

**MINISTRY OF JUSTICE
LIQUOR DISTRIBUTION BRANCH
BRIEFING NOTE**

PURPOSE: For INFORMATION for the Honourable Suzanne Anton, Minister

ISSUE: Minimum Wholesale Prices

SUMMARY:

- On April 1, 2015, the new wholesale pricing model came into effect. Under the previous model, the LDB was responsible for setting minimum retail prices. Today, this is the LCLB's responsibility and the LDB is now responsible for setting minimum wholesale prices.
- It is necessary to implement minimum wholesale prices to ensure that the LDB continues to meet its target revenue each fiscal year.
- The LDB has come up with recommended minimum wholesale prices. These have been calculated by adjusting the minimum retail prices that applied pre-April 2015 to a wholesale price amount. These amounts are equal to the pre-April 2015 minimum retail prices less 16 percent, with an exception for wine > 10 litres.
 - The recommended minimum wholesale price for wine > 10 litres is not equal to the pre-April 2015 minimum retail price less 16 percent. This is because prior to April 1, there were two separate minimum prices – one for wine > 10 litres, and one for wine < 10 litres. The LDB's recommendation is to have only one minimum price apply to wine (based on the minimum retail price of wine < 10 litres) to remain consistent with the new wholesale mark-up model that does not differentiate these products.
- The minimum wholesale prices will have a very minimal impact on volume and sales.
- The minimum wholesale prices will also have a very minimal impact on stakeholders, as the recommendations are in line with the pre-April 2015 minimum pricing and are based on the same structure as the new wholesale pricing model and pricing policies.
- Suppliers will be unlikely to react as there is no apparent change.
- The minimum wholesale prices are necessary:
 - to protect the LDB's revenue and its wholesale liquor contribution to the province of BC; and
 - to set a common basis for a stable wholesale price on sale to BC retailers.

BACKGROUND:

Minimum Retail Prices before April 1, 2015

- Before April 1, 2015, the LDB had minimum retail prices in place for liquor products sold at BC Liquor Stores (BCLSs).
- The table below summarizes the minimum retail prices previously in place for BCLSs and it's less 16 percent equivalent:

Product Category	Min. Retail Price (Excluding Tax) for BCLS	Min. Retail Price (excluding Tax) less 16%
Spirit	\$ 27.53/Litre	\$ 23.13/Litre
Liqueur	\$ 14.05/Litre	\$ 11.80/Litre
Wine <10 Litre	\$ 6.26/Litre	\$ 5.26/Litre
Wine >10 Litre	\$ 5.60/Litre	N/A
Refreshment (Packaged)	\$ 2.61/Litre	\$ 2.19/Litre
Cider (Draught)	\$ 2.13/Litre	N/A
Beer (Packaged)	\$ 3.05/Litre	\$ 2.59/Litre
Beer (Draught)	\$ 1.93/Litre	N/A
Beer (Pipeline)	Not applied in LDB's Pricing system today	Not applied in LDB's Pricing system today

Recommendations for Minimum Wholesale Prices

- Today, all retailers (including BCLSs) pay the same wholesale price to the LDB, which is approximately equal to the pre-April 2015 minimum retail prices less 16 percent.
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- The recommended minimum wholesale prices are approximately equal to the pre-April 2015 minimum retail prices less 16 percent and rounded up to the nearest nickel, as follows:

Product Category		Recommended Minimum Wholesale Price (per litre)
Spirits	Spirits	\$23.15
	Spirits - Liqueurs	\$11.80
Wine	Wine < 10 litres	\$5.30
	Wine > 10 litres*	\$5.30
Refreshments		\$2.20

Beer	Beer – Packaged	\$2.60
	Beer – Draught	\$1.95

* Prior to April 1 there were two separate minimum prices – one for wine > 10 litres and one for wine < 10 litres. It is recommended that only one minimum price apply to wine to remain consistent with the new wholesale mark-up model. There is no known business reason for keeping separate minimum prices and it has been assumed that there is no longer a valid reason for it.

Impact

- The recommended minimum wholesale prices will have a very minimal impact on volume and sales. LRSs will pay roughly the same amount as they paid pre-April 2015. The impact on independent wine stores and rural agency stores will be minimal as well.
- There will be a no impact on the top selling SKUs by volume and sales.
- There will be a very minimal impact on stakeholders, as the recommendations are in line with the pre-April 2015 minimum pricing and are based on the same structure as the new wholesale pricing model and pricing policies.
- This does not place any new pricing requirements on supplier's products across virtually all SKUs.
- Suppliers will be unlikely to react as there is no apparent change.
 - 95 out of approximately 30,000 active, registered active SKUs will be impacted, i.e. their prices need to be increased to meet the recommended minimum wholesale prices.
 - 84 percent of these 95 SKUs (80 SKUs) will be impacted for the following reasons:
 - a result of the move to the wholesale pricing model whereby the cost of service, volume mark-up, minimum mark-up and incremental packaging pricing were eliminated and slightly decreasing the wholesale price from pre-April 1 prices (41 SKUs); or
 - SKUs that would have been below the minimum retail price prior to April 1 and the LDB would have increased their price regardless (39 SKUs).
 - The reasons for the expected impact to the remaining 15 SKUs are:
 - Move to one common minimum wholesale price for the wine category causing >10L wines to fall below the minimum wholesale price (12 SKUs);
 - Decrease in supplier price (3 SKUs);

- Excluding products that were already falling below the minimum price pre- April 1 (and wine >10 litres) the largest impacts for each product categories are:
 - \$0.41/L for wine, \$0.14/L for a BC wine
 - \$0.68/L for spirits, \$0.68/L for a spirit with BC connections
 - \$0.64/L for beer; \$0.09/L for a BC beer
- The typical impacts range from \$0.04/L to \$0.15/L for impacted SKUs
- Of the products falling below minimum price, many are marketed as low cost products and priced at the exact minimum. The LDB anticipates that the supplier will adapt accordingly in these instances without issue.

OTHER MINISTRIES IMPACTED/CONSULTED:

- N/A

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**MINISTRY OF JUSTICE
LIQUOR DISTRIBUTION BRANCH/LIQUOR CONTROL AND LICENSING BRANCH
BRIEFING NOTE**

PURPOSE: For INFORMATION for the Honourable Suzanne Anton, the Honourable Todd Stone, the Honourable Steve Thomson, the Honourable Dr. Terry Lake, the Honourable Norm Letnick, and Lori Wanamaker, Deputy Solicitor General.

ISSUE: Lawyer Dennis Coates with Kamloops law firm MJB Lawyers will present a number of concerns expressed by the BC Private Liquor Store Association regarding the retail marketplace for liquor.

SUMMARY:

- Dennis Coates appears to be advocating the positions of the BC Private Liquor Store Association, which laid out their position on six issues in a letter to Lorne Mayencourt dated March 12, 2015. Coates included that letter in his correspondence of April 10, 2015.
- Mr. Coates also identifies two additional issues that he would like to discuss.

BACKGROUND:

- Dennis Coates is a senior associate with the law firm MJB Lawyers and for many decades has specialized in issues related to the hospitality industry, and liquor regulation and policy.
- The British Columbia Private Liquor Store Association represents the interests of Licensee Retail Stores (LRS). Their membership is unknown but believed to number several hundred.

Issues raised by Dennis Coates:

- 1) LRS's are not permitted to sell to Special Occasion Licensees (SOL) or to the hospitality industry.

Reply:

- There are no plans at this time to permit the hospitality industry or SOL holders to purchase their liquor from private liquor stores – this is a matter of Government revenue.
 - Hospitality customers and SOL holders pay retail for the liquor they purchase. The LDB generates revenue from the wholesale sale and the retail margin.
- 2) The LDB should report its wholesale and retail division financials separately so government can properly evaluate the return on investment in BCLS's.

Reply:

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- 3) There does not appear to be any 'real' division between the LDB's wholesale and retail operations when it was understood this would be the case.

Reply:

- The LDB is separating its wholesale and retail divisions – operationally and physically.
 - Staff have been re-assigned and wholesale division staff have been moved to a separate building.
 - Employees in the newly created Merchandising Department for BCLS will not have access to any more wholesale information than any other retailer.
 - They will have orders filled and have product delivered like all other retailers.
 - All retailers are on an equal footing when it comes to access to product.
- 4) There needs to be transparency to prevent the continuing hoarding of inventory by the LDB to supply BCLS's.

Reply:

- The assertion that the LDB 'hoards' product to supply BCLS's and prevents others from having access is untrue.
 - There are a number of rumours that have reinforced the belief LDB hoards product. For example, an email written by a sales rep to a retailer alleged that the LDB was preventing access to their particular iced tea product. The information in the email was false and the LDB received an apology from the manufacturer for the behaviour of their employee.
 - The LDB does not engage in manipulations that harm the private sector. However, LDB continues to hear concerns that this is the case and is continually working to provide assurance to the industry on this issue.
 - LDB has engaged an independent auditor to confirm the ordering system does not permit government stores to receive special treatment (IT System is blind to who places an order).
- 5) The LDB has publicly announced they will create exclusive listings for the LDB – either both public and private can do it, or neither.

Reply:

- The supplier or agent can designate whomever they wish as the exclusive retailer of their product.

