Code Compliance Review Board

2014–2016 REPORT
Letter from the Board

I am pleased to share with you the sixth report of the work of the Code Compliance Review Board, as part of the beer industry’s compliance with the Advertising and Marketing Code. Over the period of the report, the Beer Institute updated its Advertising and Marketing Code. During the same period, the CCRB received and discussed two cases. Other complaints were resolved to the complainant’s satisfaction at the brewer or importer level.

Our report includes the full text of each of the two CCRB cases, containing the complaints and decisions, all while reflecting the efforts made by the CCRB members to continue to follow a strong framework on behalf of objectively confronting complaints about brewer advertising that involve the Beer Institute Advertising and Marketing Code. The decisions are included in this report as well as posted on the Beer Institute website.

The CCRB continuously strives to increase their knowledge and understanding of the Advertising and Marketing Code; along with the beer industry, policy issues, and new, ever-changing advertising technologies.

The Board is pleased that consumers see the review process as an effective channel for which they can address their complaints. Additionally, we are encouraged that brewers and beer importers continue to advertise and market in ways that are in line with the Code.

Thank you for the Beer Institute’s abiding support of the Advertising and Marketing Code. The CCRB looks forward to enduring and improving its role in the self-regulation of advertising by the Beer Institute’s brewer and beer importer members.

Sincerely,

William H. Cunningham
CHAIRMAN
WILLIAM CUNNINGHAM, PHD
Dr. Cunningham is currently serving as the Chairman. He is a professor of Marketing at the University of Texas at Austin. He served for eight years as Chancellor and the Chief Executive Officer of the University of Texas System. In addition to his extensive background in higher education, Dr. Cunningham has a longstanding academic interest in consumer protection issues. He serves as a board member and advisor to several major corporations and non-profit organizations.

RORY DAVIES
Ms. Davies is the producer for the Commission on Presidential Debates. Along with her responsibilities with the U.S. presidential debate, she assists countries worldwide in organizing their own candidate forums. She was Executive Vice President of the National Association of Broadcasters (NAB) and developed broadcasters’ national public service initiatives to combat underage drinking and drunk driving. She also served on the national board of Mothers Against Drunk Driving. Ms. Davies has also worked in the White House and on Capitol Hill.

PAUL G. SUMMERS
Mr. Summers is a retired judge, serving as Senior Judge by appointment of the Tennessee Supreme Court. He was previously a partner with the law firm Waller Lansden Dortch & Davis in Nashville, served as Attorney General of the State of Tennessee, Judge of the Tennessee Court of Criminal Appeals, and District Attorney General for a multi-county district in Tennessee. He served as a JAG officer for more than three decades in the U.S. military, retiring with the rank of colonel. Mr. Summers was awarded the Legion of Merit by the Armed Forces and is a member and former Chairman of the Jason Foundation, Inc., a national nonprofit foundation dedicated to the education and prevention of teenage suicide.
CCRB Activity

January 2014 – June 2016

The beer industry’s first marketing “Code of Practice” was adopted by the United Brewers Industrial Foundation in 1937, shortly after the end of Prohibition. It is clear that American brewers and beer importers are and have been dedicated to advertising responsibly for over 8 decades.

Since the first code was set into place by brewers and beer importers, there has been an extensive development of technologies regarding advertising and the media. Ranging from print media to television broadcasts, all the way to putting worldwide internet access into the pockets of consumers through the use of handheld smart phones, the opportunity for advertising and marketing has expanded exponentially. There is a complex web of sharing applications and social networks that connect individuals around the globe in methods that have grown since the origin of the brewing industry’s ad and marketing standards. The creativity and quickness of such methods have also progressed.

The Beer Institute updated its code in 2015. The changes primarily involved the complaint process, including CCRB reviews. Industry-wide compliance with the Beer Institute’s Advertising and Marketing Code remains essential if the industry is to continue its principles and long tradition of self-regulation. The Code Compliance Review Board is a significant part of the beer industry’s dedication to responsible advertising methods.

During the time period of this report, the Code Compliance Review Board met on several occasions to gather input and updates from alcohol beverage industry experts about trends in the market, the current media atmosphere and new and developing advertising and marketing platforms. Also during this time, the Code was revised and updated in order to remain relevant to evolving technologies and practices, and to ensure that its effectiveness remains consistent with the beer industry’s commitment to advertising and marketing responsibly.

The Board reviewed a total of two complaints filed on behalf of two television commercials. The Beer Institute immediately posted the Board’s decision letters in full text (which are included in this report) on their website, which is in agreement with the Advertising and Marketing Code.
Summary

Complainant: Jonathan Noel
Commercial: “Epic Night”
Product Advertised: Bud Light
Advertiser: Anheuser-Busch

Nature of Complaint: Mr. Noel alleges that by its “Epic Night” television commercial aired during the 2014 Super Bowl, Anheuser-Busch violated Sections 2(d), 3(a) and (d), and 4(d) of the BI Ad Code.

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1. Ad Code Section 2(d): Beer advertising and marketing materials should not portray or imply illegal activity of any kind by an individual prior to, during, or after the individual consumes, purchases, or is served beer, unless the portrayal or implication of illegal activity is a basic element or feature of a parody or spoof and is readily identifiable as such.

   Alleged violation regarding Section 2(d): Mr. Noel alleges that the commercial shows open alcohol containers in a public space, implies excessive alcohol consumption in a moving vehicle, and depicts a live llama in a confined elevator, all of which he cites as violations of Section 2(d).

2. Ad Code Section 3(a): In considering whether beer advertising and marketing materials appeal primarily to persons under the legal drinking age, Brewers should take into account the following elements among others:

   - Symbols
   - Language
   - Music
   - Gestures
   - Entertainers or celebrities
   - Cartoon characters
   - Groups or organizations

   Alleged violation regarding Section 3(a): Mr. Noel alleges a violation of Section 3(a) because in his opinion, the brewer primarily intended the commercial to appeal to viewers under the age of 21. He cites as evidence the inclusion of a live llama, which he believes is likely to have primary appeal to individuals under the age of 21, especially children. Mr. Noel also claims that the music played and the celebrities shown in the advertisement are likely to appeal primarily to individuals under the age of 21.

3. Ad Code Section 3(d): Models and actors employed to appear in beer advertising and marketing materials should be a minimum of 25 years old, substantiated by proper identification, and should reasonably appear to be over 21 years of age.

   Alleged violation regarding Section 3(d): Mr. Noel does not believe that the female actors reasonably appear to be over 21 years old.

4. Ad Code Section 4(d): Beer advertising and marketing materials may portray beer as a part of personal and social interactions and experiences, and a brand may be portrayed in appropriate surroundings, as a superior choice to compliment a particular occasion or activity. Beer advertising and marketing materials should not, however, claim or represent that individuals cannot obtain social, professional, educational, athletic, or financial success or status without beer consumption.

   Alleged violation regarding Section 4(d): Mr. Noel alleges a violation of Section 4(d) based on his view that the advertisement portrays a male character achieving social success as a direct result of consuming the beverage alcohol product advertised.
ANHEUSER-BUSCH COMPANIES, LLC’S RESPONSE TO MR. JONATHAN NOEL’S COMPLAINT RE: BUD LIGHT “EPIC NIGHT” AD

On March 18, 2014, Anheuser-Busch Companies, LLC (“A-B”) received from the Beer Institute an e-mailed complaint from Jonathan Noel Regarding A-B’s “Epic Night” ad that aired during this year’s Super Bowl.1 In his complaint, Mr. Noel raised a variety of different allegations about the Epic Night ad, claiming that it violated at least three different provisions of the Beer Institute’s Advertising and Marketing Code. A-B responded to Mr. Noel’s initial complaint March 31, 2014. On April 7, 2014, A-B received Mr. Noel’s formal complaint that he submitted to the Code Compliance Review Board. This response addresses Mr. Noel’s complaint.

The “Epic Night” Ad

The Epic Night ad that aired during the 2014 Super Bowl consisted of two parts. The first part opens with a man, Ian Rappaport, sitting by himself at a table in a bar. Text appears on the screen indicating that Ian is being filmed with hidden cameras, and the camera briefly cut to the behind the scenes view, showing a crew of people who are running the operation.

At the crew’s direction, a woman approaches Ian, sits at his table, and introduces herself. She then holds up a bottle of Bud Light and asks, “If I give this to you, are you up for whatever happens next?” At that point, the camera pauses, and a voiceover informs the viewer of what is going on: “Three seconds ago, we gave Ian Rappaport a Bud Light and a choice. He has no idea what is going to happen next.” Images appear on the screen indicating that everyone in the ad, except for Ian, is an actor who is in on the whole plan. The ad resumes playing, and Ian responds: “Yeah, I think I can do that.” This scene makes it clear to the viewer that Ian has unknowingly become the star of a Bud Light commercial, but the viewer (much like Ian) does not know what to expect next.

