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Grover G. Norquist President

April 23, 2003

The Honorable Arthur J. Libertucci
Chief
Regulations and Procedures Division
Alcohol and Tobacco Tax and Trade Bureau
P.O. Box 50221
Washington, DC 20091-0221

Re: TTB Notice No. 4 on Flavored Malt Beverages

Dear Chief Libertucci:

The Alcohol & Tobacco Tax & Trade Bureau (TTB), successor to ATF, has prepared new regulations that will limit, for the first time, the use of flavors in flavored malt beverages (FMBs) containing approximately 5% alcohol by volume.

Americans for Tax Reform (ATR) submits the following comments in opposition to the Departments proposed rule change. ATR is a non-partisan coalition of taxpayers and taxpayer groups who oppose all federal and state tax increases.

ATR is concerned with the proposed new regulations towards FMBs. The proposed rule substantially changes longstanding policies permitting the use of flavors in the production of flavored malt beverages. The effects of the new rule will limit consumer choice, decrease competition, and is a waste of taxpayers dollars.

The Alcohol & Tobacco Tax & Trade Bureaus proposed rule creates a new standard that would not permit more than 10% of the total alcohol level in FMBs be derived from flavors. As many companies that invested millions of dollars creating and producing FMBs that comply with current federal policy have demonstrated to your Agency, the rule changes prevent FMB producers from meeting the new standard without significantly compromising product taste. Implementation of the proposed rule will disappoint consumers, while destroying the market for these products, and costing jobs in production facilities across the country.

In addition, TTB's continued desire to propose a 10% limit, without any assurances or evidence that their scientists have specific commercially viable and tested production alternatives that allow FMB producers to match the taste profiles of products already in the market today, is particularly disturbing.

The proposed rule eliminates competition in the market. With the implementation of the rule the new standard will substantially change the taste of the FMBs, giving them more of a Washington DC 20036

malt flavor and it possibly killing off most of the products. The loss of FMBs removes another choice from the beverage market place and further reduces competition.

The beverage industry has used the current long standing federal policy to develop the FMB category and create consumer demand for the products. TTB should not disrupt those industry investments and consumer expectations.

As you know, TTB's predecessor, ATF, first suggested that limit in July of 2002 without the benefit of industry input. Since the late 1980s, ATF allowed brewers to create non-conventional beers that derived most of their alcohol from flavors, as long as those products contained less than 6% ABV the same strength as conventional beers.

Regardless, of how these products are formulated, consumers will get a product at about 5% alcohol by volume (ABV) - the same alcohol content as traditional beer. Government should accommodate this legitimate consumer, industry, and employment needs before formal rulemaking commences. Therefore, the TTB continued efforts to alter current regulations on FMBs are a waste of taxpayer funded government time and resources.

ATR will continue to support efforts to reach a reasonable compromise that includes the resolution of the issues addressed above.

Sincerely;

Grover G. Norquist
President

Washington DC 20036