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June 14, 2005

**VIA E-MAIL**  
*nprm@tth.gov*

Chief, Regulations and Procedures Division  
Alcohol, Tobacco and Tobacco Tax and Trade Bureau  
Box 14412, Washington D.C. 20044-4412

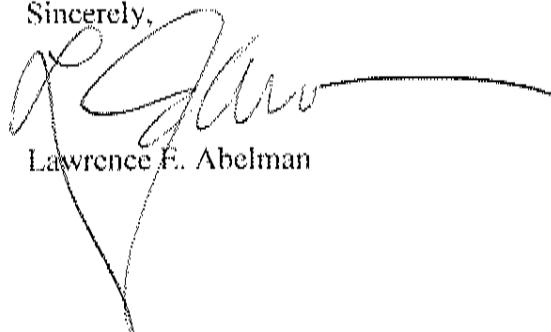
Re: Notice No. 41

Dear Sir or Madam,

We represent Casa Cuervo, S.A. de C.V. ("Casa Cuervo") of Mexico a producer of alcoholic beverages.

Casa Cuervo's comments to Notice No. 41 are attached.

Sincerely,



Lawrence E. Abelman

Enc.

LEA:mjs

June 06, 2005

**COMMENTS TO THE TTB'S REQUEST FOR PUBLIC COMMENT  
ON THE LABELING AND ADVERTISING OF WINES  
DISTILLED SPIRITS AND MALT BEVERAGES**

I. INTRODUCTION

On April 25, 2005, the Alcohol and Tobacco Tax Trade Bureau ("TTB") issued a request for public comment on possible changes to the labeling and advertising requirements of alcoholic beverage products regulated by the TTB. The issues raised by the TTB can be summarized as follows:

- a. Should nutritional information (e.g. calories, fat, carbohydrates and protein) be included on the labels?
- b. Whether labels should list all ingredients, calories, serving size, number of servings per container, allergens, alcohol content, and a definition of moderate drinking?
- c. Whether the TTB should harmonize its alcohol beverage labeling regulatory requirements with those of other major alcohol producing countries (e.g. Member States of the European Union, Australia, Canada and Mexico)?
- d. Whether the benefits to consumers are sufficient to warrant the economic costs associated with the label changes?
- e. Whether the labeling changes should be mandatory or voluntary?
- f. Should the labeling requirements also apply to alcoholic beverage advertising?

Following are the proposed comments to the TTB's request:

II. CASA CUERVO'S POSITION

Casa Cuervo opposes the proposed changes on the basis that they are not beneficial to the consumer or the industry. The existing regulations provide the consumer with "adequate information about the identity and quality" of alcoholic beverages.

The proposed regulations will adversely impact the alcoholic beverage industry.

The alcoholic beverage industry provides significant tax revenue and any disruption in the efficiency of the market could have an immediate effect on local and state revenues. The cost of compliance will result in higher pricing to the purchasing public

and will have a negative impact on the ability of smaller and foreign providers to compete in the market.

### 1. Impact on Consumers and the Industry

- a. Ingredient and nutritional labeling would not provide the consumer with an appreciable benefit when compared to the existing regulations. Ingredient and nutritional labeling are of little or no value to the consumer of alcohol beverages. Alcohol is consumed for reason other than nutrition. Further, many beverages, such as tequila, rum and vodka are to a large extent products added to a cocktail mix or soft drink before consumption.
- b. The benefits that may flow from the proposed changes are not commensurate with the increased burdens on the industry and the resulting increase in costs to the consumer. The proposed label changes would result in substantial costs to the industry and therefore the consumer. These costs, include, but are not limited to the following:
  - i. Redesigning labels.
  - ii. Equipment modifications.
  - iii. Product laboratory analysis.
  - iv. Additional labor costs associated with labeling, record keeping and product handling.
  - v. Investment in facilities.
  - vi. Obsolescence of existing labels.
  - vii. Changes to bottles and bottle molds.
  - viii. Foreign producers may also face additional costs associated with obtaining foreign government certifications of the ingredient list.

Most products are sold in a small volume. These costs will be proportionally a greater burden on the smaller volume products.

- c. The alcoholic beverage industry in general and the contents of alcoholic beverage are currently highly regulated by the Federal and state governments. No other food or beverage industry has such extensive regulation both at the federal and state level.
- d. Listing the ingredients will not provide the consumer with accurate information as to the actual contents of the finished product. Further, an ingredient list may even be misdescriptive of the finished product. The manufacturing process of alcoholic beverages is such that many of the ingredients and processing aids are "substantially transformed" or do not exist in the finished product. The contents of the finished product are not accurately reflected in a list of the ingredients used to make the product.
- e. There is no overwhelming demand on the part of the consumer for ingredient and nutritional labeling on alcoholic beverages. Alcoholic beverages are not an essential food product and are not purchased for their nutritional value.

- f. A significant portion of alcohol beverages are consumed in bars and restaurants where labels are not read or even seen by consumers. Therefore, the rationale underlying the nutritional labeling, (permitted informed choices between competing food items) has little applicability to an industry in which a significant amount of the purchasing decisions are made by consumers who do not see the products' packaging.
- g. "Standard size" for alcoholic beverages cannot be prescribed. Each person's size, tolerance for alcohol and time of consumption are essential factors, as is the alcoholic content of the beverage. There cannot be a "standard" without these factors. Instead "drink with moderation" is acceptable. It is absurd to submit that a person is consuming "acceptably" by drinking "5 ounces," when the other factors do not apply.
- h. Ingredients for alcoholic beverages may not be "standard." Many of the products which will be subject the proposed regulations are made from natural products with the additives changing based upon, for example the sugar content of a particular harvest. These variables sometimes require changes to ingredients and/or production aids on a production by production basis. This will require frequent changes to the labels. The administrative and regulator burdens associated with such changes would be extreme and unduly burdensome.
- i. The basic processing of categories of alcoholic beverages is generally known. However, the final processing may be a trade secret. The ability to maintain these valuable trade secrets as secrets may be jeopardized by the proposed regulations.

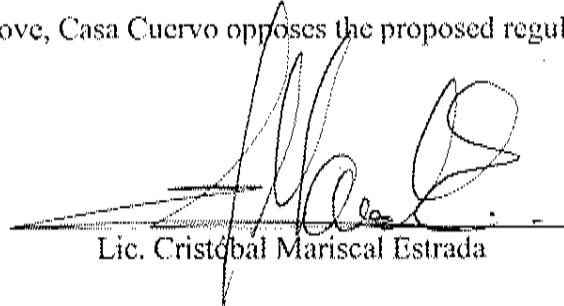
2. The Proposed Regulations are Discriminatory

- j. Ingredient and nutritional labeling regulations discriminates against foreign and smaller producers and will significantly impede international trade. The labeling requirements will act as a significant barrier to foreign producers entering the United States market as some foreign producers will be unable to bear the expense associated with the labeling, additional testing and analysis. Further, the regulations will place the United States industry at a trade disadvantage compared to other countries as U.S. origin goods will face increased costs.
- k. The regulations are discriminatory and will place a significant burden on the smaller members of the industry and on foreign producers. Most low volume products requiring re-labeling for the U. S. only will either not enter the U.S. or their products will only be sold in the U.S.

- i. Harmonizing alcoholic beverage regulatory requirements with those of other nations would ease the burdens on the international trade and reduce costs to both the industry and consumers. However, this cannot be done by U.S. mandate alone.

### III. CONCLUSION

Based on the above, Casa Cuervo opposes the proposed regulations.



Lic. Cristóbal Mariscal Estrada