

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS: Jon Leibowitz, Chairman
William E. Kovacic
J. Thomas Rosch
Edith Ramirez
Julie Brill

_____)
In the Matter of)
)
The Coca-Cola Company,) Docket No. C-
a corporation.)
_____)

DECISION AND ORDER

The Federal Trade Commission (“Commission”), having initiated an investigation of the proposed acquisition by The Coca-Cola Company (“TCCC”), of the North American soft drink bottling business of Coca-Cola Enterprises, Inc. (“CCE”), and the subsequent proposed acquisition and associated agreements for TCCC to acquire rights to produce, distribute, market, and sell some of the carbonated soft drink brands of Dr Pepper Snapple Group, Inc. (“DPSG”), that had been distributed by CCE and TCCC, and TCCC (hereinafter sometimes referred to as “Respondent”) having been furnished thereafter with a copy of a draft of Complaint that the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge Respondent with violations 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; and

Respondent, its attorneys, and counsel for the Commission having thereafter executed an Agreement Containing Consent Order (“Consent Agreement”), containing an admission by Respondent of all the jurisdictional facts set forth in the aforesaid draft of Complaint, a statement that the signing of said Consent Agreement is for settlement purposes only and does not constitute an admission by Respondent that the law has been violated as alleged in such Complaint, or that the facts as alleged in such Complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission’s Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that Respondent has violated the said Acts and that a Complaint should issue stating its charges in that respect, and having accepted the executed Consent Agreement and placed such Consent Agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, now in further conformity with the procedure described in Commission Rule 2.34, 16 C.F.R. § 2.34, the Commission hereby issues its Complaint, makes the following jurisdictional findings, and issues the following Decision and Order (“Order”):

1. Respondent TCCC is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at One Coca-Cola Plaza, Atlanta, GA 30313.
2. The Commission has jurisdiction of the subject matter of this proceeding and of Respondent, and the proceeding is in the public interest.

ORDER

I.

IT IS ORDERED that, as used in this Order, the following definitions shall apply:

- A. “TCCC” or “Respondent” means The Coca-Cola Company, its directors, officers, employees, agents, representatives, successors, and assigns; and its joint ventures, subsidiaries, divisions, groups and affiliates in each case controlled by TCCC, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each; after the Acquisition, TCCC includes the North American soft drink bottling business of CCE acquired in the Acquisition.
- B. “CCE” means Coca-Cola Enterprises Inc., its directors, officers, employees, agents, representatives, successors, and assigns; and its joint ventures, subsidiaries, divisions, groups and affiliates in each case controlled by CCE, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- C. “Acquisition” means the acquisition by TCCC of the North American soft drink bottling business of CCE.
- D. “Additional Firewalled TCCC Personnel” means those employees that are identified and approved pursuant to Paragraph II.C. of this Order
- E. “Bottler” means an entity licensed by a Concentrate Company to produce, distribute, market, price, and sell carbonated soft drink products under the brands of that Concentrate Company.

