

**Sample Comment Letter to TTB
Labeling of Alcoholic Beverages
Due: January 27, 2007**

Director
Regulations and Rulings Division
Alcohol and Tobacco Tax and Trade Bureau
P.O. Box 14412
Washington, DC 20044-4412

Re: Notice No. 73
Labeling and Advertising of

Wines,

Beverages

Distilled Spirits and Malt

Dear Director:

I am writing to commend the Alcohol and Tobacco Tax and Trade Bureau (TTB) for proposing important improvements in the labeling of alcoholic beverages and to urge further changes that would make the labels even more effective in educating consumers about the alcohol and nutritional content of the drinks they ingest. In particular, new rules must require labels to contain clear, consistent, and sufficient information to allow consumers to measure and moderate their alcohol consumption. Other information suggested in the proposed rule, such as fat and protein content, is of much lesser importance and relevance.

We strongly support the following label elements proposed by TTB:

- Mandatory labeling of alcohol content
- Mandatory use of an informational panel on alcoholic-beverage labels, and
- Mandatory disclosure of calorie content, serving size, and number of servings per container.

We also have several reservations and urge consideration of the following issues before finalizing a rule:

- **Alcohol content must be disclosed on the informational panel.**

Given the importance to consumers of the alcohol-content disclosure, we believe strongly that such information should appear as part of an “alcohol facts” panel, and not

(as proposed) “anywhere on the container.” Alcohol content represents the essence of the product. That basic information is too important to be concealed, and its position on the label ought to be standardized across alcoholic beverages in the marketplace. We find it, at best, bizarre that TTB, the agency that oversees alcohol labeling, would ignore consumers’ basic interests in having label information about alcohol content that is easy to find, legible, and understandable. Alcohol content information should be prominent and readily visible to consumers in the context of other information about the product.

- **The informational panel should be uniform (except for specific content) for all beverages.**

To reduce the likelihood of consumer confusion, the mandatory informational panel should be uniform and standard for all products (with the exception of containers smaller than 50 mm, for which linear disclosure of the required information would be acceptable). Therefore, TTB should approve only one form of informational panel (we prefer “alcohol facts” as the title) that includes alcohol content disclosure. To reduce confusion, and provide additional information to consumers about their alcohol consumption, all informational panels should disclose alcohol content as a percentage of volume *and* as fluid ounces (or, subject to further research, in grams) of alcohol per serving (or drink). We oppose TTB’s proposal for an alternative, voluntary “serving facts” panel that would merely permit disclosure of “fluid ounces of alcohol per serving” on some labels. Different informational panels on different products, some disclosing alcohol content, others not, can only serve to confuse consumers. Surely, more research is necessary to determine the effects on consumers of varying label content.

- **Calorie information should be highlighted and separate from other nutrition information.**

Consumers rely heavily on calorie information to help regulate their food intake and maintain a healthy weight. Not only consumers, but society at large has a strong interest in reducing calorie intake. Obesity and excessive weight impose significant economic and health burdens on the nation and label information on calories in alcoholic beverages – a significant source of calories – will help consumers measure and moderate their drinking and better understand the contribution of alcohol calories to the total calories they consume. Because this information is so important, particularly in contrast to other proposed disclosures regarding carbohydrates, fat and protein, the disclosure of calories per serving (or drink) should be presented separately and more prominently than other nutritional information on the informational panel. We recommend that TTB conduct consumer research about how best to configure a label that spotlights the information of most interest and value to consumers.

