

**UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION**

<p style="text-align: center;"><b>In the Matter of</b></p> <p><b>PERNOD RICARD S.A.,</b></p> <p style="text-align: center;"><b>a French société anonyme.</b></p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p><b>Docket No. C-4224</b></p>
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**COMPLAINT**

Pursuant to the provisions of the Federal Trade Commission Act and the Clayton Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Respondent Pernod Ricard, S. A. (“Pernod Ricard”) entered into an agreement with V&S Vin & Sprit AB (publ), (“V&S”) in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and that the terms of such agreement, were they to be satisfied, would result in a violation of Section 7 of the Clayton Act, 15 U.S.C. §18, and Section 5 of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding in respect thereof would be in the public interest, hereby issues its complaint, stating its charges as follows:

**I. Respondent Pernod Ricard, S.A.**

1. Respondent Pernod Ricard is a société anonyme, or 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.

2. In the United States, Pernod Ricard operates through a wholly-owned subsidiary corporation, Pernod Ricard USA, Inc., whose offices are located at 100 Manhattanville Road, Purchase, New York 10577.

3. Among other things, Pernod Ricard produces distilled spirits that it distributes, markets, and sells in the United States. Some of those brand lines of distilled spirits are Martell Cognac, Seagram’s Gin, 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, the line of Stolichnaya Vodka.

4. Pernod Ricard had total revenues, from all products, of about E6.4 billion in the year ended June 30, 2007. Pernod Ricard’s United States sales of all distilled spirits products in the year ended June 30, 2007, totaled about \$1.4 billion.

5. Pernod Ricard is, and at all times relevant herein has been, engaged in commerce, or in activities affecting commerce, within the meaning of Section 1 of the Clayton Act, 15 U.S.C. § 12, and Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

## **II. Third Party V&S Vin & Sprit AB (publ)**

6. V&S is an aktiebolag, or corporation, wholly-owned by The Kingdom of Sweden. V&S is organized, existing and doing business under and by virtue of the laws of The Kingdom of Sweden, with its office and principal place of business located at Årstängsvägen 19ASE-117 97, Stockholm, Sweden.

7. Among other things, V&S produces and sells distilled spirits products from facilities that it owns and operates. The V&S brands of distilled spirits sold in the United States include the lines of Absolut Vodka, Level Vodka, Plymouth Gin, and Cruzan Rum.

8. In the United States, V&S operates its distilled spirits business through a wholly-owned subsidiary corporation, The Absolut Spirits Company, Incorporated (“ASCI”). ASCI is a Delaware corporation with its offices and principal place of business located at 401 Park Avenue South, New York, New York 10016.

9. V&S had total revenues, from all products, of about SEK (Swedish krona) 10 billion in 2007. V&S’s United States revenues from all distilled spirits products in 2007 were about SEK 4 billion.

10. V&S is, and at all times relevant herein has been, engaged in commerce, or in activities affecting commerce, within the meaning of Section 1 of the Clayton Act, 15 U.S.C. § 12, and Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

## **III. Third Party Future Brands**

11. Future Brands LLC (“Future Brands”) is a marketing, sales, and distribution joint venture corporation of ASCI and Beam Global Spirits & Wine, Inc. (“Beam Global”), a division of Fortune Brands, Inc. (“Fortune Brands”). Future Brands is organized, existing and doing business under and by virtue of the laws of Delaware with its office and principal place of business located in the offices of Fortune Brands at 300 Tower Parkway, Lincolnshire, Illinois 60069.

12. Future Brands was created in 2001 by agreement of Beam Global and ASCI. Under the terms of that agreement, the Future Brands joint venture is scheduled to end in 2012.

13. Future Brands markets, sells, and distributes all of the distilled spirits brands of both Beam Global and ASCI that are available for sale in the United States. 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; Laphroaig and Teacher's Scotch; and Gilbey's Gin. The brands of ASCI include the lines of Absolut Vodka, Level Vodka, Plymouth Gin, and Cruzan Rum. Future Brands had total revenues, in 2007, of about \$1.48 billion.

14. Beam Global and ASCI sell distilled spirits that fall into different marketing and price point segments of various distilled spirits product categories and are not substantial and direct competitors of one another. Because ASCI sells no distilled spirits products other than through Future Brands, ASCI and Future Brands are not substantial or direct competitors of one another either.

