

DISTILLED
SPIRITS
COUNCIL
OF THE
UNITED
STATES

SEMI-ANNUAL CODE REPORT

Tenth Edition for the period January 2009 through June 2009

CODE OF RESPONSIBLE PRACTICES
FOR BEVERAGE ALCOHOL
ADVERTISING AND MARKETING

www.discus.org

September 2009

The Distilled Spirits Council of the United States, Inc. (DISCUS) is a national trade association representing producers and marketers of distilled spirits and importers of wine sold in the United States. In 1973, DISCUS was formed as a result of the merger of three organizations — The Bourbon Institute, The Distilled Spirits Institute and The Licensed Beverage Industries, Inc. — that had been in existence for decades.

The members of DISCUS represent nearly 70% of all distilled spirits sold in this country. For this reporting period, DISCUS members were:

Bacardi U.S.A., Inc.
Beam Global Spirits & Wine, Inc.
Brown-Forman Corporation
Constellation Brands, Inc.
Diageo
Imperial Brands, Inc.
Luxco, Inc.
Moët Hennessy USA
The Patrón Spirits Company
Pernod Ricard USA
Rémy Cointreau USA, Inc.
Sidney Frank Importing Co., Inc.
Suntory International Corp.

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Open Letter to Interested Parties:

We are pleased to issue the tenth Report of complaint decisions by the Distilled Spirits Council's Code Review Board, the spirits industry's advertising compliance review body. This Report makes public Code Review Board actions for the period of January 1, 2009 through June 30, 2009. For this reporting period, the Board received four complaints involving advertisements subject to the DISCUS Code of Responsible Practices for Beverage Alcohol Advertising and Marketing.

The DISCUS Code provides for a Code Review Board that is charged with reviewing complaints about advertising and marketing materials in the marketplace. Each complaint reviewed by the Board, whether lodged by a private citizen, third-party organization, government official, or an industry member, is given identical consideration and priority status. After receiving a complaint, the Board determines whether the advertisement is consistent with the provisions of the Code and, if a provision of the Code has been violated, the Board urges that the advertisement be revised or withdrawn.

Issuance of this Report allows the public-at-large to better evaluate and appreciate our longstanding review process, which the FTC has pointed to as a model of self-regulation. More importantly, it serves as an effective tool to familiarize non-DISCUS member distillers with the provisions of the Code, as well as to educate cable companies, broadcasters, magazine publishers, and other media outlets about its provisions.



During this reporting period, DISCUS was honored to receive the National Conference of State Liquor Administrators' (NCSLA) 2009 Best Practices Award for Innovations in Community Collaboration for its two-day Media Summit held December 2-3, 2008 in Washington, D.C. This award was presented at NCSLA's 74th annual conference in June of this year. The Honorable Eric Honma, President of NCSLA and Director of the Department of Liquor Control for the Hawaii County of Kauai, stated that the "awards program continues to be an effective and meaningful way to advance our purpose, as well as identify and reward those that exemplify the best among us." Founded in 1934, NCSLA is a national association comprised of the Alcohol Beverage Control Commissions of all License States and most Control States that provides a forum for the discussion and dissemination of beverage alcohol information and practices.

The DISCUS Media Summit was a free seminar conducted for a broad range of industry members, government agencies, trade groups and media experts to exchange experiences and new ideas about best practice placement methods and advertising content. The conference included a full-day session that covered how to buy advertising placements for radio, broadcast/cable, magazines/newspaper, internet/digital, and cinema/broadcast. The second day session focused upon emerging technologies and a training tutorial regarding the DISCUS Code's content provisions. DISCUS was the only private sector group recognized by NCSLA for best practices.

NCSLA's recognition is extraordinarily meaningful to the spirits industry. The Code continues to be pointed to as a model of self-regulation. The DISCUS Media Summits are just one of the many ways we strive to enhance awareness and share best practices in adhering to the rigorous content and placement provisions of the DISCUS Code.

As part of our efforts to ensure transparency and in furtherance of our best practices efforts, complaint decisions now are available pre-publication of this Report for the public-at-large via the DISCUS website at <http://www.discus.org/responsibility/recentcodereview.asp>. This new feature also will demonstrate the quick and expeditious nature of the Code Review Board system to parties beyond those involved in the complaint process itself.

We urge State and Federal government officials and other interested parties to link to the DISCUS Code on their websites as a means to refer inquiries or concerns to the Code Review Board for rapid consideration. If you have any questions about the Code or the Code Review Board process, please do not hesitate to contact me.

Sincerely,

Peter H. Cressy
President/CEO
Distilled Spirits Council

TENTH PUBLIC REPORT

Advertisements: Jim Beam “Remake” contest videos

Advertiser: Beam Global Spirits & Wine, Inc.
(DISCUS Member)

Complainant: Industry member

Complaint Summary: The complainant points to seven consumer-generated videos posted on the Jim Beam website, as well as one link to a Jim Beam video, pertaining to the advertiser's consumer-generated video contest, the "Remake" contest, noting that more than a hundred videos are on the website.



"The Tragedy"



"A Beautiful Tragedy"



"Spin the Jim"



"The Former Nun"

As an overall point, the complainant states that the “video advertisements, due to their content and subject nature, do not reflect generally accepted contemporary standards of good taste; degrade the image, form, or status of women, ethnic, minority, sexually-oriented, or religious groups; contain lewd or indecent images or language; employ religion or religious themes and rely upon sexual prowess or sexual success as a selling point. These advertisements are a representative sample of hundreds of videos which contain potential violations.” The complainant asserts that these videos are inconsistent with Responsible Content Provision Nos. 23, 24, 26, and 27 of the DISCUS Code.

Responsible Content Provision Nos. 23, 24, 26, and 27 provide, respectively, that “[b]everage alcohol advertising and marketing materials should reflect generally accepted contemporary standards of good taste;” “[b]everage alcohol advertising should not degrade the image, form, or status of women, men, or of any ethnic, minority, sexually-oriented, religious, or other group;” “[b]everage alcohol advertising and marketing materials should not employ religion or religious themes;” and “beverage alcohol advertising and marketing materials should not rely upon sexual prowess or sexual success as a selling point for the brand...[n]or depict...overt sexual activity [or] promiscuity.”



"The Butterface"



"Through a Man's Eyes"



"The Girlfriend Remake Truth"



"Everybody's Girlfriend"

The complainant provided the following explanations regarding how the videos referenced below ran afoul of the Responsible Content Provisions of the Code noted above:

“The Butterface” — “The title of the video combined with the use of a woman with a paper bag over her head while she talks about men knowing that she 'is ready and willing' and likes a man who takes her into his room 'lights off' is not in good taste, degrading to women and relies upon sexual prowess or sexual success as a selling point for the brand.”

“Through a Man's Eyes” — “The phrase 'through a man's eyes women just look and sound better holding a Jim Beam Bottle' combined with the image of a woman changing in appearance when a man looks at her with a bottle of Jim Beam is not in good taste and degrading to women.”

“The Girlfriend Remake Truth” — “This video is focused on the breasts of the woman the entire time while a voiceover says that he always listens to her is not in good taste and degrading to women.”

