CODE COMPLIANCE REVIEW BOARD
COMPLAINT FORM

The Code Compliance Review Board has been established to review concerns from the public that a brewer's advertisements or marketing materials are inconsistent with the Beer Institute Advertising and Marketing Code, and that attempts to resolve those concerns directly with the responsible brewer have been unsuccessful.

To request review of a brewer's advertisement or marketing material by the Code Compliance Review Board, please review the introductory provisions of the Code, provide your contact information, and complete the complaint section.

You must complete a separate form for each advertisement or marketing material you would like the Board to review.

You can e-mail any questions about the complaint review process to adcode@beerinstitute.org.

Please read the Advertising and Marketing Code to gain background information on the Code that should help you understand the scope and purpose of the complaint review process.

Name: ______________________________

Organization you represent (if any): ______________________________

Address: 1368 Meadowbrook Rd., Merrick, NY 11566

Daytime Phone: 516-735-6300  Evening Phone: ______________________________

Fax: ______________________________  E-mail address: rodkovel@juno.com

Are you over the age of 21?  Yes  X  No

Please identify the name or title of the advertisement or describe the marketing material that is the subject matter of your complaint:

Michelob Ultra Amber – Poison Flowers

Please identify the name of the brewer associated with the advertisement or marketing material:

Anheuser-Busch

What was the format of the advertisement or type of marketing material?
(Television; Radio; Billboard; Newspaper or Magazine Ad; Internet or other cyberspace media; Sign, display, or other material at a retail location; Licensed promotional clothing or other merchandise; Direct mail; Poster or handbill)

Television Commercial

Have you contacted the brewer directly?  Yes  X  No
If you have contacted the brewer, did you receive a response? Yes X No
(If possible, please attach a copy of the brewer's response with this form and forward it to the Beer Institute.)

Where did you see the advertisement or marketing material?

Network Television

When did you see the advertisement or marketing material?
(If possible, please identify the date and approximate time of day for TV and radio ads)

August 2006

Using Guidelines 2-12 of the Beer Institute Advertising and Marketing Code, which cover specific issues that the Code Compliance Review Board will consider, briefly explain why you believe an aspect of the advertisement or marketing material you saw is inconsistent with one or more Guidelines in the Code. Please include the Guideline number(s):

Please see attached.
January 25, 2007

Dear Mr. DeCelle:

Thanks for your callback.

In August or thereabouts, I saw another one of those A-B ads that seems to invite violence on women by mocking it: the one where a guy sends a couple of poisoned bouquets to an ex-girlfriend. So I filed another complaint through the website; here it is, cut and pasted. I know you got it because I eventually got a responsive e-mail from A-B indicating they got the complaint from you, but there never was a decision thereafter.

So, in full, the text of my complaint and the A-B response.

Complaint

"A recent television ad from A-B portrayed a beautiful, not-too-bright woman who had broken up with a man smelling a bouquet she had subsequently received from him – a bouquet that contained poisoned ivy, as her girlfriends soon explained to her. Apparently, this was the second day in a row she had received such a gift; the day before he had sent her poisoned oak in flowers.

"I think this violates section 2(d) of the code, for showing illegal activity, possibly taken under the influence of alcohol. I can not even begin to count the number of assault, harassment, stalking, and other kinds of crimes involved in trying to poison someone.

"In a prior complaint I sent that you answered on June 14, the board said there was no violation of 2(d) because "the artists involved in this ad were successful in dispelling any sense that a true savage act had occurred or was encouraged."

"You can not hide behind that logic here. The woman was shown with hives and having an extreme reaction to the poison (and with her girlfriends laughing uproariously at the result). Viewers are thus shown the graphic result of the action by the unseen man, while they are treated to the suggestion that the woman had it coming to her.

"Additionally, on June 14, the Board said "...the depictions in the ad appear entirely farcical ..."

"You can not hide behind this argument either. Alcohol soaked psychopathic ex-boyfriends do these kinds of things everyday, and they are neither funny nor entertainment for the masses, and they get locked up for this kind of stuff everyday.