- **The proposed informational panel should include additional information to help consumers measure and moderate their drinking.**

Subject to further consumer research, TTB should incorporate the following elements in the proposed informational panel:

- Mandatory statement regarding the definition of moderate drinking found in the Dietary Guidelines for Americans (no more than 2 drinks (*1 fluid ounce of alcohol/ethanol*) per day for men, one drink (*1/2 fluid ounce of alcohol/ethanol*) for women). There is absolutely no evidence to support TTB's contention that this label information would encourage drinking among those who should abstain. TTB's rejection of this important label element is particularly bewildering, in light of its express interest in assisting consumers to "measure and moderate their drinking." Subject to consumer testing, the Dietary Guidelines statement could be supplemented (as expressed above) by adding a reference to the total fluid ounces of alcohol contained in the prescribed drink measures. That explanation would relate directly to the information-panel disclosure of fluid ounces of alcohol per drink/serving.
- Generally, TTB should base reference amounts for serving size and number of servings per container on the amount of the alcoholic beverage customarily consumed as a single serving. However, we believe more research is necessary to better assign real-world reference amounts to beverage containers that do not conform to TTB's proposed reference-amount definitions. In particular, TTB must ascertain realistic reference amounts for "single-serve" product containers that are common in the marketplace, but do not conform to its proposals. For example, amounts of malt beverage of 16 ounces or more are frequently packaged, sold, and consumed as a single serving. Such containers should be considered one serving, and the labels should reflect their higher alcohol content (in fluid ounces) and higher levels of calories and other nutrients. Consumers could then compare their *alcohol* consumption with the *alcohol* amounts contained in the Dietary Guidelines definition of moderate drinking. Numerous other products come pre-packaged and marketed in "single-serve" sizes that vary from TTB's assigned reference amounts, and they should be treated similarly.

- **The informational panel should not contain irrelevant nutrition information.**

We have serious concerns about the notion of "nutrition" labeling on alcoholic beverages (other than calorie content disclosure), and we are particularly baffled by the inclusion of fat and protein on the proposed "serving facts" panel. Those nutrients rarely occur in alcoholic beverages, and their presence on the label might confuse consumers. Alcohol is not a food commodity, and the label should not give consumers the impression that fulfilling nutrient requirements by drinking is healthful. We recommend that fat and protein be listed only if those nutrients are present in significant threshold amounts. Those amounts could be determined in consultations with the Food and Drug Administration.

- **Linear configuration of “serving facts” should be allowed only on containers smaller than 50 ml.**

TTB solicited comments about whether it should allow alcohol containers of any size to display the “serving facts” information in linear (rather than panel) form. We strongly oppose this suggestion, because it will significantly increase the difficulty in finding and reading the information. Except for small containers (smaller than 50 ml), all alcohol containers should have a standard, uniformly positioned, clearly visible and legible informational panel that contains complete information about the product. Because much of that information concerns the essential element of that product – alcohol – we believe that the panel should be titled “Alcohol Facts,” rather than “Serving Facts.”

- **Three years for compliance is long enough.**

TTB has proposed implementing the regulations three years following their approval. We believe this is sufficient time for industry members to plan for new labels and to absorb the minimal additional costs that might be incurred to comply with the new rules.

We note that many brands adjust or change their labels for marketing reasons even more frequently than every three years, and we expect “hardship” cases to be rare. For that reason, TTB should require all applications for Certificate of Label Approval (COLAs) filed 6 months after the finalization of the regulation to meet the new requirements.

If smaller producers (primarily vintners and specialty brewers) can prove that the new labeling requirement would impose an undue economic hardship, TTB could exempt them from compliance until they revised their labels and applied for a new certificate of label approval, provided that they made the information available to consumers on the Internet until that time. Given that those products account for only a very small percentage of the alcohol put into commerce in the United States, we believe that American consumers and the public health at large would not be severely compromised were such a temporary exemption available to producers of less than 1,000 cases of wine, 25,000 barrels of beer, or 1,000 cases of distilled spirits per year.

- **Ingredient Labeling Still Needed**

We note that the subject proposed rule addresses only some of the information that was requested in a consumer petition filed with TTB in December 2003. In particular, it does not address the disclosure of ingredients found in alcoholic beverages. We strongly urge TTB to address that issue in rulemaking as soon as possible.

Thank you for moving forward on this important advance in labels for alcoholic beverages.

