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December 6, 2013

ORIGINAL



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MJS:reg
Enclosures

cc: The Honorable D. Michael Chappell
Chief Administrative Law Judge
Federal Trade Commission
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Washington, DC 20580
(Via Federal Express 7973 3187 5400)

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PUBLIC VERSION

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

ORIGINAL

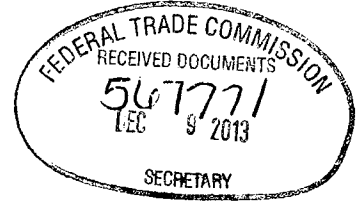
In the Matter of

Ardagh Group S.A.,
a public limited liability company, and

Saint-Gobain Containers, Inc.,
a corporation, and

Compagnie de Saint-Gobain,
a corporation,
Respondents.

DOCKET NO. 9356



MOTION OF NON-PARTY GAMBRINUS COMPANY FOR *IN CAMERA*
TREATMENT OF CERTAIN PROPOSED EVIDENCE

The Gambrinus Company (“Gambrinus”), which is a non-party in the above-captioned matter, respectfully requests this Court to grant *in camera* treatment of several confidential documents and certain confidential testimony designated by the FTC and/or Respondents for introduction into evidence in the administrative trial of this matter and would respectfully show as follows:

ARGUMENT & AUTHORITIES

[REDACTED]

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entered in Civil Action No. 13-1021 styled *Federal Trade Commission v. Ardagh Group S.A., et al.*, in the United States District Court for the District of Columbia.

Recently, Gambrinus received notice that the FTC and Respondents intend to use certain confidential documents and testimony in the upcoming administrative trial of this matter.

along with a small portion of this testimony pursuant to 16 CFR 83.45(b), which provides for *in*

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(5) The amount of effort or money expended by the applicant in developing the

(6) The ease or difficulty with which the information could be acquired or duplicated by others.

Dura Lube Corp., 1999 FTC LEXIS 255, at *6-7 (quoting *Bristol Meyers Co.*, 90 FTC 455, 456-57 (1977)). Furthermore, a nonparty requesting *in camera* treatment deserves “special

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employees and third-parties that Gambrinus contracts with. Additionally, Gambrinus is contractually obligated to maintain the confidentiality of the information contained in both of

these documents as indicated in Section 8 of the Glass Container Supply Agreement (*see*

Gambrinus 000358 to Gambrinus 000359 at Exhibit B) and Page 3 of the "Proposed"

Commercial Terms Agreement (*see* Gambrinus 000260 at Exhibit D). (*See* Declaration of John

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The John Horan Testimony includes highly confidential and commercially sensitive

information regarding the amount of money that Gambrinus spent on aluminum cans and glass bottles in 2012 and information similar to the Glass Shortage Communications identified above.

cans in 2012 and information similar to the Glass Shortage Communications identified above. Information regarding the amount of money that Gambrinus spent on aluminum cans and glass bottles is not made public by Gambrinus because it could be used in conjunction with public

information regarding Gambrinus' sales volume to calculate the number of cans and bottles

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position. Accordingly, Gambrinus respectfully requests that Exhibits B and C be afforded *in*

aggravation for a trial of...

Respectfully submitted,

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[Handwritten signature]

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on December 6, 2013, the foregoing was served the

(Original, one copy, and electronic copy)

Office of the Secretary
Federal Trade Commission
Room H-113
600 Pennsylvania Avenue, NW
Washington, D.C. 20580

PUBLIC VERSION

UNITED STATES OF AMERICA

In the Matter of

Ardagh Group S.A.,
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PROPOSED ORDER

On December 9, 2013, the Gambrinus Company (“Gambrinus”), a non-party, filed its
Motion for In Camera Treatment of Certain Proposed Evidence (the “Motion”)

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IT IS FURTHER ORDERED that only authorized Federal Trade Commission personnel, and court personnel concerned with judicial review may have access to the above-referenced information.

ORDERED: _____
D. Michael Chappell

Dated: _____

Exhibit A

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of

Ardagh Group S.A.,

[REDACTED]

Gambrinus purposefully keeps this information confidential given that its competitors with other

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

these documents as indicated in Section 9.01 of the Commercial Terms Agreement

Gambrinus 000358 to Gambrinus 000359 at Exhibit B) and Page 3 of the "Proposed"
Commercial Terms Agreement (see Gambrinus 000369 at Exhibit B).

7. Also, similar to the Glass Shortage Communications discussed above, the testimony in John Horan's deposition at 126:1 to 142:25 relates to the structure of Gambrinus'

contracts with glass suppliers and problems that Gambrinus has had with glass suppliers in the

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REDACTED

Gambrinus' Document Production
(REDACTED FROM PUBLIC VERSION)

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Exhibit C

John Horan Testimony

(REDACTED FROM PUBLIC VERSION)