

### Disciplinary Actions

Under the existing laws, the Board retains the right, where appropriate, to discipline an employee for conduct that is inconsistent with Federal Antidiscrimination Laws up to and including removal. Nothing in the No FEAR Act alters existing laws or permits an agency to take unfounded disciplinary action against an employee or to violate the procedural rights of an employee who has been accused of discrimination.

### Additional Information

For further information regarding the No FEAR Act regulations, refer to 5 CFR part 724, as well as the appropriate office within the Board (the EEO Programs office). Additional information regarding Federal antidiscrimination and retaliation laws can be found at the EEOC Web site—<http://www.eeoc.gov>, and the EEO Programs Office Web page (accessible by current employees only through Inside the Board).

### Existing Rights Unchanged

Pursuant to section 205 of the No FEAR Act, neither the Act nor this notice creates, expands or reduces any rights otherwise available to any employee, former employee or applicant under the laws of the United States.

By order of the Board of Governors of the Federal Reserve System, acting through the Board's Administrative Governor under delegated authority, October 18, 2006.

**Jennifer J. Johnson,**

*Secretary of the Board.*

[FR Doc. E6-17730 Filed 10-23-06; 8:45 am]

BILLING CODE 6210-01-P

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## FEDERAL TRADE COMMISSION

### Agency Information Collection Activities; Proposed Collection; Comment Request

**AGENCY:** Federal Trade Commission (FTC or Commission).

**ACTION:** Notice.

**SUMMARY:** The information collection requirements described below are being submitted to the Office of Management and Budget ("OMB") for review, as required by the Paperwork Reduction Act ("PRA"), 44 U.S.C. 3501-3520. The FTC is seeking public comments on proposed information requests to beverage alcohol advertisers. The FTC proposes to issue compulsory process orders to beverage alcohol advertisers for information concerning, *inter alia*, compliance with voluntary advertising placement provisions, sales and

marketing expenditures, and the status of third-party review of complaints regarding compliance with voluntary advertising codes.

**DATES:** Comments must be received on or before November 24, 2006.

**ADDRESSES:** Interested parties are invited to submit written comments. Comments should refer to the "Alcohol Reports: Paperwork Comment, FTC File No. P064505" to facilitate the organization of the comments. A comment filed in paper form should include this reference both in the text and on the envelope and should be mailed or delivered, with two complete copies, to the following address: Federal Trade Commission/Office of the Secretary, Room H-135 (Annex J), 600 Pennsylvania Avenue, NW., Washington, DC 20580. Because paper mail in the Washington area and at the Commission is subject to delay, please consider submitting your comments in electronic form, as prescribed below. However, if the comment contains any material for which confidential treatment is requested, it must be filed in paper form, and the first page of the document must be clearly labeled "Confidential."<sup>1</sup> The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible.

Comments filed in electronic form should be submitted by clicking on the following weblink: [https://secure.commentworks.com/FTC\\_Alcohol\\_Reports](https://secure.commentworks.com/FTC_Alcohol_Reports) and following the instructions on the web-based form. To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the [https://secure.commentworks.com/FTC\\_Alcohol\\_Reports](https://secure.commentworks.com/FTC_Alcohol_Reports) weblink. If this notice appears at <http://www.regulations.gov>, you may also file an electronic comment through that Web site. The Commission will consider all comments that regulations.gov forwards to it.

All comments should additionally be submitted to: Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission. Comments should be submitted via facsimile to (202) 395-6974 because U.S. Postal Mail is subject to lengthy delays due to heightened security precautions.

<sup>1</sup> Commission Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. See Commission Rule 4.9(c), 16 CFR 4.9(c).

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC Web site, to the extent practicable, at <http://www.ftc.gov>. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

### FOR FURTHER INFORMATION CONTACT:

Requests for additional information should be addressed to Janet Evans or Phyllis H. Marcus, Attorneys, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW., NJ-3212, Washington, DC 20580; telephone: (202) 326-2125 or (202) 326-2854.

