Bud Light “Ingredients”
Advertising and Marketing Code Complaint

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2. Beer Institute Advertising and Marketing Code Section 8
3. Complaint
4. Brewer Response
5. Complainant’s Reply
6. Brewer’s Submission
7. CCRB Decision
SUMMARY
**Commercial:** Bud Light “Ingredients”

**Product Advertised:** Bud Light

**Complainant:** Rod Kovel (rodkovel@juno.com)

**Advertiser:** Anheuser-Busch (Note: Mr. Kovel mistakenly refers to Anheuser-Busch as “AmBev.”)

**Nature of Complaint:** Mr. Kovel alleges that by its Bud Light “Ingredients” television commercial, Anheuser-Busch violated Section 8 of the Beer Institute Advertising and Marketing Code (“Ad Code”).

**Beer Institute Advertising and Marketing Code Section 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.

**Alleged violation:** Mr. Kovel alleges that Anheuser-Busch violated Ad Code Section 8 by “criticiz[ing] the manufacturing process for the specifically named competing products Coors Light and Miller Lite, by insinuating, falsely and repeatedly, that the specific ingredient “corn syrup” is objectionable, albeit for reasons not specifically identified.”

Mr. Kovel also alleges, “[i]ndustrial corn syrup per se is not an objectionable ingredient. It is inert when used in brewing beer (citation omitted) and is widely used in many products. In fact, it is an ingredient in Bud Ice (citation omitted), something AmBev (sic) did not disclose in its ad for Bud Light.

Mr. Kovel claims, “[w]hat the ad was obviously aimed to confuse viewers, most of whom would be ignorant with respect to the chemical distinction between the industrial “corn syrup” and the separate industrial product “High Fructose Corn Syrup,” which is known to be potentially insidious (and an ingredient in AmBev’s (sic) Best Damn Cream Soda (citation omitted) and is perhaps best avoided by consumers.”

Consistent with the Ad Code, BI provided the complaint to the Brewer for response to Mr. Kovel. After receiving Anheuser-Busch’s response (attached), Mr. Kovel replied with comment on specific portions of Anheuser-Busch’s response and links to various websites, stories, videos, and other material on water pollution in Colorado (attached). Please note that Mr. Kovel’s supplemental information comes in the form of string emails, so there is a substantial amount of repetition in the attached materials.
**Requested relief:** Mr. Kovel requests “a public apology and other instructions to AmBev (sic) to make this right.”

**Brewer response:** Anheuser-Busch’s response to Mr. Kovel and submission to the CCRB are attached.

**Commercial:** Anheuser-Busch provided a copy of the Bud Light “Ingredients” commercial for CCRB review.
Beer Institute Advertising and Marketing Code Section 8

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

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COMPLAINT
I have not complained to the brewer AmBev about its actions, but it should be apologizing to the public and its competitors for attacking its competition in violation of the ad rules, and for doing so in a duplicitous way to boot.

Three Super Bowl 53 ads for Bud Light, starting at the 1 minute mark of https://www.youtube.com/watch?v=5LtUtaVayIU and the product website https://www.budlight.com/ would seem to be clear examples of product disparagement of competition in violation of section 8 of the Advertising Marketing Code: "Beer advertising and marketing materials should not disparage competing beers... (b) Beer advertising and marketing materials should never suggest that competing beers contain objectionable additives or ingredients."

Note here: the operative words are non-precatory: "should not disparage" and "never suggest." Actual negativity is not a necessary condition when assessing a competitor's manufacture. The Code is violated upon any advertised hint or suggestion that something is awry with the competition's ingredients.

The wording could not be more explicit. Any advertiser that so much as hints that a competing product has ingredients that should not be consumed is in violation.

The Bud Light ads criticize the manufacturing process for the specifically named competing products Coors Light and Miller Lite, by insinuating, falsely and repeatedly, that the specific ingredient "corn syrup" is objectionable, albeit for reasons not specifically identified. Other ingredients are not selected out for criticism.

Industrial corn syrup per se is not an objectionable ingredient. It is inert when used in brewing beer https://www.menshealth.com/nutrition/a26130182/corn-syrup-beer-bud-light-super-bowl-commercial/ and is widely used in many products. In fact, it is an ingredient in Bud Ice https://www.tapintoyourbeer.com/index.cfm?id=94, something AmBev did not disclose in its ad for Bud Light.

What the ad was obviously aimed to confuse viewers, most of whom would be ignorant with respect to the chemical distinction between the industrial "corn syrup" and the separate industrial product "High Fructose Corn Syrup," which is well known to be potentially insidious (and an ingredient in AmBev's Best Damn Cream Soda https://www.tapintoyourbeer.com/index.cfm?id=971 ) and is perhaps best avoided by consumers.

The violations were exacerbated when the competitor MillerCoors and the corn farming lobby both immediately protested shabby treatment, leading AmBev to double down and assert that the ad's mention of corn syrup was about "transparency."

That response is laughable. For AmBev to harp on the use of corn syrup as an ingredient over a series of ads and deny it was actually criticism of its use or some attempt to warn customers about it is bizarre.

And, AFAIC, the deliberate blurring of similarly named but entirely different industrial products to get a "stranger danger" rise from a lay audience for the wrong reasons is hardly an example of transparency -- especially when AmBev uses that same industrial product itself in another brand.
To the contrary, the effort to confuse the unwitting public is reminiscent of (i) the effort made by Penn and Teller to get the allegedly dangerous substance Dihydrogen Monoxide banned [https://www.youtube.com/watch?v=yi3erdgVVTw](https://www.youtube.com/watch?v=yi3erdgVVTw) and (ii) P.T. Barnum's "this way to the egress." [http://www.ptbarnum.org/egress.html](http://www.ptbarnum.org/egress.html)

Accordingly, the panel should get this fixed with a public apology and other instructions to AmBev to make this right.

Thank you.

Rod Kovel

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**Top Gut Doctor: I Beg Americans To Throw Out This Vegetable**
unhealthpublications.com
[http://thirdpartyoffers.juno.com/TGL3132/5c588e4bb7fa3e4b3159st03vuc](http://thirdpartyoffers.juno.com/TGL3132/5c588e4bb7fa3e4b3159st03vuc)
Mary Jane Saunders

From: Mary Jane Saunders  
Sent: Monday, February 4, 2019 3:13 PM  
To: 'rodkovel@juno.com'  
Subject: RE: Complaint about Super Bowl 53 and website ads for Bud Light

Dear Mr. Kovel,

Thank you for contacting the Beer Institute about Anheuser-Busch ads for Bud Light. I’ve forwarded them to the brewer for a response. You should receive the response directly.

Please let me know if you have any questions.

Mary Jane Saunders  
Vice President and General Counsel  
Beer Institute  
440 First Street, NW, Suite 350  
Washington, DC 20001  
(202) 737-2337 (Main)  
(202) 661-5375 (Direct)  
(202) 737-7004 (Fax)  
mjsaunders@beerinstitute.org  
www.beerinstitute.org

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From: rodkovel@juno.com  
Sent: Monday, February 4, 2019 2:11 PM  
To: ADCode <adcode@beerinstitute.org>  
Subject: Complaint about Super Bowl 53 and website ads for Bud Light

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The violations were exacerbated when the competitor MillerCoors and the corn farming lobby both immediately protested shabby treatment, leading AmBev to double down and assert that the ad’s mention of corn syrup was about "transparency." (https://www.foxnews.com/food-drink/bud-lights-corn-syrup-super-bowl-ad-prompts-response-from-competition) and http://fortune.com/2019/02/04/corn-farmers-bud-light-super-bowl/)

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And, AFAIC, the deliberate blurring of similarly named but entirely different industrial products to get a "stranger danger" rise from a lay audience for the wrong reasons is hardly an example of transparency -- especially when AmBev uses that same industrial product itself in another brand.

To the contrary, the effort to confuse the unwitting public is reminiscent of (i) the effort made by Penn and Teller to get the allegedly dangerous substance Dihydrogen Monoxide banned (https://www.youtube.com/watch?v=yi3erdgVVTw) and (ii) P.T. Barnum's "this way to the egress." (http://www.ptbarnum.org/egress.html)

Accordingly, the panel should get this fixed with a public apology and other instructions to AmBev to make this right.

Thank you.

Rod Kovel
Supplemental information to my complaint about AB/InBev:

The New York Times ran this article yesterday about complaints about sexual harassment occurring during auditioning for its Super Bowl ad for its Bon and Viv Spiked Seltzer line.