"For the life of me, I do not understand why a beer company would want to pitch its product by trying to have viewers identify with psychopaths, bums, and criminals. Not only do I not want to identify with the sickening jerks who are the focal points of these commercials, I don't want to be identified with them. It makes reasonable people think temperance was not such a bad idea.
"Lastly, this. As far as the board's own operation is concerned, I would like to see the original complaint posted as well as your recapitulation of it. This will allow readers to decide for themselves whether the board is correctly functioning."

Response

"Dear Mr. Kovel:

"We received your complaint from the Beer Institute regarding our Michelob Ultra Amber commercial. We always appreciate hearing from our customers, even when it comes in the form of constructive criticism.

"This commercial features a humorous spoof of modern dating. You have complained that the woman depicted in the ad has an "extreme reaction" to the poison ivy. But exaggeration and slapstick have a venerable tradition in comedy, and the Beer Institute Code plainly allows for humorous spoofs in beer advertising. The surprising poison-ivy twist in the flower bouquet reinforces Michelob Ultra Amber's current campaign theme "The World of Light Beer Just Got A Little Darker." However, there is no illegal activity represented in this spot as you suggest in your letter. That said, we realize that all of our advertising may not appeal to everyone, and we regret that this ad offended you.

"Please let me emphasize that we brew our beers to be enjoyed responsibly by adults, 21 and older. Since 1982, Anheuser-Busch and its wholesalers nationwide have invested more than a half-billion dollars in a comprehensive portfolio of more than two dozen community-based programs and national advertising campaigns to promote responsibility and discourage alcohol abuse. You might also be interested to know that Anheuser-Busch ranked first in the beverage industry for social responsibility in FORTUNE magazine's 2006 "America's Most Admired Companies" and "Global Most Admired Companies."

"We appreciate you bringing your concerns to our attention, and we will keep your suggestions in mind as we develop new advertising. We trust our response answers your questions. If that is not the case, we would like to let you know that since we are a member of the Beer Institute and are a participant in the Beer Institute's Code Compliance Review, you may forward your concerns to the Beer Institute's Code Compliance Review Board. You may email your concerns to: info@beerinstitute.org. You may also mail your concerns to: Beer Institute, 122 C Street, N.W., Suite 350, Washington, D.C. 20001.

"Sincerely,
Carol Clark
Senior Group Director
Consumer Awareness & Education
Anheuser-Busch Companies, Inc.
4356299"

"This message is being sent in response to an e-mail we received from your address. If you are not at least 21 years of age and/or do not wish to receive e-mails from Anheuser-Busch, Inc. in the future, please click here."
Privacy Act, 18 U.S.C. 2510-2521, is intended only for the person(s) or entity/entities to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient(s) is prohibited. If you received this in error, please contact the sender and delete the material from any computer."

As an additional point of reference, I would like to know how the panelists were selected and by whom, and how they are paid.

Rod Kovel
Art DeCelle
Beer Institute
(T) 202-737-2337

-----Original Message-----
From: rodkovel@juno.com <rodkovel@juno.com>
To: Arthur DeCelle <ADeCelle@beerinstitute.org>
Sent: Thu Jan 25 19:31:01 2007
Subject: Copy of complaint

Dear Mr. DeCelle:

A copy of the complaint about A-B, and its response, is attached.

I didn't get a chance to answer A-B's response, which is bizarre on its face, so please include the following arguments as my rebuttal in support of my complaint.

REBUTTAL COMMENTS

I just don't believe that any ad containing a depiction of a woman being beaten up, intentionally injured, poisoned, stalked, or otherwise physically damaged or humiliated by a man is funny, farcical, parody or slapstick, or that it belongs on television, especially when the commercial is about drinking beer while all this is occurring.

It is really just fodder for the domestic abuse monster.

Ms. Clark, the A-B spokeswoman seems to have lost focus. She maintained in her email to me that poisoning people is not actually against the law. She also seems to think merely adding a shot of actors laughing hardily at a tragically humiliated and perhaps injured victim within the commercial makes it OK as "vulnerable" comedy. Perhaps the Three Stooges style demolishing one another is hillarious to her, but yeah, those guys were really "vulnerable" artists.

