
DISTILLED

SPIRITS

COUNCIL

OF THE

UNITED

STATES

SEMI-ANNUAL CODE REPORT

Second Edition for the period January 2005 through June 2005

CODE OF RESPONSIBLE PRACTICES
FOR BEVERAGE ALCOHOL
ADVERTISING AND MARKETING

www.distilledspirits.org

July 2005

The Distilled Spirits Council of the United States, Inc. (DISCUS) is a national trade association representing producers and marketers of distilled spirits and importers of wine sold in the United States. In 1973, DISCUS was formed as a result of the merger of three organizations—The Bourbon Institute, The Distilled Spirits Institute and The Licensed Beverage Industries, Inc.—that had been in existence for decades.

The members of DISCUS represent nearly 80% of all distilled spirits sold in this country. DISCUS members are:

Allied Domecq Spirits & Wine USA, Inc.

Bacardi U.S.A., Inc.

Barton Incorporated

Brown-Forman Corporation

Cruzan International, Inc.

Diageo

Sidney Frank Importing Co., Inc.

Future Brands LLC

(joint venture of Jim Beam Brands Co. and
The Absolut Spirits Company, Incorporated)

McCormick Distilling Co., Inc.

Remy Cointreau USA, Inc.
(formerly known as Remy Amerique, Inc.)

Pernod Ricard USA

David Sherman Corporation

Suntory International Corp.

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Open Letter to Interested Parties:

We are pleased to issue the second Report of complaints received by the DISCUS Code Review Board and the advertisers' response to the Board's recommendations. This Report makes public Code Review Board actions for the period of January 1, 2005 through June 30, 2005.

For this reporting period, the Code Review Board received complaints about 17 advertisements. Of the advertisements in question, five were DISCUS member company advertisements and 12 were non-DISCUS member advertisements. There was an overall compliance rate of 91% with the Code Review Board process -- 100% compliance by DISCUS members and 83% compliance by nonmembers (an 8% increase over the previous reporting period). In addition to the increased compliance rate among non-DISCUS members, a growing number of nonmember advertisers are taking responsive action even more quickly. In fact, the overwhelming majority of nonmember advertisers took responsive action once being notified by the Code Review Board of the complaint.

For over 70 years, distillers have abided by a voluntary code of advertising practices. The Code of Responsible Practices for Beverage Alcohol Advertising and Marketing has been revised throughout the decades as social mores, the marketplace and technology have changed. Most recently, the Code was updated in the fall of 2003 and applies to all advertising and marketing materials developed after October 1, 2003. It now includes 39 provisions regarding responsible placement and content of beverage alcohol advertising and marketing materials. We also established an independent external advisory board comprised of three distinguished experts from government, education and broadcasting who are available to provide guidance in implementing the Code.

Unique among the beverage alcohol industry, the DISCUS Code provides for a Code Review Board that is charged with reviewing complaints about advertising material in the marketplace. The Board has been an integral and functioning component of the Code for decades. Until March 2005 with the issuance of our first Report, the Board's decisions were not made publicly available and, as a consequence, the rigor of the Board's review process and adherence to the Board's decisions were not widely known. These public Reports make the Board's actions more visible, transparent and understandable.

Each complaint about a member company advertisement or distilled spirits advertisement of a non-DISCUS member is reviewed by the Code Review Board. The majority of complaints filed with the Board are from within the industry and all complaints whether from an industry member, individual or third party group receive identical consideration and priority status.

After receiving a complaint, the Code Review Board determines whether the advertisement is consistent or inconsistent with the provisions of the Code. The Board relays its decision to the advertiser and, if a provision of the Code has been violated, urges that the advertisement be revised or withdrawn.

We believe this Semi-Annual Report is an important element of our longstanding corporate responsibility efforts and we are particularly gratified with the positive response from public officials and others that has resulted from the transparency created by this Report. Even more rewarding has been the quick response time and increased compliance rate among non-DISCUS members. The media also has responded. In fact, with the new 70% adult (21 years and older) demographic requirement, several trend setting magazines have established subscription-only editions, which ensure that industry members can reasonably expect to meet this demographic standard.


Providing a semi-annual report about complaint decisions allows the public at large to better evaluate and appreciate the DISCUS Code review process, which the Federal Trade Commission has pointed to as a model of self-regulation and a step above and beyond what others are doing.


