

**CODE COMPLIANCE REVIEW BOARD**

**COMPLAINT PACKET**

**BEATBOX/FELTON COMPLAINT**

# **BEATBOX/FELTON COMPLAINT**

## **TABLE OF CONTENTS**

- 1.** Summary of BEATBOX/B. FELTON complaint
- 2.** CCRB complaint forms submitted by B. Felton (1-6)
- 3.** BeatBox response to submitted complaints
- 4.** Supplemental response submitted by B. Felton to the CCRB
- 5.** Additional email correspondence between B. Felton - clarity for CCRB
- 6.** BeatBox Response to the supplemental complaint filed by B. Felton
- 7.** TikTok response to Beatbox inquiry
- 8.** CCRB Board Decision

## Complaint Summary

Complainant: Bailey Felton [REDACTED]

Advertiser: BeatBox Beverages

On December 7, 2023, the Beer Institute received a complaint from Bailey Felton about alcohol advertising on TikTok by BeatBox Beverages. The complaint in six separate submissions alleges that BeatBox advertising on TikTok violates various Beer Institute Advertising and Marketing Code provisions.

BeatBox Beverages is not a member of the Beer Institute but agreed to participate in the Beer Institute Ad Code complaint resolution process. That process involves responding to the complaint and agreeing to a review of the complaint by the Code Compliance Review Board if the brewer/producer's response does not satisfy the complainant.

The complaint, with the six submissions combined, makes various allegations about the content of BeatBox Beverage advertisements on TikTok and presents a claim that TikTok is an inappropriate media outlet to advertise BeatBox Beverages' alcohol products because TikTok does not employ age-affirmation mechanisms and does not meet the 73.8% audience demographic standard of Guideline 3(c)(i) of the Beer Institute Advertising and Marketing Code.

On January 1, 2024, BeatBox Beverages responded to the complaint, agreeing to take corrective action regarding the content of its video ads on TikTok by removing the videos. BeatBox Beverages did remove the videos.

On January 24, 2024, Bailey Felton submitted a supplemental document and asked the CCRB to guide whether industry members may advertise alcohol products on TikTok. According to Bailey Felton, TikTok is not an appropriate media outlet because the company lacks age-affirmation mechanisms and does not meet the 73.8% demographic standard required by the Beer Institute Advertising and Marketing Code. Bailey Felton takes no issue with BeatBox Beverage's responses to the remainder of the problems presented in the original complaint.

On February 20, 2024, BeatBox Beverages, through counsel, filed its supplement, responding to the allegations regarding age-affirmation mechanisms and the 73.8% demographic standard in the context of advertisement of alcohol products on TikTok.



# Code Compliance Review Board Complaint Form

The Code Compliance Review Board has been established to review concerns from the public that a brewer's advertisements or marketing materials are inconsistent with the Beer Institute Advertising and Marketing Code, and that attempts to resolve those concerns directly with the responsible brewer have been unsuccessful.

To request review of a brewer's advertisement or marketing material by the Code Compliance Review Board, please review the introductory provisions of the Code, provide your contact information, and complete the complaint section.

You must complete a separate form for each advertisement or marketing material you would like the Board to review.

You can e-mail any questions about the complaint review process to [adcode@beerinstitute.org](mailto:adcode@beerinstitute.org).

Please read the Advertising and Marketing Code to gain background information on the Code that should help you understand the scope and purpose of the complaint review process.

**First and Last Name**

Anonymous

**Street Address**

123 Anonymous

**City**

Anonymous

**State**

WY

**Zip Code**

12345

**Daytime Phone**

(123) 456-7890

**Evening Phone**

(123) 456-7890

**Email**

[REDACTED]

**Are you over the age of 21?**

Yes

**Please identify the name or title of the advertisement or describe the marketing material that is the subject matter of your complaint.**

BeatBox Beverages TikTok posts

**Please identify the name of the brewer associated with the advertisement or marketing material.**

BeatBox Beverages

**What was the format of the advertisement or type of marketing material? (Television; Radio; Billboard; Newspaper or magazine ad; Internet or other cyberspace media; Sign, display or other material at a retail location; Licensed promotional clothing or other merchandise; Direct mail; Poster or handbill)**

Tiktok

**Have you contacted the brewer directly?**

No

**If you have contacted the brewer, did you receive a response? (If possible, please attach a copy of the brewer's response with this form and forward it to the Beer Institute.)**

No

**Where did you see the advertisement or marketing material?**

Tiktok

**When did you see the advertisement or marketing material? (If possible, please identify the date and approximate time of day for TV and radio spots.)**

Fall 2023

**Using Guidelines 2-12 of the Beer Institute Advertising and Marketing Code, which cover specific issues that the Code Compliance Review Board will consider, briefly explain why you believe an aspect of the advertisement or marketing material you saw is inconsistent with one or more Guidelines in the Code. Please include the Guideline number(s).**

Guideline #2 BeatBox Beverages posts TikTok ads showing people drinking BeatBox alcohol beverage products in an irresponsible manner inconsistent with Guideline #2. Examples include people drinking directly from the BeatBox three-liter bag, mixing BeatBox alcohol beverages with liquor, and making Jell-O shots with BeatBox alcohol beverages. BeatBox has also posted an ad on TikTok in which a man opens a BeatBox beverage by stabbing the box multiple times with scissors, also violating Guideline 2.



# Code Compliance Review Board Complaint Form

The Code Compliance Review Board has been established to review concerns from the public that a brewer's advertisements or marketing materials are inconsistent with the Beer Institute Advertising and Marketing Code, and that attempts to resolve those concerns directly with the responsible brewer have been unsuccessful.

To request review of a brewer's advertisement or marketing material by the Code Compliance Review Board, please review the introductory provisions of the Code, provide your contact information, and complete the complaint section.

You must complete a separate form for each advertisement or marketing material you would like the Board to review.

You can e-mail any questions about the complaint review process to [adcode@beerinstitute.org](mailto:adcode@beerinstitute.org).

Please read the Advertising and Marketing Code to gain background information on the Code that should help you understand the scope and purpose of the complaint review process.