“Everybody's Girlfriend” — “Video of a woman talking to numerous boyfriends is not in good taste, degrading to women, and relies upon sexual prowess or sexual success as a selling point for the brand.”

“The Tragedy” — “Video from Jim Beam is not in good taste, and degrading to women based on sexual orientation due to the suggestion that it is a 'tragedy' to be a homosexual.”

“A Beautiful Tragedy” — “Woman stating she had 'sex all the time,' 'most of my boyfriends couldn't keep up' and 'my favorite was threesomes with a girl and a guy' as she is putting on a nun's outfit is not in good taste, degrading to women, relies upon sexual prowess or sexual success as a selling point for the brand and employs religion or religious themes.”

“Spin the Jim” — “Video of clothing coming off as people play 'spin the bottle' with a bottle of Jim Beam is not in good taste and relies upon sexual prowess or sexual success as a selling point for the brand.”

“The Former Nun” — “Video of a 'former nun' talking about having a deep burning desire that she could never quench, never having a boyfriend, spending a lot of time alone fantasizing and having a very active imagination while wearing a nun's outfit is not in good taste, degrading to women, relies upon sexual prowess or sexual success as a selling point for the brand and employs religion or religious themes.”

Code Review Board Decision:

In responding to the complaint, the advertiser stated that the consumer-generated videos were part of the advertiser's "Remake" contest inviting legal purchase age consumers to create spoofed, tongue-in-cheek versions of three of the advertiser's commercials. The advertiser stated that the consumers submitting video entries and the viewers of those entries were required to enter information verifying that they were of the legal purchase age. The advertiser stated that “The

Tragedy” video had been posted as an example video that could be spoofed as a contest entry.

The advertiser also noted that the consumer-generated videos were to express the creativity of those entering the contest. The advertiser stated that, in submitting videos, each contestant agreed to specific rules requiring compliance with the provisions of the DISCUS Code. The advertiser stated that its advertising agency, which receives regular training on the DISCUS Code, was charged with reviewing the videos prior to posting them on the website to ensure compliance with the DISCUS Code.

The advertiser also stated that the videos in question were not placed into mass media, were not mass distributed and only could be accessed through the age-affirmed website. Finally, the advertiser noted that the consumer-generated videos that were not selected as contest finalists were removed from the advertiser's website after the filing of the complaint because these videos were no longer relevant to the completion of the contest. In that regard, the portion of the contest relating to the submission of videos by consumers, and the selection by the advertiser's agency of videos for age-affirmed consumer voting, were concluded prior to the filing of the complaint.

Regarding the Jim Beam "The Tragedy" video, the advertiser stated that this video is in good taste under the Code because there is nothing in the imagery or content that is demeaning or degrading to any member of society.

After careful deliberation, the Code Review Board found seven of the eight videos in question to be in violation of the Code. The Board's determinations for each of these advertisements are set forth below:

Regarding “The Butterface” video, the Board found that this video violated Responsible Content Provision Nos. 23 and 24 because it was inconsistent with generally accepted contemporary standards of good taste and was degrading to women. The Board, however, did not find this video in violation of Responsible Content Provision No. 27.

Regarding the “Through a Man's Eyes” video, the Board found that this video violated Responsible Content Provision No. 24 because its content was degrading to women. The Board, however, did not find this video in violation of Responsible Content Provision No. 23.

Regarding “The Girlfriend Remake Truth” video, the Board found that this video violated Responsible Content Provision Nos. 23 and 24 because it was inconsistent with generally accepted contemporary standards of good taste and degraded the image of women in that the video only showed a woman's breasts.

Regarding the “Everybody's Girlfriend” video, the Board found that this video did not violate Responsible Content Provision Nos. 23, 24 or 27 because it was consistent with generally accepted standards of good taste, was not degrading to women and did not rely upon sexual prowess or sexual success as a selling point for the brand.

Regarding “The Tragedy” video, the Board found that this video violated Responsible Content Provision No. 24 because the meaning implied by the title was degrading to women and certain sexually-oriented groups. The Board, however, did not find this video in violation of Responsible Content Provision No. 23.

Regarding the “Beautiful Tragedy” video, the Board found that this video violated Responsible Content Provision Nos. 23, 24, 26, and 27 because it was inconsistent with generally accepted standards of good taste, was degrading to women, employed religious themes, and relied upon sexual prowess and success with its references to overt promiscuity.

Regarding the “Spin the Jim” video, the Board found that this video violated Responsible Content Provision No. 27 because it relied upon sexual prowess and sexual success as a selling point for the brand. The Board did not find this video in violation of Responsible Content Provision No. 23; however, concern was expressed relating to the depiction of a game of 'Spin the Bottle' in that it does not demonstrate responsible practices and reflects poorly upon the industry.

Regarding the “Former Nun” video, the Board found that this video violated Responsible Content Provision Nos. 23, 24, 26, and 27 because it was inconsistent with generally accepted standards of good taste, was degrading to women, employed religious themes, and relied upon sexual prowess and success as a selling point for the brand.

Action by Advertiser:

The advertiser removed forthwith its "The Tragedy" video and the remaining videos found in violation already had been removed from the advertiser's website given the completion of contest entries and transition to the final stage of the contest. The advertiser also has heightened its existing internal and agency compliance and vetting processes prior to the posting of materials on its website to ensure compliance with the Code.

Status:

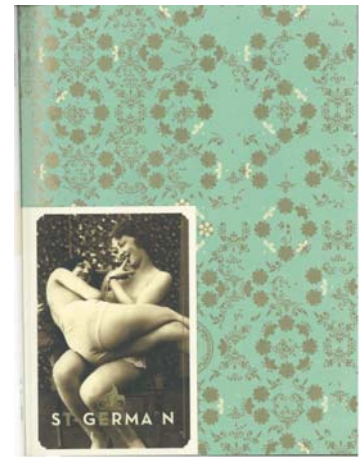
Resolved: Responsive action taken

Advertisement: St-Germain Delice De Sureau
print advertisement

Advertiser: Cooper Spirits International, LLC
(Non-DISCUS member)

Complainant: Third-party organization
San Rafael, California

Complaint Summary: The complainant believes that the advertisement depicting two women, with one woman partially undressed sitting in the other's lap, is inconsistent with Responsible Content Provision Nos. 23, 24, 25, and 27 of the Code.



Responsible Content Provision Nos. 23, 24, 25, and 27 provide, respectively, that “[b]everage alcohol advertising and marketing materials should reflect generally accepted contemporary standards of good taste;” “[b]everage alcohol advertising and marketing materials should not degrade the image, form or status of women;” “[b]everage alcohol advertising and marketing materials should not contain any lewd or indecent images;” and beverage alcohol “advertising and marketing materials should not contain or depict...gratuitous nudity.”

