



Chesterfield County, Virginia  
Community Services Board



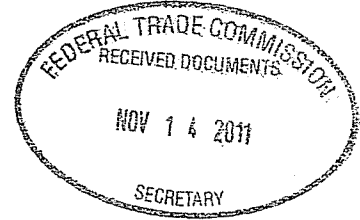
Department of Mental Health Support Services  
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DEBBIE BURCHAM  
Executive Director

October 26, 2011

ORIGINAL

Federal Trade Commission  
Office of the Secretary  
Room H-113 (Annex D)  
600 Pennsylvania Avenue, N.W.  
Washington, DC 20580



Re: Phusion Projects, File No. 112 3084

Dear Ladies and Gentlemen:

This letter provides comments regarding the proposed consent order to resolve charges against Phusion Projects and its principal officers regarding the marketing of Four Loko, a fruit-flavored alcopop (also referred to as a Flavored Malt Beverage) in 23.5 ounce containers with 11% or 12% alcohol by volume. I write in reference to and support of a letter submitted by James F. Mosher, JD, a Senior Policy Advisor at The CDM Group Inc, regarding the aforementioned consent order. As the Director of Chesterfield Mental Health Support Services, a community mental health and substance abuse treatment center, in Chesterfield County, Virginia, I know that many of our 316,000 citizens have concerns about the marketing practices of Phusion Projects in presenting high alcohol content beverages in forms and containers attractive to youth.

The FTC's attention to these products and their close association with binge drinking is well justified. The Centers for Disease Control and Prevention (CDC) has recently documented the adverse health and safety consequences of binge drinking as well as the economic costs – approximately \$170 billion for the nation in 2006 alone.<sup>1</sup>

We commend FTC for focusing on both implied and explicit representations by Phusion Project regarding the nature and use of its products and the decision to develop specific requirements to address the unfair and deceptive practices alleged in the complaint. We also endorse FTC's findings that:

- An individual cannot safely consume a 23.5 oz can of 11% or 12% ABV Four Loko on a single occasion because it contains the equivalent of 4.7 regular beers, and consuming it constitutes binge drinking;

<sup>1</sup> Bouchery, M. et al. Economic costs of excessive alcohol consumption in the U.S., 2006. *American Journal of Preventive Medicine*, forthcoming; CDC, *Vital Signs: Binge Drinking*. Available at: <http://www.cdc.gov/vitalsigns/BingeDrinking/>.

- Binge drinking can lead to a variety of adverse health and safety outcomes and Phusion Projects' marketing and packaging practices encourage consumption of its products in a manner that increases the risks of this dangerous consumption pattern;
- Through its packaging and marketing Phusion Projects has made both implied and explicit representations that Four Loko's 23.5 oz. cans are single servings – designed to be consumed on a single occasion;
- Phusion Projects has failed to disclose to consumers the relevant facts regarding the amount of alcohol contained in its 23.5 oz. cans;
- These marketing and packaging activities by Phusion constitute unfair and deceptive business practices under the FTC Act.

The consent order includes at least three requirements that will assist in addressing the unfair and deceptive business practices on the part of Phusion Projects:

- Requirement that Phusion Projects not depict consumers drinking the company's products directly from the container if the product contains more than 2.5 standard drinks;
- Requirement that containers be resealable;
- Requirement that that Phusion Projects not misrepresent, either expressly or by implication, the alcohol content of its Four Loko product line.

Thank you for your attention to this matter.

Sincerely,

Debbie Burcham  
Executive Director