**First and Last Name**

Anonymous

**Street Address**

123 anonymous

**City**

Anonymous

**State**

WY

**Zip Code**

12345

**Daytime Phone**

(123) 456-7890

**Evening Phone**

(123) 456-7890

**Email**

[REDACTED]

**Are you over the age of 21?**

Yes

**Please identify the name or title of the advertisement or describe the marketing material that is the subject matter of your complaint.**

BeatBox Beverages TikTok posts

**Please identify the name of the brewer associated with the advertisement or marketing material.**

BeatBox Beverages

**What was the format of the advertisement or type of marketing material? (Television; Radio; Billboard; Newspaper or magazine ad; Internet or other cyberspace media; Sign, display or other material at a retail location; Licensed promotional clothing or other merchandise; Direct mail; Poster or handbill)**

Tiktok

**Have you contacted the brewer directly?**

No

**If you have contacted the brewer, did you receive a response? (If possible, please attach a copy of the brewer's response with this form and forward it to the Beer Institute.)**

No

**Where did you see the advertisement or marketing material?**

Tiktok

**When did you see the advertisement or marketing material? (If possible, please identify the date and approximate time of day for TV and radio spots.)**

Fall 2023

**Using Guidelines 2-12 of the Beer Institute Advertising and Marketing Code, which cover specific issues that the Code Compliance Review Board will consider, briefly explain why you believe an aspect of the advertisement or marketing material you saw is inconsistent with one or more Guidelines in the Code. Please include the Guideline number(s).**

BeatBox Beverages' posts on TikTok are inconsistent with Guideline #3. TikTok does not employ age affirmation mechanisms and does not meet the 73.8% demographic standard of the Guidelines. Therefore, TikTok is an inappropriate media outlet to advertise BeatBox Beverages' alcohol beverage products. Neither BeatBox, nor the influencers BeatBox sends alcohol products to "taste test," employ any age gating measures on their TikTok accounts. Thus, anyone under the age of 21 may view the TikTok ads.





# Code Compliance Review Board Complaint Form

The Code Compliance Review Board has been established to review concerns from the public that a brewer's advertisements or marketing materials are inconsistent with the Beer Institute Advertising and Marketing Code, and that attempts to resolve those concerns directly with the responsible brewer have been unsuccessful.

To request review of a brewer's advertisement or marketing material by the Code Compliance Review Board, please review the introductory provisions of the Code, provide your contact information, and complete the complaint section.

You must complete a separate form for each advertisement or marketing material you would like the Board to review.

You can e-mail any questions about the complaint review process to [adcode@beerinstitute.org](mailto:adcode@beerinstitute.org).

Please read the Advertising and Marketing Code to gain background information on the Code that should help you understand the scope and purpose of the complaint review process.

**First and Last Name**

Anonymous

**Street Address**

123 anonymous

**City**

Anonymous

**State**

WY

**Zip Code**

12345

**Daytime Phone**

(123) 456-7890

**Evening Phone**

(123) 456-7890

**Email**

[REDACTED]

**Are you over the age of 21?**

Yes

**Please identify the name or title of the advertisement or describe the marketing material that is the subject matter of your complaint.**

BeatBox Beverages TikTok posts

**Please identify the name of the brewer associated with the advertisement or marketing material.**

BeatBox Beverages

**What was the format of the advertisement or type of marketing material? (Television; Radio; Billboard; Newspaper or magazine ad; Internet or other cyberspace media; Sign, display or other material at a retail location; Licensed promotional clothing or other merchandise; Direct mail; Poster or handbill)**

TikTok

**Have you contacted the brewer directly?**

No

**If you have contacted the brewer, did you receive a response? (If possible, please attach a copy of the brewer's response with this form and forward it to the Beer Institute.)**

No

**Where did you see the advertisement or marketing material?**

TikTok

**When did you see the advertisement or marketing material? (If possible, please identify the date and approximate time of day for TV and radio spots.)**

Fall 2023

**Using Guidelines 2-12 of the Beer Institute Advertising and Marketing Code, which cover specific issues that the Code Compliance Review Board will consider, briefly explain why you believe an aspect of the advertisement or marketing material you saw is inconsistent with one or more Guidelines in the Code. Please include the Guideline number(s).**

BeatBox has posted ads on TikTok that would appeal to an individual under 21 years of age inconsistent with Guideline #3. Examples include posting a BeatBox Halloween costume and grabbing a BeatBox beverage from a "claw machine," where the beverage is surrounded by toys one would typically find in a "claw machine" in a children's arcade. The beverages are packaged in bright and colorful boxes, rather than typical alcohol packaging such as cans or glass bottles, which further appeals to minors.



# Code Compliance Review Board Complaint Form

The Code Compliance Review Board has been established to review concerns from the public that a brewer's advertisements or marketing materials are inconsistent with the Beer Institute Advertising and Marketing Code, and that attempts to resolve those concerns directly with the responsible brewer have been unsuccessful.

To request review of a brewer's advertisement or marketing material by the Code Compliance Review Board, please review the introductory provisions of the Code, provide your contact information, and complete the complaint section.

You must complete a separate form for each advertisement or marketing material you would like the Board to review.

You can e-mail any questions about the complaint review process to [adcode@beerinstitute.org](mailto:adcode@beerinstitute.org).

Please read the Advertising and Marketing Code to gain background information on the Code that should help you understand the scope and purpose of the complaint review process.

**First and Last Name**

Anonymous

**Street Address**

123 anonymous

**City**

Anonymous

**State**

WY

**Zip Code**

12345

**Daytime Phone**

(123) 456-7890

**Evening Phone**

(123) 456-7890

**Email**

[REDACTED]

**Are you over the age of 21?**

Yes

**Please identify the name or title of the advertisement or describe the marketing material that is the subject matter of your complaint.**

BeatBox Beverages TikTok posts

**Please identify the name of the brewer associated with the advertisement or marketing material.**

BeatBox Beverages

**What was the format of the advertisement or type of marketing material? (Television; Radio; Billboard; Newspaper or magazine ad; Internet or other cyberspace media; Sign, display or other material at a retail location; Licensed promotional clothing or other merchandise; Direct mail; Poster or handbill)**

TikTok

**Have you contacted the brewer directly?**

No

**If you have contacted the brewer, did you receive a response? (If possible, please attach a copy of the brewer's response with this form and forward it to the Beer Institute.)**

No

**Where did you see the advertisement or marketing material?**

TikTok

**When did you see the advertisement or marketing material? (If possible, please identify the date and approximate time of day for TV and radio spots.)**

Fall 2023

**Using Guidelines 2-12 of the Beer Institute Advertising and Marketing Code, which cover specific issues that the Code Compliance Review Board will consider, briefly explain why you believe an aspect of the advertisement or marketing material you saw is inconsistent with one or more Guidelines in the Code. Please include the Guideline number(s).**

BeatBox Beverages' TikTok advertisements are inconsistent with Guideline #3, as many of BeatBox Beverages' posts use models and actors that do not reasonably appear to be of legal drinking age. These people could reasonably be under the age of 21 and are shown serving and drinking BeatBox Beverages' alcohol beverage products in the TikTok posts.