The crux of the article is that AB/InBev really has no clue how its ads get made, and doesn't supervise the process up close to make sure its contractors abide by its principles. This is very startling given the ad was important enough to air at the Super Bowl.

The same may or may not be true with respect to the beer ads that ran at the Super Bowl, so I think something the panel ought to be asking about is the details of how the ad attacking the competition's ingredients was made.

If, as in the case of the Bon and Viv ad, the real issue is that the advertiser has not transmitted its principles sufficiently to allow the ad to be made according to your guidelines, any later claims purporting to justify what it has done are just that: claims that have been made up afterwards that ring hollow.

Thanks for indulging me.

Rod Kovel
Mary Jane Saunders  
Vice President and General Counsel  
Beer Institute  
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(202) 737-7004 (Fax)  
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Sent: Monday, February 4, 2019 2:11 PM  
To: ADCode <adcode@beerinstitute.org>  
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Accordingly, the panel should get this fixed with a public apology and other instructions to AmBev to make this right.

Thank you.

Rod Kovel
BREWER RESPONSE
February 19, 2019

SENT VIA ELECTRONIC MAIL

Rod Kovel
rodkovel@XXX.XXX.XXX

Re: Bud Light 2019 Super Bowl Commercial

Dear Mr. Kovel:

We have received your complaint from the Beer Institute regarding Bud Light’s “Ingredients” advertisements in Super Bowl LIII. We always appreciate hearing from our customers, even when it comes in the form of constructive criticism.

You asserted to the Beer Institute that Bud Light’s “Ingredients” ads violate Section 8, subsection (b) of the Beer Institute’s Advertising and Marketing Code by “disparaging” Miller Lite and Coors Light.

However, your quotation of the code omits—presumably inadvertently—subsection (a) of Section 8, which makes it plain that brewers may, in fact, make factual comparisons between brands:

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

There is nothing factually incorrect about the comparison that Bud Light made in its ads. The ingredients in Bud Light are: water, barley malt, hops, and rice. (See https://www.tapintoyourbeer.com/index.cfm?id=8.) Bud Light does not use corn syrup. Our Super Bowl ads merely “distinguish” Bud Light from two “competing beers” in a “factual” manner.

To be clear, the ingredients for Miller Lite and Coors Light include corn syrup. MillerCoors has admitted this fact in tweets and advertising. For example, @CoorsLight tweeted on February 6: “This week, @BudLight started a conversation—yes, we use corn syrup.” Similarly, MillerCoors tweeted on February 6 a copy of a newspaper ad it had taken out in national newspapers:

You may have seen an ad on the Big Game going to great lengths to explain that Miller Lite is brewed with “corn syrup,” while Bud Light is not. That’s a fact. Miller light is indeed brewed with “corn syrup.” We’d like to thank our competitors for taking the time and money to point out this exciting fact to such a large, national audience not once, but twice.

In your e-mail, you suggest that it is “bizarre” that Bud Light would view its ads as a part of transparency. That may be because you are unaware of the fact that, just four weeks before the Super Bowl, Bud Light announced that it would be the first U.S. beer to put a comprehensive ingredients panel directly on its packaging. Contemporaneous with this announcement, Bud Light
began running advertisements in various media proclaiming that consumers deserve to know the ingredients in their beer, which, in the case of Bud Light, are simply water, barley, rice, and hops.

These recent initiatives are not a change in course, but rather the continuation of a movement towards ingredient transparency in the beer industry, which has been led by Anheuser-Busch. In July 2016, as part of the Brewers’ Voluntary Disclosure Initiative, Anheuser-Busch and other Beer Institute members announced a commitment “to disclose information about their products’ ingredients, nutritional facts, alcohol by volume and freshness” by the end of 2020. (See Beer Institute, Beer Institute Launches Video Campaign Highlighting Brewers’ Voluntary Disclosure Initiative, [http://www.beerinstitute.org/press-releases/beer-institute-launches-video-campaign-highlighting-brewers-voluntary-disclosure-initiative/].) Anheuser-Busch and MillerCoors both voluntarily agreed to participate and comply with these standards. Further, in June 2014—long before the Beer Institute announced its Voluntary Disclosure Initiative—Anheuser-Busch was the first major U.S. brewer to disclose the ingredients for its beers, including Budweiser and Bud Light. (See [http://www.tapintoyourbeer.com].)

MillerCoors apparently agrees that providing ingredient information to consumers is a good thing, stating on its website that it “values transparency” and is “happy to comply with the request for additional information.” (MillerCoors, Nutrition and Codes, [https://www.millercoors.com/beers/nutrition-codes].) MillerCoors then goes on to distinguish their beers from Bud Light, stating, “Miller Lite and Coors Light use corn syrup. Bud Light uses rice.” Although this statement is a new addition to the website following the Super Bowl, the ingredients for Miller Lite and Coors Light are and were located on pages 3 and 10 of a 19-page PDF of nutritional information for the MillerCoors brands. (MillerCoors, Nutritional Information, [https://www.millercoors.com/sites/millercoors/files/MC_Nutritional_Information-02052019.pdf].)

<table>
<thead>
<tr>
<th>Brand</th>
<th>Brand Style</th>
<th>ABV</th>
<th>Calorie</th>
<th>Total Fat (grams)</th>
<th>Carbohydrate (grams)</th>
<th>Sodium (mg)</th>
<th>Total Sugar (grams)</th>
<th>Fiber (grams)</th>
<th>Protein (grams)</th>
<th>Ingredients</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coors Light</td>
<td>American-Style Light Lager</td>
<td>4.2</td>
<td>102</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>10</td>
<td>5.0</td>
<td>0</td>
</tr>
<tr>
<td>Miller Lite</td>
<td>American-Style Light Lager</td>
<td>4.2</td>
<td>96</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>5</td>
<td>3.2</td>
<td>0</td>
</tr>
</tbody>
</table>

Thus, Bud Light did nothing more than what MillerCoors has been doing for some time—informing consumers that Miller Lite and Coors Light are made with corn syrup. Bud Light’s factual statement distinguishing competing beers is unequivocally compliant with the Beer Institute’s Advertising and Marketing Code.

We appreciate you bringing your concerns to our attention. We hope that our response has answered those concerns. If that is not the case, we would like to let you know that because we are a member of the Beer Institute and are a participant in its Code Compliance Review process, you may lodge your complaint and express your concerns to the Beer Institute’s Code Compliance Review Board. You may fill out the complaint form at
http://www.beerinstitute.org/responsibility/advertising-marketing-code/, e-mail the Beer Institute at adcode@beerinstitute.org, or call the Beer Institute at 800-379-2739 to obtain a copy of the complaint form.

Sincerely

David McKenzie
Dir., Corporate Social Responsibility
COMPLAINTANT’S REPLY
Dear Ms. Saunders:

Yesterday, I received an emailed missive from AB that seems like some sort of rebuttal to my complaint to the Beer Institute. It did not indicate you got a courtesy copy.

Do you want it? FWIW, IMHO it is full of half truths, lies and distortions, so I sent a reply. Do you want my reply too?

I suspect you will be getting some kind of more formal rebuttal, possibly from AB's lawyers. Since the original email was smack full of deceit, I have every reason to believe that anything else that comes from it as a defense would likewise be deceitful, so I am formally requesting an opportunity to see and respond to anything it submits to you.

IMHO, your proceedings have little legitimacy if I cannot respond to whatever defense AB's well paid lawyers might have brewed up for you after the fact.

But, FWIW, AB did not deny the gist of my complaint, which is that its aim was not about telling the truth but telling a fake story with "truthiness," ie, giving an air of verisimilitude to something that is false, in this case by using obscure industrial terminology.

It also maintained that as long as an advertisement was free of a demonstrable lie, that it was free to attack a competitor's ingredients as if section 8b of the marketing code did not exist at all.

When I suggested that eliminating 8b from code as AB suggested would let it say something like "There's water pollution in Colorado, and Coors Beer is made with Colorado water," they didn't and probably couldn't deny it.

I studied formal logic, and this is how that discipline applies to its position. Both statements would be, hyper-technically true, but when placed together like that in a 30 second commercial, the message that is left, ie, that Coors Beer is made from polluted water, is, obviously, false.

Even longer strings of individually truthful statements can leave a false impression when those statements seem to qualify one another. Consequently, AB's position on that is ludicrous.