Sincerely,





Peter H. Cressy
President/CEO
Distilled Spirits Council

SECOND PUBLIC REPORT

Advertisement:	Dooley's Original Toffee & Vodka website advertising and marketing materials	
Advertiser:	BEHN of North America LLC (Non-DISCUS member)	
Complainant:	Industry member	
Complaint Summary:	Complainant believes the advertising and marketing materials violate Responsible Content Provision No. 21 of the DISCUS <u>Code</u> : "Beverage alcohol advertising and marketing materials should reflect generally accepted contemporary standards of good taste" and Responsible Content Provision No. 25: "[A]dvertising and marketing materials should not contain or depict...gratuitous nudity"	
Code Review Board Decision:	Advertiser notified the Code Review Board that the materials in question were part of a European website and are no longer available on the U.S. website	
Action by Advertiser:	In response to the Board's letter advising advertiser about the complaint, advertiser launched a U.S. website in order to comply with the voluntary DISCUS <u>Code</u>	
Status:	Resolved: Responsive action taken	

Advertisement:	Effen Vodka advertisement with the tagline "9 out of 10 people who drink Effen Vodka have multiple orgasms."	
Advertiser:	jstar Brands, L.L.C. (Non-DISCUS member)	
Complainant:	Industry member	
Complaint Summary:	Complainant believes the advertisement violates Responsible Content Provision No. 21 of the DISCUS <u>Code</u> : "Beverage alcohol advertising and marketing materials should reflect generally accepted contemporary standards of good taste" and Responsible Content Provision No. 25: "[B]everage alcohol advertising and marketing materials should not rely upon sexual prowess or sexual success as a selling point for the brand" and "should not contain...sexually lewd or indecent images or language"	
Code Review Board Decision:	None required: Advertiser notified the Board that it had terminated the advertisement prior to the <u>Code</u> inquiry	
Action by Advertiser:	Advertiser notified the Code Review Board that, prior to the receipt of the Code Review Board's inquiry, it terminated the advertisement and pledged to abide by the voluntary DISCUS <u>Code</u>	
Status:	Resolved: Responsive action taken	

Advertisement:	Sauza Tequila billboard with the tagline: “Lost: Modesty”	
Advertiser:	Allied Domecq Spirits & Wine USA, Inc. (DISCUS member)	
Complainant:	Third-party organization, San Rafael, CA	
Complaint Summary:	Complainant believes the advertisement violates Responsible Content Provision No. 13 of the DISCUS Code: “Beverage alcohol advertising and marketing materials should not depict situations where beverage alcohol is being consumed excessively or in an irresponsible manner” and Responsible Content Provision No. 25: “[B]everage alcohol advertising and marketing materials should not rely upon sexual prowess or sexual success as a selling point for the brand”	
Code Review Board Decision:	Due to the expression of concern that the advertisement could be perceived in a manner contrary to the intent of the advertisement, advertiser elected immediately to withdraw the advertisement from the marketplace in keeping with the spirit of the Code. The Code Review Board agreed with the advertiser’s decision	
Action by Advertiser:	Advertisement withdrawn	
Status:	Resolved: Responsive action taken	

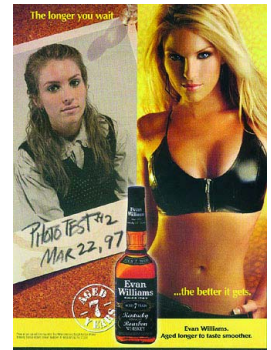
Advertisement:	SKYY Vodka “La Femme” print advertisement	
Advertiser:	SKYY Spirits, LLC (Non-DISCUS member)	
Complainant:	Industry member Third-party organization, San Rafael, CA	
Complaint Summary:	Complainants believe the advertisement violates Responsible Content Provision No. 25 of the DISCUS Code: “[B]everage alcohol advertising and marketing materials should not rely upon sexual prowess or sexual success as a selling point for the brand,” “should not contain or depict: graphic or gratuitous nudity;...promiscuity; or sexually lewd or indecent images,” Responsible Content Provision No. 21: “Beverage alcohol advertising and marketing materials should reflect generally accepted contemporary standards of good taste,” and Responsible Content Provision No. 13: “Beverage alcohol advertising and marketing materials should not depict situations where beverage alcohol is being consumed excessively or in an irresponsible manner”	
Code Review Board Decision:	Advertising copy was found in violation of Responsible Content Provisions Nos. 25 and 21 due to the voyeuristic nature and gratuitous sexual images. The Board, however, did not find the advertisement in violation of Responsible Content Provision No. 13 because the advertisement does not depict alcohol being consumed excessively or irresponsibly	
Action by Advertiser:	Advertiser notified the Code Review Board that it discontinued the advertisement	
Status:	Resolved: Responsive action taken	

Advertisement: Print advertisement for Evan Williams with the tagline “Photo Test #2 Mar 22, 97”

Advertiser: Heaven Hill Distilleries, Inc. (Non-DISCUS member)

Complainant: Industry member

Complaint Summary: Complainant believes the advertisement violates Responsible Content Provision No. 7 of the DISCUS Code: “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 over 21 years of age”



