

Nanninga, Tanera AG:EX

From: Eby, David AG:EX
Sent: Tuesday, January 16, 2018 8:52 AM
To: Milne, Gala AG:EX
Subject: RE: Hicken update

Thanks. Please don't send at this time, but I'd like to check in with Mark when I'm back.
D.

From: Milne, Gala AG:EX
Sent: Monday, January 15, 2018 4:40 PM
To: Eby, David AG:EX
Cc: Smith, George AG:EX
Subject: Hicken update

Hi MDE:

FYI Michelle and I continue to have weekly update calls with Mark Hicken. He has prepared a preliminary summary document of his meetings to date – **please let me know if you'd like me to share with you.**

- MH has met with many stakeholders and has prepared a prelim summary document of issues.
- MC suggests applying the technical/policy focus lens to help frame the issues into panel items.
- MH is still working through meeting requests.
- The next Deputy Committee meeting is on Jan 18 and MC will share MH's preliminary summary with the committee.

Cheers,

Gala Milne
Ministerial Assistant, Ministry of the Attorney General
P: 250-387-1866 | C: 778-587-2143 | E: gala.milne@gov.bc.ca

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Special Advisor on Liquor Policy: Liquor Policy Work-plan

The Deputy Ministers' Committee of Liquor Policy, comprised of the Deputy Attorney General, Deputy Minister of Jobs, Trade and Technology, and Deputy Minister of Agriculture provides cross-government focus and engagement with stakeholders, in order to effectively identify liquor policy issues and support the B.C. Government's efforts to strengthen and grow B.C.'s beer, wine and spirits industries. The Special Advisor on Liquor Policy reports to the Deputy Ministers' Committee on Liquor Policy, and will undertake deliverables as set out below as approved by the Deputy Ministers' Committee.

Policy Area	Deliverables	Timelines
Liquor Policy Advisory Panel	<ul style="list-style-type: none"> - Advise government on scope and composition of the proposed liquor policy panel. - Pending government approval, set up, and chair the panel. - Summarize recommendations to government. <p>Panel would engage industry stakeholders in recommendations for technical policy and legislative reform. Recommendations are to be trade compliant, treat stakeholders equitably and include anticipated health and fiscal impacts.</p>	<p>December 2017</p> <p>Mid-January through February 2018</p> <p>End of March 2018</p>
Social Responsibility	<p>Support LCLB and LDB's social responsibility mandate by:</p> <ul style="list-style-type: none"> - Meet with health experts to discuss options for increased and meaningful social responsibility initiatives. - Consult with industry and advise on anticipated stakeholder response to initiatives anticipated to be 	<p>November – December 2017</p> <p>December 2017 (initial engagement) and February 2018 (as part of panel)</p>

	<p>presented to government for decision re social responsibility.</p> <p>- Placing a public health and public safety lens on panel recommendations or options proposed.</p>	February - March 2018
Stakeholder Engagement	<p>Identify issues and provide advice on anticipated stakeholder response to decisions made by government, as well as communicate with stakeholders post-government decision(s).</p> <p>Provide advice on industry benchmarks and industry support mechanisms provided by other jurisdictions.</p>	<p>December 2017 (initial engagement) and ongoing</p> <p>December 2017 and ongoing</p>

1. Liquor Policy Advisor ("LPA"): Initial Engagement Process

Proposed Parameters for Initial Engagement:

- Consultation is intended to identify and confirm high level policy issues that were either not dealt with during the earlier Liquor Policy Review and/or issues that remain of concern to industry stakeholders
- Consultation will not deal with issues that are unique to individual licensees
- LPA will meet with representatives of industry associations and groups in order to discuss and identify these issues
- LPA will not meet with individual stakeholders
- Initial consultation will not produce recommendations, rather will identify issues and provide focus for Panel (second stage, below)
- LPA will provide advance notice to the Ministry of Attorney General (MAG) on any stakeholder meetings and will report to MAG on issues raised at the meetings on a weekly basis, using template provided by MAG
- LPA will report to MAG on written submissions received and issues raised (if any, as these will not be requested in the initial stage)