- Prior to the wholesale pricing model being introduced it was only private sector retailers who had product that was exclusively earmarked for them (Spec products). These were products that BC Liquor Stores would not carry.
 - Under wholesale pricing, suppliers and agents can choose any retailer, or group of retailers, to exclusively sell their product – including BC Liquor Stores.
- 6) RAS's should be transferred to the LCLB and the 10 km rule should be applied to new and existing RAS's – there are many RAS's operating in an urban environment within 10 km of a LRS.

Reply:

- 221 RAS's operate across the province.
- The plan is to integrate RAS's into the LCLB licensing regime and the criteria for the issuance of RAS's will be determined as part of that process.
- In regard to RAS's operating within 10 km of a LRS, some RAS's may have been established when the distance criteria was different or some LRS's may have moved within 10 km of a RAS.

Concerns of BC Private Liquor Store Association: (letter to Lorne Mayencourt, May 12)

- 1) Separation of LDB Wholesale and Retail:
 - See issue 3 above
- 2) Constrain growth in the LDB:
 - There are 670 private liquor stores and 221 rural agency stores in BC, while there are 196 BCLS's.
 - The Province believes BC's hybrid public/private model is working and we have the right balance to serve communities and customers.
 - There have been a number of policy decisions taken to ensure the marketplace remains stable – the most significant of which is the moratorium on new licenses and the extension of the 1 km rule to include BCLS's.
 - As a retailer BCLS's should be in a position to meet consumer expectations – including evening hours of operation and Sunday openings.
- 3) Allow all retailers to get co-op support from suppliers:
 - In BC, and virtually all other jurisdictions in North America, there are restrictions on the commercial relations between liquor suppliers and licensed establishments including private liquor stores.
 - Generally speaking, suppliers are not permitted to provide free product, pay for advertising or otherwise provide money or gifts beyond a nominal value. Some exceptions are made for goods that flow through to consumers, e.g. prizes.
 - The industry position on this matter is polarized.
 - Licensed establishments tend to favour being able to ask for and accept goods and services from liquor suppliers. However, even within this sector there is

concern from smaller businesses that most of the benefits would go to larger volume accounts such as chain restaurants and liquor stores thus providing them with a competitive advantage.

- Liquor suppliers are strongly opposed to de-regulation in this area as they do not wish to be in a position of having to make payments to obtain and maintain licensee accounts. Smaller producers such as BC-based wineries, breweries and distilleries are concerned that their market access would become limited due to exclusivity arrangements made between larger suppliers and licensees.
- The legal restrictions are in place largely to enable this market access by smaller suppliers and to prevent industry consolidation that may limit consumer choice.
- Government extensively reviewed this matter in 2011/12 and decided to make only minor changes to the policies in early 2013. In addition, representations on this matter were made to Parliamentary Secretary John Yap during his liquor review later in 2013 and he did not make any recommendations to amend government policy in this area.

TASTE magazine:

- The Liquor Control and Licensing Branch regulations regarding commercial relations between liquor retailers and liquor suppliers do not actually apply to the LDB and the BCLS retail chain. However, the LDB has always been in compliance with these regulations, with one limited exception – TASTE magazine, which solicits advertising from liquor manufacturers (something LRS's cannot do).
- TASTE magazine has been published by the LDB's Marketing Department quarterly for the last 15 years and provided free of charge. The magazine is produced on a break-even basis – the cost of production is covered by the revenue from industry advertisers.
- The magazine is not a revenue stream for the LDB.
- It is a high-quality publication that includes articles on alcohol industry trends and products, remarkable people in the industry from around the world, a focus on BC products and producers, a collection of recipes, along with the industry advertisements.
- TASTE serves to educate the consumer and as such is a benefit to the industry as a whole, not just BC Liquor Stores (there is a private sector industry magazine with a similar focus that is distributed in many private liquor stores).
- With respect to advertising in TASTE leading to an end-cap display in BCLS's, there is in fact no direct quid pro quo. Suppliers apply for display space in BCLS's and are assessed based on their marketing efforts, which may include an ad in TASTE. However, there are many products prominently displayed that are not advertised in the magazine.
- TASTE magazine is a very limited, contained and focussed use of industry advertising by the public retailer.
- Terminating publication would quite likely lead to significant opposition from a number of industry sectors, including small BC producers.

- 4) Allow private sector to supply product to licensees:
 - See point 1 for Coates
- 5) Allow LRS's to sell and supply SOL customers:
 - See point 1 for Coates
- 6) Wine on grocery store shelves – subject to the same rules as all other retailers

Reply

- The VQA wine store model has been different since its inception.
- The stores operated by the BC Wine Institute are best thought of as extensions of the wineries' manufacturer's on-site stores, therefore the winery does not receive payment until the wine is sold.
- The commission received by the retailer is a private arrangement between the BCWI, the wineries and the third-party operator.
- In regard to the limited number of new wine store licences for the sale of 100% BC wine on grocery store shelves it is expected they will operate under all the same policies as LRS stores.

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