AMERICAN PUBLIC HEALTH ASSOCIATION
For science. For action. For health.

August 16, 2021

Ms. Amy Greenberg
Director, Regulations and Rulings Division
Alcohol and Tobacco Tax and Trade Bureau
1310 G Street, NW, Box 12
Washington, DC 20005

RE: Docket Number TTB-2021-0007, Notice No. 204

Dear Director Greenberg:

On behalf of the American Public Health Association, we appreciate the opportunity to submit this comment in response to Docket Number TTB-2021-0007, Notice No. 204 to **oppose industry pressure to remove established regulations that protect the public's health and safety**. In a year that saw record profits for the alcohol industry, any reduction in health standards risks exacerbating trends in alcohol use disorders and serious alcohol-related harms that worsened during the COVID-19 pandemic. Further, we support the current timeline for accepting public comments.

The Treasury Department's review of the production, permitting, labeling, and advertising requirements in accordance with the Federal Alcohol Administration Act (FAA) serves as the national cornerstone for protecting the public's health. We urge the Division to consider two key facts: 1) Alcohol is a unique product with serious public health consequences, and 2) The FAA was adopted to provide an important balance between the marketplace and the public's health and safety. As the alcohol industry consolidates and corporate interests align, the Alcohol and Tobacco Tax and Trade Bureau (TTB) serves as the critical defense to maintain proven regulations that protect children and communities.

Why alcohol is unique and must be reviewed with a broader lens beyond economics.

Alcohol use is a leading risk factor for premature death and disability among individuals 15 to 59 years of age.[1] Excessive alcohol use was a major driver of mortality in the U.S. even before the pandemic, contributing to at least 95,000 deaths annually,[2] including one in every 10 deaths among adults 20 to 64 years of age.[3] Prior to the pandemic, rates of excessive drinking increased among middle-aged non-Hispanic White men and women.[4] We have every indication that those rates have burgeoned among Whites and other racial/ethnic groups over the last year and a half.[5]

A number of risk factors are correlated with adult alcohol misuse, including initiation of alcohol use at a young age, comorbid mental health conditions, and adverse childhood experiences.[6] Rapid deregulation of numerous alcohol prevention policies at the federal, state, and local levels – set in motion with the pandemic - is contributing to large-scale changes in alcohol availability and

increases in these and other risk factors. Examples include increases in alcohol outlet density, privatization of retail sales, reduced alcohol prices (tax cuts in addition to tax levels falling behind inflation), and more widespread alcohol advertising, both on television and online.[7-9]

Prior to COVID-19, alcohol problems in the U.S. were getting worse. Emergency room visits involving alcohol consumption rose by 62% from 2006-2014.[10] The age-adjusted death rate for alcoholic liver disease rose by 37% from 2000 to 2017.[11] Alcohol-specific death rates for 18-34 year-olds rose 69% from 2007-2017.[12] Alcohol-induced deaths (that is, deaths for which alcohol was the sole cause) increased 1.4-fold in the entire population from 1999-2017.[13] Regarding the well-publicized epidemic of "deaths of despair," a recent analysis of health claims from 12 million patients found alcohol responsible for 54% of these deaths, with prevalence up 37% from 2009-2018.[14]

As noted above, evidence suggests that the scope of alcohol-related harms has only worsened during the pandemic. Studies have found increases in: average drinks per day, drinking above the dietary guidelines, and binge drinking,[5] and in days of heavy drinking, particularly among women.[15] Additionally, significant increases in risky drinking among college students have been documented, again with greater risk for women.[16] States with extended periods of pandemic-related lockdowns saw significant increases in alcohol use disorders, unlike states not subject to lockdowns.[17] And persons with alcohol use disorders had nearly 7 times higher odds than other COVID-infected patients of hospitalization due to infection from the coronavirus.[18]

The American Public Health Association implores the TTB to maintain existing alcohol regulations. Alcohol is a causal risk factor for at least seven cancers, liver disease, infectious diseases, unintentional injuries, violent crime (including physical and sexual assault and homicide), mental health conditions (e.g., anxiety, stress, and depression), and suicide.[19] Alcohol consumption is associated with a seven-fold greater risk for suicide, and heavy alcohol use is associated with a 37-fold greater risk.[20] Furthermore, in 2019, more than 10,000 people died in a motor vehicle crash involving an alcohol-impaired driver.[21] In 2010, the most recent year for which data are available, the United States spent more than $44 billion on alcohol-related crashes.[22] Any reduction in regulations that protect the public's health threatens to compound increases in alcohol-related harms.

Historical context and public health rationale for the FAA

The FAA maintains a critical federal role for the approval of alcohol products, labeling, and product size. The Act also gave the federal government responsibility for preventing vertical integration of the industry, through creation of the three-tier system and the requirement that these tiers (production, wholesale, retail) be financially independent of one another. This structure was designed to help promote competition and protect public health and safety by safeguarding against the monopolistic abuses that vertical integration had facilitated before federal Prohibition. Recent record alcohol profits and consolidation threaten to disrupt this bulwark against monopolistic interests.

