August 30, 1999

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Karen K. Manders
Associate General Counsel
ANHEUSER-BUSCH COMPANIES, INC.
One Busch Place
St. Louis, MO 63118-1852

Dear Ms. Manders:

ISSUE: This is in response to your August 3, 1999 letter to this office regarding Golden Tee Golf Machine Promotions. Your employer, Anheuser-Busch, is considering paying the sponsorship fee to Golden Tee, a golf machine promoter, to purchase advertising on electronic video golf machines nationwide.

According to your letter, Golden Tee sells advertising packages to a wide variety of sponsors for use on its Golden Tee golf machines. Approximately 3,500 machines are already in retail accounts and are interactive (via a modem) which allows competition among players nationwide. Anheuser-Busch, through its Michelob brand, wishes to advertise on these machines. The advertisements would consist of a brief message on the LED boards on top of the units, which would make reference to Michelob. In addition, the non-use default screen would be a Michelob ad. The score card, banners, leader board, etc., would include Michelob advertising. In addition, Michelob advertising would be included as part of interactive nationwide tournaments and Michelob-branded merchandise would be awarded to winners of these tournaments. Those prizes would be mailed by Golden Tee to residences of the winners.

These individual golf machines have been placed in retail accounts by independent video game distributors who typically split the per game fee with the retailer. Anheuser-Busch's sponsorships fee would be paid to Golden Tee (the trademark owner and nationwide operator). Golden Tee is not a retailer and none of the sponsorship fees will be passed on to any licensed retailer. While you believe that this type of advertising is permissible point of sale, you request our approval in that it is a new form of electronic advertising.

OPINION: To the extent that Michelob would be advertising on golf machines that are located on retail licensed premises, such advertising would be considered point-of-sale advertising. Therefore, the limits for the value for the point of sale advertising in each individual retail account would be $300.00 per brand. [47 P.S. Section 4-493(20)(i)]. Copies of the actual advertisements and their approximate value should be forwarded to Malt Beverage Compliance for individual approval.

In your letter, you mention that Golden Tee plans on having interactive nationwide tournaments and awarding beer-branded merchandise to winners. Please note that events, tournaments, or contests on licensed premises and the awarding of prizes for those contests are generally not permissible. [40 Pa. Code Section 5.32]. While an exception to this prohibition would allow these machines to be used by retail licensees for self-sponsored contests, these machines could not be a part of an event, tournament, or contest sponsored by a third party unless the contest fell under one of the other exceptions set forth in section 5.32 of the Board's regulations. Thus, before retail licensees engage in any contests involving these machines, they should contact this office to ascertain whether such use is permissible.

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.

Very truly yours,

FAITH S. DIEHL
Chief Counsel

c.c. Pennsylvania State Police
Bureau of Liquor Control Enforcement

LCB Advisory Opinion No. 99-302