Activity	Expected Outcomes	Timing
Finalize Engagement Parameters and Process	Clarity for stakeholders and media as to expected participants and process for consultation.	Week of November 20
Determine List of Stakeholders to Receive Invitations for Engagement	Determine Proposed Participants	Week of November 20
Issue Invitations for Engagement; Consider Requests from Other Groups/Individuals	Industry Groups Receive Invitations; Schedule Initial Consultations; Determine Final List of Participants; report to MAG on stakeholder meeting schedule	Week of November 20
Conduct Initial Engagement Meetings	Meet with Stakeholders, Identify and Discuss Issues	November 27 to December 15
Report on Initial Engagement Meetings	Provide MAG and DM Ctte with summary of meetings and issues raised by stakeholders (plus summary of written submissions received, if any) on weekly basis	Weekly update

Proposed Invitations to Industry Associations/Groups:

ABLE: Jeff Guignard

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BCRFA: Ian Tostenson

Restaurants Canada: Mark Von Schellwitz

Craft Brewers: Ken Beattie

Craft Distillers Guild: TBD

Craft Distilling Association: TBD

Canadas National Brewers: Luke Chapman; Jeremy Chorney

Spirits Canada: Jan Westcott

Wine Industry invitations to be determined. BCWI (Miles Prodan) plus potentially: representative(s) from smaller producers and/or Canadian Vintners Association

Separate Meetings with Public Health and Safety contacts via I.CLB.

2. Liquor Policy Advisor: Regulatory Panel Engagement Process

Proposed Parameters for Engagement:

- Panel intended to review, analyze and make recommendations upon high level policy issues that were identified in the initial engagement process and upon which government (through DM ctee or Cabinet as appropriate) wishes to receive further advice
- Panel will be composed of representatives of various BC-based industry associations groups and will meet during January for deliberations on the identified issues
- Panel may receive written submissions from or meet with an individual stakeholder or group of stakeholders if they are identified as possessing unique or specialized knowledge relating to an area of general high level policy that is the subject of review by the Panel
- Aim is to obtain consensus, or close-to-consensus, for recommendations to government
- Reporting to MAG and DM Committee on meetings, any written submissions and final recommendations

Activity	Expected Outcomes	Timing
Determine List of Panel Participants	Composition of Panel confirmed	Will be addressed through the Panel Cabinet Submission
Review Issues	Provide focus for Panel; Clarity for Stakeholder	Mid-December

Identified in Initial Engagement; Identify Areas of Focus for Panel and Potential Areas for Consideration Outside Panel	Groups as to Scope of Panel and Expectations	
Panel Deliberations	Panel Meets; Reviews Issues	January
Interim Reporting	LPA reports to MAG and DM Committee re Panel meetings and discussions	Following each Panel meeting
Panel Finalizes Recommendations	Panel Concludes and Makes Recommendations	Mid-Feb or End of February
LPA Prepares Report with Recommendations	LPA provides MAG with report including recommendations of Panel	March

MEMORANDUM

FROM: Mark Hicken, Vintage Law Group
TO: Michelle Carr, LCLB
DATE: December 14, 2017
RE: Stakeholder Engagements

Michelle,

As discussed, could you please advise on the following two issues related to the engagements:

1. If you have a contact for an appropriate individual to represent Vancouver Island Wineries, I would appreciate it. I have not received any response from the inquiries that I made. I would assume it should be the individual that is leading either the Vancouver Island Wine Growers Association or the Vancouver Island Wine Island Vintners Association – but not sure who that is.
2. I received a request to meet with a group of liquor consultants, specifically Bert Hick (Rising Tide), Dennis Coates (lawyer), Randy Olafsen and one other person whose name escapes me but who apparently previously worked for the Branch. As discussed, this may be appropriate if the ground rules are that no individual files are to be discussed ... and that it is purely an opportunity to discuss high level policy issues.

I have not received any other requests from stakeholder groups ... but, as agreed, have been politely turning down requests to meet with individual stakeholders.

Thanks,

Mark.

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MEMORANDUM

FROM: Mark Hicken, Vintage Law Group
 TO: DM Liquor Policy Committee and Michelle Carr, LCLB
 DATE: January 17, 2018
 RE: Preliminary Engagement Summary – Draft Initial Comments

This memo provides an initial summary of the issues that were identified as priority issues in the engagement consultations that I have conducted with industry stakeholders to date. The memo will be updated once the consultations are completed.

