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JOHNSON DISTRIBUTING INC.
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715-344-7070
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Chief, Regulations & Procedures Division
Attn: Notice No. 4
Alcohol & Tobacco Tax & Trade Bureau
P.O. Box 50221
Washington, DC 20091

Dear Sir:

We are wholesale distributors of malt beverages including the types of flavored malt beverages covered by your Notice No. 4.

Flavored malt beverages are an important part of the beer business. They represent a growing segment of the market and are sold at premium prices and margins. We are thus very concerned about the impact of your proposed rule on flavored malt beverages and our business.

We are concerned that your proposal to require that not more than 0.5% of the final alcohol content in malt beverages come from flavoring may: (i) cause flavored malt beverages to be rejected by consumers because of real or perceived taste changes, (ii) cause marketers to raise the price of flavored malt beverages to cover the cost of reformulating their products, or (iii) cause the marketers of flavored malt beverages to reclassify their products as distilled spirits and terminate our right to distribute them.

Your notice suggests that you are willing to consider a different standard. Our Company urges you to adopt a more reasonable standard for alcohol addition to flavoring. It is our understanding that within the flavoring industry, alcohol is the preferred medium for flavoring food products. Why should the amount of alcohol in flavoring even matter so long as the final alcohol content of flavored malt beverages is the same as beer? We think it is contradictory for you to propose a limit on the amount of alcohol used in flavoring when there is no actual Federal limitation on the amount of alcohol in beer. We are aware of malt liquors and ice beers with alcohol content 50% greater than flavored malt beverages. We are also aware of a growing movement in "extreme beers" having alcohol contents as high as 25% by volume, five times greater than flavored malt beverages.

Rather than focusing on alcohol in flavoring, we think a better approach should be to require a minimum amount of malt be used in all types of "malt" beverage. Your current standard requires 25% minimum malt usage. Thus the appropriate standard should be 25% malt content in all types of beer.

If you feel a need to regulate alcohol additions to beer through flavorings or, for that matter, for any other purpose, you should limit your regulation to beers with higher alcohol contents. Since most beers already contain alcohol at around 5% by volume through natural fermentation, there is really no "alcohol addition" if the finished product does not exceed this level. Therefore, regulation of alcohol addition should only apply when the finished product has greater alcohol content.

Flavored malt beverages are packaged and sold the same way that beer is sold. Wholesalers, retailers and consumers have embraced these new products enthusiastically. It would be most unfortunate for the proposed regulations to be used as a competitive tool to favor those opposed to this growing category rather than serve a legitimate public purpose.

In my particular distributorship, flavored malt beverages are an extremely large portion of our business. I feel this new proposal could do enough harm to my business to put us out. That's 24 people out of work. There are a few hundred distributorships in the United States in the same situation. I plead with you to leave it like it is.

Sincerely,

Wayne Johnson
President