Following the woman’s lead, Ian then walks out of the bar and steps into a bright red Hummer limousine. Once inside the limousine, Ian realizes that he is now accompanied by a group of women and comedian Reggie Watts, who is acting as a DJ and who proceeds to create a mix with Ian’s name. The camera pans out, watching the limousine drive away, and the voiceover returns: “Bud Light. The perfect beer for when you’re watching a Super Bowl ad about a guy who doesn’t know he’s in a Super Bowl ad, and we’re just getting started.”

The events only get stranger during the second part of Ian’s epic night. The limousine drops Ian and the woman off at what appears to be an apartment or commercial building. They get into an elevator, and at the first stop the doors open to find Don Cheadle standing with a pet llama. Mr. Cheadle and a llama, Lilly, casually get into the elevator as if nothing is out of the ordinary and say hello to the doorman. At the next stop, the elevator doors open to find the identical twin of the woman who had been accompanying Ian on his journey. She too steps into the elevator, and Ian aptly comments: “Twins?! Wow, this is a bizarre night.”

Ian and the twins exit the elevator (leaving Mr. Cheadle and Lilly behind), and walk to their next destination: a party inside the building that is made up entirely of identical twins. After a brief stay at this party, Ian open the door to a room, and finds Arnold Schwarzenegger, who is dressed in a wig and short shorts and is challenging Ian to a game of table tennis. After Ian defeats Arnold at a little ping pong, one wall of the room folds down to reveal a live OneRepublic concert. Ian, Arnold, and the rest of the crew head off to the concert, and the voiceover returns to drive home the message: “Bud Light. The perfect beer for when Don Cheadle, a llama named Lilly, and the identical twin of the girl you just met take you to a party, where you defeat Arnold Schwarzenegger in a sudden-death ping pong match that puts you on stage with One Republic.”

1A copy of the “Epic Night” ad that was run during the Super Bowl is enclosed as part of this submission, along with the history of correspondence between Mr. Noel, The Beer Institute, and A-B.
Mr. Noel’s Complaint

As noted at the outset of this response, Mr. Noel’s complaint contains a laundry list of alleged violations of the Beer Institute’s Advertising and Marketing Code. He specifically claims that the ad violated Guidelines 2(d), 3, and 4(c), and he also makes general allegations that could implicate other provisions of the Code. Although each of his specific allegations is meritless, it is worth initially nothing that Mr. Noel’s complaint completely ignores the overall theme of the Epic Night ad and the context in which advertisements like this must be viewed.

Simply put, the Epic Night ad was meant to be funny. A-B believed that viewers would find it humorous to watch Ian go through a series of unexpected, random, and outlandish events, all on cameras that were hidden and unknown to Ian at the time that the events unfolded. In this way, the viewers were able to watch Ian genuinely react to circumstances that nobody would expect to encounter — i.e., being invited by a stranger to play ping pong with Arnold Schwarzenegger and then accompany Arnold to a OneRepublic concert, while bumping into identical twin girls, Don Cheadle, and Don’s pet llama along the way. The ad used these odd events to remind viewers that Bud Light is the perfect beer for any occasion — even the unexpected ones.

The Beer Institute’s Advertising and Marketing Code celebrates the long history that brewers have of using humorous themes. See Code at p.1 (“In the United State, beer is a mature product category with broad cultural acceptance and a history of memorable and distinctive advertising that, because of its humor and creativity, has long been a favorite among American adult consumers.”) The Code specifically notes that “creative elements are to be considered in the overall context of the advertisement,” and humorous themes and devices “should be readily identifiable as such by reasonable adults of legal drinking age.” Guideline 1. One of the keys to humor, of course, is surprising the audience. The Epic Night ad was meant to use the comedic element of surprise (both for the audience and for Ian), and it must be viewed in this context, consistent with the Beer Institute’s guidelines.

Guideline 2(d) — Depicting An Open Container In A Public Place

Mr. Noel argues that the Epic Night ad violates Guideline 2(d) because it “portrayed open alcohol containers in a public space.” Specifically, Mr. Noel claims that “[t]he advertisement portrayed a female character opening a metallic container containing alcohol in a public elevator with no geographic location specified.” Mr. Noel is wrong for two main reasons.

First, the woman in the ad is not even depicted holding an open container in the elevator. Although the woman does move her hand over the beer she is holding in a manner that looks like she is about the open the bottle, the camera cuts away before she actually does so. She is never depicted actually holding an open container in the elevator.

Second, and more importantly, even if the ad showed the woman holding an open container of alcohol in an elevator, it would not violate Guideline 2(d) because an elevator is not a “public space” for purposes of the applicable open container law. Although open container laws vary by state, the relevant law to consider for this issue is the law of New York City, which is where the elevator is located and where the commercial was filmed. And contrary to Mr. Noel’s suggestion, the ad does not indicate that the commercial is taking place in New York — where, not by mere coincidence, many of this year’s Super Bowl activities were held.2

New York City’s open container law is entitled “Consumption of alcohol on streets prohibited.” See N.Y.C Admin. Code § 10-125. Similar to the other state laws and municipal ordinance, this provision generally prohibits people from possessing open alcohol containers in a public place with intent to consume the alcohol. Id. § 10-125(2) (b). In part, the ordinance defines public place as:

A place to which the public or a substantial group of persons has access including, but not limited to, any highway, street, road, sidewalk, parking area, shopping area, place of amusement, playground, park or beach located within the city except that the definition of a public place shall not include those premises duly licensed for the sale and consumption of alcohol.

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2The ad portrays panoramic views of New York City on multiple occasions, including showing the Empire State Building and the new World Trade Center — which is where the elevator was located.
of alcoholic beverages on the premises or within their own private property.

Id. § 10-125(2). A New York court recently addressed this definition and found that the legislative intent of the New York City open container law is the prohibition of consumption of alcoholic beverages on the public streets and similar locations traditionally considered the

Guideline 2(b), (d) — Promoting Excessive Alcohol Consumption

Mr. Noel claims that the Epic Night ad violates the Beer Institute’s guidelines because it “implies excessive alcohol consumption in a moving vehicle.” According to Mr. Noel, the ad “promotes excessive consumption” because “[m]ultiple, open alcohol containers appear in the back of a stretch limousine, where music is played and strobe lights are used to depict a night club or bar scene.” Although Mr. Noel specifically cites this as a violation of Guideline 2(d) — which prohibits depicting illegal activity — he might actually be relying on Guideline 2(b), which provides that advertising and marketing materials should not depict situations where beer is being consumed rapidly, excessively, involuntarily, as part of a drinking game, or as a result of a dare.” In any event, the depicted conduct does not violate either of these provisions.

The ad does not depict any illegal activity because, under applicable New York law, open containers are permitted in passenger vehicles like the Hummer limousine that was used in the Epic Night ad. See N.Y. Veh. & Traf. Law. § 1227.

The ad also does not depict conduct that “promotes excessive consumption.” The ad does not even show a single person consuming an alcohol beverage. And although some of the passengers in the limousine are holding Bud Light bottles, none of them has more than one bottle at any point in time. The people in the ad do not appear to be intoxicated, they are not participating in any drinking games, and there is simply nothing about their conduct that implies that they are consuming alcohol in excess. The people in the limousine are basically talking and listening to music. Even if that depicts a “night club or bar scene” like Mr. Noel seems to believe, it takes a leap of logic to arrive at Mr. Noel’s conclusion that this promotes excessive alcohol consumption.

Guideline 2(d) — Portraying a Llama In A Confined Space

Mr. Noel also alleges that the depiction of a llama in an elevator violates Guideline 2(d), although it is unclear why Mr. Noel thinks that portrays or implies illegal activity. Unsurprisingly, Mr. Noel provides little to no explanation or support for the specious claim. He simply alleges that portraying a llama in an elevator is a “hazardous risk to the safety and welfare of the llama,” that the “llama is shown with its neck bent as the elevator was not large enough for the animal,” and that Mr. Cheadle states that the llama was not feeling well.

