

United States Senate

WASHINGTON, DC 20510

November 19, 2015

The Honorable Loretta E. Lynch
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Lynch:

We write because our offices have been made aware of potentially unfair and illegal trade practices that may harm the ability of craft brewers in our states to compete on a fair and level playing field with large brewers. We are particularly concerned about large commercial beer companies attempting to gain market share by either purchasing distributors or pressuring independent distributors to favor their products. We understand the Department of Justice (DOJ) is investigating some of these practices and we want to express our support for that investigation. We also hope the Department keeps these concerns in mind as the Antitrust Division reviews AB InBev's purchase of SABMiller.

The past decade has seen a dramatic change in the American beer industry, which was long dominated by a small number of products from large brewers such as AB InBev and SABMiller. Craft beer now drives expansion of domestic beer sales.¹ Small and independent craft breweries exist in all 50 states and the District of Columbia. They have expanded at a staggering rate: since 2011, the number of craft breweries has more than doubled, going from 1,776 to 3,739.² Small and independent craft brewers contribute some \$55.7 billion to the U.S. economy and support more than 424,000 jobs.³

Large brewers have taken notice and have taken actions that we believe may amount to exclusive dealing and other violations of antitrust law. For instance, while many craft brewers lawfully and successfully distribute beer in their local markets, the recent purchases of craft breweries and distributors by AB InBev suggests a dangerous plan to constrain distribution channels to the detriment of its competitors. Because of consolidation by distributors, there are now far fewer distribution channels for craft brewers. The purchase by AB InBev of one of the two distributors that deliver the vast majority of beer in a given territory effectively either forces other brewers out of that distribution channel or places those that stay in the uncomfortable situation of being distributed by their largest competitor. Reports also suggest that, in markets where two independent full-service distributors exist, AB InBev puts pressure on the distributors to favor AB InBev products—a practice that could well be deemed exclusionary and illegal.

¹ See National Beer Stats, Brewers Association, *available at* <https://www.brewersassociation.org/statistics/national-beer-sales-production-data/>.

² Mike Snider, "Next Round: Craft beer continues its rise," USA Today (August 2, 2015), *available at* <http://www.usatoday.com/story/money/2015/08/02/next-round-craft-beer-continues-its-rise/31029389/>.

³ Economic Impact, Brewers Association, *available at* <https://www.brewersassociation.org/statistics/economic-impact-data/>.

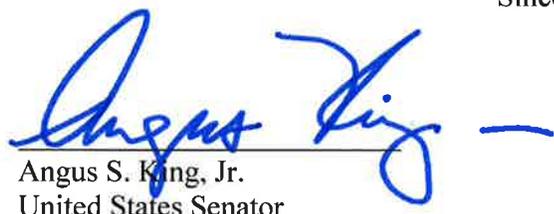
Given these concerns, AB InBev's October 16 announcement of its intention to purchase SABMiller should raise significant red flags. As members with robust craft brewing industries in our states, we ask that you take the necessary steps to ensure that AB InBev's purchase of SABMiller does not allow the new combined company to squeeze out America's craft brewing industry, stifle innovation, further constrain beer distribution to U.S. retailers, or create further barriers to entry.

While most reports suggest that AB InBev will divest itself of SABMiller's U.S. assets as part of such a transaction, DOJ should vigorously scrutinize the acquisition and any divestiture plan to ensure that AB InBev does not increase its already-dominant market position through the transaction. Moreover, even if the transaction does not result in an increase in AB InBev's market share in the U.S., DOJ should carefully consider how global consolidation could impact the market for hops, barley, wheat, bottles, cans and other supplies needed by craft brewers. In addition, we hope DOJ will probe how each of these companies has acted with regard to distributors and investigate whether distributors owned by these companies also need to be divested.

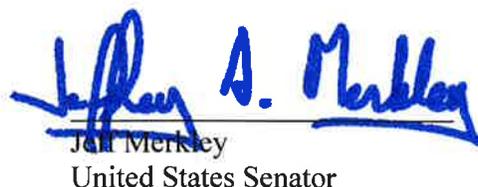
Large multinational brewers should not be allowed to use their market power to limit consumer choice and access to small innovative breweries. Put simply, we believe craft brewers must be able to conduct their business without being denied access to necessary raw materials and distribution companies.

We appreciate your prompt attention to our letter and urge the Department to appropriately vet the AB InBev purchase of SABMiller and ensure that we maintain a market that does not disproportionately harm beer consumers and the craft brewing industry. We hope you will continue investigating our concerns and conduct additional outreach with craft brewers to gather evidence from their experiences. We look forward to hearing your findings.

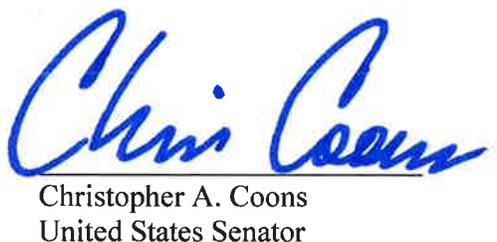
Sincerely,



Angus S. King, Jr.
United States Senator



Jeffery A. Merkley
United States Senator



Christopher A. Coons
United States Senator



Richard Blumenthal
United States Senator



Susan M. Collins
United States Senator