

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

COMMISSIONERS: Timothy J. Muris, Chairman
Sheila F. Anthony
Mozelle W. Thompson
Orson Swindle
Thomas B. Leary

ORDER TO FILE SPECIAL REPORT

Pursuant to a resolution of the Federal Trade Commission dated March 25, 2003, entitled “*Resolution Directing Use of Compulsory Process*,” a copy of which is enclosed, _____, hereinafter referred to as “the company,” is ordered to file a Special Report with the Commission no later than 21 days after the date of issuance of this Order, containing the information and documents specified herein.

The information provided in response to the Special Report will assist the Commission in preparing a report requested by Congress regarding the effect on minors of the marketing of certain alcohol beverages as well as regarding alcohol industry self-regulatory efforts.¹

¹ The House and Senate Conference Agreement on salaries and expenses for the FTC for fiscal year 2003 states:

The Conferees direct the Commission to study the impact on underage consumers of the significant expansion of new ads for liquor-branded “alcopops” and report the Commission's finding to the Committee within six months of enactment of this Act. The Conferees are also concerned that the alcoholic beverage industry has not implemented all of the recommendations of the 1999 Commission report, “Self Regulation and the Alcohol Industry,” and that only one industry member has taken action to provide for independent review of complaints about its advertising. The Conferees urge the Commission to encourage the industry to adopt stricter advertising placement standards as well as establish an independent third-party review mechanism to limit the appeal and exposure of alcohol advertising to underage consumers and report back to the Committees on Appropriations no later than six months from enactment of this bill on the status of the implementation of these recommendations and whether further rule-making by the Commission is required.”

The Special Report is required to be subscribed and sworn to by an official of the company who has prepared or supervised the preparation of the Special Report from books, records, correspondence, and other data and materials in the company's possession or control. The person who signs the Special Report must give his or her full name, business address, and official capacity.

The Special Report should restate each item of this Order with which the corresponding answer is identified. If any question cannot be answered fully, give the information that is available and explain in what respects and why the answer is incomplete. The Special Report and all accompanying documentary responses should be bates-stamped. For purposes of this Special Report, the words "the company" include any parent, subsidiary or affiliated companies.

Please supply the following information and documents:

1. State:
 - a) The full name of the company, its official address, and its date and state of incorporation;
 - b) Whether the company is a subsidiary company, and if so, the name of the parent company;
 - c) Whether the company has any subsidiary or affiliated companies, and if so, the names of the subsidiary and affiliated companies; and
 - d) For each parent and subsidiary, the same information specified in (a) above.
2. State total alcohol sales and total measured media advertising expenditures in dollars for each of 1998-2002.
3. Identify all brands marketed or sold by the company, and for each brand, provide all documents that set forth or discuss the advertising, marketing, and sales plans utilized in connection with the brand in 2002, and any documents that refer or relate to amendments or modifications to the plans.
4. Set forth the terms of all current company policies concerning the content of alcohol advertising and efforts to avoid underage appeal of such content, and describe the steps that are taken to implement these policies, including directions to internal or external staff responsible for advertising preparation, review, or dissemination, regarding the meaning of these policies and how to comply with them. To the extent that the company's content or placement provisions differ in part or in whole from the voluntary advertising code of any trade association to which the company belongs, identify such differences. Provide copies of directives to internal or external staff, issued after September 10, 1999, regarding these policies. Identify any changes in company policies pertaining to alcohol advertising content that were implemented in response to the FTC's 1999 Alcohol Report.