Even setting aside the fact that Mr. Noel is not identifying a portrayal of illegal activity that might violate Guideline 2(d), it is clear that his description of the ad is inaccurate. A simple review of the ad will show that there was no “hazardous risk” to the safety of the llama and that the elevator was plenty large enough for the llama — he was not crammed in with a bent neck. And Mr. Cheadle’s comment was obviously a joke and would be interpreted as such by any reasonable adult. Mr. Cheadle is making small talk with the doorman operating the elevator (as he did when he and the llama initially entered the elevator) and acting as if nothing is out of the ordinary. In the meantime, Ian (and likely the viewer) are puzzled as to what is going on — Why is Don Cheadle here? Why does he have a llama? And why is he acting normal? Like many other parts of the ad, this scene was supposed to be funny.
Mr. Noel claims that the Epic Night ad violates Guideline 3 because it contains elements that appeal primarily to persons under the legal drinking age. Mr. Noel provides little to no explanation or support of these allegations. And before even addressing the specific elements of which he complains, it is important to note that the mere fact that the Epic Night ad aired during the Super Bowl indicated that it was not intended to appeal to persons under legal drinking age. More than 80% of the viewing audience for the Super Bowl historically has been comprised of adults of legal drinking age — a number that exceeds the Beer Institute’s 71.6% guideline for ad placement.

Moreover, none of the specific elements noted in Mr. Noel’s complaint violate Guideline 3. That guideline explains that “[a]dvertising and marketing materials appeal primarily to persons under the legal drinking age if they have special attractiveness to such persons beyond their general attractiveness for persons above the legal drinking age.” The standard is not whether something has appeal to persons under the legal drinking age. Rather, Guideline 3 is only violated if the ad contains something that has special appeal to under age persons that is greater than the appeal it has for of-age adults. Judged by this standard, Mr. Noel’s allegations fall well short of showing any violation.

Mr. Noel provides no explanation for why the llama depicted in the Epic Night ad would have special appeal to persons under legal drinking age. And there is no apparent reason why it would. Again, the llama in this ad was meant to be humorous and was part of the overall theme of watching Ian react to unexpected and random events. In this context, the llama clearly had no special appeal to persons under the age of 21.

Mr. Noel’s claim that OneRepublic has special attractiveness to people under the legal drinking age is similarly lacking in support. Mr. Noel simply states that OneRepublic is known to be popular with people under the age of 21. But again, that is not the standard for determining a violation. People of all ages like OneRepublic, as evidenced by its top ten Billboard albums and its multiple Grammy nominations. And in fact, market searches indicated that the vast majority (82%) of OneRepublic’s fans are of legal drinking age. There is nothing about this band that has special attractiveness to people under the age of 21, and Mr. Noel does not even attempt to suggest otherwise.

Finally, Mr. Noel’s claim that Mr. Schwarzenegger and Mr. Cheadle have special appeal to people under the age of 21 is, frankly, ridiculous. Mr. Schwarzenegger is nearly 67 years old, and he starred in his first film more than 40 years ago. Of course, nearly everyone knows who Mr. Schwarzenegger is on account of his lengthy and successful film career (as well as his recent political career). But, as you would expect, market research indicated that his recognition rate is highest with people aged 25-54 and people over the age of 55 — i.e., the people who have grown up during Mr. Schwarzenegger’s lengthy career. Even his most recent films were viewed by an audience that overwhelmingly consisted of adults of legal drinking age.3

Similarly, Mr. Cheadle is almost 50 years old and starred in his first film in the early 1980s. Mr. Cheadle’s recognition rate is highest with people aged 25-54, and the viewing audiences for his recent films were overwhelmingly comprised of adults of legal drinking age.4 And for the last few years, Mr. Cheadle has been starring in a Showtime series called “House of Lies” that displays a mature audience rating before every episode.

Contrary to Mr. Noel’s unsupported allegations, none of these elements of the Epic Night ad have special attractiveness to persons under legal drinking age that is beyond the general appeal to of-age adults. As such, the ad does not violate Guideline 3.

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1The of-age adult percentage for Mr. Schwarzenegger’s recent films were: 84% (“Sabotage”), 82% (“The Last Stand”), 76% (“The Escape Plan”), and 82% (“The Expendables 2”).
2The of-age adult percentage for Mr. Cheadle’s recent films were both 89% (“Brooklyn’s Finest” and “Flight”).
Guideline 3(d) — Models and Actors

Mr. Noel claims that the Epic Night ad violates Guideline 3(d) because, in his view, the "two primary female actors do not reasonably appear to be over 21 years old" and "additional female actors in the limousine also do not appear to be over 21 years old." Despite Mr. Noel's claims, however, the Epic Night ad fully complies with Guideline 3(d). All of the actors and models employed for the ad were a minimum of 25 years old, and that was substantiated by proper identification. All of the actors and models in the ad, including those identified in Mr. Noel's complaint, also reasonable appear to be over 21 years of age.

Guideline 4(c) — Obtaining Social Success

In his final allegation, Mr. Noel claims that the Epic Night ad violates Guideline 4(c) because it "implies that the male character in question could not have achieved such social success without the consumption of the product advertised." According to Mr. Noel, "if the character preferred water to alcohol, the character would not have been in a position to participate in the activities in the advertisement." Based on this confusing allegation, it seems that Mr. Noel does not understand Guideline 4(c) or the Epic Night as in general.

Guideline 4(c) provides that:
Beer advertising and marketing materials may portray beer as a part of personal and social interaction and experiences, and a brand may be portrayed in appropriate surroundings, as a superior choice to compliment a particular occasion or activity. Beer advertising and marketing materials should not, however, claim or represent that individuals cannot obtain social, professional, education, athletic, or financial success without beer consumption.

The Epic Night ad is squarely within the parameters of Guideline 4(c). In fact, the ultimate message of the ad — that the Bud Light is a "superior choice to compliment any occasion" — is exactly the type of message that is permitted by the first sentence of Guideline 4(c). To get to that ultimate message, the ad properly used hyperbole and comedy — it depicted examples of even the most unexpected events for which Bud Light is still the perfect beer of choice.

The Epic Night ad in no way violates, or even implicates, the second sentence of Guideline 4(c). That provision is intended to prevent brewers from claiming that you cannot obtain success without consuming beer. The Epic Night ad makes no such claim. The fact that Ian was offered a Bud Light at the outset of the Epic Night ad does not mean that the ad violated this guideline. This ad is not even really about beer. You could replace the Bud Light in this ad with any type of consumer product and then maintain the same basic message: that the consumer product is the perfect one for all occasions.

In short, the Epic Night Ad did not suggest that Ian had obtained some sense of social success that could not be achieved without consuming Bud Light. Ian was the subject of a hidden camera commercial — in essence, a prank. He did not know he was being filmed, and he was only depicted going through a series of outlandish events for the comedic value and to support the overall theme — which had nothing to do with obtaining social success. The ad in no way "claimed or represented that individuals cannot obtain social...success without beer consumption."

Conclusion

Epic Night is a humorous ad that used the comedic element of surprise to portray a basic advertising message: Bud Light is the perfect beer of choice. The ad fully complies with all of the Guidelines and principles of the Beer Institute's Advertising and Marketing Code. Mr. Noel's complaint does not state proper code violation. As such, A-B respectfully requests that this Board dismiss his complaint and find that the Epic Night ad complies with the Code.
Dear Mr. Noel:

I write in response to your complaint to the Beer Institute concerning the Anheuser-Busch Bud Light commercial “Epic Night.” It is my understanding that you believe that the “Epic Night” commercial violated Sections 2.d, 3.a, 3.d, and 4.d of the Beer Institute’s Marketing Code. The Code Compliance Review Board (CCRB) reviews complaints from the perspective of a “reasonable adult consumer of legal drinking age.” The CCRB met in executive session without any staff from the Beer Institute in the room to review your complaint.

The Beer Institute Guidelines state (section 1) that “In applying these guidelines, creative elements are to be considered in the overall context of the advertisement or marketing materials. Humor, parody, satire, and all other advertising themes and devices should be readily identifiable as such by reasonable adults of legal drinking age.” I will address each of your complaints below.

Section 2.d states that “Beer advertising and marketing materials should not portray or imply illegal activity of any kind by an individual prior to, during, or after the individual consumes, purchases, or is served beer, unless the portrayal or implication of illegal activities is a basic element or feature of a parody or spoof and are readily identifiable as such.” The CCRB believes that the “portrayal of open alcohol containers in public space,” the implication of “excessive alcohol consumption in a moving vehicle,” and the “portrayal of a llama within the confines of a full elevator” are not legal issues with respect to the Advertising and Marketing Code because they clearly are a parody or spoof and are readily identifiable as such. With respect to the llama, we did review the commercial carefully and we did not believe the llama was in any danger or was in any way abused. Therefore, we disagree with your conclusion that the commercial represented a “hazardous risk to the safety and welfare of the llama.” The CCRB finds that Epic Night did not violate section 2.d of the Code.