Code Review Board Decision: In responding to the complaint, the advertiser stated that the advertisement is a reproduction of a French postcard from the turn of the century, reflective of a period in French history and culture. The advertiser also stated that St-Germain, a liqueur created in the artisanal French manner imported from France, maintains a traditional French authenticity and the marketing campaign for that brand is intended to be in keeping with French culture during the periods of the 1890s through the 1920s. The advertiser stated that the advertisement was meant to be vintage imagery of historical French culture and his belief that this advertising execution was within generally accepted contemporary standards of good taste, not degrading to women, nor did the image depict gratuitous nudity or lewd images.

After careful deliberation, the Code Review Board did not find a violation of Responsible Content Provision Nos. 23, 24, 25, and 27 of the DISCUS Code. In that regard, the Board did not find that the advertisement degraded the image of women, contained lewd or indecent images, depicted gratuitous nudity, or conflicted with generally accepted contemporary standards of good taste. Concern, however, was expressed that this advertising execution was very close to the line in terms of violating Responsible Content Provision No. 27 in that the execution could imply or suggest gratuitous nudity with sexual overtones. While no violation was found for the instant advertisement, the Board urged the advertiser to consider these implications in developing future advertising and marketing materials by selecting other depictions of French culture that would not raise these concerns.

Action by Advertiser: None required

Status: Not applicable

Advertisement: Sauza Hornitos tequila advertisement

Advertiser: Beam Global Wine & Spirits, Inc.
(DISCUS member)

Complainant: Industry member

Complaint Summary: The complainant believes that the advertisement runs afoul of Responsible Content Provision Nos. 23 and 27 of the DISCUS Code, which provide respectively that, “[b]everage alcohol advertising and marketing materials should reflect generally accepted contemporary standards of good taste;” and “beverage alcohol advertising and marketing should not rely upon sexual prowess or sexual success as a selling point for the brand.”



The complainant states that the advertisement runs afoul of Responsible Content Provision No. 23 in that the main visual of the advertisement is a woman straddling a man and runs afoul of Responsible Content Provision No. 27 in that the image depicted in this advertisement, combined with the tagline “[w]e’ll just cuddle,” is suggestive of something else and communicates that drinking this product will lead to sexual success going beyond an amorous gesture.

Code Review Board Decision: In responding to the complaint, the advertiser stated that both models in the advertisement were fully clothed so no nudity was depicted and that the intent of the advertising execution was to depict a modern, contemporary scene that could happen in a bar setting. The image in the advertisement was intended to depict contemporary, playful, and spontaneous affection. The creative statement “[w]e’ll just cuddle” does not suggest sexual prowess, but was chosen as an affirmative, literal statement to describe the scene. The advertiser also stated that no overt sexual activity or promiscuity was depicted in the advertisement, nor did it reflect sexual or lewd images.

After careful deliberation, the Code Review Board found that the advertising execution depicting a woman straddling a man with the tagline “[w]e’ll just cuddle” and the visual depicting a woman straddling a man standing alone violated Responsible Content Provision No. 23 of the DISCUS Code. In the Board’s view, the tagline “[w]e’ll just cuddle” ran afoul of generally accepted contemporary standards of good taste in that the use of the word “just” in that tagline in conjunction with the visual was viewed to be a prelude to something more than “just cuddling.”

Further, the Board found that a “cuddle” is not having one model straddling another and, in that regard, the position of the models was viewed as sexual in nature abridging good taste, though no overt sexual activity is depicted. The Code Review Board also found that the advertisement violated Responsible Content Provision No. 27 because the positioning of the models suggests sexual prowess, though no nudity was depicted.

The advertiser did not agree with the Board's analysis or decision; notwithstanding this disagreement, the advertiser is a strong supporter of the spirit and intent of the Code and its review process.

Action by Advertiser:

The advertiser immediately took steps to pull the advertisement in question and the one other advertisement using the same visual depicting a woman straddling a man and discontinued the Sauza tequila advertising executions subject to the complaint. The advertiser stated that this advertising execution had been placed in some trade publications that already had been printed and, for those publications where it may be possible to remove the execution, the advertiser will take all steps to do so forthwith.

Status:

Resolved: Responsive action taken



Advertisement: Sweet Carolina Sweet Tea Vodka
print advertisement

Advertiser: White Rock Distilleries
(Non-DISCUS member)

Complainant: Industry Member

Complaint Summary: The complainant contends that the advertisement is inconsistent with Responsible Content Provision Nos. 27, 23 and 3.



Responsible Content Provision No. 27 provides that “beverage alcohol advertising and marketing materials should not rely upon sexual prowess or sexual success as a selling point for the brand...[and] should not contain or depict...promiscuity...” Responsible Content Provision No. 23 provides that “[b]everage alcohol advertising and marketing materials should reflect generally accepted contemporary standards of good taste.” Responsible Content Provision No. 3 provides that “[b]everage alcohol advertising and marketing materials should not depict...images...that primarily appeal to persons below the legal purchase age.”

The complainant believes that the images in this advertisement portray a scene containing sexual promiscuity and utilize sexual prowess/success as a selling point for this brand violating Responsible Content Provision No. 27 and that the “advertisement text further punctuates the scene with the statement: ‘THE NOT-SO-PROPER TEA.’” The complainant also believes that the images in the advertisement are inconsistent with generally accepted contemporary standards of good taste under Responsible Content Provision No. 23 insofar as the female models are either partially clad or completely unclad in a strip poker game where the male model is fully clad in a rabbit (bunny) costume with a lascivious facial expression.

In addition, the complainant believes that the depiction of the male model in the advertisement clad in the rabbit (bunny) costume is inconsistent with Responsible Content Provision No. 3 in that the bunny costume depicts an image that primarily appeals to individuals below the legal purchase age — a special attractiveness to such persons beyond the general attractiveness it has for individuals of the legal purchase age.

Code Review Board Decision: After careful deliberation, the Code Review Board found the Sweet Carolina Sweet Tea Vodka advertisement in violation of Responsible Content Provision Nos. 27 and 23 of the DISCUS Code. In that regard, the Board found that the images in this advertisement portray a scene containing sexual promiscuity and utilize sexual prowess/success as a selling point for this brand violating Responsible Content Provision No. 27, and that the advertising tagline “THE NOT-SO-PROPER TEA” further punctuates this scene.

The Board also concluded that the images in the advertisement are inconsistent with generally accepted contemporary standards of good taste under Responsible Content Provision No. 23 insofar as the female models are either partially clad or completely unclad in a strip poker game where the male model is fully clad in a rabbit costume with a lascivious facial expression.

The Board did not find that the advertisement violated Responsible Content Provision No. 3 and concluded that the images depicted do not primarily appeal to individuals below the legal purchase age.

In responding to the complaint, the advertiser stated that he fully supports the DISCUS Code and will cease running the advertisement in any future publications.

Action by Advertiser:

Upon learning of the complaint, the advertiser immediately took action to no longer run the advertisement in any future publications.

Status:

Resolved: Responsive action taken

BACKGROUND

HISTORY OF THE DISCUS CODE AND ORIGIN OF THE PUBLIC REPORT

Within months of the repeal of Prohibition, leaders in the distilled spirits industry approved their first voluntary Code of responsible advertising and marketing practices. Throughout the decades, the Distilled Spirits Council's Code has embodied the high standards and commitment to responsibility that have been the touchstone of DISCUS member company advertising practices.