- F. “Bottler Functions” means the following activities, and no others, of a Bottler, which are typical of a Bottler that no Concentrate Company owns or has a controlling interest in: (1) purchasing concentrate from one or more Concentrate Companies for use in the production of carbonated soft drinks, (2) producing carbonated soft drinks, (3) marketing, advertising, promoting, distributing, pricing, and selling carbonated soft drinks, (4) implementing the marketing, advertising, and promotional programs of the Concentrate Company, (5) determining and coordinating the amount or timing of funding of retail-related promotions of carbonated soft drinks for that retailer’s operations for the brands of carbonated soft drink products of more than one Concentrate Company, and (6) formulating and engaging in marketing, advertising, or promotional activities for the brands of carbonated soft drink products of more than one Concentrate Company within the Territories or across geographic areas broader than the Territories; provided, however, that no Concentrate-Related Functions are included in Bottler Functions. For the avoidance of doubt, for purposes of this Order, Bottler Functions include those of TCCC as a Bottler.
- G. “Commission” means the Federal Trade Commission.
- H. “Concentrate Company” means a company that formulates concentrate for the production of carbonated soft drink products and other beverages and sells the concentrate to Bottlers. For the avoidance of doubt, for purposes of this Order, TCCC and DPSG are Concentrate Companies.
- I. “Concentrate-Related Functions” means the activities of a Concentrate Company that are typical of a Concentrate Company operating separately from and independently of any Bottler in which it may have an interest, including: (1) setting the price of the concentrate sold by the Concentrate Company and selling that concentrate, (2) making decisions with respect to formulating and introducing new brands and flavors to offer to Bottlers, (3) making decisions with respect to introducing new flavors and package sizes of existing brands, (4) formulating and designing marketing and advertising programs of the Concentrate Company, and (5) determining whether, to what extent, and when the Concentrate Company will fund Promotional Activities. For the avoidance of doubt, for purposes of this Order, Concentrate-Related Functions include those of TCCC.
- J. "DMA" means the Designated Market Areas or geographic areas defined by Nielsen Media Research Company.
- K. “DPSG” means Dr Pepper Snapple Group, Inc., a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 5301 Legacy Drive, Plano, Texas 75024.

- L. “DPSG Beverages” means carbonated soft drink products sold by TCCC in the United States under the DPSG brands and all package sizes and flavors sold under those brands, including fountain sales; DPSG Beverages also includes any new sizes and flavors introduced by DPSG and carried by TCCC in the Territories.
- M. “DPSG Bottler Functions” means (1) Bottler Functions related to DPSG Beverages, and (2) DPSG Freestyle Functions.
- N. “DPSG Commercially Sensitive Information” means all information provided, disclosed, or otherwise made available by DPSG to TCCC relating to DPSG Beverages that is not in the public domain, including but not limited to information related to the research, development, production, marketing, advertising, promotion, pricing, distribution, sales, or after-sales support of DPSG Beverages; DPSG Commercially Sensitive Information includes (1) DPSG Information Relating to Concentrate-Related Functions and (2) DPSG Information Relating to Bottler Functions.
- O. “DPSG Concentrate-Related Functions” means Concentrate-Related Functions related to DPSG Beverages.
- P. “DPSG Freestyle Functions” means the manufacture, sale, and supply of Freestyle Machine cartridges made from DPSG Beverage concentrate.
- Q. “DPSG Freestyle Information” means DPSG Commercially Sensitive Information Relating To DPSG Freestyle Functions.
- R. “DPSG Information Relating to Bottler Functions” means DPSG Commercially Sensitive Information Relating To DPSG Bottler Functions; with the exception of DPSG Information Relating to Bottler Functions that is DPSG Freestyle Information, DPSG Information Relating to Bottler Functions includes no more than the type of information that DPSG provided to its Bottlers in the Territories prior to the Acquisition; *provided, however*, that DPSG Information Relating to Bottler Functions may not necessarily include all such information.
- S. “DPSG Information Relating to Concentrate Functions” means DPSG Commercially Sensitive Information relating to DPSG Concentrate-Related Functions.
- T. “DPSG Information Relating to Independent DPSG Promotions” means DPSG Commercially Sensitive Information relating to planned Promotional Activities for DPSG Beverages that are separate from and independent of planned Promotional Activities for TCCC Beverages.
- U. “DPSG National Accounts” means:

1. those retailers that sell DPSG Beverages in the Territories (or those retailers that do not sell DPSG Beverages in the Territories but that DPSG is calling on to persuade them to sell DPSG Beverages in the Territories) to which DPSG makes account calls in support of the DPSG Beverages sold by TCCC in the Territories; and
 2. those retailers that sell DPSG Beverages in Freestyle Machines (or those retailers that do not sell DPSG Beverages in Freestyle Machines but that DPSG is calling on to persuade them to sell DPSG Beverages in Freestyle Machines) to which DPSG makes account calls in support of the DPSG Beverages sold in Freestyle Machines.
- V. “Freestyle Machine” means TCCC’s proprietary Freestyle™ fountain machine.
- W. “Legal or Regulatory Functions” means activities necessary to comply with financial or other regulatory requirements, obtain or provide legal advice, or otherwise comply with applicable laws and regulations, including this Order.
- X. “License Transaction” means:
1. the agreement between TCCC and DPSG containing a license to produce, distribute, market, price, and sell DPSG Beverages in the United States, the form of which TCCC and DPSG agreed upon on June 7, 2010; and
 2. the Freestyle Participation Agreement in the form of which TCCC and DPSG agreed upon on June 7, 2010.
- Y. “MSA” means the Metropolitan or Micropolitan Statistical Areas or geographic areas defined by the U.S. Office of Management and Budget.
- Z. “Management Documents” means all electronic and computer files and written, recorded, and graphic materials of every kind, including copies of documents that are not identical duplicates of the originals, that were written by, addressed to, or delivered to, officials with managerial, oversight, or reviewing responsibilities.
- AA. “Monitor” means the person appointed by the Commission pursuant to Paragraph III. of this Order.
- BB. “National Accounts Sales Team” means the TCCC Bottling Operations Personnel who (1) call on DPSG National Accounts and (2) determine and formulate the level and timing of Promotional Activities in support of TCCC Beverages sold by TCCC in the Territories that do not include DPSG Beverages.
- CC. “Promotional Activities” means price and non-price promotions, in-store displays, and newspaper inserts.

- DD. “Relating To” means discussing, analyzing, summarizing, describing, or constituting, but not merely referring to.
- EE. “TCCC Beverages” means TCCC brands of carbonated soft drink products and all package sizes and flavors thereof; TCCC Beverages shall not include DPSG Beverages.
- FF. “TCCC Bottling Operations Personnel” means the persons, functions, or positions of or within TCCC that satisfy all of the criteria described in Paragraph II. of this Order; “TCCC Bottling Operations Personnel” as of the date the Agreement Containing Consent Order is executed shall include, but not be limited to, the names, functions, or positions described in Appendix A to this Order (“List”) and all people who report (directly or indirectly) to such names, functions, or positions; the List shall indicate those who have limited access under paragraph II.A; all changes to the TCCC Bottling Operations Personnel shall be in accordance with the procedure described in Paragraph II. of this Order.
- GG. “Territories” means, for each brand, those territories shown in Appendix B.

II.

IT IS FURTHER ORDERED that:

- A. TCCC shall use DPSG Commercially Sensitive Information only under the following conditions:
1. the DPSG Commercially Sensitive Information consists only of DPSG Information Relating to Bottler Functions;
 2. the DPSG Commercially Sensitive Information is provided, disclosed, or otherwise made available only to TCCC Bottling Operations Personnel or to Additional Firewalled TCCC Personnel;
 3. TCCC Bottling Operations Personnel shall include only those persons, functions, or positions that:
 - a. are responsible for Bottler Functions or Legal or Regulatory Functions only; provided, however, that persons, functions, or positions included within “TCCC Bottling Operations Personnel” because they are responsible for Legal or Regulatory Functions shall have access to and use of such DPSG Commercially Sensitive Information only to the extent such information is necessary to perform such Legal or Regulatory Functions;

- b. are not responsible for Concentrate-Related Functions, and if any such person, function, or position reports (directly or indirectly) to a person responsible for Concentrate-Related Functions, that person, function, or position shall not disclose, provide, or otherwise make available DPSG Commercially Sensitive Information to the person responsible (directly or indirectly) for Concentrate-Related Functions; and
 - c. do not receive bonus or other tangible benefits related to the marginal sale of TCCC Beverages as a disproportionate benefit to any bonus or tangible benefit related to the marginal sale of DPSG Beverages;
- 4. an executed non-disclosure agreement and a statement attesting that he or she has received a copy of this Order, will comply with its terms, and will take all reasonable steps to assure that employees that report to him or her will comply with its terms:
 - a. shall be submitted to the staff of the Commission by each person specifically identified in Appendix A no later than twenty (20) days after Respondent executes the Agreement Containing Consent Order; and
 - b. by each TCCC Bottling Operations Personnel who replaces any of those specifically identified in Appendix A or who are given responsibilities comparable to those people specifically identified in Appendix A no later than ten (10) days after assuming those responsibilities;
- 5. the DPSG Commercially Sensitive Information is used only in connection with DPSG Bottler Functions, or solely for the purpose of Legal or Regulatory Functions;
- 6. the DPSG Commercially Sensitive Information is used only in the Territories; *provided, however,* that with respect to DPSG Information Relating to Bottler Functions that is DPSG Freestyle Information, such information may be used anywhere in the United States;
- 7. the DPSG Commercially Sensitive Information is not used in connection with Concentrate-Related Functions in any way, such prohibition to include but not be limited to using the information even if the DPSG Commercially Sensitive Information is not itself revealed;
- 8. all DPSG documents and copies of documents reflecting or containing DPSG Commercially Sensitive Information (whether in the form provided by DPSG or in a form created by TCCC) are maintained as confidential until the earlier