**SUPPLEMENTARY INFORMATION:** In September 1999 and September 2003, the FTC published reports on voluntary advertising self-regulation by the alcohol industry based on information U.S. beverage alcohol advertisers submitted to the Commission, pursuant to compulsory process. The FTC has authority to compel production of this information from advertisers under Section 6 of the FTC Act, 15 U.S.C. 46. The Commission believes it is in the public interest to: (1) Collect updated data from U.S. beverage alcohol advertisers on sales and marketing expenditures, compliance with the industry's self-regulatory code provisions concerning advertising placement and the status of third-party review of complaints regarding compliance with the industry's self-regulatory advertising standards; and (2) publish a report on the data obtained.

The Commission intends to address its information requests to the corporate entities responsible for the majority of alcohol advertising in the U.S., including their affiliated and subsidiary companies. Because the number of separately incorporated companies affected by the Commission's requests will exceed ten entities, the Commission seeks OMB clearance under the Paperwork Reduction Act ("PRA").

On March 8, 2006, the FTC published a **Federal Register** Notice seeking comments from the public concerning the proposed collection of information

from beverage alcohol advertisers. See 71 FR 11659 ("March 8 Notice"). Under the OMB regulations that implement the PRA (5 CFR part 1320), the FTC is providing this second opportunity for public comment while requesting that OMB provide clearance for the proposed collection of information. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before November 24, 2006.

### A. Public Comments/Consultation Outside the Agency

The FTC received 1,299 comments in response to the March 8 Notice.<sup>2</sup> While six comments did not specifically address the proposed data collection,<sup>3</sup> 1,292 comments expressly favored it. These were submitted by: (1) Three members of Congress;<sup>4</sup> (2) members of the National Association of Attorneys General's Youth Access to Alcohol Committee ("NAAG Committee"); (3) 48 organizations engaged in advocacy regarding public health, including the Center for Science in the Public Interest ("CSPI"), Consumer Federation of America, Join Together, and the Leadership to Keep Children Alcohol Free Initiative (hereafter "the 48-organizations comment"); (4) six comments (five from public health organizations and one from an individual) that were nearly identical to the 48-organizations comment; (5) the American Medical Association ("AMA"); (6) Pacific Institute for Research and Evaluation ("PIRE"); (7) National Council on Alcoholism and Drug Dependence, Inc., Sacramento Region Affiliate ("NCADD/Sacramento"); (8) Center on Alcohol Marketing and Youth ("CAMY"); (9) Prevention Network (referencing and reiterating points made in the CAMY comment); (10) Marin Institute; and (11) approximately 1,283 individually submitted form letters ("Form Letters"). The Miller Brewing Company submitted the only comment from the alcohol industry; it did not oppose data collection but requested that it be

limited to reduce the burden on the companies.<sup>5</sup>

#### 1. General Support for Data Collection

The NAAG Committee comment stated that it is in the public interest for the FTC to collect updated data from advertisers. The 48-organizations comment stated that the information previously collected from the alcohol companies and reported on by the FTC has increased understanding of alcohol advertising issues and the role of the industry in regulating its own advertising practices. This comment noted that entities that use this information include Federal and state government legislative and regulatory bodies, law enforcement and legal officials, administrative health agencies, public health organizations, academia, the news media, and the general public. CAMY stated that, given the risks of teen drinking, the proposed information requests are integral to the FTC's consumer protection mission and provide useful information not only to the Commission but to parents, policy makers, and the public health field.

#### 2. Sales Data

In its March 8 Notice, the FTC stated that it would seek company data showing alcohol sales. Only one comment appeared to address this request. Miller Brewing Company stated that the FTC should not request brand-specific information, as such collection would greatly increase the company's burden without furthering the FTC's purpose. This background information, however, will enable the FTC, in its report, to better describe the nature of the industry, including the number of brands, volume sold, and the dollar value of those sales. Accordingly, the proposed Section 6 Orders will request such information, asking each company to identify by name each individual alcohol brand or variety that it sold during the calendar year 2005, and for each brand or variety, state total sales in dollars and in number of 9-liter or 2.25 gallon cases sold.

As a related matter, PIRE, CAMY, and the Form Letters requested that the FTC also seek any information the companies have collected or received regarding use of their brands by persons below the legal drinking age. The FTC will request that the companies submit

any unpublished data they possess showing the brands of alcohol consumed by persons under the legal drinking age in the United States. The request will exclude publicly available data (such as data published by CSPI, the AMA, and others).

