



Heightened Awareness: It Pays to Know...Before You Advertise

Presented by Deborah S. Lewis, TTB
and Janet M. Evans, Federal Trade Commission



5/2008

TTB

Deborah Lewis,
Program Manager,
Market Compliance Office



Advertising Overview

- TTB's Authority Regarding Advertising
- Alcohol Beverage Advertising Program
- Mandatory Advertising Information
- Prohibited Statements/Practices
- Health-Related Statements

Alcohol and Tobacco Tax and Trade Bureau



TTB Authorities

- Federal Alcohol Administration Act (FAA Act)
 - 27 U.S.C. 205(f)
- 27 Code of Federal Regulations
 - Wine – part 4
 - Distilled Spirits – part 5
 - Malt Beverages – part 7

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Absinthe...

For health and long life!

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- Referrals and/or Complaints
- Audit
- Pre-clearance

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Submitting Materials

- Send your materials to:

Alcohol & Tobacco Tax and Trade Bureau
Advertising, Labeling and Formulation Division
c/o Market Compliance Office
1310 G Street, NW, Fourth Floor
Washington, D.C. 20220

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Mandatory Statements

- Responsible advertiser (name, city/state)
- Class & type designation or distinctive designation
- Alcohol content (distilled spirits)
- Percentage of neutral spirits and name of commodity (distilled spirits)

27 CFR 4.62, 5.63 & 7.52

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Prohibited Practices

- False or untrue statements or misleading statements
- Statements disparaging a competitor's products
- Representations that are obscene or indecent
- Misleading guarantees. Money back guarantees are not prohibited
- Use of "strong" and similar words (malt beverages)
- Statements inconsistent with labeling
- Untrue or misleading health claims/health related statements

27 CFR 4.64, 5.65 & 7.54

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Health-Related Statements

- Statements related to health
- Curative or therapeutic nature
- Relationship between health and the consumption of alcohol, or any substance found within the alcohol beverage product

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Health-Related Statements (Cont'd)

- Includes specific health claims, general references, and directional statements
- Implies a physical or psychological sensation results from consuming the alcohol product
- Statements of nutritional value (not Statement of Average Analysis)

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Health-Related Statements (Cont'd)

- Evaluated on a case-by-case basis
- May not be untrue or create misleading impression as to effects on health of alcohol consumption
- May require disclaimer or qualifying statement
- Disclaimer must appear as prominent as the statement

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Prohibited Statements

- Revitalizes the mind and body
- Improves performance
- Liquid power
- High-energy aphrodisiac
- Alcohol energy beverage
- Caffeine and ginseng were selected to help give a quick boost
- Ginseng – helping with chronic fatigue syndrome

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TTB Summary

- What gives TTB its authority to regulate alcohol beverage advertising?
- Alcohol Beverage Advertising Program
- Information that must appear in an advertisement (Mandatory Information)
- What cannot appear in an advertisement (Prohibited Statements/Practices)?
- What is a health-related statement?

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Federal Trade Commission

Janet Evans
Senior Attorney
Division of Advertising Practices



Consumer Protection

- **FTC Act:**
 - *Unfair or deceptive acts or practices in or affecting commerce, are hereby declared unlawful*

15 U.S.C. § 45

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FTC Deception Standard

- **Four steps:**
 - If, when considered by a consumer acting reasonably
 - The ad contains a representation
 - That is material
 - And misleading

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FTC: Deception (Cont'd)

- False claims
- Omission of material information
- Unsubstantiated claims

Low Alcohol!



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FTC: Deception (Cont'd)

- **Also deceptive:**
 - Omission of material information
 - Unsubstantiated claims, including unsubstantiated health claims

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FTC: Unfairness

- **Unfairness:**
 - An act or practice that causes, or is likely to cause, substantial injury to consumers which is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition

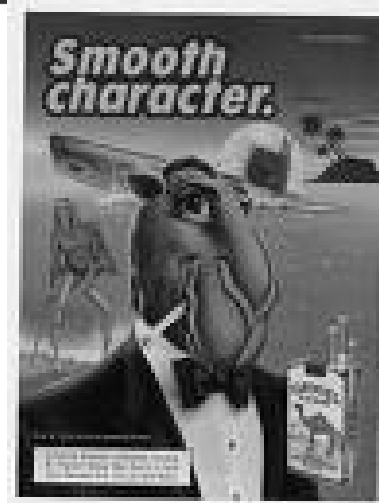
15 U.S.C. § 45(n)

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- *In the Matter of Beck's North America, Inc.*, FTC C-3859 (1999) challenging ad showing illegal and risky drinking on a boat



- Targeting minors:
content or placement



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- Self-regulation can work faster and more flexibly than Government regulation

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Promoting Self-Regulation (Cont'd)

- Advertising and Marketing Codes



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FTC: Self-Regulation

- **FTC monitoring helps:**
 - Encourage compliance
 - Reduces the need for Government intervention

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FTC: Self-Regulation (Cont'd)

- Placement provisions:
 - Audience composition standard
 - Protocol – check data!



