

Questionable Health Claims by Alcohol Companies

From Protein Vodka to Weight-loss Beer



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Abstract

For years, food companies have used advertising, packaging, and brand image to lead people to believe certain products are healthier than they really are. Whether it's putting a sports star's face on a Coca-Cola ad, labeling junk food as a "smart choice," or attaching arbitrary designations such as "all natural" to foods high in fat, sugar, and salt, the food industry knows it must attract health-conscious shoppers. Over the past few years, alcohol companies have begun appropriating many of these misleading advertising techniques. Spirits companies are positioning their vodka as "all natural," even though the products haven't changed. Beer companies are sponsoring marathons and running ads showing toned drinkers meeting up at a bar after a work-out. Superstars of grueling, high-endurance sports are being tapped to promote alcoholic beverages. These advertising practices are legally tenuous, morally unsound, and potentially dangerous. Alcohol consumption costs society billions of dollars annually while causing immeasurable human suffering every day. Using health messages to sell products that can cause such widespread harm is not only unethical, it's illegal, and yet the regulatory system has failed miserably to protect the American public. Because market research shows purchase intent and consumption of a brand increase when people believe alcoholic products are all-natural or fitness-friendly, intense scrutiny and strict regulation of such misleading claims is essential. This report examines this disturbing trend to promote alcohol as a health and fitness product, analyzes the potential legal implications, and makes policy recommendations.

Introduction

In the wake of public criticism for their role in contributing to the nation's obesity epidemic, food corporations have for years been trying to find ways to convince shoppers their heavily processed products are healthy. One common marketing tactic involves assigning arbitrary designations to food packages such as "Sensible Solution" or "Smart Spot", even to soda and chips.¹ Another strategy is adding vitamins to otherwise unhealthy products such as sugary cereals. And more recently, the word "natural" has become a common food marketing term. By 2007, natural foods and beverages comprised a \$13 billion annual market, with sales growth outpacing that of conventional groceries.² Meanwhile, government agencies responsible for overseeing food and advertising claims have never defined the word "natural," allowing companies to take advantage of this nebulous term. Soon, everyone from the makers of soda such as 7-Up to processed meat companies claimed their products were all-natural.³

In addition, the food industry has long recognized the benefit of co-opting sports superstars as spokespeople, even if the company's products don't exactly lend themselves to athletics-enhancing nutrition. Companies such as Coca Cola, McDonald's, and Kraft have used sports stars to promote their products for decades. By 1991, basketball star Michael Jordan represented both Coca Cola and McDonald's.⁴

The alcohol industry has now adopted each of these marketing strategies: adding nutrients, using the term natural, and promoting fitness through athletes.

While such strategies may seem relatively harmless in the food realm, when it comes to promoting alcohol, the consequences are far more potentially dangerous. As the third-leading preventable cause of death, alcohol

consumption causes more than 75,000 deaths a year in the U.S. each year⁵ and tremendous amounts of physical and emotional suffering in addition to economic harm. Alcohol advertising and health claims are regulated by two distinct federal agencies, to some extent by state laws, and by the industry itself. Most states have laws that prohibit deceptive marketing, and some state attorneys general have shown an interest in recent years in curbing alcohol marketing to youth.⁶ The alcohol industry maintains a system of voluntary self-regulation that includes codes of conduct for each of the trade groups representing beer, wine, and distilled spirits.⁷ Although they are only voluntary, these codes serve an important purpose for the alcohol industry: to demonstrate to policymakers that government regulation is unnecessary.

Regulatory oversight and standard for deception

The U.S. Alcohol and Tobacco Tax and Trade Bureau (TTB) is charged with the regulation of alcoholic beverages, including labeling, advertising, and marketing, and specifically restricts the use of health-related statements in marketing. The TTB also monitors advertisements in the marketplace through referrals, complaints, request for advertising clearance and advertising audits.⁸

The TTB prohibits the use of, "any health-related statement [including symbols and vignettes] that is untrue in any particular or tends to create a misleading impression as to the effects on health of alcohol consumption" on any label or advertisement for an alcoholic beverage.⁹ The agency defines a "health-related statement" as being any that includes statement of a curative or therapeutic nature, and specific health claims or general references to the alleged health benefits associated with the consumption of an alcohol beverage. This regulation does not, however,

mean that all health-related statements are banned from alcohol advertising; it only prohibits those that are “misleading.” However, the TTB has set a very high bar to avoid an ad being deemed misleading. A health-related claim must:

- Be truthful and substantiated by medical research or evidence;
- Detail and qualify to whom the claim applies;
- Disclose health risks associated with moderate and heavy use;
- Outline to whom any alcohol consumption may cause health risks; and,
- Prominently include this information as part of the health claim.¹⁰

The U.S. Federal Trade Commission (FTC) has overlapping jurisdiction with the TTB over alcohol advertising. The FTC is charged with consumer protection, and this authority includes the power to regulate deceptive and unfair business practices including advertising, particularly as they relate to health and safety. The FTC considers an advertisement to be deceptive or unfair if it:

- (1) includes or omits a material statement that will likely mislead a consumer acting under reasonable circumstances; or,
- (2) will likely cause a substantial injury that a consumer could not reasonably avoid, and this injury does not outweigh the benefit to consumers.¹¹

The FTC also evaluates the “express” and “implied” claims being made, all in an effort to determine what the advertisement conveys to a consumer. If the FTC finds an advertisement to be deceptive or unfair, it can impose fines, issue cease and desist orders, or order the company to issue new advertisements that may include notifications about the previous misleading claims.

