US Treasury Department

Industry Circular

Internal Revenue Service
Alcohol and Tobacco Tax Division
Washington, D.C. 20224

Industry Circular No. 70-3 January 16, 1970

TRADE PRACTICES

Brewers, Wholesale Beer Dealers,
Importers, and to others concerned:

This Industry Circular is issued to alert and to caution brewers and wholesale beer dealer permittees as to certain current activities which may violate the provisions of Section 5 of the Federal Alcohol Administration Act relating to unfair competition and unlawful practices.

In brief, Section 5(a), (b), and (c) of the Act makes it illegal (within the jurisdictional limitations of that Act including comparability with State law) for a brewer, importer or wholesaler of malt beverages (either directly or indirectly) to control a retail outlet or to furnish or give a retailer or his employees money, services or other things of value under such conditions or circumstances that the products of other brewers, importers or wholesalers would be excluded, in whole or in part, from the retail establishment. In a specific but limited example, a brewer would violate the Act if directly or indirectly or through a distributor, he were to give money or equipment to a retailer for the purpose of assuring that his brand would be the beer on tap. As another example, a brewer would violate the Act if directly or indirectly or through a distributor, he were to contribute to the cost of advertising the retailer's opening day and the retailer, in turn, pushed the sale of the brewer's beer.

Evidence disclosed through recent investigations by officers of this Division indicates that violation of these provisions of the Federal Alcohol Administration Act have again become apparent in a number of areas. This could be the result of either lack of knowledge or a careless disregard of the law on the part of industry members.

Investigations of past incidents which may have resulted in violations of the law will be continued to the extent necessary for us to determine the appropriate action to be taken in each individual situation. Apart from the penalties provided by law, administrative action can vary from admonition to permit revocation, as the case may be, depending on the extent and flagrancy of the violation.

The issuance of this circular is intended to remind industry members that continuation of improper activities can be viewed only as a wilful disregard of the law as set forth in the Unfair Competition and Unlawful Practices provisions of the Federal Alcohol Administration Act (Title 27 USC Sec. 5).

Inquiries with respect to this circular, or in regard to specific practices which may be questionable, may be directed to your Assistant Regional Commissioner, Alcohol, Tobacco and Firearms.

Harold A. Serr, Director
Alcohol, Tobacco and Firearms Division