Section 3.a states “In considering whether beer advertising and marketing materials appeal primarily to persons under the legal drinking age, brewers should take into account the following elements: symbols, language, music, gestures, entertainers or celebrities, cartoon characters, or groups or organizations.” We found no evidence that supports your belief that the use of a live llama would “have primary appeal to individuals under the age of 21” or that the music in the advertisement was “likely to primarily appeal to individuals under the age of 21.” In addition, CCRB felt that there was no evidence that supports your belief that “the use of celebrities Arnold
Schwarzenegger and Don Cheadle seem to appeal primarily to individuals under 21 years old.” The CCRB finds that there is no violation of section 3.a.

Section 3.d states that “Models and actors employed to appear in beer advertising and marketing materials should be a minimum of 25 years old, substantiated by proper identification, and should reasonably appear to be over 21 years of age.” Anheuser-Busch stated that it did check all of the actors and actresses identifications to make sure they were all 25 years of age or older and we have no evidence to believe that Anheuser-Busch has not been forthright with respect to this issue. In addition, while it clearly is a judgment call, the members of the CCRB all felt that the individuals in the advertisement appeared to be over 21 years of age. The CCRB finds that there is no violation of section 3.d.

Section 4.d states that “Beer advertising or marketing materials should not claim or represent that individuals cannot solve social, personal, or physical problems without beer consumption.” The CCRB reviewed the commercial carefully and did not find that Ian Rappaport was drinking beer. In addition, the CCRB found there was no evidence to support the idea that Mr. Rappaport needed beer to “solve social, personal, or physical problems.” He appeared to the members of the CCRB to be a very socially outgoing and extraverted individual. The CCRB finds there was no violation of Section 4.d.

It is the CCRB’s job to examine your complaint from the perspective of whether or not the advertisements in question violate the Beer Institute’s Advertising and Marketing Code. We unanimously found that the Epic Night commercial did not violate Sections 2.d., 3.a, 3.d, and 4.d of the Code. In summary, we felt Epic Night was meant to represent “humor, parody, and satire” and that the advertising themes and devices were “readily identifiable as such by reasonable adults of legal drinking age.”

The CCRB spent a considerable amount of time reviewing the advertisement; studying the code sections in question; and debating the allegations of your complaint against the response of the brewer. The findings of the Board are final. They will be communicated to Anheuser-Busch and the findings will be publicly available on the Beer Institute's web site and published in an annual report. This correspondence will conclude the complaint and review process.

Though the Board did not share your position on a violation of the Guidelines, we appreciate your informed use of the review process.

Sincerely,

William H. Cunningham
Chairman

xc: CCRB Board Members:
Ms. Rory Davies
Mr. Paul Summers
Summary

Complainant: Robert Westcott

Commercial: “Bud Light Party — Super Bowl”

Product Advertised: Bud Light

Advertiser: Anheuser-Busch

Procedural History: On March 10, 2016, the Beer Institute (BI) received an email from Mr. Westcott complaining about a television commercial promoting Bud Light beer that first aired on February 7, 2016, during the 2016 Super Bowl. BI sent his email to Anheuser-Busch for response. The brewer wrote to Mr. Westcott on March 24, 2016, denying any violation of the BI Ad Code. By email on March 27, 2016, Mr. Westcott responded in an email that directed offensive statements to an Anheuser-Busch employee. Anheuser-Busch counsel advised Beer Institute counsel that given Mr. Westcott’s statements, the brewer would have no further direct communication him.

On March 31, 2016, Mr. Westcott emailed Anheuser Bush requesting CCRB review of his complaint. Anheuser-Busch advised Beer Institute counsel of the misdirected request. Beer Institute counsel emailed Mr. Westcott on March 31, April 4 and April 12, asking that he direct his request to BI, not Anheuser-Busch. Mr. Westcott responded on April 15, asking for CCRB review of his complaint.

Anheuser-Busch provided in a timely manner their responsive submission, copies of all prior communications with Mr. Westcott, and an electronic copy of the commercial. Copies of all these documents are available for CCRB review.

Nature of Complaint: Mr. Noel alleges that by its “Bud Light Party — Super Bowl” television commercial, Anheuser-Busch violated Sections 3(a) and 5(a) of the BI Ad Code.

1. Ad Code Section 3(a) provides: In considering whether beer advertising and marketing materials appeal primarily to persons under the legal drinking age, Brewers should take into account the following elements among others:
   - Symbols
   - Language
   - Music
   - Gestures
   - Entertainers or celebrities
   - Cartoon characters
   - Groups or organizations

   Alleged violation regarding Section 3(a): Mr. Westcott alleges a Section 3(a) violation based on language in the commercial, specifically the following statements: “Just wait till you see our caucus... we got the biggest caucus in the country... Wheee!!! It's not like too big... you could handle it.” Mr. Westcott argues, “This is a “cock” ad plain and simple. It degrades the brand and the industry.” He claims violation of Section 3(a), because the commercial is “[v]iewed by millions including many underage viewers during Super Bowl.” He also describes the commercial as, “[i]n very bad taste.”

2. Ad Code Section 5(a) provides: Beer advertising and marketing materials: (a) should not contain language or images that are lewd or indecent in the context presented and the medium in which the materials appears.

   Alleged violation regarding Section 5(a): Mr. Westcott alleges a Section 5(a) violation based on language in the commercial, specifically the following statements: “Just wait till you see our caucus... we got the biggest caucus in the country... Wheee!!! It's not like too big... you could handle it.” Mr. Westcott argues that this language is “lewd or indecent.” His complaint also says that “a similar thinly veiled “cunt” ad would not be acceptable.”
Requested relief: Mr. Westcott asks that the CCRB direct Anheuser-Busch to “avoid genitalia ads and rise above sexual (and sexist) advertising in the future.”

Brewer response: Attached.

ANHEUSER-BUSCH COMPANIES, LLC’S RESPONSE TO MR. ROBERT WESTCOTT’S COMPLAINT RE: “BUD LIGHT PARTY” AD

On March 10, 2016, Anheuser-Busch Companies, LLC (“A-B”) received from the Beer Institute an e-mailed complaint from Robert Westcott regarding A-B’s “Bud Light Party” ad that aired during this year’s Super Bowl. Mr. Westcott claims that the Bud Light Party ad violates two provisions — Guidelines 3(a) and 5(a) — of the Beer Institute’s Advertising and Marketing Code (the “Code”). A-B responded to Mr. Westcott’s complaint on March 24, 2016. On April 15, A-B received notice that Mr. Westcott had requested review by the Code Compliance Review Board (“CCRB”). This response addresses Mr. Westcott’s claims.

The “Bud Light Party” Ad

This year’s Super Bowl took place in the midst of an intense political climate, as numerous candidates were campaigning to be the Republican or Democratic nominee for President of the United States. Playing on this climate, and in an effort to be funny, the Bud Light Party ad employs a political theme. The ad features two potential “candidates” announcing the formation of a new, fake party to bring people together: the Bud Light Party. To play the role of the “candidates,” for the purposes of the campaign, A-B hired two of the most popular comedic figures in pop-culture today: Amy Schumer and Seth Rogen.

The ad opens with Amy and Seth approaching a podium before a gathered crowd. Amy begins the joint speech by addressing her “fellow Americans” and the notion that “we’re a nation divided,” that we “disagree on everything.” As the camera pans to Amy and Seth speaking at a different venue, Seth responds: “That’s not true. We agree on a lot!” Amy then provides an example: “Like Paul Rudd. Everybody loves Paul Rudd.” And Seth adds: “You know what else everybody loves? . . . Beer. . . . Nothing brings America together like Bud Light!”

Seth follows by quoting Bill Pullman’s speech from the 1997 film, “Independence Day,” which Amy immediately recognizes but (like the crowd) is nonetheless inspired. Seth and Amy conclude the speech with: “America has seen the light, and there’s a Bud in front of it!” The crowd cheers.

Support for their new party, playing on the political term “caucus.” Amy states, “Just wait to see our caucus.” Seth responds: “We’ve got the biggest caucus in the country,” and Amy replies: “But it’s not like too big. Like, you can handle it.”

Two copies of the Bud Light Party ad that ran during the 2016 Super Bowl, along with a copy of all correspondence between AB and Mr. Westcott, are enclosed as part of this submission.
Mr. Westcott’s Complaint

Mr. Westcott’s complaint is based on the use of the political term “caucus” in the Bud Light Party ad. Mr. Westcott raises two alleged Code violations. First, he claims that the ad violates Guideline 3(a) because it was “[v]iewed by millions including many underage viewers during [the] Super Bowl.” Second, he claims that the language in the ad violates Guideline 5(a) because it is “lewd and indecent.” As explained in detail below, Mr. Westcott’s allegations lack merit.

