

# CODE OF RESPONSIBLE PRACTICES

FOR BEVERAGE ALCOHOL  
ADVERTISING AND MARKETING

DISTILLED  
SPIRITS  
COUNCIL  
OF THE UNITED STATES, INC.

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[www.discus.org](http://www.discus.org)

MAY 26, 2011

# Preamble

- The Distilled Spirits Council of the United States, Inc. (DISCUS) is the national trade association representing producers and marketers of distilled spirits sold in the United States. Some of our members also are producers and marketers of many malt beverage (beer) and wine brands sold in the United States. With a full portfolio of beverage alcohol products, DISCUS members have developed a Code of advertising and marketing responsible practices to provide guidance to all those involved in the promotion of their respective brands.
- DISCUS members are committed to the responsible placement and content of their brand communications. The overriding principle of our Code is to market our products to adults of legal purchase age in a responsible and appropriate manner. Towards this end, DISCUS members pledge voluntarily to conduct their advertising and marketing practices in the United States in accordance with the provisions of this Code.
- The consumption of beverage alcohol products has played an accepted and important role in the cultural and social traditions of both ancient and modern society. DISCUS members take special pride in their products and their commitment to promoting responsible drinking by those adults of legal purchase age who choose to drink.
- DISCUS members encourage responsible decision-making regarding drinking, or not drinking, by adults of legal purchase age, and discourage abusive consumption of their products. DISCUS members urge that adults of legal purchase age who choose to drink, do so responsibly. Nevertheless, it is the obligation of each consumer who chooses to drink to enjoy beverage alcohol products in a responsible manner.

## Scope

- This Code applies to all activities undertaken to advertise and market distilled spirits, malt beverage and wine brands. These activities include brand advertising, consumer communications, promotional events, packaging, labels, and distribution and sales materials.
- The provisions of the Code apply to every type of print and electronic media, including the internet and any other on-line communications, used to advertise or market beverage alcohol. These provisions also apply to every type of promotional or marketing activity or event, including all product placements (e.g., movies, television programs, music videos, video games) and sponsorships. Sponsorships are commercial, contractual agreements between a beverage alcohol company (the sponsor) and a sponsored party or sponsorship property establishing an association between the sponsor's brands or products and the sponsored party or sponsorship property in return for rights to promote this association.
- DISCUS members recognize that it is not possible to cover every eventuality and, therefore, agree to observe the spirit, as well as the letter, of this Code. Questions about the interpretation of the Code, member companies' compliance with the Code, and the application of its provisions are directed to the Code Review Board of DISCUS.

## Overview of the Code Review Process

- For more than 70 years, distillers have abided by a voluntary Code of advertising practices. First adopted in 1934, the Code now includes over 40 provisions regarding the responsible placement and content of beverage alcohol advertising and marketing materials.
- Through these voluntary provisions, DISCUS members hold themselves to a standard higher than mandated by any law or regulation. By this Code, DISCUS members hold all of their beverage alcohol products — distilled spirits, beer and wine — to the same high standard.
- Our commitment to responsibility and self-regulation always has been, and will continue to be, the cornerstone of our advertising and marketing practices.

- A Code Review Board, established under the provisions of the Code, provides a mechanism for any complaints or inquiries regarding all advertising and marketing materials subject to this Code. The Code Review Board has been a functioning and effective component of our voluntary Code for decades.

## Responsible Placement

### **Adult Audiences/Underage Persons**

1. Beverage alcohol advertising and marketing materials are intended for adults of legal purchase age who choose to drink.
2. Beverage alcohol products should not be advertised or marketed in any manner directed or primarily appealing to persons below the legal purchase age. (The definition of "primarily appeal" is set forth under the Responsible Content provisions.)
3. Beverage alcohol advertising and marketing should be placed in broadcast, cable, radio, print, and internet/digital communications only where at least 71.6 percent of the audience is reasonably expected to be of legal purchase age (determined by using reliable, up-to-date audience composition data).
  - To facilitate these placement commitments, recognized electronic and print composition data should be reviewed on a regular basis (at least annually) in order to ensure that the audience composition data are current and appropriate.
  - Internal, semi-annual after-the-fact audits of a random portion of past placements should be undertaken to verify that such past placements were in compliance with this Code and to take appropriate, corrective action for future placements.