Additionally, misleading information about curative or therapeutic claims, as well as misleading references to carbohydrates, calories, fat, protein and other components, may subject alcohol marketing to review.¹² As a result, it is rare to see any actual health-related claim being made in an advertisement. Rather the alcohol industry invokes healthful-living imagery and references. With these standards in mind, let’s turn to specific examples of potential violations of law.

Express health claims

Fortified vodkas

One health-promoting type of alcoholic beverage that has attracted increased attention recent years is fortified vodka. While fortified foods were introduced decades ago, the first fortified – or “enhanced” – vodka was introduced in 2007. Lotus White is infused with vitamins B3, B6, B9, and B12. According to the company’s CEO, the vitamins are meant to curb or eradicate hangovers. In an interview, he said the vodka “could actually be good for you.”¹³

Although the federal government has approved Lotus White, it prohibited the company from advertising the B vitamins, particularly on the packaging.¹⁴ But Lotus is skirting these restrictions by touting the health benefits verbally, and then distributing press clippings about their product.¹⁵ For example, company CEO Bob Bailey told a San Francisco newspaper that two decent-sized cocktails with Lotus White provide 100 percent of an individual’s recommended daily value of B vitamins.¹⁶ Bailey also told a Newsweek reporter in 2009 that he was not pushing Lotus as a homeopathic beverage, but he implied it had benefits nonetheless. “Alcohol is bad for you,” he said. “Ours is just slightly less bad.”¹⁷ Lotus’s website does not specify what is in the vodka, but press clippings featured on the site and retailers’ product descriptions say it is infused

with B vitamins. Retailers such as Los Angeles-based wine store Wally's refer to Lotus as a "Vitamin B Enhanced Super Premium Vodka."¹⁸

Despite these claims, research indicates that fortifying vodka with vitamins is an exercise in futility. Alcohol actually inhibits the absorption of nutrients, including Vitamins B1, B12, and folic acid.¹⁹ Dr. R. Curtis Ellison, a professor of medicine at Boston University, put it succinctly: "People should not drink wine or alcohol for their health. It's like putting vitamins in cigarettes."²⁰

Despite the dubious nature of these alcohol products' health claims, the marketing techniques seem to be working. Lotus vodka's sales increased 50 percent in 2009, similar to the increases bartenders have seen in the sales of cocktail creations such as the "mo-healthy-ito."²¹ An alcoholic beverage that touts vitamins clearly crosses the line into health claim territory that the federal government expressly forbids.*

Another example of blatant health-promotion is the product Devotion. Released in November 2009, Devotion is an 80-proof vodka that calls itself the world's first "protein-infused ultra premium vodka." Its creator, Drew Adelman, wanted to combine his two passions: fitness and nightlife.²² Devotion vodka contains PeptoPro[®] casein protein, a recovery ingredient for fast muscle refueling that (according to the company) is the only protein product approved by the International Olympic Committee. Adelman is promoting the product heavily among the Ultimate Fighting Championships pro athletes and in fitness circles. The company argues that if you're going to be bad and drink, you should be good and add protein.²³

Researchers, however, have concluded there is nothing good about drinking alcohol after a muscle-building work-out – even if it contains protein. Athletes eat protein-rich diets to build

muscle, and Devotion's marketers imply that by mixing alcohol with protein, drinkers can build muscle mass during their nights out. But alcohol is a toxin that inhibits muscle growth in a variety of ways. It dehydrates the body and slows down its ability to heal itself, which is essential for building muscle. Alcohol also decreases the secretion of human growth hormone, which is needed for muscle-building and repair, by disrupting sleep patterns. Drinking alcohol can decrease human growth hormone by up to 70 percent.²⁴ Further, when the liver metabolizes alcohol, it produces a substance that is toxic to testosterone, which is essential to the development and recovery of muscles. Alcohol is also detrimental to future workouts because it disrupts water balance in muscle cells and alters the cells' ability to produce ATP, the muscles' source of energy.^{25**}

Recall the list of requirements of federal agency TTB for an alcohol company to be able to make a health claim. The first one is that the claim be "substantiated by medical research." Already both Lotus and Devotion fail the test. And the companies certainly do not "disclose health risks associated with moderate and heavy use" or "prominently include this information as part of the health claim."