#### 3. Expenditure Data

In the March 8 Notice, the FTC stated that it would seek information about expenditures to advertise and promote beverage alcohol in both measured and unmeasured media. Many of the comments offered suggestions regarding collection of this expenditure data.

The letter from the three Congressional representatives recommended that the report include information on measured media advertising, sponsorships and promotions, broken down by state, race, and ethnicity of the target audience. It also asked for a report on brand-specific expenditures. The NAAG Committee requested that the FTC seek detailed data on the percentage of company advertising budgets expended on each type of media and, specifically, where ads are placed (e.g., which television and radio shows, in which movies, during which events).

The 48-organization comment urged the FTC to seek information on: Promotional allowance and retail value-added expenditures; advertising in Spanish-language and other ethnic media; sports-related and college sports-related advertising and marketing (including telecasts, sponsorships, local print and promotional expenditures, and stadium signage); college marketing and promotional activities and expenditures (including spring break promotions in the U.S. and at popular off-shore spring break destinations); marketing, promotions, and brand awareness activity that utilize popular music, celebrities, and/or internet games and sponsorship of community events; and newer avenues of beverage alcohol marketing through "non-traditional" media, such as cell phones, mobile television, podcasts, and brand tie-ins with popular Web sites. The 48-organization comment also asked that the data be broken down state-by-state, company- and brand-specific (subject to relevant trade secret and confidentiality provisions), and by ethnicity of the target audience. Marin Institute joined the 48-organization comment and further requested that the FTC collect data on producer and wholesaler sponsorship of community events and non-profit organizations, and that it measure use of emerging electronic media, such as text messaging, mobile television, and podcasting. The AMA

<sup>2</sup> The comments are available at <http://www.ftc.gov/os/comments/alcoholmanufacadstudy/index.htm>.

<sup>3</sup> Among these, one opposed any government action on alcohol advertising. See comment by Stanford Owen (May 2, 2006). The other five either expressed concerns about alcohol advertising or supported a new FTC report about alcohol advertising. See Comments by Ziming Xuan (May 9, 2006); Independent State Store Union (ISSU) (May 5, 2006); Fred Reid (May 4, 2006); William Bailey (May 2, 2006); and Abigail Pederson (April 17, 2006).

<sup>4</sup> These are: Representatives Lucille Roybal-Allard, Jose E. Serrano, and Frank R. Wolf.

<sup>5</sup> On July 13, 2006, CSPI submitted a letter to FTC Chairman Deborah Platt Majoras requesting that the FTC's planned study include examination of alcohol sponsorship at NASCAR racing events. Although the CSPI letter is not characterized as a formal comment on the **Federal Register** Notice, the FTC took CSPI's request into consideration in preparing the proposed Section 6 Orders.

suggested that the data be modeled on information requests the FTC has issued to cigarette companies, which seek information on 26 categories of expenditures.

The AMA requested that the FTC collect data on measured and unmeasured media, including sponsorship, retail incentives, point-of-purchase, and product placement fees. PIRE requested that the Section 6 Orders seek: Expenditures by media type regarding Internet advertising, sponsorship, text messaging, other new marketing techniques, price discounting and promotional allowances paid to third parties; data on expenditures for educational campaigns and youth consumption prevention; and grants to third parties to promote prevention and treatment. It also asked that the data break out expenditures for sports-related marketing and college marketing.

CAMY requested that the FTC seek two or more years of data for measured media advertising, by media type (including broadcast network, cable network, spot, local/regional cable, interconnects, and Hispanic television); magazine advertising, broken down by full-run and demographic editions; spot and network radio; Internet advertising (including web advertising, email, company Web sites, and IM sponsorships); and "out-of-home" advertising. Regarding unmeasured media, CAMY urged the FTC to seek, at a minimum, data on the kinds of expenditures sought in the 2003 Section 6 Orders to the cigarette companies (including price discounting, promotional allowances, educational campaigns). CAMY suggested that the FTC obtain data on industry spending on "social aspects organizations" such as International Center on Alcohol Policies and the Century Council). It also requested that the agency seek expenditures for "new media," for example, "pixting" (*i.e.*, picture, or multimedia, messaging) and "texting" (*i.e.*, text messaging) on mobile phones, podcasting, and online viral marketing. Finally, CAMY asked that the data break out aggregate spending on sports and college marketing across all categories.

