

July 28, 2016

Kelly Lindell  
Project Manager  
Avid Marketing Group  
100 Corporate Place  
Suite 200  
Rocky Hill, CT 06067  
**VIA E-MAIL**

**RE: Four Loko Lokoween Sweepstakes**

Dear Ms. Lindell:

ISSUE: This correspondence is in response to your e-mail dated July 13, 2016, in which you seek legal review, on behalf of Phusion Projects, LLC, of a sweepstakes promotion to be conducted in Pennsylvania.

According to the official rules you provided, the “Four Loko Lokoween” sweepstakes promotion is scheduled to begin on August 1, and runs until October 1, 2016. Entrants must text the word “LOKOWEEN16” to 55755 and will subsequently be prompted to fill out the required sweepstakes eligibility information. Entrants may also enter the sweepstakes by visiting the Four Loko Facebook page to complete the required online entry form.

One entrant will be randomly selected to receive the grand prize of a trip for two to New Orleans, Louisiana, including airfare, lodging for three days, and two three-day passes to the Voodoo music festival. The approximate retail value of the grand prize is \$3,000.00 and alcoholic beverages are not included in the prize. The sweepstakes is open to residents of legal drinking age and no purchase is necessary to enter.

OPINION: Section 5.32(h) of the Pennsylvania Liquor Control Board’s (“PLCB”) Regulations states that a manufacturer, a manufacturer’s representative, or a licensee may sponsor sweepstakes promotions subject to the following conditions:

- i. No purchase is necessary to enter.
- ii. Entrants shall be twenty-one years of age or older.

- iii. Retail licensed premises may only be involved as pick-up or drop-off points for entry forms and not for the conducting of drawings or the awarding of prizes.
- iv. Alcoholic beverages may not be part of the prize.

40 Pa. Code § 5.32(h).

This office has reviewed the proposed sweepstakes promotion and determined that it comports with applicable liquor laws and regulations, specifically section 493(24)(i) of the Liquor Code, 47 P.S. § 4-493(24)(i), and section 5.32(h) of the PLCB's Regulations, 40 Pa. Code § 5.32(h), and is acceptable for use in this Commonwealth.

Please be advised that prior approval of malt or brewed beverages point-of-sale ("POS") material and retail licensed premises POS material is no longer required. However, the requirement for prior approval of POS material intended for use in the PLCB's Fine Wine and Good Spirits stores from the Bureau of Product Selection remains. The total cost of all POS advertising material relating to any one brand of any one manufacturer at any one time may not exceed \$300.00 on retail licensed premises. 47 P.S. § 4-493(20)(i).

Furthermore, please be advised that to the extent that any part of the trip being awarded as the grand prize will involve sampling, taste testing, or the provision of alcoholic beverages at no additional cost to the winner and/or his or her guest, this would be construed as awarding alcoholic beverages as part of the prize and is not permitted.

Therefore, it is permissible to conduct the proposed sweepstakes promotion in the Commonwealth in reference to the areas checked below:

- retail licensed premises.
- distributor licensed premises.
- both retail and distributor licensed premises.

- the PLCB's Fine Wine and Good Spirits stores,  
subject to approval of the Bureau of Product  
Selection (POS only).
- other – Internet, text messaging.

THIS OPINION APPLIES ONLY TO THE FACTUAL SITUATION DESCRIBED  
HEREIN AND DOES NOT INSULATE THE LICENSEE OR OTHERS FROM  
CONSEQUENCES OF CONDUCT OCCURRING PRIOR TO ITS ISSUANCE.  
THE PROPRIETY OF THE PROPOSED CONDUCT HAS BEEN ADDRESSED  
ONLY UNDER THE LIQUOR CODE AND REGULATIONS. THE LAWS AND  
POLICIES ON WHICH THIS OPINION IS BASED ARE SUBJECT TO CHANGE  
BY THE LEGISLATURE OR THE PENNSYLVANIA LIQUOR CONTROL  
BOARD.

Sincerely,



RODRIGO J. DIAZ  
CHIEF COUNSEL

cc: Pennsylvania State Police, Bureau of Liquor Control Enforcement

LCB Advisory Opinion No. 16-276