Code Review Board Decision: Advertiser revised the advertisement in response to the Code Review Board’s letter advising advertiser of the complaint

Action by Advertiser: After receipt of the Board’s letter, the advertiser understood that the inclusion of “Photo Test #2 March 22, 97” could suggest that the model was under the age of 21 at the time of the photo test. The advertiser confirmed that the model employed in the advertisement was at least 25 years old. To remedy any potential confusion, the advertiser removed the date under the “photo test” image of the model


Status: Resolved: Responsive action taken

Advertisement: SKYY Vodka “The Palms” print advertisement

Advertiser: SKYY Spirits, LLC (Non-DISCUS member)

Complainant: Industry member

Complaint Summary: Complainant believes the advertisement violates Responsible Content Provision No. 21 of the DISCUS Code: “Beverage alcohol advertising and marketing materials should reflect generally accepted contemporary standards of good taste” and Responsible Content Provision No. 25: “[B]everage alcohol advertising and marketing materials should not rely upon sexual prowess or sexual success as a selling point for the brand” and “advertising and marketing materials should not contain or depict: graphic or gratuitous nudity...or sexually lewd or indecent images”



Code Review Board Decision: Advertising copy was found in violation of Responsible Content Provisions Nos. 21 and 25 due to the transparent clothing of the female model in the advertisement

Action by Advertiser: Advertiser revised the advertisement to ensure that the clothing was no longer transparent

Status: Resolved: Responsive action taken

Advertisement: Print advertisement for SKYY Vodka in the March 2005 newsstand edition of Vibe magazine

Advertiser: SKYY Spirits, LLC (Non-DISCUS member)

Complainant: Industry member

Complaint Summary: Complainant believes the advertisement violates Responsible Placement Provision No. 3 of the DISCUS Code: “Beverage alcohol advertising and marketing should be placed in broadcast, cable, radio, and print communications only where at least 70 percent of the audience is reasonably expected to be above the legal purchase age (determined by using reliable, up-to-date audience composition data)”

Code Review Board Decision: Consolidated MRI TwelvePlus demographic information indicates that Vibe magazine readership did not meet this 70% provision and the advertisement placement was found in violation of Responsible Placement Provision No. 3

Action by Advertiser: When advertiser was made aware of Vibe’s newsstand edition demographics, advertiser notified the Code Review Board that any future placements will appear in the subscription-only edition of Vibe to meet the 70% demographic provision

Status: Resolved: Responsive action taken

Advertisement:

Svedka Vodka “Happy Hour” and “Peek-A-Boo” print advertisements and marketing materials

Advertiser:

Spirits Marque One LLC (Non-DISCUS member)

Complainant:

Industry member



Complaint Summary:

Complainant believes the advertising and marketing materials violate Responsible Content Provision No. 25 of the DISCUS Code: “[B]everage alcohol advertising and marketing materials should not rely upon sexual prowess or sexual success as a selling point for the brand” and “should not contain or depict: graphic or gratuitous nudity;...promiscuity; or sexually lewd or indecent images or language,” Responsible Content Provision No. 22: “Beverage alcohol advertising and marketing materials should not degrade the image, form, or status of women” and Responsible Content Provision No. 21: “Beverage alcohol advertising and marketing materials should reflect generally accepted contemporary standards of good taste”

Code Review Board Decision:

Advertising and marketing materials were found in violation of Responsible Content Provisions Nos. 25, 22 and 21 due to the sexually graphic images and gratuitous nudity depicted in these materials, as well as the demeaning images of women

Action by Advertiser:

No response from the advertiser

Status:

Board continues to urge the advertiser to revise these advertising and marketing materials

Advertisement: Cutty Black website advertising and marketing materials

Advertiser: SKYY Spirits LLC (Non-DISCUS member)

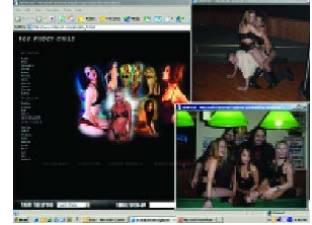
Complainant: Industry member

Complaint Summary: Complainant believes the advertising and marketing materials violate Responsible Content Provision No. 25 of the DISCUS Code: “[B]everage alcohol advertising and marketing materials should not rely upon sexual prowess or sexual success as a selling point for the brand” and “should not contain or depict: graphic or gratuitous nudity,” Responsible Content Provision No. 13: “Beverage alcohol advertising and marketing materials should not depict situations where beverage alcohol is being consumed excessively or in an irresponsible manner” and Responsible Content Provision No. 21: “Beverage alcohol advertising and marketing materials should reflect generally accepted contemporary standards of good taste”

Code Review Board Decision: None required: Advertiser notified the Code Review Board that it had terminated the website prior to the Code inquiry