Miller Brewing Company asked that the Commission not request expenditures on a brand-specific basis. It stated that such a request would greatly increase the burden in collecting the data and would not further the agency's stated purpose. It noted that the FTC's prior alcohol reports published data on an aggregate basis, and urged that the data be collected that way. Miller Brewing Company also requested that the agency seek expenditure data for *measured* media

(television, radio, print, outdoor) only, noting that measured media can be tracked, reported, and compared with reasonable precision. Miller stated that unmeasured media does not have a universally accepted definition, and that certain expenditures in this group may bear no relation to marketing. For example, Miller noted that sports sponsorships include fees for ticket allotments, suites, and use of facilities, and that the expenditures are not broken down as to whether they are marketing-related. Miller stated that collection of unmeasured media data will be burdensome, but did not provide a cost estimate.

The FTC's 1999 Report estimated that measured marketing expenditures may account for only one-third of alcohol brand promotional budgets. The proposed Section 6 Orders are designed to enable the FTC to better understand how alcohol industry promotional dollars targeted to consumers are spent and how much current self-regulatory efforts aptly address legitimate public concerns about alcohol promotion. See section B. 1.a of this notice detailing what the Commission will seek on expenditure data through its Section B Orders.

#### 4. Advertisement Placement

The voluntary advertising guidelines of the beer, wine, and distilled spirits industries each state that alcohol advertising should be placed in television, radio, and print communications only where at least 70% of the audience is reasonably expected to be above the legal purchase age (the "70% placement standard"). In the March 8 Notice, the FTC stated that it planned to seek data on compliance with this standard.

The comment from the three Congressional representatives expressed the hope that the FTC's analysis of alcohol industry placement practices will not be limited to reporting on what percentage of ads comply with the 70% placement standard, and specifically requested information that would allow the Commission to determine whether ads targeted to the Hispanic community comply with the current placement standard. The NAAG Committee comment urged the FTC to collect detailed data showing whether alcohol companies have complied with the 70% placement standard, including data showing where advertisements are placed (*e.g.*, what shows, movies, or events) and the demographics of the audience, including data showing what percentage of the audience falls within the following age groups: 12–20, 21–24, and 25–34. The NAAG Committee

further suggested that the FTC collect data on other efforts made by the companies to ensure compliance, including whether they use "no buy" lists, follow higher-than-required standards, and audit past placements. The 48-organization comment urged the FTC to seek information on magazine and television advertising in publications or programs with youth readership or viewership rates over 15 percent, or 2 million, youth readers. PIRE requested that the FTC obtain data evaluating adherence to the 70% placement standard, by specific brand. In that regard, it asked that the agency seek data used for planning media placement, as well as actual gross advertising impressions, gross ratings points, and audience delivery for each target audience, audience ages 12–20, and total audience age 12 and above. NCADD/Sacramento asked that the FTC seek information that will allow it to compare voluntary advertising compliance among industry members and to identify magazine and television advertising where youth constitute more than 15% of the audience. CAMY asked that the FTC seek data that will allow it to evaluate compliance with the 70% placement standard on a per-brand basis; to collect data on primary and secondary target audiences (age, gender, etc.), gross ad impressions, gross ratings points, and audience delivery (reach and frequency) for audience ages 12–20 and total audience 12 and above. CAMY also requested that: advertisement placement data be provided on a local market basis for local placements; data be reported as planned and as achieved; companies report on what media and channels they have audience composition data and, where data is unavailable, that they specify sources and standards for audience estimates.

The scope of the Orders specifically regarding advertisement placement is detailed in Part B.1.b. of this notice.

#### 5. External Review of Code Compliance

The trade associations representing the three segments of the beverage alcohol industry—the Distilled Spirits Counsel of the United States ("DISCUS"), Beer Institute ("BI"), and Wine Institute ("WI")—each have adopted a mechanism for considering whether member ads comply with the association's voluntary advertising code. The FTC's March 8 Notice stated that the proposed Section 6 Orders would seek data regarding those external compliance review mechanisms. No comments opposed this request. The comment from the three Congressional representatives urged the Commission to evaluate the effectiveness of the

compliance review process among the various segments of the alcohol industry, including the outcomes of complaints filed with the industry review boards. CAMY requested that the FTC also consider how “independent” such external review programs are, by analyzing their degree of transparency, the breadth of their purview, and their timeliness. The NAAG Committee asked that the FTC also collect data on the percentage of industry members having pre-publication third-party review, the percentage of proposed ads that fail review and why, the number of ads that pass but are later the subject of complaints, and the way companies respond to complaints.