- Detailed demographic data/advertisement placement guidelines have been developed to implement the responsible placement provisions, which are posted on the DISCUS website and updated periodically to reflect the most current and appropriate data.
4. Appropriate measures and best efforts should be taken so that beverage alcohol advertising and marketing are not specifically aimed at events unless at least 71.6 percent of the audience is reasonably expected to be of legal purchase age.
  5. Fixed beverage alcohol advertising and marketing materials may be placed at venues that are used primarily for adult-oriented events defined as where at least 71.6 percent of the audience attending those venue events is reasonably expected to be of legal purchase age.
  6. Beverage alcohol products should not be advertised or marketed in college or university newspapers, or on college and university campuses except for licensed retail establishments located on such campuses.
  7. Supplier-sponsored beverage alcohol promotions should not be conducted in an on-campus licensed retail establishment owned or operated by a college or university.
  8. Beverage alcohol advertising should not be placed on any outdoor stationary location within five hundred (500) linear feet of an established place of worship, an elementary school or secondary school except on a licensed premise.

## Responsible Content

### **Adult Audiences/Underage Persons**

1. Beverage alcohol advertising and marketing materials are intended for adults of legal purchase age who choose to drink. Beverage alcohol advertising and marketing materials must comply with all aspects of the Code regardless of where these materials are placed; for example, the nature or subject matter of a particular publication is not relevant.

2. The content of beverage alcohol advertising and marketing materials should not primarily appeal to individuals below the legal purchase age.
3. Beverage alcohol advertising and marketing materials should not depict a child or portray objects, images or cartoon figures that primarily appeal to persons below the legal purchase age. Advertising or marketing material is considered to "primarily appeal" to persons below the legal purchase age if it has special attractiveness to such persons beyond the general attractiveness it has for persons of legal purchase age.
4. Beverage alcohol advertising and marketing materials should not contain the name of or depict Santa Claus.
5. Beverage alcohol products should not be advertised or marketed on the comic pages of newspapers, magazines or other publications.
6. Beverage alcohol products should not be advertised or marketed in a manner associated with the attainment of adulthood or the "rite of passage" to adulthood.
7. Beverage alcohol products should not be advertised or promoted by any person who is below the legal purchase age or who is made to appear to be below the legal purchase age. To help ensure that individuals in beverage alcohol advertising are and appear to be above the legal purchase age, models and actors employed should be a minimum of 25 years old, substantiated by proper identification and should reasonably appear to be 21 years of age and older.
8. No brand identification, including logos, trademarks or names, should be used or licensed for use on clothing, toys, games, or game equipment, or other items intended for use primarily by persons below the legal purchase age.
9. DISCUS members should limit the manufacture of brand logoed apparel, and the licensing of member company trademarks used in connection with the sale of brand logoed apparel, to only adult sizes.

## **Websites**

10. Age affirmation mechanisms, utilizing month, day and year, should be employed for DISCUS member-controlled beverage alcohol advertising and marketing websites. They also should contain a reminder of the legal purchase age.
11. DISCUS members recognize the crucial role parents play in educating their children about the legal and responsible consumption of beverage alcohol. To enable parents who choose to prevent their children from accessing internet websites without their supervision, DISCUS will provide those parents and the manufacturers of parental control software upon request the website address of each member company so that the parent or manufacturer can use this information.
12. Each DISCUS member-controlled website with advertising or marketing materials should provide a link to a responsible decision-making site.
13. DISCUS member-controlled websites that contain downloadable advertising or marketing content should include instructions to individuals downloading the content that they should not forward these materials to individuals below the legal purchase age and also should include on the downloadable content a responsible drinking statement where practicable.

## **Social Responsibility**

14. Beverage alcohol advertising and marketing materials should portray beverage alcohol products and drinkers in a responsible manner. Beverage alcohol products and drinkers may be portrayed as part of responsible personal and social experiences and activities, such as the depiction of persons in a social or romantic setting, persons who appear to be attractive or affluent, and persons who appear to be relaxing or in an enjoyable setting.
15. Beverage alcohol advertising and marketing materials should not depict situations where beverage alcohol is being consumed excessively or in an irresponsible manner. These materials should not portray persons in a state of intoxication or in any way suggest that intoxication is socially acceptable conduct, and they should not promote the intoxicating effects of beverage alcohol consumption.