of five (5) years or when DPSG Commercially Sensitive Information becomes public through no act of TCCC; and

9. DPSG Information Relating to DPSG Independent Promotions shall not be provided to the National Accounts Sales Team any time prior to the disclosure of such information to any Bottler other than TCCC.

B. TCCC shall change the TCCC Bottling Operations Personnel only pursuant to the following procedures:

1. replacing or adding individuals who report (directly or indirectly) to the people, functions, or positions specifically identified in Appendix A shall be in accordance with the usual and customary business practices of TCCC;
2. replacing any of the people specifically identified in Appendix A or re-organizing functions or positions specifically identified in Appendix A shall be in accordance with the usual and customary business practices of TCCC after notification to the Monitor;
3. adding new functions or positions that are not specifically identified in Appendix A shall require prior notification to the Monitor and staff of the Federal Trade Commission in accordance with the following:
 - a. the staff shall have ten (10) days from notification to consider the proposed change; and
 - b. if the staff does not object, in writing including its reasons for objecting, to the change within ten (10) days of its notification, TCCC shall be permitted to make the change.

C. TCCC shall disclose DPSG Commercially Sensitive Information to Additional Firewalled TCCC Personnel only under the following conditions:

1. such Additional Firewalled TCCC Personnel:
 - a. are employees or agents of TCCC; and
 - b. are approved by DPSG, receive only the limited information approved by DPSG, for the time period approved by DPSG, all according to the procedure described in ¶ II.C.2. of the Order, below.
2. TCCC shall comply with the following procedure in connection with Additional Firewalled TCCC Personnel:

- a. TCCC shall submit the name, position, and function of any proposed Additional Firewalled TCCC Personnel to DPSG, the Monitor, and Commission staff, together with a statement of the reasons for the need to include such person, the specific DPSG Information Relating to Bottler Functions that is necessary to be shared, and the time period during which the information is intended to be shared;
 - b. DPSG shall notify TCCC, the Monitor (if so appointed), and Commission staff within twenty (20) days whether or not it objects to the proposal;
 - c. if DPSG does not object within twenty (20) days of receiving notification of the proposal, TCCC shall notify the Commission staff;
 - d. if Commission staff does not object, in writing including its reasons for objecting, within ten (10) days of its notification that DPSG does not object, the person shall be an Additional Firewalled TCCC Personnel; and
 - e. TCCC must obtain from each Additional Firewalled TCCC Personnel an executed non-disclosure agreement and a statement attesting that he or she has received a copy of this Order and will comply with its terms.
- D. TCCC shall develop and implement procedures with respect to DPSG Commercially Sensitive Information, with the advice and assistance of the Monitor, to comply with the requirements of this Order.
- 1. such procedures shall assure, without limitation, that DPSG Commercially Sensitive Information is:
 - a. disclosed only if it is DPSG Information relating to Bottler Functions;
 - b. disclosed only to TCCC Bottling Operations Personnel or to Additional Firewalled TCCC Personnel;
 - c. used solely for DPSG Bottler Functions or Legal or Regulatory Functions in the Territories, or with respect to DPSG Information Relating to Bottler Functions that is DPSG Freestyle Information anywhere in the United States; and not for Concentrate-Related Functions; and
 - d. maintained confidentially;
 - 2. such procedures shall include, without limitation:

- a. monitoring compliance;
- b. enforcing compliance with appropriate remedial action in the event of non-compliant use or disclosure;
- c. distributing information regarding the procedures annually to all employees of TCCC associated with its carbonated soft drink products; and
- d. requiring that the TCCC Bottling Operations Personnel and the Additional Firewalled TCCC Personnel comply with the requirements of this Order.