Antioxidant liqueur

Another alcohol company that is flouting the law is Fragoli. The strawberry liqueur was introduced across the U.S. in 2008. The red liquid features petite wild strawberries that float at the top of the bottle (seeming to defy gravity) and are released into the glass when the drink is poured.

Fragoli's ad campaigns have targeted "high-society" drinkers, according to the company. The images, which can be found in newspapers and magazines, feature a woman biting a bottle of Fragoli with the words, "Forbidden Fruit."²⁶ The

* Lotus went out of business in 2010.

** Devotion's website now includes a disclaimer.



company made the following statement about the benefits of its product in a press release:

“The product could not have hit the market at a better time. In a recent scientific study, researchers found that the addition of ethanol -- the type of alcohol found in most spirits -- boosts the antioxidant nutrients in strawberries and blackberries. Coincidentally, this news speaks directly to Fragoli’s target consumer.”

The target consumer, the press release explains, is women.²⁷ The study to which Fragoli referred was published in April of 2007 in the Journal of the Science of Food and Agriculture. Its authors were originally comparing preservation techniques and trying to prevent fungal decay. In the process, they discovered the solutions they were testing also preserved antioxidants, which are of interest to the scientific community because they can prevent reactive oxygen species, which cause cell death and lead to aging, cancer and other degenerative diseases.²⁸ Ethanol reduced the severity of decay in strawberries and enhanced antioxidant systems, according to the authors.²⁹

Fragoli’s claims about the benefits of fruity alcoholic drinks directly contradicted decades of scientific research. Scientists have known for years

that there is a positive correlation between cancer and alcohol consumption, and in 2009, a team of researchers found one possible explanation for the link. They discovered that alcohol activated cellular changes that cause tumor cells to spread.³⁰ The alcohol in a cocktail therefore causes the exact phenomenon that antioxidants are supposed to prevent.³¹ At best, the antioxidant-packed berries in a cocktail could help combat the effects of the alcohol in the drink. It would, however, be extremely premature to say the berries overcome, or even significantly oppose, the alcohol’s detrimental effects – especially when the study’s findings were neither replicated nor tested in humans. While the study they referenced did find that ethanol increased antioxidant levels in berries, Fragoli implies that drinking cocktails is one way for people to get those antioxidants, which the study does not conclude. As Dr. Frankie Phillips of the British Dietetic Association put it, “Don’t expect a panacea in the form of a strawberry daiquiri.”³² Fragoli has never been held accountable for touting its alleged health benefits, even though the claims defied both science and common sense. The press release’s reference to “antioxidant nutrients,” thus implying the drink provides nutrients, in blatant violation of TTB regulations.

Implied health claims

All-natural spirits

Flavored vodka was introduced in the mid-1980s and took off in fewer than 10 years.³³ By the early 2000s, the flavored vodka category was becoming saturated, and by 2008, various companies offered about 120 vodka products in 40 different flavors.³⁴ Inspired by the food industry’s success with all-natural products, the alcohol industry began jumping on the all-natural bandwagon by the mid-2000s. Within a couple of years, new products and ad campaigns were reaching drinkers with great success.^{35, 36}

In 2008, three of the five top-selling vodka companies in the U.S. had ad campaigns with fruit and positioned their products as fresh or all-natural: Absolut (2nd), Skyy (4th), and Stolichnaya (5th). At least one other spirit, Finlandia vodka, also took advantage of the all-natural designation.

Skyy Spirits' introduction in 2008 of a line of "all-natural infusions" might be the most dramatic example of this trend because it involved an entire product launch in addition to a new direction in advertising. The company's website showed flash animation images of fruits being dropped into clear liquids, presumably vodka, and implies that the company used whole fruits to create the new spirit.³⁷ To emphasize that Skyy Infusions are an "infused all-natural product" that combines "100% real fruit and premium Skyy vodka," ads for the products feature large images of whole fruits along with the tagline "Go Natural."³⁸ The campaign works. In 2008, Skyy Infusions' all-natural campaign earned it 33 percent more "purchase intent" than for Smirnoff flavored vodka. (Purchase

intent is a shopper's plan to buy something in the future.) Moreover, putting an image of fruit on the bottle raised purchase intent by 23 percent.³⁹