Beating the pulp out of a girlfriend and poisoning her in front of her galpals is not only uncool to the nth degree, it is actually barred by your own weak, weak rules. 2(d) specifically forbids the depictions of illegal activities unless clearly "parody or spoof and readily identifiable as such."

My dictionary defines "parody" as mimicry of an author's style for the purpose of holding it up to ridicule; its definition of "spoof" is light parody.

If the commercial showing the woman horribly disfigured by allergens bears any relationship to any other work of art by any other author at any time and any place, I challenge you to find it and to identify it to me. It surely is not "readily identifiable" as parody because the underlying work, if it exists at all, is not easily recognized by me, and probably not by anyone else in the viewing public, so it violates 2d.

If A-B would stick to the Clydesdales and to Phil Collins music, no one would complain.
If it wants to comment on modern romance, the Heineken ads are clever and, on occasion, the women prevail. If they want humor, the Men of the Square Table is a riot.

Let A-B concentrate on the taste of the product, and not on the sickening tastes and actions of its TV characters.

Thank you.

Rod Kovel
(voice) 516.735.6300
(fax) 516.735.6304

Interested in getting caught up on today's news?
ANHEUSER-BUSCH, INC.'S RESPONSE TO
ROD KOVEL’S “POISON IVY” TV AD COMPLAINT

On August 29, 2006, Anheuser-Busch, Inc. ("Anheuser-Busch") received from
the Beer Institute a complaint from Rod Kovel,¹ a lawyer who lives and practices law on
New York’s Long Island. See http://www.rodkovel.com. Although we responded to his
complaint on September 13, 2006, Mr. Kovel only recently submitted his complaint for
CCRJB review, and we received it on February 5, 2007. This Response addresses his
complaint about the “Poison Ivy” television advertisement, which aired at 3:11 p.m. EDT
on Saturday, August 26 during Fox’s broadcast of a Major League Baseball game.

The “Poison Ivy” Television Advertisement

Michelob™ Ultra Amber is a richer-flavor light beer that Anheuser-Busch
released in February 2006 after the Super Bowl. The St. Louis Post Dispatch noted the
company’s use of humor in its advertising to differentiate Michelob™ Ultra Amber from
other light beers:

Though still an American-style lager, Ultra Amber has a
deeper amber color and fuller taste because of the use of
darker, roasted malts in the brewing process, according to
Anheuser-Busch.

***

The use of humor is different from Michelob Ultra
advertising, which takes a more serious approach to
position itself as a light beer for a competitive and active
lifestyle.

Using the tag line “The New Look of Light Beer,” the
advertising campaign will focus on Ultra Amber’s color
and taste to differentiate it from other light beers, [brand
manager Mike] Sundet said.

“There are no other amber, light beers out there,” he said.

Gregory Cancelada, Brewer Bets Dark Beer Can Brighten Sales, 2/7/06 St. Louis Post
Dispatch C1, 2006 WLRN 2149993.

The “Poison Ivy” commercial is part of “The New Look of Light Beer” campaign,
which highlights the beer’s color with the slogan: “The world of light beer . . . just got a

¹ This is not Mr. Kovel’s first beer advertising complaint. He previously filed two
complaints with the CCRB that were denied. One addressed Anheuser-Busch’s “Hidden Bud
Lights” television ad. The other addressed our “Touch Football” advertisement, which – like this
“Poison Ivy” advertisement – promoted our Michelob™ Ultra Amber brand.
little darker.” The campaign employs dark humor and centers around activities and interactions that initially appear light-hearted and fun, but then take an unexpected turn. For example, in the “Touch Football” advertisement that the CCRB has ruled complies with the Code, a sunny afternoon co-ed touch football game turns darker when a perky woman who has teased an opponent is suddenly tackled. At the end of the commercial, she ends up tackling the opponent.

Similarly, in the “Poison Ivy” commercial Mr. Kovel is now challenging, a woman in a trendy apartment shows off some flowers she has just received to her two female friends. One friend says: “Look at you! Who sent you those?”

The woman responds: “Pat.” Then the friend exclaims: “I can’t believe he sent you flowers!” The woman guiltily acknowledges: “After all the terrible things I said about that guy . . . and his Mom . . . and his, uhm, ‘technique’.”