Guideline 3(a)

Guideline 3 of the Code provides that “beer advertising and marketing materials [should be] intended for adult consumers of legal drinking age” and that such materials “should avoid elements that appeal primarily to persons below the legal drinking age.” The Guideline explains that “[a]dvertising and marketing materials appeal primarily to persons under the legal drinking age if they have special attractiveness to such persons beyond their general attractiveness for persons above the legal drinking age.” Thus, the standard is not whether something has appeal to persons under the legal drinking age. Rather, Guideline 3 is only violated if the ad contains something that has special appeal to underage persons that is greater than the appeal it has for of-age adults. Subsection 3(a), which is cited by Mr. Westcott in his initial complaint, provides that “[b]rewers should take into account” various elements of the ad when considering whether it has special appeal to underage viewers, such as symbols, language, music, gestures, entertainers or celebrities, cartoon characters, and groups or organizations.

Mr. Westcott’s allegation that the Bud Light Party ad violates Guideline 3(a) is based on a fundamental misconception of this standard. Specifically, the basis of his allegation is that the ad was watched “by many underage viewers during the Super Bowl.” But the standard for Guideline 3 is whether the ad contains anything with special attractiveness to underage viewers, not whether it was viewed by any underage viewers. For this reason alone, Mr. Westcott’s allegation is unfounded.

Moreover, although Mr. Westcott does not attempt to identify any aspect of the Bud Light Party ad that has special attractiveness to underage viewers, it is clear that any such contention would be frivolous. The two main actors in the ad — Amy Schumer and Seth Rogen — are 34 and 35 years old, respectively, and are well known for starring in comedic movies and television shows intended for adult audiences. The very premise of the commercial — a political speech about the formation of a new, fake party — is an adult topic. And the term “caucus” is a political term referring to adult topics; specifically, the term refers to either (a) “a meeting of members of a political party for the purpose of choosing candidates for an election,” or (b) “a group of people (such as members of the U.S. Congress) who meet to discuss a particular issue or to work together for a shared, usually political goal.” See http://www.merriam-webster.com/dictionary/caucus. Contrary to Mr. Westcott’s suggestion, the Bud Light Party ad contains no symbol, language, music, gesture, entertainer, celebrity, cartoon character, group, organization, or anything else that has special attractiveness to underage viewers.

Finally, the mere fact that the Bud Light Party ad aired during the Super Bowl demonstrates that it was intended for of-age consumers. 82% of the viewing audience for this year’s Super Bowl was comprised of adults of legal drinking age — a number that far exceeds the Beer Institute’s 71.6% guideline for ad placement. And this is not a recent development. For ten years prior, adults of legal drinking age made up 80% or more of the viewing audience for the Super Bowl. Four out of every five adults who watch this game are of legal drinking age. It is evident that the Bud Light Party ad was intended for an of-age adult audience.
Guideline 5(a)

Guideline 5(a) of the Code provides that “[b]eer advertising and marketing materials should not contain language or images that are lewd or indecent in the context presented and the medium in which the material appears.” The CCRB has previously noted that the term “[l]ewd is defined as ‘characterized by or inciting to lust or lechery’ or as ‘obscene or indecent as in vile.” See CCRB Decision (Apr. 11, 2013) at 1. The term “[i]ndecent is defined as ‘offending against recognized standards of propriety or good taste; vulgar.” Id. The courts and federal agencies have relied upon similar definitions for “lewd” and “indecent.” See, e.g., F.C.C. v. Pacifica Foundation, 438 U.S. 726, 740 (1978) (“[T]he normal definition of ‘indecent’ merely refers to nonconformance with accepted standards of morality.”); id. fn. 15 (“indecency” has been used “as a shorthand term for ‘patent offensiveness’”); Louisiana v. Davis, 108 So. 3d 833, 841 (La. App. Ct. 2013) (“The term ‘lewd’ is defined as lustful, indecent, lascivious, and signifies that form of immorality which has relation to sexual impurity or incontinence carried on in a wanton manner.”); FCC Consumer Guide: Obscene, Indecent and Profane Broadcasts, available at https://www.fcc.gov/consumers/guides/obscene-indecenct-and-profane-broadcasts (“The FCC has defined broadcast indecency as ‘language or material that, in the context, depicts or describes, in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory organs or activities.’”).

As with all standards in the Code, compliance with Guideline 5(a) must be viewed “from the perspective of a reasonable adult consumer of legal drinking age.” See CCRB Decision (Apr. 29, 2014) at 1; see also BI Code at p. 1 (“Brewers should employ the perspective of the reasonable adult consumer of legal drinking age . . . .”). Additionally, the creative and humorous context of an ad must be considered in determining whether it violates Guideline 5(a). Indeed, the Code expressly embraces the beer industries’ long history of employing humorous themes in advertising. See BI Code at p. 1 (“In the United States, beer is a mature product category with broad cultural acceptance and a history of memorable and distinctive advertising that, because of its humor and creativity, has long been a favorite among American adult consumers.”) The Code states that “creative elements are to be considered in the overall context of the advertisement,” and humorous themes and devices “should be readily identifiable as such by reasonable adults of legal drinking age.” Guideline 1.

Judged by these standards, the Bud Light Party ad did not contain any “lewd or indecent” language in violation of Guideline 5(a). When ruling on a similar complaint in the past, the CCRB’s decision depended, at least in part, on whether the ad contained “nudity, violence or profanity.” See CCRB Decision (Apr. 11, 2013) at 1. This is consistent with the interpretations of “lewd” and “indecent” found in other contexts, which commonly involve complaints about the use of profanity. See, e.g., Pacifica Foundation, 438 U.S. at 729-30, 751-55. The Bud Light Party ad contained no nudity, violence, or profanity. And to the extent that the terms “lewd” or “indecent” encompass more than that, the ad also does not contain anything that is patently offensive or that violates recognized standards of good taste.” Id.

Mr. Westcott suggests that the Bud Light Party ad violates the Code because the use of the political term “caucus” could be interpreted as sexually suggestive. If interpreted literally, of course, the use of “caucus” in this ad simply would refer to the size of the expected contingent for the Bud Light Party — suggesting that the party will be large because it consists of fans of the nation’s best-selling beer. But even if the ad were interpreted in the manner Mr. Westcott suggests, it would not be “lewd” or “indecent” in violation of Guideline 5(a). From the perspective of a reasonable adult consumer of legal drinking age, the mere use of a sexually suggestive pun would not be seen as “vile,” “inciting to lust or lechery,” patently offensive, or offending recognized standards of good taste. The use of sexually suggestive jokes is commonplace in programs intended primarily for adult audiences. See, e.g., http://m.huffpost.com/us/entry/kelly-ripa-penis-iphone-6-michael-_n_5804778.html (2014 article regarding an episode of “Live with Kelly & Michael” in which Kelly Ripa made a series of jokes referring to the size of the new iPhone). In fact, the use of sexually suggestive jokes has even been commonplace in the
specific political races occurring during this year's Super Bowl. See [http://www.cnn.com/2016/03/03/politics/donald-trump-small-hands-marco-rubio/](http://www.cnn.com/2016/03/03/politics/donald-trump-small-hands-marco-rubio/) (discussing comments from Marco Rubio and Donald Trump about Mr. Trump's allegedly small hands and the supposed implications of such).

In today’s environment, sexual innuendo is common in advertisements, movies, television shows, and even news programing. Our society simply is not so sensitive as to view any such reference as being “lewd” or “indecent.” Unsurprisingly, given that Bud Light Party contains no offensive, lewd, or indecent language, it was approved for use by CBS before being aired during the Super Bowl (as required by the network’s advertising standards).

In short, even if the Bud Light Party ad were viewed in the manner Mr. Westcott suggests, it would not violate the Code. This ad must be judged from the perspective of a reasonable adult consumer of legal drinking age. From that perspective, there can be no doubt that it complied with the applicable guidelines.

**Conclusion**

The Bud Light Party ad is a humorous ad that used a political theme relevant to the time in which it was aired and that was meant to send the basic message that America is united in its love of beer. The ad fully complied with all of the Guidelines and principles of the Code. Mr. Westcott’s complaint does not state a proper Code violation. As such, A-B respectfully requests that the CCRB find that the Bud Light Party ad complies with the Code.
Dear Mr. Westcott:

I write in response to your email of April 15, 2016 that you sent to the Beer Institute. It is my understanding from reviewing the complaint form that you submitted to the Beer Institute that you believe that the Anheuser Busch commercial “Bud Light Party – Super Bowl” violated Sections 3a and 5a of the Marketing Code. The Code Compliance Review Board (CCRB) reviews complaints from the perspective of a “reasonable adult consumer of legal drinking age.”

Section 3a states “In considering whether beer advertising and marketing materials appeal primarily to persons under the legal drinking age, brewers should take into account the following elements: symbols, language, music, gestures, entertainers or celebrities, cartoon characters, or groups or organizations.”

