

Navigating the Re-Entry of Live Events

The alcoholic beverage industry has traditionally been one of the most active live-event sponsors. Whether it be sporting events, music festivals or sponsored brand-experience events, alcohol brands gravitate towards live events because they offer the opportunity to build a brand and sell an experience.

Event marketing had to shut down virtually overnight due to the COVID-19 pandemic, stemming the flow of advertising dollars from alcohol brands. Though the omicron variant has created a new obstacle to a full reopening, this has not stopped the return of live events.

For those working with alcohol brands on live-event sponsorships, keep in mind the following:

1. Pick the Right Event

One of the most important rules for alcohol marketing is that brands cannot do anything that is likely to appeal primarily to children. Advertising materials should only appear in media where 71.6% of viewers are 21 years of age or older, and brands should only sponsor events that they anticipate will be attended by people who meet this demographic criteria.

2. Pour One Out for Pouring Rights

Alcohol brands cannot induce a retail licensee to carry their products or prohibit a retail licensee from carrying another brand's products. Although in event sponsorship agreements there is often a desire to require events to serve the sponsor's product — in event sponsorship agreements, doing so is strictly forbidden and could lead to significant liability.

For example, in 2020, the U.S. Alcohol and Tobacco Tax and Trade Bureau (TTB) reached a \$5 million settlement with Anheuser-Busch — which owns Budweiser, Michelob and Stella Artois, among many others — over its sponsorship agreements. In particular, the TTB alleged that Anheuser-Busch was including provisions in sponsorship agreements that required venues to stock its products and prohibited venues from stocking its competitors' products.

3. Know Who You're Dealing With

Alcohol brands are prohibited from giving anything of value to anyone holding a license to serve alcohol. This means that alcohol brands cannot typically enter into agreements with anyone who holds a "concessionaire's" license — a license to serve drinks to attendees at an event. This is the case whether the brand contracts directly, or does so through an intermediary like an advertising agency. Alcohol brands that sponsor live events must therefore ensure that the party with whom they are contracting is not a licensed entity.



Event promoters usually contract out concessions to a third-party vendor so that they are free to contract with alcohol companies. Although some stadiums also contract out their concessions, some prefer to maintain control of concessions and hold liquor licenses themselves. Whether alcohol brands can enter into agreements with such venues will depend on the specific state's law and whether any exception applies for stadiums or similar large venues.

4. Samples Aren't Simple

Alcohol brands are not typically permitted to serve drinks to consumers. But, as we've already discussed, they also are not allowed to give anything to a retail licensee. So, how do brands get drinks into the hands of consumers?

The answer varies by state. Most states permit brands to conduct sampling events. However, these sampling events are often restricted to certain types of premises (e.g., liquor stores versus bars or restaurants), and brands are typically limited in the quantities that they can serve, with distilled spirits often limited to ¼ ounce pours. Only a few states permit brands to conduct full-scale brand experience events where alcohol is served, and these states have limitations on how the event can be advertised and how much a brand can spend on the event.

5. Merchandising, Merchandising, Merchandising

A key appeal of live events is the ability to hand out branded merchandise like beer koozies and hats to consumers. Although most states permit alcohol brands to give out merchandise to consumers, the extent of this permission will depend on the state. Some states limit the value of the merchandise. For example, California limits merchandise to \$5 per item for distilled spirits brands, \$1 per item for wine brands and \$3 for beer brands. States also have different rules regarding what types of items can be provided and whether the item can be distributed through a retail licensee.

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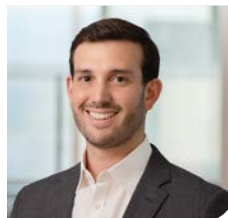


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