The friend suggests: “Maybe he’s a really nice guy.” And the woman, focusing on the floral arrangement, begins touching the flowers. The voiceover proclaims: “The world of light beer . . .”

The woman, touching each flower, says: “Roses, daisies, and . . .” The second friend interrupts, saying: “Girl, that’s poison ivy!”

And the voiceover continues: “. . . just got a little darker. Michelob™ Ultra Amber. With its deep amber color and full-flavored taste, it’s the new look of light beer.”

The scene cuts to the two friends flanking the woman, who is applying Calamine Lotion and has telltale pink blotches all over her face and arms. “He sent that one yesterday,” she says, sniffing and pointing at another floral arrangement. “That’s poison oak,” the second friend says incredulously.

No one purchases, consumes, or is served beer in this television advertisement, although beers are present. And “Pat” – who sent the flowers – is never depicted.

**Analysis of Mr. Kovel’s Complaint**

Mr. Kovel complains:

I think this violates section 2(d) of the code, for showing illegal activity, possibly taken under the influence of alcohol. I can not even begin to count the number of assault, harassment, stalking, and other kinds of crimes involved in trying to poison someone.

Complaint at 1. Mr. Kovel’s complaint is only about the content of the ad, not its placement. The advertisement has run only in media that meet the placement provisions of the Beer Institute’s Advertising and Marketing Code (the “Code”).
Guideline 2(d), which Mr. Kovel cites, provides:

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 such illegal activity is a basic element or feature of a parody or spoof and readily identifiable as such.

This advertisement does not portray illegal activity of any kind, and certainly not illegal activity undertaken under the influence of alcohol. Indeed, “Pat”—the maligned ex-boyfriend who sent the flowers—is not even shown in the advertisement.

More important, this advertisement is obviously a parody or spoof, which is expressly allowed under Guideline 2(d). Indeed, the creativity and humor of beer advertising is celebrated in the Code. See Code at p. 1.

Throughout the last century, advertising professionals have understood that humor can attract attention to a product:

The findings reveal that professional thought in favor of humor evolved along with (1) the more frequent use of emotional appeals of all kinds; (2) changing perspectives of audiences and their characteristics; (3) the recognition that advertising might help achieve marketing objectives other than selling products directly; (4) the rediscovery that advertising should, in certain situations, entertain; (5) changes in the content and tone of the entertainment media; (6) the emergence of the broadcast media, first radio and then television; and (7) the slowly evolving belief that humor and novelty need not necessarily be distracting if they are relevant.

Fred K. Beard, One Hundred Years of Humor in American Advertising, vol. 25, no. 1 JOURNAL OF MACROMARKETING 54-65, 64 (June 2005). Here, Anheuser-Busch is using dark humor to draw attention to the dark color of its new light beer product.

In evaluating complaints under the Code, “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. Thus, the applicable standard that the CCRB must apply is not whether a complaining individual—or even the CCRB itself—is offended by the humor, but whether, under the objective “reasonable adult” standard, the humorous devices are readily identifiable as such. And there can be no doubt that the content of the “Poison Ivy” ad is obviously intended to be humorous.
The "Poison Ivy" commercial follows the classic comedic formula by setting up a surprise by re-framing a situation that the audience already thinks it understands:

The basis for most humor is the setting up of a surprise or series of surprises for an audience. The most common kind of surprise since the eighteenth century has been described under the general rubric of "incongruity." Basic incongruity theory as an explanation of humor can be described in linguistic terms as follows: A communicative actor presents a message or other content material and contextualizes it within a cognitive "frame." The actor constructs the frame throughout the narration, visual representation, or enactment. He or she then suddenly pulls this frame aside, revealing one or more additional cognitive frames which audience members are shown as possible contextualizations or reframings of the original content material. The tension between the original framing and the sudden reframing results in an emotional release recognizable as the enjoyment response we see as smiles, amusement, and laughter. This tension is the driving force that underlies humor, and the release of that tension — as Freud pointed out — is a fundamental human behavioral reflex.