Rod Kovel

--------- Original Message ---------
From: "rodkovell@flymail.com" <rodkovell@flymail.com>
To: "jkstein@flymail.com" <jkstein@flymail.com>
Subject: RE: Complaint about Super Bowl 53 and website ads for Bud Light
Date: Mon, 4 Feb 2019 21:22:06 GMT

Thanks.
I suggest you forward my complaint to the affected party, MillerCoors, as I'm sure they will have some additional thoughts and comments about how it was treated, and that you also ask AmBev and its ad agency for their files and for comments from their executives with respect to what they were doing and the point they were trying to make, as opposed to letting them create a story now to appease the panel.

Thanks.

Rod Kovel

-------- Original Message --------
From: Mary Jane Saunders <mjsaunders@beerinstitute.org>
To: "rodkovel@juno.com"<skidflksd@demovslihttpwer>
Subject: RE: Complaint about Super Bowl 53 and website ads for Bud Light
Date: Mon, 4 Feb 2019 20:12:35 +0000

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Thank you.

Rod Kovel

Do This (Before Bed) to Burn Belly Flab All Night Long
worldhealthlabs.com
http://thirdpartyoffers.juno.com/TGL3132/5c702f9e23fda2f9d54ffst01vuc
Dear Mr. Kovel,

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www.beerinstitute.org

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Dear Ms. Saunders:

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Do you want it? FWIW, IMHO it is full of half truths, lies and distortions, so I sent a reply. Do you want my reply too?

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It also maintained that as long as an advertisement was free of a demonstrable lie, that it was free to attack a competitor's ingredients as if section 8b of the marketing code did not exist at all.

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Even longer strings of individually truthful statements can leave a false impression when those statements seem to qualify one another. Consequently, AB's position on that is ludicrous.

Rod Kovel

--- Original Message ---
From: "rodkovel@acmecorp.com"
To: "hijstijndjksdfkjsdf@gmail.com"
Subject: RE: Complaint about Super Bowl 53 and website ads for Bud Light
Date: Mon, 4 Feb 2019 21:22:06 GMT

Thanks.

I suggest you forward my complaint to the affected party, MillerCoors, as I'm sure they will have some additional thoughts and comments about how it was treated, and that you also ask AmBev and its ad agency for their files and for comments from their executives with respect to what they were doing and the point they were trying to make, as opposed to letting them create a story now to appease the panel.

Thanks.

Rod Kovel

--- Original Message ---
From: Mary Jane Saunders <msaunders@beerinstitute.org>
To: "rodkovel@acmecorp.com"
Subject: RE: Complaint about Super Bowl 53 and website ads for Bud Light
Date: Mon, 4 Feb 2019 20:12:35 +0000

Dear Mr. Kovel,

Thank you for contacting the Beer Institute about Anheuser-Busch ads for Bud Light. I've forwarded them to the brewer for a response. You should receive the response directly.
Please let me know if you have any questions.

Mary Jane Saunders
Vice President and General Counsel
Beer Institute
440 First Street, NW, Suite 350
Washington, DC 20001
(202) 737-2337 (Main)
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Sent: Monday, February 4, 2019 2:11 PM
To: ADCode <adcode@beerinstitute.org>
Subject: Complaint about Super Bowl 53 and website ads for Bud Light

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Note here: the operative words are non-precatory: "should not disparage" and "never suggest." Actual negativity is not a necessary condition when assessing a competitor's manufacture. The Code is violated upon any advertised hint or suggestion that something is awry with the competition's ingredients.

The wording could not be more explicit. Any advertiser that so much as hints that a competing product has ingredients that should not be consumed is in violation.

The Bud Light ads criticize the manufacturing process for the specifically named competing products Coors Light and Miller Lite, by insinuating, falsely and repeatedly, that the specific ingredient "corn syrup" is objectionable, albeit for reasons not specifically identified. Other ingredients are not selected out for criticism.

Industrial corn syrup per se is not an objectionable ingredient. It is inert when used in brewing beer https://www.menshealth.com/nutrition/a26130182/corn-syrup-beer-bud-light-super-bowl-commercial/ and is widely used in many products. In fact, it is an ingredient in Bud Ice https://www.tapintoyourbeer.com/index.cfm?id=94, something AmBev did not disclose in its ad for Bud Light.

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The violations were exacerbated when the competitor MillerCoors and the corn farming lobby both immediately protested shabby treatment, leading AmBev to double down and assert that the ad's mention of corn syrup was about "transparency." https://www.foxnews.com/food-drink/bud-lights-corn-syrup-super-bowl-ad-prompts-response-from-competition and http://fortune.com/2019/02/04/corn-farmers-bud-light-super-bowl/

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And, AFAIC, the deliberate blurring of similarly named but entirely different industrial products to get a "stranger danger" rise from a lay audience for the wrong reasons is hardly an example of transparency -- especially when AmBev uses that same industrial product itself in another brand.

To the contrary, the effort to confuse the unwitting public is reminiscent of (i) the effort made by Penn and Teller to get the allegedly dangerous substance Dihydrogen Monoxide banned [https://www.youtube.com/watch?v=yi3erdgVVTw](https://www.youtube.com/watch?v=yi3erdgVVTw) and (ii) P.T. Barnum's "this way to the egress." [http://www.ptbarnum.org/egress.html](http://www.ptbarnum.org/egress.html)

Accordingly, the panel should get this fixed with a public apology and other instructions to AmBev to make this right.

Thank you.

Rod Kovel

---

**Do This (Before Bed) to Burn Belly Flab All Night Long**

[worldhealthlabs.com](http://worldhealthlabs.com)

[http://thirdpartyoffers.juno.com/TGL3132/5c702f9e23fda2f9d54ffst01vuc](http://thirdpartyoffers.juno.com/TGL3132/5c702f9e23fda2f9d54ffst01vuc)

Sponsored Links (?)
>>> Please let me know if you are requesting CCRB review.

Yes, please do.

I was under the impression just filing a complaint initiated the review. The instructions on your website are not clear that complainants must first contact the brewer before you will take up the case. To the contrary, the website describes that step as an option ("If you wish to send an advertising complaint to a brewer...") that presumably could be bypassed on the way to resolution. Hence my confusion.

My response to AB will follow under separate cover.

Rod Kovel

-------- Original Message --------
From: Mary Jane Saunders <mjsaunders@beerinstitute.org>
To: "rodkovel@beerinstitute.org" <rodkovel@beerinstitute.org>
Subject: RE: Complaint about Super Bowl 53 and website ads for Bud Light
Date: Fri, 22 Feb 2019 17:28:31 +0000

Dear Mr. Kovel,

AB sent me a courtesy copy of its response. You may certainly send me a copy of your reply. Please let me know if you are requesting CCRB review.

Mary Jane Saunders

Vice President and General Counsel

Beer Institute

440 First Street, NW, Suite 350

Washington, DC 20001

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(202) 737-7004 (Fax)
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Sent: Friday, February 22, 2019 12:20 PM
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Rod Kovel

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Rod Kovel

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Accordingly, the panel should get this fixed with a public apology and other instructions to AmBev to make this right.

Thank you.

Rod Kovel
Forward of my response to AB's peculiar missive answering my complaint.

Rod Kovel

---------- Forwarded Message ----------
From: "rodkovel@juno.com" <rodkovel@juno.com>
To: customerrelationshipgroup@18ba4cry1xev21ehuo1ogxvfiwrs2tzyshgjnb14u9pn10e9.ulgohmac.na48.case.salesforce.com
Subject: Re: Bud Light 2019 Super Bowl Commercial [ ref: _00DUOLxoh_5000BrTk tD:ref ]
Date: Thu, 21 Feb 2019 01:33:09 GMT

I am very, very concerned with the truthfulness of your letter to me. In fact, it borders on being fiction. Would you put your hand on the Bible with respect to any of it?

>>>> We always appreciate hearing from our customers,

This is rubbish. I am not your customer. I have not had a Budweiser or anything in its product line for decades, partly because you have a long history of abusive advertising and partly because the product is terrible. I do not recall ever having a Stella or anything from AmBev either.

And FWIW, I don't like Miller either, and I only take a Coors as a last option because it has an ugly history of supporting extreme right wing causes and donates to right wingers over thoughtful people by a 6 to 1 margin.  https://www.opensecrets.org/orgs/totals.php?id=D000027694&cycle=2012

>>>>even when it comes in the form of constructive criticism.

