodka or Stolichnaya Vodka. Many consumers who would be unwilling to pay a higher price for the brand whose price was increased would switch to the other brand. In its Complaint, the Commission stated it has reason to believe that the proposed transaction would have anticompetitive effects and violate Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act.

B. The Pernod Ricard-Beam Global Brand Overlaps and the Future Brands Joint Venture

The Complaint also alleges that the proposed acquisition by Respondent Pernod Ricard of V&S may substantially lessen competition in four additional distilled spirits markets. In these markets – Cognac, domestic cordials, coffee liqueur, and popular gin – Pernod Ricard has brands that compete with the Beam Global brands that are distributed by Future Brands. Before its acquisition of V&S, Pernod Ricard had no business relationship with Future Brands. As a marketer, seller, and distributor of distilled spirits products similar to distilled spirits products, marketed, sold, and distributed by Beam Global and Future Brands, Pernod Ricard had been a direct and substantial competitor of Beam Global and Future Brands.

After its acquisition of V&S, Pernod Ricard will step into the competitive shoes of V&S (and ASCI) and replace ASCI as a joint venture partner of Beam Global. Pernod Ricard, as a joint venture partner, will have access to competitively sensitive information about Beam Global brands that compete with Pernod Ricard brands that are not in the joint venture, as shown in the following chart:

Market	**Pernod Ricard Brands**	**Beam Global Brands**
Cognac	Martell	Courvoisier
Domestic Cordials	Hiram Walker	DeKuyper
Coffee Liqueur	Kahlua and Tia Maria	Starbucks
Popular Gin	Seagram's	Gilbey's

Each of these markets is highly concentrated and difficult to enter. Pernod Ricard and Beam Global are among the two largest suppliers of these spirits in the United States. These companies have spent significant sums of money to create and maintain distinct brand equities.

Beam Global and Pernod Ricard, upon becoming joint venture partners after the acquisition, will share in the management of Future Brands. Under the terms of the joint venture agreement, Pernod Ricard will be required to designate three of its seven member Board of Managers. This will mean that Pernod Ricard employees, in connection with their responsibilities as managers of Future Brands, will have access to competitively sensitive information about all the Beam Global products in the joint venture. These are brands with which Pernod Ricard is now, and after the acquisition will be, in direct and substantial competition. The Commission in its Complaint stated it has reason to believe that if Pernod Ricard obtains competitively sensitive information about the Beam Global brands listed in the table above, the proposed transaction would have anticompetitive effects and would violate Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act. The principal anticompetitive effect is likely to be the ability of competitors in each of the four markets, including but not limited to Beam Global and Pernod Ricard, to raise prices by facilitating future potential coordinated interaction.

VII. The Consent Agreement

A. The Stolichnaya - Absolut Overlap in the "Super Premium" Vodka Segment

Under the terms of the consent agreement, to remedy the competitive concerns associated with the Stolichnaya Vodka overlap, Pernod Ricard will not be permitted to have an ownership interest in Absolut Vodka and also keep its rights to distribute Stolichnaya Vodka. Pernod Ricard will therefore be required to divest its interest in distributing Stolichnaya Vodka within six (6) months from the date it acquires V&S. That divestiture will revert back to brand owner SPI.

In the event that Pernod Ricard fails to complete the required divestiture within six (6) months, the Commission may appoint a divestiture trustee to sell the Absolut Vodka assets and business to a Commission-approved acquirer. The principal purpose of this alternative Absolut Vodka divestiture requirement is to give Pernod Ricard significant incentives to comply with the Stolichnaya Vodka divestiture requirements of the consent agreement.

