

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

COMMISSIONERS: **Jon Leibowitz, Chairman**
 J. Thomas Rosch
 Edith Ramirez
 Julie Brill
 Maureen K. Ohlhausen

FTC Matter No. P104518

ORDER TO FILE SPECIAL REPORT

Pursuant to a resolution of the Federal Trade Commission dated September 2, 2010, entitled "*Resolution Directing Use of Compulsory Process*," a copy of which is enclosed, [insert target name], hereinafter referred to as "the company,"¹ is ordered to file a Special Report with the Commission no later than the dates specified in Appendix A.III. hereto, containing the information and documents specified herein.

The information in the Special Report will assist the Commission in its ongoing review of beverage alcohol advertising and marketing and alcohol industry self-regulatory efforts. Documents submitted in compliance with this Order that are marked "confidential" will not be disclosed without first giving you ten days' notice of the Commission's intention to do so, except as provided in Sections 6(f) and 21 of the FTC Act, 15 U.S.C. §§ 46(f) and 57b-2. Furthermore, no documents containing confidential commercial or financial information within the meaning of Section 6(f) of the FTC Act may be disclosed publicly without your consent.

The Special Report should restate each item of this Order with which the corresponding answer is identified. If any specification cannot fully be answered, provide the information that is available and explain in what respects and why the answer is incomplete. **The Special Report and all accompanying responses should be bates-stamped.**

Please supply the information and documents requested in the following Specifications, **consistent with the Definitions and Instructions contained in Appendix A.**

¹ For purposes of this Order, the term "the company" includes all of the entities identified in response to Specification 1.B., below.

SPECIFICATIONS

Specification 1. Company Background Information, Brands, and Data

Provide the following background information:

- A. Identify by full name, business address, telephone number, and official capacity, the officer of the company who has prepared or supervised the preparation of the company's response to this Order.
- B. Fully identify the entity responding to this Order by company name, address, and state of incorporation. In addition, identify each subsidiary, joint venture, affiliated company, partnership, or operation under an assumed name that is owned in whole or in part by the company and that engages in the manufacturing, labeling, advertising, promoting, offering for sale, or sale of any beverage alcohol product in the United States.
- C. Identify by name each individual beverage alcohol brand or variety sold by the entities identified in subparagraph 1.B. above, during calendar year 2011, and for each brand or variety, state total sales, net of taxes ("stripped sales"), during calendar year 2011 in dollars and in number of 9-liter or 2.25-gallon cases sold.
- D. Produce all documents dated, prepared, or received by the company on or after January 1, 2011 that contain data not otherwise publicly available regarding the demographics of persons under 21 located in the U.S. who have tasted, used, or purchased any beverage alcohol brand manufactured, advertised, or sold by the company.

Specification 2. Expenditures

Report in Appendix B to this Order² the dollar amount expended during calendar year 2011 by the company, whether directly or through its agents, on the advertising, merchandising, or promotion of beverage alcohol products in the United States in each of the categories set forth below (*as defined in Appendix A.I.*):

- A. Television Advertising
- B. Radio Advertising
- C. Magazine Advertising
- D. Newspaper Advertising
- E. Transit Advertising
- F. Outdoor Advertising
- G. Direct Mail Advertising

- H. Company-Owned or Operated Internet Sites
- I. Other Internet Site Advertising
- J. Other Digital Advertising
- K. Point-of-Sale Advertising: Specialty Item Distribution
- L. Point-of-Sale Advertising: Retail Value-Added Expenditures
- M. Point-of-Sale Advertising: Other
- N. Promotional Allowances
- O. Public Entertainment Events: Not Sports-Related
- P. Sponsorship of Sporting Events, Sports Teams, or Individual Athletes
- Q. Spring Break Promotions
- R. Product Placements
- S. In-Cinema Advertising
- T. Telemarketing
- U. Other
- V. Sports and Sporting Events (Cross-Category)

directions in Appendix A.II:

- (i) The advertisement's name;

and tracking practices with respect to any visitor identified as being under age 21.

- (vi) For each website identified, provide a screen shot of the site's landing page, as well screen shots for each page of the website, if any, that depicts an age-screening mechanism; and provide a screen shot of the privacy policy posted on the site.
- (vii) Describe in detail any analytics or technologies used to identify or profile visitors to the website and how that information is used.
- (viii) Describe company policies, including standards as well as methods and frequency of monitoring and enforcement, governing the content of Company-Owned or Operated Internet Sites, including user-generated content.

B. Provide information relating to Other Internet Site and Other Digital Advertising Campaigns:

- (i) Identify all Other Internet Site (*as defined in Appendix A.I.I.*) and Other Digital Advertising (*as defined in Appendix A.I.J.*) campaigns promoting any of the company's brands listed in response to Specification 1.C. above at any time from January 1, 2011 to June 30, 2011. For each campaign identified, provide samples of (or list and describe in detail, if providing samples is not practicable), the specific advertising and/or promotional activities involved.
- (ii) With respect to each campaign: indicate what information, if any, is collected and/or maintained from any consumer, including but not limited to threshold information, and information collected and/or maintained

- C. Provide all marketing or consumer research studies sponsored or commissioned by the company since January 1, 2010 through the date of your completed response regarding Company-Owned or Operated Internet Sites, Other Internet Sites, or Other Digital Advertising, including the effectiveness of any particular types of campaigns in increasing interest in or consumption of any of the company's brands.