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Promoting Self-Regulation (Cont'd)

- **Content provisions**
 - ...avoid elements that appeal primarily to persons under the legal drinking age
 - Beer Code
 - . . . should not depict a child or portray objects, images or cartoon figures that primarily appeal to persons below the legal purchase age
 - DISCUS Code

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Promoting Self-Regulation (Cont'd)

- External review: implementing the standards



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Consumer Education: Context

Most teens who drink get alcohol from social sources.



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We Don't Serve Teens

DON'T SERVE ALCOHOL TO TEENS.

It's unsafe. It's illegal.
It's irresponsible.



WWW.DONTSERVETEENS.GOV



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WDST Web Site

- www.dontserveteens.gov

21 Is the Legal Drinking Age

Learn about laws that reduce teen drinking.

- State Laws: Links to state-by-state legislation.
- Dangers of Teen Drinking: What can happen to teens who drink.
- Stopping Easy Access: Steps you can take to reduce teens' access to alcohol.
- Alcohol Advertising: Talk to your kids about alcohol ads.
- Answering Questions About Alcohol: What to say to neighbors and friends.

How can you help?
Everyone can do something:

- Individuals & Organizations
- Media
- Retailers
- Law Enforcement

Get Campaign Materials

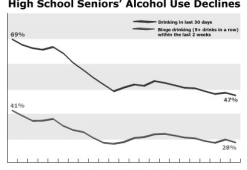
Stories from real life

21 Is the Legal Drinking Age

The law is working.
The Congress passed the National Minimum Drinking Age Act in 1984. The law established 21 as the minimum legal drinking age. Since then:

- Teen drinking is down. Twenty-one percent fewer high school seniors drink today than did in 1983 (see chart).
- Teen binge drinking is down. Twelve percent fewer high school seniors engage in binge drinking today than did in 1983 (see chart).

High School Seniors' Alcohol Use Declines



Source: The Monitoring the Future Study, University of Michigan, December 15, 2006. Available at monitoringthefuture.org.

- Alcohol-related fatal crashes involving teen drivers have dropped by more than half—from 22 per 100,000 licensed drivers 15 to 20 years old in 1982 to fewer than 10 per 100,000 in 2003.
- The minimum drinking age has prevented an estimated 20,000 alcohol-

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TTB Expo Campaign Materials

- FREE downloadable public service announcements: print and radio
- Web site banners and buttons
- Customizable letter to the editor, op-ed, press release



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If you don't drink responsibly or refuse a drink to a teen, help prevent underage drinking. Call 800-488-7027

TTB Expo Leveraging Resources: Partners

- Other Federal agencies
- State regulators and enforcers
- Citizens groups
- Industry




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WDST "Week" 2007

**DON'T SERVE
ALCOHOL
TO TEENS.**

It's unsafe. It's illegal.
It's irresponsible.



WWW.DONTSERVETEENS.GOV



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Safe Summer 2008

- Link from your site to Dontserveteens.gov using our banners
- Post signage in stores
- Put an ad in your local paper
- Let me know what you've done!
– jevans@ftc.gov

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FTC Summary

- Truthful and substantiated
- Not unfair
- Comply with self-regulatory standards
- Use consumer education to reduce injury

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Example #1



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Example #2



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Example #3



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Example #4: Bill's Blueberry Wine



Why blueberry? Because antioxidants help protect against the damaging effects of free radicals that lead to chronic disease. Fresh fruits and vegetables are great sources of antioxidants like Vitamins C and E. What's more, blueberries have the highest antioxidant capacity of any fruit!

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Contact Information

- **TTB**
 - **Customer Service Desk (202) 927-8140 or Toll Free (866) 927-ALFD (2533)**
 - **Fax: (202) 927-3306**
 - **E-mail: alfd@ttb.treas.gov**
- **FTC**
 - **Phone: Janet M. Evans**
 - **Fax: (202) 326-3259**
 - **E-mail: jevans@ftc.gov**

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