16. Beverage alcohol advertising and marketing materials should not contain any curative or therapeutic claim except as permitted by law.
17. Beverage alcohol advertising and marketing materials should contain no claims or representations that individuals can attain social, professional, educational, or athletic success or status as a result of beverage alcohol consumption.
18. Beverage alcohol products should not be advertised or marketed in any manner associated with abusive or violent relationships or situations.
19. Beverage alcohol advertising and marketing materials should not imply illegal activity of any kind.
20. Beverage alcohol advertising and marketing materials should not portray beverage alcohol being consumed by a person who is engaged in, or is immediately about to engage in, any activity that requires a high degree of alertness or physical coordination.
21. Beverage alcohol advertising and marketing materials should not be associated with anti-social or dangerous behavior.
22. Driving while intoxicated is against the law. Beverage alcohol advertising and marketing materials should not portray, encourage or condone driving any motor vehicle while intoxicated.

### **Good Taste**

23. Beverage alcohol advertising and marketing materials should reflect generally accepted contemporary standards of good taste.
24. Beverage alcohol advertising and marketing materials should not degrade the image, form, or status of women, men, or of any ethnic, minority, sexually-oriented, religious, or other group.
25. Beverage alcohol advertising and marketing materials should not contain any lewd or indecent images or language.
26. Beverage alcohol advertising and marketing materials should not employ religion or religious themes.

## **Sexual Prowess and Sexual Success**

27. Beverage alcohol advertising and marketing materials may depict affection or other amorous gestures or other attributes associated with sociability and friendship. While a brand preference may be portrayed as a mark of good taste and discernment, beverage alcohol advertising and marketing materials should not rely upon sexual prowess or sexual success as a selling point for the brand. Accordingly, advertising and marketing materials should not contain or depict:
- graphic or gratuitous nudity;
  - overt sexual activity;
  - promiscuity; or
  - sexually lewd or indecent images or language.

## **Promotional Events**

28. On-premise promotions sponsored by DISCUS members should encourage responsible consumption by those adults who choose to drink and discourage activities, including those drinking games, that reward or encourage excessive/abusive consumption.
29. Where supplier sampling is permitted, DISCUS members should ensure that appropriate measures are employed to safeguard against underage drinking, including ensuring that individuals conducting the sampling on behalf of the supplier are of legal purchase age.
30. DISCUS members should not promote or encourage any drinking in conjunction with reckless and/or irresponsible behavior at an on-premise promotion sponsored by DISCUS members.
31. Beverage alcohol advertising and marketing materials should not use the term “spring break” or sponsor events or activities that use the term “spring break” except if those events or activities are located at a licensed retail establishment.

## Product Placements

32. Movies, television programs, music videos, and video games frequently may portray the consumption of beverage alcohol products and related signage in their productions. For those DISCUS members who seek placement opportunities, product placements will be guided by the following principles:
- a. Case-by-case assessment: DISCUS members should approve or reject a product placement on a case-by-case basis based upon the information about the movie, television program, music video, or video game available at the time provided by the project's producers.
  - b. Portrayal of drinking and driving: Driving while intoxicated is against the law and beverage alcohol advertising and marketing materials should not portray, encourage or condone driving any motor vehicle while intoxicated. DISCUS members should not approve a product placement where the characters engage in illegal or irresponsible consumption of their products in connection with driving.
  - c. Underage drinking: DISCUS members strongly oppose underage drinking. DISCUS members should not approve a product placement which portrays the purchase or consumption of their products by persons who are below the legal purchase age.
  - d. Primary appeal to persons below the legal purchase age: DISCUS members should not approve a product placement where the primary theme(s), because of its content or presentation, is especially attractive to persons below the legal purchase age beyond the general attractiveness such theme(s) has for persons of legal purchase age.
  - e. Portraying alcoholism/alcohol abuse: DISCUS members should not approve a product placement where characters use their products irresponsibly or abusively or where alcoholism is portrayed, unless the depiction supports a responsible-consumption message.
  - f. Measured media: DISCUS members should not request or approve a product placement in any measured media unless the placement is consistent with the responsible placement provisions of the Code.