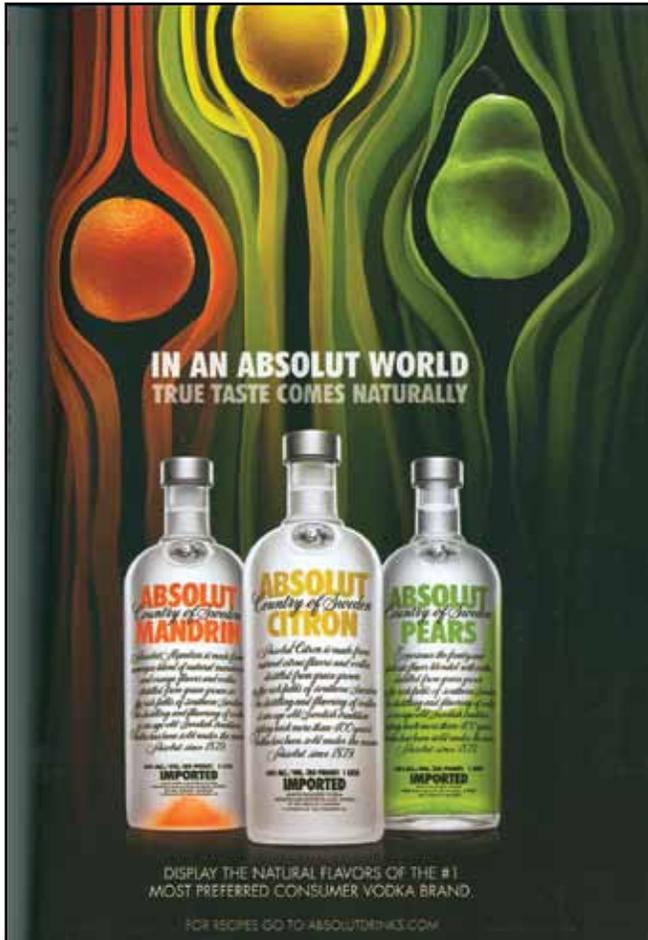
Skyy's website, however, confirms that no actual fruit is used in the process. Because the federal Alcohol and Tobacco Tax and Trade Bureau has not defined the words "infusion" or "all-natural," the company uses them freely.⁴⁰

Swedish vodka company Absolut also decided in the mid-2000s to portray its product as all-natural. Absolut was introduced to the U.S. in 1978 and had great success for many years, but by 2007 its profits had leveled off. Then in February 2008, the company launched a campaign called "Streams" featuring the tagline, "In an Absolut world, true taste comes naturally." The ads showed streams of color flowing around images of pieces of whole fruit in order to highlight the vodka's "all-natural" ingredients.^{41, 42}

The "Streams" campaign initially featured three of Absolut's ten flavored vodkas — two of which launched before the campaign was even introduced.⁴³ Even though the advertising was suddenly calling the products "all-natural" and featuring whole fruits, there is nothing to indicate the ingredients were altered.⁴⁴ Only the company's descriptions of the products seem to have changed.

Finlandia vodka is another product whose advertising prominently features taglines about nature and photos of fruit, even though the products don't appear to have much to do with either. In one recent ad campaign, photos of ripe, juicy tangerines and grapefruits accompany the taglines, "Enjoy a refreshing slice of Finlandia," and, "Nature has a flavor all its own." In a 2008 press release, a Finlandia managing director accused other vodka companies of "jumping on the natural flavor bandwagon" and attributed the company's record growth in 2008 to flavored products that "smell and taste like they came straight from the tree and into the bottle."⁴⁵ Like Absolut, Finlandia sold flavored vodkas for years





that were never referred to as all-natural or fusions until the late 2000s. The names and colors of these products have changed several times over the past decade, but new, all-natural ingredients and production techniques don't seem to have entered the equation.^{46, 47}

The prevalence of these so-called all-natural products reveals they are not isolated examples but part of a larger advertising trend. The federal government should investigate these products both to stop the companies' misleading advertising and to prevent other companies from following suit. Although neither the FTC nor the TTB have defined the phrases "all-natural" or "infusion," a strong case can be made that promoting alcohol products as such is illegal due to its implications, regardless of the meaning of the catch phrases. While the use of the term "natural" may not be as blatant as vitamin or protein vodka, the FTC also finds an ad deceptive if it "omits a material statement that will likely mislead a consumer." In all of these examples, the companies give no explanation of what exactly makes their products "natural", hoping drinkers will consider their products superior, even though the term has no meaning. In addition, the companies of course omit the potential dangers of their products, giving the false impression that "natural" may help mask the alcohol hazards.

Sports and weight loss



In addition to the federal regulations that prohibit "[A]ny health-related statement [including symbols and vignettes] that is untrue in any particular or tends to create a misleading impression as to the effects on health of alcohol consumption,"⁴⁸ a TTB ruling⁴⁹ and industry self-regulation standards⁵⁰ prohibit the promotion of alcoholic beverages as enhancing athletic prowess. The Beer Institute voluntary rules state that "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.”⁵¹

State law may serve as another avenue for challenging dangerous alcohol advertising and marketing practices, particularly in the case of athletes hawking alcohol products. Some states have laws authorizing state level agencies with power similar to the FTC. These state consumer protection laws can sometimes be even stronger than those at the federal level. For example, in Connecticut, the Liquor Control Act prohibits:

- any statement that is false or misleading
- any statement, picture or illustration implying that the consumption of [alcoholic beverages] enhances athletic prowess, or any statement, picture or illustration referring to any known athlete, if such statement, picture or illustration implies, or if the reader may reasonably infer, that the use of alcoholic liquor contributed to such known athlete’s athletic achievements⁵²