The scope of the Orders specifically regarding external review of code compliance is detailed in Part B.1.c. of this notice.

#### 6. Other Requests Contained in Comments

Many of the comments filed in response to the March 8 Notice addressed what ongoing action the FTC should take after its initial data collection. Some of the comments suggested that the agency collect information from the alcohol companies and issue annual or bi-annual reports. The FTC plans to complete the current study before considering this proposal.

Some comments suggested that the FTC evaluate other issues, such as alcohol product placement in movies and underage access to beverage alcohol websites. The proposed Section 6 Orders will seek information about expenditures for product placements and website advertising but will not seek information on the extent that these media expose minors to promotions. The goal of the current study is to conduct a comprehensive review of: alcohol advertising and marketing expenditures; industry compliance with current placement standards as they pertain to television, radio, magazine, and newspaper advertising over the stated period of time; and third-party review of complaints. The FTC expects that focusing its efforts in this manner will produce a study of the highest possible quality. It is committed to ongoing monitoring of this subject area, however, and anticipates that it will address other issues raised by alcohol advertising and marketing in the future.

#### B. Information Requests to the Beverage Alcohol Industry

##### 1. Description of the Collection of Information and Proposed Use

The FTC proposes to send information requests to up to twelve parent companies (“industry members”) responsible for domestic advertising of beer, wine, or distilled spirits. The information requests will seek, to the extent industry members possess it, data and information regarding: (1) Company sales of beverage alcohol on a per brand basis, in both dollars and units sold; (2) company expenditures to advertise, market, and promote beverage alcohol in the United States; (3) compliance with the 70% placement standard contained in the industry’s self-regulatory codes; and (4) the status of external mechanisms to review complaints about code compliance.

**Note:** With this publication any destruction, removal, mutilation, alteration, or falsification of documentary evidence that may be responsive to this information collection, within the possession or control of a person, partnership, or corporation subject to the FTC Act, may be subject to criminal prosecution. 15 U.S.C. 50; *see also* 18 U.S.C. 1505.

**Confidentiality:** Section 6(f) of the FTC Act, 15 U.S.C. 46(f), bars the Commission from publicly disclosing trade secrets or confidential commercial or financial information it receives from persons pursuant to, among other methods, special orders authorized by section 6(b) of the FTC Act. Such information also would be exempt from disclosure under the Freedom of Information Act. 5 U.S.C. 552(b)(4). Moreover, under section 21(c) of the FTC Act, 15 U.S.C. 57b–2(c), a submitter who designates a submission as confidential is entitled to 10 days’ advance notice of any anticipated public disclosure by the Commission, assuming that the Commission has determined that the information does not, in fact, constitute 6(f) material. Although materials covered under one or more of these various sections are protected by stringent confidentiality constraints, the FTC Act and the Commission’s rules authorize disclosure in limited circumstances (*e.g.*, official requests by Congress, requests from other agencies for law enforcement purposes, or administrative or judicial proceedings). Even in those limited contexts, however, the Commission’s rules may afford protections to the submitter, such as advance notice to seek a protective order in litigation.

*See* 15 U.S.C. 57b–2; 16 CFR 4.9–4.11.

The information presented in the study will not reveal company-specific

data. *See* 15 U.S.C. 57b–2(d)(1)(B). Rather, the Commission anticipates presenting information on an anonymous or aggregated basis, in a manner sufficient to protect individual companies’ confidential information.

##### a. Information About Expenditure Data

The proposed Section 6 Orders will seek expenditures for advertising, merchandising, or promotion of alcohol during calendar year 2005. The Orders require that the expenditures be broken down into 22 categories.<sup>6</sup> Thus, the proposed Section 6 Orders seek comprehensive information about expenditures to promote alcohol to consumers, including most of the information suggested in the comments.<sup>7</sup> This information will help the agency evaluate how industry members allocate their promotional expenditures, so as to better determine the degree industry self-regulatory codes address the various kinds of promotions employed by the industry. The categories are carefully defined to facilitate compliance with the requests. The Commission agrees with Miller Brewing Company, however, that it is not necessary for the alcohol companies to report such information on a brand-by-brand basis. Given the substantially expanded scope of this request, brand-by-brand reporting may pose an unnecessary additional burden on the companies without meaningfully increasing the FTC’s understanding how promotional dollars are directed on an industry-wide basis.

