



Center for Science and Public Interest

May 7, 2003

Mr. Arthur J. Libertucci Administrator
Alcohol and Tobacco Tax and Trade Bureau
650 Massachusetts Avenue, NW
Washington, DC 20226

Re: Warning Label Violation

Dear Mr. Libertucci:

Last November, the Bureau of Alcohol, Tobacco, and Firearms (now TTB) rejected a petition by the Center for Science in the Public Interest and many others for improvements in the design of government warning labels for alcoholic beverages. In your letter denying that petition, you suggested that the Bureau "will continue to review both applications for label approval as well as containers in the marketplace to ensure that health warning statements on alcohol beverage containers meet the requirements of current regulations."

We want to report to you that we have found warning labels on products in the marketplace that failed to meet federal labeling requirements and inadequately provide consumers with mandated health and surety information. For your information, we enclose copies of Certificate of Label Approval (COLA) forms that show that BA TF approved the labels in question and sanctioned their placement in the marketplace. The two labels concern Diageo PLC's Smirnoff brand 750ml 80-proof vodka, in glass and plastic bottles [COLA serial numbers 00U-79 and 01-U-07].

Each label has two apparent regulatory violations. First, the letters, which are quite compressed and difficult to read, exceed the maximum allowable number of characters per inch (25) by as much as 30%, in clear violation of 27 CFR § 16.22. Next, the government warning statement is not "separate and apart from all other information," as specified by 27 CFR § 16.21, with no break or font change between the last line of the health statement and the promotional next line: "Distilled from Premium Grain." Frankly, we're amazed that BATF could miss such glaring label deficiencies in its COLA review process and in its regular "market-basket" surveys. It's bad enough that the Bureau is not insisting on the kind of readability standards we proposed in 1999, but it's even more distressing that it failed to reject or find such an obviously noncompliant label on the leading brand of vodka in the United States.

According to BATF's Alcohol and Tobacco Newsletter, the noted label errors are among the most "common mistakes" made by applicants for COLAs. BATF approved the first-referenced label for Smirnoff Vodka in September 2000 (almost a year after CSPI's petition), and that label - for a product that is the leading brand of vodka sold in the United States - has been on the market for more than two and one-half years. According to *Adams Liquor Handbook*, Smirnoff sales in 2001 alone exceeded six million 9-liter cases. We wonder how the BATF and TTB's regular market-basket review program failed to catch this error on the label of the most popular vodka in America.

We ask that TTB take immediate action to ensure that health warning statements on alcoholic-beverage containers at least meet the minimal requirements of current regulations. We ask you to quickly rescind label approval for the referenced products and advise Diageo to remove Smirnoff vodka bottles with non-conforming warning labels from the marketplace. In addition, we urge TTB to seek appropriate civil penalties (pursuant to 27 CFR § 16.33) against Diageo for this flagrant, continuing violation of federal warning-label standards. We also ask that TTB investigate other potential labeling violations in the Smirnoff and other product lines and commence an internal agency review of its Certificate of Label Approval (COLA) process.

Sincerely,

George A. Hacker Director
Alcohol Policies Project

Enclosure