Action by Advertiser: Advertiser notified the Board that, prior to the receipt of the Code Review Board’s inquiry, the materials were removed from the website

Status: Resolved: Responsive action taken



Advertisement: Captain Morgan billboard

Advertiser: Diageo (DISCUS member)

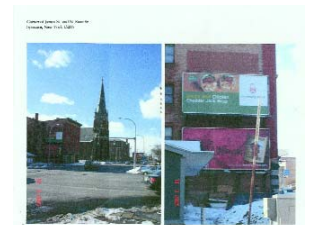
Complainant: Member of the public, Syracuse, NY

Complaint Summary: Complainant believes the advertisement violates Responsible Placement Provision No. 7 of the DISCUS Code: “Beverage alcohol advertising should not be placed on any outdoor stationary location within five hundred (500) feet of an established place of worship or an elementary school or secondary school except on a licensed premise”

Code Review Board Decision: The advertisement placement was found in violation of Responsible Placement Provision No. 7

Action by Advertiser: Upon receipt of the complaint, advertiser contacted the placement company that posted the billboard advertisement and learned from that company that the billboard was within 500 feet of St. John the Evangelist Roman Catholic Church in breach of the advertiser’s agreement with the placement company. The placement company was fully aware of the placement provisions of the Code and takes responsibility for the error in placement of this advertisement. The billboard advertisement was removed immediately and, at the direction of the advertiser, an audit of all billboards in Syracuse was conducted

Status: Resolved: Responsive action taken



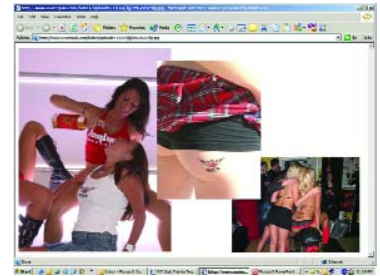
Advertisement: XXX Siglo Treinta Tequila website advertising and marketing materials

Advertiser: 123 Spirits (Non-DISCUS member)

Complainant: Industry member

Complaint Summary:

Complainant believes the advertising and marketing materials violate Responsible Content Provision No. 25 of the DISCUS Code: “[B]everage alcohol advertising and marketing materials should not rely upon sexual prowess or sexual success as a selling point for the brand” and “should not contain or depict: graphic or gratuitous nudity,” Responsible Content Provision No. 13: “Beverage alcohol advertising and marketing materials should not depict situations where beverage alcohol is being consumed excessively or in an irresponsible manner,” and Responsible Content Provision No. 21: “Beverage alcohol advertising and marketing materials should reflect generally accepted contemporary standards of good taste.”



The complainant also asserts that the link to www.MTV.com on the XXX Siglo Treinta website is inconsistent with the Code’s Responsible Content Provision No. 2 and Responsible Placement Provision No. 2 pertaining to advertising and marketing materials primarily appealing to persons below the legal purchase age. MTV.com itself states that it “focuses on music fans in their teens and twenties”

Code Review Board Decision: Advertiser revised the website in response to the Code Review Board’s letter advising advertiser of the complaint

Action by Advertiser: After receipt of the Board’s letter, the advertiser removed the materials in question from the website

Status: Resolved: Responsive action taken

Advertisement: Bang Vodka print advertising and marketing materials

Advertiser: Bang Distribution Company, Inc. (Non-DISCUS member)

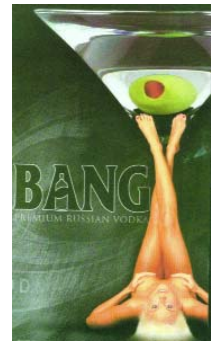
Complainant: Industry member

Complaint Summary: Complainant believes the advertising and marketing materials violate Responsible Content Provision No. 25 of the DISCUS Code: “[B]everage alcohol advertising and marketing materials should not rely upon sexual prowess or sexual success as a selling point for the brand” and “should not contain or depict: graphic or gratuitous nudity” and Responsible Content Provision No. 21: “Beverage alcohol advertising and marketing materials should reflect generally accepted contemporary standards of good taste”

Code Review Board Decision: Advertising and marketing materials were found in violation of Responsible Content Provisions Nos. 25 and 21 due to the sexually graphic images and gratuitous nudity depicted in these materials

Action by Advertiser: No response from the advertiser

Status: Board continues to urge the advertiser to revise these advertising and marketing materials