The proposed Section 6 Orders do not seek a breakdown of expenditures by race or ethnicity of the target audience. The agency is concerned that reporting specific expenditure data by race or ethnicity might produce potentially misleading results due to the difficulty of separating targeted advertising from

<sup>6</sup> These are: Television advertising; radio advertising; magazine advertising; newspaper advertising; transit advertising; other outdoor advertising; direct mail advertising; company-sponsored Internet sites; other Internet site advertising; other digital advertising; specialty item distribution; public entertainment events; not sports-related; sponsorship of sporting events, sports teams or individual athletes; other point-of-sale advertising and promotions; spring break promotions; product placements; retail value-added expenditures; telemarketing; promotional allowances; and total reportable expenditures. In addition, the proposed Section 6 Orders will seek cross-category totals for sports and sporting events and social responsibility programs and messages.

<sup>7</sup> Some of the suggested requests are more extensive than needed for the FTC’s current purposes. For example, the FTC does not propose to require the companies to allocate magazine advertising expenditures among “full run” and “demographic” editions. The burden of collecting such data is likely to outweigh the benefits to the FTC and the public of obtaining it.

general advertising that may have the same or broader reach to a particular racial or ethnic group. The Commission will, however, seek advertisement placement data that will help the FTC to evaluate whether ads targeted to an Hispanic or African-American audience comply with industry placement standards, as further discussed below.<sup>8</sup>

#### b. Information About Advertising Placement

The proposed Section 6 Orders will require the companies to provide, for each instance of advertising dissemination between January 1 and June 30, 2006, on television, on radio in measured markets, in magazines, and in newspapers: the advertisement's name; the brand advertised; the name of the media and location of dissemination; the date and time that the advertisement appeared; the name of the show during or in conjunction with the advertisement appeared; and the demographics of the audience (persons under 21, and persons 21 and over), in absolute numbers and percentages, for that dissemination.<sup>9</sup> The proposed Section 6 Orders also will require the companies to provide a company-wide summary of this data to facilitate analysis. This data will permit the Commission to measure the extent that the youth audience for each ad placement exceeded 30% of the total audience, or whether they complied with existing industry codes.<sup>10</sup> Further, given concerns about whether advertisements targeted primarily to Hispanic or African-American consumers are more likely than others

to reach underage consumers, the Commission will require that the companies identify such ads so that the agency can evaluate this concern.

The Commission's proposed Section 6 Orders also seek a narrative description of: the steps taken when placing ads to reduce the proportion of persons under 21 in the audience, including the demographic databases relied on in making placement decisions; how often post-placement data are reviewed to verify that a placement complied with the placement guidelines and the steps taken if a compliance shortfall is identified; and the additional safeguards in place (e.g., use of "no buy" lists and higher placement standards, media content review) to reduce the likelihood of reaching underage audiences. This will permit the Commission to obtain a clear and detailed picture of the alcohol industry's advertising placement practices during the period at issue.

The proposed Section 6 Orders will not require the companies to identify, for each ad, the gross rating points and the breakdown of consumers aged 12–20, 21–24, and 25–34 in the audience. Given the significantly expanded scope of the current requests, such requirements would be unnecessarily burdensome and the information not fully relevant to compliance with the placement standard contained in the industry's voluntary advertising codes.

