December 20, 2004

Deborah Platt Majoras  
Chairman  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, D.C. 20580

Dear Chairman Majoras:

In its September 2003 report to Congress, “Alcohol Marketing and Advertising,” the Federal Trade Commission asserted that it would “continue to monitor alcohol industry self-regulation” and the “effectiveness of third-party and other external review programs” concerning alcohol advertising.

For that reason, I want to bring to your attention the attached recent correspondence we’ve had with the Beer Institute and Anheuser-Busch. It concerns a naked violation of the Beer Institute’s Voluntary Advertising Guidelines and Anheuser-Busch’s unilateral refusal to take corrective action, in supposed accordance with the complaint process now in effect at the Beer Institute.

We believe that Anheuser-Busch’s dismissive response to CSPI’s ad complaint superbly illustrates the oxymoronic character of beer-industry self-regulation. Both the process – which ignores the FTC’s recommendation that the industry adopt independent third-party review – and the guidelines themselves are totally ineffectual and in need of repair, replacement, and heightened government oversight.

CSPI alerted the Beer Institute about a Bud Light television advertisement that clearly violates both the spirit and letter of its voluntary advertising code. Rather than respond to the complaint and seek a reasonable explanation from Anheuser-Busch, or take any action to enforce its advertising code, the Beer Institute, according to its process for handling complaints, merely forwarded it to the offending advertiser, Anheuser-Busch.

That company, through its Vice President for Consumer Affairs, John Kaestner, responded directly to CSPI, by flatly rejecting the complaint. In so doing, Mr. Kaestner ignored the clear language of the Beer Institute’s guideline (ads “should not portray or imply illegal activity of any kind”) and distorted its meaning by responding that the company “disagrees with your assertions that these ads ‘promote’ illegal activity.”
What kind of self-regulation is this when the offending company both creates and interprets new rules in response to complaints about its advertising? Furthermore, Mr. Kaestner’s additional defense – that the ads are merely “over the top” humor – likewise constitutes a self-serving, unsubstantiated interpretation of the code. As far as we can tell, the Beer Institute’s voluntary code provides no exception for humor. Indeed, the “principles” underlying the guidelines state that “Beer advertising should not suggest directly or indirectly that any (emphasis added) laws applicable to the sale and consumption of beer should not be complied with.”

Millions of viewers have watched the subject Bud Light advertisements and will continue to watch as long as A-B wants to air them. Many young people recognize the illegal activity involved in the ads, and, in fact, view the ads as spoofing illegal underage drinking and youths’ efforts to hide that drinking from law enforcement officers. Who else runs from police when caught with beer?

Unfortunately, neither beer industry “self-regulation” nor effective government intervention is available to challenge this cynical advertising campaign. Self-regulation serves the interests of producers, not consumers. It has a history of vague standards, shoddy enforcement, and no penalties for non-compliance. Unless the Commission exerts additional influence on producers to adopt independent third party review and voluntary advertising guidelines with teeth, such inappropriate ads will continue to air with impunity, leaving consumers with only a false perception of recourse.

We respectfully request that the FTC take action to improve the beer industry’s complaint process and strengthen its voluntary advertising standards.

Sincerely,

George A. Hacker
Director
Alcohol Policies Project