Are you not aware that I filed a formal complaint? I didn't offer an idle comment how this or that could be better (which is constructive criticism). I asked for sanctions against you, not a change in your behavior.

>>>>However, your quotation of the code omits—presumably inadvertently—subsection (a) of Section 8, which makes it plain that brewers may, in fact, make factual comparisons between brands:

This one borders on being a deliberate outright lie. There are two parts to the rule; each is equally important. I have not omitted section a "inadvertently." The omission is quite purposeful, as I have no issue with whether the mention of "corn syrup" in the ad is truthful because it is.

The issue is your categorical attack on the competing products' ingredients by going out of your way to confuse "corn syrup" -- a safe ingredient that you use yourself -- with "high fructose corn syrup" which is dangerous so as to leave viewers with the false impression that the competing products are dangerous.

I'll note in passing that you have not denied that providing a misleading impression was the specific intent. It's not like you truthfully mentioned those products came in glass bottles or that they were brewed in Wisconsin and that
consumers should buy your product because of those facts. You carefully selected an ingredient with a confusing name and insinuated it is a reason not to buy those products.

It is virtually the exact thing that the second part of the rule was specifically written to prevent.

Or will you continue to lie and argue to the Board that your confusing mention of "corn syrup" as an industrial ingredient was not an attack on it as an ingredient, that it was just the truth -- as if you were talking about glass and Wisconsin -- and a partial truth at best since many of your products contain the same stuff?

Or will you be saying that 8b isn't a rule if the ad is hyper-technically truthful? Maybe something like this: "There's polluted water in Colorado. Guess where Coors gets its water from? Just sayin..."

>>>Just four weeks before the Super Bowl, Bud Light announced that it would be the first U.S. beer to put a comprehensive ingredients panel directly on its packaging... Further, in June 2014—long before the Beer Institute announced its Voluntary Disclosure Initiative—Anheuser-Busch was the first major U.S. brewer to disclose the ingredients for its beers, including Budweiser and Bud Light.

This one is more of a distortion than an outright lie. You posted the ingredient list 5 years ago -- after protests and petitions that embarrassed the company. [http://time.com/2866497/budweiser-anheuser-busch-bud-light/](http://time.com/2866497/budweiser-anheuser-busch-bud-light/) Then you agreed to voluntary disclosure almost 3 years ago. Then did nothing about putting it on labels until now. Why the delay if you had nothing to hide from the public?

>>>We appreciate you bringing your concerns to our attention.

Seems very, very doubtful.

"...Finally we welcome the opportunity for the truth to get out. Finally Mr. Cosby has his day in court."

I didn't believe that either.

Rod Kovel

-------- Original Message --------
From: Customer Support/Service Client
<customerrelatio...@na48.case.salesforce.com>
To: "rodkovel@juno.com" <rodkovel@juno.com>
Subject: Re: Bud Light 2019 Super Bowl Commercial  [ ref: _00DUOLxoh.._5000BrTkTd:ref ]
Date: Tue, 19 Feb 2019 22:27:13 +0000 (GMT)

Top Gut Doctor Warns: "Throw Out This Vegetable Immediately"
unhealthpublications.com
[http://thirdpartyoffers.juno.com/TGL3132/5c703cf52e94d3cf54d75st02vuc](http://thirdpartyoffers.juno.com/TGL3132/5c703cf52e94d3cf54d75st02vuc)
Sorry but I omitted the link to the Colorado pollution story that fleshes out my argument about what AB's ludicrous proposition is. https://www.vox.com/2015/8/10/9126853/epa-mine-spill-animas

I'm thinking that if a Bud ad was a montage of these kinds of news images


https://newsdeeply.imgix.net/20180412105558/CD14SPILL_BL27080x1.jpg?w=640&fit=max&q=60

http://www.thelivingmoon.com/gallery/albums/userpics/10005/poster-0.jpg

https://www.latimes.com/resizer/ei-XFmAmCZA370bvF5nOwdK7V9O=/1200x0/arc-anglerfish-arc2-prod-tronc.s3.amazonaws.com/public/FAH6VJNBBNGE3MVH7V4UM46RKY.jpg

https://media2.s-nbcnews.com/j/MSNBC/Components/Video/150812/tdy_miguel_river_150812.jpg

Followed by this truthful pic

https://i.etsystatic.com/11264224/d/il/5a7335/1246566961/il_340x270.1246566961_r9s4.jpg?version=0

and the audio being the Patti Smith song "Pissin' in the River" https://www.youtube.com/watch?v=Fy6sqk_UCyw

I'm betting their aim wouldn't be "truthfulness" as much as vomit.

True, my example is much more in your face but it is precisely within the contours of what AB is pushing on the panel as the rule now and what you will get if you decide against me.

A member cannot attack another brewer's product by insinuating its ingredients are not healthy, especially when that member omits mention of the fact it too uses that ingredient having found nothing unsafe about it.

Rod Kovel

-------- Original Message --------
From: Mary Jane Saunders
To: rodkovelpw@law игривий светxdeeds
Subject: RE: Complaint about Super Bowl 53 and website ads for Bud Light
Date: Fri, 22 Feb 2019 17:28:31 +0000

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Rod Kovel

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From: "rodkovel@brew.com" <rodkovel@brew.com>
To: "skipw@brew.com" <skipw@brew.com>
Subject: RE: Complaint about Super Bowl 53 and website ads for Bud Light
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Thank you.

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Mary Jane Saunders
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http://www.thelivingmoon.com/gallery/albums/userpics/10005/poster-0.jpg

https://www.latimes.com/resizer/ei-XFMaICZA370bvF5nOwdK7V90=/1200x0/arc-anglerfish-arc2-prod-troncs3.amazonaws.com/public/FAH6VJNBBNGE3MVF7V4UM46RKY.jpg

https://media2.s-nbcnews.com/i/MSNBC/Components/Video/150812/tdy_miguel_river_150812.jpg

Followed by this truthful pic
and the audio being the Patti Smith song "Plissin' in the River" [link]

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Rod Kovel

---------- Original Message ----------
From: Mary Jane Saunders <jane.michele.saunders@beerinstitute.org>
To: rodkovel@[bkm.com]
Subject: RE: Complaint about Super Bowl 53 and website ads for Bud Light
Date: Fri, 22 Feb 2019 17:28:31 -0000

Dear Mr. Kovel,

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Mary Jane Saunders
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440 First Street, NW, Suite 350
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(202) 737-2337 (Main)
(202) 737-0093 (Mobile)
(202) 737-7004 (Fax)
maryjane@beerinstitute.org
www.beerinstitute.org

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From: rodkovel@brewery@lw.com
Sent: Friday, February 22, 2019 12:20 PM
To: Mary Jane Saunders <mjones@lw.com>
Subject: RE: Complaint about Super Bowl 53 and website ads for Bud Light

Dear Ms. Saunders:

Yesterday, I received an emailed missive from AB that seems like some sort of rebuttal to my complaint to the Beer Institute. It did not indicate you got a courtesy copy.

Do you want it? FWIW, IMHO it is full of half truths, lies and distortions, so I sent a reply. Do you want my reply too?

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It also maintained that as long as an advertisement was free of a demonstrable lie, that it was free to attack a competitor's ingredients as if section 8b of the marketing code did not exist at all.
When I suggested that eliminating 8b from code as AB suggested would let it say something like "There's water pollution in Colorado, and Coors Beer is made with Colorado water," they didn't and probably couldn't deny it.

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-------- Original Message --------
From: "rodkovel@beijerenters.com" <rodkovel@beijerenters.com>
To: "skjapee@me.com" <skjapee@me.com>
Subject: RE: Complaint about Super Bowl 53 and website ads for Bud Light
Date: Mon, 4 Feb 2019 21:22:06 GMT

Thanks.

I suggest you forward my complaint to the affected party, MillerCoors, as I'm sure they will have some additional thoughts and comments about how it was treated, and that you also ask AmBev and its ad agency for their files and for comments from their executives with respect to what they were doing and the point they were trying to make, as opposed to letting them create a story now to appease the panel.

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From: Mary Jane Saunders <mjsaunders@beikerypartners.com>
To: "rodkovel@beijerenters.com" <rodkovel@beijerenters.com>
Subject: RE: Complaint about Super Bowl 53 and website ads for Bud Light
Date: Mon, 4 Feb 2019 20:12:35 +0000

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Please let me know if you have any questions.