5. Identify, describe or provide a copy of any advertisement or advertising theme or technique the company has rejected since September 10, 1999 for inclusion in an advertisement because of concern that the content of the ad could appeal to persons below the legal purchase age.
6. Set forth the terms of all current company policies pertaining to the placement of alcohol advertising and efforts to reduce underage exposure to such ads, and describe the steps taken to implement these policies, including directions to internal or external staff responsible for advertising preparation, review, or dissemination, regarding the meaning of these policies and how to comply with them. To the extent that the company's content or placement provisions differ in part or in whole from the applicable industry code, identify such differences. Provide copies of directives to internal or external staff, issued after September 10, 1999 regarding these policies. Identify any changes in company policies pertaining to alcohol advertising content that were implemented in response to the FTC's 1999 Alcohol Report.
7. With regard to (a) each brand marketed or sold by the company for whom the stated target audience includes consumers 24 years of age or younger, or for which no age target is specified; (b) each of the brands identified in Appendix A (attached); and (c) each other flavored malt beverage; malt-, wine-, and spirits-based cooler; and ready-to-drink cocktail sold by the company in 2002, provide the following:
 - i) Annual sales, in dollars and in 9-liter or 2.25 gallon cases, for each of 1998-2002;
 - ii) Annual expenditures for advertising in measured media, for each of 1998-2002;
 - iii) All documents dated, prepared, or received between January 1, 2002 and December 31, 2002, that contain data regarding the demographics of persons who have tasted, used, or purchased the brand;
 - iv) A copy of each magazine, radio, and television advertisement disseminated for the brand between January 1, 2002 and December 31, 2002;
 - v) With regard to each advertisement requested in subparagraph (iv), provide:
 1. A schedule showing the location, time, date, and over/under 21 demographics (in percent and absolute numbers) for each separate placement of the ad;
 2. A copy of each document discussing or evaluating the extent to which disseminations of the advertisement complied with company placement policies, including any audit or monitoring report, and any related recommendations; and
 3. All marketing or consumer research referring or relating to the ad, including but not limited to reports regarding copy tests, focus groups, or other consumer research.

8. Describe in detail the enforcement mechanism(s) available regarding possible violations of the voluntary advertising codes of the Beer Institute/DISCUS/Wine Institute. State whether, at any time on or after September 10, 1999, the Beer Institute, DISCUS, or the Wine Institute, has notified the company of a complaint regarding the company's advertising or marketing. If the response is yes, provide a copy of the complaint, any referral letter from the trade association, and the company's response to the complaint.
9. Provide copies of any complaints submitted to the company on or after January 1, 2001, by consumers, competitors, or others regarding company alcohol advertising, and the company's response to the complaint.
10. If the company has adopted a third-party review mechanism, provide documents sufficient to fully set forth procedures involved, the financial cost of the mechanism, and copies of all documents reflecting review under that mechanism, including but not limited to communications between the reviewer and the advertiser or complaining party regarding any issue under review, and any document reflecting the recommendation or decision of the reviewer.
11. If the company has not adopted a third-party review mechanism, state the reasons for not doing so.
12. To the extent not fully discussed above, describe all company policies adopted or modified in response to the FTC's 1999 Alcohol Report, including policies pertaining to:
 - a) Product placement (an appearance or mention of the trademark, product name, or product) of the company's beverage alcohol products in television programming and movies;
 - b) Internet advertising; and
 - c) Promotions conducted on college campuses or directed to college students off campus, including promotions at "spring break" and other vacation destinations.
13. Identify and describe all company policies in place during any part of calendar year 2002 that set out the steps taken by the company to discourage underage drinking. State the amount of company expenditures in connection with such efforts during the calendar year 2002. Identify and provide a copy of all studies, research or other data performed or obtained by the company since January 1, 2002 that evaluate the effectiveness of the company's efforts to discourage underage drinking of beverage alcohol products.

Penalties may be imposed under applicable provisions of federal law for failure to file Special Reports or for filing false reports.

The Special Report called for in this Order is to be filed on or before April 15, 2003.

By direction of the Commission.

Timothy J. Muris
Chairman

SEAL

Date of Order:

The Special Report required by this Order,
or any inquiry concerning it, should be
addressed to the attention of:

Janet M. Evans
Division of Advertising Practices
Federal Trade Commission
Washington, D.C. 20580
(202) 326-2125 phone
(202) 326-3259 facsimile
jevans@ftc.gov