

Beverage Breakdown

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TTB Issues Updated Advisory Regarding the Use of Social Media in the Advertising of Alcohol

What changed from the 2022 version?

In November, the Alcohol and Tobacco Tax and Trade Bureau (TTB) issued an updated advisory that modifies and supersedes TTB Industry Circular 2022-2 regarding the advertisement of alcohol via social media. In general, Industry Circular 2024-1 appears to be an expansion on Industry Circular 2022-2 as opposed to a major deviation, offering examples and attempting to address what were likely a flurry of questions from the industry regarding how to comply with TTB's earlier guidance. As described below, **the use of links** to satisfy the mandatory information requirements was a primary focus of this update.

Although **Industry Circular 2024-1 largely tracks the guidance of Industry Circular 2022-2**, below are the notable revisions:

- In addition to addressing the various forms of social media used in the advertising of alcohol, this circular specifically updates guidance related to satisfying the mandatory advertising requirements **using links** and **link sharing sites**.
 - Circular 2022-2 stated that if TTB allowed the use of a link to a separate webpage to present mandatory information due to space restrictions, ***“the class and type information about specific products advertised on the social media page may still be required on the same page to dispel any misleading information about the product.”***
 - Circular 2024-1 slightly revises this obligation; instead of calling out class and type information specifically, TTB now is looking only for “sufficient” product information to avoid being misleading: ***“[i]f mandatory information is provided via a link on a social media platform, the social media advertisement must still contain sufficient information about the product to ensure that it is not misleading.”***
 - Circular 2024-1 also expands on the general requirement described in the 2022 circular that required advertisers using links to share mandatory information to ensure those links take users directly to the mandatory information. Circular 2024-1 offers an example of what could be considered non-compliant: ***“[t]he link should not require the consumer to take additional steps to view the mandatory information, for example, creating an account or signing in to another social media platform.”***
 - Finally, Circular 2024-1 provides guidance for advertisers using social media platforms that restrict the number of links that can be directly shared that the 2022 circular did not include: ***“a link to a link sharing site or reference landing webpage (for example LinkTree) where the product information link is prominently displayed satisfies the requirement to provide mandatory information.”*** In other words, where both space and the ability to link are restricted, a link to a link may be permissible (and not considered a failure to take the user “directly” to the mandatory information).

- TTB also clarified some of its prior recommendations for advertisers using **media sharing sites** (Instagram, YouTube, etc.), **blogs**, and **Social Media Influencers**:
 - **Media Sharing Sites** – where industry members allow video content to be downloaded or shared, TTB previously “recommended” that mandatory statements be placed both within the industry member’s profile section but also on individual videos. Circular 2024-1 makes this recommendation a bit more forceful, *“mandatory statements should appear on both to ensure it is readily apparent to the person viewing the advertisement.”* If the video ends up on another platform without the mandatory information, or a link to it, it would be non-compliant.
 - **Blogs** – TTB clarified that blogs that exist independently from a website or that are disseminated electronically must contain the mandatory information, adding in Circular 2024-1 that this includes *blogs sent via email.*
 - **Social Media Influencers (SMIs)** – TTB added the following guidance in Circular 2024-1 regarding influencers “tagging” industry members for whom they are advertising, *“[i]f an industry member advertises on an SMI page that restricts the use of external links, a tag to the industry member’s page within that platform, for example using the @ symbol, will satisfy the mandatory information requirement as long as the industry member’s page is compliant.”*

Given that TTB felt issuance of an updated Industry Circular was warranted on this topic, it would be prudent for advertisers to ensure that their current social media advertising practices, specifically their policies around communicating mandatory information and the use of links to do so, are in compliance with applicable laws, regulations, and industry guidance.

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