15. The principal economic benefit to Beam Global and ASCI of the Future Brands joint venture is their cost savings or efficiencies from the joint marketing, selling, and distribution of their products. Neither ASCI nor Beam Global receives direct or significant financial or economic benefit or profits from, or is financially burdened by, activities associated with any profit or loss from the sale of any of the products in the Future Brands joint venture. The economic benefit from the actual sale of the products in the joint venture are maintained by the brand owners.

16. 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 Future Brands, Pernod Ricard had been a direct and substantial competitor of Future Brands.

17. After its acquisition of V&S, Pernod Ricard will replace ASCI as a joint venture partner of Beam Global, and Beam Global and Pernod Ricard will share in the management of Future Brands. Upon becoming the joint venture partner of Beam Global, Pernod Ricard will necessarily acquire access to competitively sensitive information about all Beam Global products, including products with which Pernod Ricard is in direct and substantial competition.

#### **IV. The Proposed Acquisition and Transaction**

18. On or about March 30, 2008, Pernod Ricard and The Kingdom of Sweden entered into their Share Purchase Agreement Regarding the Shares in V&S Vin & Sprit AB (publ) ("the acquisition agreement").

19. Under the terms of the acquisition agreement, Pernod Ricard will acquire all of the shares of V&S ("the proposed acquisition") for a sum equal to a combination of euros, dollars, and interest payments totaling approximately \$9 billion.

## **V. Nature of Trade and Commerce**

### **A. Relevant Product Markets**

#### **a. Not larger than premium-priced vodkas**

20. A relevant product market to assess the competitive effects of the proposed acquisition is a market no larger than all premium-priced vodkas.

21. Vodka is a clear alcoholic beverage distilled from a starch source, most commonly potatoes, wheat, or rye, but sometimes also from corn, sugar beets, grapes, or citrus fruit. Flavored vodkas are common, and vodka may be flavored by the addition of flavor-containing ingredients and by allowing it to sit for sufficient time for the flavors to infuse the vodka.

22. Vodka sold in the United States ranges from value priced products to high end brands, differentiated from the value priced bands by a combination of attributes associated with a brand name and associated cache, which include bottle characteristics, country of origin, number of times distilled, taste, and the nature and extent of associated advertising and promotion. High end vodka brands are all premium priced over the value brands. Industry participants generally divide the high end vodka products into three segments: (a) premium vodka, (b) super premium vodka, and (c) ultra premium vodka.

23. The most popular premium vodka product in the United States is Smirnoff Red Label Vodka. The two most popular super premium vodka brands sold in the United States are Absolut Vodka (a V&S product distributed by Future Brands), the largest selling super premium vodka, and Stolichnaya Vodka (distributed by Pernod Ricard), the second largest selling super premium vodka. The most popular ultra premium vodka sold in the United States is Grey Goose Vodka.

24. Total United States sales in 2007 of all premium priced vodkas were about 28 million 9-liter equivalent cases, which represents about \$5 billion in retail sales. Total United States sales in 2007 of all vodkas in the super premium segment were about nine million 9-liter equivalent cases, which represents about \$1.9 billion in retail sales.

#### **b. Cognac**

25. A second relevant product market to assess the competitive effects of the proposed acquisition is Cognac.

26. Cognac is a type of brandy, or distilled wine, which may be produced and bottled only in the Charente region of France. Two popular Cognac brands sold in the United States are Martell (a Pernod Ricard product), and Courvoisier (a Beam Global and Future Brands

product). Total sales of Cognac in the United States in 2007 were about four million 9-liter equivalent cases, which represent about \$1.5 billion in retail sales.

**c. Domestic cordials**

27. A third relevant product market to assess the competitive effects of the proposed acquisition is domestic cordials.

28. Cordials (sometimes referred to as liqueurs) are sweet distilled spirits flavor drinks, with sugar added. Domestic cordials normally are identified by a specific flavor or main ingredient, whereas imported cordials (or liqueurs) are generally higher priced than domestic cordials, are blends of herbs, flavors, and spices, and are identified primarily by brand. Domestic cordials are used primarily in cocktail recipes with a base alcohol, most commonly vodka. The two most popular lines of domestic cordials sold in the United States are Hiram Walker, (a Pernod Ricard product), and DeKuyper, (a Beam Global and Future Brands product). Total sales of domestic cordials in the United States in 2007 were about 4.5 million 9-liter equivalent cases, which represent about \$500 million in retail sales.