There is one exception to the requirement that Pernod Ricard divest the Absolut Vodka assets and business in the event it fails to comply with the Commission-ordered divestiture relating to Stolichnaya Vodka. If Pernod Ricard by court order is prohibited from divesting its distribution rights to Stolichnaya Vodka, instead of divesting the Absolut Vodka assets, Pernod Ricard would have the option of divesting either (a) the future anticipated income stream from its sales of Absolut Vodka, or (b) a stipulated amount of at least 20% of the gross sales revenue of Absolut Vodka. The reason for this exception relates to the ongoing litigation between SPI and others regarding ownership of the Stolichnaya trademark and related rights to sell vodka under that label. That litigation, which upon agreement with the parties pending their settlement discussions, has been stayed by court order. The Commission has no view on the merits of this private litigation but is concerned that a court possibly may require that the competitive status quo of the distribution of Stolichnaya Vodka be maintained beyond the six (6) month period that the consent order would allow Pernod Ricard to own Absolut Vodka and distribute Stolichnaya Vodka. The income stream divestiture option (or the stipulated 20% or more of gross sales revenue) will be for the time period commencing twelve (12) months after Pernod Ricard will have acquired V&S and continue until Pernod Ricard divests its rights to distribute Stolichnaya Vodka. The purpose of the income stream divestiture requirement is to remove potential incentives on the part of Pernod Ricard to impair the marketability of Stolichnaya Vodka, which because of its closeness to Absolut Vodka, will benefit sales of Absolut Vodka. Because a court order preventing Pernod Ricard from divesting its rights to distribute Stolichnaya Vodka would not have caused willful non-compliance with the divestiture requirements of the consent order, the purpose of the alternative divestiture requirements of the order was to prevent interim competitive harm, rather than incentives to divest Stolichnaya Vodka distribution rights. The Commission believes that the sale of the future income stream of Absolut Vodka under the circumstances of a court order preventing Pernod Ricard from divesting Stolichnaya Vodka distribution rights would eliminate significant incentives on the part of Pernod Ricard from impairing the marketability of Stolichnaya Vodka because Pernod Ricard would not benefit from any *increase* in the Absolut Vodka income stream during the period of its joint ownership of Absolut Vodka and distribution of Stolichnaya Vodka, having already sold (at a predetermined price) the future value of *all* income stream benefits.

The consent agreement also requires that Pernod Ricard undertake certain activities to help ensure that the acquirer of the Stolichnaya Vodka assets and distribution business will be able to continue operations in a fully competitive manner. Those requirements include: (a) providing key Stolichnaya Vodka business employees with financial incentives to remain with Pernod Ricard (in order that those employees might then be available for hire by the acquirer); (b) providing lists of key employees to the acquirer; (c) for up to six (6) months, providing such reasonable technical assistance and training as the acquirer may request for the continued distribution of Stolichnaya Vodka; and (d) for up to six (6) months, providing the kinds of back office procedures to the acquirer that Pernod Ricard had already been undertaking for its own purposes.

B. The Pernod Ricard - Fortune Brands Overlaps and the Future Brands Joint Venture

Under the terms of the consent agreement, Pernod Ricard will be prohibited from acquiring any business information of the Future Brands joint venture. To ensure that this will not occur, Pernod Ricard has agreed to the following firewall procedures: (a) the Pernod Ricard designees to the Future Brands Board of Managers cannot be officers or directors of Pernod Ricard; (b) Pernod shall recommend to the Future Brands board that it implement database protocols limiting Pernod designated board member access to information about Beam Global brands; and (c) Pernod will allow an interim monitor to supervise all of the firewall-related protections and requirements.

C. The Hold Separate Order

Accompanying the consent agreement is a Hold Separate Order. The purpose of this order, the terms of which Pernod Ricard has also agreed to undertake, is to prevent competitive harm pending the required divestiture of the Stolichnaya distribution agreement, and to ensure that the Stolichnaya Vodka assets required to be divested by Pernod Ricard will remain a competitively viable business. Under the terms of this agreement, Pernod Ricard will be required to (a) hold the Stolichnaya Vodka business separate and apart form all other Pernod Ricard business activities; (b) exercise no direction or control over the Stolichnaya Vodka business; (c) maintain operations of the Stolichnaya Vodka business, including preserving business relationships, in accordance with past practice; and (d) provide the Stolichnaya Vodka business with capital and other funds to operate at current levels and maintain the competitiveness of the business. The agreement also provides for the appointment of an interim monitor. Among other things, the monitor will be empowered to ensure that during the period of time that Pernod Ricard will own the Absolut Vodka line and also distribute Stolichnaya Vodka, that the Stolichnaya Vodka business will be separately managed from the other Pernod Ricard businesses.

VIII. The Opportunity for Public Comment

The Consent Agreement has been placed on the public record for thirty (30) days for receipt of comments from interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the proposed consent agreement and the comments received, and will decide whether it should withdraw from the consent agreement or make final the Decision and Order.

By accepting the consent agreement subject to final approval, the Commission anticipates that the competitive problems alleged in the Complaint will be resolved. The purpose of this analysis is to invite and facilitate public comment concerning the consent agreement. It is not intended to constitute an official interpretation of the consent agreement, nor is it intended to modify the terms of the orders in any way.