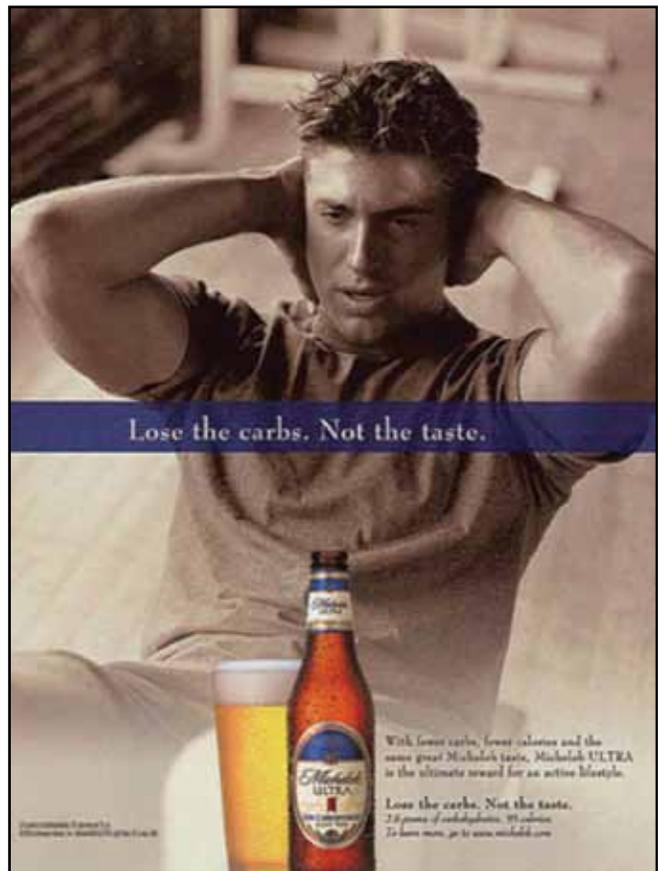
Get fit with beer?

Although light beer has been on the market for decades, companies are now competing to produce beers with as few calories and carbohydrates as possible. Miller Lite, the first mainstream light beer, launched in 1973,⁵³ but it was not until low-carb diets exploded in popularity in the early 2000s that light beer began outselling regular beer.⁵⁴ (Regular beers have about 150 calories, while light beers have about 100 to 110 calories.)

To attract fans and athletes of high-endurance sports, alcohol companies tout super-light beers offering athletic and fitness prowess. In 2002, Anheuser-Busch InBev introduced a new light beer called Michelob Ultra just as the Atkins diet was enjoying widespread popularity.⁵⁵ Although several light beers already had about 100 to 110 calories and 3 or 4 grams of carbs, Michelob Ultra’s advertising focused heavily on the beer’s 99 calories and 2.6 grams of carbohydrates.

One year after it was introduced, Michelob Ultra became the fastest-growing new brand in the beer industry and was a huge hit among adult fitness enthusiasts, according to Anheuser-Busch InBev.⁵⁶ The beer’s success demonstrated not only the public’s interest in health and dieting, but the power of health claims in advertising.⁵⁷

Although U.S. regulatory agencies didn’t take any action, other countries noticed the deceptive campaign. In 2004, Great Britain censured Michelob Ultra’s “Lose the carbs. Not the taste” ads for implying that drinking beer could help maintain a healthy lifestyle.⁵⁸ In 2005, Michelob Ultra signed a deal to sponsor Great Britain’s teams at the 2006 and 2008 Olympic games,⁵⁹ and in 2006, a Michelob Ultra commercial narrowly avoided a ban from the Broadcast Committee of Advertising Practice – the agency that oversees advertising in Great Britain – after viewers protested it. The commercial showed





people running and dancing before cutting to a couple drinking beer. Also in 2006, Britain's advertising committee ruled that advertisers could not imply an alcoholic drink could be a source of nourishment or can be consumed as part of an exercise, fitness, or weight-control regimen.⁶⁰

The ads challenged in Britain were still active in the United States as of fall 2009. In October 2009, Esquire magazine was running ads online that said, "Michelob Ultra is a smart choice for adult consumers living an active lifestyle."⁶¹ Billboard ads featured joggers and the tag "Smart Choice" in the fall of 2009, and television commercials showed people meeting up for an afternoon jog before heading to a bar in the evening. The advertising has consistently promoted the product is an obvious complement to a healthy, fitness-minded lifestyle.

Alcohol, however, is the last thing the body wants or needs after a work out. Alcohol has a relatively high caloric value and the body cannot even use these calories as a source of energy or for muscle recovery. Moreover, alcohol calories are treated like fat, which the body has a natural tendency to store instead of burning. The sugars in alcohol are therefore converted to fatty acids, which makes them empty calories.⁶²

There should be no doubt that promoting beer as a fitness beverage flouts laws prohibiting deceptive advertising and can be construed as a health claim under federal law.

