NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

RUBIN, SECRETARY OF THE TREASURY *v.* COORS BREWING CO.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

No. 93–1631. Argued November 30, 1994—Decided April 19, 1995

Because §5(e)(2) of the Federal Alcohol Administration Act (FAAA or Act) prohibits beer labels from displaying alcohol content, the federal Bureau of Alcohol, Tobacco and Firearms (BATF) rejected respondent brewer's application for approval of proposed labels that disclosed such content. Respondent filed suit for relief on the ground that the relevant provisions of the Act violated the First Amendment's protection of commercial speech. The Government argued that the labeling ban was necessary to suppress the threat of ``strength wars'' among brewers, who, without the regulation, would seek to compete in the marketplace based on the potency of their beer. The District Court invalidated the labeling ban, and the Court of Appeals affirmed. Although the latter court found that the Government's interest in suppressing ``strength wars'' was ``substantial'' under the test set out in *Central Hudson Gas & Electric Corp.* v. *Public Serv. Comm'n of N. Y.,* 447 U. S. 557, the court held that the ban violates the First Amendment because it fails to advance that interest in a direct and material way.

Held: Section 5(e)(2) violates the First Amendment's protection of commercial speech. Pp. 3–15.

(a) In scrutinizing a regulation of commercial speech that concerns lawful activity and is not misleading, a court must consider whether the governmental interest asserted to support the regulation is ``substantial.'' If that is the case, the court must also determine whether the regulation directly advances the asserted interest and is no more extensive than is necessary to serve that interest. *Central Hudson, supra,* at 566.

Here, respondent seeks to disclose only truthful, verifiable, and nonmisleading factual information concerning alcohol content. Pp. 3–6.

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(b) The interest in curbing ``strength wars'' is sufficiently ``substantial'' to satisfy *Central Hudson.* The Government has a significant interest in protecting the health, safety, and welfare of its citizens by preventing brewers from competing on the basis of alcohol strength, which could lead to greater alcoholism and its attendant social costs. Cf. *Posadas de Puerto Rico Associates* v. *Tourism Co. of Puerto Rico,* 478 U. S. 328, 341. There is no reason to think that strength wars, if they were to occur, would not produce the type of social harm that the Government hopes to prevent. However, the additional asserted interest in ``facilitat[ing]'' state efforts to regulate alcohol under the Twenty-first Amendment is not sufficiently substantial to meet *Central Hudson*'s requirement. Even if the Government possessed the authority to facilitate state powers, the Government has offered nothing to suggest that States are in need of federal assistance in this regard. *United States* v. *Edge Broadcasting Co.,* ___ U. S. ___, ___, distinguished. Pp. 7–9.

(c) Section 205(e)(2) fails *Central Hudson*'s requirement that the measure directly advance the asserted government interest. The labeling ban cannot be said to advance the governmental interest in suppressing strength wars because other provisions of the FAAA and implementing regulations prevent §205(e)(2) from furthering that interest in a direct and material fashion. Although beer advertising would seem to constitute a more influential weapon in any strength war than labels, the BATF regulations governing such advertising prohibit statements of alcohol content only in States that affirmatively ban such advertisements. Government regulations also permit the identification of certain beers with high alcohol content as ``malt liquors,'' and they require disclosure of content on the labels of wines and spirits. There is little chance that §205(e)(2) can directly and materially advance its aim, while other provisions of the same Act directly undermine and counteract its effects. Pp. 9–13.

(d) Section 205(e)(2) is more extensive than necessary, since available alternatives to the labeling ban—including directly limiting the alcohol content of beers, prohibiting marketing efforts emphasizing high alcohol strength, and limiting the ban to malt liquors, the segment of the beer market that allegedly is threatened with a strength war—would prove less intrusive to the First Amendment's protections for commercial speech. Pp. 14–15.

2 F. 3d 355, affirmed.

THOMAS, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and O'CONNOR, SCALIA, KENNEDY, SOUTER, GINSBURG, and BREYER, JJ., joined. STEVENS, J., filed an opinion concurring in

the judgment.