# Code Compliance Review Board Complaint Form

The Code Compliance Review Board has been established to review concerns from the public that a brewer's advertisements or marketing materials are inconsistent with the Beer Institute Advertising and Marketing Code, and that attempts to resolve those concerns directly with the responsible brewer have been unsuccessful.

To request review of a brewer's advertisement or marketing material by the Code Compliance Review Board, please review the introductory provisions of the Code, provide your contact information, and complete the complaint section.

You must complete a separate form for each advertisement or marketing material you would like the Board to review.

You can e-mail any questions about the complaint review process to [adcode@beerinstitute.org](mailto:adcode@beerinstitute.org).

Please read the Advertising and Marketing Code to gain background information on the Code that should help you understand the scope and purpose of the complaint review process.

**First and Last Name**

Anonymous

**Street Address**

123 anonymous

**City**

Anonymous

**State**

WY

**Zip Code**

12345

**Daytime Phone**

(123) 456-7890

**Evening Phone**

(123) 456-7890

**Email**

[REDACTED]

**Are you over the age of 21?**

Yes

**Please identify the name or title of the advertisement or describe the marketing material that is the subject matter of your complaint.**

BeatBox Beverages TikTok posts

**Please identify the name of the brewer associated with the advertisement or marketing material.**

BeatBox Beverages

**What was the format of the advertisement or type of marketing material? (Television; Radio; Billboard; Newspaper or magazine ad; Internet or other cyberspace media; Sign, display or other material at a retail location; Licensed promotional clothing or other merchandise; Direct mail; Poster or handbill)**

TikTok

**Have you contacted the brewer directly?**

No

**If you have contacted the brewer, did you receive a response? (If possible, please attach a copy of the brewer's response with this form and forward it to the Beer Institute.)**

No

**Where did you see the advertisement or marketing material?**

TikTok

**When did you see the advertisement or marketing material? (If possible, please identify the date and approximate time of day for TV and radio spots.)**

Fall 2023

**Using Guidelines 2-12 of the Beer Institute Advertising and Marketing Code, which cover specific issues that the Code Compliance Review Board will consider, briefly explain why you believe an aspect of the advertisement or marketing material you saw is inconsistent with one or more Guidelines in the Code. Please include the Guideline number(s).**

BeatBox has posted a TikTok advertising a T-Shirt with two of BeatBox Beverages' three-liter bags pictured on the chest portion of the T-Shirt displaying the words "Slap Me." This language is in reference to "slapping the bag" where one would slap the three-liter bag before taking a drink from it and implies that one should do the same where the three-liter bags are pictured on the T-Shirt. This advertisement is inconsistent with Guideline #5 as it is indecent.



# Code Compliance Review Board Complaint Form

The Code Compliance Review Board has been established to review concerns from the public that a brewer's advertisements or marketing materials are inconsistent with the Beer Institute Advertising and Marketing Code, and that attempts to resolve those concerns directly with the responsible brewer have been unsuccessful.

To request review of a brewer's advertisement or marketing material by the Code Compliance Review Board, please review the introductory provisions of the Code, provide your contact information, and complete the complaint section.

You must complete a separate form for each advertisement or marketing material you would like the Board to review.

You can e-mail any questions about the complaint review process to [adcode@beerinstitute.org](mailto:adcode@beerinstitute.org).

Please read the Advertising and Marketing Code to gain background information on the Code that should help you understand the scope and purpose of the complaint review process.

**First and Last Name**

Anonymous

**Street Address**

123 anonymous

**City**

Anonymous

**State**

WY

**Zip Code**

12345

**Daytime Phone**

(123) 456-7890

**Evening Phone**

(123) 456-7890

**Email**

[REDACTED]

**Are you over the age of 21?**

Yes

**Please identify the name or title of the advertisement or describe the marketing material that is the subject matter of your complaint.**

BeatBox Beverages TikTok posts

**Please identify the name of the brewer associated with the advertisement or marketing material.**

BeatBox Beverages

**What was the format of the advertisement or type of marketing material? (Television; Radio; Billboard; Newspaper or magazine ad; Internet or other cyberspace media; Sign, display or other material at a retail location; Licensed promotional clothing or other merchandise; Direct mail; Poster or handbill)**

TikTok

**Have you contacted the brewer directly?**

No

**If you have contacted the brewer, did you receive a response? (If possible, please attach a copy of the brewer's response with this form and forward it to the Beer Institute.)**

No

**Where did you see the advertisement or marketing material?**

TikTok

**When did you see the advertisement or marketing material? (If possible, please identify the date and approximate time of day for TV and radio spots.)**

Fall 2023

**Using Guidelines 2-12 of the Beer Institute Advertising and Marketing Code, which cover specific issues that the Code Compliance Review Board will consider, briefly explain why you believe an aspect of the advertisement or marketing material you saw is inconsistent with one or more Guidelines in the Code. Please include the Guideline number(s).**

BeatBox Beverages has posted a TikTok in which Jesus Christ is depicted as turning water into BeatBox Beverages, which is inconsistent with Guideline #7 as employing religion in the advertisement.





Bailey Felton,

We received six separate complaints (collectively, “Complaints”) filed with the Beer Institute (“BI”) concerning BeatBox Beverages’ advertisements and BI’s Advertising and Marketing Code (“Code”). Below is our response. As an initial matter, please note that our response is based on our inference as to what content the Complaints are referencing, since links or recordings of the content at issue were not provided. To ensure we are on the same page, please include specific advertising materials in your response to us so we can be sure that we are talking about the same thing and that our remedial actions are properly implemented.

BeatBox Beverages is committed to responsible practices in all aspects of our business, including promoting responsible consumption of alcohol through our advertising. We base our internal marketing policies on the respective advertising codes of BI and the Wine Institute, among other things, and we constantly monitor industry trends and customer feedback to refine our policies and assess whether individual advertisements or practices conform to them.

We believe that, even when we agree on what the appropriate rules are for responsible advertising, it is often ambiguous how those rules apply to individual advertisements or practices. Several issues in the Complaints reflect that ambiguity, because the Complaints interpret the Code as it applies to our advertising differently than we do. However, we recognize the importance of using differing opinions to constantly evaluate our interpretation of the Code. We also recognize the importance of compromise. Accordingly, we are offering to take down what we understand to be all of the individual posts referenced in your Complaints, and we are willing to refrain from engaging in some of the practices referenced in the Complaints going forward.