Section 5a states: “Beer advertising and marketing materials should not contain language or images that are lewd or indecent in the context presented and the medium in which the material appears.” Lewd is defined as “characterized by or inciting to lust or lechery” or as “obscene or indecent as in vile.” Indecent is defined as “offending against recognized standards of propriety or good taste; vulgar.” Both definitions are taken from the unabridged edition of the Random House Dictionary of the English Language.

Your complaint appears to us to focus on the term “caucus.” In your email (3/31/16) to Ms. Saunders at the Beer Institute, you state “It is my argument that the suggestive ad violates “contemporary standards of good taste, a basic principle underlying your organization’s Advertising and Marketing code.” In the CCRB complaint form, you specify the exact language in the advertisement and the rationale that you have as to why the language violates sections 3a and 5a of the Advertising and Marketing Code guidelines.

The CCRB reviewed the definition of caucus. According to Dictionary.com, caucus is defined in the following manner:

Noun, plural caucuses:
1. U.S. Politics.
   a. A meeting of party leaders to select candidates, elect convention delegates, etc.
   b. A meeting of party members within a legislative body to select leaders and determine strategy.
   c. (often initial capital letter) a faction within a legislative body that pursues its interests through the legislative process: the Women’s Caucus; the Black Caucus.
2. Any group or meeting organized to further a special interest or cause

Verb:

3. To hold or meet in a caucus.

4. To bring up or hold for discussion in a caucus: The subject was caucused. The group caucused the meeting.

The CCRB unanimously concludes that the “Bud Light Party – Super Bowl” advertisement does not contain either “lewd” or “indecent” language. The advertisement does not contain nudity, violence or profanity. We do not believe that the advertisement contains any language that violates recognized standards of good taste. Specifically, we do not find that the word “caucus” or how the word “caucus” was used in the Bud Light – Super Bowl advertisement is in any manner lude or indecent. We also feel the advertisement is aimed at an adult audience that is interested in political activities, which is an interesting topic, primarily to adults who are watching the current national political debates. We also conclude that the advertisement in question uses humor and satire which we believe is “readily identifiable as such by reasonable adults of legal drinking age.” As a result, the CCRB unanimously concludes that the “Bud Light Party – Super Bowl” advertisement does not violate the Beer Institute’s Advertising and Marketing Code.

The CCRB understands that you do not like the “Bud Light Party – Super Bowl” advertisement and you find it personally offensive. However, it is our job to examine your complaint from the perspective of whether or not the advertisement in question violates the Beer Institute’s Advertising and Marketing Code.

The CCRB spent a considerable amount of time reviewing the advertisement; studying the code sections in question; and debating the allegations of your complaint against the response of the brewer. The findings of the Board are final. They will be communicated to Anheuser Busch. Findings will be publicly available on the Beer Institute’s web site and published in an annual report. This correspondence will conclude the complaint and review process.

Sincerely,

[Signature]

William H. Cunningham
Chairman

xc: CCRB Board Members:

Ms. Rory Davies
Mr. Paul Summers
**Introduction**

Beer is a legal beverage meant to be consumed responsibly by adults of legal drinking age. Its origins are ancient, and it has held a respected position in nearly every culture and society since the dawn of recorded history.

In the United States, beer is a product category with broad cultural acceptance and a history of memorable and distinctive advertising that, because of its humor and creativity, has long been a favorite among American adult consumers. Advertising and marketing materials are legitimate efforts by brewers to inform consumers of the particular styles and attributes of numerous beers and other malt beverages that are available. Brewer advertising and marketing materials also foster competition, persuade adult consumers of beer to try particular brands, and maintain customer loyalty.

Brewers should employ the perspective of the reasonable adult consumer of legal drinking age in advertising and marketing their products, and should be guided by the following basic principles, which have long been reflected in the policies of the brewing industry and continue to underlie this Code:

- Beer advertising should not suggest directly or indirectly that any of the laws applicable to the sale and consumption of beer should not be complied with.
- Brewers should adhere to contemporary standards of good taste applicable to all commercial advertising and consistent with the medium or context in which the advertising appears.
- Advertising themes, creative aspects, and placements should reflect the fact that Brewers are responsible corporate citizens.
- Brewers strongly oppose abuse or inappropriate consumption of their products.

The term “beer” as used in this Code covers all types of malt beverages, including but not limited to, beers and flavored malt beverages, as well as various specialty products containing alcohol such as hard cider. The production, distribution, and sale of beer in the United States are subject to extensive laws and regulations, enforced by federal, state, and local governments. Federal and state laws establish a three-tiered distribution system for beer. The first tier is composed of beer manufacturers and importers, which are references throughout this Code as “Brewers.” The second tier is made up of wholesale distributors, and the third tier includes a wide range of licensed retail outlets, at which beer is sold to consumers. Companies in each tier of this distribution system are required by law to maintain their commercial independence. The Beer Institute encourages all with whom Brewers do business to adhere to the law, as well as this voluntary Advertising and Marketing Code.
Guidelines

1. These guidelines apply to all beer-branded advertising and marketing materials created by or under the control of the Brewer. In applying these guidelines, creative elements are to be considered in the overall context of the advertisement or marketing materials. Humor, parody, satire, and all other advertising themes and devices should be readily identifiable as such by reasonable adults of legal drinking age.

These guidelines do not apply to educational materials, messages of a non-brand specific nature, or materials or messages designed specifically to address issues of alcohol awareness, abuse, drunk driving, underage drinking, or over-consumption.

2. Beer advertising and marketing materials should portray beer in a responsible manner:
   a. Beer advertising and marketing materials should not portray, encourage, or condone drunk driving.
   b. Although beer advertising and marketing materials may show beer being consumed (where permitted by media standards), advertising and marketing materials should not depict situations where beer is being consumed rapidly, excessively, involuntarily, as part of a drinking game, or as a result of a dare.
   c. Beer advertising and marketing materials should not portray persons lacking control over their behavior, movement, or speech as a result of consuming beer in any way suggest that such conduct is acceptable.
   d. Beer advertising and marketing materials should not portray or imply illegal activity of any kind by an individual prior to, during, or after the individual consumes, purchases, or is served beer, unless the portrayal or implication of illegal activity is a basic element or feature of a parody or spoof and is readily identifiable as such.
   e. Beer advertising and marketing materials should not portray beer drinking before or during activities, which for safety reasons, require a high degree of alertness or coordination.
   f. Retail outlets where beer is served or sold portrayed in advertising should not be depicted as unkempt or unmanaged.

3. Brewers are committed to a policy and practice of responsible advertising and marketing. As a part of this philosophy, beer advertising and marketing materials are intended for adult consumers of legal drinking age. Advertising or marketing materials should avoid elements that appeal primarily to persons below the legal drinking age. Advertising and marketing materials appeal primarily to persons below the legal drinking age if they have special attractiveness to such persons beyond their general attractiveness for persons of legal drinking age.
   a. In considering whether beer advertising and marketing materials appeal primarily to persons below the legal drinking age, Brewers should take into account the following elements among others:
      • Symbols
      • Language
      • Music
      • Gestures
      • Entertainers or celebrities
      • Cartoon characters
      • Groups or organizations
   b. Beer advertising and marketing materials should not depict Santa Claus.
   c. Beer advertising and marketing materials will meet the following criteria:
      i. Placements made by or under the control of the Brewer in magazines, in newspapers, on television, on radio, and in digital media in which there is no dialogue between a Brewer and user, may only be made where at least 71.6% of the audience is expected to be adults of legal drinking age. A placement will be considered compliant if the audience composition data reviewed prior to placement meets the percentage set forth above.
      ii. Placements made by or under the control of the Brewer in digital media in which there is a dialogue between a user and a Brewer may only be made where a user confirms that he
or she is of legal drinking age. Confirmation may vary depending upon available technology but includes either: 1) disclosure of a users’ full birth date or other method of active confirmation prior to viewing an advertisement by communicating with the Brewer; or 2) restriction of the site to users of legal drinking age through registration. The offer of downloadable content by a Brewer that can be permanently accessed by a user without viewing a Brewer’s owned or controlled compliant digital media site or third-party compliant digital media site, will similarly meet the standard set forth in this Section 3(c)(ii).

iii. The Brewer placing advertising or marketing materials in digital media, in magazines, in newspapers, on television and on radio will conduct periodic after-the-fact audits, at least semi-annually where possible, of substantially all of its placements. If a Brewer learns that a placement did not meet the Code standard, it will take steps to prevent a reoccurrence. These steps may include, but are not limited to: investigating exceptions; canceling placements with unacceptable audience composition; reallocating purchases to a different and acceptable time slot; contacting the media outlet/station with regard to placement errors or possible reporting errors; reemphasizing audience composition requirements with media buyers and media outlets; and, continues monitoring or a program or time slot to determine whether buys should be canceled or reallocated.