William O. Beeman, *Humor*, in Duranti, Allesandro, ed., *Linguistic Lexicon for the Millennium*, J. Linguistic Anthropology. 9:2, 2000 (available at http://www.brown.edu/Departments/Anthropology/publications/Humor.htm). Thus, the event the audience thought it understood — a woman receiving flowers from a boyfriend — becomes something completely different — retribution for bad dating behavior — during the paradox and dénouement stages of the commercial, causing the release (laughter).

The particular type of humor employed in the "Poison Ivy" ad is satire. The commercial is a social satire of modern dating that evokes "Schadenfreude," or pleasure derived at the misfortune of others, especially those who "deserve" it. Satire, of course, has a long and venerable comedic tradition. As one source has noted, "In western European literature, satire has been an accepted form of social commentary since the 5th century B.C." See http://en.wikipedia.org/wiki/Satire. Indeed, dark comedy of the sort employed in the "Poison Ivy" ad "can be found in almost all forms of media." http://en.wikipedia.org/wiki/Black_comedy (listing examples of literature, films, periodicals, television shows, video games and websites). Generations of Americans have laughed as bad things have happened to characters like Ralph Kramden (The Honeymooners), Major Frank Burns (M*A*S*H), Archie Bunker (All in the Family), and Larry David (Curb Your Enthusiasm).

This commercial is no different. And in focus group testing, the respondents not only liked the commercial, but saw a connection between the tag line — "The world of light beer just got a little darker" — and the use of dark humor to surprise them at the end
of the ad. Because the humor device in the ad is “readily identifiable as such by reasonable adults of legal drinking age” (see Guideline 1) – which is the standard that governs this Board’s determination – this Complaint is wholly without merit.

Of course, Mr. Kovel himself clearly understood that the ad is intended to be funny. His Complaint, which states that “[i]t makes reasonable people think temperance was not such a bad idea,” suggests that he has another agenda, such as the complete removal of alcohol advertising from the airwaves. That, of course, would be inconsistent with the First Amendment right of sellers to market (and adults to hear about) products that may be consumed lawfully by of-age adults. See, e.g., Lorillard Tobacco Co. v. Reilly, 533 U.S. 525 (2001); Eller Media Co. v. City of Cleveland, Ohio, 161 F. Supp. 2d 796, 808 (N.D. Ohio 2001) (same), aff’d per curiam 326 F.3d 720 (6th Cir. 2003).

CONCLUSION

The “Poison Ivy” ad employs a commonly-used comedic device that is clearly recognizable by adults of legal drinking age. As such, the ad complies with Guideline 2(d) of the Advertising and Marketing Code. Mr. Kovel’s complaint that he finds the humor personally offensive does not state a proper code violation. Anheuser-Busch respectfully requests that the Code Compliance Review Board dismiss this Complaint and enter a finding that Anheuser-Busch’s “Poison Ivy” advertisement complies with the Code.
BEER INSTITUTE
CODE COMPLIANCE REVIEW BOARD

February 14, 2007

Mr. Rod Kovel
1368 Meadowbrook Road
Merrick, NY 11566

RE: "Michelob Ultra Amber - Poison Flowers" - violation of sec. 2 (d) of the Beer
Institute Advertising and Marketing Code

Dear Mr. Kovel:

Thank you for using the Code Compliance Review process. You complain that the
"Michelob Ultra Amber - Poison Flowers" television ad violates section 2 (d) of the
Beer Institute Member Guidelines.

The board carefully considered your entire complaint while reviewing the ad itself.
Our process allows us ample time and access to evaluate the impact of this ad on the
viewer and discuss our individual reactions in the context of your complaint.

After thorough discussion, it is the unanimous position of the Code Compliance
Review Board that there are two reasons that the "Michelob Ultra Amber - Poison
Flowers" ad does not violate the guidance set out in section 2 (d) of the Beer
Institute’s Advertising and Marketing Code. First, 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." In the advertisement you reference, there is no
implication that the individual who sent the flowers was consuming beer. Second,
the Review Board felt the depictions in the ad appear farcical and the theme of the
advertisement is "a parody or spoof and is readily identifiable as such."

The findings of the Board are final. They will be communicated to the company
responsible for the advertisement cited in the complaint. 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
Acting Chairman

xc: Ms. Rory Davies
Mr. Paul Summers

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