Here are our specific responses:

<b>Complaint</b>	<b>Response</b>
Post shows drinking BeatBox directly from a three-liter bag.	We attempted to show this form of consumption in a responsible manner by only posting people drinking small amounts from a bag. <i>Regardless, we will pull all such posts and will refrain from this practice going forward.</i>
Post shows mixing BeatBox with liquor	We do not believe these posts violate the Code, including Guideline 2. We do not advertise mixing BeatBox with liquor in amounts that would result in alcohol being consumed rapidly or excessively. <i>Going forward, we will not post recipes that result in a drink with more alcohol than that which comes in one of our standard 500 ml Tetra</i>

	<p><i>Paks. We will also continue to not show individuals drinking more than a sip of a cocktail.</i></p>
<p>Post shows Jello made with BeatBox</p>	<p>We do not believe these posts violate the Code, including Guideline 2. Jello “shots” are consumed and enjoyed by adults at common, responsible drinking occasions. Consuming small servings of BeatBox mixed with Jello does not result in rapid or excessive consumption. Based on the alcohol content, even consuming a Jello “shot” in one mouthful does not result in consumption of more BeatBox than a sip of regular BeatBox. The Alcohol and Tobacco Tax and Trade Bureau (“TTB”) has approved labels authorizing the sale of pre-packaged alcoholic Jello “shots” like those at issue, including Slrrrp Shots and Shottys. <i>Regardless, in an effort to compromise, we will remove the existing posts of this nature.</i></p>
<p>Post shows opening BeatBox by stabbing it with scissors</p>	<p>We do not believe this post violates the Code, including Guideline 2. It does not depict or encourage consumption in any way prohibited by that Guideline. It depicts a silly act that it is clearly intended as a joke or in good fun. We believe Guideline 2.d implicitly condones this type of post, where it even allows depiction of illegal activity related to the purchase of alcohol as long as it is readily identifiable as a spoof. The behavior in this post is not illegal, but is nevertheless readily identifiable as a joke. <i>Regardless, in an effort to compromise, we will remove this post and will not post this again.</i></p>

<p>Advertising on TikTok, including lack of age-gating for specific posts or accounts</p>	<p>We do not believe advertising on TikTok violates the Code, including Guideline 3. Guideline 3(c)(i) requires posts to be made where at least 73.8% of the audience is expected to be of legal drinking age. The percentage of TikTok account-holders over the legal drinking age is higher than 73.8%, and there is no reason to expect that such percentage skews lower for alcohol-related posts. In fact, the percentage of account-holders over 25 exceeds 73.8%.</p> <p>TikTok does not employ age-gating mechanisms for individual posts or accounts, but the Code does not require such a mechanism to be available on a medium for alcohol to be allowed to be advertised on it. Alcohol advertising is prevalent on many mediums that lack age gating mechanisms, such as print, television, radio, and movies (via product placement). The Code only requires that age-gating be used when it is available on a platform.</p> <p><i>Regardless, in an effort to compromise on this issue, going forward, for content we post on TikTok, we will include language discouraging underage drinking. We will also continue to maintain a statement on our TikTok profile page that states users must be 21+ to follow our account.</i></p>
<p>Post involving claw machine</p>	<p>We do not believe this post violates the Code, including Guideline 3. We do not believe claw machines inherently appeal primarily to persons under the legal drinking age; rather, the demographic to which claw machines appeal depends on the circumstances. Claw machines are placed on premises of licensed alcohol beverage retailers and are frequently rented for adult-oriented functions (see, e.g., CocktailClaw). The video in this post was taken at an event where IDs were checked and persons who were not of legal drinking age were not permitted to use the claw machine. The machine contained BeatBox merchandise and other novelties for adults and did not contain toys or other items with special attractiveness to persons under the legal drinking age. <i>Regardless, in an effort to</i></p>

	<p><i>compromise, we will remove this post and will not post content involving this item again.</i></p>
<p>Use of colorful boxes for packaging</p>	<p>We do not believe this post violates the Code, including Guideline 3. As an initial matter, we note that our labels and color schemes have been approved on the federal level by the TTB and on the state level by the relevant agencies in all states that require label or brand registration. Decisions to purchase BeatBox Beverages are made by adults of legal drinking age at licensed retail establishments.</p> <p>Although Tetra Pak “boxes” like those we use are not as prevalent in the alcohol industry as cans or bottles, their popularity is growing for reasons including environmental impact and resealability. Regardless, having less prevalence historically does not mean they are any more appealing to persons under the legal drinking age than cans or bottles. There are many non-alcoholic products traditionally consumed by persons under the legal drinking age that are packaged in the same cans and bottles used by other alcohol products, such as sodas, sparkling waters, and juices. None of these forms of packaging have a primary appeal to persons under the legal drinking age.</p> <p>We also do not believe the bright coloring of our packaging primarily appeals to persons under the legal drinking age. Attraction to bright colors is not exclusive or unique to persons under the legal drinking age. This is particularly true with today’s styles and tastes. Modern adults appreciate bright colors as much as persons under the legal drinking age. We have designed our product to appeal to modern tastes of individuals of legal drinking age, and any appeal to persons under the legal drinking age is incidental. This is corroborated by the fact that alcohol packaging in general has become more brightly colored on average than it used to be, yet rates of alcohol consumption by persons under the legal drinking age have decreased.</p> <p><i>We do not believe our packaging violates the</i></p>

	<p><i>Code. We are not aware of any decisions by BI that suggest colorful packaging violates the Code. We continue to be hyper-aware of deterring underage consumption, and make many efforts toward that end, but we do not believe changing our packaging would do that. To attempt to deter consumption by persons under the legal drinking age, we will continue to have our product labels include a "CONTAINS ALCOHOL" statement in the largest font size permitted by federal regulations. We will also continue to include "CONTAINS ALCOHOL" and similar messaging, such as "21+," in large font on our point-of-sale materials, our website, and many of our marketing communications.</i></p>
<p>Age and apparent age of individuals in posts</p>	<p><i>We are not using anyone who is under 25 in our advertising, and we believe the individuals we use reasonably appear to be of legal drinking age. We also cannot fully respond to this complaint because we do not know which specific posts or individuals are at issue. However, in an effort to compromise, we will hold an internal training session with our marketing team specifically concerning the need to continue to only engage individuals that are 25 years of age or older and that reasonably appear to be of legal drinking age. We will also continue to require proof of age prior to using such individuals in any advertising materials.</i></p>
<p>Shirt with three-liter bags saying, "Slap Me"</p>	<p><i>We do not believe this violates the Code. We do not believe it condones or advocates for violence, and is clearly meant and understood by adults to be a joke, which we think is implicitly condoned by Guideline 2.d. As a basis for comparison, the online retailer, Etsy, has an entire page of its site devoted to merchandise with the theme, "Slap Me," at <a href="https://www.etsy.com/market/slap_me">https://www.etsy.com/market/slap_me</a>. Regardless, in an effort to compromise, we will remove this post and will not post content involving this shirt again.</i></p>
<p>Post depicting Jesus</p>	<p><i>We agree this post is inconsistent with Guideline 7 of the Code. We will remove the post at issue and will not make other posts depicting Jesus or other religious figures in</i></p>

	<i>the future.</i>
--	--------------------

We appreciate your interest in ensuring alcohol advertising is done responsibly. We take responsible marketing of our product very seriously, and are constantly working to improve our processes and results. We think our proposed compromises are reasonable, responsible, and honor the Code. We look forward to your response.