III.

IT IS FURTHER ORDERED that:

- A. At any time after TCCC signs the Consent Agreement in this matter, the Commission may appoint a monitor (“Monitor”) to assure that TCCC complies with all obligations and performs all responsibilities required by this Order.
- B. The Commission shall select the Monitor, subject to the consent of TCCC, which consent shall not be unreasonably withheld. If TCCC has not opposed, in writing, including the reasons for opposing, the selection of a proposed Monitor within ten (10) days after notice by the staff of the Commission to TCCC of the identity of any proposed Monitor, TCCC shall be deemed to have consented to the selection of the proposed Monitor.
- C. Not later than ten (10) days after the appointment of the Monitor, TCCC shall execute an agreement that, subject to the prior approval of the Commission, confers upon the Monitor all the rights and powers necessary to permit the Monitor to monitor TCCC’s compliance with the requirements of this Order.
- D. If a Monitor is appointed by the Commission, TCCC shall consent to the following terms and conditions regarding the powers, duties, authorities, and responsibilities of the Monitor:
 1. The Monitor shall have the power and authority to monitor TCCC’s compliance with the requirements of this Order, and shall exercise such power and authority and carry out the duties and responsibilities of the Monitor in a manner consistent with the underlying purpose of this Order and in consultation with the Commission. In carrying out its functions, the Monitor

is authorized (among other appropriate things) to provide specific information to Commission staff as to whether:

- a. DPSG Commercially Sensitive Information provided to TCCC is DPSG Information Relating to Bottler Functions;
 - b. DPSG Information relating to Bottler Functions is conveyed only to TCCC Bottling Operations Personnel or to Additional Firewalled TCCC Personnel; and
 - c. DPSG Information Relating to Bottler Functions that is conveyed to the TCCC Bottling Operations Personnel or to Additional Firewalled TCCC Personnel is used solely for the purpose of carrying out DPSG Bottler Functions or Legal or Regulatory Functions.
2. The Monitor shall act in a fiduciary capacity for the benefit of the Commission.
 3. The Monitor shall serve until five (5) years after the License Transaction is effective; *provided, however*, that the Commission may extend or modify this period as may be necessary or appropriate to accomplish the purpose of this Order.
 4. Subject to any demonstrated legally recognized privilege, the Monitor shall have full and complete access to TCCC's personnel, books, documents, records kept in the ordinary course of business, facilities and technical information, and such other relevant information as the Monitor may reasonably request, related to TCCC's compliance with its obligations under this Order. TCCC shall cooperate with any reasonable request of the Monitor and shall take no action to interfere with or impede the Monitor's ability to monitor TCCC's compliance with this Order.
 5. The Monitor shall serve, without bond or other security, at the expense of TCCC, on such reasonable and customary terms and conditions as the Commission may set. The Monitor shall have authority to employ, at the expense of TCCC, such consultants, accountants, attorneys and other representatives and assistants as are reasonably necessary to carry out the Monitor's duties and responsibilities.
 6. TCCC shall indemnify the Monitor and hold the Monitor harmless against all losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the Monitor's duties, including all reasonable fees of counsel and other reasonable expenses incurred in connection with the preparations for, or defense of, any claim, whether or not resulting in any liability, except to the extent that such losses, claims, damages, liabilities, or

expenses result from gross negligence, willful or wanton acts, or bad faith by the Monitor.