#### c. Information About External Review of Code Compliance

The proposed Section 6 Orders will require the alcohol companies to describe in detail the enforcement mechanism(s) available as of December 31, 2006 for possible violations of the DISCUS, BI, and WI voluntary advertising codes. The response to this aspect of the Section 6 Orders will not be due until January 10, 2007, to allow the FTC time to receive and evaluate whole-year information regarding third-party review. The proposed Orders also will require, for each complaint about the company's advertising, promotion, or marketing forwarded for independent review between January 1, 2006 and December 31, 2006, that the company provide a copy of the complaint, any document reflecting the reviewer's decision or recommendation, and describe what action, if any, the company took in response to the reviewer's decision or recommendation. These requests will enable the Commission to evaluate the efficacy of current advertising review mechanisms. Currently, the Commission does not plan to ask about pre-publication review of proposed ads by third parties, or the number of ads that pass but are later the

subject of complaints, and the way companies respond to complaints. The goal of this section of the proposed Section 6 Orders is to evaluate how the various segments of the industry have responded to the FTC's recommendation that they adopt systems for external, post-publication review of complaints about advertising code compliance.

#### 2. Estimated Hours Burden

FTC staff's estimate of the hours burden is based on the time required to respond to each information request. The Commission intends to issue the information requests to the 12 largest beverage alcohol advertisers. Because these companies vary greatly in size, in the number of products that they sell, and in the extent and variety of their advertising and promotion, staff has provided a range of the estimated hours burden. Based upon its knowledge of the industry, the staff estimates that the time required to identify, obtain, organize, and prepare responses to each of the four information categories will range, on average, between 15 and 120 hours for most companies. Staff anticipates, however, that the largest companies may require up to 280 hours for the most time-consuming category, advertising placement information. The total estimated burden per company is based on the following assumptions:

Identify, obtain, and organize sales information; prepare response: 15–35 hrs.

Identify, obtain, and organize information on advertising and marketing expenditures; prepare response: 40–65 hrs.

Identify, obtain, and organize placement information; prepare response: 150–280 hrs.

Identify, obtain, and organize information regarding compliance review; prepare response: 15–20 hrs.

FTC staff anticipates that the cumulative hours burden to respond to the information requests will be between 220 hours and 400 hours per company. Nonetheless, staff conservatively assumes that the burden per company for each of the twelve (12) intended recipients will be 400 hours. Accordingly, cumulative estimated burden is 4,800 hours. These estimates include any time spent by separately incorporated subsidiaries and other entities affiliated with the parent company that received the information requests.

#### 3. Estimated Cost Burden

It is difficult to calculate precisely labor costs associated with this data production. Labor costs entail varying

<sup>8</sup> The proposed orders also will not seek information on expenditures for slotting allowances or price discounts; such information does not enhance the agency's understanding of self-regulation. The requests focus on expenditures for advertising and promotions that may be seen by underage consumers. Payments for shelf space, payments to wholesalers, and price discounts to wholesalers and retailers do not provide such information. Given the expanded nature of this request, seeking data on them would be unnecessarily burdensome.

<sup>9</sup> Two sets of demographics are relevant to evaluating compliance with placement standards: the historical demographics used by a company for planning purposes when purchasing ad time, and audience demographics when a placement actually occurred. The proposed Section 6 Orders seek the latter data. To illustrate, for an ad placed on television, the Orders require the companies to provide the average demographic data for the program during which the show ran, over the three-month period (the "quarter") when the placement appeared. If program-specific data is unavailable (as is often the case with cable), the Orders seek the quarterly average data for the daypart during which the ad appeared.

<sup>10</sup> This data also will permit the Commission to evaluate the audience for televised NASCAR events, in connection with CSPI's request that the FTC review the degree that NASCAR promotions reach a youth audience.

compensation levels of management and/or support staff among companies of different sizes. Although financial, marketing, legal, and clerical personnel may be involved in the information collection process, FTC staff has assumed that mid-management personnel and outside legal counsel will handle most of the tasks involved in gathering and producing responsive information, and has applied an average rate of \$250/hour for their labor. FTC staff anticipates that the labor costs per company will range between \$55,000 (220 hours x \$250/hour) and \$100,000 (400 hours x \$250/hour). Nonetheless, as a conservative measure, staff estimates that the total labor costs per company will be \$100,000.

FTC staff believes that the capital or other non-labor costs associated with the information requests are minimal. Although the information requests may require industry members to maintain the requested information the Commission seeks, they should already have in place the means to compile and maintain it.