To: Beer Institute Code Compliance Review Board

From: Anonymous

Date: January 24, 2024

Re: BeatBox Beverages TikTok Videos

---

On December 7, 2023, I filed a complaint against [BeatBox Beverages](#) (BeatBox) for non-compliance with the Beer Institute Advertising and Marketing Code (BI Code), including advertising their alcohol beverage products<sup>1</sup> via the company's own [account](#) on social media app, TikTok. BeatBox's response to the complaints confirms the company will continue advertising their alcohol beverage products on TikTok and will not employ age gating measures. It is my understanding that these advertising practices are inconsistent with BI Code, including Guideline #3. Accordingly, I respectfully request the Code Compliance Review Board review my complaint against BeatBox and provide guidance on whether industry members may advertise alcohol beverages on TikTok.

TikTok does not employ age affirmation mechanisms and does not meet the 73.8% demographic standard required in the BI Code. Relatedly, BeatBox does not utilize a "private" account on TikTok which allows the account holder to select the individuals (or accounts) authorized to follow the account holder. As such, anyone, regardless of age, may view BeatBox's posts on the account page and videos that appear on the "For You" page. While BeatBox includes a note in the company's TikTok "bio" indicating followers must be "21+ to follow," this designation does not prevent anyone under 21 from following BeatBox, from viewing BeatBox's posts, or from having these posts appear on the person's "For You" page. See screenshot below.

Moreover, on at least two occasions, BeatBox sent samples of its alcohol beverage products to Social Media Influencers to "taste test" on TikTok. See screenshots below. These Social Media Influencer accounts likewise do not employ any age gating measures, and thus the content, including the "taste test" videos, is visible to anyone, regardless of age.

TikTok's own policy confirms the platform may not be used to advertise alcohol beverages. See [TikTok Advertising Policies: Industry Entry, North America](#). Similarly, the Distilled Spirits Council of the United States (DISCUS), a prominent and well-respected industry association prohibits its members from advertising on TikTok. See DISCUS [Social Media Platform Alcohol Policies and Demographic Data Profiles](#); DISCUS [Tennessee Shine Board Decision](#); DISCUS [Sip Shine Board Decision](#); DISCUS [Skrewball Whiskey Board Decision](#).

As outlined above, advertising on TikTok appears to run afoul of the BI Code, and in particular Guideline #3. We respectfully request the BI advise the industry as to the permissibility of alcohol beverage industry members' use of advertising on TikTok. Should the BI take a different approach than DISCUS, please provide guidance to the industry so as to help ensure that alcohol advertising complies with the BI Code.

---


<sup>1</sup> The company describes "Beatbox" as "a ready-to-drink cocktail that is available in fruit-forward "Party Punch" flavors and delicious "Hard Tea" flavors. Both BeatBox "Party Punch" and BeatBox "Hard Tea" are produced as a wine-base version and a malt-base version in 11.1% ABV, 8% ABV, and 6% ABV."



We appreciate your consideration of this very important issue.

9:37 📶 📶 🔋

< **BeatBox Beverages** 📧 🔔 ➦



**@beatboxbeverages**

**651** Following | **97.0K** Followers | **2.7M** Likes

**Follow** **Message** ▼

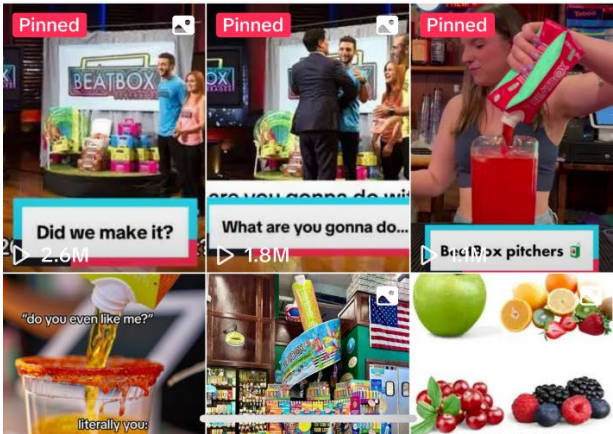
🔥 Official BeatBox TikTok 🔥  
10 flavors @ 11.1%  
Austin, TX  
**21+ to follow**

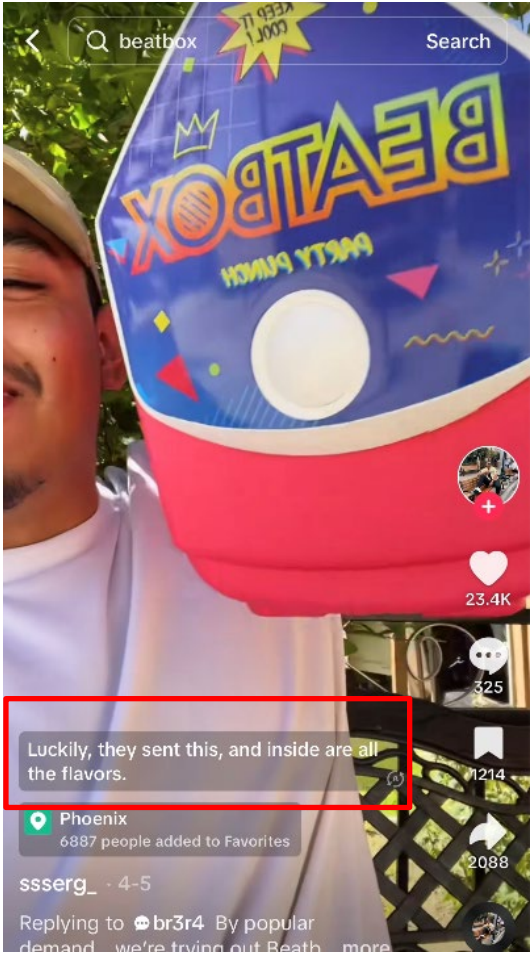
🔗 <https://linktr.ee/beatboxbeverages>

📷 Instagram | ➕ Add Yours

☰ ▼ ↕ 📖

📺 Nostalgic Drinks | 📺 Find BeatBox | 📺 Recipes







**From:** [Mary Jane Saunders](#)  
**To:** [Dani Murray](#)  
**Subject:** FW: CCRB Review  
**Date:** Tuesday, February 6, 2024 11:47:36 AM

---

Mary Jane Saunders  
General Counsel  
Beer Institute

[www.beerinstitute.org](http://www.beerinstitute.org)

Follow us on Twitter [@BeerInstitute](#) and on [Facebook](#)!