7. TCCC shall report to the Monitor in accordance with the requirements of this Order. The Monitor shall evaluate the reports submitted to the Monitor by TCCC. Within thirty (30) days from the date the Monitor receives these reports, the Monitor shall report in writing to the Commission concerning performance by TCCC of its obligations under this Order.
8. TCCC may require the Monitor and each of the Monitor's consultants, accountants, attorneys and other representatives and assistants to sign a customary confidentiality agreement; *provided, however*, that such agreement shall not restrict the Monitor (and its representatives) from providing any information to the Commission.
9. The Commission may, among other things, require the Monitor and each of the Monitor's consultants, accountants, attorneys and other representatives and assistants to sign an appropriate confidentiality agreement related to Commission materials and information received in connection with the performance of the Monitor's duties.
10. In the event the Commission determines that the Monitor has ceased to act or failed to act diligently, the Commission may appoint a substitute Monitor in the same manner as provided in this Paragraph.
11. The Commission may on its own initiative, or at the request of the Monitor, issue such additional orders or directions as may be necessary or appropriate to assure compliance with the requirements of this Order.

IV.

IT IS FURTHER ORDERED that, for the term of this Order, if TCCC intends to acquire a Bottler that is licensed to distribute TCCC Beverages anywhere in the United States and is also licensed to distribute DSPG Beverages in geographic areas outside of the Territories ("To-Be-Acquired Bottler"), TCCC may use DSPG Commercially Sensitive Information relating to the specific brand or brands in the geographic areas covered by the To-Be-Acquired Bottler's license for the DSPG Beverages, after TCCC's acquisition of the To-Be-Acquired Bottler, as long as TCCC complies with the obligations of Paragraph II.A. 1. - 5., and 7. - 9. of this Order, and satisfies the following additional conditions:

- A. TCCC shall comply with the obligations of this Order with respect to that DSPG Commercially Sensitive Information;
- B. For acquisitions of To-Be-Acquired Bottlers that are subject to Section 7A of the Clayton Act, 15 U.S.C. § 18a ("HSR Act"), TCCC shall also comply with the

reporting and waiting obligations of the HSR Act and the rules promulgated thereunder, 16 C.F.R. § 800 et seq.;

C. For acquisitions of To-Be-Acquired Bottlers that are not subject to the HSR Act:

1. TCCC shall provide at least forty-five (45) days' advance written notification of the acquisition to the staff of the Commission, such notification to include:

- a. the name, headquarters address, telephone number, and name of contact person of the To-Be-Acquired Bottler;
- b. a description of the proposed acquisition and the assets to be acquired, and the acquisition price;
- c. a copy of all existing and draft licenses and performance obligations entered into or anticipated to be entered into between DPSG, Respondent, and/or the To-Be-Acquired Bottler;
- d. a description of the geographic areas in which the To-Be-Acquired Bottler is licensed, and in which TCCC is anticipated to be licensed, to produce, distribute, market, price, or sell TCCC Beverages, and, to the extent TCCC has such information, a description of the geographic areas in which the To-Be-Acquired Bottler is licensed to produce, distribute, market, price, or sell DPSG Beverages;
- e. the date each license or anticipated license was, or is expected to be, entered into between DPSG, Respondent, and/or the To-Be-Acquired Bottler with respect to:
 - (1) TCCC Beverages and
 - (2) DPSG Beverages;
- f. for the most recent 12-month period and for each MSA, DMA, city, or other geographic area in which the To-Be-Acquired Bottler bottles, distributes, or sells TCCC Beverages and/or DPSG Beverages,
 - (1) for any and all carbonated soft drinks:
 - (a) all Nielsen, IRI, or similar data with respect to that MSA, DMA, city, or other geographic area; and
 - (b) all market share information, written or otherwise, with respect to that MSA, DMA, city, or other geographic area,