I note that I asked stakeholders to identify liquor policy or regulatory issues that were of interest to their group and to prioritize their top 3 or 4 issues. The views are strictly those of the stakeholder groups. Issues are listed below only if they were identified as a priority issue by at least one stakeholder group.

Issue	# of Times Raised	# of Times As Top 4 Issue
LDB Retail Pricing or Marketing Issues		
Review and address LDB retail pricing issues	8 (50%)	6 (38%)
Increase LDB retail support for local product	4 (25%)	3 (19%)
Review private label & exclusive product policy	3 (19%)	1 (6%)
LDB Wholesale Pricing or Distribution Issues		
Review and address LDB dist & delivery issues	10 (63%)	8 (50%)
Implement hospitality discount	4 (25%)	3 (19%)
Permit licensee to licensee sales		3 (19%)
Reinstate additional discount for wine stores		1 (6%)
Governance of LDB, separation of retail and wholesale	6 (38%)	2 (13%)
Retail Licensing or Policy Issues		
Trade compliant resolution to BCWIG		2 (13%)
Review VQA retail licenses		2 (13%)
Harmonize prov + munic rules for grocery		2 (13%)
Review rules for IWS conversion to LRS		1 (6%)
Maintain 1 km rule for retail		1 (6%)
Recognition of grocery model		2 (13%)
Permit sale of beer in grocery stores		1 (6%)
Manufacturing Licensing or Policy Issues		
Concerns over labels with health warnings	3 (19%)	2 (13%)
Prov govt support for interprovincial DTC efforts	3 (19%)	2 (13%)
Implement appellation task force recommendations		1 (6%)
Permit secondary tasting rooms		1 (6%)

Review minimum pricing model		1 (6%)
Review contract manufacturing rules		1 (6%)
Implement independent appeal process		1 (6%)
More flexible compliance/enforcement process		1 (6%)
Review LDB manuf agmt policies for comm. producers		1 (6%)
Local Product – Markup & Support Issues		
Craft spirits – raise markup exemption vol. limit		1 (6%)
Craft spirits – remove “drop dead” caps on markup		1 (6%)
Craft spirits – consider VQA style rebates for BCLS		1 (6%)
Craft spirits – stop double tax		1 (6%)
Local spirits – markup exemption for tasting room		1 (6%)
Local spirits – markup reduction		1 (6%)
Local spirits – inclusion in LDB craft category		1 (6%)
Craft Beer – consider incentives for using local hops		1 (6%)
Craft Beer – consider supply chain issues for local hops		1 (6%)
General review of support mechanisms for local product	5 (31%)	4 (25%)

Summary of social responsibility and health issues discussed.

Issue	# who Agr/Disagr	% Support*
Minimum pricing changed to volumetric standard	11/2	85
Labelling – Add standard drinks statement	2/12	14
Labelling – Add low risk drinking guidelines	1/13	7
Labelling – Add health warnings	1/13	7
Support social resp. materials program	8/2	80
Support AB style industry accred. program	9/1	90
Strengthen ID checking	3/8	27
LCLB Fees Proposal		
Increase or Restructure Fees for improved service timelines (middle # is conditional support)	4/4/1	89

*percentage calculated based on those who expressed an opinion on the issue.

Discussion of Issues Raised

In the sections below, I have listed the most commonly raised issues and then also provide a brief discussion of the various “groups” of issues that were raised.

Generally, I can comment that stakeholders expressed appreciation for the opportunity to provide their feedback through the initial engagement process and that the meetings were positive and constructive in tone.

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As an overall comment, I note that most stakeholders indicated a desire that the current government address the issues, discussed further below, that relate to the changes made by the previous administration in April 2015. While many of the changes made under the earlier Liquor Policy Review were supported, it is apparent that stakeholders had, and continue to have concerns, related to the way that the new wholesale pricing model was introduced and the way that accompanying changes to the retail landscape were made.

1. Most Commonly Raised Issues

The following were the top issues raised in the engagement (i.e. in order rated by the times raised as a priority issue by stakeholder groups, with most frequently raised issue listed first):

1. Review and Address LDB Distribution & Delivery Issues
2. Review and Address LDB Pricing Issues
3. Review of Support Mechanisms for Local Product
4. Implement Hospitality Discount
5. Increase LDB Retail Support for Local Product
6. Permit Licensee to Licensee Sales
7. Review Governance of LDB, Separation of Wholesale & Retail
8. Concerns over Labels with Health Warnings
9. Prov. Support for Interprovincial DTC

In respect of these issues, I note the following. Issue #1 relates to the operation of the LDB's distribution and delivery services (i.e. wholesale operations) Issue #2 primarily relates to the changes made to the pricing system in April 2015. Issue #3 is partly related to issue #5 and relates to a desire to provide a consistent approach to support for local products. Issues #4, #6 and #7 are self-explanatory (although #7 relates to #1 and #2). Issue #8 is primarily related to the labelling project in the Yukon, which I understand has been suspended. Issue #9 is self-explanatory.

You will note that most of the top issues relate to the LDB rather than to the LCLB. I met with Blain Lawson and Caeli Turner of the LDB on January 17th to discuss these results and these issues. I have noted their comments and feedback below where relevant. I emphasize that the summary and comments below are made in draft form and will be updated as the engagement progresses.

2. LDB Retail Issues

Principally, the concerns expressed here relate to changes to retail pricing and strategy that were made in April 2015 by the previous government. Prior to these changes, stakeholders perceived that there was predictability with respect to BCLS retail pricing and hospitality pricing due to the use of "fixed" markup formulas that generated end-

consumer pricing. After the changes, stakeholders most commonly raised the following two issues:

- The retail level margins that BCLS is using within its stores are not consistent. Suppliers have an issue with this because end consumer pricing for their products is no longer predictable (particularly when trying to set prices against competing products). Private retailers have an issue when the margins are set at levels that they perceive to be unrealistically low.
- The hospitality prices that the LDB sets for product not sold within BCLS stores also have retail margins that are not consistent. Hospitality customers have an issue with this because variation and changes in end pricing can affect profit margins and require re-printing of menus.

Other issues that were raised by stakeholders relate to a perception that BCLS has been mandated to increase profitability in their retail operations and is doing so through the adoption of strategies which may make sense for an independent private retail group but which may not be appropriate for a government retail organization which is dominant in the marketplace, which has an effective monopoly on sales to hospitality customers, and which also provides wholesale distribution services to its competitors.

I note that the LDB indicated to me that their current mandate instructions contain expectations regarding both retail and wholesale performance and that the ability for suppliers to determine end-consumer pricing would be unusual (and arguably illegal) in respect of private sector retailers. S.17

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They also indicated that most private sector retailers tend to benchmark their prices against BCLS retail prices, that some price variations are due to factors beyond their control (e.g. supplier price changes, currency fluctuations) and that they have been attempting to improve the consistency of retail level markups both within BCLS stores and for hospitality pricing.

In respect of these issues generally, I note that a number of stakeholders raised concerns related to LDB governance, particularly the separation of LDB Retail and Wholesale operations. The current governance structure is not perceived to be appropriate in circumstances where the retail division has been mandated to compete with the other customers of the wholesale division. S.13

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3. LDB Wholesale Issues

The concerns expressed under this category relate both to distribution/delivery issues and to the wholesale system generally. The most commonly raised issues related to

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distribution and delivery are as follows:

- Concerns related to ordering product, particularly an inability to obtain product that appears to be “in the system”.
- Stock-outs and incomplete orders.
- Deliveries that are either missed, delayed or late.
- Inability to obtain “spec” products within a reasonable time frame.
- Perception that GLS stores do not experience the same issues as private retailers or hospitality customers.

In my discussion with the LDB, they candidly admitted that the wholesale system has been experiencing significant issues with distribution and delivery ... and that they are aware that many of the concerns expressed by stakeholders are true. They noted that there is a plan to improve service once the new warehouse is operational later this year. The LDB believes that the perception of distribution preference toward GLS stores is not correct ... Blain stated that over the holiday period, he had deliberately cut back on GLS deliveries in order to provide better service to LRS stores.