**John D. Graubert,**

*Acting General Counsel.*

[FR Doc. E6-17790 Filed 10-23-06; 8:45 am]

BILLING CODE 6750-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Secretary's Advisory Committee on Human Research Protections

**AGENCY:** Office of Public Health and Science, Office of the Secretary, HHS.

**ACTION:** Notice.

**SUMMARY:** Pursuant to Section 10(a) of the Federal Advisory Committee Act, U.S.C. Appendix 2, notice is hereby given that the Secretary's Advisory Committee on Human Research Protections (SACHRP), will hold its eleventh meeting. The meeting will be open to the public. Due to unanticipated issues during preparation for the November meeting of SACHRP, this notice will not meet the 15-day requirement for publication in the **Federal Register**.

**DATES:** The meeting will be held on Thursday, November 2, 2006 from 8:30 a.m. until 3 p.m. and Friday, November 3, 2006 from 8:30 a.m. until 12:30 p.m.

**ADDRESSES:** The Sheraton National Hotel, 900 South Orme Street, Arlington, VA, 22204. Phone: (703) 521-1900.

**FOR FURTHER INFORMATION CONTACT:** Bernard Schwetz, D.V.M., Ph.D., Director, Office for Human Research

Protections (OHRP), or Catherine Slatinshek, Executive Director, Secretary's Advisory Committee on Human Research Protections; Department of Health and Human Services, 1101 Wootton Parkway, Suite 200, Rockville, MD 20852; (240) 453-8139; fax: (240) 453-6909; e-mail address: [sachrp@osophs.dhhs.gov](mailto:sachrp@osophs.dhhs.gov).

**SUPPLEMENTARY INFORMATION:** Under the authority of 42 U.S.C. 217a, Section 222 of the Public Health Service Act, as amended, SACHRP was established to provide expert advice and recommendations to the Secretary of Health and Human Services and the Assistant Secretary for Health on issues and topics pertaining to or associated with the protection of human research subjects.

On November 2, 2006, SACHRP will receive and discuss updated information and a report from the Subpart A Subcommittee and issues involving the application of subpart A of 45 CFR part 46 in the current research environment. This subcommittee was established by SACHRP at its October 4-5, 2004 meeting.

On November 3, 2006, the Committee will discuss future topics and issues that will be considered by the Subcommittee on Research Involving Individuals with Impaired Decision-Making Capacity. This subcommittee was established by SACHRP at its July 31-August 1, 2006 meeting. In addition, the Committee will hear presentations and invite discussions from several representatives on a panel on issues related to research involving subjects with impaired decision-making capacity.

Public attendance at the meeting is limited to space available. Individuals who plan to attend the meeting and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the designated contact persons. Members of the public will have the opportunity to provide comments on both days of the meeting. Public comment will be limited to five minutes per speaker. Any members of the public who wish to have printed materials distributed to SACHRP members for this scheduled meeting should submit materials to the Executive Director, SACHRP, prior to the close of business Friday, October 27, 2006. Information about SACHRP and the draft meeting agenda will be posted on the SACHRP Web site at: <http://www.hhs.gov/ohrp/sachrp/index.html>.

Dated: October 18, 2006.

**Catherine Slatinshek,**

*Executive Director, Secretary's Advisory Committee on Human Research Protections.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Healthcare Research and Quality

#### Agency Information Collection activities: Proposed Collection; Comment Request

**AGENCY:** Agency for Healthcare Research and Quality, Department of Health and Human Services.

**ACTION:** Notice.

**SUMMARY:** This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) allow the proposed information collection project: "Evaluation of the Implementation and Impact of Pay-for-Quality Programs." In accordance with the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)), AHRQ invites the public to comment on this proposed information collection.

**DATES:** Comments on this notice must be received by December 26, 2006.

**ADDRESSES:** Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, 540 Gaither Road, Room # 5036, Rockville, MD 20850.

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from AHRQ's Reports Clearance Officer.

**FOR FURTHER INFORMATION CONTACT:** Doris Lefkowitz, AHRQ, Reports Clearance Officer, (301) 427-1477.

#### SUPPLEMENTARY INFORMATION:

##### Proposed Project

"Evaluation of the Implementation and Impact of Pay-for-Quality (P4Q) Programs."

The P4Q Evaluation is a multi-method research project designed to evaluate the implementation and impact of P4Q programs on physicians across three programs operating in *health care* safety net settings. The P4Q programs participating in the evaluation are offering their health care providers financial incentives to achieve predefined quality targets. Data collected as part of this evaluation will have direct operational relevance to