*CONFIDENTIALITY WARNING:* This message and its contents may include confidential and proprietary information and/or be protected by an attorney-client privilege or work-product doctrine. If you have received it in error, please notify the sender, immediately, delete this message and any attachments, and destroy any printed copies. Thank you.

---

**From:** Bailey Felton [REDACTED]  
**Sent:** Monday, January 29, 2024 1:40 PM  
**To:** Mary Jane Saunders [REDACTED]  
**Subject:** Re: CCRB Review

Hi Mary,

Yes, the only issue I would like the CCRB to review is the TikTok demographic issue and whether TikTok's demographic meets the BI's standard. BeatBox's responses to the remainder of the issues was satisfactory.

Thank you.

On Mon, Jan 29, 2024 at 10:18 AM Mary Jane Saunders [REDACTED] wrote:

I am following up on your request for CCRB review of your complaint against Beatbox Beverages. I communicated that information to Beatbox Beverages and in return, got a question.

While your original complaint covered several issues, your supplement focuses on TikTok's audience demographics and whether they meet the standard set for under the Beer Institute Advertising and Marketing Code. Will you please confirm whether your request for CCRB review is limited to this issue. In other words, were Beatbox Beverage's responses regarding the other issues raised in original complaint

sufficient to satisfy your concerns? Beatbox Beverages intends to file its own supplement and wants to ensure that they address all outstanding issues.

Please let me know what issue or issues you want the CCRB to review.

Mary Jane Saunders

General Counsel

Beer Institute

[REDACTED]

[REDACTED]

[www.beerinstitute.org](http://www.beerinstitute.org)

Follow us on Twitter [@BeerInstitute](https://twitter.com/BeerInstitute) and on [Facebook](https://www.facebook.com/BeerInstitute)!

*CONFIDENTIALITY WARNING:* This message and its contents may include confidential and proprietary information and/or be protected by an attorney-client privilege or work-product doctrine. If you have received it in error, please notify the sender, immediately, delete this message and any attachments, and destroy any printed copies. Thank you.



**From:** [Mary Jane Saunders](#)  
**To:** [Dani Murray](#)  
**Subject:** FW: Response to Supplemental Complaint from Baily Felton  
**Date:** Wednesday, February 21, 2024 11:59:09 AM  
**Attachments:** [TikTok Response to Beatbox 02 17 2024.pdf](#)

---

Mary Jane Saunders  
General Counsel  
Beer Institute

[www.beerinstitute.org](http://www.beerinstitute.org)

Follow us on Twitter [@BeerInstitute](#) and on [Facebook](#)!

*CONFIDENTIALITY WARNING:* This message and its contents may include confidential and proprietary information and/or be protected by an attorney-client privilege or work-product doctrine. If you have received it in error, please notify the sender, immediately, delete this message and any attachments, and destroy any printed copies. Thank you.

---

**From:** Art DeCelle [REDACTED]  
**Sent:** Tuesday, February 20, 2024 6:58 PM  
**To:** Mary Jane Saunders [REDACTED]  
**Cc:** Tom Hollo [REDACTED]  
**Subject:** Response to Supplemental Complaint from Baily Felton

Dear Mary Jane:

This e-mail responds to the supplemental complaint filed by Bailey Felton against our client, BeatBox Beverages, under the Beer Institute Advertising and Marketing Code.

While not a member of the Beer Institute ("BI"), BeatBox seeks to abide by the beverage industry's efforts to promote responsible marketing, including ensuring that advertising appropriately targets adults over the U.S. legal purchase age. BeatBox removed certain videos based on Bailey Felton's original complaint, which alleged they were inconsistent with the BI Advertising/Marketing Code (the "Code"), and BeatBox will continue to review future content for compliance with the Code. Bailey Felton's revised complaint focuses exclusively on the TikTok platform generally, arguing (1) it does not meet the Code's requirement that 73.8 percent of the expected audience for an advertisement be 21 years of age or older ("Demographic Standard"), and (2) it does not use age-gating mechanisms.

BeatBox submits that the expected audience of its posts on TikTok meets the Demographic Standard. Published guidance from advertising agencies over the last

two years does not show a clear breakout of TikTok users 21 years of age or older, although extrapolating the data indicates that TikTok meets the Demographic Standard. Age demographics of digital platforms generally grow older over time, as regular users grow older. Similar trends occurred with other major social media platforms, such as Facebook and YouTube.

Many of the largest alcohol beverage producers, who are subject to and participate in development of the Code, appear to either maintain accounts on TikTok under their brand names or market through well-known, compensated influencers. Those competitor ads using brand names appear to be sanctioned by the manufacturers, who would otherwise have taken action to protect their intellectual property rights and require the responsible party for the posting to remove the material.

While TikTok does not provide BeatBox with demographic information regarding viewers of its posts, TikTok does provide demographic information regarding users who follow BeatBox's account. Although that information is broken down by age ranges, rather than individual ages, it implies that the followers of BeatBox's account meet the Demographic Standard. It is reasonable to expect that the percentage of people who view BeatBox's posts that are 21 years of age or older meets or exceeds the percentage who follow BeatBox's account.

After receiving Bailey Felton's Complaint, BeatBox made inquiries to further ensure that its posts on TikTok are reaching an audience that meets the Demographic Standard. TikTok representatives provided verbal assurances that the TikTok platform meets those Demographic Standard. On subsequent call involving BeatBox's outside counsel, TikTok representatives provided similar verbal assurances. On February 24, 2024, in response to BeatBox's requests for written confirmation of the demographics information, TikTok's counsel confirmed in writing (copy of e-mail attached) that TikTok meets the Demographic Standard. TikTok's counsel also explained that an ongoing test of alcohol advertising on its platform is being measured by a third-party, and that the demographics data from that test so far meet the Demographic Standard.

