

May 4, 2006

Federal Trade Commission
Office of the Secretary
Room H-135 (Annex J)
600 Pennsylvania Avenue, N.W.
Washington, DC 20580
Filed Electronically to AlcoholReport@ftc.gov

RE: Alcohol Reports: Paperwork Comment, FTC File No. P064505

Dear Chairman Majoras:

We are making this submission in response to the request for comment on the proposed information requests to beverage alcohol manufacturers, published in the Federal Register on March 8, 2006. According to the Centers for Disease Control and Prevention, excessive alcohol use causes approximately 4,500 deaths per year of persons below the legal drinking age of 21. A growing body of evidence documents a link between alcohol marketing of various forms – in advertising media, via product placement in movies or the sale or distribution of logoed apparel, and so on – and increased odds that young people will drink and, if they are already drinkers, increase their consumption of alcohol. Given evidence of such a link, we believe the proposed information requests are integral to the consumer protection mission of the Federal Trade Commission, and will provide extremely useful information to the Commission as well as to parents, policy makers and the public health field.

We have several suggestions for enhancing the quality, clarity and utility of the information to be collected, presented below by area of data collection:

(1) *Sales of beverage alcohol.* The Commission should request any research that any company has done or received regarding the amount of its products that are sold to or consumed by persons below the legal drinking age.

(2) *Expenditures to advertise and promote beverage alcohol in measured and non-measured media.* In its 1999 report *Self-Regulation in the Alcohol Industry: A Review of Industry Efforts to Avoid Promoting Alcohol to Underage Consumers*, the Commission suggested that companies spend two to three times as much on unmeasured as on measured media. We are, therefore, pleased that the Commission will be requesting information on unmeasured media expenditures and activities.

For measured media, data should be requested for two or more years, since expenditures can vary significantly from year to year. Data should be requested by media type, including: broadcast network television, cable network television, spot (local) broadcast television, local/regional cable television and interconnects, Hispanic television networks and stations,

magazines (full-run and demographic editions separated out), spot radio, network radio, internet (including web advertising, e-mail, company web sites, instant-messaging sponsorships), and out-of-home (using the more precise definition employed in the most recent FTC cigarette report, and separating by type, e.g. billboard, stadium, kiosk, etc.).

Expenditures in unmeasured media should at a minimum cover all the categories used in the *Federal Trade Commission Cigarette Report for 2003*. As in the cigarette report, these categories should include spending on price discounting and promotional allowances paid to wholesalers, retailers or other third parties (which account for more than two-thirds of cigarette company spending). It should also include spending on educational campaigns and materials regarding underage drinking and the prevention of alcohol-related problems, and on “social aspects organizations” such as the International Center on Alcohol Policies and the Century Council.

Expenditures for so-called “new media” should also be included, for example pixting and texting on mobile telephones, podcasting, and viral marketing activities on the internet.

As in the cigarette report, aggregate spending on sports across all the above categories should be broken out. Given the high levels of alcohol problems on college and university campuses, spending on college and university marketing across all categories should similarly be shown separately.

(3) *Compliance with the 30% placement standard contained in the industry’s self-regulatory codes.* This information should be supplied by brand, not just parent company. For each brand, primary and secondary target audiences (age, gender, race, etc.) should be identified, and gross advertising impressions, gross rating points, and audience delivery (i.e. reach and frequency) should be provided for each of these audiences, as well as for (for purposes of comparison) the total audience 12 and above and the audience ages 12 to 20. Collecting these data will permit the Commission not only to assess compliance with the 30% standard, but also to gauge that standard’s effectiveness at ensuring that underage audiences do not receive more advertising exposure than target or legal-aged audiences. For local media (e.g. spot radio, spot television, out-of-home), data should be provided by market. Data should be reported both as planned and as achieved.

Companies should also report for what media and channels they have audience composition data. For all media or outlets for which data are not available, sources and standards for audience estimates should be provided. These may include specific magazine titles or demographic editions, local cable interconnects, radio stations that have recently changed formats, out-of-home advertising such as transit, sponsorships and endorsements, and product placements in film or television.

(4) *Third-party or other external compliance review mechanisms.* In its 1999 report, the Commission recommended that the alcohol industry establish independent third-party review boards to address and respond to complaints about its advertising and marketing practices. There have been numerous developments on this front in recent years. What is not clear is the degree to which the mechanisms that have been created are independent. The Commission may want to

consider the question of “independent review” in its report, and to that end companies should be requested to show how they have established such independent review mechanisms, what degree of transparency and independence they possess, how broad their purview is both in terms of marketing practices and in terms of time-frame (i.e. prospective, current or recent advertising), as well as how timely they are in responding to complaints from the public.

Thank you for the opportunity to comment on this important initiative. We applaud the Commission for undertaking it, and believe it would be most useful if this kind of initiative could be done on an annual or bi-annual basis, as the Commission does for cigarettes, so that trends in industry marketing activities could be discerned, and suitable public health responses developed if needed. We hope that our suggestions will enhance the utility of this initiative in service of the Commission’s mission to ensure an orderly marketplace and protect consumers from unfair or deceptive business practices.

Sincerely,

A handwritten signature in black ink, appearing to read "David H. Jernigan". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

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