**d. Coffee liqueurs**

29. A fourth relevant product market to assess the competitive effects of the proposed acquisition is all coffee liqueurs.

30. Coffee liqueurs are spirit based, usually from rum or vodka, and sweetened with added sugar and flavored with coffee. The two most popular product lines of coffee liqueurs sold in the United States are Kahlua, (a Pernod Ricard product), the largest selling brand, and Starbucks, (a Beam Global and Future Brands product), the second largest selling brand. Total sales of coffee liqueurs in the United States in 2007 were about two million 9-liter equivalent cases, which represent about \$350 million in retail sales.

**e. Popular gin**

31. A fifth relevant product market to assess the competitive effects of the proposed acquisition is popular gin.

32. Gin is a distilled spirit made from grain, primarily wheat or rye, that is flavored with juniper berries and other herbs and spices, which are normally referred to as botanicals. Popular gin is gin that is principally made and bottled in North America, is generally advertised, promoted, and available throughout the United States, and sold at retail at prices that are lower than the premium gins, which are imported from the United Kingdom, but higher than the gins that are not widely advertised and promoted. Two brands of popular gin sold in the United States are Seagram's (a Pernod Ricard product), the largest selling product, and Gilbey's, (a Beam Global and Future Brands product), the third largest selling product. Total sales of

popular gin in the United States in 2007 were about 4.5 million 9-liter equivalent cases, which represent about \$500 million in retail sales.

**B. Relevant Geographic Markets**

33. The relevant geographic markets in which to assess the effects of the proposed acquisition are: (a) the United States, and (b) individual states and territories of the United States.

**C. Market Structure**

34. The relevant markets are (a) highly concentrated, whether measured by the Herfindahl-Hirschman Index (“HHI”) or by two-firm and four-firm concentration ratios, or (b) structured so that the products of Pernod Ricard and V&S are the first and second choices for a substantial number of the customers of these products.

**D. Conditions of Entry**

35. Entry into each of the relevant markets would not be timely, likely, or sufficient to prevent any of the following anticompetitive effects from occurring.

**VI. Effects of the Acquisition**

36. Pernod Ricard, with its line of Stolichnaya Vodka, is a direct and substantial competitor of ASCI in connection with the marketing, sale, and distribution of ASCI’s line of Absolut Vodka.

37. Pernod Ricard, with its line of Martell Cognac, is a direct and substantial competitor of Beam Global and the Future Brands joint venture in connection with the production, marketing, sale, or distribution of their line of Courvoisier Cognac.

38. Pernod Ricard, with its line of Hiram Walker cordials, is a direct and substantial competitor of Beam Global and the Future Brands joint venture in connection with the production, marketing, sale, or distribution of their line of DeKuyper cordials.

39. Pernod Ricard, with its line of Kahlua Coffee Liqueur, is a direct and substantial competitor of Beam Global and the Future Brands joint venture in connection with the production, marketing, sale, and distribution of their line of Starbucks Coffee Liqueur.

40. Pernod Ricard, with its line of Seagram’s gins, is a direct and substantial competitor of Beam Global and Future Brands joint venture in connection with the production, marketing, sale, or distribution of their line of Gilbey’s Gin.

41. The proposed acquisition may substantially lessen competition in each relevant market in some or all of the following ways, among others:

- (a) by eliminating actual direct and substantial competition between Pernod Ricard and V&S, Beam Global, or Future Brands;
- (b) by increasing the likelihood that Pernod Ricard will unilaterally exercise market power; and
- (c) by increasing the likelihood of, or facilitating, overt collusion, tacit collusion, or coordinated interaction;

each of which may result in higher prices to consumers.

## **VII. Violations Charged**

42. The agreement described in Paragraphs 18 and 19 constitutes a violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and the proposed acquisition, if consummated would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45.

43. The acquisition constitutes a violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45.

**WHEREFORE, THE PREMISES CONSIDERED**, the Federal Trade Commission on this seventeenth day of July, 2008, issues its Complaint against Respondent Pernod Ricard.

By the Commission.

Donald S. Clark  
Secretary