The number of TikTok registered users cited by TikTok and multiple third party sources is over one hundred million. Accordingly, the audience sample size should be more accurate than almost any limited survey data to accurately assess the demographics of the TikTok audience.

Based on the information summarized above, BeatBox submits that there is a reasonable expectation that the TikTok platform meets the Code's Demographic Standard.

With respect to age-gating, BeatBox submits that the lack of age-gating on TikTok does not violate the Code. TikTok, like many other mediums (e.g., television, radio, print, etc.) does not yet utilize age-gating for unpaid posts on its platform. However, the Code only requires that brewers take reasonable steps to restrict access to the websites and social media channels they control, and that they utilize age-gating mechanisms when they are available. Notwithstanding the lack of age-gating, posts



on TikTok comply with the portions of the Code concerning age-gating and age demographics because the audience as a whole meets the Demographic Standard, and posts on TikTok are not targeted toward underage persons.

BeatBox notes that the Code requires brewers to post reminders of the legal purchase age and requests that posts not be shared with underage persons at appropriate locations on their websites or branded social media channels. BeatBox has such reminders on its TikTok profile, and, where practicable, will attach such reminders to content it posts on TikTok.

BeatBox will follow up with TikTok over at least the next two quarters to ensure that the ongoing third party evaluation of the platform continues to indicate that the platform is compliant. If BeatBox learns that further analysis of audience data shows that it does not meet the Code's Demographic Standard, BeatBox will stop advertising on TikTok until it does meet the Demographic Standard.

Please feel free to follow up with any questions.

*Art DeCelle*

**Arthur J. DeCelle | Senior Counsel  
Lehrman Beverage Law, PLLC**



| [www.bevlaw.com](http://www.bevlaw.com)

**NOTICE: This confidential message is intended for the person named above. If you have received this message in error or if you would prefer that I use another means of communication, please let me know. Unauthorized interception of this email is illegal.**



**From:** [Jesse J. Bellam](#)  
**To:** [Art DeCelle](#)  
**Cc:** [Calvin Wang](#)  
**Subject:** TikTok  
**Date:** Saturday, February 17, 2024 7:16:52 PM

---

Mr. Decelle,

We are aware that your client is currently the subject of a complaint filed against it with the Beer Institute addressing, *inter alia*, whether the TikTok platform is LDA compliant. Please find the below statement representing TikTok's position:

TikTok is currently running an alpha test with select beer advertisers. Our intent during the alpha test is to meet full LDA and broader industry compliance requirements for having alcohol advertisers run paid advertising on our platform. As of this time, we can confirm that (i) according to self-reported data, the percentage of registered TikTok users aged 21 and above is over the LDA requirement of 73.8%, and (ii) according to third-party reported measurement, all existing campaigns that are part of the alpha are seeing greater than 73.8% 21+ target demographics in compliance with LDA requirements.

Best regards,

Jesse J. Bellam



**BEER INSTITUTE**  
**CODE COMPLIANCE REVIEW BOARD**

440 First Street, NW, Suite 350  
Washington, D.C. 20001  
202-737-2337

March 1, 2024

Dear Bailey Felton:

We write in response to your complaints concerning possible violations of the Beer Institute Advertising/Marketing Code and Buying Guidelines (the Code). The complaints were submitted to Mary Jane Saunders, General Counsel of the Beer Institute. BeatBox Beverages (Beatbox) is not a member of the Beer Institute. However, BeatBox agreed to follow the Beer Institute's process of determining if a Brewer has violated the Beer Institute Advertising/Marketing Code and Buying Guidelines (the Code).

History of the Code Compliance Review Board (CCRB) and its Review Process

Before addressing the several advertising complaints made by you, the CCRB would like to take this opportunity to summarize the history and review process of the Code. The CCRB reviews complaints from the perspective of a "reasonable adult consumer of legal drinking age."

The CCRB's primary function is to ensure that Brewers and importers comply with the Code through an orderly and independent process. The CCRB's "appellate" review empowers complainants with an effective, efficient method to have their complaints addressed and decided. This process is a significant part of the industry's dedication to responsible advertising methods.

The CCRB is composed of individuals with varied professional experiences who are independent from the brewing industry. CCRB members are neutral and detached. They perform a quasi-appellate function when the complainant is dissatisfied with the response to the complaint from the Brewer. Decisions of the CCRB are final.

The beer industry, through the United Brewers Industrial Foundation, adopted the first marketing "Code of Practice" after the end of Prohibition in 1937. Over eighty years later, the earlier code was replaced by the Advertising/Marketing Code and Buying Guidelines, which was adopted by the Beer Institute. The CCRB's critical function is to ensure that Brewers comply with the Code; and complainants have an effective, efficient process to address concerns about how Brewers are advertising and marketing their products.

Since the Code of Practice was created, media and advertising have changed considerably and, as a result, the Code has been updated numerous times. For the beer industry to continue its principles and long tradition of self-regulation, industry-wide compliance with the Code remains essential.

In the United States, state and federal law have established a three-tiered beer distribution system; the first tier are beer manufacturers and importers, known as "Brewers" in the Code. The second tier are wholesale distributors, and the third tier are licensed retail establishments. Companies at each tier maintain their commercial independence. Only first tier beer manufacturers and importers are eligible to belong to the Beer Institute whose members pledge to voluntarily abide by the Code as a condition precedent to membership. In addition, the Code states that "The Beer Institute encourages all with whom Brewers do business to adhere to the law, as well as this voluntary Advertising and Marketing Code."

According to the Code, Brewers “employ the perspective of the reasonable adult consumer of legal drinking age in advertising and marketing their products....” The focus of advertising and marketing is with adult consumers who are of legal drinking age.

The Code consists of an introduction; general guidelines; principles; examples; magazine guidelines; television guidelines; radio guidelines; newspaper guidelines; digital media guidelines; and the “Code Compliance Review Process, Review Board and Dissemination.” This last listed section is where the CCRB enters the process.

Each member of the Beer Institute commits to accepting complaints about advertising or market from *any* person or entity. A complaint must allege that such materials are inconsistent with the Code. The complaint must be in writing in a form available on the Beer Institute’s website and must include documentation and supporting data. It will be submitted to the Brewer by the Beer Institute or directly to the Brewer by the complainant. Brewers are encouraged to respond to the complainant within two weeks.