Sporting events and athletes

Sporting event sponsorship has long been a mainstay of beer marketing, but Michelob has taken this tactic to the next level by associating its product with athleticism and sports heroes. Michelob Ultra began sponsoring cycling races in 2004, and the brand's maker funds more than 40 major running and cycling events annually across the country.⁶³ In October 2009, Michelob announced a three-year partnership with Lance Armstrong in which the cyclist agreed to appear in print ads and TV commercials, and act as a spokesman and ambassador for the brand. "I'm always making decisions that complement my active lifestyle, and this includes my beer choice when I want to enjoy a cold one with friends or when taking a break from training," Armstrong said in press release.⁶⁴ "I'm excited about my association with Michelob Ultra, a brand that supports cycling and running communities across the country." Terms of the Michelob deal were not disclosed. No stranger to lending his name to corporate brands with dubious health credentials, Armstrong had previously endorsed Coca-Cola.⁶⁵

The Armstrong beer endorsement was unusual because athletes rarely represent alcohol companies, whether by choice or out of professional obligation. The National Football League, for example, bans players from signing endorsement deals with alcohol companies.⁶⁶ Armstrong's widely publicized victory over testicular cancer made his endorsement of a beer company that much more disconcerting given that alcohol has been known for decades to contribute to tumor growth and the spread of cancerous cells. For example, women who have just one drink per day have an increased risk of breast

cancer.⁶⁷ The Michelob Ultra advertisements featuring Lance Armstrong violate the spirit of both TTB rules and industry standards.

Further, the advertising campaign directly sought to “connect [Armstrong’s athletic prowess] with that of other adult beer drinkers who lead active lifestyles.” Images used in the campaign show Armstrong exercising in workout gear and given that Armstrong’s image is strongly associated with his physical commitment to the sport of cycling, viewers can easily infer that beer consumption contributes to his athleticism. Such an impression

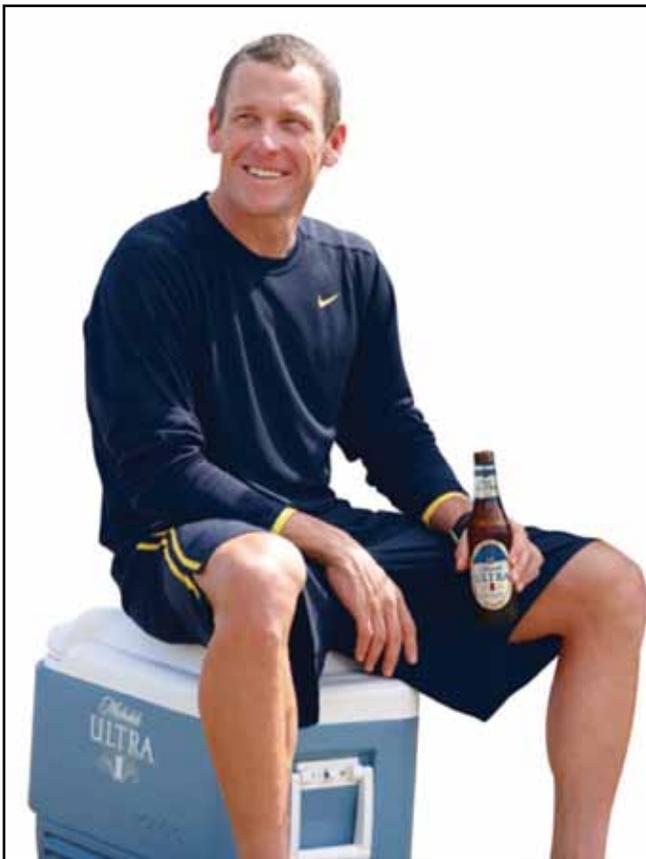
is misleading as the scientific evidence clearly demonstrates that alcohol is detrimental to athletic pursuits. Because the advertising campaign mixed images of Armstrong exercising and consuming beer while in the context of this activity, it is clear that the advertisers sought to connect health and alcohol consumption. This is a direct violation of federal regulation, as well as industry’s own advertising guidelines.

Finally, low calorie beer advertisements that use images of people exercising or use sports stars to connect the beer with athletic achievement appear to be in direct violation of state consumer protection and alcohol advertising laws such as the statute in Connecticut.

Express weight loss claims

Probably the most blatantly illegal advertisement came in early 2009, when a new beer called MGD 64 (boasting just 64 calories) sponsored an online fitness program in association with Shape and Men’s Fitness magazines.⁶⁸ Throughout the 20th century, beer companies worried that advertising to women would alienate their male consumer base, but by 2001, stagnant profits were forcing beer companies to expand their audience to include female drinkers.⁶⁹ One beer executive said market research indicated women avoid beer because they think it is too bitter and has too many calories.⁷⁰ While only some men may care about fitness, all women are counting calories, they reasoned. Hence the appeal of launching the online fitness program, called Resolution 64.