Specification 5. Lesser-Known Media Program Descriptions

- A. If the company reported expenditures in Specification 2, Categories G (Direct Mail Advertising), J (Other Digital Advertising), K (Point-of-Sale Advertising: Specialty Item Distribution), L (Point-of-Sale Advertising: Retail Value Added), N (Promotional Allowances), O (Public Entertainment Events: Not Sports Related), P (Sponsorship of Sporting Events, Sports Teams, or Individual Athletes), Q (Spring Break Promotions), R (Product Placements), S (In-Cinema Advertising), T (Telemarketing), U (Other), or W (Social Responsibility Programs and Messages), briefly describe the types of programs and events funded by efforts in each such category, as well as what efforts the company engages in to ensure that such funds are expended consistent with the voluntary advertising codes of the company, the Beer Institute, the Distilled Spirits Council of the United States, and/or the Wine Institute.
- B. With respect to Product Placements⁴ for the period from January 1, 2011 to June 30, 2011, please identify, in the manner instructed on the spreadsheet included in

The Special Report responses called for in this Order are to be filed on or before the dates set forth on Appendix A.III.

By direction of the Commission.

Jon Leibowitz
Chairman

SEAL

Date of Order: April 6, 2012

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
NJ-3212
Washington, D.C. 20580
(202) 326-2125 phone (Evans)
(202) 326-3259 facsimile
jevans@ftc.gov

E. Transit Advertising

Definition: Advertising on or within private or public vehicles and all advertisements placed at, on or within any bus stop, taxi stand, transportation waiting area, train station, airport, or any other transportation facility.

F. Outdoor Advertising

Definition: Advertising on billboards; signs, placards or posters placed on outdoor street furniture, kiosks, shopping malls (whether open-air or enclosed), pay telephone booths, parking space bumpers or other advertising in parking lots or garages, or trash receptacles; airplane banners; and any other advertisements placed outdoors regardless of their size. This category *excludes* expenditures in connection with Transit Advertising (defined in Category E),

Point-of-Sale Advertising: Other (defined in Category M), Public Entertainment Events: Not Sports-Related (defined in Category O), or Sponsorship of Sporting Events (entshsephsea8.6(3(or trTJ-3 nm)ve

creating, maintaining, monitoring, and updating the site, page, banner, or other form of on-line advertising. **Allocate** these expenditures between (a) advertising on sites other than social media and (b) advertising on social media sites.

J. Other Digital Advertising

Definition: Advertising and promotional content visible on, or that can interact with, personal computers (PC) and other digital devices, including personal digital assistants, portable media players, portable gaming devices, wireless tablet computers, or mobile phones, whether or not Internet-enabled. This category *includes but is not limited to* expenditures for electronic mail (email) messages, short message service (SMS text) or multimedia (MMS) messaging, instant messaging (IM), microblogging (*e.g.*, tweets, twit-backs on Twitter), tell-a-friend viral messaging, picture messaging, user-generated content (such as messages, photos, or videos) that is posted by the company, bar code print ads that can interact with mobile phones, mobile broadcasts, mobile video, mobile or PC applications and widgets, games, downloads, podcasts, or “webisodes.” This category excludes expenditures in connection with Company-Owned or Operated Internet Sites (defined in Category H) and Other Internet Site Advertising (defined in Category I).

K. Point-of-Sale Advertising: Specialty Item Distribution

Definition: All net costs (deducting payments by consumers) of distributing items other than beverage alcohol products, whether distributed by sale, redemption of coupons, or otherwise. **Allocate** these expenditures between items that (a) bear the name, logo, or any portion of the package of any brand or variety of beverage alcohol product sold by the company and (b) do not bear the name, logo, or any portion of the package of any brand or variety of beverage alcohol products sold by the company. *Exclude* costs associated with distributing non-alcohol items in connection with Point-of-Sale: Retail Value-Added Expenditures (defined in Category L). This category *excludes* expenditures in connection with Spring Break Promotions (defined in Category Q).

L. Point-of-Sale Advertising: Retail Value-Added Expenditures

Definition: Expenditures for promotions involving: (a) free beverage alcohol products (*e.g.*, buy two, get one free), whether or not the free beverage alcohol products are physically bundled together with the purchased beverage alcohol products, including all expenditures and costs associated with the value added to the purchase of beverage alcohol products (*e.g.*, all associated excise taxes paid on the free beverage alcohol products); and (b) free non-alcohol products items (*e.g.*, buy two, get a can opener) including all expenditures and costs associated with the value added to the purchase of beverage alcohol products. This category *excludes* expenditures in connection with Spring Break Promotions (defined in Category Q).

M. Point-of-Sale Advertising: Other

Definition: Expenditures for advertising and promotions at on-premise or off-premise locations where beverage alcohol can be purchased. This category *excludes* expenditures in connection with Point-of-Sale: Specialty Item Distribution (defined in Category K), Point-of-Sale: Retail Value-Added Expenditures (defined in Category L), Public Entertainment Events: Not Sports-Related (defined in Category O), Sponsorship of Sporting Events, Sports Teams, or Individual Athletes (defined in Category P), and Spring Break Promotions (defined in Category Q).

N. Promotional Allowances

Definition: Allowances paid to retailers or wholesalers/distributors for development and distribution of consumer-directed advertising and promotional efforts, but *excluding*

teams or individual athletes” includes but is not limited to competitors in football, basketball, baseball, soccer, hockey, tennis, wrestling, golf, karate, judo, weight lifting, volleyball, skiing, skating, sailing, boating, equestrian, rodeo, automobile, race car, funny car, motorcycle, bicycle,

