

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Joseph J. Simons, Chairman
Noah Joshua Phillips
Rohit Chopra
Rebecca Kelly Slaughter
Christine S. Wilson

In the Matter of)	
)	
E. & J. GALLO WINERY,)	
a corporation;)	Docket No.
)	
DRY CREEK CORPORATION,)	
a corporation;)	
)	
and)	
)	
CONSTELLATION BRANDS, INC.,)	
a corporation.)	

COMPLAINT

Pursuant to the Clayton Act and the Federal Trade Commission Act (“FTC Act”), and by virtue of the authority vested in it by said Acts, the Federal Trade Commission (“Commission”), having reason to believe that Respondent E. & J. Gallo Winery (“Gallo”), a wholly owned subsidiary of Respondent Dry Creek Corporation (“Dry Creek”), corporations subject to the jurisdiction of the Commission, agreed to acquire certain assets from Constellation Brands, Inc. (“Constellation”), a corporation subject to the jurisdiction of the Commission, in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the FTC Act, as amended, 15 U.S.C. § 45, 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. RESPONDENTS

1.

2.

V. THE STRUCTURE OF THE MARKETS

A.

Entry-Level On-Premise Sparkling Wine

8. On-premise retailers such as restaurants, hotels, and casinos often have a need for a low-priced sparkling wine option to use for brunch mimosas, complimentary (or “floor”) pours, banquets, and catering purposes. Gallo and Constellation are the two largest suppliers, by volume, of entry-level on-premise sparkling wine in the United States. By combining Gallo’s Wycliff brand and Constellation’s J. Roget brand, the Acquisition will give Gallo a significant majority of the entry-level on-premise sparkling wine sales in the United States and result in a highly concentrated market.

B.

Low-Priced Sparkling Wine

9. Gallo and Constellation are the two largest suppliers, by volume, of low-priced sparkling wines (industry participants use the term “popular” sparkling wines) sold primarily to customers through off-premise retailers such as grocery stores and mass merchants in the United States. By combining Gallo’s André brand and Constellation’s brand Cook’s, the Acquisition will give Gallo a significant majority of low-priced sparkling wine sales in the United States and result in a highly concentrated market.

C.

Low-Priced Brandy

10. Gallo and Constellation are the two largest suppliers, by volume, of low-priced brandy in the United States. By combining Gallo’s E&J Brandy brand and Constellation’s Paul Masson brand, the Acquisition will reduce the number of major providers of low-priced brandy from three to two, give Gallo a significant majority of low-priced brandy sales in the United States, and result in a highly concentrated market.

D.

Low-Priced Port and Sherry

11. Gallo and Constellation are the two largest suppliers, by volume, of low-priced port and sherry fortified wines in the United States. By combining Gallo’s Fairbanks and Sheffield Cellars brands and Constellation’s Taylor brand, the Acquisition will result in Gallo owning three of the top four port and sherry brands, give Gallo a significant majority of low-priced port and sherry sales in the United States, and result in a highly concentrated market.

E.

High Color Concentrates

12. High color concentrates (“HCCs”) are a grape-based concentrate product used in the wine and food/non-alcoholic beverage industries to achieve effects such as enhancing color,

E.
High Color Concentrates

17. Entry or expansion in HCCs is unlikely to occur in a timely and sufficient manner to deter or counteract the anticompetitive effects of the Acquisition. In addition to significant capital investments in production equipment, the production of HCCs requires technical