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October 7, 2003
Chief, Regulations & Procedures Division
Attention: Notice No. 4
Alcohol & Tobacco Tax & Trade Bureau
Box 50221
Washington, DC 20091

Dear Sir / Madam

I am a wholesale distributor of Wines, Spirits, and Malt Alcoholic Beverages including Flavored Malt Beverages. I am writing today to urge you to select option #2, as proposed by the TTB, (Alcohol & Tobacco Tax & Trade Bureau), as a reasonable and prudent response to the need for further regulation of the malt alcohol beverage market place.

Option #2 proposes that not less than 51% of the alcohol content of an FMB must be derived from brewed malt. This so called 51% rule is consistent with rule making concerning labeling throughout the beverage alcohol industry. Products as diverse as wines and bourbon whiskey are subject to a minimum standard of 51% in order to represent themselves as a genuine product of a specified class. In fact Beer must meet only a 50% standard!

"Bourbon" 51% of the fermentable base must be corn

"Merlot" 51% of the product by volume must be derived from the Merlot grape variety.

"Beer" 50% of the fermentable base must be a grain

There can be little justification to place a requirement on an FMB, that is so drastically different than other forms of beverage alcohol.

We urge the TTB to adopt option #2, the 51%/49% standard, as reasonable and responsible for the following reasons:

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- 1 FMB `s should not be discriminated against. Rule making should be consistent across all forms of beverage alcohol.
- 2 A minimum national standard ensures product integrity.
- 3 FMB `s are clearly popular with the consumer and the consumer should be afforded continued access on a competitive basis with other malt based beverages.
- 4 The consumer has clearly found the taste profiles of the existing FMB's satisfactory and to impose a quantum change on the consumer is unwarranted
- 5 If marketers and manufactures believe that the 0.5% is indeed a superior product, then they should be given the opportunity to compete head on with the 51 %/49% alternative, and have the consumer decide the issue, not the regulator

For the reasons as stated I urge the TTB to adopt option #2, the 51 %/49% standard.

Respectfully Submitted,

Richard Leventhal
President
Fedway Associates