January 16, 2004

DISCUS Code Review Board
1250 I Street, NW, Suite 400
Washington, DC 20005

Dear Members of the DISCUS Code Review Board:

On January 12, Allied Domecq Spirits, a DISCUS member and maker of Malibu brand rum, announced via press release that it had signed teen idol and reggae star Shaggy to be the “personality” of Malibu. This letter serves as our formal complaint that this marketing relationship violates the spirit and the letter of the DISCUS “Code of Responsible Practices for Beverage Alcohol Advertising and Marketing.”

We note that this flagrant violation of DISCUS’s voluntary advertising standards provides another example of the Code’s gross inability to deter liquor advertising practices that target impressionable underage consumers. We continue to believe that after-the-fact corrections (such as those requested in this letter) -- that impose no penalties for wanton advertising practices -- are inadequate to protect young people and hold producers accountable for the irresponsible marketing of liquor. That such advertising persists, despite all the “responsibility” rhetoric from the liquor industry, reflects a fatal flaw of voluntary controls and underscores the need for greater government scrutiny and enforcement.

According to both Malibu promoters and public media reports, Malibu’s new promoter, Shaggy, is a successful reggae musician with multiple awards and hits to his credit. He’s expected to make a big splash in May 2004, with the release of a new album and the start of a worldwide Malibu tour. Shaggy will perform in Malibu radio ads as well, as he has previously.

A cursory glance at the entertainment media reveals that Shaggy’s celebrity owes much to his popularity and appeal to a huge teenage fan base — all under the legal drinking age. In 2001, Shaggy won two Teen Choice Awards for his music; voters for the awards used ballots published in Seventeen magazine or voted online. In 2001, Shaggy was the opening act for a Backstreet Boys tour, clearly a show and a tour designed with teenage fans in mind. He has also performed with Mandy Moore and Lil Bow Wow, both strong favorites of teen audiences.

Malibu’s partnership with Shaggy violates at least two provisions of the DISCUS Code of Responsible Practices. Provision two of the DISCUS Code’s Responsible Content section, provides:

_The content of beverage alcohol advertising and marketing materials should not appeal primarily to individuals below the legal purchase age._
The partnership of Malibu rum and teen pop star, Shaggy, makes a mockery of this provision. Any marketing of a pre-sweetened, almost ready-to-drink, youth-oriented rum product by a youthful, popular-music teen idol surely fails to adhere to this provision of the code. Allied-Domecq’s own materials suggest that Shaggy will become the “personality” of Malibu. While his fan base likely includes some adults of legal drinking age, Shaggy’s strong appeal to underage fans should have warned Malibu to steer clear of a commercial relationship with Shaggy that violates other sections of the DISCUS voluntary advertising code as well.

The promise of extensive Malibu advertising at Shaggy’s concert events runs afoul of provision four of the Responsible Placement section of the Code:

*Appropriate measures and best efforts should be taken so that beverage alcohol advertising and marketing are not specifically aimed at events unless at least 70 percent of the audience is reasonably expected to be above the legal purchase age.*

While Shaggy may have some adult fans, there can be no doubt that he has substantial appeal among underage persons. Those underage fans likely comprise a large number, even if not as much as 30 percent of the audience for his shows. That standard is the current maximum, according to DISCUS, for audiences deemed acceptable for liquor advertising. Malibu intends to be the official alcohol-beverage sponsor of Shaggy’s 2004 concert tour, which will include participation in album debut events. Some of those events, as in the past, will involve appearances with entertainers who have even stronger youth-appeal than Shaggy. In earlier concerts he has toured with a boy band wildly popular among teen girls.

Even if youth participation at Shaggy concerts fails to meet the 30 percent standard, we question the appropriateness of the Malibu-Shaggy connection. Using this teen idol to market liquor represents a cynical and insensitive effort to peddle, to large youth audiences, a product that has an inherently strong appeal to entry-level consumers. Those consumers include many underage persons who have not acquired a taste for alcohol and who need to be “weaned” on sweet-tasting beverages that are easier for them to drink.

Malibu’s January 12 press release crows that: “Shaggy is the perfect choice for MALIBU brand, as his upbeat nature and approach to life perfectly reflects what MALIBU is all about — helping to kick-start a fun evening for ‘seriously easy-going’ good times.” We believe that Malibu’s campaign provides consumers, especially teenagers, with a reckless inducement to drink too much. Many young people, at their peril, already drink specifically to achieve those “seriously easy going times.”

Unfortunately, it appears as if Allied-Domecq’s Malibu campaign has already progressed to its current stage without any consultation or concern from DISCUS. Even if DISCUS were to act today, much damage will have already been done, because the campaign is underway and may be difficult to stop. This reality underscores an essential weakness in toothless, voluntary advertising standards that may be imposed following the introduction of an advertising campaign. It is simply not enough to shut the gates after all the horses have left the barn.
Nonetheless, we urge DISCUS to demand that Allied Domecq Spirits and Malibu drop this marketing campaign immediately. In addition, we respectfully suggest that DISCUS more aggressively monitor the advertising campaigns of its members and take preemptive action to avoid ongoing advertising practices that patently and flagrantly violate DISCUS standards and target inappropriate, underage youth audiences.

Sincerely,

George A. Hacker
Director
Alcohol Policies Project

cc:
Janet Evans, Federal Trade Commission
Senator Mike DeWine (R-OH)
Senator Christopher Dodd (D-CT)
Representative Lucille Roybal-Allard (D-CA)
Representative Zach Wamp (R-TN)
Representative Frank Wolf (R-VA)