iv. Digital media includes all beer-branded digital advertising and marketing placements made by or under the control of the Brewer in all forms, including but not limited to Brewer owned or controlled or third-party internet and/or mobile sites, commercial marketing e-mails, downloadable content (including downloadable desktop features), SMS and MMS messaging, and social media sites.

v. Buying Guidelines for the implementation of the section will be distributed in conformance with the dissemination provisions of this code.

d. Models and actors employed to appear in beer advertising and marketing materials should be a minimum of 25 years old, substantiated by proper identification, and should reasonably appear to be of the legal drinking age. For the avoidance of doubt, generally recognizable athletes, entertainers and other celebrities who are of legal drinking age are not models or actors under this provision, provided that such individuals reasonably appear to be of legal drinking age and do not appeal primarily to persons below the legal drinking age.

e. Beer should not be advertised or marketed at any event where most of the audience is reasonably expected to be below the legal drinking age. This guideline does not prevent Brewers from erecting advertising and marketing materials at or near facilities that are used primarily for adult-oriented events, but which occasionally may be used for an event where most attendees are below the legal drinking age.

f. No beer identification, including logos, trademarks, or names should be used or licensed for use on clothing, toys, games or game equipment, or other materials intended for use primarily by persons below the legal drinking age.

g. Brewers recognize that parents play a significant role in educating their children about the legal and responsible use of alcohol and may wish to prevent their children from accessing digital media without parental supervision. To facilitate this exercise of parental responsibility, the Beer Institute will provide to manufacturers of parent control software the names and website addresses of all member-company websites. Additionally, Brewers will require disclosure of a viewers’ date of birth at the entry to their beer-branded websites and will post reminders at appropriate locations in their websites indicating that Brewer products are intended only for those of legal purchase age. These locations include entrance into the website, purchase points within the website, and access into adult-
oriented locations within the website, such as virtual bars. Content that can be shared with others directly from a Brewer’s digital media site or a Brewer-controlled third party digital media site will include terms of use instructing users that such content should not be shared with persons below the legal drinking age.

4. Beer advertising and marketing materials should not make the following exaggerated product representations:
   a. Beer advertising and marketing materials should not convey the impression that a beer has special or unique qualities if in fact it does not.
   b. Beer advertising and marketing materials should make no scientifically unsubstantiated health claims.
   c. Beer advertising and marketing materials may portray beer as part of personal and social interactions and experiences, and a brand may be portrayed in appropriate surroundings as a superior choice to complement a particular occasion or activity. Beer advertising and marketing materials should not, however, claim or represent that individuals cannot obtain social, professional, educational, athletic, or financial success or status without beer consumption.
   d. Beer advertising or marketing materials should not claim or represent that individuals cannot solve social, personal, or physical problems without beer consumption.

5. Beer advertising and marketing materials:
   a. Should not contain language or images that are lewd or indecent in the context presented and the medium in which the material appears.
   b. May contain romantic or flirtatious interactions but should not portray sexually explicit activity as a result of consuming beer.

6. Beer advertising and marketing materials should not contain graphic nudity.

7. Beer advertising and marketing materials should not employ religion or religious themes.

8. Beer advertising and marketing materials should not disparage competing beers.

a. Comparisons or claims distinguishing competing beers should be factual.

b. Beer advertising and marketing materials should never suggest that competing beers contain objectionable additives or ingredients.

9. Beer advertising and marketing materials should not disparage anti-littering and recycling efforts. Beer advertising and marketing materials should not show littering or otherwise improper disposal of beer containers, unless the scenes are used clearly to promote anti-littering or recycling.

10. College marketing

Beer advertising and marketing materials on college and university campuses, or in college-owned media, should not portray consumption of beer as being important to education, nor will advertising directly or indirectly degrade studying. Beer may be advertised and marketed on college campuses or at college-sponsored events only when permitted by appropriate college policy.

a. On-campus promotions/sponsorships
   i. Brewer sponsored events: Brewer sponsorship of on-campus events or promotions at on-campus licensed retail establishments will be limited to events conducted in accord with this Code, state law, and applicable institutional policies. In their content and implementation, company on-campus promotions and sponsorships will not encourage the irresponsible, excessive, underage, or otherwise illegal consumption of beer.
   ii. Branded products: Beer-branded promotional products such as key chains, clothing, posters, or other tangible goods designed to promote specific beer brands, are intended only for adults of legal drinking age. Distribution of these items will therefore take place only at licensed retail establishments or where distribution is limited to those of legal drinking age, and otherwise conforms to applicable laws and institutional policies.
   iii. Tastings: Tasting events at which product samples are provided should occur at
licensed retail establishments or where distribution is limited to those of legal drinking age, or otherwise conforms to applicable laws and institutional policies.

b. Brewer sales representatives

Brewer sales representatives who undertake sales calls on or near a college campus will be adults of legal drinking age, and will conduct sales activities in conformity with this Code.

11. User-Generated Content in Digital Media

User-generated content that is posted on beer-branded digital media sites created by or under the control of a Brewer will be monitored for compliance with this Code on a regular basis. If noncompliant user-generated content is discovered on these sites, the Brewer will take appropriate action.

12. Billboards

Billboard advertisements by Brewers will be located at least 500 linear feet from established and conspicuously identified elementary schools, places of worship, or public playgrounds.

13. Internet Privacy Policy

Brewers will maintain internet privacy policies that are publicly available on their websites. These policies will govern the collection of personal information from legal drinking age consumers on Brewer websites. Before they collect information from any consumer, Brewers will require that individual to verify that he or she is of legal drinking age. Brewers will not collect any information from consumers who identify themselves as below the legal drinking age. Brewers will not sell the personal information they collect from legal drinking age consumers. Brewers will keep consumer information secure and require that any third parties retained by Brewers that have access to Brewer consumer information also keep such consumer information secure. Brewers will also employ a mechanism for consumers to opt-in to receive communications from a Brewer as well as an opt-out feature to stop receiving such communications. Consumer information collected by Brewers is intended to be used for business purposes only.

14. Product placement

Movies and television programs frequently portray consumption of beer and related signage and props in their productions. Brewers encourage producers to seek approval before using their products, signage, or other props in artistic productions. While producers sometimes seek prior approval from Brewers, the final artistic and editorial decisions concerning product portrayal are always within the exclusive control of the movie or television producers.

With regard to those producers who seek Brewer approval or those Brewers who seek placement opportunities, product placement will be guided by the following principles:

a. Case-by-Case Approval: Brewers will approve or reject product placement in specific projects or scenes on a case-by-case basis, based upon the information provided by the movie or television programs producers.

b. Portrayal of drinking and driving: Brewers discourage the illegal or irresponsible consumption of their products in connection with driving. Consistent with that philosophy, Brewers will not approve product placement where the characters engage in illegal or irresponsible consumption of their products by persons who are below the legal drinking age.

c. Underage drinking: Brewers discourage underage drinking and do not intend for their products to be purchased or consumed illegally by people below the legal drinking age. Consistent with that philosophy, Brewers will not approve product placement which portrays purchase or consumption of their products by persons who are below the legal drinking age.

d. Primary appeal to persons below the legal drinking age: Brewers discourage underage drinking and do not intend for their products to be purchased or consumed illegally by people below the legal drinking age. Consistent with that philosophy, Brewers will not approve product placement where the primary character(s) are below the legal drinking age or the primary theme(s) are, because of their content or presentation, specifically attractive
Each member of the Beer Institute is committed to the philosophy of the Code and to compliance with the Code. To demonstrate this commitment, Beer Institute members openly accept Code complaints from any person or entity, including a complaint from another Brewer.

To facilitate the review of a complaint that a Brewer’s advertising or marketing materials is inconsistent with the Code, the complaint should be submitted in writing, using the form available at www.beerinstitute.org. Copies of the form may also be obtained by calling the Beer Institute at 1-800-379-2739. The complainant will complete the form, including name and contact information, attach any supporting data, material, or documentation regarding the complaint, including any prior communication with the advertising Brewer, and submit the same to the Beer Institute. A Beer Institute member complainant will first forward its complaint to the advertising member Brewer for resolution before filing any formal complaint with the Beer Institute.

Upon receipt of a completed complaint, the Beer Institute will promptly notify the Brewer and ask the Brewer to respond directly to the complainant within a reasonable time. Beer Institute-member Brewers will endeavor to respond to a complainant within two weeks of receiving notice of a complaint from the Beer Institute.

If a complainant is dissatisfied with the response received from a Brewer, the complainant may contact the Beer Institute, explain why the complainant is dissatisfied with the response, and request review of the matter by the Beer Institute Code Compliance Board (CCRB). In such event, the Beer Institute will ask the Brewer to provide for the CCRB's review, a copy of the advertising or marketing materials at issue as well as any data, material or documentation to support their response to the complaint.

