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mike's hard lemonade co.
cell John L. Malak
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Jmalak@mikeshardlemonade.com Southeast Texas Area
Sales Manager for Mike's
Hard Lemonade
P.O. box 1446, New Waverly, TX 77358
DATE 09-16-03

Mr. William Foster
Chief
Regulations and Procedures Division
ATTN: Notice No. 4
Alcohol and Tobacco Tax and Trade Bureau
Post Office Box 50221
Washington, D.C. 20091-0221

RE: TTB Notice No. 4
Dear Mr. Foster:

Good day sir. My name is John Malak and I represent the Mark Anthony Brands Company in Southeast Texas. I am the area sales manager for Mike's Hard Lemonade and my job depends on the future viability of FMBs. I strongly oppose TTB's proposal to limit the alcohol contribution from flavoring materials in these beverage products to 0.5% alcohol by volume. In order to establish a more rational standard, I urge TTB to adopt a majority standard that would allow less than 50% of the alcohol content in FMBs to come from flavoring materials.

For years, TTB has allowed brewers to produce and sell FMBs that derive a majority of their alcohol from flavoring materials. (Zima, Doc Otis and some wine coolers come to mind) Notice No. 4 now claims that a 0.5% standard is necessary to prevent consumer confusion. Within the wholesaler network that I am affiliated with there is little to no confusion amongst consumers. The legal drinking age in Texas is 21. Our consumers understand that these beverages are what they claim on the label and packaging-Flavored Malt Beverages-. You some times hear the word 'malternatives' used to describe certain brands because they are considered alternative drinks to regular beer. I feel our consumer- the FMB drinker- is more concerned with the taste, quality and price of our product more so than where the alcohol is derived from.

Notice No. 4 also notes that state alcohol beverage authorities have urged TTB to establish regulatory limits on the addition of alcohol to malt beverages from flavors. While a nationally uniform standard could benefit both state regulators and the FMB industry, Notice No. 4 gives no reason why the proposed 0.5% standard is the only way to accomplish this goal.

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It would appear to me that this ruling would drastically change the way we are currently doing business, at least here in Texas. The market category in which we operate in has seen and felt some sales growth over the past two years. We have established a good competition level within our category and continue to grow and expand our sales and distribution. I strongly urge TTB to adopt a rule that all companies can meet -- a majority standard that caps the alcohol contribution derived from flavoring materials contained in an FMB to less than 50% of the product's alcohol content. This standard would prevent consumer confusion if any exists, establish a nationally uniform standard that would assist the federal government and the states in regulating FMBs, and preserve both market stability and competition.

I sincerely appreciate the time you have taken to read my letter and I hope you will consider other options that may be available to resolve this issue I would like to ask that you please reject the proposed 0.5% standard for FMBs and begin searching for other options that may be available. I understand that what everyone is trying to do is necessary, however there must be a way to achieve this without drastically changing or remodeling a category of the beer market that we have spent years establishing, growing and promoting. We represent an important and viable category in the beer market, please help us keep it that way.

Sincerely,

John L. Malak
09-16-03

Area Sales Manager
Mike's Hard Lemonade