## **Alcohol Content**

33. Beverage alcohol advertising and marketing materials should not refer to the alcohol content of a beverage alcohol product except in a straightforward and factual manner or promote the potency of a beverage alcohol product.

## **Social Responsibility Statements**

34. Responsible drinking statements should be included in beverage alcohol advertising, marketing materials and promotional events where practicable.

## **Internal Compliance System**

1. DISCUS members should establish an internal process to ensure compliance with the Code. To the extent possible given a company's size and organizational structure, this process should include a separate review of advertising and marketing materials by a company employee who is not in the marketing department or who was not involved in the development of the advertising or marketing materials.
2. DISCUS members should establish and conduct a training program for employees involved in the advertising or marketing of a member company's brands, including appropriate initial and recurrent training.
3. DISCUS members should provide a copy of the Code to advertising agencies, media buyers and other external consultants involved in a member's advertising or marketing activities.

## **Code Review Board**

There shall be established and maintained a Code Review Board, which shall meet when necessary to consider complaints lodged by DISCUS members or other interested parties, including members of the public.

The Code Review Board shall be comprised of no less than five (5) members in good standing of the DISCUS Board of Directors or his/her designee. Each member shall be elected by a majority vote of the Board of Directors.

Findings of the majority of the members of the Code Review Board shall be communicated promptly to the responsible advertiser and, in appropriate circumstances, to all members of the DISCUS Board of Directors.

## Code Review Board Process

### 1. **Complaint Review**

- All complaints involving advertising and/or marketing materials of the distilled spirits, beer and wine brands marketed by a DISCUS member company and distilled spirits products of a nonmember company are forwarded to the DISCUS Code Review Board for their review and consideration. Complainants are afforded the option of anonymity in processing their complaint.
- Upon receipt of a complaint, the Code Review Board staff liaison notifies the advertiser and invites the advertiser to respond to the complaint and to participate in the Board's review of the complaint to answer any questions. DISCUS members are expected to respond forthwith. Non-DISCUS members have 15 business days to respond.
- The Code Review Board convenes to consider the complaint and the advertiser's response, and then deliberates and renders a decision. The Code Review Board proceeds in its deliberations usually within a week for DISCUS member company complaints and after the time period noted above has elapsed for non-DISCUS member complaints even when the advertiser has not responded.
- The advertiser is notified of the Board's decision and, if a violation has occurred, the Board urges the advertiser to revise or withdraw the advertisement forthwith. The Board is available to answer questions or assist with compliance.
- The Code Review Board's decision and the advertiser's response are summarized in the Semi-Annual Code Report described below.

This process is reviewed periodically and may be revised when warranted.

## 2. Media Summits and Other Training Seminars

- To increase awareness of the Code and to incorporate best practices in complying with its provisions, DISCUS will host on a periodic basis “Media Summits” and other training seminars for both DISCUS member companies and non-DISCUS member companies, and their respective advertising agencies, media buyers and other external consultants.

## Semi-Annual Code Report

On a semi-annual basis, the Code Review Board will issue a public report summarizing complaint decisions and the advertiser's response.

## How to File a Complaint

- Questions regarding the Code or a concern about a particular advertisement or marketing material subject to the Code should be sent to the DISCUS Code Review Board, c/o Lynne Omlie, 1250 Eye Street, N.W., Suite 400, Washington, D.C. 20005 or emailed to Lynne Omlie, the DISCUS Code Review Board staff liaison, at lomlie@discus.org.
- Complaints should be made in writing, identify the provisions of the Code in question and provide an explanation for the basis of the complaint. The advertisement and/or marketing materials in question should be appended to the complaint to ensure that it is processed properly and expeditiously.

## Outside Advisors

On a voluntary, nonbinding and confidential basis, DISCUS will make available a mechanism whereby beverage alcohol industry member advertisers can seek the guidance of the Outside Advisors concerning any questions an advertiser may have about whether particular advertising or marketing materials are consistent with the Code.

These Outside Advisors also will be contacted for their respective opinion if the Code Review Board cannot arrive at a majority decision about a particular advertisement or marketing material.

# DISTILLED SPIRITS COUNCIL

OF THE UNITED STATES, INC.

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A FACT ABOUT ALCOHOL CONTENT:

