

MINISTRY OF SMALL BUSINESS AND RED TAPE REDUCTION
AND MINISTER RESPONSIBLE FOR THE LIQUOR DISTRIBUTION BRANCH
INFORMATION NOTE

Cliff #: 37069

Date: September 29, 2015

PREPARED FOR: Hon. Coralee Oakes, Minister of Small Business and Red Tape Reduction and the Minister Responsible for Liquor Distribution Branch

ISSUE: Termination of Container Services Agreement between Liquor Distribution Branch (LDB) and Brewers Distributor Ltd. (BDL)

BACKGROUND:

The LDB signed a Container Services Agreement ("Agreement") with BDL on July 10, 2009, defining BDL's relationship with the LDB for responsibilities under the BC Recycling Regulation. The Agreement established the handling fees that BDL would pay the LDB for empty beverage alcohol containers (refillable bottles and aluminium cans) collected at BC Liquor Stores on behalf of BDL. These fees have remained static since July 10, 2009. Approximately 15% of all BDL-related containers returned in BC are brought back through BC Liquor Stores. The remainder are returned through other retailers and depots.

The LDB provided notice to BDL on October 16, 2013 that it would be conducting a cost study with the intent of modifying the handling fees for beverage containers under the Agreement in order to reflect increasing costs to the LDB.

The third-party cost study was completed in early 2014. Using Fiscal 2012/13 as a baseline, total costs to manage BDL-related containers were estimated to be \$17.5. By comparison, \$17.21, leaving a shortfall of \$0.29, which was covered by the LDB in order to keep the container-return program running.

Following an amendment to the BC Recycling Regulation, as of May 19, 2014, BDL is now also responsible for packaging associated with their beverage alcohol containers. The LDB has been in discussion with BDL on this subject since December 14, 2012. It is the LDB's position that BC Liquor Stores collect both containers and packaging and that the modified handling fees should reflect this. The Ministry of Environment has yet to approve BDL's Stewardship Plan for packaging, due to the ongoing dispute with the LDB.

The LDB is mindful that the Ministry of Environment would like to see all outstanding issues relating to BDL's Stewardship Plan resolved by the end of 2015 so, in

consultation with Ministry of Environment staff, the LDB has taken the steps necessary to resolve the dispute as soon as possible, as outlined in this briefing note.

DISCUSSION:

Pursuant to the Agreement, LDB has made considerable effort to establish increased handling fees and come to an amicable resolution in good faith. For example:

- On July 9, 2014, the LDB presented BDL with the basis for fair compensation of container handling costs based on the third-party study;
- On October 1, 2014, the LDB presented the methodology used in the third-party study to BDL;
- After hearing the BDL's concerns with some of the assumptions of that study, on December 10, 2014, the LDB s.17,s.21
s.17,s.21 – equivalent to BDL paying the LDB s.17,s.2 per year instead of s.17,s. ; and
- On December 10, 2014, the LDB presented a proposed amendment to a Container Services Agreement and Memorandum of Understanding which covers the basis of future compensation for the collection of BDL packaging by LDB.

On May 20, 2015, BDL responded with their first counter-offer, presenting handling fees equivalent to only s.17,s.2 per year – leaving a shortfall of s.17 annually. The LDB does not believe that this is equitable as it unfairly burdens the LDB with BDL's legal responsibility – contrary to the intent of the BC Recycling Regulation. Since then, both parties have sent letters back and forth explaining their positions and have remained at an impasse.

Given the ongoing, lengthy dispute between the two parties, it is obvious that the Agreement, in its current form, is not satisfactory. As such, the LDB will be sending BDL a Notice of Termination. The intent of the notice is not to end the relationship between the two parties. Rather, the LDB intends to continue to work with BDL to come to a resolution on fair compensation for the handling of empty alcohol beverage containers as well as the associated packaging by the LDB in order to form the basis of the terms of a new agreement.

NEXT STEPS:

The LDB will be sending BDL a Notice of Termination, as well as a letter providing context for the Notice of Termination, in order to re-open negotiations. The LDB will be sending these two letters out today as BDL must receive them by the end of the month (i.e. by the end of tomorrow).

The LDB has invited BDL representatives and analysts to meet with LDB representatives and the third-party authors of the LDB's container handling study to

review its calculations and assumptions in more detail and address any outstanding concerns BDL may still have.

In the event that the parties are not able to agree on fair handling fees and thus establish the foundation of a new agreement by October 31st, the LDB has recommended that the parties commence arbitration proceedings.

APPENDICES:

Appendix A: Notice of Termination sent to BDL by the LDB

Appendix B: Letter sent to BDL to provide context for Notice of Termination

Contact: Roger M. Bissoondatt, Chief Financial Officer, Liquor Distribution Branch
Telephone: 604 252-3151 Cell: 604 803 8394

Reviewed by				
Dir: AW	ED: MP	GM/CEO: BL	DM: TM	MIN:

Appendix A
Notice of Termination sent to BDL by the LDB

September 29, 2015

SENT BY COURIER

Brewers Distributor Ltd.
1106-750 West Pender Street,
Vancouver, B.C.
V6C 2T8

Attention: Contracts Manager

Dear Contracts Manager:

Re: Container Services Agreement between Brewers Distributor Ltd. and Her Majesty the Queen in Right of the Province of British Columbia, as represented by the BC Liquor Distribution Branch dated 10th day of July 2009 (the "Agreement")

This is notice of termination under section 6.1 of the Agreement. Accordingly, the Agreement will expire at the end of the current Renewal Term on March 31, 2016.

Sincerely,

Roger Bissoondatt
Chief Financial Officer
BC Liquor Distribution Branch

Cc: Mr. Mike Allen, Brewers Distributor Ltd.
Email: Mike.Allen@bdl.ca

Appendix B
Letter sent to BDL to provide context for Notice of Termination

September 29, 2015

SENT VIA EMAIL TO
Mike.Allen@bdl.ca

Mr. Mike Allen
General Manager Operations
Brewers Distributor Ltd.
11500 – 29th Street S.E.
Calgary, Alberta T2Z 3W9

Dear Mr. Allen:

Re: Container Services Agreement - Context for Notice of Termination

By separate cover you have been provided with a copy of notice of termination of the current Container Services Agreement between the Liquor Distribution Branch (LDB) and Brewers Distributor Ltd. (BDL). As the effect of the notice is that the Container Services Agreement will not be renewed, it will expire on March 31, 2016.

By way of explanation, the intent of the notice is not to end the relationship between the two parties with respect to the handling of empty beverage containers and their associated packaging. Instead, LDB is hopeful that the relationship will continue but given all the difficulties that the parties have encountered with interpretation of the current contract language and the ongoing, lengthy dispute between the two parties regarding container handling fees and associated packaging, it is obvious that the agreement, in its current form, is not satisfactory for either party.

LDB intends to continue to work with BDL to come to a resolution on fair compensation for the handling of empty alcohol beverage containers as well as the associated packaging by LDB in order to form the basis of the terms of a new agreement. Accordingly, LDB invites BDL representatives and analysts to meet as soon as possible with LDB representatives and the third-party authors of LDB's container handling study to review its calculations and assumptions in more detail. LDB understands that, despite efforts made by LDB to transparently share information, BDL still has concerns. LDB is confident that once BDL fully understands the methodology and process applied for its calculations the parties will be able to agree on fair handling fees.

In addition, LDB is mindful that the Ministry of Environment would like to see all outstanding issues relating to BDL's Stewardship Plans resolved as soon as possible. LDB believes the steps outlined in this letter will assist BDL in reaching that desired outcome.

In the event that the parties are not able to agree on fair handling fees and thus establish the foundation of a new agreement by October 31st, it is LDB's position that the only possible next step is for the parties to proceed to arbitration.

Given the timeframes of both the Ministry of Environment and the impending expiry of the current Container Services Agreement, although LDB anticipates that the parties can agree on fair handling fees, given the protracted nature of the dispute to date, LDB suggests that work on setting up arbitration for later in November must be undertaken concurrently. In preparation for this, LDB would like the contact information for a representative at BDL that can begin work with LDB to establish the terms of arbitration.

Regards,

Roger M. Bissoondatt
Chief Financial Officer

Cc: Mr. Cameron Lewis, BC Ministry of Environment
Email: Cameron.Lewis@gov.bc.ca
Ms. Meegan Armstrong, BC Ministry of Environment
Email: Meegan.Armstrong@gov.bc.ca
Mr. Bob MacDonald, BC Ministry of Environment
Email: Bob.McDonald@gov.bc.ca
Mr. Mike Procopio, Liquor Distribution Branch
Email: Michael.Procopio@bcldb.com
Mr. David McPhie, Liquor Distribution Branch
Email: David.McPhie@bcldb.com

MINISTRY OF SMALL BUSINESS AND RED TAPE REDUCTION
AND MINISTER RESPONSIBLE FOR THE LIQUOR DISTRIBUTION BRANCH
INFORMATION NOTE

Cliff #:37045

Date: October 1, 2015

PREPARED FOR: Minister Coralee Oakes

ISSUE: Request from B.C. Alliance for Smart Liquor Retail Choices to impose 6-month moratorium on issuing approvals for wine-in-grocery

BACKGROUND:

The B.C. Alliance for Smart Liquor Retail Choices is a newly formed lobby group comprised of ABLE, the Private Liquor Store Association, and Terroir BC (which represents around 60+ small to medium sized wineries).

The group has requested that government impose a 6-month moratorium on approvals for wine-in-grocery.

They argue that wine sales in grocery will be bad for small and medium sized because:

- Grocery stores prefer to stock wines from manufacturers that can provide bigger volumes and lower unit costs
- Experience in other jurisdictions (such as Washington state) is that small to medium sized wineries can't compete
- Restricting sales to BC-only product contravenes trade agreements. Trade challenges will result in grocery stores having to offer lower-cost international wines in addition to BC wines

DISCUSSION:

The experience in other jurisdictions can be differentiated from the BC model because:

- BC restricts wine-on-shelves model to grocery stores only, which excludes convenience stores and big box stores. Convenience stores would be unlikely to have the shelf space to provide a range of products, and big box stores focus on mass-produced products that can be sold in bulk quantities. In contrast, grocery stores will have adequate shelf space to offer customers a range of products, including those from small or medium sized wineries
- BC's model is restricted to allowing wine on grocery store shelves. In other jurisdictions, shelf space is shared with beer and spirits, which limits the range of wines that can be displayed.

- In other jurisdictions there is no limit on the number of grocery stores that can sell liquor. In BC, there will only be a small number of grocery stores that will be able to offer wine-on-shelves. These stores will only represent a tiny fraction of the total number of liquor outlets in BC. As a result, their sales would not be able to affect the viability of the other liquor outlets.
- In BC there are restrictions on trade practices. This means that large wineries are prohibited from providing grocery stores inducements to gain premium shelf space ("pay to play").

The trade agreements contain exemptions for pre-existing non-compliant liquor outlets. The licences that are moving into grocery stores are pre-existing licences.

SUMMARY:

ATTACHMENTS: N/A

Contact: Elaine Vale, A/Director, Policy, Planning & Communication, Liquor Control and Licensing Branch
Telephone: 250-952-5758 Cell: s.17

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MINISTRY OF SMALL BUSINESS AND RED TAPE REDUCTION
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Cliff #: 37056

Update: October 6, 2015

PREPARED FOR: Honourable Coralee Oakes, Minister of Small Business and Red Tape Reduction and Minister Responsible for the Liquor Distribution Branch

ISSUE: Meeting with Terroir BC and BC Private Liquor Store Association on October 5

Issue 1:

Terroir BC has put forward a proposal to enter into a “Best of BC” marketing arrangement between an association of BC wineries and an association of licensee retail stores (LRS) to promote and sell the wines from participating wineries.

s.17,s.21

The wineries concerned are typically smaller producers which distribute through the private retail channels since their production levels are not sufficiently high to serve the BC Liquor Stores retail channel.

s.21

s.14,s.17,s.21

Issue 2:

Terroir BC has issued press releases and made public statements about the need to hold consultations and implement regulatory safeguards to ensure a level playing field between all retailers selling liquor in grocery. The concerns have been brought about by the imminent development and implementation of the Special Wine Store (SWS) licence model

The General Manager and Deputy Minister discussed the grocery model being developed for the sale of wine on shelves, including the issuance of SWS licences. The meeting reassured industry representatives of government's commitment to working with industry, and a follow up email from Kim Pullen of Terroir BC indicated their belief that government is willing to consult to build a grocery model that has the best interests of industry in mind.

NEXT STEPS:

The General Manager and Deputy Minister have accepted the offer to hold further consultations on this issue with interested parties as needed. Dates and attendees are currently being determined, but will likely be held the week of October 13 or October 19.

LCLB is in the process of organizing two consultation sessions starting the week of October 12 involving the following groups:

1. Private liquor retailers

- BC Private Liquor Store Association
- Alliance of Beverage Licensees of BC (ABLE)
- Terroir BC
- BC Wine Institute (BCWI)

2. Grocery store associations or retailers

Consultations and recommendations are expected to be completed by November 30.

Contact: Janice Carlson, Senior Policy Analyst, Policy Planning and Communications Division, LCLB
Telephone: (250) 952-5756

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MINISTRY OF SMALL BUSINESS AND RED TAPE REDUCTION
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Cliff #:37064

Date: October 7, 2015

PREPARED FOR: Minister Coralee Oakes

ISSUE: Rural Agency Stores (RAS) consultation

BACKGROUND:

Recent RAS applications have raised the question on whether RAS eligibility criteria should be reviewed. The two criteria that are the focus of this review are:

1. An RAS's must be a minimum of 10 kilometres driving distance from the nearest existing BC Liquor Store (BCLS), Licensee Retail Store (LRS) or RAS, where access is by all-weather road.
2. A RAS will not be authorized within city limits or within the municipal boundaries of an urban community.

DISCUSSION:

Although RAS's will be brought under the new Liquor Control and Licensing Act when implemented, for now their oversight rests with the LDB. In the meantime a smaller focussed consultation is required to review eligibility criteria that may be creating a barrier to business.

NEXT STEPS:

1. Invite the main stakeholders (ABLE, Private Liquor Store Association, Rural Agency Store Advisory Society and representatives from the UBCM liquor policy working group) to discuss (by individual teleconference) the RAS criteria above.
2. Complete all meetings by Nov. 6 and policy recommendation by Nov. 27.

ATTACHMENTS: Suggested meeting agenda with questions for discussion

Contact: Melanie Golder, Senior Policy Analyst, Division
Telephone: 250-952-5757

Reviewed by				
Dir:	ED:	ADM: DS	DM: TM	MIN:

ATTACHMENT:

Agenda
Rural Agency Store (RAS) Consultation (LCLB/ LDB)
date/time

1. Introductions

2. Background: Issues with (2) current criteria

- a. Criteria: RAS must be a minimum of 10 kilometres driving distance from the nearest existing BC Liquor Store (BCLS), Licensee Retail Store (LRS) or RAS, where access is by all-weather road.

Issue: In small communities, where an LRS has closed but not yet relocated, the community may have no local liquor store and is blocked from obtaining a RAS by the presence of the dormant LRS. Unless the LRS declares it is dormant it is difficult to tell if it is operating for the purposes of measuring outlets within 10km. This may compromise access to liquor for the local community.

- b. Criteria: RAS will not be authorized within city limits or within the municipal boundaries of an urban community.

Issue: Resort areas that fall on the outskirts of a municipality may be best served by a RAS, as opposed to an LRS, because the low overall traffic or seasonal nature of the resort do not make it an economically viable location for a standalone liquor store (LRS or BCLS). However, the prohibition on a RAS being within municipal boundaries of an urban community prevents this.

3. Consultation questions

- a. Should the General Manager of the LDB exercise discretion to distance requirements in cases where dormant LRSs block RAS applications and other similar circumstances?
- b. Should LDB remove the prohibition on the presence of RASs within municipal boundaries?
- c. Should the LDB and the LCLB align the way they measure distance between stores? (LRS 1 km distance is measured front door to front door as the crow flies and LDB measures 10km door to door by all- weather road).

4. Additional concerns, questions and wrap up.