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From: rodkovell@beerinstitute.org
Sent: Monday, February 4, 2019 2:11 PM
To: ADCode <adcode@beerinstitute.org>
Subject: Complaint about Super Bowl 53 and website ads for Bud Light

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The wording could not be more explicit. Any advertiser that so much as hints that a competing product has ingredients that should not be consumed is in violation.

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What the ad was obviously aimed to confuse viewers, most of whom would be ignorant with respect to the chemical distinction between the industrial "corn syrup" and the separate industrial product "High Fructose Corn Syrup," which is well known to be potentially insidious (and an ingredient in AmBev's Best Damn Cream Soda https://www.tapintoyourbeer.com/index.cfm?id=971 ) and is perhaps best avoided by consumers.

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1 Cup (Before Bed) Burns Belly Fat Like Crazy!
worldhealthlabs.com
http://thirdpartyoffers.juno.com/TGL3132/5c7069ade19e69ac537f02vuc
Sponsored Links (1)

Maybe Coors ought to test its water.

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Thank you. I will provide the CCRB with everything you sent me.

Mary Jane Saunders

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Followed by this truthful pic

https://i.etsystatic.com/11264224/d/il/5a7335/1246566961/il_340x270.1246566961_r9s4.jpg?version=0
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BREWER’S SUBMISSION
ANHEUSER-BUSCH, INC.'S RESPONSE TO ROD KOVEL'S
“INGREDIENTS” SUPER BOWL TV AD COMPLAINT

On February 4, 2019, the Beer Institute received a complaint (See Exh. 1) from Rod Kovel, a lawyer who previously has filed six complaints with this Board regarding Anheuser-Busch’s (“A-B”) advertisements—each of which has been dismissed. The Beer Institute forwarded the most recent complaint to us, and A-B responded by letter on February 19, 2019. (See Exh. 2.) Subsequently Mr. Kovel formally invoked the Code Compliance Review Board (“CCRB”) process and sent A-B a response to its letter. (See Exh. 3.)

A-B now files this Response addressing Mr. Kovel’s complaint regarding the “Special Delivery,” “Medieval Barbers,” and “Trojan Horse” television advertisements (collectively, the “Ingredients Ads”) that Mr. Kovel viewed during the Super Bowl LIII broadcast.

DESCRIPTION OF THE INGREDIENTS ADS

The “Special Delivery” Ad

The “Special Delivery” ad opens with King John Barley IV, the Bud Knight, and the Wizard in a medieval setting, walking underground amidst barrels and cases of Bud Light and four large barrels of water, rice, hops, and barley. The King says, “And that's how you brew it.”

A woman then enters with a barrel, announcing that “this corn syrup was just delivered.” The King replies, “That's not ours. We don't brew Bud Light with corn syrup.” The woman offers, “Miller Lite uses corn syrup,” to which the King replies, “Let us take it to them at once.” The ad then follows the King and his entourage on their quest to deliver the corn syrup to Miller Lite. When they arrive at the Miller Lite castle, the entourage learns that Miller Lite already received its corn syrup shipment, but is told that the corn syrup could belong to Coors Light, which also uses corn syrup in its beer. The King and his entourage then set out on a quest to deliver the corn syrup to Coors Light. The Coors Light castle guard is pleased to receive the corn syrup, noting, “to be clear, we brew Coors Light with corn syrup.” The ad closes with a glass labeled “Bud Light” overflowing with beer while the announcer says, “Bud Light, brewed with no corn syrup.”

---


2 View at: https://www.youtube.com/watch?v=L.kHvj_KEHBk.
The "Medieval Barbers" Ad

In the "Medieval Barbers" ad, three barbers discuss beer ingredients. The first barber asks in a matter-of-fact tone, "Did you know Coors Light is made with barley, water, hops extract, and corn syrup." The second barber responds, "And Bud Light is made with barley, rice, water, hops, and no corn syrup."

The "Trojan Horse" Ad

In the "Trojan Horse" ad, two warriors in a Trojan Horse conduct a whispered conversation as the Trojan Horse approaches some guards. The first one says, "Miller Lite is made with barley, water, hops, hop extract, and corn syrup." The second replies, "Bud Light is made with barley, rice, water, hops, and no corn syrup." The scene then cuts to show the guards and the outside of the Trojan Horse. One guard asks, "Is someone whispering beer ingredients in there?"

ANALYSIS OF MR. KOVEL'S COMPLAINT

Mr. Kovel complains that the Ingredients Ads purportedly violate Guideline 8(b) of the Beer Institute's Advertising and Marketing Code. The full text of Guideline 8 provides:

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.

1. The Ingredients Ads Are Not False; They Accurately Compare Product Ingredients.

Guideline 8 prevents disparagement of another brewer's beer. The subsections must be read as proscriptions on the elements of disparagement, namely, on statements that are both false and are derogatory of a competing beer's additives or ingredients. The legal background underlying this Guideline is useful in interpreting the Guideline.

"Disparagement" is defined as "the publication of false and injurious statements that are derogatory of another's property, business, or product." (MERRIAM-WEBSTER DICTIONARY, Legal Terms (https://www.merriam-webster.com/legal/disparagement).) Indeed, in most states, the tort

3 View at: https://www.youtube.com/watch?v=REgmqFc0TVI.

4 View at: https://www.youtube.com/watch?v=1FaEPxojZ7U.
of product disparagement (or “commercial disparagement”) is encompassed in the category of “injurious falsehoods.” A leading torts treatise, in describing the elements of a disparagement action, states:

Injurious falsehood, or disparagement, then, may consist of the publication of matter derogatory to the plaintiff’s . . . property, or its quality, or to his business in general . . .

. . .

In addition, the plaintiff must carry the burden of proving that the disparaging statement is false, and if he does not do so, he has no claim.

PROSSER & KEETON ON THE LAW OF TORTS 967 (5th ed. 1984).

This much is indisputable: the comparison that Bud Light made in its ads is factually accurate. The brewers’ websites reflect that fact. Miller Lite and Coors Light admitted it in post-Super Bowl public statements. And even Mr. Kovel admits the statements are truthful. Because the statements are true, there can be no “disparagement” under Guideline 8 of the BI Code.

The ingredients for Bud Light are: water, barley malt, hops, and rice. (See https://www.tapintoyourbeer.com/index.cfm?id=8.)

Prior to the Super Bowl, MillerCoors listed “Corn Syrup” as an ingredient in both Coors Light and Miller Lite on its website.

![Table showing ingredients](https://example.com/table.jpg)

---

5 See also, RESTATEMENT (SECOND) OF TORTS Sec. 623A Liability for Publication of Injurious Falsehood—General Principle (“One who publishes a false statement harmful to the interests of another is subject to liability . . . if . . . he knows that the statement is false or acts in reckless disregard of its truth or falsity”), Sec. 634 Truth (“The publisher of a statement injurious to another is not liable for injurious falsehood if the facts stated, or implied as justification for an opinion stated, are true”); Sec. 649 Conditional Privilege of Competitors (“A competitor is conditionally privileged to make an unduly favorable comparison of the quality of his own . . . chattels . . . with the quality of the competing . . . chattels . . . of a rival competitor . . . if the comparison does not contain false assertions of specific unfavorable facts regarding the competitor’s things.”); cf. id. at Sec. 634 Truth, cmt. (b) (“If the defendant says that the product is bad or worthless, as if he implies it will not wear in use, the plaintiff must prove that it is so constructed as to do so”)
Thus, the ingredient comparisons between Bud Light, Miller Lite, and Coors Light are factually accurate and truthful.

But even after the Super Bowl, Miller Lite and Coors Light acknowledged that their beers contain “corn syrup.” For example, @CoorsLight tweeted on February 6: “This week, @BudLight started a conversation – yes, we use corn syrup.” Similarly, MillerCoors tweeted on February 6 a copy of a full page newspaper ad it had taken out in national newspapers:

You may have seen an ad on the Big Game going to great lengths to explain that Miller Lite is brewed with “corn syrup,” while Bud Light is not. That’s a fact. Miller Lite is indeed brewed with “corn syrup.” We’d like to thank our competitors for taking the time and money to point out this exciting fact to such a large, national audience not once, but twice.

(See Exh. 4, emphasis added.)

Remarkably, even Mr. Kovel acknowledges the truthfulness of the ads’ statements that the ingredients for Miller Lite and Coors Light include corn syrup. In his February 20 e-mail to A-B, he explained why he had omitted the terms of Guideline 8(a) in his complaint, admitting: “The omission is quite purposeful, as I have no issue with whether the mention of corn syrup in the ad is truthful because it is.” (Exh. 3, emphasis added.)

Because no one disputes the factual accuracy of the statements in Bud Light’s Ingredients Ads, there can be no finding of disparagement under Guideline 8 of the BI Code. Indeed, Bud Light used the very same words that Miller Lite and Coors Light have used to describe their ingredients.

2. The Ingredients Ads Are Not Derogatory of Miller Lite and Coors Light.

The Ingredients Ads also are not derogatory of Miller Lite or Coors Light and, as such, cannot violate Guideline 8(b). The Bud Light characters do not screw up their noses at the mention of the other brands, heckle the residents of the Miller Lite or Coors Light castles, or in any way state or give visual or audio cues to suggest that corn syrup is in any way unhealthy, objectionable, or makes the beer unfit for consumption. Indeed, the ads are merely a matter-of-fact comparison of the ingredients in the three beers.

It is important to understand that Guideline 8 of the BI Code does not prevent factually truthful comparative advertising about competing beer brands. Brewers—including MillerCoors—historically have run comparative advertising asserting superiority based on a particular product attribute, such as having fewer carbs or calories. Notably, the Ingredients Ads did not even go that far. Rather, the ads employed a straight-forward comparison of the ingredients of the three beers. A straight, truthful recitation of the ingredients of Miller Lite and Coors Light in MillerCoors’ own words is not prohibited by Guideline 8(b)’s admonition against suggesting an ingredient is objectionable any more than MillerCoors’ own listing of the same ingredients on its website is. Merely highlighting an ingredient is not, without more, a suggestion that it is objectionable.
As this Board previously has explained:

We understand that different people will have different perspectives on whether an advertisement is good, effective, or even offensive. While these are interesting questions, the CCRB’s responsibility is to examine an advertisement only from the perspective of whether or not it violates the Code.

CCRB Opinion on “Journey” and “The Chair” Advertisements at 2 (Apr. 11, 2013).

The Ingredients Ads only note a factual difference between Bud Light and Miller Lite and Coors Light; they do not suggest that corn syrup is an “objectionable” ingredient in beer, and thus do not violate Guideline 8(b).

3. To Adopt Mr. Kovel’s Reading of Guideline 8 Would Be Inconsistent With The BI’s “Brewers’ Voluntary Disclosure Initiative.”

The Brewers’ Voluntary Disclosure Initiative is a commitment to transparency made by Beer Institute members in 2017 “to disclose information about their products’ ingredients, nutritional facts, alcohol by volume and freshness” by the end of 2020. (See Beer Institute, Beer Institute Launches Video Campaign Highlighting Brewers’ Voluntary Disclosure Initiative, http://www.beerinstitute.org/press-releases/beer-institute-launches-video-campaign-highlighting-brewers-voluntary-disclosure-initiative/.) Anheuser-Busch and MillerCoors both voluntarily agreed to participate in and comply with these standards, acknowledging that consumers should know what ingredients are in their beers in order to facilitate informed purchasing decisions. Courts and agencies routinely approve of comparative advertising for the very same reason. See, e.g., August Storck K.G. v. Nabisco, Inc., 59 F.3d 616, 618 (7th Cir. 1995) (quoting 16 C.F.R. § 14.15(b)) (“[The FTC] believes that consumers gain from comparative advertising, and to make the comparison vivid the Commission ‘encourages the naming of, or reference to competitors.’”); Triangle Publ’n, Inc. v. Knight-Ridder Newspapers, Inc., 626 F.2d 1171, 1176 (5th Cir. 1980) (“Truthful and nondeceptive” comparative advertising is “a source of important information to consumers and assists them in making rational purchase decisions”).

Anheuser-Busch has long demonstrated its commitment to transparency for the ingredients in its beer. In 2014—even before the Beer Institute’s members undertook the Brewers’ Voluntary Disclosure Initiative—Anheuser-Busch began listing the ingredients for its beers on its website, explaining that it was doing so to meet the needs of American consumers. In January 2019, Bud Light took this a step further and announced that it would be the first beer in the United States to add a comprehensive serving facts and ingredients label on its packaging. At the same time, Bud Light began running advertisements in various media proclaiming that consumers deserve to know the ingredients in their beer, which, in the case of Bud Light, are water, barley, rice, and hops.

MillerCoors, too, has boasted on its website, both prior to and after the Super Bowl, that it “values transparency” and is “happy to comply with the request for additional information.” MillerCoors, Nutrition and Codes, https://www.millercoors.com/beers/nutrition-codes. Indeed,
the website lists the ingredients of both Miller Lite and Coors Light as including “Corn Syrup (Dextrose).” Bud Light did nothing more than what MillerCoors has been doing for some time—informing consumers that Miller Lite and Coors Light are made with corn syrup.

It would be inconsistent with the very commitment to transparency made by the Beer Institute’s members in 2017 for the CCRB to hold that an ad’s truthful comparison of ingredients that brewers already disclose on their websites in furtherance of a transparency initiative somehow now qualifies as “disparagement” that violates Guideline 8 of the BI Code.

4. If The CCRB Were To Hold That Truthful Product Comparisons Give Rise To A Guideline 8 Violation, It Would Invite Many Other Types Of Ad Code Challenges.

To adopt Mr. Kovel’s misinterpretation of Guideline 8 would open Pandora’s box to claims on other types of truthful comparative beer advertising. Mr. Kovel suggests that calling out an individual ingredient is, of itself, declaring that ingredient to be “objectionable.” That interpretation, of course, is wholly inconsistent with the notion of comparative advertising, which is favored in the law because of the important role it plays in assisting consumers in making informed purchase decisions, and encouraging product innovation. Moreover, if the CCRB were to adopt such an interpretation, what would that mean for beers that identify themselves as compliant with the German “beer purity” law, the Reinheitsgebot?

Many German beers—-and a number of beers made outside of Germany—market themselves in the US as compliant with Bavarian Duke Wilhelm IV’s decree in 1516 that beer should be made only from barley, hops, and water (and as later amended, yeast). As one commentator has noted:

Five hundred years after its enactment, the Reinheitsgebot still has a powerful moral authority. It is a reflection of “pure” beer made in a traditional fashion. Being able to say you are “Reinheitsgebot-compliant” remains a powerful statement in some beer circles. . . . [I]ts marketing influence has grown, in large part alongside the rise of craft beer.


Imagine an advertisement claiming that a beer brewed pursuant to the Reinheitsgebot is superior to another brand that includes additional ingredients. Is the ad violative of Guideline 8? Worse yet, would even the mere designation of a beer as Reinheitsgebot-compliant improperly imply that non-compliant ingredients in competitors’ beers are objectionable? That, of course, would be the clear implication of any decision by this Board upholding Mr. Kovel’s suggestion that the mere truthful comparison of ingredients in competing beers violates Guideline 8(b). And it would be inconsistent with the historic legal meaning of product disparagement. The Board

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6 After the Super Bowl, MillerCoors edited its website so that it now reads “corn syrup (Dextrose — not High Fructose Corn Syrup).” See https://www.millercoors.com/sites/millercoors/files/MC_Nutritional_Information-02052019.pdf.
should reject Mr. Kovel’s misconception of Guideline 8 to avoid creating confusion about comparative ingredient marketing.

CONCLUSION

The Ingredients Ads challenged by Mr. Kovel are indisputably truthful and use the same words as MillerCoors has used to describe the ingredients for Miller Lite and Coors Light. There is no false statement to give rise to a disparagement claim under Guideline 8, and the ads do not actually criticize or cast aspersions on Miller Lite and Coors Light. Anheuser-Busch respectfully requests that the Code Compliance Review Board dismiss Mr. Kovel’s Complaint, holding that the Ingredients Ads are not product disparagement and do not violate Guideline 8 of the BI Code or its subsections.
EXHIBIT 1
See below.

Mary Jane Saunders
Vice President and General Counsel
Beer Institute
440 First Street, NW, Suite 350
Washington, DC 20001
(202) 737-2337 (Main)
(202) 737-7004 (Fax)
www.beerinstitute.org

CONFIDENTIALITY WARNING: This message and its contents may include confidential and proprietary information and/or be protected by an attorney-client privilege or work-product doctrine. If you have received it in error, please notify the sender, immediately, delete this message and any attachments, and destroy any printed copies. Thank you.

I have not complained to the brewer AmBev about its actions, but it should be apologizing to the public and its competitors for attacking its competition in violation of the ad rules, and for doing so in a duplicitous way to boot.

Three of the Super Bowl 53 ads for Bud Light, starting at the 1 minute mark of https://www.youtube.com/watch?v=5ltUtaVayIU and the product website https://www.budlight.com/ would seem to be examples of product disparagement of competition in violation of section 8 of the Advertising Marketing Code: "Beer advertising and marketing materials should not disparage competing beers... (b) Beer advertising and marketing materials should never suggest that competing beers contain objectionable additives or ingredients."

Note here: the operative words are non-precatory: "should not disparage" and "never suggest." Actual negativity is not a necessary condition when assessing a competitor's manufacture. The Code is violated upon any advertised hint or suggestion that something is awry with the competition's ingredients.

The wording could not be more explicit. Any advertiser that so much as hints that a competing product has ingredients that should not be consumed is in violation.

The Bud Light ads criticize the manufacturing process for the specifically named competing products Coors Light and Miller Lite, by insinuating, falsely and repeatedly, that the specific ingredient "corn syrup" is objectionable, albeit for reasons not specifically identified. Other ingredients are not selected out for criticism.
Industrial corn syrup per se is not an objectionable ingredient. It is inert when used in brewing beer and is widely used in many products. In fact, it is an ingredient in Bud Ice, something AmBev did not disclose in its ad for Bud Light.

What the ad was obviously aimed to confuse viewers, most of whom would be ignorant with respect to the chemical distinction between the industrial "corn syrup" and the separate industrial product "High Fructose Corn Syrup," which is well known to be potentially insidious (and an ingredient in AmBev's Best Damn Cream Soda) and is perhaps best avoided by consumers.

The violations were exacerbated when the competitor MillerCoors and the corn farming lobby both immediately protested shabby treatment, leading AmBev to double down and assert that the ad's mention of corn syrup was about "transparency." That response is laughable. For AmBev to harp on the use of corn syrup as an ingredient over a series of ads and deny it was actually criticism of its use or some attempt to warn customers about it is bizarre.

And, AFAIC, the deliberate blurring of similarly named but entirely different industrial products to get a "stranger danger" rise from a lay audience for the wrong reasons is hardly an example of transparency -- especially when AmBev uses that same industrial product itself in another brand.

To the contrary, the effort to confuse the unwitting public is reminiscent of (i) the effort made by Penn and Teller to get the allegedly dangerous substance Dihydrogen Monoxide banned and (ii) P.T. Barnum's "this way to the egress." Accordingly, the panel should get this fixed with a public apology and other instructions to AmBev to make this right.

Thank you.

Rod Kovel

Top Gut Doctor: I Beg Americans To Throw Out This Vegetable
unhealthpublications.com
http://thirdpartyoffers.juno.com/TGL3132/5c588e4bb7fa3e4b3159st03vuc
February 19, 2019

SENT VIA ELECTRONIC MAIL

Rod Kovel
rodkovel@wipo

Re: Bud Light 2019 Super Bowl Commercial

Dear Mr. Kovel:

We have received your complaint from the Beer Institute regarding Bud Light’s “Ingredients” advertisements in Super Bowl LIII. We always appreciate hearing from our customers, even when it comes in the form of constructive criticism.

You asserted to the Beer Institute that Bud Light’s “Ingredients” ads violate Section 8, subsection (b) of the Beer Institute’s Advertising and Marketing Code by “disparaging” Miller Lite and Coors Light.

However, your quotation of the code omits—presumably inadvertently—subsection (a) of Section 8, which makes it plain that brewers may, in fact, make factual comparisons between brands:

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

There is nothing factually incorrect about the comparison that Bud Light made in its ads. The ingredients in Bud Light are: water, barley malt, hops, and rice. (See https://www.tapintoyourbeer.com/index.cfm?id=8.) Bud Light does not use corn syrup. Our Super Bowl ads merely “distinguish” Bud Light from two “competing beers” in a “factual” manner.

To be clear, the ingredients for Miller Lite and Coors Light include corn syrup. MillerCoors has admitted this fact in tweets and advertising. For example, @CoorsLight tweeted on February 6: “This week, @BudLight started a conversation – yes, we use corn syrup.” Similarly, MillerCoors tweeted on February 6 a copy of a newspaper ad it had taken out in national newspapers:

You may have seen an ad on the Big Game going to great lengths to explain that Miller Lite is brewed with “corn syrup,” while Bud Light is not. That’s a fact. Miller light is indeed brewed with “corn syrup.” We’d like to thank our competitors for taking the time and money to point out this exciting fact to such a large, national audience not once, but twice.

In your e-mail, you suggest that it is “bizarre” that Bud Light would view its ads as a part of transparency. That may be because you are unaware of the fact that, just four weeks before the Super Bowl, Bud Light announced that it would be the first U.S. beer to put a comprehensive ingredients panel directly on its packaging. Contemporaneous with this announcement, Bud Light
began running advertisements in various media proclaiming that consumers deserve to know the ingredients in their beer, which, in the case of Bud Light, are simply water, barley, rice, and hops.

These recent initiatives are not a change in course, but rather the continuation of a movement towards ingredient transparency in the beer industry, which has been led by Anheuser-Busch. In July 2016, as part of the Brewers’ Voluntary Disclosure Initiative, Anheuser-Busch and other Beer Institute members announced a commitment “to disclose information about their products’ ingredients, nutritional facts, alcohol by volume and freshness” by the end of 2020. (See Beer Institute, Beer Institute Launches Video Campaign Highlighting Brewers’ Voluntary Disclosure Initiative, http://www.beerinstitute.org/press-releases/beer-institute-launches-video-campaign-highlighting-brewers-voluntary-disclosure-initiative/). Anheuser-Busch and MillerCoors both voluntarily agreed to participate and comply with these standards. Further, in June 2014—long before the Beer Institute announced its Voluntary Disclosure Initiative—Anheuser-Busch was the first major U.S. brewer to disclose the ingredients for its beers, including Budweiser and Bud Light. (See http://www.tapintoyourbeer.com).

MillerCoors apparently agrees that providing ingredient information to consumers is a good thing, stating on its website that it “values transparency” and is “happy to comply with the request for additional information.” (MillerCoors, Nutrition and Codes, https://www.millercoors.com/beers/nutrition-codes). MillerCoors then goes on to distinguish their beers from Bud Light, stating, “Miller Lite and Coors Light use corn syrup. Bud Light uses rice.” Although this statement is a new addition to the website following the Super Bowl, the ingredients for Miller Lite and Coors Light are and were located on pages 3 and 10 of a 19-page PDF of nutritional information for the MillerCoors brands. (MillerCoors, Nutritional Information, https://www.millercoors.com/sites/millercoors/files/MC_Nutritional_Information-02052019.pdf).

Thus, Bud Light did nothing more than what MillerCoors has been doing for some time—informing consumers that Miller Lite and Coors Light are made with corn syrup. Bud Light’s factual statement distinguishing competing beers is unequivocally compliant with the Beer Institute’s Advertising and Marketing Code.

We appreciate you bringing your concerns to our attention. We hope that our response has answered those concerns. If that is not the case, we would like to let you know that because we are a member of the Beer Institute and are a participant in its Code Compliance Review process, you may lodge your complaint and express your concerns to the Beer Institute’s Code Compliance Review Board. You may fill out the complaint form at
http://www.beerinstitute.org/responsibility/advertising-marketing-code/, e-mail the Beer Institute at adcode@beerinstitute.org, or call the Beer Institute at 800-379-2739 to obtain a copy of the complaint form.

Sincerely

David McKenzie
Dir., Corporate Social Responsibility
EXHIBIT 3
Hawkins, Seth (Legal)

From: Customer Support/Service Client <customerrelationshipgroup@18ba4cry1xev21ehuo1ogxvfiwrs2tyzslohgnjb14u9pn10e9.u-lxohmac:na48.case.salesforce.com>
Sent: Monday, February 25, 2019 10:15 AM
To: FW: Re: Bud Light 2019 Super Bowl Commercial [ref:_00DUOLxoh._5000BrTk tD:ref]
Subject: FW: Re: Bud Light 2019 Super Bowl Commercial [ref:_00DUOLxoh._5000BrTk tD:ref]

I am very, very concerned with the truthfulness of your letter to me. In fact, it borders on being fiction. Would you put your hand on the Bible with respect to any of it?