The CCRB is composed of individuals with a variety of experience who are independent of the brewing industry. The CCRB reviews complaints from the perspective of the reasonable adult consumer of legal drinking age and decides whether such complaints identify advertising or marketing materials are inconsistent with one or more guidelines in the Code. Once the CCRB issues its decision, the complainant and the Brewer will be notified, and the complaint, any Brewer response and the Board decision will be posted on the Beer Institute website. If a violation has occurred, the Brewer is expected to promptly revise its advertising or marketing materials to conform to the CCRB’s decision or withdraw the advertising or marketing materials.

Copies of the Code will continue to be made available to Brewer employees, wholesale distributors and outside agencies whose responsibilities include advertising and marketing beer, as well as to any outside party who might request it.
Buying Guidelines for the Implementation of Section 3(C) of the Beer Institute Advertising and Marketing Code

Brewers shall use the following guidelines when purchasing or placing advertising in magazines, television, radio or digital media.

**Magazine Guidelines**

A. For the purchase of print advertisements in magazines, Brewers will use a nationally recognized measurement service providing age 12-plus audience composition data to the extent available, or if not available, age 18-plus audience compositional data, or, if unmeasured, subscription data and/or other data from comparable publications;

B. For the purchase of print advertisements in new magazines, Brewers will use subscription data and/or other data from comparable publications;

C. A placement will be considered appropriate when data supplies by the sources referenced in (A) and (B) above shows that the publication is in compliance with the Code;

D. Placement of print advertisements in editions of magazines that are published for subscribers 21 years of age or older will be deemed compliant with the Code.

**Television Guidelines**

A. For advertising buys on national network programs, Brewers will use national audience composition data for the program;

   • For new national network programs, Brewers will use national audience composition data for comparable programs.

B. For advertising buys on national syndicated or national cable programs, Brewers will use national audience composition data for the program or daypart being bought;

   • For new national syndicated or new national cable programs, Brewers will use national audience composition data for comparable programs or daypart being bought.

C. For advertising buys not included in “A” or “B”, Brewers will use applicable national audience composition data for the program or daypart being bought. Where there is no applicable national audience composition data, Brewers will use applicable local or regional audience composition data for the program or daypart being bought;

   • For new programs not included in “A” or “B” of these Television Guidelines, Brewers will use applicable national audience composition data for the program or daypart being bought.

D. A placement will be considered appropriate when data for two consecutive rating periods show that the program or daypart being bought is in compliance with the Code;

E. Advertising audience composition audits for compliance with age demographic standards in the Beer Institute Code should use the same data source that was used to place the ad.

**Radio Guidelines**

A. Audience composition restrictions apply to all paid and bonus spots including rotators, negotiated and agreed upon mentions, liners, tags, billboards, and any other type of announcement;

B. For diary and PPM audited radio stations, Brewers will use the Average Quarter Hour (AQH) Persons measurement in Arbitron reports by using Arbitron's 21+ Composition Report;
C. Time periods in which radio sports may be placed shall be in the following Arbitron standard dayparts or other time periods as specified below that satisfy the code provision that 71.6% of the audience composition is 21 years of age or older, based on Arbitron’s 21+ Composition Report:

1. Arbitron standard dayparts:
   i. AM Drive – Monday through Friday
      6:00 a.m. – 10:00 a.m.
   ii. Midday – Monday through Friday
       10:00 a.m. – 3:00 p.m.
   iii. PM Drive – Monday through Friday
        3:00 p.m. – 7:00 p.m.
   iv. Evening – Monday through Friday
       7:00 p.m. – 12:00 midnight
   v. Monday through Friday
      12:00 midnight – 6:00 a.m.
   vi. Saturday and Sunday
       6:00 a.m. – 10:00 a.m.
   vii. Saturday and Sunday
        10:00 a.m. – 3:00 p.m.
   viii. Saturday and Sunday
       3:00 p.m. – 7:00 p.m.
   ix. Saturday and Sunday
       7:00 p.m. – 12:00 midnight
   x. Saturday and Sunday
      12:00 midnight – 6:00 a.m.

2. Any period of time adjacent to an Arbitron standard daypart that is also purchased, provided that each additional hour independently satisfies the Code provision that 71.6% of the audience composition is 21 years of age or older;

3. Any period of two or more consecutive hours, provided that each hour independently satisfies the Code provision that 71.6% of the audience composition is 21 years of age or older;

4. Only one form of audience measurement may be used in the evaluation of a station. If both PPM and diary methods are available for auditing, PPM data should be used.

D. A placement will be considered appropriate in a diary measured market when data for each rating period covering the previous six months from the day the ad placement is made shows that the time period purchased satisfies the Code provision that 71.6% of the audience composition is 21 years of age or older;

E. A placement will be considered appropriate in a PPM measured market when data for each rating period covering the previous two months from the day the ad placement is made shows that the time period purchased satisfies the Code provision that 71.6% of the audience composition is 21 years of age or older.

F. As new Arbitron reports become available during the term of an agreement to purchase future radio spots, Brewers will review the new data to determine whether spots purchased under the agreement continue to satisfy the Code provision that 71.6% of the audience composition is 21 years of age or older by using Arbitron’s 21+ Composition Report. If not, Brewers will, as soon as practicable, make schedule adjustments, cancellations, or other appropriate changes to comply with the “71.6% standard” for the duration of the agreement;

G. For unaudited radio stations, radio spots placed will be considered appropriate if they meet these guidelines through use of audience compositional data from the time periods for comparable stations in comparable markets.

Newspaper Guidelines

A. The demographic standard found in Guideline 3(c) of the Code applies to all paid and bonus placements in the print editions of daily, Sunday, and weekly newspapers including advertising supplements, magazine sections, and other forms of advertising added to or delivered with newspapers.

B. Prior to the purchase of print advertisements in newspapers distributed nationally, regionally or locally, Brewers will use audience composition data from an audience measurement source recognized by the advertising industry (such as, but not limited to Scarborough Research and Mediamark Research, Inc.). Data for the most recent rating period available will be used to determine that placements are reasonably expected to meet the demographic standard.
C. For advertising placements in unmeasured newspapers, Brewers will use subscription data and/or other data from comparable newspapers.

D. For advertising placements in new newspapers, Brewers will use subscription data and/or other data from comparable publications.

E. A placement will be considered appropriate when data supplies by the sources referenced in (B), (C), or (D) above shows that the readership or subscriber base of the newspaper is reasonably expected to meet the demographic standard.

F. Brewers will conduct post-audits of a representative sample of actual placements in measured newspapers at least annually to determine whether they met the demographic standard.

**Digital Media Guidelines**

A. These Buying Guidelines adopt the criteria set forth in section 3(c) of the Code. The Guidelines apply to all beer-branded digital advertising and marketing placements made by or under the control of the Brewer in all forms of digital media, which include but are not limited to third-party Internet and/or mobile sites, commercial marketing e-mails, downloadable content (including downloadable desktop features), SMS and MMS messaging, and social media sites.

B. Where a single purchase is made for placements in multiple third-party digital media, the criteria set forth in section 3(c) of the Code and these Guidelines apply to each medium or site independently.

C. For measured digital media, a placement will be considered appropriate if the audience of monthly unique visitors meets or exceeds the criteria set forth in section 3(c) of the Code in each of the two most recent, consecutive monthly reports available at the time the placement is purchased.

D. It is recognized that methodologies for rating digital media, and specific measurement tools for advertising in various forms of that media are still evolving. Brewers will use a consistent audience measurement source recognized by the advertising industry (such as, but not limited to, ComScore and Nielsen NetRatings) to determine whether digital media placements are reasonably expected to satisfy the Beer Institute Advertising and Marketing Code and these Buying Guidelines. When the audience measurement source regularly used by the Brewer does not measure a particular medium or site, other sources recognized by the advertising industry may be relied upon.

E. If a placement is made on a Web site where the dissemination of such placement is restricted only to registered users of that site age 21 or over, such placements will be deemed compliant with the demographic standard, even if the overall audience for the unrestricted content on the Web site does not meet the standard.

F. For new or unmeasured digital media, placements may be made using the audience composition data for measured digital media in the same category and with similar content and/or by taking other reasonable measures to predict audience composition. Such steps include, for example, reviewing media content and information on the purpose and target audience of the specific medium or site prior to purchase of advertising and obtaining confirmation from the operator of the digital media that its internal data indicates that the medium or site meets the demographic standard.

G. Brewers will conduct post-audits of actual placements in measured digital media at least twice a year to determine whether they met the demographic standard found in paragraph 3(c) of the Code.
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