Advertisement:	Grand Marnier print advertisement with the statement: “Your daughter wants to pierce her navel. She’s nine. The conversation is waiting.”	
Advertiser:	Marnier-Lapostolle Inc. (Non-DISCUS member)	
Complainant:	Member of the public, Ouray, Colorado	
Complaint Summary:	Complainant believes the advertisement violates Responsible Content Provision No. 12 of the DISCUS <u>Code</u> : “Beverage alcohol advertising and marketing materials should portray beverage alcohol products and drinkers in a responsible manner” and Responsible Content Provision No. 21: “Beverage alcohol advertising and marketing materials should reflect generally accepted contemporary standards of good taste.” Specifically, the complainant asserts that the advertisement “seems to set the stage for alcohol abuse and sends a sad message about parenting skills”	
Code Review Board Decision:	<p>According to the advertiser, the tagline in this advertisement was to suggest a conversation between adults about raising children and was not to suggest a conversation between a mother and a child. The advertisement was part of a series of Grand Marnier print advertisements called “Conversations that Matter,” meant to encourage conversation between adults by suggesting in the tagline of the advertisement a topic or situation that might stimulate such conversations.</p> <p>The Code Review Board also learned from the advertiser that placement of this advertisement in <u>Q</u> magazine was based upon the demographics of this publication whose readers consist mainly of adult women and parents of young/teen children. The advertiser also was informed that readers of <u>Q</u> frequently speak with other mothers and often discuss parenting and its challenges.</p> <p>Upon consideration of all of these facts, the Code Review Board did not find the advertisement in violation of the <u>Code</u></p>	
Action by Advertiser:	<p>Advertisement in question ran in a single issue of <u>Q</u> magazine and the advertiser does not intend any future placements.</p> <p>Advertiser appreciates the complainant’s concern that the advertisement could be perceived in a manner contrary to the intent of the advertisement and will take into account the complainant’s points in developing future advertisements</p>	
Status:	Not applicable	

Advertisement:	Bacardi & Diet Cola broadcast advertisement with the tag line “they get the job done”
Advertiser:	Bacardi U.S.A., Inc. (DISCUS member)
Complainant:	Member of the public, Albuquerque, New Mexico
Complaint Summary:	<p>Complainant believes the advertisement, specifically, the tagline “they get the job done” violates Responsible Content provision No. 13 of the DISCUS <u>Code</u>: “Beverage alcohol advertising and marketing materials should not depict situations where beverage alcohol is being consumed excessively or in an irresponsible manner” and Responsible Content Provision No. 25: “[B]everage alcohol advertising and marketing materials should not rely upon sexual prowess or sexual success as a selling point for the brand.”</p> <p>Complainant further asserts that references to the amount of carbohydrates and sugar in the cocktail, although technically correct, “selling this mixture as a drink for people who are trying to watch their weight is ludicrous”</p>
Code Review Board Decision:	<p>The Code Review Board did not find the “Bacardi & Cola” advertisement in violation of the DISCUS <u>Code</u>. Regarding the tagline “they get the job done,” the Board did not agree that the use of this tagline was intended to promote excessive consumption or connote sexual success.</p> <p>The advertisement places the main characters, Bacardi and Cola, into situations that need resolution. The phrase “they get the job done” refers to the characters accomplishing such resolution and, in this case, suggesting a cocktail of Bacardi rum and Diet Cola.</p> <p>The advertisement’s references to the carbohydrate and sugar content of this cocktail, as well as the references to amount of calories, protein and fat in this beverage alcohol drink, are consistent with the Ruling issued by the Tax and Trade Bureau, the Federal government agency regulating the beverage alcohol industry</p>
Action by Advertiser:	None required
Status:	Not applicable

Advertisement: Print advertisement for RémyRed in the June 2005 newsstand edition of Vibe magazine

Advertiser: Remy Cointreau USA, Inc. (formerly known as Remy Amerique, Inc.) (DISCUS member)

Complainant: Industry member

Complaint Summary: Complainant believes the advertisement violates Responsible Placement Provision No. 3 of the DISCUS Code: “Beverage alcohol advertising and marketing should be placed in broadcast, cable, radio, and print communications only where at least 70 percent of the audience is reasonably expected to be above the legal purchase age (determined by using reliable, up-to-date audience composition data)”

Code Review Board Decision: Consolidated MRI TwelvePlus demographic information indicates that Vibe magazine readership did not meet this 70% provision and the advertisement placement was found in violation of Responsible Placement Provision No. 3

Action by Advertiser: Advertiser informed the Code Review Board that the placement of the advertisement in the newsstand edition of Vibe magazine was an error made by the publisher and breached the agreement between the advertiser and the publisher regarding placements in subscription-only magazine editions.