The most commonly raised issues related to the wholesale system are as follows:

- The wholesale pricing system changes made in 2015 created wholesale prices that were “too high” and which did not allow for adequate retail level margins. Consideration should be given to adopting a system that allows for more normal retail margins.
- The 2015 changes should have created a wholesale price (discount) for the hospitality sector and should have allowed for some form of licensee to licensee sales.

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4. Other Retail, Manufacturing and Licensing Policy Issues

The most commonly raised issues relating to manufacturing were an opposition by producers to health warning labels on alcohol products (instead, producers favored more targeted education efforts focused on social responsibility and health) as well as a continued desire for government to be involved in and support efforts to access other

provincial markets (i.e. DTC sales). A number of other concerns are also noted above that are more relevant to (and important to) distinct groups of retail and manufacturing stakeholders.

I also asked stakeholders to comment on an LCLB proposal to raise or re-structure fees in order to provide improved services standards and timelines (I explained to many shareholders that the LCLB operates on a cost-recovery budget). A substantial majority of those expressing an opinion were in favor of the proposal. However, support was evenly split between those who were principally in favor and those who were conditionally in favor but who expressed concerns about the effects of increases on smaller businesses and/or also expressed a desire for there to be a “consultation process” on fees such that licensees could see and comment upon the proposed fee structure and service timelines before any decision is made. A small number of stakeholders were opposed to any fee increases, mostly commonly on the grounds that they felt that the fees were already high enough.

5. Local Product – Markup & Support Issues

In this area, there were a number of stakeholder submissions requesting either increased or new levels of support for locally produced product. I note that many of these requests were based on a perceived desire to receive treatment “as favorable” as that provided to the wine industry. I also note that some of these requests are not reconcilable with requests from other groups within the same industry and many, s.13

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I intend to address this issue in more detail in another document related to “future policy” discussions. However, generally, I can comment that there appear to be some legitimate concerns with respect to the provision of “fair treatment” between sectors,

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6. Social Responsibility Questions

In respect of the social responsibility and health questions that I asked stakeholders, there was good support (85% of those expressing an opinion) for the idea of changing the method of setting minimum pricing from an approach based on product category to one based on the alcohol content of the product. There was also considerable support for the current social responsibility materials program and for the Alberta concept of creating an industry accreditation program similar to their “BarNone” program.

There was little support, and some strong opposition, to the idea of creating labels on alcohol products that would relate to social responsibility or health issues. Most stakeholders felt that there was insufficient evidence that such labelling would be beneficial. Rather, stakeholders expressed support for education based initiatives that they believe would provide better results.

Conclusion

It appears to me that there is an opportunity for the current government to address some of the issues outlined above through further review, discussion and recommendations by the panel. There is an evident desire on the part of stakeholders to provide input on these issues and to provide government with guidance and solutions that will be of assistance in resolving these issues.

The above discussions, as amended and once finalized, will provide a basis for the “Plan of Action” proposals that I will provide separately for the panel. I trust that the above will be of assistance in creating an initial framework for discussion as we move forward on this important initiative.

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Liquor Policy Advisor Record of Consultation

RECORD OF CONSULTATION			
Date	Participants	Topics Discussed	Key Points Raised by Stakeholders
2017-12-06	Tyler Dyck, BC Craft Distillers Guild	s.13	
2017-12-08	Charles Tremewen, BC Craft Distilling Association		
2017-12-11	Jan Westcott, C.J. Helie, Spirits Canada		
2017-12-11	Dwayne Stewart, Don Konantz, BC Hop Producers		

Liquor Policy Advisor Record of Consultation

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2017-12-12	Ian Tostenson, BCRFA	
2017-12-12 (1 of 2)	Jeremy Chorney, National Brewers	
2017-12-13	Jeff Guignard, ABLE	
2012-12-14	Dan Paszkowski, Canadian Vintners Association	

Liquor Policy Advisor Record of Consultation

2017-12-15	Miles Prodan, David Wilson, Josie Tyabji, Ian MacDonald, Leo Gebert, BCWI	s.13
2017-12-18	Chris Coletta, BC Small Wineries	
2017-12-18	Jeremy Chorney, National Brewers	
2017-12-18	Steve Moriarty, OFG – VQA Grocery Licenses	

