



Office of the Secretary

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

October 2, 2009

Harriett Dean
Ingham Substance Abuse Prevention Coalition
State of California

Re: *In the Matter of Constellation Brands, Inc.*
FTC File No. 092-3035, Docket No. C-4266

Dear Ms. Dean:

Thank you for your comment regarding the proposed consent order accepted by the Federal Trade Commission ("Commission") in the above-captioned matter. Your comment was placed on the public record pursuant to Section 2.34 of the Commission's Rules of Practice, 16 C.F.R. § 2.34, and was given serious consideration by the Commission. You state that the FTC should prohibit the premixing of alcohol and stimulants such as caffeine as an unfair and deceptive business practice, citing evidence that these products may pose health and safety risks to users.

The Commission's case against Constellation Brands, Inc. ("CBI") addresses the question of whether CBI's advertising was deceptive and, if so, what remedy should apply. Although the Commission is highly concerned about the potential for consumer injury from the over-consumption of beverage alcohol products, the broader question of what kinds of additives and ingredients should be permitted in beverage alcohol products, and at what levels, is more appropriately addressed by the Food and Drug Administration (which is charged with ensuring the safety of food and beverages), in conjunction with the Department of the Treasury's Alcohol and Tobacco Tax and Trade Bureau (which has responsibility for evaluating alcohol product formulation and issuing a certificate of label approval before an alcohol product may be bottled and distributed).

After considering your comment, the Commission has determined that the public interest would best be served by issuing the Decision and Order in final form without modification. The order addresses the serious consequences of the Wide Eye advertising campaign. A copy of the final Decision and Order is enclosed for your information. Relevant materials also are available from the Commission's website at <http://www.ftc.gov>.

It helps the Commission's analysis to hear from a variety of sources in its work, and we appreciate your interest in this matter.

By direction of the Commission, Commissioner Harbour recused.

Donald S. Clark
Secretary