By this Code, DISCUS members hold themselves to a standard higher than mandated by any law or regulation. Throughout its long history, the core principle of the voluntary DISCUS Code has been and remains to be the marketing of our products to adults in a responsible and appropriate manner.

To that end, the provisions of the Code apply to every type of print and electronic media, including the internet and any other online communications used to advertise or market beverage alcohol. These provisions also apply to every type of promotional or marketing activity or event, including all product placements.

Since October 27, 1934, the distillers' voluntary Code has been revised and updated as the marketplace and technology have changed. For example, the Code was revised in 1998 to include specific provisions regarding websites and other online communications.

Similarly, as society and social mores have changed, the Code has evolved. The 2003 enhancements to the Code's responsible content provisions included:

- More explicit provisions prohibiting depictions of excessive drinking and the use of sex as a selling point;
- Incorporation of responsible drinking statements in advertisements, marketing materials and promotional events, where practicable;
- Increased age requirement for models/actors in advertisements — must be at least 25 years old; and

- Prohibiting advertising that associates drinking with “rite of passage” to adulthood.

The 2003 Code revisions also included additional provisions requiring that beverage alcohol advertisements be placed only in media where at least 70 percent of the audience is reasonably expected to be 21 years of age and older, the legal purchase age; a requirement for post-audits of advertisement placements; the establishment of an outside advisory board as part of its compliance and complaint process; and the issuance of public Semi-Annual Reports of complaint decisions.

To implement the 70 percent 21 years and older demographic audience standard, the Code Review Board prepared detailed guidelines for the placement of advertisements in various media and for semi-annual, after-the-fact audits of random past placements using one quarter of data where available to verify compliance with the demographic standard.

Since 2003, the Board has reviewed and fine-tuned these guidelines and also has instituted new initiatives, such as the “unmeasured” magazine initiative to address general circulation magazines not measured by a syndicated data source by requiring third party independent demographic surveys of those magazines (effective October 1, 2006).

Effective January 2008, the Code Review Board also issued a specific, detailed guideline for advertising and marketing materials placed on the internet/digital medium. To the best of our knowledge, we were the first trade group to issue an internet/digital buying guideline that will be used across an entire industry.

Consistent with our objective to direct our advertising to adults, DISCUS members have committed to the removal of their advertisements from the school library subscription copies of *Newsweek*, *People*, *Sports Illustrated*, *Time*, and *U.S. News & World Report* by securing special bindings of those publications, which we understand are

the magazines most commonly subscribed to by school libraries. As a consequence, DISCUS member companies voluntarily refrain from advertising on the inside and back covers of these magazines (premium advertising space), each of which exceeds the 70% demographic standard set by the DISCUS Code, if their covers cannot be segregated out for special bindings of school library subscription copies. This initiative became effective July 1, 2006 for subscription copies of these magazines destined for this venue.

* * * * *

As discussed above, the Code provides for the issuance of Semi-Annual Reports. For decades, the Code Review Board has effectively addressed complaints about distilled spirits advertising, but the decisions were never made public and, as a consequence, the rigor of the Board's review process and adherence to the Board's decisions were not widely known. To make the distilled spirits industry's review process more transparent and understandable to the public, a decision was made in 2003 by DISCUS and its member companies to publish semi-annual public reports detailing complaints against specific advertisements, decisions of the industry's internal review board and actions taken by each advertiser.

This transparency allows the public-at-large to better evaluate and appreciate our Code review process. In fact, industry regulators, watchdogs, critics, and the media have taken notice of the distilled spirits industry's approach to self-regulation, calling it a model for other industries, including food product manufacturers and the pharmaceutical industry.

In 2005, following the release of the first DISCUS Semi-Annual Report, the director of the Federal Trade Commission's alcohol advertising program told *The Washington Post* that self-regulation permits the spirits companies to "address things that couldn't be touched by a government agency because of the First Amendment." The director called this a "fabulous thing," noting that "[t]his is a far step above and beyond what other companies are doing."

In June 2006, the Semi-Annual Report was the recipient of the best "Business Ethics Communications" award by *PRNews* Corporate Social Responsibility (CSR) Awards. The CSR Awards honor corporations and their partners

that have implemented and executed highly successful CSR campaigns in the last 12 months. PR News called the CSR Awards "the global standard in corporate citizenship and communications worldwide."

In May of that same year, DISCUS also was named a finalist in the American Business AwardsSM "Best Corporate Social Responsibility Program" category for our public reporting system. The American Business AwardsSM program is the only national, all-encompassing business awards program honoring great performances in the workplace.

We believe we were the first private trade group representing American business to issue a report on the proceedings of how an industry regulates itself according to its internal code. The overall objective of the Semi-Annual Reports is to encourage full compliance with the Code and Code Review Board decisions across the entire distilled spirits industry and to ensure that our long-standing commitment to responsible advertising is understood.

* * * * *

The Federal Trade Commission (FTC), the lead Federal agency with advertising oversight, has commended the DISCUS Code on several occasions. In each of the Commission's in-depth, intensive reviews over the last ten years of the efficacy of industry's self-regulatory systems, the FTC confirmed that self-regulation is working.

For example, in its September 2003 Report to Congress entitled "Alcohol Marketing and Advertising," the FTC concluded that the distilled spirits industry's advertising is directed to adults and that the distilled spirits industry's self-regulatory measures are "rigorous" and effective. As part of the Report, the FTC also examined the Code Review Board process, finding that the Board's actions "provide a critical review of spirits company compliance with the DISCUS Code."

In June 2008, the FTC issued its third report on the effectiveness of our industry's efforts at self-regulation. In that report, the FTC found "high levels of compliance" with the industry's voluntary placement standard requiring advertising materials to be placed only where at least 70 percent of the audience is reasonably expected to be 21 years of age (the legal purchase age) and older and

concluded that the distilled spirits industry's advertising is directed to adults.

Specifically, the FTC found that more than 92 percent of all television, radio and print advertising placements met the 70 percent 21+ demographic standard and about 97 percent of total advertising impressions met the 70 percent standard. The FTC did not recommend a change in the 70 percent standard, noting that the current 70 percent baseline standard is grounded in the 2000 Census data and has helped ensure that alcohol advertising is not disproportionately directed to those below the legal drinking age, as recommended by the Surgeon General's Call to Action.

Finally, the FTC has pointed to the benefits of industry self-regulation, concluding that it is realistic, responsive and responsible; can deal quickly and flexibly with a wide range of advertising issues without the rigidity of government regulation; and is particularly suitable in light of the First Amendment issues that otherwise would be raised by government regulation of advertising.

* * * * *

Regarding compliance systems, in addition to member company internal and external training sessions, each DISCUS member has established an internal process to ensure compliance with the Code.

Consistent with the provisions set forth in the Code, this process includes a separate review of advertising and marketing materials by a company employee who is not in the marketing department or who is not involved in the development of the advertising or marketing materials to the extent possible given a company's size and organizational structure.

The 2009 DISCUS Code expands these outreach efforts to provide for DISCUS hosted "media summits" and

other training seminars for industry members and their respective advertising agencies to incorporate best practices in complying with the Code.