Advertiser informed publisher of the breach and received confirmation that all future advertisements will appear in subscription-only editions of the magazine

Status: Resolved: Responsive action taken

Advertisement: Print advertisement for Phillips Union Whiskey in the June 2005 newsstand edition of Vibe magazine

Advertiser: Phillips Distilling Company (Non-DISCUS member)

Complainant: Industry member

Complaint Summary: Complainant believes the advertisement violates Responsible Placement Provision No. 3 of the DISCUS Code: “Beverage alcohol advertising and marketing should be placed in broadcast, cable, radio, and print communications only where at least 70 percent of the audience is reasonably expected to be above the legal purchase age (determined by using reliable, up-to-date audience composition data)”

Code Review Board Decision: Consolidated MRI TwelvePlus demographic information indicates that Vibe magazine readership did not meet this 70% provision and the advertisement placement was found in violation of Responsible Placement Provision No. 3

Action by Advertiser: Advertiser notified the Code Review Board that it was unaware of the 70% demographic placement provision and, once the advertiser became aware, it no longer placed advertisements in the newsstand edition of Vibe and any future placements will appear in the subscription-only edition of Vibe to meet the 70% demographic provision

Status: Resolved: Responsive action taken

Advertisement: Absolut Vodka outdoor advertising

Advertiser: The Absolut Spirits Company, Incorporated (DISCUS member)

Complainant: Member of the public, Los Angeles, California

Complaint Summary: Complainant believes the advertisement violates Responsible Content Provision No. 21 of the DISCUS Code: “Beverage alcohol advertising and marketing materials should reflect generally accepted contemporary standards of good taste”

Code Review Board Decision: The Code Review Board did not find the advertisement in violation of the DISCUS Code

Action by Advertiser: None required

Status: Not applicable



BACKGROUND

HISTORY OF THE DISCUS CODE

Within months of the repeal of Prohibition, leaders in the distilled spirits industry approved their first voluntary Code of Responsible Practices. Throughout the decades, the Distilled Spirits Council's Code of Responsible Practices has embodied the high standards and commitment to responsibility that have been the touchstone of DISCUS member company advertising practices.

By this Code, DISCUS members hold themselves to a standard higher than mandated by any law or regulation. Since October 27, 1934, the distillers' voluntary Code has been revised and updated as the marketplace and technology have changed. For example, the Code was revised in 1998 to include specific provisions regarding websites and other on-line communications.

Similarly, as society and social mores have changed, the Code has evolved. At one time, the Code contained provisions prohibiting the depiction of women holding a drink. This provision, removed decades ago, would be viewed as paternalistic and sexist today. Throughout its long history, however, the core principle of the voluntary DISCUS Code has been and remains to market our products to adults in a responsible and appropriate manner.

The Federal Trade Commission, the lead Federal agency with advertising oversight, has commended the DISCUS Code on several occasions. In its September 2003 Report to Congress entitled "Alcohol Marketing and Advertising," the FTC concluded that the distilled spirits industry's advertising is directed to adults and that the distilled spirit industry's self-regulatory measures are "rigorous" and effective. As part of the Report, the FTC also examined the Code Review Board process, finding that the Board's actions "provide a critical review of spirits company compliance with the DISCUS Code."

Many of the latest enhancements to the 2003 Code were developed in response to the FTC's suggestions to improve

the self-regulatory system. For example, the 2003 Code includes the following new provisions: a 70% adult (legal purchase age of 21 years and older) demographic; post-audits of advertisement placements; and the establishment of an outside advisory board as part of its compliance and complaint process.

In addition to member company internal and external training sessions, each DISCUS member has established an internal process to ensure compliance with the Code. Consistent with the provisions set forth in the Code, this process includes a separate review of advertising and marketing materials by a company employee who is not in the marketing department or who is not involved in the development of the advertising or marketing materials to the extent possible given a company's size and organizational structure.

The FTC has pointed to the benefits of industry self-regulation, concluding that it is realistic, responsive and responsible; can deal quickly and flexibly with a wide range of advertising issues without the rigidity of government regulation; and is particularly suitable in light of the First Amendment issues that otherwise would be raised by government regulation of advertising.

In 2005, following the release of the first DISCUS Semi-Annual Report, the director of the FTC's alcohol advertising program told the Washington Post that self-regulation permits the spirits companies to "address things that couldn't be touched by a government agency because of the First Amendment." The director called this a "fabulous thing," noting that "[t]his is a far step above and beyond what other companies are doing."

DISCUS members are committed to the responsible placement and content of their brand communications. Towards this end, DISCUS members voluntarily pledge to conduct their advertising and marketing in accordance with the provisions of the Code.

2003 REVISION AND ORIGIN OF PUBLIC REPORT

The enhanced Code, the result of a year-long review, reflects the determination of DISCUS member companies to be responsive to the changing technology and culture of modern times. The 2003 Code now applies to all of the over 2,800 distilled spirits, beer and wine brands marketed by DISCUS members, and is followed by an increasing number of non-member distilled spirits marketers.