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2017-12-19	Trent Andersen, John Clerides, Rob & Paul Simpson, Chris Reid, Independent Wine Stores	
2017-12-19	Chris Smith, Loblaws, SWS License Holders	
2017-12-20	Mark von Schellwitz, Restaurants Canada	
2017-12-21	Ken Beattie, Gary Lindsay, Daryn Medwid, Don Farion, Carlos Mendes, BC Craft	

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	Brewers Guild	s.13
2018-01-08	Licensing Consultants, Bert Hick and Randy Olafson	
2018-01-15	Dennis Coates	
2018-01-15	Cascadia Partners. "Consensus" Briefing on Concerns of BCRFA, BCWI, BC Craft Brewers, BC Craft Distillers Guild, Spirits Canada, ABLE BC, IVSA and Restaurants Canada.	
2018-01-24	Sake Producers Assn., Masa Shiroki	
2018-01-25	Craft Distilling Association #2	

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2018-02-02	CAMRA	s.13
2018-02-06	IVSA	
2018-02-07	Rural Agency Stores Advisory Society	

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2018-02-09	Wine Island Growers Association	

Liquor Policy Advisor Upcoming Consultation

UPCOMING CONSULTATION			
Date	Participants	Anticipated Topics for Discussion	Linkages
Dec 6 th , 1 pm	Tyler Dyck, Craft Distillers Guild	s.13	Completed
Dec 8 th , 10 am	Charles Tremewen, Craft Distilling Association		Completed
Dec 11 th , 10 am	Jan Westcott, Spirits Canada		Completed
Dec 11 th , 2 pm	Dwayne Stewart, Raymond Bredenhof, BC Hop Growers Association		Completed
Dec 12 th , 10 am	Ian Tostenson, BC Restaurant and Food Association		Completed
Dec 12 th , 1230 pm (1 of 2)	Jeremy Chorney, National Brewers		Completed
Dec 13 th , 2 pm	Jeff Guignard, ABLE		Completed
Dec 14 th , 10 am (telephone conf.)	Dan Paszkowski, Canadian Vintners Association		Completed
Dec 15 th , 1030 am	Miles Prodan, BCWI and Directors of BCWI		Completed
Dec 18 th , 930 am	Chris Coletta, Small BC Wineries Group		Completed
Dec 18 th , 1230	Jeremy Chorney, National		Completed

Liquor Policy Advisor Upcoming Consultation

pm (2 of 2)	Brewers	s.13	
Dec 18 th , 2 pm	Steve Moriarty, Overwaitea Food Group		Completed
Dec 19 th , 10 am	Trent Anderson, Rob Simpson, John Clerides, Chris Reid, Ind Wine Store Association		Completed
Dec 19 th , 2 pm	Chris Smith, Loblaws		Completed
Dec 20 th , 930 am	Mark Von Schellwitz, Restaurants Canada		Completed
Dec 21 st , 10 am	Ken Beattie, BC Craft Brewers		Completed
TBD	Brian Berry, Import Vintners & Spirits Assn.		Postponed
Jan 8 th , 3 pm	Randy Olafson, Stephen Barron, Liquor Licensing Consultants #1		Completed
Jan 15 th , 10 am	Bert Hick, Dennis Coates, Liquor Licensing Consultants #2		Completed
Jan 15 th , 330 pm	BCRFA, BCWI, Craft Brewers, Craft Distillers Guild, Spirits Canada, ABLE, IVSA, Restaurants Canada. Further Meeting, Cascadia Group		Completed
Jan 19 th , 1145 am, initial meet,	Brian Berry, IVSA		Initial chat on process only completed, substantive discussion being scheduled

Liquor Policy Advisor Upcoming Consultation

scheduling full meeting now		s.13	
Jan 24 th , 10 am	Sake Producers Association, Masa S.		Completed
Jan 25 th , 9 am	Craft Distilling Association		Completed
Jan. 26 th , initial phone call	CAMRA, Paddy Treavor		Phone chat on process only.
Feb. 2 nd , noon	CAMRA, Paddy Treavor		Completed
Feb 6 th , 11 am	IVSA, Brian Berry		Completed
Feb. 7 th , 3 pm	Colby Whitehead, Rural Agency Stores		Completed
Feb. 9 th , conference call	Island Wineries, WIGA		Completed