During this reporting period, DISCUS was honored by the National Conference of State Liquor Administrators for its December 2008 Best Practices Media Summit. DISCUS was presented a Best Practices Award for Innovations in Community Collaboration at NCSLA's 74th annual conference. The awards program is intended to identify and reward those that exemplify the best in the industry.

The Summit was a free seminar to learn about the best practices in the area of advertising placements and content outlined in the DISCUS voluntary Code.

NCSLA judged the nominations on several criteria including value to other states; relevance and scope of subject to states and industry; new innovation or new approaches; efficiency in terms of time, money and resources; replicable in other jurisdictions; sustainability; and measurable outcomes or lessons learned.

NCSLA's recognition is extraordinarily meaningful to DISCUS and the spirits industry. The Code continues to be pointed to as a model of self-regulation. These summits are just one of the many ways we strive to enhance awareness and share best practices in adhering to the rigorous content and placement provisions of the DISCUS advertising Code.

DISCUS members are committed to the responsible placement and content of their brand communications. Towards this end, DISCUS members voluntarily pledge to conduct their advertising and marketing in accordance with the provisions of the Code. DISCUS members recognize that it is not possible to cover every eventuality and therefore agree to observe the spirit, as well as the letter, of the DISCUS Code.

2009 DISCUS Code

The current 2009 DISCUS Code reflects the determination of DISCUS member companies to be responsive to the changing technology and culture of modern times and builds upon the 2003 Code enhancements. As in the past, the current Code applies to all of the over 2,800 distilled spirits, beer and wine brands marketed by DISCUS members, and is followed by an increasing number of non-member distilled spirits marketers.

Among the key changes in the current Code are:

- Detailed product placements guidelines for movies, television programs, music videos, and video games;
- No supplier-sponsored promotions in licensed establishments on college/university campuses;
- No drinking games rewarding or encouraging excessive/abusive consumption as part of supplier-sponsored promotions;
- Member-controlled websites that contain downloadable advertising or marketing content should include instructions to individuals downloading the content that these materials should not be forwarded to individuals below the legal purchase age and, where practicable, the downloadable content should include a responsible drinking statement;
- DISCUS members should limit the manufacture of brand logoed apparel, and the licensing of member company trademarks used in connection with the sale of brand logoed apparel, to only adult sizes;
- Explicit “spring break” provisions prohibiting the use of the term “spring break” or sponsoring events/activities that use that term except if in a licensed premise;
- DISCUS members should establish and conduct a training program for employees involved in the marketing or promotion of a member company's brands, including appropriate initial and recurrent training;
- New external outreach provisions to provide for DISCUS to host “media summits” and other training seminars for industry members and their respective advertising agencies to incorporate best practices in complying with the Code; and

- More detailed “buying” guidelines for radio and a new “buying” guideline for newspaper placements.

The 2009 Code also was reorganized to ensure that the review process is as user-friendly as possible beginning with the submission of a complaint through publication of the Board's decision in the semi-annual report.

These revisions expand upon the 2003 Code enhancements, which incorporated several revisions to the content provisions, including more precise language regarding the sexual content of advertising, and also continued many of its long-standing prohibitions, such as not advertising or marketing in college newspapers.

To implement the 70 percent 21 years and older demographic audience standard first promulgated in the 2003 DISCUS Code, the Code Review Board prepared detailed guidelines for the placement of advertisements in various media and for semi-annual, after-the fact audits of random past placements using one quarter of data where available to verify compliance with the demographic standard.

These media “buying” guidelines have been reviewed and fine-tuned since 2003 when they were initially promulgated. These detailed guidelines set forth specific rules and data to meet the Code's demographic standard ensuring that at least 70% of the audience is reasonably expected to be 21 years of age or older (the legal purchase age) in all media advertising placements, as well as providing for audits of past placements, with post-audit corrective measures for future placements. These detailed media “buying” guidelines are discussed below and can be accessed via the website at: <http://www.discus.org/responsibility/code.asp>.

The DISCUS Code is the only U.S. code that brings beer, wine and distilled spirits under one tent with the same standards for all products marketed by DISCUS members and continues to extend its already significant compliance and enforcement reach. In that regard, the DISCUS Code is supported by the Kentucky Distillers' Association and the Presidents' Forum, a coalition of producers and importers of beer, wine and spirits, and also is followed by an overwhelming number of other non-DISCUS member distillers. Non-DISCUS member companies with small portfolios, large portfolios and new entrants historically have followed the Code and abided by Code Review Board decisions.

MEDIA “BUYING” GUIDELINES: DEMOGRAPHIC DATA/ADVERTISEMENT PLACEMENT GUIDELINES

In 2003, the DISCUS Code Review Board released its first set of guidelines to implement the responsible placement provisions of the DISCUS Code. Prior to release of these guidelines, the Board met with experts in the field, syndicated demographic data sources and various media companies to obtain their respective best thoughts in devising guidelines to meet the demographic placement standard where at least 70% of the audience was reasonably expected to be 21 years of age or older (the legal purchase age).

Since that time, the Board has continued to revise and finetune these guidelines. Last year, the Board issued its latest set of guidelines, which were amended to provide more specific dayparts for radio and a new “buying” guideline for newspaper placements. These enhanced guidelines, which took effect in January 2009, include the rigorous “buying” guidelines that already have been in place.

Set forth below are the Code's “buying” guidelines regarding placement of advertisements in all mediums (TV, radio, magazine, newspaper, internet/digital communications) and the requirement for semi-annual, random after-the-fact audits (post audits) of placements to meet the demographic standard where at least 70% of the audience is reasonably expected to be 21 years of age or older (the legal purchase age (LPA) audience composition).

I. Media placement and the 70% LPA standard

A. A placement will be considered to be in compliance with this LPA standard if:

- i) The advertiser has a reasonable expectation, determined by using reliable, up-to-date audience composition data, that the LPA audience composition will be at least 70%;
- ii) The advertiser conducts internal, semi-annual after-the-fact audits of a random portion of past placements to verify that such placements were in compliance with the 70% LPA audience composition standard; and
- iii) The advertiser, upon learning of a noncompliant placement, takes appropriate, corrective action for future placements.

B. A reasonable expectation for meeting this demographic standard takes into account marketplace realities, the medium and available demographic audience composition data, and includes:

- i) Recognition that a company's media buys generally are determined prior to its upcoming fiscal year for placement during the course of that fiscal year;
- ii) Recognition that a company's media buys rely upon historical demographic data to estimate the future LPA audience composition; and

- iii) Recognition of the availability and publication intervals of syndicated audience composition data; for example, MRI TwelvePlus data are published annually and Arbitron data are published quarterly, whereas national broadcast networks have the most frequently measured syndicated audience composition data (national Nielsen data) thereby affording, among other things, more data for advertisement placement and for more expeditious after-the-fact audits, as compared to, for example, local (spot) TV and cable, as well as radio and print media. Syndicated audience composition data, such as comScore or Nielsen Online (formerly Nielsen//NetRatings), for internet/digital communications also are published on a more frequent basis and are taken into account in these guidelines for purposes of advertisement placement and post audits.

