Code Compliance

REVIEW BOARD

2019-2020
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It gives me great pleasure to share with you the seventh biennial report of the work of the Code Compliance Review Board (CCRB). This report covers CCRB activities during 2018 and 2019.

Over the period of the report, and as part of the beer industry’s continuing commitment to responsible advertising and marketing, the Beer Institute updated the Buying Guidelines that accompany the Advertising and Marketing Code. These Buying Guidelines help ensure that brewer direct their advertising and marketing to adult audience.

During the same period, the CCRB received and discussed two complaints about brewer advertising. Our report includes a summary of each case and the Board’s final decision. CCRB members continue to confront unresolved complaints about brewer advertising objectively in light of the requirements of the Advertising and Marketing Code. The decisions included in this report are posted, together with other materials, on the Beer Institute website.

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

We are thankful for the beer industry’s support of the Advertising and Marketing Code. Brewers and beer importers continue to follow the Advertising and Marketing Code with their advertising and marketing. CCRB review of advertising complaints is an effective channel for consumers with questions or concerns about specific advertising and marketing.

As we move into a new decade, the CCRB will continuingly look for ways to improve its role in the self-regulation of advertising by the Beer Institute’s brewer and beer importer members.

Sincerely,

William H. Cunningham
Chairman
William H. Cunningham, Ph.D.

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

Rory Davies

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

Paul G. Summers

Mr. Summers is a retired judge, serving as Senior Judge by appointment of the Tennessee Supreme Court. He was previously a partner with the law firm Waller Lansden Dortch & Davies in Nashville, served as Attorney General of the State of Tennessee, Judge of the Tennessee Court of Criminal Appeals, and District Attorney General for a multi-county district in Tennessee. He served as a JAG officer for more than three decades in the U.S. military, retiring with the rank of colonel.
During the time period of this report, the Code Compliance Review Board met on several occasions to gather input and updates from alcohol beverage industry experts about trends and challenges in the market, the current media atmosphere and new and developing advertising and marketing platforms.

Also, The Beer Institute updated the Buying Guidelines accompanying the Advertising and Marketing Code. The changes reflect evolving technologies and media buying practices. Updates to the Buying Guidelines following earlier revisions to the Code in 2015 ensure consistent application of the beer industry’s commitment to advertising and marketing responsibly.

The Board invested considerable time and thought in reviewing complaints regarding a variety of brewer advertising and marketing.

The CCRB issued two final decisions on complaints filed in 2019. While this report includes summaries of the complaints and the Board’s decision letters, the Beer Institute published larger report files, including communications with the brewers and complaining consumer on its website.
Coors Light Advertisements:

1. The Official Beer of Being Done Wearing a Bra - :30
   https://www.youtube.com/watch?v=R6kZAIClmvA

2. The official Beer of Drinking in the Shower - :30
   https://www.youtube.com/watch?v=ENBChGETkTw

3. The official Beer of Saturday Morning - :30
   https://www.youtube.com/watch?v=TM_ZHB05req

4. Coors Light’s #BreakTheIce Part 1: Urban Jungle
   https://www.youtube.com/watch?v=s8zEcv0WraY

5. Coors Light’s #BreakTheIce Part 2: Over The Wire
   https://www.youtube.com/watch?v=casRzFB-xdo

6. Coors Light’s #BreakTheIce Part 6: Exclusive Action
   https://www.youtube.com/watch?v=0F1rOCMCrtA&feature=youtu.be&t=78

Modelo Advertisements:

1. Fighting for her Fellow Veterans with Melissa Stockwell | ModeloUSA
   https://www.youtube.com/watch?v=HcXttlTnWcM

2. Fighting for His Community with Brian Ortega | ModeloUSA
   https://www.youtube.com/watch?v=aCrkfyiYYYI
CCBR Response To The Complaint

INGREDIENTS

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 “Comparisons 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=5LtUtaVayJJ 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 #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 that 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 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,

William H. Cunningham
Chairman

xc: CCRB Board Members:
Ms. Rory Davies
Mr. Paul Summers
They perform a quasi-appellate function when the Complainant is dissatisfied with the response to the complaint from the Brewer. Decisions of the CCRB are final.

Before addressing the several advertising complaints made by you, the CCRB would like to take this opportunity to summarize the review process pursuant to the Code.

The beer industry, through the United Brewers Industrial Foundation, adopted the first marketing “Code of Practice” after the end of Prohibition in 1937. Over eighty years later, the earlier code was replaced by the Advertising and Marketing Code, which was adopted by the BI. The CCRB’s critical function is to ensure that Brewers and importers comply with the Code; and Complainants have an effective, efficient process to complain about how Brewers and importers are advertising and marketing their products.

Since the Code of Practice was created, media and advertising have changed considerably. Updated in 2005, the Code changes primarily involved the complaint process, including CCRB reviews. For the beer industry to continue its principles and long tradition of self-regulation, industry-wide compliance with the Code remains essential.

In the United States, state and federal law have established a three-tiered beer distribution system; the first tier are beer manufactures and importers, known as “Brewers” in the Code. The second tier are wholesale distributors, and the third tier are licensed retail establishments. Companies at each tier maintain their commercial independence. Only first tier beer manufactures and importers are eligible to belong to the BI. BI members pledge to voluntarily abide by the Code as a condition precedent to membership. In addition, the Code states that “The Beer Institute encourages all with whom Brewers do business to adhere to the law, as well as this voluntary Advertising and Marketing Code.”

According to the Code, Brewers “employ the perspective of the reasonable adult consumer of legal drinking age in advertising and marketing their products...” The focus of advertising and marketing is with adult consumers who are of legal drinking age.

The code consists of an introduction; general guidelines; principles; examples; magazine guidelines; television guidelines; radio guidelines; newspaper guidelines; digital media guidelines; and the “Code Compliance Review Process, Review Board and Dissemination.” This last listed section is where the CCRB enters the process.
Each member of the BI commits to accepting complaints about advertising or market from any person or entity. A complaint must allege that such materials are inconsistent with the Code. The complaint must be in a writing in a form available on BI’s website and must include documentation and supporting data. It will be submitted to the Brewer by the BI or directly to the Brewer by the Complainant. Brewers are encouraged to respond to the Complainant within two weeks. If the Complainant does not respond to the Brewer’s response within a reasonable period, the BI will assume the matter has been resolved and the case is closed.

If the Complainant is dissatisfied with the Brewer’s response to the complaint, the Complainant contacts BI; explains his or her dissatisfaction; and requests review of the matter by the CCRB. The Brewer then has an opportunity to respond to the requested review and attach any data or material supporting the Brewer’s response to the complaint.

The review by the CCRB is “de novo,” a legal term which means “new trial” or “from the beginning.” Although these proceedings are not a legal trial, they are administrative or regulatory in nature; and the Complainant has the burden of proof by a preponderance of the evidence, or, in lay terms, a burden of “more likely than not.” There are no strict rules of evidence, but fundamental fairness to both sides always prevails. In the interest of fairness, if the record is not complete in the view of the CCRB, the Board may investigate independently, if appropriate.

The CCRB uses principles of statutory and regulatory construction and interpretation when deciding what words mean in the Code. For example, words are understood in their ordinary, everyday meaning; however, if the context indicates otherwise, they may bear a technical sense. This depends on the context of the guidelines or rules. Likewise, another canon of interpretation is that words are given the meaning they had when the text was adopted.

The members of the CCRB are “...individuals with a variety of experience who are independent of the brewing industry. The CCRB reviews complaints...and decides whether such complaints identify advertising or marketing materials that are inconsistent with one or more guidelines of the Code. Once the CCRB issues its decision, the Complainant and the Brewer will be notified. The complaint, any Brewer’s response and the Board decision will be posted on the Beer Institute website. If a violation of the Code has occurred, the Brewer is expected to promptly revise its advertising or marketing materials to conform to the CCRB’s decision or withdraw the advertising or marketing materials.”

A majority vote of the CCRB members is required to make a decision of binary choices: violation or no violation. For over a decade the Board has consisted of three members. One member is the Producer for the Commission on Presidential Debates; former Executive Vice President of the National Association of Broadcasters; and former board member of Mothers Against Drunk Driving. Our second member is a former state district attorney general; criminal appeals and senior judge; and Attorney General of Tennessee. He is a former chair and board member of The Jason Foundation, Inc., a national nonprofit dedicated to the education and prevention of youth suicide. Our chair is Professor of Marketing at the University of Texas; former Chancellor of the University of Texas System; and is a board member and advisor to several major corporations.

McDonough Park (Anheuser-Busch)

Complainant alleges that Brewer has violated Sections 3(f) and 12 of the Code by the placement of a 7' X 12' sign, apparently as part of the centerfield fence of McDonough Park, bearing the Budweiser logo and name.

Seth Hawkins, Senior Associate General Counsel with Anheuser-Busch, states in an email to the CCRB dated November 4, 2019 that “Lake Beverage informed AB on September 30 – the day before we finished our initial response to Mr. Kovel’s complaint— that the baseball season for the Geneva Red Wings ended long ago and that it would not sponsor the team or have banners in the stadium next season. We have confirmed that the banners already have been removed by the stadium operators.” Therefore, it is the majority opinion of the CCRB that there is no reason for it to opine on the issues raised by Mr. Kovel since there is no longer a case in controversy. The “banners” in question which were placed in the venue by Lake Beverage have been taken down and will not be used in the future.
The Official Beer of Drinking in the Shower (MillerCoors)

Mr. Kovel believes (8/4/19 email to M.J. Saunders) that the commercial “The Official Beer of Drinking in the Shower,” which was sponsored by MillerCoors, violates Sections 2(e) and 3(c)(ii) of the Code. Section 2(e) states “Beer advertising and marketing materials should not portray beer drinking before or during activities, which for safety reasons, require a high degree of alertness or coordination.” The CCRB believes that drinking a beer out of a can in a shower does not involve an activity “which for safety reasons, requires a high degree of alertness or coordination.” It is the unanimous opinion of the CCRB that the abovementioned advertisement does not violate Section 2(e) of the Code.

Section 3(c)(iii) states in part “Placements made by or under the control of the Brewer in digital media in which there is a dialogue between a user and a Brewer may only be made where a user confirms that he or she is of legal drinking age.” A dialogue is defined in Webster’s New Collegiate Dictionary as “a conversation between two or more persons.” Kelly Grebe, the Chief Legal Officer for MillerCoors, states in her email to Mr. Kovel dated 8/22/19 “there is no interaction or dialogue between the consumer and the advertising.” In addition, the letter to the CCRB from Shelly S. Watson, Associate General Counsel of MillerCoors, states in her letter to the CCRB on 10/9/19 that “As part of our earlier response, MillerCoors explained to Mr. Kovel that YouTube compliance with the BI Code’s Media Buying Guidelines as audience composition on the platform is 86%+ legal drinking age consumers. This is a statistic from Comscore, an independent media measurement agency that analyzes audience composition. We confirmed this composition on October 7, 2019, and YouTube is still running at 86%+ legal drinking age consumers.”

Mr. Kovel states (email to Ms. Saunders on 8/4/19) that “maybe Coors should take another look at 14(c)” with respect to its advertisement “La Cerveza Oficial del Sabado por la Manana.”

Section 14(c) of the Beer Institute’s Advertising and Marketing Code states “Brewers discourage underage drinking and do not intend for their products to be purchased or consumed illegally by people below the legal drinking age. Consistent with that philosophy, Brewers will not approve product placement which portrays purchase or consumption of their products by persons who are below the legal drinking age.” The CCRB does not believe that the advertisement in question portrays consumption of beer by people who are below the legal drinking age. It is the unanimous opinion of the CCRB that the abovementioned advertisement does not violate Section 14(c) of the Code.

La Cerveza Oficial del Sabado por la Manana (MillerCoors)

Mr. Kovel states (email to MJ

The CCRB confirmed independently that Comscore does a month by month audience demographic study of YouTube users. In addition, the Comscore data shows that YouTube viewers consistently exceed the 71.6% standard that is referred to in Section 3(c)(i). The CCRB unanimously finds that there is no violation of Section 3(c)(ii) of the Beer Institute’s Advertising and Marketing Code with respect to the abovementioned advertisement.

The Official Beer of Being Done Wearing a Bra (MillerCoors)

Mr. Kovel states (email to MJ
that Comscore does a month by month audience demographic study of YouTube users. In addition, the Comscore data shows that YouTube viewers consistently exceed the 71.6% standard that is referred to in Section 3(c)(i). The CCRB unanimously finds that there is no violation of Section 3(c)(i) of the Code with respect to the abovementioned advertisement.

**Break the Ice (MillerCoors)**

Mr. Kovel believes (email to Ms. Saunders on 8/4/19) the advertisement “Break the Ice” violates Sections 3(c)(ii), 3(d), 3(e), and 3(f) of the Beer Institute Advertising and Marketing Code.

Shelly S. Watson states in a letter to the CCRB dated 10/9/19 that the abovementioned commercial which features Christian Connors in a 2013 video snowboarding demonstration “is an old campaign that no longer appropriately represented the brand positioning. Therefore, MillerCoors has affirmatively removed the video from its YouTube channel.” Therefore, the CCRB unanimously concludes that there is no reason for it to opine on the issues raised by Mr. Kovel since the advertisement has been voluntarily withdrawn from the Brewer’s YouTube channel.

**Fighting Spirit Campaign (Constellation Brands)**

The Complainant alleges that Modelo Beer, a Constellation Brand product, has violated Section 4(c) of the Beer Institute Advertising and Marketing Code based on the content of Constellation’s 2016 Modelo “Fighting Spirit” television commercials featuring triathlete Melissa Stockwell and UFC participant Brian Ortega.

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

Ms. Stockwell is an injured Iraqi War veteran who has overcome her disability to become a triathlete champion. She is shown at the beginning and end of the commercial toasting with a Modelo beer in hand and a medal around her neck, clearly demonstrating that the celebratory toast takes place post-competition, after the medals have been awarded. There is no implication in the commercial that drinking Modelo helped her achieve her championship. According to Section 4(c), “a brand may be portrayed in appropriate surroundings as a superior choice to complement a particular occasion or activity.” The Board unanimously agrees that this is the case in this commercial and therefore, there is no violation of Section 4(c) of the Code.

Brian Ortega, a UFC participant, is similarly shown at the beginning and end of the commercial, toasting with friends after an event. He is not shown drinking during training or competition. There is no implication that drinking Modelo has improved
Mr. Ortega’s prowess, performance or training. According to Section 4(c), “a brand may be portrayed in appropriate surroundings as a superior choice to complement a particular occasion or activity.” The Board unanimously finds that this is the case and finds no violation of Section 4(c) of the Advertising and Marketing Code.

The Complainant also alleges that the “Fighting Spirit” campaign violates Section 3(c)(ii) of the same Code by reason of placement of these advertisements on YouTube. He alleges that the commercials are inappropriately accessible to those under the legal drinking age and that the ads use unspecified “techniques” to sidestep age gating requirements.

The Advertising and Marketing Code in Section 3(c)(ii) reads “Placements made by or under the control of the Brewer in digital media in which there is a dialogue between a user and a Brewer may only be made where a user confirms that he or she is of legal drinking age. Confirmation may vary depending upon available technology but includes either: 1) disclosure of a user’s full birth date or other method of active confirmation prior to viewing an advertisement by or communicating with a Brewer; or, 2) restriction of the site to users of legal drinking age through registration.”

In its response to the Complainant, Constellation states, “on YouTube, users can only engage in dialogue with or access the Modelo USA brand page if they are logged in (to YouTube or Google) and have provided age data confirming they are twenty-one years or older.” Attempts by the CCRB to access the Modelo commercials without registering with Google or YouTube, both third-party compliant digital media sites, were unsuccessful.

In addition, Constellation outlines the company’s use of Comscore, and independent Audience Measurement Service company (like Nielsen), to assess legal drinking age compliance on YouTube. “The Comscore Media Metrix data consistently confirms that YouTube, as a platform, is LDA compliant.” Constellation finds the most recent Comscore report of YouTube’s LDA Compliance to well exceed the 71.6% compliance requirement set forth in the Code. It is the unanimous opinion of the CCRB that the abovementioned commercial does not violate Section 3(c)(ii) of the Code.

The CCRB spent a considerable amount of time reviewing the advertisements, studying the Code Guidelines in question, and debating the allegations of your complaints against the response of the Brewers. The findings of the Board are final. They will be communicated to Anheuser-Busch, MillerCoors, and Constellation Brands. 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
Adversement and Marketing

CODE //

Introduction

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

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

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

• Beer advertising should not suggest directly or indirectly that any of the laws applicable to the sale and consumption of beer should not be complied with.

• Brewers should adhere to contemporary standards of good taste applicable to all commercial advertising and consistent with the medium or context in which the advertising appears.

• Advertising themes, creative aspects, and placements should reflect the fact that Brewers are responsible corporate citizens.

• Brewers strongly oppose abuse or inappropriate consumption of their products.

The term “beer” as used in this Code covers all types of malt beverages, including but not limited to, beers and flavored malt beverages, as well as various specialty products containing alcohol such as hard cider. The production, distribution, and sale of beer in the United States are subject to extensive laws and regulations, enforced by federal, state, and local governments. Federal and state laws establish a three-tiered distribution system for beer. The first tier is composed of beer manufacturers and importers, which are referenced throughout this Code as “Brewers.”

The second tier is made up of wholesale distributors, and the third tier includes a wide range of licensed retail outlets, at which beer is sold to consumers. Companies in each tier of this distribution system are required by law to maintain their commercial independence. The Beer Institute encourages all with whom Brewers do business to adhere to the law, as well as this voluntary Advertising and Marketing Code.

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

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

2. Beer advertising and marketing materials should portray beer in a responsible manner:

a. Beer advertising and marketing materials should not portray, encourage, or condone drunk driving.

b. Although beer advertising and marketing materials may show beer being consumed (where permitted by media standards), advertising and marketing materials should not depict situations where beer is being consumed rapidly, excessively, involuntarily, as part of a drinking game, or as a result of a dare.

c. Beer advertising and marketing materials should not portray persons lacking control over their behavior, movement, or speech as a result of consuming beer or in any way suggest that such conduct is acceptable.

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

e. Beer advertising and marketing materials should not portray beer drinking before or during activities, which for safety reasons, require a high degree of alertness or coordination.

f. Retail outlets where beer is served or sold portrayed in advertising should not be depicted as unkempt or unmanaged.

3. Brewers are committed to a policy and practice of responsible advertising and marketing. As a part of this philosophy, beer advertising and marketing materials are intended for adult consumers of legal drinking age. Advertising or marketing materials should avoid elements that appeal primarily to persons below the legal drinking age. Brewers should take into account the following elements among others:

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

b. Beer advertising and marketing materials should not depict Santa Claus.

c. Beer advertising and marketing materials will meet the following criteria:

i. Placements made by or under the control of the Brewer in magazines, in newspapers, on television, on radio, and in digital media in which there is no dialogue between a Brewer and user, may only be made where at least 71.6% of the audience is expected to be adults of legal drinking age. A placement will be considered compliant if the audience composition data reviewed prior to placement meets the percentage set forth above.

ii. Placements made by or under the control of the Brewer in digital media in which there is a dialogue between a user and a Brewer may only be made where a user confirms that he or she is of legal drinking age. Confirmation may vary depending upon
Guidelines

available technology but includes either: 1) disclosure of a user’s full birth date or other method of active confirmation prior to viewing an advertisement by or communicating with a Brewer; or, 2) restriction of the site to users of legal drinking age through registration. The offer of downloadable content by a Brewer that can be permanently accessed by a user without viewing a Brewer’s owned or controlled compliant digital media site or a third-party compliant digital media site, will similarly meet the standard set forth in this Section 3(c) (ii).

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

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

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

d. Models and actors employed to appear in beer advertising and marketing materials should be a minimum of 25 years old, substantiated by proper identification, and should reasonably appear to be of legal drinking age and do not appeal primarily to persons below the legal drinking age.

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

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

g. Brewers recognize that parents play a significant role in educating their children about the legal and responsible use of alcohol and may wish to prevent their children from accessing digital media without parental supervision. To facilitate this exercise of parental responsibility, the Beer Institute will provide to manufacturers of parent control software the names and website addresses of all member-company websites. Additionally, Brewers will require disclosure of a viewer’s date of birth at the entry to their beer-branded websites and will post reminders at appropriate locations in their websites indicating that Brewer products
Guidelines

are intended only for those of legal purchase age. These locations include entrance into the website, purchase points within the website, and access into adult-oriented locations within the website, such as virtual bars. Content that can be shared with others directly from a Brewer’s digital media site or a Brewer-controlled third party digital media site will include terms of use instructing users that such content should not be shared with persons below the legal drinking age.

4. Beer advertising and marketing materials should not make the following exaggerated product representations:

   a. Beer advertising and marketing materials should not convey the impression that a beer has special or unique qualities if in fact it does not.

   b. Beer advertising and marketing materials should make no scientifically unsubstantiated health claims.

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

   d. Beer advertising or marketing materials should not claim or represent that individuals cannot solve social, personal, or physical problems without beer consumption.

   5. Beer advertising and marketing materials:

   a. Should not contain language or images that are lewd or indecent in the context presented and the medium in which the material appears.

   b. May contain romantic or flirtatious interactions but should not portray sexually explicit activity as a result of consuming beer.

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

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

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

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

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

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

10. College marketing

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

   a. On-campus promotions/sponsorships

      i. Brewer sponsored events: Brewer sponsorship of on-campus events or promotions at on-campus licensed retail establishments will be limited to events conducted in accord with this Code, state law, and applicable institutional policies. In their content and implementation, company on-campus promotions and sponsorships will not encourage the irresponsible, excessive, underage, or otherwise illegal consumption of beer.

      ii. Branded products: Beer-branded promotional products such as key chains, clothing, posters, or other tangible goods designed to promote specific beer brands, are intended only for adults of legal drinking age.
Guidelines

14. Product placement

Movies and television programs frequently portray consumption of beer and related signage and props in their productions. Brewers encourage producers to seek approval before using their products, signage, or other props in artistic productions. While producers sometimes seek prior approval from Brewers, the final artistic and editorial decisions concerning product portrayal are always within the exclusive control of the movie or television producers. With regard to those producers who seek Brewer approval or those Brewers who seek placement opportunities, product placement will be guided by the following principles:

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

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

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

d. Primary appeal to persons below the legal drinking age: Brewers discourage underage drinking and do not intend for their products to be purchased or consumed illegally by people below the legal drinking age. Consistent with that philosophy, Brewers will not approve product placement where the primary character(s) are below the legal drinking age or the primary theme(s) are, because...
of their content or presentation, specifically attractive to persons below the legal drinking age beyond the general attractiveness such themes have for persons of legal drinking age.

e. Portraying alcoholism/alcohol abuse: Brewers do not want their products to be abused. Consistent with that philosophy, Brewers will not approve product placement where characters use their products irresponsibly or abusively or where alcoholism is portrayed, unless the depiction supports a responsible-use message.

f. Measured media: Brewers will not request or approve a product placement in any measured media unless the placement is consistent with the Buying Guidelines that accompany this Code and at least 71.6% of the audience is reasonably expected to be adults of legal drinking age.

Code Compliance Review Process
Each member of the Beer Institute is committed to the philosophy of the Code and to compliance with the Code. To demonstrate this commitment, Beer Institute members openly accept Code complaints from any person or entity, including a complaint from another Brewer.

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

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

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

**Definitions**

**Audience Measurement Service:** A nationally recognized and independent company, including but not limited to Nielsen, Scarborough Research, Mediamark Research, Inc., Edison, and ComScore, that measures audiences in various advertising media.

**Cinema:** Films shown in a theatre for public entertainment.

**Code:** The Beer Institute Advertising and Marketing Code.

**Consumer Data Source:** Consumer that provides age data, or an independent third party providing age data.

**Digital Media:** All digital media programming, including but not limited to internet sites, mobile sites, commercial marketing emails, downloadable content, SMS and MMS messaging, social media sites, digitally-streamed radio and television, and mobile applications.

**LDA Compliant (and LDA Compliance):** When Audience Measurement Service demographic data for the Rating Period confirms that adults of legal drinking age (LDA) comprise at least 71.6% of the audience for the Placement or a Consumer Data Source confirms with reasonable certainty that the individual(s) to whom the Placement will be delivered are 21 years of age or older. In evaluating LDA Compliance, always use the best available data.

**Rating Period:** The two most recent consecutive periods, or a period of not less than two months, whichever is longer, during which audience demographic data for a medium is collected and reported by an Audience Measurement Service.

**Placements:** Advertising and marketing that is purchased or placed in any medium, including but not limited to Print, Television, Radio or Digital Media, and including all bonus placements.

**Print:** All newspaper, magazine and other print publications, including but not limited to advertising supplements, newspaper or magazine sections, and other forms of advertising added to or delivered with a newspaper or magazine.

**Radio:** All radio programming, including but not limited to terrestrial and subscription-based.

**Television:** All television programming, including but not limited to addressable, automatic, programmatic, bulk or block whether national, regional, local, subscription-based, network or cable.
GENERAL STANDARDS //

Brewers are committed to a policy and practice of responsible advertising and marketing. To ensure that beer advertising and marketing materials are directed to adult consumers of legal drinking age, Brewers make Placements based on the audience composition restrictions set forth in Section 3(c) of the Code. Section 3(c) requires that all Placements that are subject to the Code must be LDA Compliant.

Brewers will conduct post-Placement audits of all completed Placements on no less than a semi-annual basis, using to the extent available, the same data that was used to make the Placement. If a post-Placement audit shows that a completed Placement was not LDA Compliant, the Brewer will take reasonable steps to prevent a reoccurrence as described in the Code.

PRINT GUIDELINES //

a. For Print Placements, Brewers will assess LDA Compliance using audience composition data from an Audience Measurement Service providing age 12-plus audience composition data to the extent available, or if not available, age 18-plus audience composition data. For Print Placements in new or unmeasured publications, Brewers will use (i) subscription data provided by the publisher, or (ii) an Audience Measurement Service providing audience composition data from comparable print publications.

b. Print Placements in editions of publications that are limited to subscribers 21 years of age or older are deemed LDA Compliant.

television guidelines //

a. For non-automated Television Placements, Brewers will assess LDA Compliance using audience composition data from an Audience Measurement Service.

1. For (a) existing national network, syndicated and cable programs and (b) new or unmeasured national network syndicated and cable programs, Brewers will use national audience composition data for the program or daypart being bought.

2. For new or unmeasured national network, syndicated and cable programs, Brewers will use national audience composition data for comparable programs or dayparts.

3. For existing local programs, Brewers will use local or regional audience composition data for the program or daypart being bought or, if local or regional audience composition data is not available, national audience composition data for the program or daypart being bought.

4. For new or unmeasured local programs, Brewers will use national audience composition data for comparable programs or daypart being bought.

b. An automated Television Placement, wherein the advertisement is directed to a specific household device, will be deemed LDA Compliant if a Consumer Data Source confirms with reasonable certainty that the individual(s) to whom the ad will be delivered are 21 years of age or older.

c. For Television Placements in new and unmeasured programs not included in any subsection above, Brewers will assess LDA Compliance using national or local audience composition data for a comparable program or daypart. (For guidance on streaming television, refer to the “Digital Media Guidelines” section.)
RADIO GUIDELINES //

a. For Radio Placements on subscription-based programming, Brewers will use the Average Quarter Hour (AQH) Persons measurement in an Audience Measurement Service to assess LDA Compliance. (For guidance on streaming radio, refer to the “Digital Media Guidelines” section.)

b. For terrestrial Radio Placements, Brewers will use Nielsen’s 21+ Composition Report to assess LDA Compliance. Absent conflicting information in Nielsen’s 21+ Composition Report, Radio Placements shall be made using the following Nielsen standard dayparts or time periods:

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

Each hour of any other time period, even if adjacent to one of the foregoing Nielsen standard dayparts or time periods, should be independently verified as LDA Compliant using Nielsen’s 21+ Composition Report.

c. As new Nielsen 21+ Composition Reports become available during the term of a continuing agreement to purchase Radio Placements, Brewers will review the new data to determine whether new Radio Placements purchased under the agreement continue to be LDA Compliant. If not, Brewers will, as soon as practicable, make schedule adjustments, cancellations, or other appropriate changes to ensure LDA Compliance for the term of the agreement.

d. Use the best available data in evaluating LDA Compliance. If both Portable People Meter (PPM) and diary methods are available for auditing, PPM data should be used.

e. A Radio Placement will be considered appropriate in a PPM measured market when data for the most recent consecutive rating periods covering the previous six months from the day the ad placement is made shows that the time period purchased is LDA Compliant.

f. A Radio Placement will be considered appropriate in a diary measured market when data for the most recent consecutive rating periods covering the previous six months from the day the placement is made shows that the time period purchased is LDA Compliant.

g. For Radio Placements on unmeasured terrestrial radio stations, Brewers will assess LDA Compliance using audience composition data from applicable time periods for comparable stations in comparable markets.
DIGITAL MEDIA GUIDELINES //

a. For general Digital Media Placements that are not targeted to a specific individual, Brewers should assess LDA Compliance using an Audience Measurement Service. New or unmeasured general Digital Media Placements that are not targeted to a specific individual may be made using audience composition data for measured Digital Media in the same category and with similar content and/or by taking other reasonable measures to predict LDA audience composition. Such steps include, for example, reviewing media content and information on the purpose and target audience of the specific medium or site prior to purchase of advertising and obtaining confirmation from the operator of the digital media that its internal data indicates that the medium or site is LDA Compliant.

b. If a Digital Media Placement is made in Digital Media where the dissemination of such placement is restricted only to registered LDA users of that site, such Placements will be deemed LDA Compliant even if the overall audience for the unrestricted content in the Digital Media is not LDA Compliant.

c. A Digital Media Placement to an individual consumer will be considered LDA Compliant if prior to making the Placement and using a Consumer Data Source, the Brewer confirms with reasonable certainty that the individual consumer is at least 21 years of age or older.

CINEMA //

a. To assess LDA Compliance for a Cinema Placement, Brewers should use an appropriate Audience Measurement Service providing 12+ audience composition data to the extent available or, if not available, 18+ audience composition data for comparable films. Data should be from the most recent, consecutive Rating Periods covering the previous twelve months.

b. When assessing LDA Compliance, both the film’s genre and its Motion Picture Association of America rating should be considered.

CODE DISSEMINATION //

Copies of this Code will continue to be made available to Brewer employees, wholesale distributors and outside agencies whose responsibilities include advertising and marketing beer, as well as to any outside party who might request it.