State and federal lawmakers appear to have forgotten the public health rationale for these regulations during the pandemic; as a result, important regulatory safeguards are being removed. This poses a great danger to public health. Pricing policies are one of the most effective strategies to

prevent heavy alcohol consumption, yet in December 2020 Congress passed a large tax cut for alcohol. State legislatures are currently, or on the verge of, codifying measures that extended alcohol availability during the pandemic, such as home delivery, takeout alcohol, and expanded outdoor dining. The increasingly profitable and powerful alcohol industry will continue to suggest that they are somehow disadvantaged by regulations that protect children and communities. We have already seen that attacks on "tied house" laws and the removal of restrictions on marketing practices between the tiers have led to aggressive industry sales tactics, which in turn promote heavy consumption and harm.[23]

Industry often pushes for fewer regulations because shareholders rarely pay the true costs of its products. Alcohol, like tobacco, is known to cause widespread harm. Excessive alcohol consumption cost the U.S. $249 billion ($2.05 per drink) in 2010 and was responsible for approximately 2.3 million years of potential life lost in 2001.[3] Further, two of every five dollars in costs were paid by federal, state and local governments, highlighting the fact that the American taxpayer is substantially on the financial hook for excessive alcohol use.[24] The TTB must hold the regulatory line.

Consolidation in the alcohol industry: the need for more active regulation

A July report from the Congressional Research Service indicates that craft beer, wine, and spirits make up 8% of the overall U.S. alcohol market, suggesting there is no shortage of innovation and new entrants into the alcohol market.[25] At the producer level, market power is concentrated in the hands of a small number of very large corporations. This market consolidation has helped large corporations gain greater control over wholesaling. On the production side, 10 corporations account for 70% of sales in each sector. In wine and spirits wholesaling, again just 10 companies account for nearly three-quarters of revenues from this tier. In beer, producer AB InBev has also become the largest beer distributor in the US, endangering the basic structure of the three-tier system.[8] These leviathan corporate entities have an outsized voice in national and state policy-making bodies: as of 2017, alcohol companies reported 303 lobbyists in Washington D.C. and spent nearly $12 million on state-level lobbying.[8]

Concentration in these tiers should be closely examined as it leads to oligopoly profit-taking and outsized political power. In the wine industry, producers are adding to the pressure to reduce the three-tier system by expanding direct shipment, bypassing the wholesale tier entirely and adding to the risk of tainted alcohol entering the market, increasing the odds of failing to collect state alcohol taxes, and increasing availability to youth, since home delivery has an abysmal record of ID-checking.

Other Needed Reforms

Alcohol labeling, where Treasury has clear authority, must be improved as consumers are ill-served by the lack of ingredient, calorie, or nutritional labeling on alcoholic beverages. From ingredients to serving size recommendations, consumers have little or no information about what is in the alcoholic beverages they purchase. The lack of clear guidance on serving sizes has led to numerous tragedies related to consumption of super-sized alcopops such as Four Loko.[26] We ask that regulations be adopted to require greater transparency of ingredients and the adoption of standard drink sizes.

Further, the development of a category dedicated to high-alcohol malt beverage known as "super-sized alcopops," remains problematic. TTB previously determined that many of these products contained distilled spirits. We urge TTB to prioritize and fund its sampling and testing program for these products - 1) to ensure valid internal testing that safeguards against company violations of limits on distilled spirits content of products classified as malt beverages are present, and 2) to confirm to the public that TTB's 2005 final rule regarding malt beverage flavorings [27] is being enforced and having the desired effects.

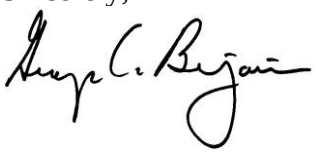
Moreover, the existing alcohol warning labels are out of date. The size and placement of the current warning label, vague language, and failure to name more specific risks, contradict accumulated evidence on warning label effectiveness.[28,29] Alcohol causes nearly 750,000 cancer cases per year worldwide.[30] In the US, alcohol consumption causes approximately 15% of all female breast cancer cases, and at least 32% of these happen at consumption of less than 1.5 standard drinks per day.[29,31] The lack of a warning label about alcohol's causal role in cancer may explain why less than half of the US population is aware of this link.[32] We ask that the following warning label be added to all alcoholic products: **WARNING: According to the Surgeon General, consumption of alcoholic beverages can cause cancer, including breast and colon cancers.** Further, for effectiveness, health warnings should rotate and not be confined to a single static warning. [28,33]

Unprecedented political steps were taken to support the alcohol industry during the pandemic. For example, many states liberalized home delivery regulations, which may fall under Treasury's oversight of interstate commerce provision. Few delivery companies offer training in alcohol service with the result that large percentages of deliveries in test cases have been made with no age verification required.[34,35] The Treasury Department must make clear that existing regulations regarding interstate home delivery will be enforced.

Finally, we note that the TTB has an Office of Industry and State Outreach, but no designated official or routine outreach dedicated to the public health community. We request that, given alcohol's substantial role in generating health problems, that the Treasury Department establish a senior public health position, similar to the Director of the Office of Industry and State Outreach, and an ongoing, regularized, and permanent method of reaching out to and consulting with public health authorities and experts regarding alcohol regulation.

Thank you for your consideration of these comments.

Sincerely,



Georges C. Benjamin, MD
Executive Director

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