

*The*  
HOSPITALITY LAW  
CONFERENCE

Crypto, NFT's, and Alcohol in the  
Metaverse

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- Seasoned alcohol attorney representing suppliers, wholesalers, retailers, and third party companies
- Counselor to software developers, marketing companies, and digital platforms operating within the three tier system
- Practice in federal and state courts as well as before federal, state, and local administrative agencies

# Industry Members Living in Web 3

## Is the Metaverse just another platform for product advertising?

- Bars in Decentraland
- Virtual parties and experiences
- Product Education, *e.g.*, a virtual distillery
- NFT sales as art
- Sweepstakes to win merchandise and NFT's
- Payment in Cryptocurrency



Molson Coors Press Release, PRNewswire, February 2, 2022

# Industry Members Living in Web 3 Or, is the Metaverse Really a New Storefront?

- Digital Marketplace Chute to Real World Sale
- NFT sales as art or merchandise (Step 1)
- NFT sales as exchange for product (Possible Step 2)
- Auctions
- Person to Person transactions and gifts
- Payment in Cryptocurrency

# Hanging Out in the Metaverse

- Intersection of Social Media, Gaming, Augmented Reality, Virtual Reality, and Cryptocurrency
- A new way to reach a new generation of digital savvy consumers who do not engage in traditional media on a significant level
- Meet Florence, a digital brand ambassador



Just Drinks,  
September 12, 2022



# Unresolved (But Familiar) Legal Issues

- Talking to an LDA audience: lessons from Web 1 and Web 2
- Advertising rules/Mandatory Statements
- Tied House
- Conflict between Alcohol laws and Gaming laws
- Unlicensed Sales of Alcoholic Beverages: More lessons from Web 1 and Web 2

# Selling Alcohol in the Metaverse

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- Simple facilitation or referral, vs:
- Converting an NFT purchase to a “real” purchase of an alcoholic beverage
- Brands “mint” NFT’s tied to specific product -→ Consumer buys NFT and holds it -- → Consumer converts or “burns” the NFT into a specific alcohol beverage product-- → third party (e.g. BlockBar, OpenSea, BarrelFinance) facilitates delivery of product to consumer
- Appeal is to the high-end, limited edition market

## TTB Guidance – Labeling FAQ's ([www.ttb.gov/faqs/alcohol](http://www.ttb.gov/faqs/alcohol))

### AD1: Are branded digital media items distributed by industry members subject to advertising regulations under the FAA?

The advertising provisions of the Federal Alcohol Administration Act (FAA Act), [27 U.S.C. 205\(f\)](#), generally cover a regulated industry member's publication or dissemination of any advertisement that is in, or is calculated to induce sales in, interstate or foreign commerce, or is disseminated by mail. The regulations apply to advertisements in any media, including the internet or any other electronic site or social network. See 27 CFR [4.61](#), [5.232](#), and [7.232](#). Thus, advertisements that include digital content are subject to the provisions of the FAA Act.

Branded digital media items (such as digital works of art or other images or written materials) that are published or disseminated through electronic media, *including items associated with transfers of non-fungible tokens (NFTs)*, may be subject to TTB's advertising regulations, assuming all of the elements of the statute are met. If the advertisements are electronic forms of consumer specialty items (a term that traditionally includes consumer items such as t-shirts and refrigerator magnets), the only mandatory information necessary is the company name of the responsible advertiser or the brand name of the product. See 27 CFR [4.62\(c\)\(2\)](#), [5.233\(e\)\(2\)](#), and [7.233\(c\)\(2\)](#). These advertisements may not include statements or representations that violate the prohibited practices regulations for advertisements. See 27 CFR [4.64](#), [5.235](#), and [7.235](#).

[www.ttb.gov/faqs/alcohol](http://www.ttb.gov/faqs/alcohol)





## TTB – cont'd

- Industry Circular 2022-2 (Mostly Web 2, but includes Augmented Reality and Social Influencers)
- Are “Florence” and her colleagues the new digital influencers?

## DISCUS GUIDELINES

- Do the avatars and other cartoonish features of the Metaverse appeal to children? (Responsible Content Provisions)
- Industry Members’ Ability to Monitor User-Generated Content (Responsible Digital Marketing Guidelines)



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WE APPRECIATE YOUR  
TIME AND ATTENTION!

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Thank you!