The 2003 Code establishes a 70% adult demographic for all advertising placements — television, radio, print — and for promotional events. By that provision, beverage alcohol advertising should be placed only in media where at least 70% of the audience is reasonably expected to be 21 years of age or older (the legal purchase age for beverage alcohol products). This provision is a substantial increase over the prior 50% placement guideline that was in keeping with the FTC's "50% standard" in its pay-per-call rules.

The Code also requires internal, periodic after-the-fact audits of a random portion of past placements to verify that such placements were in compliance with the 70% adult (legal purchase age of 21 years of age or older) demographic. DISCUS has developed detailed guidelines, which are posted on our website, to meet this demographic standard.

The 2003 Code also incorporates several revisions to its content provisions, including more precise language regarding the sexual content of advertising, and also continues many of its longstanding prohibitions, such as not advertising or marketing in college newspapers.

Enhanced Code changes to the responsible content provisions include:

- More explicit provisions prohibiting depictions of excessive drinking and use of sex as a selling point;
- Incorporation of responsible drinking statements in advertisements, marketing materials and promotional events, where practicable;
- Increased age requirement for models/actors in advertisements — must be at least 25 years old;
- New provision prohibiting advertising that associates drinking with "rite of passage" to adulthood;
- Expanded scope — two new elements: product labels and sales/distribution materials, as well as the existing scope of all other brand communications, including brand advertising, consumer communications, promotional events, websites, product placements, and product packaging;
- Age verification mechanisms, such as date of birth entries, for member company websites and links to a responsible decision-making site.

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. 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.

CODE REVIEW BOARD PROCESS

Historically, the Code Review Board process has worked as follows:

- When a complaint or inquiry is received, the Code Review Board is convened usually by conference call to exchange views and deliberate upon the advertisement in question.
- The complainant often requests not to be identified. Each Code Review Board member describes his/her views regarding the advertisement and casts a vote concerning whether the advertisement is or is not a violation of the Code.
- If the Code Review Board finds a particular advertisement violates the Code's provisions, the advertiser is so informed either orally or in writing.
- Responsive action from the advertiser generally occurs quickly so that, if a change is required, the advertisement in question is either withdrawn or revised forthwith.

The average time between receipt of a complaint and Code Review Board action often is a matter of days, but could take up to two to four weeks, a timeframe that also can include responsive action by the advertiser. For this reporting period, responsive action for the overwhelming majority of the complaints was taken by the advertiser upon notification by the Code Review Board of a complaint.

The majority of complaints filed with the Code Review Board are from within the industry about a competitor's advertisements. For example, for this reporting period,

from January 1 through June 30, 2005, two-thirds of the complaints were lodged by industry members (12 of 18 complaints). The remainder of these complaints were lodged by individuals or third-party groups.

The process described above will continue to be used for any complaints questioning DISCUS member company advertising and/or marketing materials. The following procedures are utilized for any complaints involving distilled spirits advertising and/or marketing materials by non-DISCUS members:

- The staff liaison for the DISCUS Code will notify the advertiser of the complaint.
- The advertiser will have 15 business days to respond and will be invited to participate in the Code Review Board's discussion of the complaint.
- The Code Review Board will convene to consider the complaint and the advertiser's response, and render a decision. The Code Review Board will proceed in its deliberations even if the advertiser has not responded after the time period noted above.
- The advertiser will be notified of the Board's decision and the Board will be available to answer questions or assist with compliance.
- The Code Review Board's decision and the advertiser's response will be summarized in the Semi-Annual Report.

The process described above may be subject to change and may be revised from time to time.

HOW TO FILE A COMPLAINT

If you have any questions regarding the Code of Responsible Practices for Beverage Alcohol Advertising and Marketing or a concern about a particular advertisement or marketing material subject to the Code, please write to the DISCUS Code Review Board, 1250 Eye Street, N.W., Suite 400, Washington, D.C. 20005. The contact person for the Code Review Board is Lynne Omlie. She serves as the staff liaison for the Code Review Board and can be reached at 202/682-8824 or by email at lomlie@discus.org.

The DISCUS Code is posted on the DISCUS website for ease of reference at <http://www.distilledspirits.org/industry/code/code.htm>. We request that complaints be made in writing with the advertisement and/or marketing materials in question appended to the complaint to ensure that they are processed properly and expeditiously.

CODE REVIEW BOARD

The Code Review Board is comprised of senior member company representatives elected by the DISCUS Board of Directors, and is chaired by one of those representatives, with DISCUS acting as the staff liaison. The current members of the Code Review Board are:

- Ms. Carolyn L. Panzer, Chairperson, Diageo
- Ms. Mary E. Barrazotto, Brown-Forman Corporation
- Mr. John R. Frank, Sidney Frank Importing Co., Inc.
- Ms. Elizabeth Y. Kutyla-Miner, Barton Incorporated
- Mr. Thomas R. Lalla, Jr., Pernod Ricard USA
- Mr. Chris R. Swonger, Allied Domecq Spirits & Wine
- Mr. David C. Wagner, Future Brands LLC
- Mr. Frederick J. Wilson, III, Bacardi U.S.A., Inc.

