

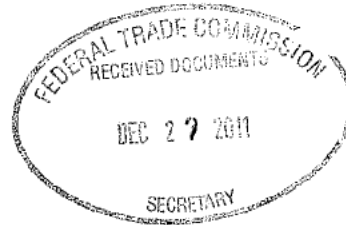


NATIONAL CONSUMERS LEAGUE

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December 29, 2011

Federal Trade Commission
Office of the Secretary
Room H-113 (Annex J)
600 Pennsylvania Ave. NW
Washington, DC 20580



Re: Alcohol Reports: Paperwork Comment; Project No. P114503

BY: U.S. EXPRESS MAIL

The National Consumers League (NCL) is pleased to have this opportunity to comment on the Federal Trade Commission's (FTC) proposed information request to alcoholic beverage advertisers to gather data regarding compliance with voluntary advertising placement provisions, sales and marketing expenditures, and lesser-known media programs.¹

The information collected will be used by the FTC to prepare an update of the agency's 2008 report entitled "Self-Regulation in the Alcohol Industry"² and will help the FTC fulfill its statutory mandate to prohibit unfair and deceptive trade practices. While part of a self-regulatory initiative, the information collected and compiled by the agency will be of practical use to consumer and public health organizations concerned with combating underage drinking and alcohol abuse.

The FTC's proposed information request will be issued pursuant to the agency's authority to compel production of information under Section 6 of the Federal Trade Commission Act, 15 U.S.C. §46. The "Summary of Proposed Specifications" for the information request³ indicates that the agency intends to seek data on numerous promotional practices engaged in by alcohol beverage wholesalers. Section (e)(5) of the Proposed Specifications states the agency "will seek information about . . . point-of-sale advertising for specialty items . . . public entertainment events . . . sporting events . . . [and] Spring Break promotions."⁴

¹ 75 Fed. Reg. 73640 (Nov. 29, 2011)

² <http://www.ftc.gov/os/2008/06/080626alcoholreport.pdf>.

³ <http://www.ftc.gov/os/comments/alcoholstudy2011-pra/alcoholadspecs.pdf> (November 2011).

⁴ Id., Section (e), Specification 5, p. 3-4.

NCL supports the FTC's information request regarding such promotional practices but notes that many of these activities are performed by wholesalers while the FTC's proposed information requests are directed at only suppliers.

As stated in the FTC's 2008 report, "In most cases, POS [point of sale] promotional items are installed by a wholesaler, rather than the supplier."⁵ Despite this fact, the FTC now states "The Commission plans to address this information request to the ultimate U.S. parent of alcohol advertisers in order to ensure that no relevant data from affiliated or subsidiary companies go unreported."⁶ However, because many of the promotional activities set forth in Section (e)(5) of the agency's information request are the responsibility of wholesalers, not suppliers, the FTC should determine:

- 1) The extent to which such activities are paid for directly by wholesalers;
- 2) The extent to which wholesaler programs comply with self-regulatory codes followed by suppliers.

The FTC should thus direct a portion of its information request at wholesalers. While the agency's 2008 report notes that "many of these expenditures are subject to provisions of the Federal Alcohol Administration Act" and "heavily" regulated by the states,⁷ the FTC should collect data on such practices in order to obtain an accurate and comprehensive picture of the alcoholic beverage industry's marketing practices and compliance with self-regulatory programs. Failure to examine and collect data on wholesaler sponsored practices, many of which impact under-age youth, could result in an incomplete and misleading portrayal of overall marketing practices within the industry.

We wish to thank the agency for consideration of these comments.

Respectfully Submitted,


Sally Greenberg
Executive Director

⁵ FTC, Self-Regulation in the Alcohol Industry, p. 7.

⁶ 76 Fed. Reg. 10596 (February 25, 2011)

⁷ See., n. 5.

cc

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