

Participation Agreement at approximately \$115 million.

VI. The Proposed Complaint

The Commission's Complaint alleges that TCCC and DPSG are direct competitors in the highly concentrated and difficult to enter (a) branded concentrate and (b) branded direct-store-delivered carbonated soft drink markets. The concentrate market is national, and the branded soft drink markets are local. Total United States sales of concentrate is about \$9 billion, and total United States sales of carbonated soft drinks, measured at retail, is about \$70 billion.

To carry out the distribution activities currently undertaken by the bottler and contemplated under the license agreement, DPSG will need to provide commercially sensitive confidential information about its marketing plans to CCR, the newly created TCCC bottler subsidiary. DPSG currently provides this sort of information to CCE in order for it to perform its bottler or distribution functions. The Commission is concerned that TCCC's access to this information could enable it to use the information in ways that could impair DPSG's ability to compete and ultimately injure competition by weakening a competitor or facilitating coordination in the industry. The Complaint alleges that TCCC's access to DPSG's confidential information could eliminate competition between TCCC and DPSG, increase the likelihood that TCCC may unilaterally exercise market power, and facilitate coordinated interaction in the industry.

VII. The Proposed Consent Order

Under the proposed Consent Order, to remedy the alleged competitive concern associated with access to the DPSG commercially sensitive confidential information, TCCC will be required to set up a "firewall" to ensure that persons at TCCC who may be in a position to use the DPSG commercially sensitive information in ways that may injure DPSG and/or facilitate coordination will not be allowed access to such information. Persons at TCCC who are assigned to perform traditional "bottler functions"—the kinds of functions that CCE have historically performed for DPSG—will be permitted access to the DPSG information. Persons responsible for "concentrate-related functions"—the kinds of functions that TCCC engaged in as a competitor of DPSG when both had their brands distributed by CCE—will not be permitted access to the DPSG information.

The proposed Consent Agreement provides for the appointment of a

monitor to assure TCCC's compliance with the Consent Order. The monitor will have a fiduciary responsibility to the Commission. The monitor will be appointed for a five (5) year term, but the Commission may extend or modify the term as appropriate.

The proposed Consent Agreement contains a prior notice provision for subsequent acquisitions by TCCC of its franchised bottlers that also are licensed to distribute DPSG products. Under the order, TCCC will be required to give the Commission forty-five (45) advance notice of a proposed acquisition that is not subject to the Hart-Scott-Rodino Act and provide the Commission with all management documents relating to the proposed acquisition. If the 45-day period expires without Commission action, TCCC will be permitted to consummate the proposed acquisition and use DPSG confidential information in the territories of the newly acquired bottler as specified in this order. The standard Hart-Scott-Rodino procedures and time periods would continue to apply for Hart-Scott-Rodino reportable transactions.

The order, like the DPSG-TCCC license agreement, will have a term of twenty (20) years.

VIII. 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 days, the Commission will again review the proposed Consent Agreement, as well as 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 problem 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 proposed Consent Agreement, nor is it intended to modify the terms of the Decision and Order in any way.

By direction of the Commission, Commissioner Ramirez recused.

Donald S. Clark,
Secretary.

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GOVERNMENT ACCOUNTABILITY OFFICE

Financial Management and Assurance; Government Auditing Standards

Correction

In notice document 2010-23374 beginning on page 57274 in the issue of Monday, September 20, 2010 make the following corrections:

1. On page 57275, in the first column, under the **ADDRESSES** section, in the second line, "(GAO-10-853G)" should read "(GAO-10-853G)".

2. On the same page, in the same column, under the **ADDRESSES** section, in the third and fourth lines, "<http://www.gao.gov/govaud/vbkO1.htm>." should read "<http://www.gao.gov/govaud/ybkO1.htm>".

3. On the same page, in the same column, under the **SUPPLEMENTARY INFORMATION** section, in the seventh line, "yellowbookgao.gov" should read "yellowbook@gao.gov".

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Advisory Committee on Blood Safety and Availability

AGENCY: Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the U.S. Department of Health and Human Services is hereby giving notice that the Advisory Committee on Blood Safety and Availability (ACBSA) will hold a meeting. The meeting will be open to the public.

DATES: The meeting will take place Thursday, November 4, and Friday, November 5, 2010, from 8:30 a.m. to 5 p.m.

ADDRESSES: The Universities at Shady Grove, 9630 Gudelsky Drive, Rockville, Maryland 20850, Phone: 301-738-6000.

FOR FURTHER INFORMATION CONTACT: Jerry A. Holmberg, PhD, Executive Secretary, Advisory Committee on Blood Safety and Availability, Office of the Assistant Secretary for Health, Department of Health and Human Services, 1101 Wootton Parkway, Suite 250, Rockville, MD 20852, (240) 453-8803, FAX (240) 453-8456, e-mail ACBSA@hhs.gov.

SUPPLEMENTARY INFORMATION: The Advisory Committee on Blood Safety