The main function of the Code Review Board is to review complaints and inquiries about particular advertising and/or marketing materials in terms of whether their content and placement are consistent with the Code's provisions. This undertaking not only encompasses DISCUS members' advertisements, but also extends to all distilled spirits advertising in the United States.

The Code Review Board also periodically reviews the Code to ensure that the Code's provisions reflect the evolving marketplace, technological changes and current social mores. Suggested revisions and/or expansions to the Code are offered and made consistent with the overriding principle of the Code: to market our products to adults in a responsible and appropriate manner.

OUTREACH ACTIVITIES SINCE 2003 REVISIONS

The major focus of Code Review Board activities during the period covered by the Report continues to involve outreach efforts about the provisions of the Code. These efforts were directed at familiarizing all interested parties with the Code and increasing awareness of the Code and the Code Review Board complaint process.

Over 700 copies of the first Semi-Annual Report published last March with explanatory materials were sent to State Alcohol Beverage Control officials, the Attorneys General of each State, officials at colleges and universities across the country, Federal agency officials, members of Congress, State legislators, industry trade association leaders, non-DISCUS member distillers, other industry members, health officials, and advocacy groups.

These outreach efforts were supplemented by personal visits and presentations to various groups, such as meetings with the National Conference of State Liquor Administrators (NCSLA), the National Alcohol Beverage Control Association (NABCA), the Joint Committee of

the States, the National Association of Attorneys General, the Conference of Western Attorneys General, and various industry trade association leaders.

To date, twelve State Alcohol Beverage Commissions have the DISCUS website link on their websites and the Commonwealth of Pennsylvania has the DISCUS Code of Responsible Practices link on its website. By linking to the DISCUS website or hyperlinking directly to the DISCUS Code, it is easier for State officials and other interested parties to refer any inquiries or concerns about a particular advertisement to the DISCUS Code Review Board.

To that end, we continue to urge State officials and other interested parties to include the Code on their websites. If an individual has a concern about a particular distilled spirits advertisement or an advertisement for a beer, wine or distilled spirits brand marketed by a DISCUS member, the Code Review Board welcomes the opportunity to review that advertisement.

OUTSIDE ADVISORY BOARD

The new DISCUS Code established an Outside Advisory Board charged with the following two major functions:

(1) to provide confidential, nonbinding guidance to DISCUS members about draft advertising copy and/or marketing materials prior to execution concerning whether these draft materials would be consistent with the Code (i.e., pre-vetting advice); and (2) to serve as tie-breakers in the event the Code Review Board cannot reach a majority decision about a particular advertisement or promotional execution under review.

Our three outside advisors are distinguished experts from government, academia and broadcasting:

Ms. Joan “Jodie” Bernstein, currently with the Washington, D.C. law firm Bryan Cave, has a distinguished history of government service. Ms. Bernstein most recently served as Director of the Federal Trade Commission’s Bureau of Consumer Protection from 1995 to 2001, where she was involved in every facet of advertising for the goods and services sold in the United States.

During her tenure, Ms. Bernstein oversaw the FTC’s 1999 Report to Congress on alcohol advertising and self-regulation. Ms. Bernstein was the leading force in creating the National Advertising Review Council of the Better Business Bureaus, established in 1971 to review advertising copy to ensure that it is truthful and accurate.

Ms. Bernstein’s government career also included serving as General Counsel of the Environmental Protection Agency and as General Counsel of the Department of Health and Human Services.

Dr. Constantine “Deno” Curris, a leader among academic administrators, currently serves as the President of the American Association of State Colleges and Universities, a national association of over 400 public colleges and universities. AASCU, founded in 1965, is governed by an elected board of 15 university presidents and chancellors.

Dr. Curris has over 38 years of service in higher education, including serving as President of Clemson University for over four years, University of Northern Iowa for 12 years and Murray State University in Kentucky for 10 years. Dr. Curris is a strong advocate for public higher education and its students, and a proponent of the qualitative strengthening of higher education institutions in order to meet public needs and expectations in the 21st Century. He has been and is actively engaged in addressing problems of alcohol abuse among college students.

Mr. Richard P. Gitter is a former network executive with over 34 years of experience in the broadcast industry, including 25 years overseeing network advertising standards and compliance. Most recently, Mr. Gitter served as Vice President, Advertising Standards and Program Compliance for NBC where he reviewed commercials and programming to ensure compliance with Federal regulations and network policies. Mr. Gitter is a former member of the Board of Directors of the Council of Better Business Bureaus and the Radio Code Board of the National Association of Broadcasters.

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