If the complainant is dissatisfied with the Brewer’s response to the complaint, the complainant may request a review of the matter by the CCRB. As shown by the record, in this case the Beer Institute gives both the complainant and the Brewer an opportunity to submit supplemental materials for the CCRB to review.

The review by the CCRB is “de novo,” a legal term which means “new trial” or “from the beginning.” Although these proceedings are not a legal trial, they are administrative or regulatory in nature; and the complainant has the burden of proof by a preponderance of the evidence, or, in lay terms, a burden of “more likely than not.” There are no strict rules of evidence, but fundamental fairness to both sides always prevails.

The CCRB uses principles of statutory and regulatory construction and interpretation when deciding what words mean in the Code. For example, words are understood in their ordinary, everyday meaning; however, if the context indicates otherwise, they may bear a technical sense. This depends on the context of the guidelines or rules. Likewise, another canon of interpretation is that words are given the meaning they had when the text was adopted.

The members of the CCRB are “...individuals with a variety of experience who are independent of the brewing industry. The CCRB reviews complaints...and decides whether such complaints identify advertising or marketing materials that are inconsistent with one or more guidelines of the Code. Once the CCRB issues its decision, the complainant and the Brewer will be notified. The complaint, any Brewer’s response, and the Board’s decision will be posted on the Beer Institute website. If a violation of the Code has occurred, the Brewer is expected to promptly revise its advertising or marketing materials to conform to the CCRB’s decision or withdraw the advertising or marketing materials.”

A majority vote of the CCRB members is required to make a decision of binary choices: violation or no violation. For over a decade the Board has consisted of three members. One member, Rory Davies, is the former Executive Vice President of the National Association of Broadcasters overseeing the broadcast industry’s public service initiatives, including drunk driving and underage drinking, and former National Board member of Mothers Against Drunk Driving. Our second member, Paul Summers, is a former state district attorney general; criminal appeals and senior judge; and Attorney General of Tennessee. He is Chair and board member of The Jason Foundation, Inc., a national nonprofit dedicated to the education and prevention of youth suicide. Our chair, William Cunningham, is a Professor of Marketing at the University of Texas at Austin; former Chancellor of the University of Texas System; and is a board member and advisor to several major corporations.

The sole mission of the CCRB is to examine the marketing/advertising materials that are the subject of a complaint to determine if they violate the Beer Institute's Advertising/Marketing Code and Buying Guidelines. Our findings are outlined below.

### Complaint Summary

December 7, 2023. Initial complaints made to the Beer Institute. The complaints consisted of six separate submissions alleging that BeatBox's advertising on TikTok violated the following sections of the Code: Section 2 on responsible drinking, Section 3 on the 78.3% legal drinking age demographic, Section 5 on lewd or indecent placements, and Section 7 on employing religion in placements.

January 1, 2024. BeatBox agreed to take corrective action by removing the videos in question from TikTok. BeatBox did remove the videos.

January 24, 2024. The complainant submitted a supplemental document to the Beer Institute asking that TikTok and all beer industry members be prohibited from advertising on TikTok. The complaint stated that TikTok was not an appropriate outlet for alcohol advertising because it lacked age-affirmation mechanisms and it did not meet the 73.8% demographic standard required by the Beer Institute's Code.

January 29, 2024 - 10:18 a.m. Mary Jane Saunders sent an email to complainant which states "While your original complaint covered several issues, your supplement focuses on TikTok's audience demographics and whether they meet the standard set for under the Beer Institute Advertising and Marketing Code. Will you please confirm whether your request for CCRB review is limited to this issue. In other words, were BeatBox Beverages responses regarding the other issues raised in original complaint sufficient to satisfy your concerns?"

January 29, 2024 - 1:40 p.m. The complainant responded by indicating "Yes, the only issue I would like the CCRB to review is the TikTok demographic issue and whether TikTok's demographic meets the BI's standard. BeatBox's responses to the remainder of the issues was satisfactory." Section 3(c)(i) of the Code states that advertising and marketing placements "may only be made where the audience for the placement is expected to be at least 73.8% adults of legal drinking age. A placement will comply with this standard if the audience composition data, reviewed before the placement, meets, or exceeds above percentage."

February 17, 2024. Jesse J. Bellam from TikTok sent an email to Art DeCelle, Senior Counsel for BeatBox, stating that "As of this time, we can confirm that (i) according to self-reported data, the percentage of registered TikTok users age 21 and above is over the LDA requirement of 73.8% and (ii) according to third-party reported measurement, all existing campaigns that are part of the alpha test are seeing greater than 73.8% 21+ target demographics in compliance with LDA requirements."

### Conclusion

The CCRB spent a considerable amount of time reviewing the complaint, studying the Beer Institute Advertising/Marketing Code and Buying Guidelines and debating your complaints against BeatBox Beverages. Our conclusions are based on the following facts.


The complaint stated in writing on January 29, 2023 that the only issue the CCRB is being asked to review is "The TikTok's demographic issue and whether Tiktok's demographics meet BI's standards." TikTok-states that "As of this time, we can confirm that (i) according to self-reported data, the percentage of registered TikTok users aged 21 and above is over the LDA requirement of 73.8%, and (ii) according to third-party

reported measurement, all existing campaigns that are part of the alpha test are seeing greater than 73.8% 21+ target demographics in compliance with LDA requirement.”

Section 3(c)(i) of the Code states that a placement “may only be made where the audience for the placement is expected to be at least 73.8% of adults of legal drinking age.” Section 3(c)(i) goes on to say “a placement will comply with this standard if the audience composition data, reviewed before the placement, meets, or exceeds the above percentage.” The CCRB has no information as to whether the composition data that is referenced by TikTok was done prior to the BeatBox advertisements in question. However, we feel it is important to point out that BeatBox was not a member of the Beer Institute at the time it initiated its advertisements on TikTok. Therefore, it would be unreasonable to expect that BeatBox would have reviewed or even known about the Beer Institute’s 73.8% standard and, as a result, the CCRB believes it is unreasonable to hold BeatBox to the prior review standard.

It is the conclusion of the CCRB that BeatBox Beverages is not in violation of the Beer Institute Advertising/Marketing Code and Buying Guidelines. Findings of the Board are final. They will be communicated to BeatBox Beverages. In addition, findings will be publicly available on the Beer Institute’s website and published in the annual report. This correspondence will conclude the complaint and review process.

Sincerely,

A handwritten signature in black ink, appearing to read "W. H. Cunningham". The signature is stylized and written in a cursive-like font.

William H. Cunningham  
Chairman

xc: CCRB Board Members:

Ms. Rory Davies

Mr. Paul Summers