>>> We always appreciate hearing from our customers,

This is rubbish. I am not your customer. I have not had a Budweiser or anything in its product line for decades, partly because you have a long history of abusive advertising and partly because the product is terrible. I do not recall ever having a Stella or anything from AmBev either.

And FWIW, I don't like Miller either, and I only take a Coors as a last option because it has an ugly history of supporting extreme right wing causes and donates to right wingers over thoughtful people by a 6 to 1 margin. https://www.opensecrets.org/orgs/totals.php?id=D000027694&cycle=2012

>>> even when it comes in the form of constructive criticism.

Are you not aware that I filed a formal complaint? I didn't offer an idle comment how this or that could be better (which is constructive criticism). I asked for sanctions against you, not a change in your behavior.

>>> However, your quotation of the code omits—presumably inadvertently—subsection (a) of Section 8, which makes it plain that brewers may, in fact, make factual comparisons between brands:

This one borders on being a deliberate outright lie. There are two parts to the rule; each is equally important. I have not omitted section a "inadvertently." The omission is quite purposeful, as I have no issue with whether the mention of "corn syrup" in the ad is truthful because it is.
The issue is your categorical attack on the competing products' ingredients by going out of your way to confuse "corn syrup" -- a safe ingredient that you use yourself -- with "high fructose corn syrup" which is dangerous so as to leave viewers with the false impression that the competing products are dangerous.

I'll note in passing that you have not denied that providing a misleading impression was the specific intent. It's not like you truthfully mentioned those products came in glass bottles or that they were brewed in Wisconsin and that consumers should buy your product because of those facts. You carefully selected an ingredient with a confusing name and insinuated it is a reason not to buy those products.

It is virtually the exact thing that the second part of the rule was specifically written to prevent.

Or will you continue to lie and argue to the Board that your confusing mention of "corn syrup" as an industrial ingredient was not an attack on it as an ingredient, that it was just the truth -- as if you were talking about glass and Wisconsin -- and a partial truth at best since many of your products contain the same stuff?

Or will you be saying that 8b isn't a rule if the ad is hyper-technically truthful? Maybe something like this: "There's polluted water in Colorado. Guess where Coors gets its water from? Just sayin..."

>>>just four weeks before the Super Bowl, Bud Light announced that it would be the first U.S. beer to put a comprehensive ingredients panel directly on its packaging... Further, in June 2014—long before the Beer Institute announced its Voluntary Disclosure Initiative—Anheuser-Busch was the first major U.S. brewer to disclose the ingredients for its beers, including Budweiser and Bud Light.

This one is more of a distortion than an outright lie. You posted the ingredient list 5 years ago -- after protests and petitions that embarrassed the company. http://time.com/2866497/budweiser-anheuser-busch-bud-light/
Then you agreed to voluntary disclosure almost 3 years ago. Then did nothing about putting it on labels until now. Why the delay if you had nothing to hide from the public?

>>>We appreciate you bringing your concerns to our attention.

Seems very, very doubtful.

"...Finally we welcome the opportunity for the truth to get out. Finally Mr. Cosby has his day in court." https://www.nytimes.com/2018/04/10/arts/television/bill-cosby-trial-andrea-constand.html

I didn't believe that either.

Rod Kovel

------- Original Message -------
From: Customer Support/Service Client
<customerrelationshipgroup@18ba4cry1xev21ehuo1ogxvfiwrs2tyzslohgnjb14u9pn10e9.u-lxohmac.na48.case.salesforce.com>
To: "rodkovel"
Subject: Re: Bud Light 2019 Super Bowl Commercial [ ref: 00DU0Lxoh_5000BrTkTD:ref ]
Date: Tue, 19 Feb 2019 22:27:13 +0000 (GMT)

Top Gut Doctor: I Beg Americans To Throw Out This Vegetable
EXHIBIT 4
Dear Beer Drinkers of America,

You may have seen an ad on the Big Game going to great lengths to explain that Miller Lite is brewed with "corn syrup," while Bud Light is not. That's a fact. Miller Lite is indeed brewed with "corn syrup." We'd like to thank our competitors for taking the time and money to point out this exciting fact to such a large, national audience not once, but twice.

You see, the "corn syrup" we source from America's heartland helps make Miller Lite taste so great. (We should mention that a majority of American beer drinkers agree that Miller Lite has more taste than Bud Light. So, when we say Miller Lite has great taste, it's not puffer. It, like the "corn syrup," is a fact.) But back to that syrup.

What might have gotten a little lost between the parties and the wings on Sunday is the distinction between "corn syrup" and high-fructose corn syrup. To be clear, "corn syrup" is a normal part of the brewing process and does not even end up in your great tasting can of Miller Lite.

It's unfortunate that our competitor's Big Game ad created an unnecessary #cornroversy. However, we thank them for starting this conversation on such a big stage because it allows us to clarify the truth and remind beer drinkers that Miller Lite has more taste than Bud Light with fewer calories and half the carbs.

That's just a fact.
#ItsMillerTime
CCRB DECISION
March 14, 2019

Mr. Rod Kovel
Merrick, NY

Dear Mr. Kovel:

We write in response to your complaint that Anheuser-Busch’s advertisement “Ingredients” violates Section 8 of the Beer Institute’s Advertising and Marketing Code (the Code). The Code Compliance Review Board (CCRB) reviews complaints from the perspective of a “reasonable adult consumer of legal drinking age.”

The CCRB’s primary function is to ensure that brewers and importers comply with the Code through an orderly and independent process. The CCRB’s “appellate” review empowers consumers or complainants with an effective, efficient method to address and decide complaints. This process is a significant part of the industry’s dedication to responsible advertising methods.

The CCRB is composed of individuals with varied professional experiences who are independent from the brewing industry. CCRB members are neutral and detached. They perform a quasi-appellate function when the complainant is dissatisfied with the response to the complaint from the brewer or counsel. Decisions of the CCRB are final.

Section 1 of the Code states “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.”

Section 8 of the Code states “Beer advertising and marketing materials should not disparage competing beers.” Section 8(a) of the Code states “Comparison or claims distinguishing competing beers should be factual.” Section 8(b) states “Beer advertising and marketing materials should never suggest that competing beers contain objectionable additives or ingredients.”

In your email of February 4, 2019, you allege “Three Super Bowl 53 ads for Bud Light, starting at the 1 minute mark of https://www.youtube.com/watch?v=5LjUtaVayJU and the product website https://www.budlight.com/ would seem to be clear examples of product disparagement of competition in violation of Section 8 of the Advertising Marketing Code: “Beer advertising and marketing materials should not disparage competing beers…” (b) Beer advertising and marketing materials should never suggest that competing beers contain objectionable additives or ingredients.”

In addition, you allege “The Bud Light ads criticize the manufacturing process for the specifically named competing products Coors Light and Miller Lite, by insinuating falsely and repeatedly, that the specific ingredient ‘corn syrup’ is objectionable, albeit for reasons not specifically identified. Other ingredients are not selected out for criticism.”

It is the unanimous opinion of the CCRB that the Bud Light commercial “Ingredients” does not violate Section 8(a) of the Code. Section 8(a) specifically states that “comparisons or claims distinguishing competing beers should be factual.” There is no question that MillerCoors uses corn syrup in the production of Coors Light and Miller Lite. MillerCoors has stated both in tweets and advertising that the firm uses corn syrup.
Further, in MillerCoors’ full page newspaper ad to “Beer Drinkers of America,” it acknowledges both the humor and veracity of AB’s commercial: “It’s unfortunate that our competitor’s Big Game ad created an unnecessary #controversy. However, we thank them for starting this conversation on such a big stage because it allows us to clarify the truth and remind beer drinkers that Miller Lite has more taste than Bud Light with fewer calories and half the carbs. That’s just a fact, #ItsMillerTime.”

It is the CCRB’s unanimous opinion that the “humor, parody and satire” in Anheuser-Busch advertisement “Ingredients” is “readily identifiable as such by reasonable adults of legal drinking age.” It is the unanimous opinion of the CCRB that the advertisement “Ingredients” meets the humor definition as defined in Section 1 and, as a result, the advertisement “Ingredients” does not violate Section 8(b) of the Code.

In summary, the CCRB understands that you allege that “Ingredients” is a “clear example of product disparagement” and that it suggests that Coors Light and Miller Lite “contain objective additives or ingredients.” 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 Guidelines 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 website 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