

Food & Beverage

LITIGATION UPDATE

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Legislation, Regulations and Standards

Alcohol and Tobacco Tax and Trade Bureau (TTB)

[1] TTB Requests Public Comment on Proposed Revisions to “Pure Regulations”

TTB is [soliciting public comment](#) on a proposal to revise regulations concerning the use of the word “pure” on labels and in advertisements for alcoholic beverage products. Questions about which the agency seeks specific comments include: (i) Does the word “pure” convey information about the identity and quality of the product to consumers? (ii) Are variants such as “pureness,” “purest” and “purity” in any way misleading? (iii) Would terms such as “vodka with exceptional purity” on distilled spirits, wine and malt beverage labels and in advertising mislead consumers? (iv) How should TTB define “pure” and substantiate the truthfulness of such a claim? and (v) Should TTB prohibit the use of “pure” and its variants with respect to malt beverages and wine products? Comments must be submitted by February 6, 2006. *See Federal Register*, December 7, 2005.

U.S. Department of Agriculture (USDA)

[2] USDA Committee to Finalize Paper Evaluating Impacts of Agricultural Biotechnology

USDA's Advisory Committee on Biotechnology and 21st Century Agriculture has scheduled a [public meeting](#) for January 5-6, 2006, in Washington, D.C. Discussions at the two-day event will focus on completion of the group's draft paper examining the impacts of agricultural biotechnology on U.S. agribusiness and USDA over the next five to 10 years. Established in 2003, the 19-member committee includes representatives of the biotech and food industries, farming interests and environmental organizations. *See Federal Register*, December 12, 2005.

European Commission (EC)

[3] EC to Update “Television Without Frontiers” Directive

Citing a desire to “accelerate the advent of a seamless single market for TV and TV-like services,” EC Information Society and Media Commissioner Viviane Reding yesterday announced [potential revisions](#) to the European Union's 1989 Television Without Frontiers Directive. The proposal distinguishes between “linear” services, e.g. scheduled broadcasting via traditional television, the Internet



and mobile phones, and “non-linear” services such as on-demand films or news programs. With respect to product placement, the revised broadcasting rules would ban the practice in news, current affairs and children’s programming, but allow it in other linear and non-linear services if clear product disclosure statements are provided at the beginning of programs. The revised directive reportedly faces harsh criticism from other EC directorates and certain media providers. *See Financial Times*, December 12, 2005; *EC News Release*, December 13, 2005.

[4] EC Consultation Targets Promotion of Healthy Diets and Physical Activity

The European Commission last week adopted a [green paper](#) discussing the promotion of healthy diets and physical activity and announced the launch of a public consultation on ways to reduce the escalating rates of obesity and the prevalence of associated chronic diseases. “More than 400,000 children are estimated to become overweight every year, and today’s overweight teenagers are tomorrow’s heart attack or diabetes victims,” EU Health and Consumer Protection Commissioner Markos Kyprianou was quoted as saying. Up to 27 percent of men and 38 percent of women in the EU’s 25 member states are deemed obese.

The EC is inviting comments on green paper topics that include (i) the effectiveness of industry’s self-regulatory efforts to limit the marketing of energy-dense and micronutrient-poor foods, (ii) best practices for avoiding the “excessive intake” of energy-dense snacks and sugar-sweetened soft drinks in schools; and (iii) ways that public policies could contribute to ensuring that physical activity is

“built into” daily routines. The public consultation ends March 15, 2006, and the EC reportedly expects to issue a report summarizing the contributions by June. *See EC News Release* and *Reuters*, December 8, 2005.

Other Developments

[5] Alcohol Ads Increasing on Cable TV Networks, Says New CAMY Report

Georgetown University’s Center on Alcohol Marketing and Youth (CAMY) this week [issued](#) a report concluding that underage youth (ages 12 to 20) are overexposed to advertisements for alcoholic beverages on cable television. “Kids need to see fewer messages glamorizing alcohol use, not more,” CAMY Research Director David Jernigan said. “Alcohol companies need to adopt more effective standards to protect our kids from exposure to a barrage of advertisements for a product they are not allowed to purchase.” Among the report’s conclusions: (i) distilled spirits advertisers increased the number of ads placed on cable networks from 645 ads in 2001 to 37,328 in 2004; (ii) beer advertisers increased the number of cable ads from 38,810 in 2001 to 82,559 in 2004; and (iii) “alcohol companies exposed youth to three ads for every four seen by adults in 2001 and increased that ratio to nearly four for every five by 2004 [on cable networks].” *See CAMY News Release*, December 12, 2005.



Media Coverage

- [6] **“The Mercury Menace,” Sam Roe and Michael Hawthorne, *The Chicago Tribune*, December 11-13, 2005**

In this three-part series, these *Chicago Tribune* writers assert that the newspaper’s investigation into the levels of mercury present in seafood “reveals a decades-long pattern of the U.S. government knowingly allowing millions of Americans to eat seafood with unsafe levels of mercury. Regulators have repeatedly downplayed the hazards, failed to take basic steps to protect public health and misled consumers about the true dangers ... The government does not seize high-mercury fish that violate U.S. limits. Regulators do not even inspect seafood for mercury – not in ports, processing plants or supermarkets.”

Scientific/Technical Items

High-Fructose Corn Syrup (HFCS)

- [7] **University of Florida Findings Renew Debate About the Purported Link Between Fructose Consumption and Obesity**

University of Florida scientists have identified a possible causal mechanism for the alleged association between fructose consumption and the development of obesity, insulin resistance and high blood pressure. (T. Nakagawa, et al., “Hypothesis: Fructose-Induced Hyperuricemia as a Causal Mechanism for the Epidemic of the Metabolic Syndrome,” *Nature Clinical Practice Nephrology* 1(2): 80-86, December 2005). Drawing on their own and other research on fructose consumption, a simple sugar found in honey, fruit, table sugar, and

a principal component of the high-fructose corn syrup contained in many processed foods, the authors report that, unlike glucose and other simple sugars, fructose causes an immediate rise in uric acid in the bloodstream. The increase in uric acid purportedly suppresses the level of another chemical in the blood vessels, nitrogen oxide (NO), which in turn blocks the action of insulin, the chemical that regulates body cell usage and storage of sugar and other nutrients. The chemical imbalance reportedly leads to insulin resistance, a precursor to Type 2 diabetes, hypertension and obesity, in experimental animals.

“There may be more than just the common concept that the reason a person gets fat is because they eat too many calories and they don’t do enough exercise,” said co-author Richard Johnson, M.D. “We cannot definitively state that fructose is driving the obesity epidemic,” Johnson added, “but we can say that there is evidence supporting the possibility that it could have a contributory role, if not a major role.” See *University of Florida Health Science Center News*, December 6, 2005; *Food Production Daily.com*, December 8, 2005.



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