

DRAFT

Mr. Bradley Buckles
Director
Bureau of Alcohol, Tobacco, and Firearms
Treasury Department
650 Massachusetts Avenue, NW
Room 8290
Washington, D.C. 20226

Re: Labeling and Advertising of Flavored Malt Beverages

Dear Director Buckles:

We write you today as a coalition of organizations that promote public health and the well being of young people and families in the United States. Although we applaud the Bureau of Alcohol, Tobacco, and Firearms (BATF) for the scrutiny it has begun to direct to the burgeoning category of flavored malt beverages (aka "alcopops"), we are concerned that BATF's current regulatory approach ignores important consumer, health, and safety considerations and reaches conclusions that may not be supported by sound consumer research.

In particular, we note that BATF's April 8, 2002 Industry Circular on labeling and advertising of flavored malt beverages fails to:

- (1) address the effect of the packaging, labeling, and advertising on underage persons and underage drinking;
- (2) acknowledge that the use of liquor-brand names and styles on labels and in advertising may mislead consumers to believe the products are liquor, rather than malt-based, and;
- (3) consider the effects of massive television advertising (including on network television) for the new, liquor-branded alcopops on consumer perception of the nature of the products.

In light of recent research evidence compiled for the Center for Science in the Public Interest (CSPI), we are puzzled by BATF's apparently unsubstantiated holding that the use of liquor brand names and logos on product packaging, bottles and labels, and in advertising for "malt beverages" *is not in itself misleading* (italics added). Even industry sources have admitted that "[t]hese drinks are able to steal and capitalize on the sexy image of hard liquor" and that they promote the parent hard-liquor brands.

Data collected for CSPI in June, 2002 found that teens (12- to 18-year-olds) think "alcopop" products with liquor-brand names are more like liquor than beer or wine. The same study (summary findings attached) found that teens believe television ads for these products are ads for hard liquor. Clearly, at least among teens, brand names such as Smirnoff, Bacardi, Jack Daniels, Stolichnaya, etc. on container labels that resemble popular hard liquor products communicate hard liquor to consumers. We believe that consumer research among adults might track the perceptions CSPI found among teenagers. Unless BATF has engaged in such research, its conclusion – that the use of liquor brand names on flavored malt beverage products is not misleading – remains entirely speculative and without adequate evidentiary basis. We strongly urge BATF to conduct research among adults *before* issuing final rules on this issue. We also ask that BATF's relevant finding in the April 8 Industry Circular be revoked until such research has been conducted.

The staggering growth of this new category of flavored malt beverage products presents serious public health and safety problems that BATF has failed to address. Permitting liquor brands to be packaged as malt beverages opens the door to their broader distribution and advertising. Liquor-branded "alcopops" now have access to nearly eight times as many outlets as they would have if they were classified as distilled products. That expanded access will certainly enhance the awareness of liquor brands – including among young people – and will provide many more opportunities for underage persons to purchase the products illegally.

"Alcopop" producers plan to spend some \$450 million on commercials in the coming year. Together with cable and local ads for hard liquor, that would add as much as \$600 million in new spending for television advertising of alcoholic beverages. Such an increase in advertising (most of it directly or indirectly promoting distilled spirits) would nearly double last year's television ad outlays and can only intensify the pressure on young people to drink. Additionally, the new prominence of hard liquor brands – in grocery and convenience stores and in advertising when teenagers watch television – can only fuel further confusion about the nature of the new products, both among young people and adults.

CSPI's recent investigation of youth television viewing and teenagers' awareness of "alcopop" brands clearly demonstrates that millions of 12- to 18-year-olds watch television when the "alcopop" ads run. Present alcohol-industry voluntary advertising codes are woefully inadequate to protect teens – and even younger viewers – from the steady, and strengthening barrage of inducements to drink.

Many of the ads they see contain specific elements that appeal to adolescent desires and aspirations. They feature themes of youthful rebellion, independence, social and sexual attraction, and sophomoric humor. In effect, they reinforce the idea that sweet, fruit-flavored, alcohol-disguised "alcopops" are designed with young people – and other novice drinkers – in mind. Industry observers, such as Jeff Cioletti, who was interviewed in *Supermarket Business* (March 15, 2002), recognized "that the line

between soft drinks and alcoholic beverages is blurring. The marketing for these beverages clearly is aiming younger, toward the just-turned-21 segment of generation Y."

We believe that "alcopop" marketing – whether deliberately or not – reaches and attracts younger consumers as well. Ads for "alcopop" products misleadingly suggest that they are acceptable for persons too young to consume alcoholic beverages legally. We strongly urge BATF to examine carefully the appeal of these beverages to underage drinkers and review the placement and content of "alcopop" product advertisements. We expect that such a rigorous review would go beyond scrutiny of industry marketing plans, and explore actual effects of the ads on consumers. We recommend that BATF conduct exhaustive consumer research on this point.

We call upon BATF to expand the scope of its current investigation of flavored malt beverages to include consideration of important public health and safety issues and underage drinking. Such an examination should be based on thorough consumer research, including surveys and focus groups, to determine the extent to which consumers are in fact misled about flavored malt beverages by the use of well-known liquor brand names in malt-beverage product labeling and advertising. In addition, BATF should examine the impact of liquor branding and the advertising for liquor-branded "alcopops" on underage persons.

If you have any questions or require additional information, please contact George Hacker, Director of CSPI's Alcohol Policies Project at 202-777-8343. Thank you for your consideration of our concerns.

Sincerely,