



December 7, 2015

The Honorable Jacob J. Lew, Secretary  
United States Department of the Treasury  
1500 Pennsylvania Avenue NW  
Washington, D.C. 20220

**RE: Request for Clarification on Category Management from the Alcohol and Tobacco Tax and Trade Bureau**

Dear Secretary Lew:

On behalf of the undersigned trade associations representing beer, wine and distilled spirits, we are writing to urge Treasury Department action on clarifying the rules of trade practices generally and category management specifically.

A high profile category management concept is being promoted by one of the nation's largest retailers (national grocery store chain), operating in at least 29 states. We believe this category management proposal being mandated raises serious issues of compliance by the alcohol industry with both state and federal laws. Federal basic permits are conditioned on compliance with the Twenty-first Amendment and "with all other federal laws relating to distilled spirits, wine, and malt beverages," 27 U.S.C. § 204(d). One such federal law is the Webb-Kenyon Act, which prohibits the trafficking and sale of beverage alcohol in violation of the laws of any state. 27 U.S.C. § 122.

It is the responsibility of the Alcohol and Tobacco Tax and Trade Bureau to regulate interstate commerce in beverage alcohol by enforcing the Federal Alcohol Administration Act (FAA Act). We are specifically requesting clarification of TTB's category management guidance and enforcement of the Act's various trade practice provisions such as the tied house, commercial bribery and exclusive outlet prohibitions. Moreover, prohibitions on providing items of value either directly through payments or through indirect inducements such as mandated arrangements with third party data centers owned by the retailer are of immediate concern for our members.

As an industry, we support an appropriate regulatory framework at both the Federal and State levels.

With the dramatically increasing number of legitimate beverage alcohol producers in the beer, wine and spirits industries, as well as the increasingly concentrated economic power at the retail tier, the need for TTB to provide a fair and level playing field for the regulated industry by enforcing federal alcohol laws and regulations has never been greater.

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When issues such as the proposed retailer planogram system (category management) and payments to a third party providing services to one national retailer are presented to industry members as a requirement, TTB should act and speak decisively to articulate what is permissible under the law and the penalties for violations.

In 1995, TTB's predecessor agency ATF issued comprehensive revisions to federal trade practice regulations to accommodate more recent business practices. However, the exceptions listed in the revised guidance were intended to be limited, with narrow definitions, *e.g.*, 27 CFR §§ 6.191 specific values attached to the services, *e.g.*, 27 CFR § 6.102(c). The proposed program does not appear to fit within the scope of permissible activity under TTB regulations and is contrary to the FAA Act. This proposed national grocery store chain program goes far beyond the scope of the amendments and is contrary to the purpose of the Federal Alcohol Administration Act.

Please issue guidance to the industry on this closely watched issue. We are available to provide the information that we know about this program.

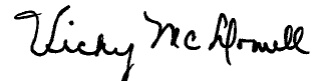
Sincerely,



Mr. John Bodnovich  
American Beverage  
Licensees



Mr. William T. Earle  
National Association of  
Beverage Importers



Ms. Victoria McDowell  
Presidents' Forum



Mr. Bob Pease  
Brewers Association



Mr. Craig Purser  
National Beer Wholesalers  
Association



Mr. Michael Kaiser  
Wine America

cc: Mr. John Manfreda  
Administrator, Alcohol and Tobacco Tax and Trade Bureau  
U.S. Department of the Treasury