II. Media placement and audience composition data

A. For TV — broadcast (network/local), cable (network/ local) and syndication:

- i) Use of a syndicated data source: Purchase by program (or, if program specific data are unavailable, by daypart/timeslot) using nationwide “2+” audience composition data, such as national Nielsen data, based upon the last two quarters of such data

- ii) For new programs, data for similar programs or time periods
 - iii) Compliance standard: A placement will be considered appropriate when the above referenced data show that the placement is in compliance with the Code
 - iv) Post audits: A past placement will be considered appropriate where data published or supplied for the quarter in which the placement ran show an LPA audience composition that was in compliance with the Code
 - v) Post audit corrective measures for future placements: In the event that the post audit indicates that the placement did not meet the LPA demographic standard, the advertiser will, as soon as practicable, make schedule adjustments, cancellations, or other appropriate changes to comply with the standard in future placements
- B. For Radio:
- i) Scope: The radio buying guideline applies to all paid and bonus spots including rotators, negotiated and agreed upon mentions, liners, tags, billboards, and any other type of announcement
 - ii) Use of a syndicated data source: For audited radio stations, purchase by daypart using the Average Quarter Hour (AQH) Persons measurement in Arbitron quarterly reports based upon the last two quarters of such data (where seasonal fluctuations are evident, prior year data also should be taken into account if available):
 - (a) Time periods in which radio spots may be placed shall be in the following Arbitron standard dayparts or other time periods as specified below:
 - i. AM Drive Monday thru Friday
6:00 a.m. - 10:00 a.m.
 - ii. Midday Monday thru Friday
10:00 a.m. - 3:00 p.m.
 - iii. PM Drive Monday thru Friday
3:00 p.m. - 7:00 p.m.
 - iv. Evening Monday thru Friday
7:00 p.m. - 12:00 midnight
 - v. Monday thru Friday
12:00 midnight - 6:00 a.m.
 - vi. Sat. & Sun. 6:00 a.m. - 10:00 a.m.
 - vii. Sat. & Sun. 10:00 a.m. - 3:00 p.m.
 - viii. Sat. & Sun. 3:00 p.m. - 7:00 p.m.
 - ix. Sat. & Sun. 7:00 p.m. - 12:00 midnight
 - x. Sat. & Sun. 12:00 midnight - 6:00 a.m.
 - (b) More specific data than daypart can be used for audience composition such as, for example, narrowing the a.m. drive hours from 6:00 a.m.-10:00 a.m. to 8:00 a.m.-10:00 a.m. to determine audience composition
 - (c) Any period of time adjacent to an Arbitron standard daypart that is also purchased, provided that each additional hour independently satisfies the Code provision that 70% of the audience composition is 21 years of age or older
 - (d) Any period of two or more consecutive hours, provided that each hour independently satisfies the Code provision that 70% of the audience composition is 21 years of age or older
 - iii) Unmeasured stations: If the station is not measured by a syndicated data source (e.g., a new station or a station not measured by Arbitron), data provided by the station regarding the target listenership audience or audience composition-al data from time periods for comparable stations in comparable markets
 - iv) Compliance standard: A placement will be considered appropriate when the above-referenced data show that the placement is in compliance with the Code
 - v) Post audits: A past placement will be considered appropriate where data published or supplied for the quarter in which the placement ran show an LPA audience composition that was in compliance with the Code
 - vi) Post audit corrective measures for future placements: In the event that the post audit indicates that the placement did not meet the LPA demographic standard, the advertiser will, as soon as practicable, make schedule adjustments, cancellations, or other appropriate changes to comply with the standard in future placements

C. For Magazines:

- i) Use of a syndicated data source: Purchase by publication using “12+” audience composition data, such as MRI consolidated TwelvePlus data (designed to allow analysis of “12+” youth and adult readership) or, if unavailable, MRI “18+” data, based upon the last publication of such data
- ii) More specific data regarding audience composition also meet this standard, such as subscription-only or a “21+” subscriber special edition of the publication
- iii) Unmeasured magazines not of general circulation: If the publication is not measured by a syndicated data source (e.g., a new publication or a publication not measured by MRI), data provided by the publisher regarding target readership audience or data for similar publications (see section D below for “unmeasured magazines” intended for general circulation, including maiden/new publications, even if it is, for example, a prototype of another magazine)
- iv) Compliance standard: A placement will be considered appropriate when the above-referenced data show that the placement is in compliance with the Code
- v) Post audits: A past placement will be considered appropriate where data published or supplied subsequent to the placement show an LPA audience composition that was in compliance with the Code
- vi) Post audit corrective measures for future placements: In the event that the post audit indicates that the placement did not meet the LPA demographic standard, the advertiser will, as soon as practicable, make schedule adjustments, cancellations, or other appropriate changes to comply with the standard in future placements

D. Independent measurement of unmeasured magazine demographic profiles:

- i) Magazines intended for general circulation that are not measured by a syndicated data source, such as MRI or Simmons, and have or are intended to have a subscriber base should have an independent measurement of their subscribers, which meets the following criteria:

- ii) A demographic survey of subscribers should be conducted periodically for established magazines and for new magazines before consideration of an advertisement placement (and again for new magazines once the subscriber base has stabilized; for example, after initial subscribers have had an opportunity to renew would be appropriate in the latter instance)
- iii) Survey of magazine subscribers must be conducted by an independent third party research company using established research methods, such as the ABC Subscriber Study Audit requirements
- iv) Survey supplier and date survey was conducted must be identified
- v) Sample should be at least 300 in-tab (tabulated) respondents with the sample frame fully reported
- vi) Sample must be pulled on an nth name basis from all eligible names on the publication’s full subscriber file for U.S. only. No complimentary copies, international, business addresses, demographic, or regional edition splits (unless these copies also are used for the advertising)
- vii) Subscribers, not other household members, should be asked to fill out and return the survey
- viii) Actual age, year of birth or check off for appropriate bracket of age are acceptable, as long as the age bracket identifies 21 as a starting point (for example, 21-34 versus 18-24)
- ix) Upon the receipt of the independent demographic survey, a potential advertiser will evaluate the audit in conjunction with other factors prior to purchasing an advertising placement, such as the content of the magazine, similar or comparable publications, the “pass along” rate and/or circulation distribution of similar or comparable publications

E. For Newspapers:

- i) Scope: This guideline applies to all paid and bonus placements in the print editions of daily, Sunday and weekly newspapers intended for general circulation that have or are intended to have a subscriber base, including advertising supplements, magazine sections and other forms of advertising added to or delivered with newspapers

- ii) Use of a syndicated data source: Prior to the purchase of print advertisements in newspapers distributed nationally, regionally or locally, review audience composition data utilizing an audience measurement source recognized by the advertising industry (such as, but not limited to, Scarborough Research and Mediamark Research, Inc.). Data for the most recent rating period available will be reviewed to determine that placements are reasonably expected to meet the demographic standard
 - iii) Unmeasured newspapers: If the newspaper is not measured by a syndicated data source (e.g., a new newspaper or a newspaper not measured by Scarborough Research or Mediamark Research, Inc.), use target readership audience or subscription data provided by the publisher and/or data for similar newspapers
 - iv) Compliance standard: A placement will be considered appropriate when the above-referenced data show that the placement is in compliance with the Code
 - v) Post audits: A past placement will be considered appropriate where data published or supplied subsequent to the placement show an LPA audience composition that was in compliance with the Code
 - vi) Post audit corrective measures for future placements: In the event that the post audit indicates that the placement did not meet the LPA demographic standard, the advertiser will, as soon as practicable, make schedule adjustments, cancellations, or other appropriate changes to comply with the standard in future placements
- F. For Internet/digital:
- i) Scope: The internet/digital buying guideline applies to all paid and unpaid (including value added) placements made by or under the control of the advertiser, including advertising on third-party websites, video advertisements, audio mentions, internet banners, pop-ups, sponsorships, user-generated content (including blogs), and other types of internet/digital advertising or marketing
 - ii) Use of a syndicated data source: Purchase or place using “2 +” syndicated audience composition data, such as comScore or Nielsen Online, based upon the most recent three-month site average of available audience data of unique visitors (where seasonal fluctuations are evident, prior year data also should be taken into account if available)
 - (a) An advertiser consistently will use one of these syndicated data sources as its primary demographic measurement by brand and an alternate syndicated data source will be used only when the advertiser’s primary source does not measure that particular medium
 - (b) Given that the methodologies and measurements of internet/digital media are evolving, this data source guideline will be reviewed as further developments warrant and, if appropriate, revised accordingly
 - iii) Independent measurement of unmeasured medium: If the digital medium is not measured by a syndicated data source, the advertiser prior to purchasing or placing an advertisement or any marketing materials shall obtain from the publisher of the medium an independent demographic survey based upon the most recent three-month site average of available audience data of unique visitors conducted by a third-party research company using established research methods
 - iv) More specific data to meet the demographic standard: Where the average of the syndicated audience composition data or an independent third-party survey over the three-month time period (as described in subsection iii above) does not show a 70% 21 years of age or older (LPA) demographic, the advertiser can use the website’s “registered user” database to place their advertising or marketing materials to users 21 years of age or older if the website has that capability
 - v) Unmeasured medium with a “registered user” database: If the digital medium is not measured by a syndicated data source or an independent third-party survey as described in subsection iii above, but has a “registered user” database that can link a user to an age, the advertiser can use the website’s “registered user” database to place its advertising or marketing materials to users 21 years of age or older

- vi) “Limited edition” websites: For “one-time” only, event-specific and/or other similar websites, the advertiser shall review and evaluate comparable websites, the proposed content of the website in question, data provided by the publisher regarding the target audience, and any other relevant factor to project a reasonable expectation of the demographic audience prior to purchasing or placing an advertisement or any marketing materials
- vii) Compliance standard: A placement will be considered appropriate when the percentage of unique visitors reflected in the above-referenced data shows that the placement is in compliance with the Code
- viii) Post audits: A past placement will be considered appropriate where demographic data for the month(s) in which the placement ran show an LPA audience composition that was in compliance with the Code
- ix) Post audit corrective measures for future placements: In the event that the post audit indicates that the placement did not meet the LPA demographic standard, the advertiser will, as soon as practicable, make schedule adjustments, cancellations, or other appropriate changes to comply with the standard in future placements

These Guidelines will be reviewed periodically to ensure that they reflect the most current and appropriate recognized electronic and print audience composition data.

RECENT OUTREACH ACTIVITIES

The major focus of Code Review Board activities during the period covered by this Report continues to involve outreach efforts about the provisions of the Code. These efforts were directed at familiarizing all interested parties with the Code and increasing awareness of its provisions and the Code Review Board process.

DISCUS hosted a two-day Media Summit in December 2008, gathering together experts in all fields to share best practices in adhering to the rigorous content and placement provisions of the DISCUS voluntary advertising Code. This Summit built upon the success of the DISCUS Code's November 2006 Best Practices Media "Buying" Summit, where there was a notable decrease in placement complaints after that conference.

For the December 2008 Media Summit that focused upon both advertising placement and content, DISCUS reached out to new entrants in the spirits industry, nonmember distillers, members of the beer and wine industries, media companies, media buyers, advertising agencies, and other interested parties to attend this Summit. This Summit presented a unique opportunity for beer, wine and spirits industry members to come together under one tent to exchange experiences, share ideas and learn about new trends in marketing in terms of adherence to the placement and content provisions of the DISCUS Code. To the best of our knowledge, DISCUS is the first and only organization to host such a conference.

The conference included a full-day session that covered how to buy advertising placements for radio, broadcast/cable, magazine/newspaper, internet/digital, and cinema/broadcast. The second-day session focused upon emerging marketing technologies and training on the Code's content provisions with real life illustrations of advertising and/or marketing materials that are acceptable or unacceptable under the Code's provisions.

The Media Summit featured speakers from the Federal Trade Commission, beverage alcohol companies, media buying firms, and syndicated data sources that analyze media audiences, such as Arbitron, Nielsen, Mediamark

Research Inc. (MRI), comScore, and Experian Simmons. Experts in the various fields described how media is purchased under the DISCUS guidelines, how post audits are conducted, the challenges industry faces when purchasing a particular media, and how those challenges are addressed.

During this reporting period, the DISCUS Code Review Board was the recipient of NCSLA's 2009 Best Practices Award for Innovations in Community Collaboration for the Media Summit. DISCUS was the only private sector group recognized by NCSLA for best practices.

Founded in 1934, NCSLA is a national association comprised of all License States and most Control States and provides a forum for the discussion and dissemination of beverage alcohol information and practices. NCSLA judged the nominations on several criteria, including value to other states; relevance and scope of subject to states and industry; new innovation or new approaches; efficiency in terms of time, money and resources; ability to replicate in other jurisdictions; sustainability; and measurable outcomes or lessons learned.

Our outreach efforts during this reporting period were supplemented by personal visits and presentations to various groups, such as meetings with the National Conference of State Liquor Administrators (NCSLA), the National Alcohol Beverage Control Association (NABCA), government officials on both the Federal and State levels, and various industry trade association leaders.

In addition, the Semi-Annual Reports with explanatory materials are sent to State Alcohol Beverage Control officials, the Attorneys General of each State, officials at colleges and universities across the country, Federal agency officials, members of Congress, State legislators, industry trade association leaders, non-DISCUS member distillers, other industry members, health officials, and advocacy groups. Materials regarding the Code and the Semi-Annual Report also were sent to non-DISCUS member micro-distilleries to familiarize them with the provisions of the Code and the Code Review Board process.

We continue to urge Federal and State officials and other interested parties to include the Code (<http://www.discus.org/responsibility/code.asp>) on their websites. If an individual has a concern about a particular advertisement for a beer, wine or distilled spirits brand marketed by a DISCUS member or a distilled spirits advertisement of a non-DISCUS member, the Code Review Board welcomes the opportunity to review that advertisement.

As a result of our outreach efforts, twelve State Alcohol Beverage Commissions, the FTC, NCSLA, and NABCA

link to the DISCUS Code or DISCUS website. The FTC references the DISCUS Code on its “We Don't Serve Teens” website (<http://www.dontserveteens.gov>).

By linking to the DISCUS website or hyperlinking directly to the DISCUS Code, it is easier for government officials and other interested parties to refer any inquiries or concerns about a particular advertisement to the DISCUS Code Review Board. To facilitate this process, we have language available to utilize should you choose to link to the DISCUS Code.

CODE REVIEW BOARD PROCESS

Unique within the beverage alcohol industry, the DISCUS Code provides for a Code Review Board that has been operational for decades, charged with reviewing complaints about advertising materials in the marketplace. Historically, the Code Review Board process has worked as follows:

- All complaints involving advertising and/or marketing materials of the distilled spirits, beer and wine brands marketed by a DISCUS member company and distilled spirits products of a nonmember company are forwarded to the DISCUS Code Review Board for their review and consideration. Complainants are afforded the option of anonymity in processing their complaint.
- Upon receipt of a complaint, the Code Review Board staff liaison notifies the advertiser and invites the advertiser to respond to the complaint and to participate in the Board's review of the complaint to answer any questions. DISCUS members are expected to respond forthwith. Non-DISCUS members have 15 business days to respond.
- The Code Review Board convenes to consider the complaint and the advertiser's response, and then deliberates and renders a decision. The Code Review Board proceeds in its deliberations usually within a week for DISCUS member company complaints and after the time period noted above has elapsed for non-DISCUS member complaints even when the advertiser has not responded. Board members have no vote upon complaints lodged against their advertisements.
- The advertiser is notified of the Board's decision and, if a violation has occurred, the Board urges the advertiser to revise or withdraw the advertisement forthwith. The Board is available to answer questions or assist with compliance.
- The Code Review Board's decision and the advertiser's response are posted on the DISCUS website and published in the Semi-Annual Report. This process is reviewed periodically and may be revised when warranted. For member company advertisements, historically the average time between receipt of a complaint and Code Review Board action has been a matter of days, but could take up to two to four weeks, a timeframe that also included responsive action by the advertiser. On average, the response time from receipt of a complaint to final resolution is less than a week. For non-DISCUS member companies, the process could take up to two months.

CODE REVIEW BOARD

The Code Review Board is comprised of senior member company representatives elected by the DISCUS Board of Directors, and is chaired by one of those representatives, with DISCUS acting as the staff liaison. The current members of the Code Review Board are:

- Ms. Carolyn L. Panzer, Chairperson, Diageo
- Ms. Mary E. Barrazotto, Brown-Forman Corporation
- Mr. John R. Frank, Sidney Frank Importing Co., Inc.
- Ms. Donna H. Hartman, Rémy Cointreau USA, Inc.
- Ms. Jennifer Long, The Patrón Spirits Company
- Mr. Michael Lurie, Constellation Brands, Inc.
- Mr. Thomas R. Lalla, Jr., Pernod Ricard USA
- Mr. Christopher J. O'Rourke, Moët Hennessy USA, Inc.
- Mr. Matt Stanton, Fortune Brands, Inc.
- Mr. Frederick J. Wilson, III, Bacardi U.S.A., Inc.

The main function of the Code Review Board is to review complaints and inquiries about particular advertising and/or marketing materials in terms of whether their content and placement are consistent with the Code's provisions. This undertaking not only encompasses DISCUS members' advertisements, but also extends to all distilled spirits advertising and/or marketing in the United States.

The Code Review Board also periodically reviews the Code to ensure that the Code's provisions reflect the evolving marketplace, technological changes and current social mores. Suggested revisions and/or expansions to the Code are offered and made consistent with the overriding principle of the Code — to market our products to adults in a responsible and appropriate manner.

OUTSIDE ADVISORY BOARD

The DISCUS Code provides for an Outside Advisory Board charged with the following functions: (1) to provide confidential, nonbinding guidance to DISCUS members about draft advertising copy and/or marketing materials prior to execution concerning whether these draft materials would be consistent with the Code (i.e., pre-vetting advice); and (2) to serve as tie-breakers in the event the Code Review Board cannot reach a majority decision about a particular advertisement or promotional execution under review.

Our three outside advisors are distinguished experts from government, academia and broadcasting: Ms. Joan “Jodie” Bernstein, currently with the Washington, D.C. law firm Bryan Cave, has a distinguished history of government service. Ms. Bernstein served as Director of the Federal Trade Commission's Bureau of Consumer Protection from 1995 to 2001, where she was involved in every facet of advertising of the goods and services sold in the United States. In 2006, she was appointed to undertake a complete review of the Self-Regulatory Guidelines for the Children's Advertising Review Unit (CARU) of the Council of Better Business Bureaus. Most recently, Ms. Bernstein was the recipient of the Better Business Bureau International Torch award for Consumer Leadership for significantly advancing marketplace trust through her consumer advocacy initiatives and her outstanding leadership in the area of advertising self-regulation.



During her tenure at the FTC, Ms. Bernstein oversaw the FTC's 1999 Report to Congress on alcohol advertising and self-regulation. Ms. Bernstein played an important role in the creation of the National Advertising Review Council of the Better Business Bureaus, established in 1971, which has the responsibility of ensuring that national advertising is truthful and accurate.

Dr. Constantine “Deno” Curris, a leader among academic administrators, serves as the President of the American Association of State Colleges and Universities, a national association of over 400 public colleges and universities. AASCU, founded in 1965, is governed by an elected board of 15 university presidents and chancellors. Dr. Curris has 42 years of service in higher education, including serving as President of Clemson University for over four years, University of Northern Iowa for 12 years and Murray State University in Kentucky for 10 years.



Dr. Curris is a strong advocate for public higher education and its students, and a proponent of the qualitative strengthening of higher education institutions in order to meet public needs and expectations in the 21st Century. He has been and is actively engaged in addressing problems of alcohol abuse among college students.

Mr. Richard P. Gitter is a former network executive with 34 years of experience in the broadcast industry, including 30 years overseeing network advertising standards and compliance. Most recently, Mr. Gitter served as Vice President, Advertising Standards and Program Compliance for NBC, where he reviewed commercials and programming to ensure compliance with Federal regulations and network policies. Mr. Gitter is a former member of the Board of Directors of the Council of Better Business Bureaus and the Radio Code Board of the National Association of Broadcasters.



HOW TO FILE A COMPLAINT

If you have any questions regarding the DISCUS Code or a concern about a particular advertisement or marketing material subject to the Code, please contact the DISCUS Code Review Board, c/o Lynne Omlie, Code Review Board Staff Liaison, 1250 Eye Street, N.W., Suite 400, Washington, D.C. 20005 or email Lynne Omlie at lomlie@discus.org.

We request that complaints be made in writing, identify the provisions of the Code in question and provide an explanation for the basis of the complaint. The advertisement and/or marketing materials in question should be appended to the complaint to ensure that it is processed properly and expeditiously.

To access the DISCUS Code and its provisions: <http://www.discus.org/responsibility/code.asp>.



www.discus.org

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