While the program is no longer available, advertisements featured a thin, toned brunette in a party dress, smiling brightly as she showed off the beer-sponsored body that users could obtain if they joined. The ad encouraged drinkers who wanted to put more “pep” in their “step” or “have a little less jiggle” when they “giggle” to “Join Resolution 64.com. Get in Shape. Look Great. It’s FREE!” The ad described Resolution 64 as an easy, fun way to reach a “balanced,



Lance Armstrong on the set of a Michelob ULTRA commercial shoot. The ad, titled “Little Bumps,” is scheduled to air in 2010.

Looking to:
 drop a dress size or two?
 put more pep in your step?
 have a little less jiggle
 when you giggle?

Join
RESOLUTION 64.COM
 Get in Shape.
 Look Great.
 It's FREE!

Whether your New Year's resolution is to LOSE WEIGHT or GET IN SHAPE, Resolution 64 is a fun, FREE, easy way to get started and help you reach a healthy, balanced lifestyle. Sign up today at Resolution64.com/Shape for your customized fitness program created by Shape, including:

- Personalized program based on your New Year's resolution and current fitness level
- Daily or weekly emails with custom workouts PLUS eating, drinking, fashion and beauty tips
- Tips for leading a healthy life

Plus much more!

SIGN UP TODAY AND WIN!
 Dedication deserves a great reward. One lucky participant will win a trip for two to Red Mountain Spa.

Resolution64.com is brought to you by the editors of Shape and Men's Fitness and is sponsored by MGD 64, the 64 calorie light beer.

With just 64 calories and 2.8 carbs, MGD 64 lets you enjoy the great-tasting beer that's as light as it gets.

© 2009 MGD 64. MGD 64 contains 64 calories, 2.8g carbs, 1.1g protein, 0.9g fat.

healthy" lifestyle, and featured instructional videos, success stories, and articles.⁷¹

The FTC and TTBB's standards for deception clearly apply to alcohol-sponsored weight loss programs, particularly the evaluation of the "express" and "implied" claims being made. Implicit to this type of marketing campaign is the notion that the product is compatible with a healthy lifestyle, an idea that, as explained above, is patently false and misleading.

The future is organic

The next trend on the horizon appears to be organic alcoholic beverages. With the explosion

of organic food products on the market, alcohol is right behind. Blue Ice vodka was one of 84 organic alcohol products introduced between January 2008 and October 2009, compared to just eight organic alcohols on the market in 2007.⁷² Blue Ice Organic Wheat was unveiled in March of 2009 and is USDA-certified organic.⁷³ The non-organic line, Blue Ice American Vodka, is still available as well.⁷⁴

Because of the perception that organic products are more wholesome than conventional products, people may have the misconception that drinking a certified organic alcohol beverage is less harmful to one's health than a non-organic alcoholic beverage.

The term organic commonly refers to agricultural products produced without the use of conventional pesticides, chemical fertilizers, or genetically-modified organisms. While the TTBB generally oversees and regulates the labeling and marketing of alcohol beverages, it defers to the United States Department of Agriculture's National Organic Program requirements when determining if an alcohol beverage is properly labeled as being organic.⁷⁵

Unlike health-related claims and the restricted words discussed above, the use of the term "organic" is one that is both used for marketing and is descriptive of how a product was produced. But marketers should not use the term "organic" to imply an alcoholic beverage is healthful. Additional oversight by federal regulators is needed here, as well.

Conclusion and recommendations

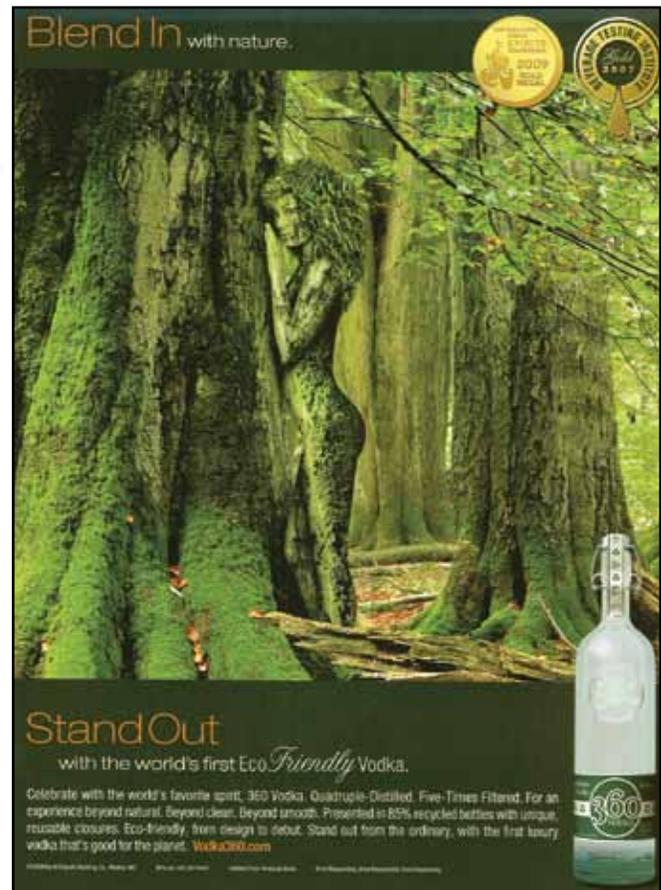
There are good reasons why it is illegal to promote alcoholic beverages as health-promoting. Alcoholic beverages contain a deadly drug that results in more than 75,000 deaths per year in the U.S.,⁷⁶ and kills one out of 25 people worldwide.⁷⁷ The problems caused by alcohol consumption go far beyond what most



people tend to associate with it: alcoholism and drunk driving. Alcohol consumption, even at moderate levels, is responsible for a wide range of health problems, from heart disease, to various forms of cancer, to sexually-transmitted diseases. Beyond deaths and injuries from traffic crashes, alcohol also causes myriad other deaths and injuries from falls, poisoning, and suicide, among other harms. Alcohol is also implicated in a massive amount of violent crime, including sexual assault, domestic violence, and child abuse. Most of the financial toll that alcohol takes on society comes in the form of lost productivity – time away from work.⁷⁸ Other costs include property damage, criminal justice, and healthcare. But all that pales in comparison to the untold amounts of pain and suffering that families impacted by alcohol problems

endure, whether from the loss of a loved one, from addiction recovery, chronic illness, or lifelong disability.

This picture is the very serious and largely hidden reality of alcohol consumption, and is a far cry from the healthy, strong sports stars and colorful, enticing fruit images. What initially prompted this report – to show how the alcohol industry has adopted many of the health-promotion marketing strategies of the food industry – uncovered a disturbing picture. Not only do current marketing trends further the normalization of drinking alcohol and to excess, they send the message that drinkers can actually gain nutritional benefits from consuming a potentially deadly product. When alcohol is promoted as healthy, nutritious, and conducive to an active lifestyle, it's more than just deceptive marketing. It's irresponsible corporate behavior that should be stopped.



Even more troubling is how such marketing represents a significant failure in the regulatory oversight of alcohol advertising. Whether it's federal agencies, or the 50 state-level alcoholic beverage control agencies and state attorney general offices, there is plenty of blame to go around for failing to protect the American public from these unscrupulous marketing practices.

Why the failure? We can identify several reasons. For starters, the wrong federal agency has primary responsibility for regulating alcohol. The Department of the Treasury's primary function is not to protect the nation's health; rather it's to collect taxes, among other economic functions. And yet, the Alcohol and Tobacco Tax and Trade Bureau (under Treasury) is responsible for approving alcoholic beverages and overseeing advertising. That could certainly explain how protein vodka even got on the market in the first place. The government officials at TTB have little to no expertise in health. A better choice might be the Food and Drug Administration (FDA) under the Department of Health and Human Services, which was recently granted jurisdiction over tobacco products. Perhaps the time has come to transfer at least some oversight for alcoholic beverages to the FDA. Indeed, thanks to its limited jurisdiction over additives, in 2010 the FDA took strong action by requiring certain companies to remove caffeine from its alcoholic beverages.⁷⁹ With additional authority, the FDA could go further.

Another reason for the failure is that the Federal Trade Commission, which oversees all advertising practices, is simply not properly equipped to monitor every single ad or product on the market. In addition, the agency's authority is limited by what can be proven to be "deceptive" or "unfair", which can be difficult. These problems could be

alleviated with more authority from Congress as well as additional resources for better monitoring. Similarly, state alcohol beverage control agencies and state attorney general offices should be given more political backing and resources to go after scrupulous companies for deceptive practices.

Finally, the most important reason for the breakdown in regulatory oversight is the continuing charade of voluntary self-regulation. The alcohol industry has created a system of codes, largely designed to convince policymakers they do not need to intervene, and that the industry can monitor itself. But as our examples and earlier research by Marin Institute has shown, this system is simply not working.⁸⁰

Another charade in which the industry engages to keep regulators at bay is to argue that the free speech clause under the First Amendment protects companies from any government regulation of advertising. This makes for good political posturing, but from a legal standpoint, it's simply not true. The First Amendment does not protect deceptive advertising. The government can and should stop such practices.

Given the inherent dangers of alcohol consumption, we cannot rely on a failed system of voluntary oversight by the alcohol industry. It's time for federal and state agencies to enact stricter advertising codes. But most importantly, these agencies need to conduct the necessary enforcement to ensure that current laws are not constantly being violated. Even more disturbing than discovering the extent of the deceptive marketing that is going on was the realization that we already have laws on the books that these ads are violating in plain sight. Yet without proper government enforcement, it's no wonder that companies feel free to keep promoting protein vodka and weight-loss beer.

This report was written by Michele Simon and Janna Brancolini with research assistance from Ryan Treffers.

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