that TCCC has, and

- (2) for the most recent 12-month period for which TCCC has such information, sales in units (in constant case equivalents) and dollars, of
 - (a) TCCC Beverages, by brand, of the To-Be-Acquired Bottler, and
 - (b) concentrate, by brand, to the To-Be-Acquired Bottler;
 - g. all documents Relating To communications between TCCC, DPSG, and the To-Be-Acquired Bottler with respect to the acquisition of the To-Be-Acquired Bottler, the DPSG Beverage licenses, expected licenses, or performance obligations; and
 - h. all Management Documents Relating To the proposed acquisition;
2. Early termination of the 45-day period described in Paragraph IV.C.1. may be requested and, where appropriate, granted by letter from the Director of the Bureau of Competition; and
 3. If, after notification of the proposed transaction (including the information specified in Paragraph IV.C.1. a. - h.), representatives of the Commission make a written request for additional information or documentary material with respect to the acquisition of the To-Be-Acquired Bottler, TCCC shall respond expeditiously and submit all such additional information and documentary material and certify substantial compliance with the request;

provided, however, that a determination that TCCC has complied with the obligations contained in this Paragraph IV. in connection with its acquisition of a To-Be-Acquired Bottler shall not be construed as a determination by the Commission, or its staff, that the acquisition of the To-Be-Acquired Bottler does or does not violate any law enforced by the Commission; and provided further that nothing contained herein shall preclude the Commission or its staff from investigating the acquisition or proposed acquisition by TCCC of any Bottler, including a To-Be-Acquired Bottler, and seeking any relief available under any statute enforced by the Commission.

V.

IT IS FURTHER ORDERED that:

- A. Within thirty (30) days after this Order becomes final, TCCC shall submit to the Commission a verified written report setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with this Order.
1. TCCC shall include in its report, among other information that may be required, a list of all Bottlers of TCCC Beverages that, at the time of submission of the list, also bottle DPSG Beverages; for each such Bottler, TCCC shall list:
 - a. each brand of TCCC Beverages that such Bottler is licensed to distribute, together with a description of the geographic areas in which each brand is licensed to be distributed; and
 - b. each brand of DPSG Beverages that such Bottler is distributing anywhere in each county within each geographic area described in Paragraph V.A.1.a. to the extent that TCCC has this information or can obtain it from industry publications to which it subscribes.]
 2. TCCC shall at the same time also provide a copy of its report concerning compliance with this Order to any Monitor that may have been appointed.
- B. One (1) year after this Order becomes final, annually for the next nineteen (19) years on the anniversary of that date, and at other times as the Commission may require:
1. TCCC shall file a verified written report with the Commission setting forth in detail the manner and form in which it has complied, and is complying, with this Order;
 2. TCCC shall also include in each of its annual reports:
 - a. any changes to the list of Bottlers of TCCC Beverages submitted under Paragraph IV.A. of this Order, including any deletions, additions, or other changes; and
 - b. for all To-Be-Acquired Bottlers acquired by TCCC during the previous year, a description of the geographic areas in which the To-Be-Acquired Bottler is licensed to produce, distribute, market, price, or sell each DPSG Beverage.

VI.

IT IS FURTHER ORDERED that TCCC shall notify the Commission at least thirty (30) days prior to:

- A. Any proposed dissolution of TCCC;
- B. Any proposed acquisition, merger, or consolidation of TCCC;
- C. Any other change in TCCC including, but not limited to, assignment and the creation or dissolution of subsidiaries, if such change may affect compliance obligations arising out of this Order.

VII.

IT IS FURTHER ORDERED that, for purposes of determining or securing compliance with this Order, and subject to any legally recognized privilege, and upon written request and upon five (5) days' notice to TCCC made to its principal United States offices, registered office of its United States subsidiary, or headquarters address, TCCC shall, without restraint or interference, permit any duly authorized representative of the Commission:

- A. Access, during business office hours of TCCC and in the presence of counsel, to all facilities and access to inspect and copy all books, ledgers, accounts, correspondence, memoranda and all other records and documents in the possession or under the control of TCCC related to compliance with this Order, which copying services shall be provided by TCCC at the request of the authorized representative(s) of the Commission and at the expense of TCCC.
- B. The opportunity to interview officers, directors, or employees of TCCC, who may have counsel present, related to compliance with this Order.

VIII.

IT IS FURTHER ORDERED that this Order shall terminate twenty (20) years from the date this Order becomes final.

By the Commission.

Donald S. Clark
Secretary

SEAL
ISSUED: