

## LCLB FOI LCLB, LCLB LCLB:EX

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**From:** Colquhoun, Katherine JAG:EX  
**Sent:** Monday, November 5, 2012 2:09 PM  
**To:** Carlson, Janice JAG:EX  
**Subject:** Forms refering tied house

Hi Janice

Rebecca asked me to send you a list of the forms that reference a question about tied house relationships.

This forms are:

New FP	LCLB 001B
New LP	LCLB 001
New Agent	LCLB 034
New Ubrew/UVin	LCLB 016
New Manufacturer	LCLB 014
Transfer of Ownership	LCLB 001C

Personal History form LCLB 004

Renewal /Late renewal notice

Kathy



## LCLB FOI LCLB, LCLB LCLB:EX

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**From:** Ayers, Karen J MEM:EX  
**Sent:** Thursday, November 1, 2012 3:18 PM  
**To:** Carlson, Janice JAG:EX  
**Subject:** Re: AB tied house/trade practices policy

Thanks

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**From:** Carlson, Janice MEM:EX  
**Sent:** Thursday, November 01, 2012 02:55 PM  
**To:** Ayers, Karen J MEM:EX  
**Subject:** FW: AB tied house/trade practices policy

Is this the one you are looking for?

*Janice*

250 952-5756

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**From:** Bieller, Barry MEM:EX  
**Sent:** Tuesday, September 25, 2012 4:37 PM  
**To:** Carlson, Janice MEM:EX; Ayers, Karen J MEM:EX  
**Subject:** RE: AB tied house/trade practices policy

Thanks Jan. Good stuff here.

---

**From:** Carlson, Janice MEM:EX  
**Sent:** Tuesday, September 25, 2012 2:30 PM  
**To:** Bieller, Barry MEM:EX; Ayers, Karen J MEM:EX  
**Subject:** AB tied house/trade practices policy

Hi Barry and Karen,

Following up from yesterday's meeting, here is a summary of Alberta's trade practices policy.

Alberta has 3 basic principles that have guided their policy development:

- volume discounting is not permitted;
- All products, wherever possible, are to be available to all licensees; and
- distribution rates are the same for all licensees no matter where they are located in the province.

**Allocated Products** are specialty products (they are virtually all high end wines) and new vintages that are produced in limited quantities. To qualify, allocations must be limited to 1000 cases per product code per year. AGLC monitors sales volumes by product code and allocations are stopped if they exceed 2,000 cases in either the current year or previous year. Allocated products do not appear on the wholesale price list (i.e. they are not available to other licensees) as long as the 1000 case limit is not exceeded. AGLC has discretion to approve exceptions to the 1000 cases limit for special products/unique circumstances (e.g. Beaujolais Nouveau). Allocated orders are flagged electronically through the AGLC order process and are only available to designated customers.

**Private label products** are produced for one specific premise or chain, are automatically excluded from inclusion in the wholesale price list and the supplier must designate customers through the allocation process, however, private label products are exempted from the allocation limit of 1000 cases. In order to prevent price discounting, prices for private label products must be listed at a wholesale price equal to or greater than the lowest general listed products that the liquor supplier has in the same category or product type, or, if the supplier has only 1 product in a category type, the wholesale price must be equal to or greater than the lowest general listed product of all suppliers in the same category. The supplier must ensure that the lowest general listed product is available to other licensees at all times (in practice the product may not be out of stock for more than 2 months).

**Exclusivity agreements** are permitted only at locations where the primary purpose of public attendance is not for the consumption of liquor (e.g. sporting events, cultural events). Each agreement must be submitted prior to the event for approval by AGLC.

Attached for your reference are the AGLC policy manual sections related to product exclusivity agreements, allocated products, and private labelling.

<< File: AGLC sections - allocated products, exclusivity, private labels.docx >>

Let me know if you'd like to discuss or need more info.

Janice Carlson | Policy Analyst

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## LCLB FOI LCLB, LCLB LCLB:EX

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**From:** Ayers, Karen J MEM:EX  
**Sent:** Thursday, November 1, 2012 2:05 PM  
**To:** Carlson, Janice JAG:EX  
**Subject:** RE: tied house

**Importance:** High

I am trying to locate your email where you set out what Alberta's rules are for allocated products etc; had three separate paragraphs as to the elements of their program to "level the playing field". Could you resend please?

---

**From:** Carlson, Janice MEM:EX  
**Sent:** Thursday, November 1, 2012 1:56 PM  
**To:** Ayers, Karen J MEM:EX  
**Subject:** RE: tied house

Yes

*Janice*  
250 952-5756

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**From:** Ayers, Karen J MEM:EX  
**Sent:** Thursday, November 1, 2012 1:56 PM  
**To:** Carlson, Janice MEM:EX  
**Subject:** tied house

Ubrews/uvins will still be prohibited from having a tied house?

Karen Ayers  
Assistant Deputy Minister and General Manager  
Liquor Control and Licensing Branch  
(250) 952-5791

## LCLB FOI LCLB, LCLB LCLB:EX

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**From:** Ayers, Karen J MEM:EX  
**Sent:** Thursday, November 1, 2012 2:00 PM  
**To:** Carlson, Janice JAG:EX  
**Subject:** RE: tied house

thx

---

**From:** Carlson, Janice MEM:EX  
**Sent:** Thursday, November 1, 2012 1:56 PM  
**To:** Ayers, Karen J MEM:EX  
**Subject:** RE: tied house

Yes

*Janice*  
250 952-5756

---

**From:** Ayers, Karen J MEM:EX  
**Sent:** Thursday, November 1, 2012 1:56 PM  
**To:** Carlson, Janice MEM:EX  
**Subject:** tied house

Ubrews/uvins will still be prohibited from having a tied house?

Karen Ayers  
Assistant Deputy Minister and General Manager  
Liquor Control and Licensing Branch  
(250) 952-5791

## LCLB FOI LCLB, LCLB LCLB:EX

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**From:** Bieller, Barry JAG:EX  
**Sent:** Friday, October 26, 2012 3:57 PM  
**To:** Carlson, Janice JAG:EX  
**Subject:** RE: TH/TP de-regulation

Thanks Jan. Yes, please schedule a meeting.

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**From:** Carlson, Janice MEM:EX  
**Sent:** Friday, October 26, 2012 3:52 PM  
**To:** Bieller, Barry MEM:EX  
**Subject:** TH/TP de-regulation

Hi Barry,

I've reviewed the licensing policy manual to see if there is anything we need to keep with the results attached. I still have some questions and issues where I need clarification. Can I book a time with you next week to walk you through it and discuss?

<< File: Review of TH and TP - Licensing Policy manual.docx >>

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## LCLB FOI LCLB, LCLB LCLB:EX

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**From:** Ayers, Karen J MEM:EX  
**Sent:** Monday, October 22, 2012 10:18 AM  
**To:** Carlson, Janice JAG:EX  
**Subject:** RE: TH/TP in Alberta

Thanks.

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**From:** Carlson, Janice MEM:EX  
**Sent:** Monday, October 22, 2012 9:48 AM  
**To:** Ayers, Karen J MEM:EX; Bieller, Barry MEM:EX  
**Subject:** TH/TP in Alberta

Hi Karen,

I got more information from Alberta, as requested. Here is a summary.

I can confirm that private labelling program (where volume discounting is prohibited) is about competitive advantage. The retailer will arrange with the supplier to produce the private label. The key is that the name of the premises must be on the label. They've had some issues with establishments that use a trademarked name (e.g. Kirkland) that is not the same name as the retailer (e.g. Costco) so they are going to be addressing that by allowing retailers to use a trademarked name associated with the licensee.

Alberta still has the tied house rules in place. They consider the trade practice rules to be a work in progress, but overall they are satisfied with the current rules. They have had problems rooting out mischief under the current rules, and are addressing issues as they arise, usually because licensees have complained. Some of their issues have been quite political and have had a lot of media coverage. Mainly they step in when there are issues of fairness. This is why they addressed limited time offers by publishing price lists to all licensees and making them available on a first-come, first served basis. The same is true for on-packs – they had to require manufacturers to disclose on-packs and make sure they were available to all licensees and that they appeared on the price list.

They don't have product listings like we do, they have a different process called product registration, and no one is excluded.

They treat brew pubs the opposite of us – i.e. they can only sell to other licensees – but this is currently under review.

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## LCLB FOI LCLB, LCLB LCLB:EX

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**From:** Golder, Melanie JAG:EX  
**Sent:** Friday, October 19, 2012 8:54 AM  
**To:** Carlson, Janice JAG:EX  
**Subject:** RE: Tied house implementation Oct 16

OK just checking as its making something thats common practice illegal

*Melanie Golder*

Senior Policy Analyst | Liquor Control and Licensing Branch | 250-952-5757

---

**From:** Carlson, Janice MEM:EX  
**Sent:** Friday, October 19, 2012 8:40 AM  
**To:** Golder, Melanie MEM:EX  
**Subject:** RE: Tied house implementation Oct 16

Hi Melanie. I am aware and yes, that is the intent.

*Janice*  
250 952-5756

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**From:** Golder, Melanie MEM:EX  
**Sent:** Thursday, October 18, 2012 4:11 PM  
**To:** Carlson, Janice MEM:EX  
**Subject:** RE: Tied house implementation Oct 16

One comment around the TP section-“Add a new section specifying that the licensee must offer for sale a selection of products from a variety of manufacturers that are not associated with one another or with that licensee”.  
The practice of liquor companies being part of certain portfolios for sales purposes may violate this depending on what the definition of association is. Most reps have a portfolio of products they pitch to bars and restaurants. Different kinds of liquor may be part of the same portfolio by either hiring the same sales rep company or being part of the same parent company. For example, Molson owns GIB, and has Canadian distribution rights for Heineken and Corona. If a bar were to buy these four products only they would be in violation. Is that the intent?

*Melanie Golder*

Senior Policy Analyst | Liquor Control and Licensing Branch | 250-952-5757

---

**From:** Carlson, Janice MEM:EX  
**Sent:** Thursday, October 18, 2012 3:43 PM

**To:** Vale, Elaine MEM:EX; Golder, Melanie MEM:EX  
**Subject:** Tied house implementation Oct 16

<< File: Tied house implementation Oct 16.docx >>

FYI

Janice



## **LCLB FOI LCLB, LCLB LCLB:EX**

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**From:** Bieller, Barry JAG:EX  
**Sent:** Friday, September 21, 2012 1:22 PM  
**To:** Carlson, Janice JAG:EX  
**Subject:** URGENT - Tied House/Trade Practices  
**Attachments:** BN Tied House Trade Practices de-regulation Sept 13.docx

**Importance:** High

Hi Jan,

Welcome back! s.22

. While you were away the Minister gave us further direction on the trade practices and tied house issue. We're meeting late Monday morning (the 24<sup>th</sup>) with LDB via conf call to discuss implementation issues and I've sent you a meeting invite.

Attached is the final version of the BN you worked on. The Minister accepted the recommendations in the note and that's what we're discussing with LDB. Hopefully, we can chat prior to the meeting on Monday.

Cheers,

Barry



# **A Review of Liquor Manufacturer Trade Practices Regulation in BC and Other Jurisdictions**

Prepared for the B.C. Liquor Control and Licensing Branch

By Robin M. Junger

July 2001

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## Executive Summary

### Introduction

The General Manager of the Liquor Control and Licensing Branch has requested that a comparative review be undertaken of BC policy regarding liquor manufacturer trade practices. This review is intended to assist with consideration of a proposal by the Brewers Trade Practices Association (the “BTPA”) for a self-regulatory regime and some proposed changes to existing trade practice policies.

### Regulation of Liquor Manufacturer Trade Practices in BC

The BC Liquor Control and Licensing Branch regulates liquor manufacturer trade practices in BC under the authority of the *Liquor Control and Licensing Act* and the *Liquor Control and Licensing Regulation*. Manufacturer trade practices are regulated in respect of various issues including tied houses, gifts to licensees, advertising, gifts and samples to customers, and sponsorships.

### Rationale for Trade Practice Restrictions

Liquor policy reviews and various liquor control initiatives in British Columbia over the years have identified a number of public and government interests relevant to liquor control regulation. Key among these are an interest in preventing over-consumption, fairness among competing industry members, accountability and impartiality of liquor control administrators, realizing revenue through state controlled liquor sales and licensing, and preventing the sale and marketing of liquor to minors. Although some of these are potentially relevant to the regulation of liquor manufacturer trade practices, there does not appear to have been a clear and comprehensive link drawn between such policy rationales and the trade practice regulations.

Other jurisdictions also appear to lack a clear and comprehensive policy rationale for regulating liquor manufacturer trade practices. Officials from these jurisdictions cite a variety of possible rationales including the protection of public welfare, ensuring fair competition and avoiding practices that would undermine state revenue that results from distribution through a government controlled liquor regime.

### Enforcement of Liquor Manufacturer Trade Practice Restrictions

The enforcement of liquor manufacturer trade practice restrictions is considered problematic in most jurisdictions. The activities restricted are difficult to monitor and enforce, government agencies have limited resources, and the penalties imposed are sometimes seen as insufficient to deter prohibited activities. There

are few cases of sanctions being imposed in BC or in other jurisdictions, although in a number of cases significant fines were levied.

#### Comparison of Specific Aspects of BC Trade Practices with Other Jurisdictions and BTPA Proposal

The BC trade practice regulation regime appears to be among the most comprehensive. There is however considerable difference among jurisdictions, both in terms of the issues regulated and the specific restrictions or requirements imposed. Comments from other jurisdictions have been sought and included in this review.

The Brewers Trade Practices Association proposes modification of some of the existing rules in BC. Many of the proposed modifications appear minor, but some appear to represent more significant changes to existing policy. The BTPA also proposes regulation of some trade practices that are not currently regulated in BC.

#### Other Law Potentially Relevant to Liquor Manufacturer Trade Practices Regulation

Some aspects of liquor manufacturer trade practices could be affected by competition law, consumer protection law, and general common law principles. However, these protections are very general and they do not directly address government policy rationales specific to the liquor industry.

#### Conclusions and Recommendations

The regulation of liquor manufacturer trade practices appears to be supported by the liquor policy rationales that have emerged from various reviews and legislative developments that have occurred in BC. However, there are a number of recommendations that could be considered to clarify and refine regulation in this area. These include:

- Articulation of a clear policy rationale for liquor manufacturer trade practices (which could be used as a guide for consideration of amendments to the rules, or in the exercise of discretion to grant exemptions in specific cases),
- The creation of a trade practices advisory committee to ensure all interested parties are involved in discussions regarding proposed policy changes, and
- Placing greater emphasis on compliance and enforcement, including use of the self-regulatory models or other options such as the Alberta buy-sell agreement.

## I. Introduction

In January 2001, the Brewers Trade Practices Association (the “BTPA”) presented a Discussion Draft of a Trade Practices Code to LCLB officials. This document is labelled “commercially confidential”. It proposes the establishment of an industry Trade Practices Code and an institutional structure to review complaints and concerns about brewer’s trade practices. The proposal contemplates direct industry review and action prior to involvement of LCLB officials. The specific trade practices that it proposes to regulate are similar to those presently applied by the province under the *Liquor Control and Licensing Act*, *Liquor Control and Licensing Regulation* and policy, but it does differ in a number of respects, which are discussed in section IV below. The province has been asked to review this proposal and to advise the BTPA of its position with respect to the proposal.

In light of the proposal presented by the BTPA, the General Manager of Liquor Control and Licensing has requested that a review be undertaken of BC policy regarding liquor manufacturer trade practices. The General Manager has asked that the review identify the underlying government interests and policy rationales related to regulation of liquor manufacturer trade practices, and to compare contemporary BC trade practice restrictions with approaches taken by other Canadian provinces and U.S. “control” states.<sup>1</sup> This analysis is intended to assist the Branch in assessing the following questions:

- Is there an adequate policy rationale for regulating trade practice restrictions generally?
- Would government’s underlying policy interests be furthered by the type of self-regulatory regime proposed by the BTPA?
- Would the specific proposed changes to liquor manufacturer trade practices proposed by the BTPA be consistent with the underlying policy rationales?

To assist with answering these questions, section II of this paper will review the basic regulatory framework applicable to liquor manufacturer trade practice restrictions in BC. Section III will consider the policy rationale for liquor

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<sup>1</sup> The Michigan Liquor Control Commission describes a “control” state as follows, “When Prohibition ended in 1933, each state was able to choose whether to become a “control” state or a “licence” state in terms of the sale and distribution of alcoholic beverages. Both control and licence states are responsible for the licensing of businesses which sell alcoholic beverages and the enforcement of liquor laws. The control states differ in that they are all involved in some facet of the merchandising cycle of one or more types of alcohol.” (See <http://www.nabca.org/membercontrol.html>)

manufacturer trade practice restrictions in BC and elsewhere. Section IV will review enforcement practices related to trade practice restrictions. Section V will compare specific aspects of BC trade practice restrictions with other jurisdictions and the BTPA proposal. Section VI will review other law potentially relevant to liquor manufacturers trade practices regulation.

In preparing this paper, information has been obtained from all Canadian provinces and territories, and from the states of Washington and Oregon. This has been supplemented by discussions with officials from each jurisdiction. Information has also been obtained from the U.S. National Alcohol Beverage Control Association. Officials from other Canadian jurisdictions were provided an opportunity to comment on this report in draft form, and those comments have been considered in the preparation of the final report.

While reasonable efforts have been made to ensure accuracy, it is important to note that applicable legislative, regulatory and policy frameworks are complex and are subject to change. Moreover, certain aspects of the regulation of liquor manufacturer trade practices are not always clearly or fully understood from a review of documentation, as matters such as interpretation, enforcement policy and discretion have an important impact on a particular regulatory system. For these reasons, it is important to note that this paper is intended for discussion purposes only. No party should rely on it to determine their legal rights or obligations within BC or any other jurisdiction.

## **II. Regulation of liquor manufacturer trade practices in BC**

The BC Liquor Control and Licensing Branch has authority to regulate liquor manufacturer trade practices in BC. The basis for this authority is the *Liquor Control and Licensing Act* (the “Act”) and the *Liquor Control and Licensing Regulation* (the “Regulation”). The following provisions are of particular interest to this review.

### **1. Liquor Control and Licensing Act and Regulation**

#### **Power to impose terms and conditions**

Section 12 of the Act provides the General Manager with authority to issue licenses on terms and conditions that she considers necessary in the public interest. These conditions may include restrictions on liquor manufacturer trade practices.

#### **Prohibition on tied houses**

Section 18 of the Act prohibits “tied houses”. Specifically, it prohibits issuance of a licence to any person who has agreed to sell product from one manufacturer at the expense of others, or to any licensee who is so closely connected with a

manufacturer that he or she is likely to promote the sale of that manufacturer's product.

Section 18 contains limited exceptions for facilities that are operated in conjunction and at the same site as brew pubs and wineries. It also provides the General Manager with discretion to exempt other persons from these prohibitions or restrictions if she wishes to do so.

Section 17.3 of the Regulations provides that the General Manager may issue exemptions to the tied house restrictions (and the gift restrictions in section 45, discussed below) to sports stadiums and concert halls.

#### Prohibition on gifts to licensees

Section 45 provides that a person must not give or offer to give money, gifts, reward or remuneration to a licensee or its employees to promote the sale of a "particular kind, class or brand of liquor". This section does not however apply to liquor sold at a brew pub, winery, distillery, brewery or a licensed establishment operated in conjunction with a brew pub or winery.

This key provision has existed in various forms since the 1953 *Liquor Act*, discussed below.<sup>2</sup>

#### Advertising

Section 51 of the Act provides that a person may not advertise liquor except as permitted by regulation.

#### Gifts to consumers / samples

Section 53 of the Act provides that a brewery, winery or distillery can provide samples where permitted by the General Manager, and as provided in the Regulations. Section 49 of the Regulations limits the amount of product samples that can be sold to a customer by a winery or brewery in a sampling room.

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<sup>2</sup> The 1953 *Liquor-Control Act* (section 69) prohibited manufacturers from giving liquor to any person

The 1975 *Liquor Control and Licensing Act* (s. 51) prohibited manufacturers from giving (and licensees from receiving), "any money, gift, reward, or remuneration directly or indirectly for promoting, inducing, or furthering the sale of a particular kind, class, or brand of liquor, nor shall a licensee or his employee induce, further, or promote the sale of a particular kind, class, or brand of liquor."

Further amendments were made in 1979 and 1988 and 1994. In 1998 the Act was once again amended to provide the general manager with authority to grant exemptions to the prohibition on inducements.



## Sponsorship

Section 54 of the Act permits sponsoring of an event, subject to the Regulations and terms and conditions the General Manager may impose.

### 2. Policies

Pursuant to the authority conferred by the Act and Regulation, the General Manager has developed detailed policies pertaining to liquor manufacturer trade practices. These are set out in, “A Guide for Liquor Manufacturers and Their Representatives in British Columbia”. The provisions of this document are considered terms and conditions of liquor manufacturer licenses issued under section 12 of the Act. The Guide covers a broad range of issues, which are discussed in detail in section IV below.<sup>3</sup>

## **III. Rationale for trade practice restrictions**

### ***A. British Columbia***

In order to assess the rationale for liquor manufacturer trade practice restrictions in B.C. it is necessary to review both general liquor policy development and the development of policy specific to trade practice restrictions. Key reviews and initiatives include the following.<sup>4</sup>

#### 1. 1929 Griffiths Report

In December 1929, Albert Griffiths prepared a report for the Attorney General on the then Liquor Control Board. Griffiths reviewed the regulatory regime that had applied since the end of prohibition in 1921, and reached many negative conclusions regarding liquor manufacturers and government administrators. He concluded that the breweries had established a cartel,<sup>5</sup> and that the political influence of liquor interests had pervaded the Liquor Control Board to such an extent that its operation was drastically compromised. He recommended stronger penalties, greater enforcement, an end to the brewers cartel, licensing changes, and the establishment of a three person board to replace the then one-person board.<sup>6</sup>

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<sup>3</sup> A corresponding document has been created for licensees. It is entitled, “A Guide for Liquor Licensees in British Columbia: Terms and Conditions of a Liquor Licence”.

<sup>4</sup> For a more detailed history of liquor licensing and control in British Columbia, see Robert A. Campbell, *Demon Rum or Easy Money: Government Control of Liquor in British Columbia from Prohibition to Privatization* (Carleton University Press, Ottawa, 1991).

<sup>5</sup> This cartel consisted of 5 major brewers, and had been created as a result of a post-prohibition agreement with government to stop selling beer through channels other than the government’s liquor control scheme.

<sup>6</sup> See Campbell, *supra*, p. 77.

## 2. 1952 Liquor Inquiry Commission (Stevens)

This three-member commission was given broad terms of reference to review the distribution, sale and consumption of liquor, and the manner and means most acceptable to permit sale of liquor by the glass in licensed premises. Its report is a general condemnation of the liquor licensing system that applied at that time. The commission reached many interesting findings, including the following:

- Highly important provisions of the existing liquor licensing regime were being “wholly ignored”, and inspection staff were either “grossly incompetent” or motivated by a “sinister disregard of duty” (p. 7).
- Liquor licenses were being issued to people with police records and who were unquestionably not suitable for them.
- The requirement that beer parlours be attached to hotels resulted in “a number of beer-parlours attached to rooms that can only be described as slums...” (p. 8)
- Brewers and distillers had financial interests in hotels and beer parlours, by way of loans which far exceeded any physical security attached to them. As a result of such loans “it invariably follows that the licensee so benefited sells only the draft beer of his benefactor”. (p. 16). Other jurisdictions such as Washington, Oregon, California, Manitoba and Ontario all prohibited these relationships as not being in the public interest. (There is however no express discussion as to why these relationships are not in the public interest.)
- There was a recent trend toward amalgamation of brewing plants and companies “for the purpose of bringing the brewing industry under ever-narrowing control of and by powerful financial interests [which] has not been designed primarily to promote the public interest”. (p. 25)

The committee made a number of recommendations relating to board structure, enforcement practices, licence types, sale and distribution. With respect to the financial relationships between manufacturers and licensees, the committee recommended that such relationship be prohibited, and that liquor licenses should expressly be made non-transferable and without asset value to the holder. The committee also recommended that any new liquor legislation should have a preamble to expressly state that the purpose of the act was to control distribution of liquor so as to promote public welfare, health and morals.

## 3. 1953 *Liquor Act*

A revised Liquor Act was passed and received Royal Assent in 1953. It was generally consistent with many (but not all) of the Stevens Commission

recommendations, including the introduction of a prohibition on tied-houses and the provision of liquor as an inducement. New regulations were also introduced in January 1954.

#### 4. 1970 Liquor Inquiry Commission (Morrow)

Another three-member liquor inquiry commission (the Morrow Commission) was appointed in 1969, again with a broad mandate to make enquiries regarding the distribution, sale and consumption of liquor, as well as the laws and regulations pertaining thereto. This Committee released its report in 1970. It challenged the view that liquor was a “suspect product”, a view which this committee felt was reflected in the 1952 commission and the resulting 1953 *Liquor Act*. It also challenged the view that liquor licensing policy was related solely to control, and accepted the important revenue producing aspect of liquor regulation.

The Morrow Commission concluded that social conditions and attitudes had changed markedly since 1953, and it made a number of recommendations for liberalizing liquor licensing policy. This included a recommendation that electronic advertising (which had to that point been prohibited) should be allowed, provided it complied with a code of principles.

The Morrow Commission also considered allegations that breweries were providing gifts of various forms to liquor vendors and hotels, as well as to employees of the Liquor Control Board. The Commission addressed these two allegations together, and noted that some of the gifts were admitted. It noted that this course of conduct, “if allowed to continue, could bring into disrepute the entire brewing industry and more important, the Liquor Control Board”. There was no indication as to why the Commission viewed gifts to liquor vendors and hotels as falling within the same category as gifts to Liquor Control Board employees.

#### 5. 1975 Liquor Control and Licensing Act and Liquor Distribution Act

6. In 1975 the provincial government separated the regulation of liquor licensing and control from liquor distribution, by passing the *Liquor Licensing and Control Act* and the *Liquor Distribution Act*. This idea had been raised as early as 1920, as a means to address potential conflicting responsibilities inherent in a single liquor control regime (i.e. both moderating consumption and obtaining state revenue).<sup>7</sup>

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<sup>7</sup> See Campbell, *supra*, p. 176.

## 6. 1982 advertising agreement

In 1982 the province first permitted electronic advertising of beer and wine products. As part of this development, the province secured an agreement with the British Columbia Association of Broadcasters, to ensure that free air time was made available for public service educational messages related to responsible alcohol use. Specifically, the Association's members agreed to provide air time equal to 15% of the value of air time used to advertise beer and wine.

## 7. 1987 Liquor Policy Review (Jansen)

In 1987 another liquor policy review was conducted by a three-member commission (the Jansen Commission) to examine all aspects of liquor control, licensing, distribution and retailing. In general, the Jansen Commission concluded that British Columbians did not want significant modification to the existing liquor licensing regime. With respect to liquor manufacturer trade practices, the Commission's recommendations including the following:

- an expanded in-store product tasting program, which would include premium wines, should be implemented
- Liquor should not be sold at a price below the cost of the product to the licensee and the LCLB should maintain its regulatory control over the manner in which licensees may advertise including the prohibition regarding prices, competitions, give-aways and promotions (on the basis that such actions promote over-consumption)
- The LCLB should continue its regulatory control of beverage alcohol advertising in electronic media<sup>8</sup>, it should take a stricter role with respect to moderation and responsibility, and producers and suppliers should dedicate substantially more resources to corporately sponsored public service advertisements
- Manufacturers should be allowed to sponsor motorsport events
- The LCLB should strictly enforce legislation prohibiting the giving and taking of illegal inducements.

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<sup>8</sup> These restrictions were introduced in 1982, notwithstanding the recommendations of the Morrow Commission.

With respect to the recommendation pertaining to inducements, the report suggested that the rationale for such restrictions was, directly or indirectly, to protect the ability of consumers to choose from among various brands. It stated:

The issue of inducements and promotions is of serious concern to the committee due to its impact on beverage alcohol manufacturers, licensees, and ultimately the consumer.

An inducement is defined as an act by a liquor manufacturer to persuade a licensee or retailer through cash or product to buy more of a particular product than would be bought under normal circumstances, to the detriment of other manufacturers. Examples of inducements include cash payments, free product or product at a reduced price, free trips etc. Inducements are a violation of the LIQUOR CONTROL AND LICENSING ACT.

Inducements are illegal for the following reasons: brand choice, for consumers may be reduced by licensees or retailers conspiring with manufacturer(s) to the exclusion of other manufacturers; competition may be reduced among manufacturers as small companies may be unable to compete in the inducement wars. If industry consolidation should follow, then the remaining firms could collude and divide the market, dictating a limited choice of products to licensees and retailers.

Promotions also attempt to influence the brand purchased by consumers, but unlike inducements which typically occur without consumer knowledge, promotions are aimed directly at the consumer through mechanisms such as taste testing, bottle openers, coasters and the like. Promotions are permitted but regulated by the LCLB.

It is difficult if not impossible in some situations to draw a clear dividing line between promotions and inducements.

The committee recommends that strict guidelines be developed to ensure that inducements are prohibited...

In December 1987 revised policies were released. This resulted in the development of "A Guide for Liquor Manufacturers and Their representatives in British Columbia" (the "Guide").

The Guide was revised in 1995. A letter from the General Manager to "All Manufacturers and Agents / Representatives", which accompanied the Guide at that time, stated:

Information has recently been received that some liquor suppliers may be engaging in inducement practices which are contrary to Section 46(1) [now 45] of the Liquor Control and Licensing Act. The Branch considers Section 46(1) to be the cornerstone of the liquor industry. The intent of this section is to prevent liquor suppliers from buying business [and thus] ensuring that product is purchased by licensees solely on the basis of price, quality and consumer demand...

The Guide itself stated that the purposes of liquor control and licensing legislation were:

- To permit legitimate promotional activity including sponsorships, product sampling, distribution of brand or corporately identified sales aids, and other approved activities;

- To prohibit the offering of inducements to licensees. Inducements are incentives given by manufacturers or their representatives to licensees in free product, rebates, cash or other considerations, in order to establish exclusivity of product sales or to increase a product's sales;
- To prevent manufacturers from marketing to minors

The Guide also stated in the specific context of section 46 (now section 45):

The intent of the legislation is to prevent liquor manufacturers and their representatives from offering inducements to licensees in order to encourage licensees to promote a particular kind or brand of liquor; and to prevent licensees from demanding or accepting such inducements. Purchasing decisions by licensees should be made only on the basis of quality, price and consumer demand.

Identical provisions are found in the most recent version of the Guide (December 1999).

## 8. 1999 Liquor Policy Review (Surich)

A further liquor policy review was undertaken in 1999. The purpose was to make recommendations that would modernize liquor regulations and policies to achieve the following objectives:

- Simplification of rules and licence classes to reduce the costs of red tape and regulation to the hospitality industry.
- Evolution of the hospitality industry in a way that assists the development of the BC tourism industry.
- Harmonization of BC approaches to the control of alcoholic beverages and the hospitality industry with those of neighbouring jurisdictions.
- Development of regulations that meet today's social and health objectives

The report contained numerous recommendations related to licensing, enforcement, local government participation and other matters. Although the report did not focus on liquor manufacturer trade practice restrictions, some of the recommendations had relevance to this issue. For example, the report recommended that:

- Advertising regulations should be amended to permit use of the Advertising Standards Council process, rather than pre-approval by LCLB officials
- Outdoor advertising should be allowed (except close to schools and locations predominantly frequented by minors)
- Pre-approval should not be required to sponsor sporting events

- Tied house rules should remain for breweries

In sum, although the various reviews and policy developments differ in certain respects or emphases, they suggest that liquor regulation in BC has, to different extents at different times, sought to achieve public policy goals that fall within the following broad categories:

- Ensuring moderation in the consumption of liquor and limiting negative impacts of liquor consumption
- Realizing revenue and other benefits that result from responding to demand for liquor through state controlled means
- Providing fair allocation of rights and obligations among competing industry members and sectors (including avoidance of exceptional accumulation of power by any group or sector)
- Ensuring impartiality and accountability on the part of liquor control administrators
- Preventing the marketing of liquor to minors

The extent to which the specific issue of liquor manufacturer trade practice restrictions falls within one or more of these categories does not appear to have been fully articulated to date. For example, although the Guide indicates that licensee purchasing decisions should be limited to the factors of “quality, price and consumer demand”, there is no express indication as to why government has an interest in ensuring this occurs in the context of liquor control (recognizing that the provincial government does not regulate other industries for such reasons).<sup>9</sup>

The relationship between commercial aspects of liquor control and licensing and public health and safety is addressed generally in the BC Liquor Control and Licensing Branch’s Operating Principles, which state:

It is in the public interest to safeguard individuals and communities from harm caused by:

- the abuse of alcohol and other irresponsible drinking behaviour, and
- the inappropriate or reckless manufacture and/or sale of alcohol which might arise in instances of destructive competition.
- It is in the public interest to have regard for:

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<sup>9</sup> A document entitled “Liquor Policy Review: Background Information for a Consultative Process” published in 1987, attempts to draw a link between these issues and social policy. It states, “The use of alcohol has, and will continue to have, important social policy implications. Research generally links the cost of social programs with consumption, and consumption with product availability, prices and consumer preference” (p. 6). This does not however really address the question as to why social policy is furthered by ensuring purchasing decisions by licensees are limited to “quality, price and consumer demand”.

- the impact of alcohol manufacture and sales, the extent to which those impacts are understood and supported by individuals and their communities.
- coordinating actions with municipalities, police and other regulatory agencies to diminish the impact of the sale of beverage alcohol on the justice, health, and social welfare systems. (emphasis added)

*Destructive competition occurs when competition is so severe that participants in the industry may be induced to act improperly or even illegally in order to gain a competitive advantage. Such competition can arise when the economic viability of establishments is threatened by oversupply.*

*Consideration of economic viability of existing establishments is a relevant factor in considering new licence applications if based on the legitimate public interest of the social and economic benefits which the community as a whole derives from having a substance such as alcohol regulated and controlled. Economic viability of existing establishments is not relevant if considered for the benefit of those existing establishments. [reference: Coxson Holdings Ltd. d.b.a. Toro's Neighbourhood Pub v. Deputy Minister of Labour and Consumer Services and General Manager, Liquor Control and Licensing Branch, BCSC No. S4640 Duncan Registry, April 14, 1997].<sup>10</sup>*

## **B. Other jurisdictions**

In discussions with officials from other jurisdictions, it appears that the lack of a clear and comprehensive policy rationale for liquor manufacturer trade practice restrictions is not a condition unique to British Columbia. Although there is considerable commonality among jurisdictions regarding the type of restrictions imposed, various explanations were provided as to why government regulates these activities.

Some officials drew a distinction between advertising and consumer promotion restrictions, which appeared to directly relate to the issue of consumption, and other issues, such as inducements to licensees, which they viewed as primarily commercial matters.

With respect to the rationale for prohibiting inducements, various justifications were suggested. Some officials noted that they were designed to limit indirect subsidies, which could result in sale of liquor by licensees at prices lower than would otherwise be commercially practicable (thus preventing overconsumption).<sup>11</sup> Others noted that the principal purpose of such restrictions was to ensure all liquor was purchased through governmental sources, thus maximizing revenue. Some noted that a purpose was to ensure parties could not use inducements to indirectly get around the tied house rules. Others noted that the purpose of prohibiting inducements was to protect the existing balance of power among liquor industry participants, and that it really had no connection with the regulation of public health or safety. One official indicated that the rules

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<sup>10</sup> <http://www.ag.gov.bc.ca/lclb/mandate.htm>

<sup>11</sup> Professor Doug West of the University of Alberta has argued that “[i]f quantity discounts could be negotiated between retailers and manufacturers, then a good part of the incentive to use inducements would be absent”. “Privatization of Liquor Retailing in Alberta” (May 1996).



were developed many years ago to limit the exceptional power that large manufacturers and suppliers had obtained over licensed establishments, but that in past decades the power balance had in fact swung and the rules now protected manufacturers from the power of licensees (especially large international companies) which might demand various forms of benefits to carry or promote a particular brand.

As noted below, the province of Newfoundland does not regulate liquor manufacturer trade practices. One official noted that matters such as inducements and promotions were seen as primarily commercial matters, for which no compelling government interest justified regulation.

The State of Washington has recently undertaken a significant review relevant to the issue of liquor manufacturer trade practices. Specifically, in 1998 it established a panel to review Washington's three-tier system (manufacturers, distributors and retailers) and to make recommendations about the regulatory framework that would help make the system simpler and more economical to administer. The panel's review included consideration of the tied-house restriction, which in Washington includes a restriction on manufacturers providing "money or money's worth" to a licensee.

One of the presentations to the panel was made by Norman Clark, author of *The Dry Years – Prohibition and Social Change in Washington*, which the panel chair described as "arguably the foremost study on the history of alcohol in the United States and particularly in Washington State". Mr. Clark made of number in interesting comments, including the following:<sup>12</sup>

- Restriction on tied houses could be traced backed to the concerns that arose with respect to saloons near the turn of the century. With advances in transportation, bottling and refrigeration, "Each brewery took a keen interest in controlling as many saloons as possible. The way to gain an exclusive outlet for their product was to provide capitalization for saloons, in exchange for the saloon's promise to deal exclusively with the brewer's product. Fierce competition ensued, and if one saloon became involved in illegal business such as prostitution or narcotics, the others would follow in order to compete and pay bills to the brewers. Associated with these events was the pollution of political life, and early on the saloon keepers and brewers discovered they could buy legislators and votes."
- In 1933, in an effort to allow the sale of liquor without allowing the return of the saloon, the Steele Act was passed. "[This Act] created a state monopoly for the sale of hard liquor, and severely regulated the sale of beer and wine. What was remembered with this act was that the driving force engine behind saloons had been the financial interest that brewers and distillers had in saloons. Washington's three tier system came out of the deep-seated conviction that there should be no inter-relationship between alcohol manufacturers, distributors, or retailers."

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<sup>12</sup> See Minutes of the Three Tier System Review Panel Meeting", November 19, 1998, State Capital Campus, Olympia (minutes provided by the Washington State Liquor Control Board).

A presentation made by an official from the federal Bureau of Alcohol, Tobacco and Firearms reviewed the federal law relevant to this issue, including the federal *Alcohol Administration Act*, which has restrictions relating to exclusive outlets, tied houses,<sup>13</sup> consignment sales and commercial bribery. This official noted that testimony before the Committee of Ways and Means stated:

- The foregoing practices have in this industry constituted the principal abuses whereby interstate and foreign commerce have been restrained and monopolistic control has been accomplished or attempted. Furthermore, such abuses were so prevalent before prohibition that they were regarded in large measure as responsible for the evils that lead to prohibition.

Steve Diamond, Professor of Law, University of Miami, gave a subsequent presentation to the panel. The minutes from his presentation note the following:<sup>14</sup>

- “[T]he three tier system was created to establish retailer independence and to free up suppliers from the pressures that were being exerted by them before prohibition by suppliers... Each supplier wanted to move their own product [and] the problems that ensued are what happens when competition gets too aggressive, in particular the dangers of competition when we’re talking about alcoholic beverages. That is, losers in this competition don’t go gracefully. Rather, they tend to try and preserve themselves by doing things which were usually called “liquor evils”.
- The panel had asked what the three tier laws had to do with control of consumption. “Professor Diamond stated he wanted to make it clear it has everything to do with consumption. The laws were designed to control consumption and encourage moderation, while attempting to not be so burdensome as to invite defiance and evasion... [B]usinesses should be able to make a good living while engaging in business practices that promote moderation in consumption. He stated thus the three tier system facilitates a set of incentives to discourage the “pushing” of a product and protect against anti-competitive acts that would lead some people in the industry to indentured positions and therefore... engage in, as stated earlier, these liquor evils...”
- The present three tier system shows more concern with vertical integration than federal anti-trust laws, and the federal government is not interested in policing tied house or trade regulation.
- Although it is sometimes argued that there are so many exceptions to the tied house laws that they no longer make sense, in his view “those exceptions demonstrate the flexibility of the system; i.e. that no one is applying the rules rigidly or applying them when they don’t seem to make sense.”
- With respect to gifts from suppliers to retailers, he noted that different states have adopted different approaches. “Some states have a dollar limit as to how many

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<sup>13</sup> He noted that outright ownership of a retail business by a manufacturer is not prohibited by federal law.

<sup>14</sup> See Minutes of the Three Tier System Review Panel Meeting”, January 25, 1999, State Capital Campus, Olympia (minutes provided by the Washington State Liquor Control Board).

novelties can be provided. He stated this is certain and easily administered, but having a fixed line can lead to seemingly arbitrary decisions. Some states say a supplier can provide items so long as they are not “substantial”. He indicated while this seems more sensible, it is also more ambiguous. Professor Diamond stated some states provide a rule which theoretically is the most sound and is administratively most impossible to operate – they permit the gifts if the advertising benefit to the supplier is greater than the functional use to the retailer. He stated this solution has lead to such interesting questions as whether a table with a supplier logo... is more of a table or more of a sign. Professor Diamond stated there's no way to avoid these dilemmas, and we're not going to figure out a way that these questions can all be answered without state administrators making decisions and exercising judgment.

One panel member noted in response to these submissions that “historically, the three tier system was to keep the supplier from promoting sales with the retailer [but]... as things have developed and we see the advent of multi-billion dollar retail corporations, it is probably more likely that they'll buy out Anheuser Busch ... [T]hese days the power has kind of reversed”.

A presentation was also made by the regulatory counsel for a major international distilling company. The minutes indicate he stated that, at the federal level, “trade enforcement now addresses whether inducements provided to the retailer by a supplier create such a tie or link between a supplier and a retailer as to negate what would otherwise be the retailer's independent business judgment”. The minutes also note:

At the state level, Mr. Altschuh indicated that the trend over the last 20 to 30 years has been to deal with this evolving diversification [of companies] in a variety of ways. Specifically, he stated he believes the states have tried to respect the underlying policy concerns of the tied house laws, while acknowledging the facts of industry diversification and removing the traditional “per se” blinders. Mr. Altschuh gave examples of states that have set reasonable limits on how much the affected retailer can dedicate to that particular supplier's brands, such as Georgia who allows 10 percent, California who allows 15 percent, and Florida who allows 20 percent. Mr. Altschuh outlined other requirements of various states... such as California, Georgia and Michigan who review any contracts or arrangements that exist between a supplier and a retailer...

In sum, it appears that various rationales can be articulated for liquor manufacturer trade practice restrictions, and no one rationale need be suggested to the exclusion of all others. What is more important is that some link with a valid policy rationale be found for any particular issue being regulated, and that sufficient flexibility exist to address specific situations in a manner that does not compromise the either the efficacy or the underlying policy rationale of such regulation.

## IV. Enforcement of liquor manufacturer trade practice restrictions

### Position of other jurisdictions

In discussions with officials from various jurisdictions, enforcement of liquor manufacturer trade practice restrictions was almost always identified as a significant problem. It was described in terms such as “putting out fires”, “responding to complaints” or “keeping a lid on things”. Some indicated that it was nearly impossible to properly monitor and enforce these issues, and many indicated that enforcement of such matters was not treated as a high priority given limited enforcement resources. Others indicated that the penalties were not sufficient, and were regarded by some industry participants as simply the cost of doing business. A number also expressed concern with the inability of the province to prohibit inducements being given in another province or country, such as in the case of licensees who are part of a national or international chain and subject to centralized purchasing decisions.

An official from Alberta indicated that the difficulties experienced in securing compliance led that jurisdiction to propose removal of restrictions regarding inducement and promotion. The official noted that industry strongly protested such a proposal, and the result was an agreement among government and industry representatives to use the “buy-sell” agreement, which requires all promotional activity between a manufacturer and licensee to be clearly documented (and which must comply with applicable restrictions on permissible trade practices). The Alberta official indicated that these agreements, coupled with a demonstrated commitment to enforcement in a number of cases, has had a positive effect on securing compliance.

A self-regulatory approach was introduced in Ontario in 1996 to deal with complaints about industry trade practices. It included an Industry Standards and Practices Code and was endorsed by the Liquor Control Board of Ontario. However, provincial officials indicated it appears to have not been actively used.

### Penalties imposed to date

There appear to be relatively few cases in BC of findings and sanctions being imposed against a liquor manufacturer for violation of trade practice restrictions. In 1988 a brewery was found to be in violation of section 46 (now 45) of the *Liquor Control and Licensing Act* as a result of a marketing scheme that offered cash rebates to licensee retail stores if they lowered the price of the manufacturer’s product for a period of time. This resulted in a suspension of the licences of the manufacturer’s agents. In 1994 another brewery was found to be in violation of this section by providing free beer and draught beer dispensing

equipment to licensees, and by sponsoring various sporting and cultural events without prior approval of the LCLB. The penalty was to require the brewery to seek payment for the equipment and beer. In 1997 an investigation against a distiller resulted in the company agreeing to pay \$35,000 toward an alcohol research foundation.

More substantial sanctions have been imposed in other provinces. For example, in Alberta penalties were imposed against two major brewing companies for \$713,500 and \$541,500 respectively. Similarly, Ontario officials indicate that there have been several cases since 1988 where they have levied fines of hundreds of thousands of dollars against major breweries for inducement related activities.

### Present status of compliance and enforcement in BC

On June 16, 1999 a letter from the (then) General Manager to "All Licensed Brewers in the Province of British Columbia" stated:

I am writing to express my concerns about problems coming to my attention within the Brewing Industry in British Columbia. The issues surround inappropriate activities amounting to inducements in violation of section 45 of the Liquor Control and Licensing Act (the Act).

The Branch is currently investigating the relationship of several brewers and licensees within the Province. We are also aware of increased activity in this regard by the regulators in Alberta.

\* \* \*

I am committed to ensuring that the liquor industry in British Columbia operates in compliance with the law. Increased resources will be obtained to allow the Branch to meet its mandate in this regard.

In meeting recently with representatives of the Western Brewers Association, I am encouraged to learn that there is growing support for self-regulation within the industry. I am of the opinion that inappropriate activities have increased since the demise of the British Columbia Brewers' Council (BCBC). When the BCBC existed such matters were dealt with by them, although there was some concern about their effectiveness. The current nature of the brewing industry may allow for a more broadly based model, and I encourage and support your efforts in this regard...

Individuals involved with liquor control regulation in BC indicate that compliance rates at present are likely rather low in respect of some matters such as inducements, although compliance rates in other areas are probably higher (e.g. advertising). The Liquor Control and Licensing Branch receives information of more than 50 cases per year that require some form of intervention (including education, requests to modify practice etc.) and expect that there are many other cases which are not easily discovered. A review of statistics obtained from the Liquor Distribution Branch indicates that among licensees that serve large amounts of beer (i.e. over 115,000 litres per year), over 100 have product sales that differ significantly from the overall market share of breweries. That is, in

those cases one supplier provides 60% or more of product sold by a licensee. While this does not necessarily mean that illegal inducements occur, it is consistent with the general concern about compliance levels.

## **V. Comparison of specific aspects of BC trade practices with other jurisdictions and BTPA proposal**

Although the majority of jurisdictions reviewed have some form of restriction on liquor manufacturer trade practices, there are differences with respect to the specific issues regulated, and the specific requirements imposed in relation to each of the various issues. Table 1 (next page) sets out an overall summary of the various jurisdictions and the BTPA proposal, as compared to present BC trade practice regulation.

**Table 1. Trade Practice Regulation in Other Jurisdictions as Compared to British Columbia**

A – Regulated but less restrictive than those in British Columbia

X – Restrictions similar to those in British Columbia

Δ – Regulations more restrictive than those in British Columbia

Trade Practices Regulated	BTPA Proposal	Alberta	Saskatchewan	Manitoba	Ontario	Quebec	Nova Scotia	New Brunswick	Newfoundland	Prince Edward Island	Yukon	Northwest Territories
Licensing of Manufacturers	X	X	X	X	A	X	X	X	X	X	X	X
Prohibition on Inducements	X	A		X	A	A	X	A				X
Licensee Samples		X	X	Δ	X		Δ	Δ	Δ	Δ		Δ
Gifting to Non-profits		X		Δ	Δ	Δ	Δ	Δ		Δ		
Visiting Licensed Establishments		X	X	X	X	X	X	X		X		
Joint Promotions	X	A	A	A	A			A			A	A
Promotional Material	X	A	X	X	X	X					Δ	
Sponsoring Events	A	A	A	A			A			A	Δ	
Theme Nights	A	A		A	A		A	Δ				
Customer Tasting in Restaurants		A		A		X						
Tasting in Retail Stores		X	X	X	A	X	X	X	A	X		X
Contests	A	A	X	X				X		X		
Value-added Items		A	A		A		A	A		A		A
Point-of-sale Materials			A	A	X		A	X	X	X	Δ	Δ
Advertising		A	Δ	X	Δ	Δ	X	Δ	Δ	X	Δ	Δ
Advertising Policy Compliance		X	Δ	X	Δ	X	X	X	X	X	Δ	Δ
Agency Store Advertising					A				X		Δ	Δ
Market Research		X		A	X			A			Δ	

The following section will focus on the key principles regulated by each jurisdiction. Issues are broken down according to the 20 point “Guide for Liquor Manufacturers and Their Representatives in British Columbia”. More detailed information, including references to specific sections of applicable acts, regulations and policies may be found in the appendices.

### ***A. Licensing of Manufacturers***

British Columbia requires that liquor manufacturers and their agents be licensed by the Liquor Control and Licensing Branch. These licenses are renewable annually.

All other Canadian jurisdictions have a specific class of licenses for liquor manufacturers. New Brunswick, Prince Edward Island and the Northwest Territories have separate classes of licenses for brewers, distillers and wineries.

Alberta, Manitoba, Ontario, Nova Scotia, Newfoundland and the Yukon all specifically provide a registration, license, or permit system for liquor representatives similar to the system in British Columbia. In Ontario, however, employees of domestic manufacturers who are not under contract do not require a license. Saskatchewan, Quebec, New Brunswick, Prince Edward Island, and the Northwest Territories do not appear to have a licensing or registration scheme for liquor manufacturers’ representatives.

Oregon has separate categories of licenses for brewers, distillers and wineries. Washington does not appear to have a licensing system for manufacturers and their representatives.

The BTPA does not propose any change to the licensing provisions pertaining to liquor manufacturers and their representatives.

Further details regarding the regulation of licensing of manufacturers and their representatives among the jurisdictions reviewed are set out in Appendix A.

### ***B. Inducements***

British Columbia prohibits manufacturers from providing, directly or indirectly, any money, gifts, reward or remuneration to a licensee for promoting, inducing or furthering the sale of a particular kind, class or brand of liquor. BC does allow manufacturers to provide a licensee with information and ideas to improve the premises and operating methods, so long as the advice is provided by the manufacturer directly. A manufacturer cannot however provide advice in the area of lending or locating financing. Exceptions to these restrictions can be made by the General Manager, subject to any applicable regulations.



Similar prohibitions exist in most other jurisdictions reviewed. Nova Scotia has a prohibition very similar to BC. Ontario prohibits giving licensees something that is a significant financial or material benefit for the purposes of increasing sale of brand of liquor, but allows giving of insignificant quantities of items that could be seen as a benefit to a licensed establishment (e.g. a small quantity of glassware with the manufacturer's name on it). Manitoba and Alberta prohibit manufacturers from giving gifts to licensees, without any reference to the purpose for which the gift is given. Alberta does have an exception that allows suppliers to give licensees sporting, cultural or entertainment event tickets not exceeding \$450.00 (unless approved by the AGLC). Quebec does not regulate inducements by manufacturers to licensees except to prohibit giving equipment required to operate under a permit. However it does prohibit inducements to distributors to restrict or deny the availability of a certain brand of product with its network. PEI prohibits manufacturers from giving liquor.

Newfoundland does not appear to impose any such restrictions on manufacturers.

Oregon and Washington prohibit inducements with restrictions that are substantially similar to those in British Columbia.

The BTPA does not propose any change to the general policy pertaining to inducements.

Further details regarding the regulation of inducements among the jurisdictions reviewed are set out in Appendix B.

### ***C. Introduction to products by samples***

British Columbia permits manufacturers to give licensees product samples. These samples are not to exceed one standard size bottle per year per product, and are for the consumption of the licensee only. Manufacturers must keep records of the samples provided to licensees.

Only a few other provinces permit manufacturers to provide samples to licensees. Alberta, Saskatchewan, and Ontario have sampling restrictions similar to British Columbia. Both Ontario and Alberta permit manufacturers to provide licensees with samples of new or existing products once per year, and have maximum sample sizes for each product type. Alberta requires that records of the sampling be kept by the manufacturer. Saskatchewan also permits a manufacturer's representative to provide a free sample in a closed container to patrons and employees of a licensed establishment for consumption off the premises. Manitoba allows manufacturers or their agents to purchase a drink for the operator of licensed establishment from the licensee's stock for the purpose of promoting that product to the licensee. Manitoba restricts the maximum size of the sample drink that may be provided.

Nova Scotia expressly forbids promotional product give-aways to licensees. Newfoundland and New Brunswick permit only liquor purchased from the provincial Liquor Corporation to be brought onto licensed premises. Manufacturers in Prince Edward Island and the Northwest Territories may give liquor, but only in accordance with the relevant regulations.

Quebec, and the Yukon do not appear to impose express restrictions on licensee product sampling by manufacturers.

Oregon and Washington permit manufacturers to provide samples to licensees of products that the licensee does not carry, with restrictions on the size of samples that may be provided. Washington requires that manufacturers keep a complete record of their sampling activities.

The BTPA does not propose any change to the general policy pertaining to providing samples to licensees.

Further details regarding the regulation of providing samples to licensees among the jurisdictions reviewed are set out in Appendix C.

#### ***D. Gifts to non-profit organizations***

British Columbia permits manufacturers to donate either product or money - with the condition that money be used to purchase the product - to non-profit organizations. Manufacturers must keep records and receipts of such gifts for audit purposes.

Alberta allows manufacturers to provide unlimited liquor and/or merchandise to charitable fundraising events hosted by licensees. Corporate or brand identified items may be given to charitable organizations, but liquor may only be donated for auction purposes. Nova Scotia and New Brunswick permit promotional product to be donated to teams and community events by way of vouchers redeemable for product. New Brunswick limits such donations to a reasonable quantity.

Prince Edward Island allows gifts of liquor only in accordance with applicable regulations. Manitoba prohibits gifts of liquor by manufacturers except to employees. Ontario restricts manufacturers from giving alcoholic beverages to non-profit organizations, but permits giving money. Quebec prohibits gifts of liquor except for the personal consumption of employees or persons visiting bottling facilities.

Saskatchewan, Newfoundland, the Yukon, and the Northwest Territories do not appear to have any direct restrictions on gifts by manufacturers to non-profit organizations.

Washington permits manufacturers to provide product to a non-profit organization for a purpose consistent with that organization's tax exemption under the Internal Revenue Code. Oregon does not appear to have express restrictions on gifts to non-profit organizations.

The BTPA does not propose any change to the general policy pertaining to gifts to non-profit organizations.

Further details regarding the regulation of gifts to non-profit organizations among the jurisdictions reviewed are set out in Appendix D.

### ***E. Visiting licensed establishments***

British Columbia permits manufacturers or their representatives to join a table of customers in a licensed establishment and buy drinks for the customers at that table in order to introduce them to a product. The drinks must be standard serving size for that establishment, and manufacturers may not "buy drinks for the house."

Most other Canadian jurisdictions have similar restrictions on manufacturers visiting licensed establishments. Alberta, Saskatchewan Manitoba, Ontario, Quebec, Nova Scotia, New Brunswick, and Prince Edward Island have provisions that are essentially identical to those in British Columbia.

Newfoundland, the Yukon and the Northwest Territories do not appear to restrict visits by manufacturers to licensed establishments.

Oregon permits manufacturers to provide or pay for samples of beverages for the public on licensed premises. Washington does not appear to have restrictions dealing with manufacturers' visits to licensed establishments.

The BTPA does not propose any change to the general policy pertaining to manufacturers visiting licensed premises.

Further details regarding the regulation of visits to licensed premises by manufacturers among the jurisdictions reviewed are set out in Appendix E.

### ***F. Food and liquor promotions in licensed establishments***

British Columbia requires that all joint promotions between manufacturers and licensees in licensed premises include a full meal, and that all patrons in attendance partake of the meal. Such events may only be advertised outside of the establishment if a senior representative of the manufacturer will be present at the event. British Columbia limits such events to four per establishment per year.

Alberta, Saskatchewan, Manitoba, and New Brunswick allow advertising of all-inclusive joint food and liquor promotions in licensed premises. Saskatchewan permits advertising off the premises only if the manufacturer's name or brand identification is not indicated. Manitoba permits a manufacturer to provide complimentary samples to guests. Ontario also permits joint promotions, and allows advertising of such promotions outside of the establishment with the approval of the Alcohol and Gaming Commission of Ontario. Quebec prohibits joint advertising between a manufacturer and a permit holder outside of the permit holder's establishment.

The Yukon requires manufacturers to get the approval of the Yukon Liquor Corporation before conducting any special promotional events for their products.

Nova Scotia, Newfoundland, Prince Edward Island and the Northwest Territories do not appear to specifically restrict joint food and liquor promotions in licensed establishments.

Neither Oregon nor Washington appear to have specific restrictions around food and liquor promotions in licensed establishments.

The BTPA does not propose any change to the BC policies regarding food and liquor promotions in licensed restaurants.

Further details regarding the regulation of food and liquor promotions in licensed establishments among the jurisdictions reviewed are set out in Appendix F.

### ***G. Manufacturer promotional material***

British Columbia permits manufacturers to sell or give away a variety of promotional items of nominal value to licensees in order to advertise their products in that establishment.

Several other Canadian jurisdictions have similar limitations on promotional material, specifically that all promotional material be of nominal value. Alberta, Saskatchewan, Manitoba, Ontario, and Nova Scotia have restrictions that are substantially similar to those in British Columbia. All items must be of nominal value and must include the manufacturer or brand name or insignia. Alberta, however, allows licensees and manufacturers to enter into buy/sell agreements, where the manufacturer gives the licensee items in return for the promotion of specific brands or types alcohol. Quebec permits promotional items for customer use in licensed premises.

The Yukon requires prior approval by the Yukon Liquor Corporation for all manufacturers' promotional material.

New Brunswick, Newfoundland, Prince Edward Island, and the Northwest Territories do not appear to have specific restrictions on manufacturers' promotional material.

Oregon permits manufacturers to distribute inexpensive items that promote responsible drinking containing references to the manufacturer to a retailer for their own use or to distribute to customers. Washington only permits the distribution of promotional materials with no value.

The BTPA does not propose any change to the general policy pertaining to promotional material. However, the BTPA proposal would allow members to provide equipment and items to a licensee that have been approved by the LCLB (e.g. tap heads).

Further details regarding the regulation of promotional material among the jurisdictions reviewed are set out in Appendix G.

#### ***H. Manufacturer sponsored events***

British Columbia allows sponsorship of events where the participants or audience do not primarily consist of minors. Notice of sponsorships exceeding \$1500 must be given. Exclusive supply of the manufacturer's products during an event is not permitted.

Alberta, Saskatchewan, Manitoba, Nova Scotia, and Prince Edward Island permit manufacturers to sponsor events and to donate prizes or trophies. Alberta permits exclusive supply arrangements with the approval of the board.

Ontario, Quebec, New Brunswick, Newfoundland, the Yukon and the Northwest Territories do not appear to restrict manufacturer sponsored events.

Oregon does not require prior approval for sponsorships, and permits manufacturers to purchase sponsorships. Washington does not appear to have any restrictions on manufacturer sponsored events.

The BTPA proposes to permit exclusive supply arrangements with manufacturers for the duration of the event. The BTPA adopts the other existing regulations with respect to sponsorship.

Further details regarding the regulation of manufacturer sponsored events among the jurisdictions reviewed are set out in Appendix H.

## ***I. Manufacturer's theme nights***

British Columbia permits only 'A'<sup>15</sup>, 'C'<sup>16</sup>, 'D'<sup>17</sup>, 'F'<sup>18</sup>, or 'I'<sup>19</sup> licensees to host theme nights. Notice of a theme night must be given to a LCLB Compliance Officer ten days in advance and must name the representative who will attend. A representative must attend part of the function and must award all prizes. An educational component must be included. Promotions may not occur between 4:00 pm and 6:30 pm, and no more than eight days of promotions may occur in one establishment in a ninety day period. Prizes may not exceed \$25.00, and must be capable of being carried away from the establishment. Theme nights may not occur on a college or university campus.

None of the other Canadian jurisdictions have restrictions around manufacturer's theme nights that are as extensive as those in British Columbia. Alberta does not require the presence of a representative at a promotional event, and allows the licensee to administer contests and give-aways and to discount liquor prices. Give-aways exceeding \$100.00 must be recorded. Manitoba permits manufacturers to provide prizes and awards at brand identified promotional events. Ontario puts no limits on the value of prizes that may be awarded, or on the number of theme nights that may occur.

New Brunswick prohibits licensed establishments from having theme nights in their licensed establishment.

Saskatchewan, Quebec, Nova Scotia, Newfoundland, Prince Edward Island, the Yukon, and the Northwest Territories do not appear to have restrictions on manufacturer's theme nights.

Neither Oregon nor Washington appear to have specific restrictions on manufacturers' theme nights.

The BTPA proposes some significant changes to the restrictions on manufacturer's theme nights in British Columbia. Specifically, the BTPA proposes that representatives only be required to attend theme nights when product sampling occurs, that each licensee be permitted forty theme nights per establishment per year (twenty between May 1 and October 31, and twenty between November 1 and April 30) and that the prize limit be increased to \$500 per theme night.

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<sup>15</sup> An 'A' licence may be issued to: hotels, resorts, clubs, recreational centres, aircraft, trains, motor vessels, airports, municipally and provincially owned cultural centres, universities to which the University Act applies, colleges and institutions to which the College and Institute Act applies and military messes.

<sup>16</sup> A 'C' licence may be issued to cabarets primarily engaged in providing entertainment.

<sup>17</sup> A 'D' licence may be issued to establishments known as Neighbourhood Public Houses.

<sup>18</sup> An 'F' licence may be issued to establishments oriented to marine activities, known as Marine Public Houses.

<sup>19</sup> An 'I' licence may be issued to establishments known as Restoration Public Houses.

Further details regarding the regulation of manufacturer's theme nights among the jurisdictions reviewed are set out in Appendix I.

### ***J. Consumer tasting in licensed restaurants***

British Columbia permits manufacturers to offer products to customers in 'B'<sup>20</sup> licensed restaurants provided that a representative is present at all times and a LCLB Compliance Officer is notified in advance of the event. All product used for sampling must be purchased from the restaurant, and patrons must order a meal before tasting. Maximum sample sizes are provided.

Most Canadian jurisdictions do not have separate restrictions dealing with customer tasting in restaurants, but do provide some general restrictions around manufacturers visiting any licensed establishment (see section E above). Alberta permits a manufacturer to provide an individual serving of liquor to a patron in a licensed establishment. The liquor must be purchased from the licensee, maximum sample sizes must be observed, and a record of all activities must be kept, including dollar value of samples given. Manitoba only permits sampling in licensed restaurants where it occurs during a function organized for that purpose. Quebec requires prior approval before tastings are held in licensed establishments.

Saskatchewan, Ontario, Nova Scotia, New Brunswick, Newfoundland, Prince Edward Island, the Yukon, and the Northwest Territories do not appear to specifically restrict customer tasting in licensed restaurants.

Neither Oregon nor Washington appear to have specific restrictions dealing with customer tasting in licensed restaurants.

The BTPA does not propose any change to the general policy pertaining to customer tasting in licensed restaurants.

Further details regarding the regulation of customer tasting in licensed restaurants among the jurisdictions reviewed are set out in Appendix J.

### ***K. Consumer tasting in licensee retail stores***

British Columbia permits only a single consumer tasting to be conducted in a retail store at a time. Products used must be purchased at the retail store and no out of store advertising of the tasting is permitted. Maximum sample sizes must be observed.

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<sup>20</sup> A 'B' licence may be issued to dining establishments primarily engaged in the service of food.

Most other Canadian jurisdictions provide very similar guidelines for consumer tasting in retail liquor stores. Alberta, Saskatchewan, Manitoba, Nova Scotia, New Brunswick, Prince Edward Island, and the Northwest Territories have restrictions nearly identical to British Columbia, with slight variations in maximum sample sizes and the number of products that may be sampled. Nova Scotia requires a manufacturer to have a Hospitality Room Permit to conduct in-store tasting.

Newfoundland permits tasting in liquor stores. Ontario allows a manufacturer to give liquor to a person for the purpose of sampling a new brand or conducting market research. Quebec permits tasting in agency stores, but requires prior approval.

The Yukon does not appear to have restrictions on consumer tasting in retail liquor stores.

Oregon prohibits representatives from providing samples to customers in retail liquor stores. Washington does not appear to have any restrictions on consumer tasting in retail stores.

The BTPA does not propose any change to the general policy pertaining to customer tasting in retail liquor stores.

Further details regarding the regulation of consumer tasting in retail liquor stores among the jurisdictions reviewed are set out in Appendix K.

#### ***L. Manufacturer sponsored contests***

British Columbia permits manufacturers and their agents to hold contests in government liquor stores, licensee retail stores, and through the media. Contests may not be offered in licensed establishments other than during theme nights. No contest can require the purchase of alcohol, and all contestants must be legal drinking age. Theme night prizes are not to exceed \$25.00 and must be capable of being carried out of the establishment.

The restrictions on manufacturer sponsored contests are similar in most other Canadian jurisdictions. Alberta, Saskatchewan, Manitoba, New Brunswick, and Prince Edward Island permit manufacturer sponsored contests. All require the contestants to be of legal drinking age. Alberta puts no limit on value of prizes, but records must be kept of prizes worth more than \$100.00. Alberta also permits liquor to be given as a prize, but only in a retail liquor store.

Ontario, Quebec, Nova Scotia, Newfoundland, the Yukon and the Northwest Territories do not appear to restrict manufacturer sponsored contests.



Both Oregon and Washington prohibit manufacturer sponsored contests from requiring the purchase of alcohol for entry.

The BTPA proposes that the types of prizes permitted in manufacturer sponsored contests during theme nights be flexible, and that prize limits be \$500.00 per theme night, based on normal retail value of the prizes.

Further details regarding the regulation of manufacturer sponsored contests among the jurisdictions reviewed are set out in Appendix L.

#### ***M. Value added promotional items***

British Columbia permits value added promotions with the approval of the LDB. Items may be either inserted into the package or affixed to the package by the manufacturer. Near pack promotions are not permitted.

Alberta, Saskatchewan, Ontario, Nova Scotia, New Brunswick, Prince Edward Island, and the Northwest Territories permit value added promotions – including near pack promotions. Alberta, Ontario, and Prince Edward Island limit the maximum value of the added items, relative to the value of the host item. Nova Scotia only limits the value of alcohol items, but does not restrict non-alcohol value added items. Saskatchewan and Prince Edward Island prohibit brand-on-brand alcohol value added items.

Manitoba, Quebec, Newfoundland, and the Yukon do not appear to restrict value added promotional items.

Oregon limits alcohol value added items by size of item and size of host product. Washington does not appear to restrict value added promotional items.

The BTPA does not propose any change to the general policy pertaining to value added promotional items.

Further details regarding the regulation of value added promotional items among the jurisdictions reviewed are set out in Appendix M.

#### ***N. Manufacturer point of sale material***

British Columbia limits point of sale promotional material to shelf-talkers, ceiling danglers, and product display structures. All point of sale material must comply with the conditions of manufacturer's advertising.

Saskatchewan, Manitoba, Ontario, Nova Scotia, New Brunswick, Newfoundland, and Prince Edward Island permit similar point of sale material to what is allowed in British Columbia. Saskatchewan, Manitoba, and Nova Scotia also allow on-shelf cash rebates or coupons.

The Yukon and the Northwest Territories require manufacturers to get pre-approval from the applicable regulatory body for their point of sale material.

Alberta, and Quebec, do not appear to restrict manufacturers point of sale material.

Oregon permits manufacturers to customize point of sale material to include retailer logos or names. All signs and display material for retail stores must be pre-approved by a merchandising committee. Washington does not appear to restrict manufacturers' point of sale material.

The BTPA does not propose any change to the general policy pertaining to manufacturer point of sale material.

Further details regarding the regulation of manufacturer point of sale material among the jurisdictions reviewed are set out in Appendix N.

### ***O. Manufacturer's advertising***

British Columbia prohibits prices from being mentioned in manufacturer's advertising, and forbids advertising within 200 metres of a school or other locations frequented by minors.

Most other Canadian jurisdictions have similar restrictions about alcohol advertising, specifically prohibiting advertising directed at minors. Manitoba, Nova Scotia, Newfoundland, and Prince Edward Island's restrictions are similar to those in British Columbia. Nova Scotia also limits advertisements on radio and TV to two minutes per hour. New Brunswick limits airing of advertisements to twenty-five times per week by any radio or TV station. Alberta forbids corporate advertising between a supplier and a licensee. Saskatchewan requires that a portion of advertising be devoted to educational messages. Newfoundland limits advertising by broadcast media to beer and wine.

Saskatchewan, Ontario, Quebec, the Yukon, and the Northwest Territories require pre-approval for all advertisements.

Washington requires brand advertising to identify name and address of manufacturer and to state alcohol content of item. Oregon does not appear to have restrictions on manufacturers' advertising.

The BTPA does not propose any change to the general policy pertaining to manufacturers' advertising.

Further details regarding the regulation of manufacturers' advertising among the jurisdictions reviewed are set out in Appendix O.

### ***P. Ensuring compliance with advertising policy***

British Columbia requires that all manufacturers' advertising comply with the Act, the regulations, the CRTC Code, and with any terms and conditions imposed by General Manager of the Liquor Control Board.

Most other Canadian jurisdictions have similar compliance requirements. Pre-approval of advertising is only required by Saskatchewan, Ontario, Quebec, the Yukon and the Northwest Territories. Nova Scotia provides that approval is deemed to have been given where advertising complies with applicable policy. Both Oregon and Washington require all advertisements of liquor to conform to existing policy guidelines for alcohol advertising.

The BTPA does not propose any change to the general policy pertaining to compliance with advertising policy.

Further details regarding the regulation of compliance with advertising policy among the jurisdictions reviewed are set out in Appendix P.<sup>21</sup>

### ***Q. Agency store advertising***

British Columbia permits reference in agency store advertisements to liquor products available in store, but forbids the direct reference to availability of specific brands or manufacturers – except where store is operated by a winery, brewer, or distiller. Unless an agency appointment is held by a manufacturer, a manufacturer may not pay for agency store advertising.

Ontario does not require that agency stores obtain Commission approval for their own advertising. Newfoundland prohibits any advertising of price.

The Yukon and the Northwest Territories require pre-approval for any advertisements with respect to agency stores.

Alberta, Saskatchewan, Manitoba, Quebec, Nova Scotia, New Brunswick, and Prince Edward Island do not appear to restrict agency store advertising.

Oregon prohibits agency stores from advertising with reference to alcoholic beverages. Washington does not appear to restrict agency store advertisements.

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<sup>21</sup> For further discussion on advertising policy, see Ontario Advisory Committee on Liquor Regulation, "Report of the Advisory Committee on Liquor Regulation" (Toronto, 1987), and "Self Regulation in the Alcohol Industry: A Review of Industry Efforts to Avoid Promoting Alcohol to Underage Consumers" (Federal Trade Commission, September 1999).

The BTPA does not propose any change to the general policy pertaining to agency store advertising.

Further details regarding the regulation of agency store advertising among the jurisdictions reviewed are set out in Appendix Q.

### ***R. Market Research***

British Columbia permits market research, including a survey of members of a target group. Market research may not be a promotional scheme, and may be conducted by the manufacturer or by an independent group. If the research involves tasting or distribution of a packaged product the LCLB Compliance Officer must be notified in writing ten days in advance. There may be no public advertising of the survey, and participants may be compensated.

Alberta has restrictions on market research that are essentially identical to those in British Columbia. Manitoba and Ontario permit sampling for the purposes of market research, although in Ontario a special occasion permit is required for market research in a public place. New Brunswick allows brewers to give vouchers redeemable for beer for the purposes of market research.

The Yukon requires pre-approval for any promotional or marketing efforts.

Saskatchewan, Quebec, Nova Scotia, Newfoundland, Prince Edward Island, and the Northwest Territories do not appear to impose restrictions on market research.

Neither Oregon nor Washington appear to have any restrictions on market research in place.

The BTPA does not propose any change to the general policy pertaining to market research.

Further details regarding the regulation of market research among the jurisdictions reviewed are set out in Appendix R.

### ***S. Aspects of the BTPA proposal not presently regulated by BC***

There are some elements of the BTPA proposal that are not at present directly regulated by the LCLB. Although these sections of the proposed Code are not specifically covered by current LCLB policy, they may indirectly affect existing prohibitions.

The BTPA proposal suggests that exclusive draft beer arrangements be permitted for licensees with three or fewer draft taps. For those licensees with more than three taps, section 7.2 of the BTPA proposal contains a draft beer

selection policy that would ensure that exclusive supply arrangements do not exist.

Section 7.3 of the BTPA proposal requires notification for all supply arrangements made between liquor suppliers and chain licensees, something not currently required by the LCLB.

The Code proposes to require advance approval of House Brand arrangements prior to the commencement of distribution of House Brands. Section 7.4 of the proposal further provides that a member may not provide point of sale or on-site advertising to the licensee to support the sale of the House Brand. Co-branding - displaying the trademark of the brewer along with the trademark of the House Brand – is permitted to build brand equity.

Another element of the proposed Code that is not specifically restricted by the LCLB is section 3 of schedule 1. This section proposes to permit liquor manufacturers or their representatives to pay licensee travel and entertainment costs, which could potentially conflict with existing prohibitions against inducement. The BTPA proposal permits those expenses that are reasonable for the purposes of increasing licensee product knowledge, subject to specific limits on meals, recreational activities, special events, travel to breweries, and geographic restrictions. The Code also allows for an application to the Adjudicator for an exemption from these limits.

The proposal allows members to spend a maximum of \$1,000 per licensee location and \$1,000 per person, per licensee head office in British Columbia, up to a maximum of three persons per year. Reasonable business promotional expenses are limited to meals, recreational activities such as golfing or skiing, entertaining at sports or concert hospitality suites, giving special events tickets, and travel to a brewery.

The proposal also allows for the member to provide training services to a licensee and its staff, such as product-specific training, general sales training, and training provided by an outside consultant paid by the member.

Section 6d of schedule 1 of the proposal would permit liquor manufacturers to supply product to an opening night event or private function. The LCLB currently requires that all product be purchased from the licensee.

***T. Trade practices regulated in other jurisdictions that British Columbia does not currently regulate***

Restrictions on the corporate vehicles of liquor manufacturers or their agents

Some jurisdictions, specifically Alberta, Quebec, Newfoundland, and Prince Edward Island, specifically permit liquor manufacturers or their agents to display

corporate or brand names on a corporate vehicle. Alberta also places some restrictions on what sponsored events the vehicle may appear at, requiring prior approval for events taking place on campuses.

British Columbia does not appear to have any specific restrictions dealing with the corporate vehicles of liquor manufacturers or their agents.

#### Restrictions on activities at liquor trade shows

Alberta and Manitoba specifically provide for manufacturers to engage in liquor sampling at liquor trade shows, subject to sample size guidelines.

British Columbia does not appear to have any formal restrictions in place to regulate the activity of liquor manufacturers or their agents at liquor trade shows.

#### Liquor advertising in public places

Some jurisdictions, such as Saskatchewan, restrict liquor advertising to educational message in such public places as shopping malls, airports, train stations and bus terminals. Prince Edward Island also prohibits outdoor signs unless they encourage moderation and responsibility or promote a socially or environmentally responsible message.

British Columbia regulates the content of liquor advertising and allows liquor advertising in public places (with certain exceptions). It does not however appear to have content regulations requiring educational or responsible messages for advertisements appearing in specified public places (except at sponsored events where liquor is being served).

#### Scholarships and bursaries

Saskatchewan specifically permits liquor manufacturers to, with approval, donate money for scholarships, bursaries, fellowships or other educational incentive programs. Ontario and Prince Edward Island also permit manufacturers to donate corporate identified scholarships.

British Columbia does not appear to restrict liquor manufacturers with respect to donations to scholarships and bursaries.

#### Brand advertising on trophies

Quebec restricts the number of alcohol brands that may be referred to on a trophy or medal provided by a manufacturer.

British Columbia permits manufacturers to sponsor events, but does not appear to regulate brand advertising as part of that sponsorship.

#### Liquor in the possession of liquor agents

Ontario restricts the purposes for which representatives may have liquor in their possession: filling a valid purchase order, sampling, or market research. Ontario also limits liquor agents to no more than 180 litres of liquor in their possession at one time.

British Columbia does not appear to restrict liquor in the possession of liquor agents, either by purpose or amount.

#### The use of celebrities to promote the manufacturer's products

Oregon has specific regulations limiting the use of celebrities as promotional aides. The use of celebrities is limited by a prohibition on advertising their appearances, the number of appearances they may make on a premises each year, and the length of their performance. Similarly, Ontario regulations provide that no well-known personality may be used in liquor advertising who may be reasonably expected to appeal, either directly or indirectly, to minors.

British Columbia does not appear to have any regulations specifically dealing with the use of celebrities in promotional activities.

#### Samples provided to retail sales agents

Oregon provides for and restricts the number and size of liquor samples that manufacturers may provide to retail sales agents who represent state controlled liquor stores.

British Columbia does not appear to specifically regulate product samples for agency store employees.

#### Tastings for liquor store employees

New Brunswick permits staff sampling in Liquor Corporation and Agency Stores, with restrictions around timing and location of the sampling activity.

British Columbia does not appear to regulate product tastings for agency store employees.

## **VI. Other law potentially relevant to liquor manufacturer trade practices regulation**

### ***A. Competition Act***

The federal *Competition Act* sets out various prohibitions on non-competitive activity. Section 1.1 states:

The purpose of this Act is to maintain and encourage competition in Canada in order to promote the efficiency and adaptability of the Canadian economy, in order to expand opportunities for Canadian participation in world markets while at the same time recognizing the role of foreign competition in Canada, in order to ensure that small and medium-sized enterprises have an equitable opportunity to participate in the Canadian economy and in order to provide consumers with competitive prices and product choices.

The Competition Act contains both criminal law and civil law provisions.

#### Criminal law provisions

The criminal law provisions of the Act are set out in Part VI. The offences include conspiracy, price maintenance, misleading advertising and other deceptive marketing practices. The offence of conspiracy applies to every person “who conspires, combines, agrees or arranges with another person... to prevent or lessen, unduly, competition in the production, manufacture, barter, sale, storage, rental, transportation or supply of a product”. The maximum fine for such a breach is a penalty of \$10 million. Moreover, if a person is convicted of an offence under Part VI, any person who has suffered loss or damages as a result of the violation may sue the violator for damages.<sup>22</sup>

#### Civil law provisions

The civil law provisions of the Act differ from the criminal law provisions in several respects. Civil issues are reviewed by the Competition Tribunal,<sup>23</sup> which has the power to prohibit certain forms of anti-competitive conduct, but not the power to impose fines.<sup>24</sup> Violation of the civil provisions of the Act does not give other parties a right to sue the violator for damages. Cases may only be brought to the Competition Tribunal at the discretion of the Competition Commissioner<sup>25</sup> (who may consider complaints).

The civil law provisions address the issue of exclusive dealing. Exclusive dealing is defined in section 77(1) of the Act to mean:

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<sup>22</sup> See section 36.

<sup>23</sup> Established under the federal *Competition Tribunal Act*, R.S.C. 1985, c. 19 (2<sup>nd</sup> Supp.).

<sup>24</sup> Failure to comply with the orders of the Tribunal is however an offence.

<sup>25</sup> Formerly called the Director of Investigation and Research.



- (a) any practice whereby a supplier of a product, as a condition of supplying the product to a customer, requires that customer to
  - (i) deal only or primarily in products supplied by or designated by the supplier or the supplier's nominee, or
  - (ii) refrain from dealing in a specified class or kind of product except as supplied by the supplier or the nominee, and
- (b) any practice whereby a supplier of a product induces a customer to meet a condition set out in subparagraph (a)(i) or (ii) by offering to supply the product to the customer on more favourable terms or conditions if the customer agrees to meet the condition set out in either of those subparagraphs.

Section 77(2) goes on to state:

Where, on application by the Commissioner, the Tribunal finds that exclusive dealing or tied selling, because it is engaged in by a major supplier of a product in a market or because it is widespread in a market, is likely to

- (a) impede entry into or expansion of a firm in a market,
- (b) impede introduction of a product into or expansion of sales of a product in a market, or
- (c) have any other exclusionary effect in a market,

with the result that competition is or is likely to be lessened substantially, the Tribunal may make an order directed to all or any of the suppliers against whom an order is sought prohibiting them from continuing to engage in that exclusive dealing or tied selling and containing any other requirement that, in its opinion, is necessary to overcome the effects thereof in the market or to restore or stimulate competition in the market.

Where a person is found to have violated this section, the Competition Tribunal may issue an order prohibiting the offending conduct, and it may also make “any other requirement that, in its opinion, is necessary to restore or stimulate competition in relation to the product” (section 77(3))

The provisions regarding conspiracy and exclusive dealing could potentially be seen as having application to certain matters that are the subject of liquor manufacturer trade practices. It is however important to note that these general restrictions are not designed specifically for the context of the liquor industry, and that establishing a violation of these provisions may be difficult.<sup>26</sup>

It is also important to note that the application of the *Competition Act* is limited in respect of “regulated industries”. As noted by Flavell and Kent, THE CANADIAN COMPETITION LAW HANDBOOK (Carswell, 1997), p. 22:

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<sup>26</sup> For a more detailed discussion of the elements necessary to establish a conspiracy or exclusive dealing, see, Roberts, COMPETITION / ANTITRUST: CANADA AND THE UNITED STATES, (2<sup>nd</sup>), (Butterworths, 1992) Chapter 3 and pages 246-263.

In broad terms, a regulated industry is one in which there is some degree of intervention by government to set or approve prices, rates, charges or fees, to apportion areas of competition... to establish criteria or standards of behaviour or to otherwise alter (some may say interfere with) the normal, untrammelled forces in the free market.

In *R. v. Canadian Breweries* [1960] O.R. 601 (H.C.J.) it was alleged that the actions of a cooperative marketing agency of brewers violated anti-combines law, primarily on the basis that the Ontario Liquor Control Board effectively rubber-stamped the recommended price established by brewers. The Ontario High Court ruled that this was not a violation of the anti-combines law, because:

When a provincial legislature has conferred on a commission or board the power to regulate an industry and fix prices, and the power has been exercised, the Court must assume that the power is exercised in the public interest. In such cases, in order to succeed in a prosecution laid under the Act with respect to the operation of a combine, I think it must be shown that the combine has operated, or is likely to operate, so as to hinder or prevent the provincial body from effectively exercising the powers given to it to protect the public interest.

The precise scope of effect of this exemption is however not entirely clear. As Roberts notes in *COMPETITION / ANTITRUST: CANADA AND THE UNITED STATES*, supra:

... despite a certain amount of case law, the regulated industries exemption is shrouded in uncertainty. It is not clear whether coordinated lobbying or litigation efforts aimed at achieving legislative or judicial action which affects markets... fall within the purview of the exception. It is also not clear whether the exception is available against civil claims for damages, pursuant to section 36 of the Act...

The Western Brewers Association has obtained an advisory opinion from the Competition Bureau, indicating that the proposed self-regulatory regime for trade practices would not constitute the type of action that would result in the Competition Commissioner commencing an investigation on his own initiative. The Competition Bureau considered potential violations of both conspiracy and price maintenance provisions of the *Competition Act* and reached its opinion on the basis of the regulated industry exemption, having regard to section 45 of the *Liquor Control and Licensing Act*. With respect to the conspiracy provisions, it indicated that, while the BTPA proposal would be an “agreement or arrangement” under section 45 of the *Competition Act*, and while it would lessen competition (at least to some degree), it would not amount to an “undue” lessening if its sole purpose was to secure compliance with the inducement restrictions set out in section 45 of the *Liquor Control and Licensing Act*. Similar reasoning was applied with respect to consideration of the price maintenance provisions.

### ***B. Trade Practice Act***

The BC *Trade Practice Act* prohibits deceptive or unconscionable trade practices. Similar restrictions are found in the federal *Consumer Packaging and Labeling Act*, which prohibits false or misleading representations. These

restrictions relate principally to advertising and to dealings between suppliers and consumers, and would therefore likely have limited application to liquor manufacturers. However, in the United States the Federal Trade Commission has applied prohibition on “unfair or deceptive acts or practices” to alcohol in relation to matters such as deceptive nutritional claims, unfair depiction of consumers drinking wine while engaging in a dangerous activity on a boat and deceptive health benefit claims.<sup>27</sup>

### **C. Private law remedies**

#### **1. Unlawful Interference With Contractual Relations**

If contracts exist or were established in relation to promotional activities, the common law tort of unlawful interference with contractual relations might provide some protection against interference with such agreements. Each of the parties to a contract has the right to performance of that contract. It is a violation of that legal right to interfere with contractual relations recognized by law if there is no sufficient justification for the interference.<sup>28</sup> There are three elements of an unlawful interference with contractual relations:

First, there must be interference in the execution of the contract. Interference is not limited to procuring a breach of contract. It includes preventing or hindering one party from performing the contract, even where there is no breach.

Second, the interference must be deliberate. The person who interferes must know of the contract, or ignore it and intend to interfere with it.

Third, the interference must be direct. Indirect interference will not suffice. Indirect interference is only unlawful if unlawful means are used.<sup>29</sup>

#### **2. Unlawful Interference With Economic Interests**

Even where no contract is interfered with, a person may be liable for the tort of unlawful interference with economic interests. The elements of this tort were described in *Daishowa Inc. v. Friends of the Lubicon*<sup>30</sup> as follows:

- An intention to injure the plaintiff.
- Interference with another’s method of gaining his or her living or business by illegal means.<sup>31</sup>

<sup>27</sup> See, “Self Regulation in the Alcohol Industry: A Review of Industry Efforts to Avoid Promoting Alcohol to Underage Consumers” (Federal Trade Commission, September 1999), n. 6.

<sup>28</sup> See Lord Macnaghten in *Quinn v. Leathem* [1901] A.C. 495 at 510.

<sup>29</sup> See Lord Denning M.R. in *Torquay Hotel Co. Ltd. v. Cousins et al. al. al.*, [1969] 1 All E.R. 522 (CA).

<sup>30</sup> (1996), 29 C.C.L.T. 76 at 93 (Ont. Div. Ct.).

- Economic loss caused thereby.

The plaintiff must show that the defendant deliberately used unlawful means with the object and the effect of causing damage to the economic interests of the plaintiff.<sup>32</sup>

### 3. Conspiracy

The common law will recognize an actionable claim under the tort of conspiracy where two or more defendants combine together to injure the plaintiff in his or her trade if:

- 1) Whether the means used by the defendants are lawful or unlawful, the predominant purpose of the defendants' conduct is to cause injury to the plaintiff; or
- 2) Where the conduct of the defendants is unlawful, the conduct is directed towards the plaintiff (alone or together with others), and the defendants should know in the circumstances that injury to the plaintiff is likely to and does result.<sup>33</sup>

If the acts of the conspirators are not unlawful, they can only be liable for conspiracy if their predominant interest was to cause injury to the plaintiff as opposed to acting in their own interests.<sup>34</sup>

The tort of conspiracy extends to cases where the intention to injure the plaintiff is absent, but where the conduct of the defendants is unlawful and does in fact cause injury to the plaintiff.<sup>35</sup>

A conspiracy will only be made out where the court finds evidence of an agreement between the conspirators. In *Ed Miller Sales & Rentals Ltd. v. Caterpillar Tractor Co.*, an agreement was defined as "a common intention binding the participants to a course of action which will ultimately cause damage to the plaintiff."<sup>36</sup>

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<sup>31</sup> See *I.B.T., Local 213 v. Therien*, [1960] S.C.R. 265 at 280.

<sup>32</sup> See *No. 1 Collision v. I.C.B.C. et al*, 2000 BCCA 463.

<sup>33</sup> See A.M. Linden and L.N. Klar, "Canadian Tort Law, 11<sup>th</sup> Edition," (1999: Toronto, Butterworths Canada Ltd.) at 612.

<sup>34</sup> See *Ontario (A.G.) v. Dielman* (1994), 117 D.L.R. (4<sup>th</sup>) 449 (Ont. Gen. Div.), where the court held that the purpose of anti-abortion picketers was not to do harm to patients or doctors, but to further their own cause.

<sup>35</sup> See *Canada Cement Lafarge Ltd. v. British Columbia Lightweight Aggregate Ltd.* (1983), 145 D.L.R. (3d) 385 (S.C.C.).

<sup>36</sup> (1994), 54 C.P.R. (3d) 1 (Alt. Q.B.) at 3.

## VII. Conclusions and recommendations

### ***A. Rationale for liquor manufacturer trade practices restrictions***

Although there is a lack of a clear articulation of policy rationale to date for liquor manufacturer trade practice restrictions in BC, it appears that there are a number of reasons why such restrictions exist, having regard to the basic liquor policy rationales that have emerged from the various reviews and legislative developments in BC over the last 80 years. Specifically:

- The provision of inducements has the potential to result in integration of businesses in a manner that would compromise the prohibition on tied houses.
- Inducements have the effect of indirectly decreasing costs for licensees, thus resulting in a licensee being able to provide liquor at a lower cost (which in turn might result in over consumption).
- The accumulation of undue amounts of power by any one segment of the liquor industry has a negative impact on liquor control generally, and has the potential to adversely effect governmental decision making on various levels.

While some aspects of liquor manufacturer trade practices could potentially be affected by federal competition law, consumer protection law and some common law principles, these other principles of law are general in nature and do not necessarily reflect or address underlying government policy rationales specifically related to the liquor industry.

### **Recommendation 1**

**Liquor Manufacturer Trade Practice restrictions should continue in British Columbia, and the Liquor Control and Licensing Branch should develop a clear statement of principles or policy rationale specifically dedicated to liquor manufacturer trade practice restrictions.**

### ***B. Consideration of amendments or exemptions***

Some of the substantive amendments proposed by the BTPA appear to represent minor changes to existing policy, which would not appear to have significant negative impact on the underlying policies that support trade practice regulation. Others appear to raise more significant issues that may not be consistent with underlying policy rationales. However, it is difficult to make this specific assessment in the absence of clear articulation of such underlying policy rationales deemed appropriate by the Branch. Moreover, the substantive

amendments proposed by the BTPA would also have an impact on other industry participants and consumers, who may or may not support them.

Consideration of amendments or exemptions should also be considered in light of the fact that, while there are many common themes among most jurisdictions, there are also considerable differences. Although there is no requirement that BC adopt restrictions that are the same as any other jurisdiction, comparative assessment of rules may be beneficial in several respects. First, it may help provide some indication of the extent to which a particular matter is deemed to represent an important policy interest for government. Second, it may provide substantive options for consideration. Third, it may help avoid unnecessary disparities among jurisdictions, which could simplify compliance requirements for manufacturers doing business in more than one province.

### **Recommendation 2**

**The express statement of policy rationale referred to in recommendation 1 above should be used as a guide for assessing any proposed amendments to liquor manufacturer trade practice restrictions (such as the BTPA proposed amendments), as well as for the exercise of discretion by the General Manager to grant exemptions from restrictions in appropriate cases.**

### **Recommendation 3**

**The Liquor Control and Licensing Branch should consider the possibility of establishing a trade practices advisory committee, consisting of representatives of distilleries, wineries and breweries, as well as licensees and consumer and public interest organizations. This committee could be asked to comment on any issue referred to the Committee by the General Manager, including proposed amendments to liquor manufacture trade practices.**

### ***C. Compliance and enforcement***

Enforcement and sanctioning of trade practice violations is essential to the credibility of the regulatory system and securing compliance. Various individuals consulted have noted that even if restrictions are generally supported by industry, there is often strong pressure or incentive to breach existing rules, particularly if one's competitor is doing so without genuine fear of reprisal. On the other hand, if the threat of adverse findings and significant penalties is real, there is a greater likelihood of avoiding non-compliance in the first place.

However, as noted above, various officials indicated that enforcement of such issues is often considered both difficult and expensive. Moreover, governmental

funding is limited, and priorities must be selected among competing resource demands.

While it is unclear to what extent the BTPA proposal could address these concerns, there appears to be little downside to supporting such an approach and monitoring its efficacy. This option could also be pursued with other regulatory changes that might further enhance monitoring and enforcement, such as those adopted or contemplated in other jurisdictions.

#### **Recommendation 4**

**Greater emphasis should be placed on securing compliance and enforcement. This should include endorsement of self-regulatory models such as the BTPA proposal where such proposals are (i) consistent with applicable provincial law and policy, (ii) supported and financed by industry, and (iii) consistent with federal competition laws.**

#### **Recommendation 5**

**If the Liquor Control and Licensing Branch supports the self-regulatory proposal advanced by the BTPA, it should establish a mechanism with the BTPA to obtain general information on the degree to which the self-regulatory model is invoked and the outcome of complaints or reviews under that proposal.**

#### **Recommendation 6**

**Consideration should be given to other options that might enhance compliance and enforcement, such as the buy-sell agreement recently implemented in Alberta, as well as the publication of violation information on government websites.**

## **VIII. Appendices**

### **A. Licensing of manufacturers**

<b>Jurisdiction</b>	<b>Policy</b>	<b>Relevant Legislation</b>
British Columbia	Liquor manufacturers and their agents must be licensed by the Liquor Control and Licensing Branch. Licenses must be renewed annually.	<i>Liquor Control and Licensing Act</i> , RSBC 1996, Chapter 267, s. 52.
Alberta	A Class E licence must be obtained to manufacture liquor in Alberta. A manufacturer's representative must be registered in order to represent the manufacturer in the sale of their products.	<i>Gaming and Liquor Act</i> , R.S.A., Chapter G-0.5, s. 59. <i>Gaming and Liquor Regulation</i> , AR 143/96, s. 55, s. 73. <i>Operating Guidelines: Liquor Suppliers or Liquor Agencies</i> , Alberta Gaming and Liquor Commission, s. 2.
Saskatchewan	Commission shall issue class 'C' licences to brewers, distillers, and wine manufacturers. A class 'C' licensee may manufacture alcohol, sell and deliver alcohol to the board, export and import alcohol. In the case of a brewer, may sell and deliver alcohol to a person with a licensed premise.	<i>Alcohol Control Act</i> , S.S., c.A-18.01, s. 59. <i>Alcohol Control Regulations</i> , 1994, c.A-18.01 Reg. 3, s. 16(1).
Manitoba	Marketing representatives must be registered with the Liquor Control Commission.	<i>Marketing Representative's Manual and Licensing</i> , procedure #0001 LS, Registration of Marketing Representatives.
Ontario	Foreign manufacturer's representatives must be licensed. Domestic manufacturer's agents and representatives under contract must be licensed. Employees of domestic manufacturer's do not require a licence. Licences for representatives are renewable every 2 years.	<i>Liquor Licence Act</i> , R.S.O. 1990, c. L.19, s. 11(1) <i>Alcohol and Gaming Commission of Ontario</i> , "Licence to Represent a Manufacturer", <a href="http://agco.on.ca/en/b.alcohol/b7.representatives.html">http://agco.on.ca/en/b.alcohol/b7.representatives.html</a>
Quebec	Manufacturers are licensed by the Régie des alcools, des courses et des jeux. The licence is valid until revoked. Agents are not licensed by the Régie.	<i>Act respecting the Société des alcools du Québec</i> , R.S.Q., c. S-13.
Nova Scotia	Commission may grant permit to brewer, distiller or vintner to keep for sale and sell liquor to the Commission. Commission may licence a person to engage in sale and distribution of liquor, and such a person may act as agent for suppliers and manufacturers of liquor	<i>Liquor Control Act</i> R.S.N.S. 1989, c. 260, s. 63(1), s. 75 <i>Policy Guidelines</i> , Nova Scotia Liquor Commission, April 2000, Part I "Administration of Permits," s.8.4.2(v).



	located outside the Province. The Commission may grant a permit to a registered representative - an employee of a manufacturer, distributor or agency - for the promotion and sale of liquor.	
New Brunswick	Brewer's licence permits licensee to sell and deliver beer to Corporation. Distiller's licence or winery licence permits licensee to manufacture liquor or wine, sell it or deliver it to the Corporation, or export it.	<i>Liquor Control Act</i> , Chapter L-10, s. 113, s. 123(2)
Newfoundland	The board may grant to a brewer, winery or distillery a licence permitting that licensee to keep for sell and sell liquor produced by the licensee to the corporation. Brewer's retail licence - s. 28(1)(a) <i>Liquor Control Act</i> , Brewer's agent licence - s. 28(1)(b) <i>Liquor Control Act</i> , Brewer's distributor licence - s. 28(1)(c) <i>Liquor Control Act</i>	<i>Liquor Corporation Act</i> , RSN 1990 Chapter L-19, s. 34(1). <i>Liquor Control Act</i> , RSN 1990 Chapter L-18, s. 28.
Prince Edward Island	Liquor Control Commission may grant: a brewer's licence, which permits licensee to sell to the Commission beer manufactured within the province; a winery licence, which allows holder to operate a winery and sell and serve wine produced there; a distiller's licence, which allows holder to operate a distillery and sell or serve spirit produced there.	<i>Liquor Control Act</i> , R.S.P.E.I. 1974, Cap. L-17, s. 11(1)(e), (h), (j)
Yukon	Corporation has the jurisdiction to grant brewer's licences, which authorize the holder to manufacture and sell liquor. All sales representatives and agents operating in the Yukon must be registered with the Yukon Liquor Corporation.	<i>Liquor Act</i> , Statutes of the Yukon, 1986, Chapter 105, s. 21(o). <i>Merchandising Policy</i> , Yukon Liquor Corporation.
Northwest Territories	Commission may issue: wine permits to authorize the making of wine. Brewery permits authorizes making, selling and exporting.	<i>Consolidation of Liquor Act</i> , R.S.N.W.T. 1988, c. L-9, s. 15(1)(b), s. 16(4)(1)
Oregon	Manufacturer or wholesaler means: person holding a brewery licence under ORS 471.220, a winery licence under ORS 471.223, a grower sales privilege under ORS 471.227, a distillery licence under ORS 471.230, a wholesale malt beverage and wine licence under ORS 471.235 or a warehouse licence under ORS 471.242.	<i>Wholesale and Manufacturing Information Program</i> , Oregon Liquor Control Commission, 471.392.

Washington

Brewers'  
Trade  
Practices  
Association  
Proposal

*Code* does not replace licensing  
provisions in government regulations.

*Brewers' Trade Practices Association  
Trade Practices Code*, Discussion Draft,  
January 4/01.

## **B. Inducements**

<b>Jurisdiction</b>	<b>Policy</b>	<b>Relevant Legislation</b>
British Columbia	Liquor manufacturers and their representatives may not offer inducements to licensees to encourage licensees to promote a particular kind or brand of liquor.	<i>Liquor Control and Licensing Act</i> , RSBC 1996, Chapter 267, s. 45 <i>A Guide for Liquor Manufacturers and Their Representatives in British Columbia</i> , BC Ministry of Attorney General, LCLB, p. 12
Alberta	No liquor supplier or agency may directly or indirectly sell, give or rent supplies or other equipment to a licensee, or give or offer a loan or rebate of anything of value to a licensee. The single exception permits a supplier to supply a licensee with sporting, cultural or entertainment event tickets. The value of a single ticket may not exceed \$450.00 without prior written approval by the AGLC. A liquor supplier may provide a licensee with items which are not essential to operating the licensed premises. A liquor supplier and a licensee may enter into a buy/sell agreement which allows the supplier to give the licensee items in return for promotion of specific brands of types of liquor. Promotional material must conform with existing guidelines and be directed at the consumer. All promotional items provided by a supplier must be subject to a buy sell agreement. All buy/sell agreements must be documented, including list of items provided and their value. Buy/sell agreements do not have to be submitted to the AGLC.	<i>Gaming and Liquor Regulation</i> , AR 143/96, s. 81 <i>Policy Guidelines: Product Promotions in Licensed Premises</i> , Alberta Gaming and Liquor Commission, s. B, s. C.
Saskatchewan	Permit holders or applicants are prohibited from accepting financial or material inducements from a manufacturer, or any of its directors, officers, employees or agents. Items of nominal value are allowed to be accepted from manufacturers.	<i>Alcohol Gaming Regulation Act</i> , c. A-18.01 s. 47(1) Liquor Permittee Manual – Advertising and Promotions.
Manitoba	No distiller, brewer, or wine manufacturer, or their agent, shall make or offer to make a gift of any kind to a liquor vendor or operator of a specialty	<i>Liquor Control Act</i> , R.S.M. 1988, c. L160, s. 111(4).

	wine store or a licensee named in a licence under s. 60(1) or an employee of such a licensee.	
Ontario	Manufacturers or their agents shall not offer or give financial or material inducement to a licensee for the purpose of increasing the sale or distribution of a brand of liquor.	<i>Liquor Licence Act</i> , R.R.O. 1990, Reg. 720, s. 2(1). <i>Manufacturers' Representatives and Licensees: information sheet from Alcohol and Gaming Commission of Ontario</i> , AGCO-07-00.
Quebec	A manufacturer may not sell, give or supply a permit holder with equipment required to operate under a permit. Promotional items are not considered equipment. Inducements to distributors to restrict or deny availability of a competitor's product in that network are prohibited.	<i>Regulation respecting promotion, advertising and educational programs relating to alcoholic beverages</i> , under <i>An Act respecting liquor permits</i> , R.S.Q. c. P-9.1, s. 11 and 15.
Nova Scotia	A Liquor Representative shall not control, influence or interfere with purchase, sale or delivery of any liquor purchased by a licensee. No one shall offer, give or dispose of anything for the purposes of promoting the sale or advertising or creating goodwill for any liquor.	<i>Liquor Licence Board Regulations</i> , (under s. 50 <i>Liquor Control Act</i> R.S.N.S. 1989, c. 260) N.S. Reg. 156/83, amended up to N.S. Reg. 72/98, s. 20(2) <i>Liquor Control Act</i> , R.S.N.S. 1989, c. 260, s. 97. <i>Policy Guidelines</i> , Nova Scotia Liquor Commission, April 2000, Part II "Registered Representatives & Agencies," s. 3.5.1(d).
New Brunswick	A licensee may only have liquor purchased from the Corporation on his/her premises.	<i>Liquor Control Act</i> , Reg. 84-265, s. 17.
Newfoundland		
Prince Edward Island	Manufacturers prohibited from giving liquor.	<i>Liquor Control Act</i> , R.S.P.E.I., 1974, Ch. L-17, s. 34.
Yukon		
Northwest Territories	No person shall, either directly or indirectly, offer or give any financial or material inducement to a licence holder for the purpose of increasing the sale or distribution of any brand of liquor, whether the inducement is by way of discount, rebate, installation of equipment or other form of payment or benefit.	<i>Liquor Control Act</i> , R.S.N.W.T. 1988, c. L-9, s. 102(1).
Oregon	Except as otherwise provided, a person holding a retail licence may not accept, and a manufacturer may not provide: any substantial gratuities, any finances,	<i>Wholesale and Manufacturing Information Program</i> , Oregon Liquor Control Commission, 471.398. <i>Oregon Administrative Rules</i> , Chapter

	money, credit, discounts or rebates, any fixtures, furniture or furnishings, and services other than those of nominal value incidental to merchandising in the usual course of business. May give tavern heads - one per calendar year per licensee.	845, Division 13, rule 845-013-0060.
Washington	Manufacturers, importers, or distributors can't advance money or money's worth to a retail licensee. Retail licensees may not accept money or money's worth from a manufacturer, importer, or distributor.	<i>Micellaneous Regulatory Provisions</i> , RCW 66.28.010, Chapter 68.28 s. 1(a). WAC 314-12-140.
Brewers' Trade Practices Association Proposal	Members may not give Licensees: price discounts, beer and other products, equipment, advertising or promotional costs usually incurred by Licensee, Licensee incentives, premises infrastructure or business financing.	<i>Brewers' Trade Practices Association Trade Practices Code</i> , Discussion Draft, January 4/0, Schedule 1, s. II, items 1-6

### ***C. Introduction of products by samples***

<b>Jurisdiction</b>	<b>Policy</b>	<b>Relevant Legislation</b>
British Columbia	Manufacturer or representative may give a licensee a sample of a product, not to exceed one standard size bottle per year. The product is to be consumed by licensee only, and records of samples provided must be kept by manufacturer.	<i>Liquor Control and Licensing Act</i> , RSBC 1996, Chapter 267, s. 52(4), s. 52(5) <i>A Guide for Liquor Manufacturers and Their Representatives in British Columbia</i> , BC Ministry of Attorney General, LCLB, p. 13
Alberta	A supplier may provide liquor to a licensee for the purpose of sampling a new or existing product. Maximums per brand: beer/coolers - 36x355 ml bottles; wine - 4x750 ml bottles; spirits/liqueurs - 2x750 ml bottles. Keg samples may be provided in smallest keg used by supplier. Records of sampling must be kept by supplier. A licensee may only be provided sampled with the same product sample once during the calendar year.	<i>Policy Guidelines: Product Promotions in Licensed Premises</i> , Alberta Gaming and Liquor Commission, s. F.
Saskatchewan	A manufacturer's representative may provide free samples, in closed containers for consumption off the premises, to patrons, a permit holder or employees.	Liquor Permittee Manual – Advertising and Promotions
Manitoba	A distiller, brewer, wine manufacturer or their agent may, for the purpose of promoting a product, provide a complimentary sample of that product to a licensee or their employee. A marketing representative may purchase a drink for the operator of a licensed establishment for taste sampling purposes, but that drink may contain a maximum of: 1 oz. spirits, 4 oz. wine; or a bottle of beer. Purchases must be made from the licensee's stock, and the licensee cannot consume the drink while on duty, except during consumption of a meal.	<i>Liquor Control Act</i> , R.S.M. 1988, c. L160, s. 111(7). <i>Manitoba Liquor Control Commission Policy</i> , Finance and Licensing, "Marketing Representatives", # LS 0001., s. 4(e).
Ontario	No manufacturer or agent or licensed representative shall give any liquor to any person, except as permitted by the regulations. Manufacturers may give liquor for the purpose of sampling a new	<i>Liquor Licence Act</i> , R.S.O. 1990, c. L.19, s. 28. <i>Liquor Licence Act</i> , R.R.O. 1990, Reg. 720, s. 3(2). <i>Liquor Licence Act</i> , R.R.O. 1990, Reg.

	<p>brand or product. Manufacturers may give liquor to a licensee for the purpose of providing a sample of a new product. The sample must be provided in a sealed unopened container. A new product is either a product introduced in past 12 months, or a product a licensee hasn't stocked in over a year. Limits of samples to licensees: 48 bottles of beer/coolers, 10 bottles of wine, 3 bottles of spirits. Manufacturers may also provide samples to non-licensees provided the sample is of a new product and does not exceed 6 bottles of beer or 1 bottle of wine or spirits.</p>	<p>718, s. 5(iii).  <i>Manufacturers' Representatives and Licensees: information sheet from the Alcohol and Gaming Commission of Ontario</i>, AGCO-07-00.  <i>Advertising Guidelines</i>, Alcohol and Gaming Commission of Ontario, November 1994, s. 10.</p>
Quebec	<p>A holder of a distiller's permit, a wine maker's permit or a cider maker's permit may not give away alcoholic beverages from stock except for the personal consumption of employees or persons visiting the bottling facility.</p>	<p><i>Regulation respecting promotion, advertising and educational programs relating to alcoholic beverages</i>, under <i>An Act respecting liquor permits</i>, R.S.Q., c. P-9.1, s. 17</p>
Nova Scotia	<p>A registered representative may make a gift of liquor for promotional purposes in accordance with terms prescribed by Commission. Promotional product giveaways to licensees are not permitted.</p>	<p><i>Liquor Commission Regulations</i>, R.S.N.S. 1989, c. 260, N.S. Reg. 22/91, s. 20.  <i>Policy Guidelines</i>, Nova Scotia Liquor Commission, April 2000, Part V "Manufacturer Giveaway," s. 4.2.6.</p>
New Brunswick	<p>A licensee may only have liquor purchased from the Corporation on his/her premises.</p>	<p><i>Liquor Control Act</i>, Reg. 84-265, s. 17</p>
Newfoundland	<p>Licensee shall not bring or allow to be brought onto his or her licensed premises any spirits or wine that he or she hasn't purchased from the Newfoundland Liquor Corporation, or beer not purchased from the Corporation or a brewery.</p>	<p><i>Liquor Licensing Regulations</i>, Consolidated Newfoundland Regulation 1162/92, s. 39.</p>
Prince Edward Island	<p>No manufacturer or their agent shall give liquor to any person except as permitted by this Act and the regulations.</p>	<p><i>Liquor Control Act</i>, R.S.P.E.I. 1974, Cap. L-17, s. 36.</p>
Yukon		
Northwest Territories	<p>No manufacturer of liquor, or an employee or agent of a manufacturer, shall make a gift of liquor to any person except as permitted by and in accordance with the regulations.</p>	<p><i>Liquor Control Act</i>, R.S.N.W.T. 1988, c. L-9, s. 74(2).</p>

Oregon	A manufacturer may provide tastings or samples of: distilled spirits that the retailer does not carry, in an amount not to exceed 50ml; wine and malt beverages that the retailer does not carry, not to exceed one gallon of malt beverage or five litres of wine.	<i>Oregon Administrative Rules</i> , Chapter 845, Division 13, rule 845-013-0060.
Washington	Manufacturers may give samples of beer, wine or spirits to licensees for the purpose of negotiating a sale, provided samples are subject to taxes. Spirits used as samples must be purchased from the board. All samples must be in original packaging. A sample may be given to a retail licensee who has not previously purchased that brand or vintage, to a maximum of 72 oz of beer or 1 L of wine or 1.7 oz of spirits. A complete record must be kept by manufacturer of all sampling activities.	<i>Miscellaneous Regulatory Provisions</i> , RCW 66.28.040, Chapter 68.28. <i>Liquor Samples</i> , WAC 314-64-070, 314-64-080, 314-64-08001, 314-64-090, Chapter 314-64 WAC.
Brewers' Trade Practices Association Proposal		<i>Brewers' Trade Practices Association Trade Practices Code</i> , Discussion Draft, January 4/01



### ***D. Gifts to non-profit organizations***

<b>Jurisdiction</b>	<b>Policy</b>	<b>Relevant Legislation</b>
British Columbia	Manufacturer may donate either product or money with condition that money be used to purchase their product. Records and receipts must be kept for audit purposes.	<i>Liquor Control and Licensing Act</i> , RSBC 1996, Chapter 267, s. 52(3) <i>A Guide for Liquor Manufacturers and Their Representatives in British Columbia</i> , BC Ministry of Attorney General, LCLB, p. 14
Alberta	A liquor supplier may provide unlimited liquor and/or merchandise for a charitable fundraising event hosted by a licensee. Corporate or brand identified items - other than liquor - may be given to charitable organizations which hold a Revenue Canada registered charity number. Liquor may be donated to a non-profit for auction purposes in conjunction with an auction authorized under a Special Event Licence - Private Resale.	<i>Policy Guidelines: Product Promotions in Licensed Premises</i> , Alberta Gaming and Liquor Commission, s. D.4(a). <i>Policy Guidelines: Liquor Advertising for Liquor Suppliers, Liquor Agencies and Licensees</i> , Alberta Gaming and Liquor Commission, s. G.7.
Saskatchewan		
Manitoba	No distiller, brewer, or wine manufacturer or their agent may make a gift of liquor to any person, except to their employees.	<i>Liquor Control Act</i> , R.S.M. 1988, c. L160, s. 111(2).
Ontario	The giving of liquor to non-profit organizations is not allowed. Manufacturers may give other things, including money.	
Quebec	A holder of a distiller's permit, a wine maker's permit or a cider maker's permit may not give away alcoholic beverages from stock except for the personal consumption of employees or persons visiting their bottling facilities.	<i>Regulation respecting promotion, advertising and educational programs relating to alcoholic beverages</i> , under <i>An Act respecting liquor permits</i> , R.S.Q. c. P9-1, s. 17
Nova Scotia	Suppliers may donate promotional product to teams and community events. If the amount given is small, the giveaway should be by voucher. If quantities are large, a letter from supplier may be used in place of voucher. The letter must indicate quantity and SKU's of products to be given, and must be submitted to Finance & Systems Division of the	<i>Policy Guidelines</i> , Nova Scotia Liquor Commission, April 2000, Part V "Manufacturer Giveaway," s. 4.2.6.

	NSLC for processing. Arrangements must be made with store in advance by representative to arrange pick-up time.	
New Brunswick	A Brewer may give vouchers redeemable for beer to a social, professional, educational, occupational or athletic organization in a quantity that is reasonable. No brewer shall exceed vouchers worth 54,007.92 gallons of beer per year.	<i>Gifts of Beer by Brewers Regulation - Liquor Control Act, Reg. 93-94, s. 4(1)(a)</i>
Newfoundland		
Prince Edward Island	No brewer, distiller or manufacturer of liquor shall give to any person any liquor except as provided in this Act and the regulations.	<i>Liquor Control Act, R.S.P.E.I. 1974, Cap. L-17, s. 34.</i>
Yukon		
Northwest Territories		
Oregon		
Washington	A winery or distributor, or a domestic brewery, may provide wine or beer to a nonprofit charitable organization for use consistent with the purposes of its tax exemption under section 501(c)(3) of the internal revenue code of 1986.	<i>Miscellaneous Regulatory Provisions, RCW 66.28.040, Chapter 66.28.</i>
Brewers' Trade Practices Association Proposal		<i>Brewers' Trade Practices Association Trade Practices Code, Discussion Draft, January 4/01</i>

### ***E. Visiting licensed establishments***

<b>Jurisdiction</b>	<b>Policy</b>	<b>Relevant Legislation</b>
British Columbia	Manufacturers and their agents are not allowed to “buy drinks for the house.” They may join a table and buy drinks for customers at that table to introduce them to a product. Must be standard serving sizes for that establishment. Manufacturers and their agents must retain a copy of the receipt for the dollar value of the sampled product.	<i>Liquor Control and Licensing Act</i> , RSBC 1996, Chapter 267 <i>A Guide for Liquor Manufacturers and Their Representatives in British Columbia</i> , BC Ministry of Attorney General, LCLB, p. 15
Alberta	A liquor supplier may provide an individual serving of liquor to a patron for the purpose of sampling. The liquor must be purchased from the licensee, and the licensee must serve the patron. Maximum sample sizes are: beer/coolers - 56 ml; wine - 28 ml; spirits/liqueurs - 14 ml. Records must be kept of sampling activities.	<i>Policy Guidelines: Product Promotions in Licensed Premises</i> , Alberta Gaming and Liquor Commission, s. E, s.G.1-G.4.
Saskatchewan	A liquor representative may purchase drinks for patrons or permit holders in an establishment for the purpose of promoting products.	Liquor Permittee Manual – Advertising and Promotions.
Manitoba	A marketing representative may purchase liquor from a licensee for patrons in the licensee’s establishment, provided the purchase is for taste sampling and promotion - not for merely gifting. The representative may only purchase for those patrons seated at his/her table. Sampling to patrons is limited to: 120 ml wine; 355 ml beer, cider and coolers; 30 ml spirits.	<i>Manitoba Liquor Control Commission Policy</i> , Finance and Licensing, “Marketing Representatives”, # LS 0001., s. 8. <i>Manitoba Liquor Control Commission Policy</i> , Finance and Licensing, “Supplier Sampling”, # LS 0004., s. 1.
Ontario	Representatives and agents can offer samples to a licensee’s customers. The samples must be part of licensee’s stock, purchased under the licence. Agent must buy servings of sample product from the licensee and give them to patrons on a one-on-one basis. You cannot buy a round for the house, or pay a licensee to offer samples on your behalf. You must pay full price for the samples, unless they are less than ½ of the regular size. The licensee cannot	<i>Manufacturers’ Representatives and Licensees: information sheet from the Alcohol and Gaming Commission of Ontario</i> , AGCO-07-00. <i>Advertising Guidelines</i> , Alcohol and Gaming Commission of Ontario, November 1994, s. 9.

	charge you more than ½ the regular price or less than the product cost.	
Quebec	Alcoholic beverages may be provided by a manufacturer for the purposes of tasting in a permit holder's establishment. Beverages to be tasted must be authorized to be sold on the premises. For products containing not more than 7% alcohol the maximum sample size is 100 ml; 50 ml for those products between 7% and 20% alcohol; and 25 ml for those products greater than 20% alcohol. Beverages must be bought directly from the permit holder. Notice of the location of the tasting and the amount of alcohol to be tasted must sent to the Regie 15 days in advance.	<i>Regulation respecting promotion, advertising and educational programs relating to alcoholic beverages, under An Act respecting liquor permits, R.S.Q. c. P-9.1, s. 12.</i>
Nova Scotia		
New Brunswick	A representative of a manufacturer other than a brewer may provide samples in a licensed establishment, so long as the sample is purchased from the licensee at the regular price and the representative serves the samples to the patrons.	<i>New Brunswick Liquor Corporation Policy, 2000.</i>
Newfoundland		
Prince Edward Island	Representatives may sample or promote their products with patrons of licensed premises provided the licensee is aware of the representative's presence. The products must be purchased from the licensee, and must be purchased from and listed with the Commission.	<i>Licensee Policy Manual - Promotions, Prince Edward Island Liquor Control Commission, revised May, 1997, page 7.1.</i>
Yukon		
Northwest Territories		
Oregon	A manufacturer may provide or pay for sample tastings of wine, cider or malt beverages for the public on licensed premises. A manufacturer may not buy food, beverages or anything of value on a licensee's premises for customers who are not his/her personal acquaintances.	<i>Wholesale and Manufacturing Information Program, Oregon Liquor Control Commission, 471.402. Oregon Administrative Rules, Chapter 845, Division 13, rule 845-013-0110.</i>
Washington		

Brewers'  
Trade  
Practices  
Association  
Proposal

*Brewers' Trade Practices Association*  
*Trade Practices Code*, Discussion Draft,  
January 4/01

## ***F. Food and liquor promotions in licensed establishments***

<b>Jurisdiction</b>	<b>Policy</b>	<b>Relevant Legislation</b>
British Columbia	A joint promotion at a licensed event must include a full meal, and all attending event must partake of the meal. Event may be advertised outside of establishment provided a senior representative (not a sales representative) will be present at event. No more than 4 such events at one establishment per year.	<i>Liquor Control and Licensing Regulations</i> , BC Reg. 608/76, s. 24(11) <i>A Guide for Liquor Manufacturers and Their Representatives in British Columbia</i> , BC Ministry of Attorney General, LCLB, p. 16
Alberta	A licensee may advertise an all-inclusive package which includes liquor in the price, such as a "Champagne Brunch". Amount of liquor to be provided must be specified.	<i>Policy Guidelines: Liquor Advertising for Liquor Suppliers, Liquor Agencies and Licensees</i> , Alberta Gaming and Liquor Commission.
Saskatchewan	Joint promotions are only allowed within the permitted establishment. Advertising off premises may occur providing the manufacturer's name or any brand identification is not included.	Liquor Permittee Manual – Advertising and Promotions.
Manitoba	A brewer, distiller, or wine manufacturer or their agent, may provide complimentary servings of liquor for taste sampling to invited guests, or other persons authorized to be present, at a function undertaken, organized and operated for that purpose or for another purpose related to that. A licensee may advertise an all-inclusive package that includes liquor in the price, such as a "Champagne Brunch", provided food is the primary element of the promotion.	<i>Liquor Control Act</i> , R.S.M. 1988, c. L160, s. 111(6)(b). <i>Liquor Advertising Rules of Conduct Regulation</i> , (under <i>Liquor Control Act</i> , C.C.S.M. c. L160), s. 11(4).
Ontario	Licensees and manufacturers may join together in presenting promotions to customers. These promotions may be advertised outside the establishment with prior AGCO approval.	<i>New AGCO Advertising Guidelines for Licensees</i> , Alcohol and Gaming Commission of Ontario, November 1994.
Quebec		
Nova Scotia		
New Brunswick	Licensee (of licensed premises) may advertise such activities or events as champagne brunches, beer gardens or	<i>Advertising of Liquor Regulation - Liquor Control Act</i> , Reg. 90-10, s. 7

wine and cheese. May not state or imply that liquor will be given away free of charge.

Newfoundland

Prince Edward  
Island

Yukon

When suppliers or agents wish to conduct special promotional efforts for their products, approval of the President of the Yukon Liquor Corporation is required. These requests must normally be submitted two months before the scheduled promotion date.

*Merchandising Policy*, Yukon Liquor Corporation.

Northwest  
Territories

A licensee (of licensed premises) may advertise the name of establishment, category of licence held, location and hours of operation, entertainment or food which may be featured.

*Northwest Territories Liquor Licensing Policy and Procedures Manual: Licensees Advertising*, Northwest Territories Liquor Licensing Board.

Oregon

Washington

Brewers'  
Trade  
Practices  
Association  
Proposal

Promotions at restaurants are not permitted; Representatives not required to attend except when sampling is done. Each Member is permitted 40 Theme Nights per establishment per year: 20 between May 1 and October 31, and 20 between November 1 and April 30.

*Brewers' Trade Practices Association Trade Practices Code*, Discussion Draft, January 4/01, s. 7.5

### ***G. Manufacturer promotional material***

<b>Jurisdiction</b>	<b>Policy</b>	<b>Relevant Legislation</b>
British Columbia	Manufacturer may sell or give a variety of promotional items of nominal value to licensees to advertise their product in that establishment.	<i>Liquor Control and Licensing Act</i> , RSBC 1996, Chapter 267, s. 24, s. 24.1 <i>A Guide for Liquor Manufacturers and Their Representatives in British Columbia</i> , BC Ministry of Attorney General, LCLB, p. 17
Alberta	Despite prohibition of gifts to licensees, the board may approve an arrangement between a licensee and a supplier to promote a particular type or brand of liquor. Suppliers providing promotional materials for customer giveaways and licensee receiving materials must ensure items reach customer. A liquor supplier and a licensee may enter into a buy/sell agreement which allows the supplier to give the licensee items in return for promotion of specific brands of types of liquor. Promotional material must conform with existing guidelines and be directed at the consumer. All promotional items provided by a supplier must be subject to a buy sell agreement. All buy/sell agreements must be documented, including list of items provided	<i>Gaming and Liquor Regulation</i> , AR 143/96, s. 85 <i>Policy Guidelines: Product Promotions in Licensed Premises</i> , Alberta Gaming and Liquor Commission, s. C, s. H.3, s. H.5, s. H.7.
Saskatchewan	A manufacturer may publish an advertisement by way of promotional gifts where the only reference to the manufacturer or its products is the use of corporate or brand names or insignia. With approval of the Authority the manufacturer may distribute any novelty or premium, or be involved in any give-away program.	<i>Advertising Policy Manual</i> , Saskatchewan Liquor and Gaming Authority, s. 8.4, s. 9.5.
Manitoba	A sales representative may distribute inexpensive sales aids to adult members of the general public and licensees, provided that the brand or corporate name or emblem appears on the sales aid.	<i>Manitoba Liquor Control Commission Policy</i> , Finance and Licensing, "Marketing Representatives", # LS 0001., s. 7. <i>Liquor Advertising Rules of Conduct Regulation</i> , (under <i>Liquor Control Act</i> , C.C.S.M. c. L160), s. 10(4).



Ontario	<p>Manufacturers may give licensees items which raise their profile or the profile of their brands. These items must display the brand or corporate name.</p> <p>Manufacturers may not give anything of significant financial or material benefit.</p> <p>May provide items beneficial to the operation of the business, such as branded glassware or menu printing, so long as the quantity is insignificant in relation to overall annual requirements.</p> <p>Prior approval of Commission not required for tent cards, coasters, posters and/or banners displayed in licensed premises.</p>	<p><i>New AGCO Advertising Guidelines for Licensees</i>, Alcohol and Gaming Commission of Ontario, November 1994.</p> <p><i>Advertising Guidelines</i>, Alcohol and Gaming Commission of Ontario, November 1994, s. 3(2)(b).</p>
Quebec	<p>A manufacturer may not sell, give or supply a permit holder with equipment required to operate under a permit.</p> <p>Promotional items intended for use by customers on the premises of the establishment are not deemed to be equipment required to operate under a permit.</p>	<p><i>Regulation respecting promotion, advertising and educational programs relating to alcoholic beverages</i>, under <i>An Act respecting liquor permits</i>, R.S.Q., c. P9-1. s. 15</p>
Nova Scotia		
New Brunswick		
Newfoundland		
Prince Edward Island		
Yukon	<p>When suppliers or agents wish to advertise or conduct special promotional efforts for their products approval of the President of the Yukon Liquor Corporation is required. These requests must normally be submitted two months before the scheduled promotion date. All promotional material must be received by the Corporation three to four weeks in advance of scheduled start date.</p>	<p><i>Merchandising Policy</i>, Yukon Liquor Corporation.</p>
Northwest Territories		
Oregon	<p>A manufacturer may give a retailer inexpensive items that function to promote responsible use of alcoholic beverages. These may be for the retailer or for customer use, and may</p>	<p><i>Oregon Administrative Rules</i>, Chapter 845, Division 13, rule 845-013-0010.</p>

	include inconspicuous reference to a manufacturer but no reference to the retailer. Allowable items include: buttons, posters and static-cling stickers. Non-allowable items include: glasses, T-shirts and coasters.	
Washington	Manufacturer may only distribute point of sale materials and brand signs having no value to the retailer. May not distribute novelty advertising items - those items with the manufacturer's name or brand name on them and that have utilitarian value to the licensee.	WAC 314-53-080. WAC 314-52-113.
Brewers' Trade Practices Association Proposal	Members may provide equipment/items that are approved by the LCLB to a Licensee. Members may provide promotional items of a nominal-value to a Licensee.	<i>Brewers' Trade Practices Association Trade Practices Code</i> , Discussion Draft, January 4/01, Schedule 1, I.1., I.2.

### ***H. Manufacturer sponsored events***

<b>Jurisdiction</b>	<b>Policy</b>	<b>Relevant Legislation</b>
British Columbia	Exclusive supply of manufacturer's products is not permitted at an event. Participants or audience cannot consist primarily of minors. Notice must be given for sponsorships exceeding \$1500.00 or those involving a licensed establishment.	<i>Liquor Control and Licensing Act</i> , RSBC 1996, Chapter 267, s. 54 <i>Liquor Control and Licensing Regulations</i> , BC Reg. 680/76, s. 24.4 <i>A Guide for Liquor Manufacturers and Their Representatives in British Columbia</i> , BC Ministry of Attorney General, LCLB, p.18
Alberta	A sponsorship of an event, activity or team which does not include minors may be undertaken using corporate or brand name. A sponsorship may be supported by unconditional donation, or by provision of a trophy or prize. Exclusive sponsorship is permitted, but exclusivity of a brand of product at an event or activity, or provision of cash is only permitted with board approval.	<i>Alberta Gaming and Liquor Regulation</i> , s. 85. <i>Policy Guidelines: Liquor Advertising for Liquor Suppliers, Liquor Agencies and Licensees</i> , Alberta Gaming and Liquor Commission, s. G.
Saskatchewan	Manufacturer may sponsor community, sporting and musical events and persons participating in such events. They may donate trophies or prizes with the manufacturer's name on them for the events approved by the Authority.	<i>Advertising Policy Manual</i> , Saskatchewan Liquor and Gaming Authority, s. 5.
Manitoba	An advertiser may sponsor a brand or corporate identified charitable event promotion provided: all advertising must contain equal reference to charity promoted and the brand or corporate identification; charity promoted must be registered with Revenue Canada; only corporate or brand identification or slogans may be used in advertisements.	<i>Liquor Advertising Rules of Conduct Regulation</i> , (under <i>Liquor Control Act</i> , C.C.S.M. c. L160), s. 5, s. 10(6), s. 10(7).
Ontario		
Quebec		
Nova Scotia	Manufacturers may sponsor sports teams and charitable organizations provided the majority of participants are over 19. Sponsorship may include prizes, awards, cash prizes, and promotional material.	<i>Advertising/Promotions Programs Operating Procedures</i> , Merchandising Services Division Nova Scotia Liquor Commission, revised April 1, 1998, s. 21.0.1.

New  
Brunswick

Newfoundland

Prince Edward  
Island

Manufacturers may donate corporate identified scholarships. Manufacturers may place a public service message on packages where the message supports a charitable, environmental, or cultural cause. Corporate or brand identified sales promotional material such as signs, name tags, score sheets, official badges and start and finish signs may be displayed at promotional events sponsored by the manufacturer. A manufacturer may provide prizes and awards for achievements in bona fide competitions at brand identified promotional or entertainment events.

*Liquor Control Regulations*, R.S.P.E.I. 1974, Cap. L-17, EC 360/97, s. 96(4).

Yukon

When suppliers or agents wish to advertise or conduct special promotional or marketing efforts for their products approval of the President of the Yukon Liquor Corporation is required. These requests must normally be submitted two months before the scheduled promotion date. All promotional material must be received by the Corporation three to four weeks in advance of scheduled start date.

*Merchandising Policy*, Yukon Liquor Corporation.

Northwest  
Territories

Oregon

Commission does not require prior approval of sponsorships. A sponsorship is a payment for the privilege of having a company or product name associated with an event held at a licensed retail premises. Oregon law allows manufacturers to purchase sponsorships. Sponsorships cannot include a requirement that the retailer sell the sponsor's product at the event. Legality of the sponsorship depends upon how much money is paid versus total market value of what is received.

*Corporate Sponsorships Information Memo*, Oregon Liquor Control Commission, Wholesale and Manufacturing Information Program.

Washington

Brewers'  
Trade  
Practices  
Association  
Proposal

Exclusive supply arrangements  
permitted for duration of event. Adopts  
other elements of the Act with regard to  
sponsorship.

*Brewers' Trade Practices Association  
Trade Practices Code*, Discussion Draft,  
January 4/01, s. 6.1, 6.2, 6.3

## ***I. Manufacturer's theme nights***

<b>Jurisdiction</b>	<b>Policy</b>	<b>Relevant Legislation</b>
British Columbia	Only 'A', 'C', 'D', 'F', or 'I' licensees are permitted to host a theme night. Notice must be given to LCLB Compliance Officer 10 days in advance and must include name of representative attending. Representative must be present during at least part of each function and must award all prizes. An educational component must be included. Promotions not to be conducted between 4:00 and 6:30 pm. You may not conduct more than 8 days of promotions during a 90 day period in one establishment. May not occur on college or university campus. May not be advertised outside licensed premises. Prizes may not exceed \$25.00 each, and must be capable of being carried away from establishment.	<i>Liquor Control and Licensing Act</i> , RSBC 1996, Chapter 267, s 45 <i>A Guide for Liquor Manufacturers and Their Representatives in British Columbia</i> , BC Ministry of Attorney General, LCLB, p. 21
Alberta	A licensee may take part in a liquor supplier's promotion. A licensee must ensure supplier's promotional materials reach customers, and record give-aways of items exceeding \$100.00. Licensees may wear and keep promotional clothing provided by supplier. Presence of liquor supplier is not required. A licensee may discount liquor prices on one or more products as part of a promotion. A contest may be administered by licensee on behalf of supplier. Co-sponsorship of a promotion by a third party is acceptable.	<i>Policy Guidelines: Promotions in Licensed Premises</i> , Alberta Gaming and Liquor Commission, s. H.
Saskatchewan		
Manitoba	A manufacturer may provide prizes and awards in bona fide competitions at brand identified promotional or entertainment events.	<i>Liquor Advertising Rules of Conduct Regulation</i> , (under <i>Liquor Control Act</i> , C.C.S.M. c. L160), s. 10(7).
Ontario	There may be no contests on licensed premises which involve purchase or consumption of liquor. Contests cannot require a patron to remain on premises to receive a prize. Free liquor may not be a prize in a contest. There are no	<i>Liquor Licence Act</i> , R.R.O. 1990, Reg. 719, s. 40 <i>Manufacturers' Representatives and Licensees: information sheet from the Alcohol and Gaming Commission of Ontario</i> , AGCO-07-00.

	specific limits on the number of theme nights, or on the value of prizes you can offer. Advertising outside the establishment for theme nights must be approved by the Alcohol and Gaming Commission.	
Quebec		
Nova Scotia	Prizes offered by licensed premises with respect to any form of contest held on the premises may be limited by Board policy.	<i>Liquor Licence Board Regulations</i> , (under s. 50 <i>Liquor Control Act</i> R.S.N.S. 1989, c. 260) N.S. Reg. 156/83, amended up to N.S. Reg. 72/98, s. 20(2)
New Brunswick	Licensed establishments cannot have theme nights in their licensed establishment.	New Brunswick Liquor Corporation Policy
Newfoundland		
Prince Edward Island		
Yukon	When suppliers or agents wish to advertise or conduct special promotional or marketing efforts for their products, approval of the President of the Yukon Liquor Corporation is required. These requests must normally be submitted two months before the scheduled promotion date. All promotional material must be received by the Corporation three to four weeks in advance of scheduled start date.	<i>Merchandising Policy</i> , Yukon Liquor Corporation.
Northwest Territories	General advertising of a business, facility or event is permitted, however any advertising of liquor is prohibited except advertising specifically approved by the Liquor Licensing Board.	<i>Northwest Territories Licensing Policy and Procedures Manual: Advertising - Licensees</i> , Northwest Territories Liquor Licensing Board.
Oregon		
Washington		
Brewers' Trade Practices Association Proposal	Promotions at restaurants are not permitted; Representatives not required to attend except when sampling is done. Each Member is permitted 40 Theme Nights per establishment per year: 20 between May 1 and October 31, and 20 between November 1 and April 30. Prizes may be valued at \$500 per theme night.	<i>Brewers' Trade Practices Association Trade Practices Code</i> , Discussion Draft, January 4/01

### ***J. Consumer tasting in licensed restaurants***

<b>Jurisdiction</b>	<b>Policy</b>	<b>Relevant Legislation</b>
British Columbia	For promotion, manufacturers may offer products to customers in 'B' licensed establishments provided: a representative is present at all times, LCLB Industry Compliance Officer must be pre-notified of the event, all products used must be purchased from the restaurant, all patrons must order a meal before tasting. Maximum quantities where one product is offered are: wine - 30 ml; beer/cooler - 30 ml; spirits - 10 ml. Where more than one product is offered: wine - 45 ml; beer/cooler - 45 ml; spirits - 20 ml. Product must be served by licensee and tasting program may not be advertised outside establishment.	<i>Liquor Control and Licensing Act</i> , RSBC 1996, Chapter 267 <i>A Guide for Liquor Manufacturers and Their Representatives in British Columbia</i> , BC Ministry of Attorney General, LCLB, p. 24
Alberta	A liquor supplier may provide an individual serving of liquor to a patron in a class 'A' (licensed premises open to the public), class 'B' (licensed premises that require a ticket or fee to gain admission), or class 'C' (private licensed establishments) licensed premises. The liquor must be purchased from the licensee, and the supplier must keep a written record of the activities, including dollar cost of sampling provided. Maximum sample sizes are: beer/coolers - 56 ml; wine - 28 ml; spirits/liqueurs - 14 ml.	<i>Policy Guidelines: Promotions in Licensed Premises</i> , Alberta Gaming and Liquor Commission, s. E.
Saskatchewan		
Manitoba	A brewer, distiller, or wine manufacturer or their agent, may provide complimentary servings of liquor for taste sampling to invited guests, or other persons authorized to be present, at a function undertaken, organized and operated for that purpose or for another purpose related to that.	<i>Liquor Control Act</i> , R.S.M. 1988, c. L160, s. 111(6)(b).
Ontario	See Appendix E above	See Appendix E above



Quebec	Alcoholic beverages may be provided by a manufacturer for the purposes of tasting in a permit holder's establishment. The beverages to be tasted must be authorized to be sold on the premises. For products containing not more than 7% alcohol the maximum sample size is 100 ml; 50 ml for those products between 7% and 20% alcohol; and 25 ml for those products greater than 20% alcohol. The beverages must be bought directly from the permit holder. Notice of the location of the tasting and the amount of alcohol to be tasted must be sent to the Regie 15 days in advance.	<i>Regulation respecting promotion, advertising and educational programs relating to alcoholic beverages, under An Act respecting liquor permits, R.S.Q. c. P-9.1, s. 12.</i>
Nova Scotia		
New Brunswick		
Newfoundland		
Prince Edward Island		
Yukon	When suppliers or agents wish to advertise or conduct special promotional or marketing efforts for their products, approval of the President of the Yukon Liquor Corporation is required. These requests must normally be submitted two months before the scheduled promotion date. All promotional material must be received by the Corporation three to four weeks in advance of scheduled start date.	<i>Merchandising Policy, Yukon Liquor Corporation.</i>
Northwest Territories	General advertising of a business, facility or event is permitted, however any advertising of liquor is prohibited except advertising specifically approved by the Liquor Licensing Board.	<i>Northwest Territories Licensing Policy and Procedures Manual: Advertising - Licensees, Northwest Territories Liquor Licensing Board.</i>
Oregon		
Washington		
Brewers' Trade Practices Association Proposal		<i>Brewers' Trade Practices Association Trade Practices Code, Discussion Draft, January 4/01</i>

### ***K. Consumer tasting in licensee retail stores***

<b>Jurisdiction</b>	<b>Policy</b>	<b>Relevant Legislation</b>
British Columbia	Only one consumer tasting may be conducted in a store at any time. The time and length of consumer tastings are at the manufacturer's discretion, but they must end 30 minutes before the store closes. Maximum sample sizes where only one product is offered by a single manufacturer: beer/coolers - 30 ml; wine - 20 ml. Where more than one product is offered the maximum sizes are: beer/coolers - 45 ml; wine - 30 ml. Products must be purchased at retail store. Out of store advertising of event is not permitted.	<i>Liquor Control and Licensing Act</i> , RSBC 1996, Chapter 267 <i>A Guide for Liquor Manufacturers and Their Representatives in British Columbia</i> , BC Ministry of Attorney General, LCLB, p. 25
Alberta	A supplier may provide free samples of liquor to customers in a retail liquor store or general merchandise liquor store. Liquor used must be purchased from licensed premises where it is to be sampled at a negotiated price. Maximum sample sizes: beer/coolers - 56 ml; wine - 28 ml; spirits/liqueurs - 14 ml. A written record of sampling activities must be kept.	<i>Policy Guidelines: Product Promotions in Licensed Premises</i> , Alberta Gaming and Liquor Commission, s. G.
Saskatchewan	Representatives of manufacturers may offer free samples in retail stores under the supervision of a board employee. Maximum sample sizes: beer/coolers - 42 ml; wine - 28 ml; spirit/liqueur - 14 ml. Up to 4 products may be sampled during a tasting. Each customer may only have 1 sample of each product, to a maximum of 2. Only 2 tasting events at a time may be scheduled in a store.	<i>In-Store Tasting Program Policy Statement</i> , Saskatchewan Liquor and Gaming Authority, s. III. <i>Alcohol Control Regulation</i> , OC 1094/88, c.A-18.01, s. 32.
Manitoba	Supplier sampling is permitted in a liquor store, liquor vendor or duty free store. In a liquor store, sampling may be conducted by a Commission employee or the supplier's agent. In a liquor vendor or duty free store, sampling may be conducted by an employee of the vendor, or the supplier's agent. In the category of wine, coolers and beer, no more than	<i>Manitoba Liquor Control Commission Policy</i> , Purchasing and Sales Division, "Supplier In-store Sampling Policy", # RS 0015. <i>Manitoba Liquor Control Commission Policy</i> , Purchasing and Sales Division, "Supplier In-store Sampling Policy", # RS 0014.

four products may be offered for sampling at one time, and no more than two taste samples may be provided to one person. For liquor and spirits, no more than two products may be offered for sampling, and only one taste sample may be provided to one person. Sample sizes are: wine - 20 ml; coolers - 40 ml; cider & beer - 40 ml; spirits/liqueurs - 10 ml. Sampling will last no longer than 4 consecutive hours. Applications for in-store sampling must be made 7 days before the first day of the month prior to the requested month. Commission will supply product to be sampled to the supplier at a 25% discount. Supplier may give an approved promotional item, worth less than \$10.00 to a person receiving a sample.

Ontario	Manufacturers may give liquor to a person if the purpose of the gift is to have the person sample a new brand or to carry out market research.	<i>Liquor Licence Act</i> , R.R.O. 1990, Reg. 720, s. 3(2)
Quebec	Alcoholic beverages may be provided by a manufacturer for the purposes of tasting in a permit holder's establishment. The beverages to be tasted must be authorized to be sold on the premises. For products containing not more than 7% alcohol the maximum sample size is 100 ml; 50 ml for those products between 7% and 20% alcohol; and 25 ml for those products greater than 20% alcohol. The beverages must be bought directly from the permit holder. Notice of the location of the tasting and the amount of alcohol to be tasted must be sent to the Regie 15 days in advance.	<i>Regulation respecting promotion, advertising and educational programs relating to alcoholic beverages</i> , under <i>An Act respecting liquor permits</i> , R.S.Q. c. P-9.1, s. 12.
Nova Scotia	To participate in in-store tasting, suppliers must obtain a Hospitality Room Permit from Permit & Security Department. Samples used for tasting must be obtained from participating store by a registered representative (not a demonstrator). There is a priority order for booking tastings: 1) premium profit spirits, liqueurs; 2) premium profit wines; 3) premium profit beer; 4) products in display programs for that month. There can be no pre-advertising	<i>In-store Customer Tastings Program Operating Procedures</i> , Merchandising Services Division Nova Scotia Liquor Commission, revised April 1, 1998, s. 20.0.1, s. 20.0.6, s. 20.0.9.

	<p>of tasting in any form. Maximum sample sizes: wine/cider/cooler - 30 ml; beer - 60 ml; spirits/liqueur - 15 ml. Customers are permitted only one serving per demonstration area, unless both red and white wine are being sampled, then customer may have 15 ml of each.</p>	
New Brunswick	<p>Tastings are permitted to operate for a maximum of four consecutive hours, starting no earlier than 10 :00 am, and ending one hour prior to store closing. Only two in-store tastings may be booked per store, per day, and these may not overlap. Product must be purchased from the store where tasting is held, at a 10% discount off of retail price. Maximum sample sizes are : wine/beer /coolers – 2 oz; spirits/liqueurs – ½ oz. Tastings may be advertised in the store where they will occur, a maximum of one week in advance.</p>	<p><i>Product Management Policies and Guidelines : Stores and Marketing</i>, New Brunswick Liquor Corporation, April 1, 2001.</p>
Newfoundland	<p>No person shall consume liquor in a liquor store or at a liquor agency except during an official tasting organized and conducted under the supervision of corporation personnel.</p>	<p><i>Liquor Corporation Act</i>, RSN 1990 Chapter L-19, s. 49.</p>
Prince Edward Island	<p>Commission may authorize a brewer, distiller, or wine producer (or their agent) to conduct a sampling or tasting of liquor on the premises of a store or liquor agency. Samplings are limited to one product per event. Maximum serving sizes: wine/beer - 30 ml; spirits/liquor - 15 ml; mixed drinks - 7.5 ml alcohol to 22.5 ml mix. There may be no pre-tasting advertising in any form.</p>	<p><i>Liquor Control Act</i>, R.S.P.E.I. 1974, Cap. L-17, s. 15.1 <i>Listing Policy and Marketing Programs</i>, Prince Edward Island Liquor Control Commission, April 1, 2001, page 16.</p>
Yukon	<p>When suppliers or agents wish to advertise or conduct special promotional or marketing efforts for their products, approval of the President of the Yukon Liquor Corporation is required. These requests must normally be submitted two months before the scheduled promotion date. All promotional material must be received by the Corporation three to four weeks in advance of scheduled start date.</p>	<p><i>Merchandising Policy</i>, Yukon Liquor Corporation.</p>

Northwest Territories	All consumer tasting in retail stores must have prior approval from the Liquor Commission. Product used for the tasting must be purchased from the retail outlet where tasting is conducted. Number of products or brands offered may not exceed three. Samples must be served in clear plastic and may not exceed: spirits - 14 ml; wine - 50 ml; beer - 84 ml. Advanced advertising of the tasting is not permitted. Staff of the retail store may not operate a tasting booth on behalf of a manufacturer - operators must be trained and knowledgeable of product being tasted.	<i>Policy and Procedures: In-Store Tasting, Northwest Territories Liquor Commission.</i>
Oregon	Distillery representatives may not give samples to retail sales agents, their employees or customers in a retail liquor store.	<i>Oregon Administrative Rules, Chapter 845, Division 13, rule 845-015-0096.</i>
Washington		
Brewers' Trade Practices Association Proposal		<i>Brewers' Trade Practices Association Trade Practices Code, Discussion Draft, January 4/01</i>

### ***L. Manufacturer sponsored contests***

<b>Jurisdiction</b>	<b>Policy</b>	<b>Relevant Legislation</b>
British Columbia	Manufacturers and their agents may hold contests. Contests are permitted in government liquor stores, licensee retail stores and through the media. If the contest is planned for a government liquor store you must obtain approval from the merchandising department of the Liquor Distribution Branch. Contests may not be offered in licensed establishments other than licensee retail stores, except for theme nights. No contest can require the purchase of alcohol, and all contestants must be legal drinking age.	<i>Liquor Control and Licensing Act</i> , RSBC 1996, Chapter 267 <i>A Guide for Liquor Manufacturers and Their Representatives in British Columbia</i> , BC Ministry of Attorney General, LCLB, p. 27
Alberta	A class 'A', 'B' or 'C' licensee may not permit free liquor to be offered as a prize. A class 'D' (retail liquor store) licensee may provide sealed bottles of liquor as a prize for consumption off the premises. A licensee may not permit a contest on premises which requires purchase or consumption of liquor, or which requires patrons to remain on premises. There is no limit to the value of the prizes. Records must be kept of any give-away of an item worth more than \$100.00.	<i>Policy Guidelines: Product Promotions in Licensed Premises</i> , Alberta Gaming and Liquor Commission, s. D.1, s. D.2, s. D.3, s. H.2, s. H.3.
Saskatchewan	With the approval of the Authority, a manufacturer may be a sponsor of or involved in any give-away program.	<i>Advertising Policy Manual</i> , Saskatchewan Liquor and Gaming Authority, s. 9.5.
Manitoba	An advertiser may sponsor a brand or corporate identified contest if: all contestants are 18 and over, contest is legal in accordance to all federal, provincial and municipal legislation, prizes must be within limits of good taste, contest rules state the Commission is not connected with contest in any way, contests conducted in liquor stores must be approved by Commission, and a prize of liquor is prohibited.	<i>Liquor Advertising Rules of Conduct Regulation</i> , (under <i>Liquor Control Act</i> , C.C.S.M. c. L160), s. 6.
Ontario		

Quebec

Nova Scotia

New Brunswick	Manufacturer sponsored contests may be conducted in licensed establishments, however liquor may not be given away.	<i>Liquor Control Act</i> , N.B. Chapter L-10, s. 42.1
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Newfoundland

Prince Edward Island	No representative may promote a contest that requires the consumption of alcohol to participate, or which induces over consumption of alcohol in any way. Liquor may not be given as a prize in any game, contest or promotion.	<i>Licensee Policy Manual - Promotions</i> , Prince Edward Island Liquor Control Commission, revised May 1997, page 7.1.
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Yukon	When suppliers or agents wish to advertise or conduct special promotional or marketing efforts for their products, approval of the President of the Yukon Liquor Corporation is required. These requests must normally be submitted two months before the scheduled promotion date. All promotional material must be received by the Corporation three to four weeks in advance of scheduled start date.	<i>Merchandising Policy</i> , Yukon Liquor Corporation.
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Northwest Territories

Oregon

Washington	Contests may not require purchase of alcohol for entry.	<i>Advertising</i> , WAC 314-52-040, Chapter 314-52 WAC.
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Brewers' Trade Practices Association Proposal	The types of prizes should remain flexible. Prize limits will be a maximum of \$500 per theme night, based on normal retail value of the prize.	<i>Brewers' Trade Practices Association Trade Practices Code</i> , Discussion Draft, January 4/01, s. 7.5.
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### ***M. Value added promotional items***

<b>Jurisdiction</b>	<b>Policy</b>	<b>Relevant Legislation</b>
British Columbia	Value added promotions may be conducted with approval of the LDB. Items may be either inserted into package or affixed to the package by the manufacturer or agent. Near pack promotions are not permitted.	<i>Liquor Control and Licensing Act</i> , RSBC 1996, Chapter 267 <i>A Guide for Liquor Manufacturers and Their Representatives in British Columbia</i> , BC Ministry of Attorney General, LCLB, p. 28
Alberta	Suppliers may conduct added value promotions in retail stores. Actual cost of added item shall not exceed 15% of wholesale price of liquor, this applies to added value items supplied by a third party as well. Cumulative added value promotions are prohibited. Added value items may include: liquor - must be clearly identified as "sample", and must be no more than a single serving; non-liquor items - coupons; non-perishable food; nominal value items such as key rings; liquor related items such as corkscrew. Tobacco may NOT be used as part of an added value promotion. These items may be on-pack, near-pack, or in-pack.	<i>Policy Guidelines: Promotions in Licensed Premises</i> , Alberta Gaming and Liquor Commission, s. 1.
Saskatchewan	With the approval of the Authority, a manufacturer may distribute any novelty or premium, be a sponsor of, or be involved in any give-away program, or point-of-sale article. Brand-on-brand on-packaging is not permitted, and on-packaging of a alcohol value-added item to any 1750 ml container is not permitted. Non-alcohol value-added items can be on-packed to any container size.	<i>Merchandising and Display Program</i> , Saskatchewan Liquor and Gaming Authority, s. II.1.1. <i>Advertising Policy Manual</i> , Saskatchewan Liquor and Gaming Authority, s. 9.5.
Manitoba		
Ontario	Items provided with the purchase of liquor must be of nominal value in comparison with regular price of the product. A value added item may have a nominal value of 20% of retail price of alcohol it is included with, up to a maximum of \$5.00. Coupons redeemable for items other than	<i>Advertising Guidelines</i> , Alcohol and Gaming Commission of Ontario, November 1994, s. 1(8), amended June 20, 1997. <i>Advertising Guidelines</i> , Alcohol and Gaming Commission of Ontario, November 1994, s. 8(viii).



	beverage alcohol are permitted provided they are of nominal value.	
Quebec		
Nova Scotia	The following value added promotional programs are permitted with approval from the Merchandising co-ordinator: instant redemption coupons, mail-in offers, manufacturer's contests and value added items. Value added liquor products are limited to 50 ml, unless item does not exceed: spirits - 10% of host item, beer/wine/coolers - 20% of host item. Non-liquor value added items have no retail value restrictions.	<i>In-Store Merchandising and Advertising Operating Procedures</i> , Merchandising Services Division Nova Scotia Liquor Commission, revised April 1, 1998, s. 4.1.2, s. 4.1.3, s. 4.1.4, s. 12.0, s. 13.0.3.
New Brunswick	In-pack and on-pack promotional items are permitted. Alcohol on-packs must arrive at NB Liquor already packed on in order to be distributed. Non-alcohol on-packs may be packed at the store level.	New Brunswick Liquor Corporation Policy re : Agency Stores.
Newfoundland		
Prince Edward Island	The Commission will consider for approval both alcohol and non-alcohol on-pack promotions, provided item is approximately 10% of the retail value of host item. In the beer category liquid added value items are only permitted where the item is inserted in the case. Discounts may be given in any category, so long as minimum discount is 1/10 of cent per ml of discounted brand. No brand will be permitted to go below floor price established by Commission.	<i>Listing Policy and Marketing Programs</i> , Prince Edward Island Liquor Control Commission, April 1, 2001, page 12 - 14.
Yukon	When suppliers or agents wish to advertise or conduct special promotional or marketing efforts for their products, approval of the President of the Yukon Liquor Corporation is required. These requests must normally be submitted two months before the scheduled promotion date. All promotional material must be received by the Corporation three to four weeks in advance of scheduled start date.	<i>Merchandising Policy</i> , Yukon Liquor Corporation.
Northwest Territories	All value added promotional items must have prior approval from the Liquor Commission. Value added 50 ml products must be different from host product.	<i>Merchandising Policy</i> , Northwest Territories Liquor Commission.

Oregon	On-pack promotional liquor may not exceed one 50 ml unit per bottle, may only be attached to non-like products 750 ml in size or larger. Sweepstakes or premium offers must not require the purchase of liquor to receive a prize or merchandise.	<i>Oregon Administrative Rules</i> , Chapter 845, Division 13, rule 845-015-0091.
Washington		
Brewers' Trade Practices Association Proposal		

### ***N. Manufacturer point of sale material***

<b>Jurisdiction</b>	<b>Policy</b>	<b>Relevant Legislation</b>
British Columbia	Point of sale promotional material limited to shelf-talkers, ceiling dangles, and product display structures. Pre-approval for licensee retail stores is not required, but all point of sale material must comply with conditions of manufacturer's advertising.	<i>Liquor Control and Licensing Act</i> , RSBC 1996, Chapter 267 <i>A Guide for Liquor Manufacturers and Their Representatives in British Columbia</i> , BC Ministry of Attorney General, LCLB, p. 29
Alberta		
Saskatchewan	With approval of Retail Services Manager, a supplier/agent may display shelf talkers, promotional posters, and shelf extenders. A supplier/agent may incorporate a cash rebate component into on-shelf programs with approval of the Authority.	<i>Merchandising and Display Program</i> , Saskatchewan Liquor and Gaming Authority, s. II.F, s. II.G, s. II.H, s. V(ii).
Manitoba	Coupons issued by a manufacturer that offer a discount or refund may be offered to customers at point of sale, or on a liquor package.	<i>Liquor Advertising Rules of Conduct Regulation</i> , (under <i>Liquor Control Act</i> , C.C.S.M. c. L160), s. 8.
Ontario	Prior approval is not required for advertising within LCBO, Brewers Retail, Ontario Winery Retail stores and agency stores.	<i>Advertising Guidelines</i> , Alcohol and Gaming Commission of Ontario, November 1994, s. 3.
Quebec		
Nova Scotia	The following point of purchase merchandising programs are permitted with approval from the NSLC Merchandising Coordinator: regular displays, shelf talkers, neck tags, static stickers, merchandising price reductions, instand redemption coupons, added value items, dangles, window signs, and shelf extenders. Value added liquor products are limited to 50 ml, unless item does not exceed: spirits - 10% of host item, beer/wine/coolers - 20% of host item. Non-liquor value added items have no retail value restrictions.	<i>In-store Merchandising and Advertising Programs Operating Procedures</i> , Merchandising Services Division Nova Scotia Liquor Commission, s. 4 - 19.
New Brunswick	Bilingual shelf talkers, and fridge decals are permitted. Other acceptable point of sale material includes : backer cards,	<i>Product Management Policies and Guidelines : Stores and Marketing</i> , New Brunswick Liquor Corporation, April 1,

	posters, ceiling dangles, recipe cards, floor decals, and neck tags.	2001.
Newfoundland	Signs or displays carrying advertisements are permitted in licensed premises provided that they advertise only alcoholic beverages that can be lawfully sold, kept, or stored therein.	Newfoundland Liquor Corporation, <i>Advertising Code</i> , s. 6.
Prince Edward Island	Free standing displays in conjunction with in-store draws and contests are permitted. Eligibility for the contest may be tied to purchase provided every customer has access to a ballot by phone or mail. Floor displays are also permitted, dimensions of display must be outlined on application.	<i>Listing Policy and Marketing Programs</i> , Prince Edward Island Liquor Control Commission, April 1, 2001, page 13 - 14.
Yukon	Manufacturer's agents shall have no dealings of a promotional nature with liquor store personnel. When suppliers or agents wish to advertise or conduct special promotional or marketing efforts for their products approval of the President of the Yukon Liquor Corporation is required. These requests must normally be submitted two months before the scheduled promotion date. All promotional material must be received by the Corporation three to four weeks in advance of scheduled start date.	<i>Liquor Regulations</i> , Statutes of the Yukon, CO 1977/037, s.41(3) <i>Merchandising Policy</i> , Yukon Liquor Corporation.
Northwest Territories	All in store-promotions must have prior approval from the Liquor Commission. A sample of the original or clear facsimile of all promotional materials should accompany the application.	<i>Merchandising Policy</i> , Northwest Territories Liquor Commission.
Oregon	Manufacturers may not customize point of sale material or items of nominal value. However, they may add to these items the retailer's name or logo, the retailer's price for the advertised product, or blank space for the retailer's price for the product. Manufacturers may provide material that functions to advertise their products, including tent and case cards, dangles, static-cling stickers, display mirrors, inflated plastic beer or wine bottles and neon signs. A merchandising committee must approve all signs and display materials intended for retail liquor stores.	<i>Oregon Administrative Rules</i> , Chapter 845, Division 13, rule 845-013-0001, rule 845-013-0050, rule 845-015-0091.

Washington

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### ***O. Manufacturer's advertising***

<b>Jurisdiction</b>	<b>Policy</b>	<b>Relevant Legislation</b>
British Columbia	Manufacturer's advertising must comply with the <i>Code for Broadcast Advertising of Alcoholic Beverages</i> published by the CRTC. No prices may be stated, and advertisement must not be less than 200 metres from a school or other location frequented predominantly by minors.	<i>Liquor Control and Licensing Act</i> , RSBC 1996, Chapter 267 <i>A Guide for Liquor Manufacturers and Their Representatives in British Columbia</i> , BC Ministry of Attorney General, LCLB, p. 29
Alberta	Every liquor supplier and liquor agent must comply with Board policies respecting advertising and promoting liquor. Advertising must be in good taste, must be accurate and encourage legal, safe consumption, must not be targeted at minors. Corporate advertising between a liquor supplier and a licensee is not permitted.	<i>Gaming and Liquor Act</i> , R.S.A. Chapter G-0.5, s. 64(2) <i>Policy Guidelines: Liquor Advertising for Liquor Suppliers, Liquor Agencies and Licensees</i> , Alberta Gaming and Liquor Commission, s. B.
Saskatchewan	No manufacturer shall publish an advertisement without the prior approval of the Authority. The Authority shall not approve advertising on radio, TV or in newspapers unless satisfied that 15% of the total time or space will be devoted to educational messages.	<i>Advertising Policy Manual</i> , Saskatchewan Liquor and Gaming Authority, s. 2, s. 11.1. <i>Alcohol Control Act</i> , S.S., c.A-18.01, s. 137.
Manitoba	All advertisements must: be legal under federal, provincial or municipal legislation and encourage safe and moderate consumption; be directed at an audience aged 18 years or older; not contain anything with strong appeal to persons under 18; be within limits of good taste; not be sexist or sexually exploitive; not make any claims about benefits of alcohol consumption; not be associated with driving of motor vehicles; not contains scenes where liquor is actually consumed.	<i>Liquor Advertising Rules of Conduct Regulation</i> , (under <i>Liquor Control Act</i> , C.C.S.M. c. L160), s. 2.
Ontario	No person shall advertise liquor except in accordance with the regulations. Manufacturer is required to obtain approval of Registrar of Alcohol and Gaming for advertisements intended to	<i>Liquor Licence Act</i> , R.S.O. 1990, c. L.19, s. 38(1). <i>Liquor Licence Act</i> , R.R.O. 1990, Reg. 720, s. 5. <i>Advertising Guidelines</i> , Alcohol and

	attract public attention to the manufacturer's liquor products. Prior approval is not required where advertising is limited to manufacturer's corporate advertising with no specific information about liquor.	Gaming Commission of Ontario, November 1994, s. 3.
Quebec	A manufacturer may not advertise jointly with either a permit holder, except inside the permit holder's establishment, or a distributor. A permit holder or a distributor may not advertise the brands of one manufacturer exclusively, except for advertising in a permit holder's establishment. A manufacturer must have prior approval of all advertising for alcoholic beverages from the Regie.	<i>Regulation respecting promotion, advertising and educational programs relating to alcoholic beverages</i> , under <i>An Act respecting liquor permits</i> , R.S.Q., c. P.9-1, s. 6, s. 8, s. 21
Nova Scotia	Advertising may not: be directed to minors, exceed two minutes per hour on radio or TV, show consumption of product, portray immoderate use of alcohol, compare company's product to that of another company, or suggest that alcohol consumption has beneficial social results. Outdoor brand advertising may not be within 200 meters of schools or churches. Prices are permitted in advertisements, provided they say "subject to change". Famous people may be used provided they don't appeal to minors. Outdoor advertising is permitted subject to exceptions re: schools and churches.	<i>Advertising/Promotions Programs Operating Procedures</i> , Merchandising Services Division Nova Scotia Liquor Commission, revised April 1, 1998, s. 21.0.1, s. 21.0.2.
New Brunswick	Holder of a brewer's, distiller's or winery licence may refer in advertisements only to: trademarks, brand names, body labels or recipes, and may use slogans or copy descriptive of the product or brand being advertised. Advertising may not relate to or depict minors. Advertisement may not air on same radio or TV station more than 25 times in a week.	<i>Advertising of Liquor Regulations - Liquor Control Act</i> , Reg. 90-10, s. 6, s. 5, s. 9
Newfoundland	Advertising through broadcast media will be confined to beer and wine. Advertising through print media will be permitted for spirits, wine and beer, but: must not encourage general alcoholic consumption, involve or be directed at minors, refer to prices, or suggest that consumption of alcohol is beneficial to the user in any way. Outdoor advertising cannot be within 200 m. of a	Newfoundland Liquor Control <i>Corporation Advertising Code</i> , s. 2, s. 3, s. 4.

	church or school. No more than 25% of an advertiser's outdoor advertising space in a market can be devoted to alcoholic beverages.	
Prince Edward Island	No one shall exhibit an advertisement concerning liquor by an electric or illuminated sign, or on any other place in the public view, or exhibit, publish or display any advertisement concerning liquor unless it complies with any requirements imposed by the policy guidelines approved by the Commission, and any other terms the Commission may determine. Advertisements may not be directed at minors or contain claims that liquor enhances lifestyle, health or personal performance.	<i>Liquor Control Act</i> , R.S.P.E.I. 1974, Cap. L-17, s. 50(1)(b), (c). <i>Liquor Control Regulations</i> , R.S.P.E.I. 1974, Cap. L-17, EC 360/97, s. 96.
Yukon	Except as permitted in Act, no one shall advertise liquor in a place in public view. All advertisements pertaining to liquor shall be submitted to the General Manager for approval prior to publication or broadcasting. When suppliers or agents wish to advertise or conduct special promotional or marketing efforts for their products approval of the President of the Yukon Liquor Corporation is required. These requests must normally be submitted two months before the scheduled promotion date. All promotional material must be received by the Corporation three to four weeks in advance of scheduled start date.	<i>Liquor Act</i> , Statutes of the Yukon, 1986, Chapter 105, s. 77(b). <i>Liquor Regulation</i> , Statutes of the Yukon, CO 1977/037, s. 40(1) <i>Merchandising Policy</i> , Yukon Liquor Corporation.
Northwest Territories	General advertising of a business, facility or event is permitted, however any advertising of liquor is prohibited except advertising specifically approved by the Liquor Licensing Board. All advertising programs in retail stores must have prior approval from the Liquor Commission.	<i>Northwest Territories Liquor Licensing Policy and Procedures Manual: Advertising - Licensees</i> , Northwest Territories Liquor Licensing Board. <i>Merchandising Policy</i> , Northwest Territories Liquor Commission.
Oregon		
Washington	Brand advertising of spirits, wine, and malt products must identify name and address of manufacturer, and a statement of alcoholic content of item.	<i>Advertising</i> , WAC 314-52-010, Chapter 314-52 WAC.



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*Brewers' Trade Practices Association*  
*Trade Practices Code*, Discussion Draft,  
January 4/01

### ***P. Ensuring compliance with advertising policy***

<b>Jurisdiction</b>	<b>Policy</b>	<b>Relevant Legislation</b>
British Columbia	Manufacturer's advertising must comply with the Act, regulations and CRTC Code, and with any terms and conditions imposed by the General Manager of the Liquor Control Board.	<i>Liquor Control and Licensing Act</i> , RSBC 1996, Chapter 267 <i>A Guide for Liquor Manufacturers and Their Representatives in British Columbia</i> , BC Ministry of Attorney General, LCLB, p. 33
Alberta	Liquor suppliers must ensure their advertising complies with Commission guidelines. Advertising must also comply with requirements of the CRTC and any other regulatory body having jurisdiction.	<i>Policy Guidelines: Liquor Advertising for Liquor Suppliers, Liquor Agencies and Licensees</i> , Alberta Gaming and Liquor Commission, s. A.4, s. B.9.
Saskatchewan	Where a manufacturer fails to comply with advertising policy, the Authority may suspend all or any advertisements of that manufacturer.	<i>Advertising Policy Manual</i> , Saskatchewan Liquor and Gaming Authority, s. 11.3.
Manitoba	See appendix O above	See appendix O above
Ontario	A manufacturer is required to obtain the approval of the Registrar of Alcohol and Gaming for advertisements intended to attract public attention to the manufacturer's liquor products.	<i>Liquor License Act</i> , R.R.O. 1990, Reg. 720, s. 5. <i>Advertising Guidelines</i> , Alcohol and Gaming Commission of Ontario, November 1994, s. 3.
Quebec	A manufacturer must have prior approval from the Regie for all advertising for alcoholic beverages.	<i>Regulation respecting promotion, advertising and educational programs relating to alcoholic beverages</i> , under <i>An Act respecting liquor permits</i> , R.S.Q., c. P.9-1, s. 21
Nova Scotia	Advertising must conform with all CRTC, Provincial and Federal laws and regulations. All external and media advertising must conform to the NSLC's Guidelines. Approval of the NSLC is deemed to have been given to suppliers for their advertising/promotional activities provided they comply with the spirit and intent of this policy.	<i>Advertising/Promotions Policy</i> , Merchandising Services Division Nova Scotia Liquor Commission, revised April 1, 1998. <i>Policy Guidelines</i> , Nova Scotia Liquor Commission, April 2000, Part IV "Manufacturer's Policy," s. 6.1.
New Brunswick	All liquor licensed establishments must comply with the advertising requirements under New Brunswick Regulation 90-10, and sections 142(1) and 142(2) of the <i>Liquor Control Act</i> .	<i>Information on Advertising under the Liquor Control Act</i> , New Brunswick Department of Public Safety, LIN 0500, November 2000.

Newfoundland	All advertising must conform to the regulations of the Newfoundland Liquor Corporation. All advertising through broadcast media is subject to the broadcasting regulations of the CRTC.	Newfoundland Liquor Corporation, <i>Advertising Code</i> , s. 2.
Prince Edward Island	All advertising must comply with the requirements of the Canadian Advertising Foundation and any other regulatory body having jurisdiction.	<i>Liquor Control Regulations</i> , R.S.P.E.I. 1974, Cap. L-17, EC 360/97, s. 96.
Yukon	When suppliers or agents wish to advertise or conduct special promotional or marketing efforts for their products, approval of the President of the Yukon Liquor Corporation is required. These requests must normally be submitted two months before the scheduled promotion date. All promotional material must be received by the Corporation three to four weeks in advance of scheduled start date.	<i>Merchandising Policy</i> , Yukon Liquor Corporation.
Northwest Territories	The Liquor Licensing Board will ensure that the advertising of alcohol in the Northwest Territories is not geared to youth, does not promote drinking and is not sexist.	<i>Northwest Territories Liquor Licensing Policy and Procedures Manual: Advertising - Licensees</i> , Northwest Territories Liquor Licensing Board.
Oregon	All alcoholic beverage advertising used by licensees must conform to these rules. Prior approval or advertising material is normally not required.	<i>Oregon Administrative Rules</i> , Chapter 845, Division 13, rule 845-007-0005.
Washington	No person engaged in business as a manufacturer, importer or distributor shall publish or cause to be published in any media any advertisement of liquor unless that advertisement is in accordance with these rules.	<i>Advertising</i> , WAC 314-52-005, 314-52-010, Chapter 314-52 WAC.
Brewers' Trade Practices Association Proposal		<i>Brewers' Trade Practices Association Trade Practices Code</i> , Discussion Draft, January 4/01

### Q. Agency store advertising

Jurisdiction	Policy	Relevant Legislation
British Columbia	Agency store advertisements may refer to the liquor products available in the store, but may not refer directly to availability of specific brands or manufacturers - except where the agency store is operated by a winery, brewery or distillery and sells only that manufacturer's product. Unless agency appointment is held by a manufacturer, a manufacturer may not pay for agency store advertising.	<i>Liquor Control and Licensing Act</i> , RSBC 1996, Chapter 267 <i>A Guide for Liquor Manufacturers and Their Representatives in British Columbia</i> , BC Ministry of Attorney General, LCLB, p. 36
Alberta		
Saskatchewan		
Manitoba		
Ontario	LCBO, Brewers Retail, Winery Retail stores, and agency stores will not require pre-approval by the Commission for their own advertising. Compliance with applicable advertising guidelines is required.	<i>Advertising Guidelines</i> , Alcohol and Gaming Commission of Ontario, November 1994, s. 3(d).
Quebec		
Nova Scotia		
New Brunswick		
Newfoundland	All advertising used in Newfoundland, including on behalf of distributors or retailers, must conform to the regulations of the Newfoundland Liquor Corporation. No advertising of price is permitted.	Newfoundland Liquor Corporation, <i>Advertising Code</i> .
Prince Edward Island		
Yukon	When suppliers or agents wish to advertise or conduct special promotional or marketing efforts for their products approval of the President of the Yukon Liquor Corporation is required. These requests must	<i>Merchandising Policy</i> , Yukon Liquor Corporation.

normally be submitted two months before the scheduled promotion date. All promotional material must be received by the Corporation three to four weeks in advance of scheduled start date.

Northwest Territories

General advertising of a business, facility or event is permitted, however any advertising of liquor is prohibited except advertising specifically approved by the Liquor Licensing Board. All advertising programs in retail stores must be approved by the Liquor Commission.

*Northwest Territories Liquor Licensing Policy and Procedures Manual: Advertising - Licensees*, Northwest Territories Liquor Licensing Board. *Merchandising Policy*, Northwest Territories Liquor Commission.

Oregon

Retail stores may not advertise using words or symbols referring to alcoholic beverages. Exterior signs are permitted with prior approval.

*Oregon Administrative Rules*, Chapter 845, Division 13, rule 845-015-0090.

Washington

Brewers' Trade Practices Association Proposal

*Brewers' Trade Practices Association Trade Practices Code*, Discussion Draft, January 4/01

## ***R. Market research***

<b>Jurisdiction</b>	<b>Policy</b>	<b>Relevant Legislation</b>
British Columbia	Market research can include a survey of members of a target group, conducted by manufacturer or independent group. It may not be a promotional scheme. If the research will involve tasting or distribution of packaged products then the LCLB Industry Compliance Officer must be notified in writing ten days in advance. There may be no public advertising of the survey. Participants may be compensated.	<i>Liquor Control and Licensing Act</i> , RSBC 1996, Chapter 267 <i>A Guide for Liquor Manufacturers and Their Representatives in British Columbia</i> , BC Ministry of Attorney General, LCLB, p. 37
Alberta	An independent group or organization may be appointed to conduct market research. It can include a target group. Such a survey may not be a promotional scheme, nor may the results form part of an advertising program. There may be no public advertising of the survey. Participants may be compensated. Licensing requirements must be met for product or package audits.	<i>Policy Guidelines: Liquor Advertising for Liquor Suppliers, Liquor Agencies and Licensees</i> , Alberta Gaming and Liquor Commission, s. O.
Saskatchewan		
Manitoba	A brewer, distiller, or wine manufacturer or their agent, may provide complimentary servings of liquor for taste sampling to invited guests, or other persons authorized to be present, at a function undertaken, organized and operated for that purpose or for another purpose related to that.	<i>Liquor Control Act</i> , R.S.M. 1988, c. L160, s. 111(6)(b).
Ontario	Manufacturer may give liquor to a person if the purpose is to sample a new brand or carry out market research. Special occasion licence required if in a public place.	<i>Liquor Licence Act</i> , R.R.O. 1990, Reg. 720, s. 3. Reg. 389/91, s. 3
Quebec		
Nova Scotia		

New Brunswick	Brewer may give a voucher redeemable for beer to an individual for sampling for purposes of marketing or promotion.	<i>Gifts of Beer by Brewers Regulation - Liquor Control Act</i> , Reg. 93-94, s. 4(1)(b)
Newfoundland		
Prince Edward Island		
Yukon	When suppliers or agents wish to advertise or conduct special promotional or marketing efforts for their products, approval of the President of the Yukon Liquor Corporation is required. These requests must normally be submitted two months before the scheduled promotion date. All promotional material must be received by the Corporation three to four weeks in advance of scheduled start date.	<i>Merchandising Policy</i> , Yukon Liquor Corporation.
Northwest Territories		
Oregon		
Washington		
Brewers' Trade Practices Association Proposal		<i>Brewers' Trade Practices Association Trade Practices Code</i> , Discussion Draft, January 4/01

## **LCLB FOI LCLB, LCLB LCLB:EX**

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**From:** Bieller, Barry JAG:EX  
**Sent:** Thursday, August 30, 2012 3:26 PM  
**To:** Carlson, Janice JAG:EX  
**Subject:** RE: BN Tied House Trade Practices de-regulation Aug 29

Thanks Jan. I won't have a chance to review it before the end of day and I'm not in the office tomorrow so I guess I'll just run with it next week, once I have Gord's stats.

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**From:** Carlson, Janice MEM:EX  
**Sent:** Thursday, August 30, 2012 10:49 AM  
**To:** Bieller, Barry MEM:EX  
**Subject:** BN Tied House Trade Practices de-regulation Aug 29

<< File: BN Tied House Trade Practices de-regulation Aug 29.docx >>

Draft 2 for comments please. Just the info from Gord is still missing.

Janice



## LCLB FOI LCLB, LCLB LCLB:EX

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**From:** Alain Maisonneuve <Alain.Maisonneuve@aglc.ca>  
**Sent:** Wednesday, August 29, 2012 6:30 AM  
**To:** Carlson, Janice JAG:EX  
**Subject:** RE: Tied House/Trade Practices review

Sounds FABULOUS!<sup>s.22</sup>

s.22

Alain (8731)

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**From:** Carlson, Janice MEM:EX [mailto:Janice.Carlson@gov.bc.ca]  
**Sent:** Tuesday, 28 August, 2012 17:28  
**To:** Alain Maisonneuve  
**Subject:** RE: Tied House/Trade Practices review

Hi Alain, thanks for this. Much appreciated. s.22

s.22

hence the mad rush to get a bunch of stuff done.. s.22

s.22

Janice  
250 952-5756

---

**From:** Alain Maisonneuve [mailto:Alain.Maisonneuve@aglc.ca]  
**Sent:** Monday, August 27, 2012 11:09 AM  
**To:** Carlson, Janice MEM:EX  
**Subject:** RE: Tied House/Trade Practices review

Hi Janice:

It was great talking to you this morning. The policies that we discussed are 4.2, & 4.6 here:

[http://aglc.ca/pdf/handbooks/suppliers\\_agencies\\_reps.pdf](http://aglc.ca/pdf/handbooks/suppliers_agencies_reps.pdf). Subsequently, I looked at the policy again to see if there was anything else which might interest you, and 4.15 refers to exclusivity agreements. This is used for sponsored events, generally.

Please don't hesitate to let me know if you have any other questions. Good luck!

Alain (8731)

---

**From:** Carlson, Janice MEM:EX [mailto:Janice.Carlson@gov.bc.ca]  
**Sent:** Monday, 27 August, 2012 11:21  
**To:** Alain Maisonneuve  
**Subject:** RE: Tied House/Trade Practices review

Great, I'll call you in ten, and thanks!

Janice  
250 952-5741 (NEW)

---

**From:** Alain Maisonneuve [mailto:Alain.Maisonneuve@aglc.ca]  
**Sent:** Monday, August 27, 2012 10:20 AM  
**To:** Carlson, Janice MEM:EX  
**Subject:** RE: Tied House/Trade Practices review

If you're free now (in 10 minutes), you can call me at 10:30 PDT, or we can set an early afternoon time. Let me know what's best for you!

Alain (780-447-8731)

---

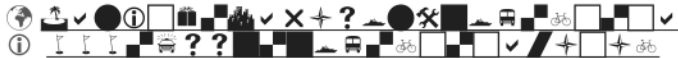
**From:** Carlson, Janice MEM:EX [mailto:Janice.Carlson@gov.bc.ca]  
**Sent:** Monday, 27 August, 2012 11:15

250 952-5756

250 952-5741 (NEW)

Alain (8731)

 250 952-7066



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## LCLB FOI LCLB, LCLB LCLB:EX

---

**From:** Golder, Melanie JAG:EX  
**Sent:** Wednesday, August 22, 2012 11:43 AM  
**To:** Carlson, Janice JAG:EX  
**Subject:** RE: tied house crossover

I think were trying to target an October cabinet date with an effective date 3 months after. Will keep you posted

*Melanie Golder*

Senior Policy Analyst I Liquor Control and Licensing Branch I 250-952-5757

---

**From:** Carlson, Janice MEM:EX  
**Sent:** Wednesday, August 22, 2012 11:19 AM  
**To:** Golder, Melanie MEM:EX  
**Subject:** RE: tied house crossover

That is helpful, thanks Melanie for keeping me in the loop. Do we have any idea of timing on the wine store licensing regs yet?

*Janice*

250 952-5756

---

**From:** Golder, Melanie MEM:EX  
**Sent:** Monday, August 13, 2012 12:01 PM  
**To:** Carlson, Janice MEM:EX  
**Subject:** tied house crossover

Hi Janice

Here is the proposed change to s.13  
s.13

*Melanie Golder*

Senior Policy Analyst | Liquor Control and Licensing Branch | 250-952-5757



## LCLB FOI LCLB, LCLB LCLB:EX

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**From:** Bieller, Barry JAG:EX  
**Sent:** Wednesday, August 22, 2012 10:58 AM  
**To:** Hall, Gord LDB:EX  
**Cc:** Cournoyer, Vince LDB:EX; Carlson, Janice JAG:EX  
**Subject:** RE: Meeting Today on Tied House

Sounds good. Talk then.

---

**From:** Hall, Gord LDB:EX  
**Sent:** Wednesday, August 22, 2012 10:28 AM  
**To:** Bieller, Barry MEM:EX  
**Cc:** Cournoyer, Vince LDB:EX  
**Subject:** Meeting Today on Tied House

Barry: s.22 could we please use your conference calling number so I can participate in the tied house discussion at 3:00pm? Vince, the conference call info is below:

Dial in: s.17  
Participant ID: #s.17

Gord Hall, Director, Corporate Policy  
British Columbia Liquor Distribution Branch  
Phone: 604-252-3035 Fax: 604-252-3026  
[gord.hall@bcldb.com](mailto:gord.hall@bcldb.com)  
[www.bcldb.com](http://www.bcldb.com)

## LCLB FOI LCLB, LCLB LCLB:EX

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**From:** Gill, Rupi K JAG:EX  
**Sent:** Wednesday, August 22, 2012 10:20 AM  
**To:** Carlson, Janice JAG:EX  
**Subject:** RE: potential de-regulation of Tied house/trade practice requirements

Hi Janice,

Further to our phone call this morning, I had a look at the document that you had sent out in your previous email. The only potential negative impact I can see with de-regulation in this area, from a public safety perspective, is with respect to pricing. I know I speak for inspectors in the Surrey office when I say that cheap drink prices/specials have a potential to lead to intoxication. It is something we see on occasion when establishments offer cheap drink nights. If de regulation allows certain licensees to offer significantly lower drink prices, then to remain competitive others must follow and it could become the norm.

Of course, I have no way of knowing that this is what will happen, but if there is one thing that we should safeguard against, it is that.

Thanks and my apologies for not responding to you sooner.

Rupi

---

**From:** Carlson, Janice MEM:EX  
**Sent:** Monday, August 13, 2012 2:49 PM  
**To:** Gill, Rupi K MEM:EX; Hall, Gord LDB:EX  
**Subject:** potential de-regulation of Tied house/trade practice requirements

Hi Rupi and Gord,

As you know, LCLB (Barry and I) conducted industry consultations about a year ago in which we canvassed stakeholder views on the possibility of de-regulating the tied house and trade practice requirements.

Barry has asked me to look at what would be required to de-regulate in this area and what regulatory changes we'd need to make. The attached document is a summary of this. I've also included some of the potential pitfalls of de-regulation that have already been identified and where we might want to consider having some safeguards remain in place. I'd appreciate your thoughts on any other concerns you might have with de-regulation in this area and any requirements that you think we might want to consider keeping/adding if de-regulation takes place.

<< File: Tied House Trade Practice implementation.docx >>

Thanks for your help. Please phone or email, whichever is easier for you.

Janice Carlson | Policy Analyst  
Liquor Control and Licensing Branch  
☎ 250 952-5756  
📠 250 952-7066  
✉ [Janice.Carlson@gov.bc.ca](mailto:Janice.Carlson@gov.bc.ca)  
🌐 [www.pssg.gov.bc.ca/lclb](http://www.pssg.gov.bc.ca/lclb)

## LCLB FOI LCLB, LCLB LCLB:EX

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**From:** Vale, Elaine JAG:EX  
**Sent:** Thursday, August 16, 2012 2:34 PM  
**To:** Carlson, Janice JAG:EX  
**Cc:** Bieller, Barry JAG:EX  
**Subject:** RE: Sponsorship

Do you know if the other sections of Bill 20 will be brought into force?

s.12,s.13

The current sections read:

**12** (1) The general manager, having regard for the public interest, may, on application, issue a licence for the sale of liquor.

(2) The general manager may, in respect of any licence that is being or has been issued, impose, in the public interest, terms and conditions

(a) that vary the terms and conditions to which the licence is subject under the regulations, or

(b) that are in addition to those referred to in paragraph (a).

(3) Without limiting subsection (2), the terms and conditions referred to in that subsection may

(j) specify the manner in which sponsorship by a liquor manufacturer or an agent under section 52 may be conducted and place restrictions on the types of events, activities or organizations that may be sponsored,

**84** (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

(y) specifying the manner in which sponsorship by a liquor manufacturer or an agent under section 52 may be conducted and placing restrictions on the types of events, activities or organizations that may be sponsored;

It's strange that the changes to section 54 were brought into effect, but section 12 and 84 weren't. It has made the existing regulations a bit awkward, because the Act refers to licensees being able to sponsor events, yet LGIC can only add terms and conditions regarding manufacturers and agents.

Also, it seems a bit strange to open up the rules around trade practices, but limit sponsorship with non-licensees.

---

**From:** Carlson, Janice MEM:EX  
**Sent:** Thursday, August 16, 2012 2:21 PM  
**To:** Vale, Elaine MEM:EX  
**Subject:** RE: Sponsorship

No, they will likely stay the same.

*Janice*

250 952-5756

---

**From:** Vale, Elaine MEM:EX  
**Sent:** Thursday, August 16, 2012 11:24 AM  
**To:** Carlson, Janice MEM:EX  
**Subject:** Sponsorship

Hi Janice,

Do you know if we are making any changes to the sponsorship provisions, as part of the trade practices/tied house changes?

Thanks,  
Elaine

**Elaine Vale** | Sr. Policy Analyst  
Liquor Control and Licensing Branch | Ministry of Energy & Mines  
3350 Douglas Street, Victoria, BC  
Ph. 250 952-5758  
Fx. 250 952-7066



## LCLB FOI LCLB, LCLB LCLB:EX

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**From:** Cournoyer, Vince LDB:EX  
**Sent:** Wednesday, August 15, 2012 3:03 PM  
**To:** Carlson, Janice JAG:EX  
**Cc:** Hall, Gord LDB:EX  
**Subject:** TIED-HOUSE CHANGES

Hi Janice, Rich is certainly keeping us busy! Gord forwarded me the document you sent for him to have a look at (he is off until Monday)He may have some additional comments, but I just have a couple questions.

- s.13

related to the following section:

- Amend s. 50(1) (definitions) and 50(3) of the regulations, which are the requirements for exempted establishments under the current regime, but will now apply to all establishments:
  - Licensee must make product from more than one supplier in a product category available, that product must account for at least 10% of sales in the product category, must be reasonably priced and not connected in any way to other products/suppliers, and that product must be made known to patrons

When you say product must account for 10% of sales in the category, what is the time parameter – per week, per month, per year?

And what does 'not connected in any way to other products/suppliers' mean?

Thanks... V

Vince Cournoyer, Senior Policy Analyst  
BC Liquor Distribution Branch  
Phone: 604 252-2874  
[www.bcldb.com](http://www.bcldb.com)

## LCLB FOI LCLB, LCLB LCLB:EX

---

**From:** Golder, Melanie JAG:EX  
**Sent:** Monday, August 13, 2012 12:01 PM  
**To:** Carlson, Janice JAG:EX  
**Subject:** tied house crossover

Hi Janice  
s.13

*Melanie Golder*

Senior Policy Analyst | Liquor Control and Licensing Branch | 250-952-5757

## **LCLB FOI LCLB, LCLB LCLB:EX**

---

**From:** Bieller, Barry JAG:EX  
**Sent:** Wednesday, July 25, 2012 9:51 AM  
**To:** Carlson, Janice JAG:EX  
**Subject:** TRADE PRACTICES PAPER (FINAL)  
**Attachments:** TRADE PRACTICES PAPER (FINAL).doc

Here's the paper we were talking about.



## **LCLB FOI LCLB, LCLB LCLB:EX**

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**From:** Bieller, Barry JAG:EX  
**Sent:** Monday, July 9, 2012 3:04 PM  
**To:** Carlson, Janice JAG:EX  
**Subject:** FW: Trade Practices Tied House BN draft 3  
**Attachments:** BN Tied House Trade Practices options draft 3.docx

Hi Jan,

Exec discussed your note this a.m. and there were a handful of suggested changes. Karen needed it done today so it could be sent to the Minister's office in time for her meeting with him on Wed. Here's the edited version for your reading pleasure.

---

**From:** Bieller, Barry MEM:EX  
**Sent:** Monday, July 9, 2012 2:35 PM  
**To:** LCLB-EXEC  
**Cc:** Jones, Kathleen MEM:EX  
**Subject:** Trade Practices Tied House BN draft 3

Here's the revised draft incorporating comments.

Cheryl and I discussed whether there are any other viable options within Option 2 of the Tied House section and don't believe there to be.

## LCLB FOI LCLB, LCLB LCLB:EX

---

**From:** Caldwell, Cheryl Y MEM:EX  
**Sent:** Thursday, July 5, 2012 3:04 PM  
**To:** Bieller, Barry JAG:EX; Carlson, Janice JAG:EX  
**Subject:** FW: Draft BN Trade Practices/Tied House

Hi:

Here are my comments for your consideration.

Coincidentally, I had my bi-weekly with Karen just now by phone and she mentioned she would like to discuss the paper with executive before it goes to the Minister and asked that I have Kathy set up a meeting for tomorrow afternoon or Monday morning.

Cheryl

Cheryl Caldwell  
Deputy General Manager, Licensing  
Liquor Control & Licensing Branch

---

**From:** Carlson, Janice MEM:EX  
**Sent:** Thursday, July 5, 2012 11:32 AM  
**To:** Caldwell, Cheryl Y MEM:EX  
**Cc:** Bieller, Barry MEM:EX  
**Subject:** Draft BN Trade Practices/Tied House

Hi Cheryl,

As per your discussion with Barry, attached is a draft BN for your review and comment, please and thank you.



Janice Carlson | Policy Analyst  
Liquor Control and Licensing Branch  
☎ 250 952-5756  
📠 250 952-7066  
🌐 [Janice.Carlson@gov.bc.ca](mailto:Janice.Carlson@gov.bc.ca)  
📄 [www.pssg.gov.bc.ca/lclb](http://www.pssg.gov.bc.ca/lclb)



## LCLB FOI LCLB, LCLB LCLB:EX

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**From:** Golder, Melanie JAG:EX  
**Sent:** Monday, June 18, 2012 9:41 AM  
**To:** Carlson, Janice JAG:EX; Bieller, Barry JAG:EX  
**Subject:** FW: Tied House Rule.....again

FYI-

*Melanie Golder*

Senior Policy Analyst I Liquor Control and Licensing Branch I 250-952-5757

---

**From:** s.22  
**Sent:** Sunday, June 17, 2012 4:05 PM  
**To:** Golder, Melanie MEM:EX  
**Cc:** Hawes.MLA, Randy LASS:EX; Dalton.MLA, Marc LASS:EX; 'Mark Simpson'; 'Niki Reibin'; 'Ken Brookes'  
**Subject:** Tied House Rule.....again

s.22

s.22

**Cell** s.22

**Fax**

**TF 1**

## LCLB FOI LCLB, LCLB LCLB:EX

---

**From:** Alain Maisonneuve <Alain.Maisonneuve@aglc.ca>  
**Sent:** Thursday, January 26, 2012 3:16 PM  
**To:** Bieller, Barry JAG:EX; Carlson, Janice JAG:EX  
**Cc:** Anne Clayton  
**Subject:** RE: Tied Houses

Interesting! Ours is the opposite – they can only transfer to other locations that they **DO** own per section 3.12.8 of our Licensee Handbook (so chain brew pubs like Brewsters can move their product around to their own pubs) – this was a change in the year 2000. But they can't sell to others, which regular breweries (licensed manufacturers) can. This has the same result of keeping brew pubs distinct from breweries....

Thanks again, Barry and Janice - take care and keep in touch!!

Alain (8731)

---

**From:** Bieller, Barry SG:EX [mailto:Barry.Bieller@gov.bc.ca]  
**Sent:** Thursday, 26 January, 2012 15:58  
**To:** Alain Maisonneuve; Carlson, Janice SG:EX  
**Cc:** Anne Clayton  
**Subject:** RE: Tied Houses

Hi Alain,  
Nice to hear from you. Regarding the specific issue of brewpubs being able to sell to other licensees and liquor stores, this is permitted in BC. The rules changed about 10 years ago. They can sell either bottled or draught and many of the more popular brewpubs do this. Having said that, a brewpub can't sell beer to another licensee or liquor store that it is tied to unless it was at the same physical location.

Cheers,

Barry

---

**From:** Alain Maisonneuve [mailto:Alain.Maisonneuve@aglc.ca]  
**Sent:** Thursday, January 26, 2012 1:49 PM  
**To:** Carlson, Janice SG:EX; Bieller, Barry SG:EX  
**Cc:** Anne Clayton  
**Subject:** RE: Tied Houses

Hi & thanks for the speedy reply!

Sounds good; if anything exciting happens, let us know (and we'll do the same). I looked up Mill Street Brewing in Ontario – looks interesting. There is a "Mill Street Brewery" and "Mill Street Brew Pub" with separate websites, but the companies are clearly together and the LCBO and The Beer Store carry the beer as well:

<http://www.millstreetbrewery.com/#/home>

Alain (8731)

---

**From:** Carlson, Janice SG:EX [<mailto:Janice.Carlson@gov.bc.ca>]  
**Sent:** Thursday, 26 January, 2012 14:40  
**To:** Alain Maisonneuve; Bieller, Barry SG:EX  
**Subject:** RE: Tied Houses

Hi Alain,

Nice to hear from you!

The short answer is that no decision has yet been made on potential changes to the tied house/trade practice rules. At the time we did our consultations, we couldn't get any consensus from industry as to what direction they wanted things to go, so for the time being, it's status quo. We'll keep you posted if anything changes.

Janice  
250 952-5756

---

**From:** Alain Maisonneuve [<mailto:Alain.Maisonneuve@aglc.ca>]  
**Sent:** Thursday, January 26, 2012 1:34 PM  
**To:** Carlson, Janice SG:EX; Bieller, Barry SG:EX  
**Subject:** Tied Houses

Hi Janice & Barry:

Well, if you're reading this e-mail notwithstanding the subject line, that's a good sign!!

I'm just wondering if anything new is going on in British Columbia regarding Tied Houses. I know that you put out a comprehensive (excellent) discussion paper in December 2010.

One of our brew pub licensees has approached us and asked us to reconsider our policy which prohibits them from selling beer to other licensees (like retail liquor stores). This was previously reviewed by us in 2003 & 2006/7, with a decision of "no". The licensee would like us to consider this again, indicating that times have changed and there are now numerous examples of large regional micro-breweries operating multiple restaurant and bar operations in other jurisdictions – specifically in the US, but also Mill Street Brewing Company of Ontario.

So, I thought I'd just touch base and see what's new in the world of beer in BC!

Alain Maisonneuve  
Director, Liquor and Strategic Services  
Alberta Gaming and Liquor Commission  
[alain.maisonneuve@aglc.ca](mailto:alain.maisonneuve@aglc.ca)

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## LCLB FOI LCLB, LCLB LCLB:EX

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**From:** Ayers, Karen J SG:EX  
**Sent:** Tuesday, June 21, 2011 1:57 PM  
**To:** Caldwell, Cheryl Y SG:EX; Carlson, Janice JAG:EX  
**Cc:** Bieller, Barry JAG:EX; Stephenson, Cindy SG:EX  
**Subject:** Tied houses and trade practices

Hi all. Barry is best placed to answer this but is away.

Raechelle Williams (replacing Kim Haakstadt) was asking:

- a) Under the current rules, whether a licensed manufacturer could also have a whole or part ownership of a LRS, so long as that LRS did not sell any of the product produced by that manufacturer (I presume that the rules are the same as they are for ownership of a FP or LP – can have an interest but not sell the product in the licensed establishment), and
- b) Whether Option 3 in the consultation paper contemplates that a manufacturer (Brewery, winery or distillery) could then have ownership and also sell their product in that LRS.

I assured her that we were not in any way contemplating allowing manufacturers to have an additional off-site store licence, beyond the licences or appointments that exist right now, but there was concern that's what we were potentially thinking. Also concern about what could happen with allowing manufacturers to own and sell their own product in LRS.

Karen Ayers  
Assistant Deputy Minister and General Manager  
Liquor Control and Licensing Branch  
(250) 952-5791

**LCLB FOI LCLB, LCLB LCLB:EX**

---

**From:** Bieller, Barry JAG:EX  
**Sent:** Friday, May 13, 2011 4:50 PM  
**To:** Carlson, Janice JAG:EX  
**Subject:** RE: Summary of Stakeholder input - Tied House Trade Practice consultation May 2011

Thanks Jan.

---

**From:** Carlson, Janice SG:EX  
**Sent:** Friday, May 13, 2011 3:06 PM  
**To:** Bieller, Barry SG:EX  
**Subject:** Summary of Stakeholder input - Tied House Trade Practice consultation May 2011

<< File: Summary of Stakeholder input - Tied House Trade Practice consultation May 2011.docx >>

Barry – Here is the draft table, as requested.

Jan

## **LCLB FOI LCLB, LCLB LCLB:EX**

---

**From:** Bieller, Barry JAG:EX  
**Sent:** Tuesday, May 10, 2011 1:17 PM  
**To:** Carlson, Janice JAG:EX  
**Subject:** RE: Trade practices and ABLE

Thank you but already done. We're relegated to the small boardroom. Attending from ABLE are Matt MacNeil, Al McCreary and Roger Gibson. They're meeting with our Minister later in the day.

---

**From:** Carlson, Janice SG:EX  
**Sent:** Tuesday, May 10, 2011 1:07 PM  
**To:** Bieller, Barry SG:EX  
**Subject:** RE: Trade practices and ABLE

Sure thing. Do you want me to book the boardroom?

Janice  
250 952-5756

---

**From:** Bieller, Barry SG:EX  
**Sent:** Tuesday, May 10, 2011 12:52 PM  
**To:** Carlson, Janice SG:EX  
**Subject:** Trade practices and ABLE

Hi Jan:

I've had a last minute request to meet with ABLE tomorrow to discuss their latest position on trade practices and tied houses. Are you available at 12:45 – 1:30? The meeting is here.

Page 137

Withheld pursuant to/removed as

DUPLICATE

## **LCLB FOI LCLB, LCLB LCLB:EX**

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**From:** Bieller, Barry JAG:EX  
**Sent:** Monday, April 11, 2011 4:17 PM  
**To:** Ayers, Karen J SG:EX; Carlson, Janice JAG:EX  
**Subject:** ABLE reconsiders

FYI, I had a call from Al McCreary of ABLE this afternoon. He said that some ABLE members strongly objected to the position they took on trade practices and tied house (i.e. retain the status quo) and that the association will be reconsidering its position.



## LCLB FOI LCLB, LCLB LCLB:EX

---

**From:** Bieller, Barry JAG:EX  
**Sent:** Friday, April 1, 2011 4:45 PM  
**To:** Carlson, Janice JAG:EX  
**Subject:** FW: ABLE BC's Response to Tied House and Trade Practices Consultation Paper  
**Attachments:** Tiedhouse-TradePractice\_Response\_FINAL.pdf

**Importance:** High

fyi

---

**From:** Vanessa Harris [mailto:vharris@ablebc.ca]  
**Sent:** Friday, April 1, 2011 3:39 PM  
**To:** Bieller, Barry SG:EX  
**Cc:** XT:McCreary, Al SG:IN  
**Subject:** ABLE BC's Response to Tied House and Trade Practices Consultation Paper  
**Importance:** High

Hello Barry,

Please find attached ABLE BC's response to the Tied House and Trade Practices Consultation Paper.

Warm Regards,  
Vanessa

*Vanessa Harris*  
*Administrative Assistant, ABLE BC*  
**T** 604-688-5560 **TF** 1-800-663-4883 **F** 604-688-8560  
[www.ablebc.ca](http://www.ablebc.ca)

Make it a habit. Always ask *'Can I see 2 pieces of ID?'*

*ABLE members know, do you?*

A temporary Driver's License is *not* an acceptable form of ID because it does not contain the person's photo. You must *not* serve a minor – if they cannot prove they are over 19 it's the law and your job to refuse them service.





## ALLIANCE OF BEVERAGE LICENSEES FOR A RESPONSIBLE LIQUOR INDUSTRY

**To: Barry Bieller, Director, Policy, Planning and Communications**  
**From: ABLE BC**  
**Date: March 31, 2011**  
**Re: Tied House and Trade Practices Consultation Paper**

The Alliance of Beverage Licensees (ABLE BC) is pleased to provide our response to the tied house and trade practices consultation paper. After careful deliberation we submit the following positions for your consideration.

The hospitality industry has seen a lot of change over the last several years and ABLE BC feels strongly that these changes need time for all the stakeholders to assess their impact before further changes should be considered. These extensive changes include; a trend for some Food Primary Licensees to operate more like Liquor Primary (LP) operations, removal of smoking rooms, expansion of the 500 meter minimum separation of LRS's to 1 kilometer, HST, and of course the reduction from .08 maximum allowable blood alcohol level to .05 as it relates to driving. With our recommendations we seek to maintain the status quo and avoid potential unintended consequences of changes that might ultimately have a negative effect on public safety.

### **Section A: Tied House**

ABLE BC does not support any of the three tied house options outlined in the consultation paper. A change in tied house rules to allow suppliers to provide significant amounts of support to certain large chains, or alternatively to operate Liquor Primary establishments directly, will only serve to drive prices down which will have harmful effects on public safety.

#### **ABLE BC supports a forth option:**

Maintain tied house restrictions status quo as contained in the legislation.

We would also suggest allowing for the ability to recognize and make exemptions for the few businesses that operate under special circumstances. In example; a business which runs both a winery and a hotel in the same city/town should be able to sell their own wine.

### **Section B: Trade Practices**

ABLE BC does not support any of the three trade practices options outlined in the consultation paper. A change in trade practices to allow suppliers to provide significant amounts of support to certain large chains will only serve to drive prices down which will have harmful effects on public safety.

**ABLE BC supports a forth option:**

Maintain the status quo that was contained in the legislation for both Liquor Primaries (LP's) and Licensee Retail Stores (LRS').

While ABLE realizes that many of the changes proposed were requested by ABLE, the business has evolved since those requests were made and for the reasons listed above ABLE does not support their introduction at this time. This does not mean that they will not become viable at some point in the future, only that they are part of a larger picture of change today and ABLE is concerned about the potential negative effects on public safety and job creation. With so many LP's and LRS' suffering sales losses due to the new drinking and driving penalties, now is not the time to alter the delicate balance that is keeping many ABLE members in business and providing jobs. The current landscape in our industry, particularly for our members in small communities where there are no alternative transportation options, is precarious and cannot afford to undergo anything that could further threaten their viability.

Changes to tied house and trade practices would favour larger members and chain accounts while threatening the profitability and survival of the smaller operators. The majority of customers, pubs, and LRS' would not benefit from sales incentives offered to larger players in the industry such as chain restaurants and multi-unit liquor store owners.

We look forward to discussing this with you further and in the future as the industry continues to develop.

Please feel free to contact us at the ABLE office should you have any further questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Al McCreary', written in a cursive style.

Al McCreary  
President, ABLE BC

## **LCLB FOI LCLB, LCLB LCLB:EX**

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**From:** Bieller, Barry JAG:EX  
**Sent:** Monday, March 14, 2011 10:20 AM  
**To:** Carlson, Janice JAG:EX  
**Subject:** FW: Tied House / Trade Practice Position Paper - BC Craft Brewers Guild  
**Attachments:** TradepracticesTiedHousesMarch2011.pdf; ATT00001.htm

fyi

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**From:** Tod Melnyk [mailto:[tod@treebeer.com](mailto:tod@treebeer.com)]  
**Sent:** Monday, March 14, 2011 9:09 AM  
**To:** Bieller, Barry HSD:EX  
**Cc:** XT:Phillips, Matt LCLB:IN; Jim Dodds; Bruce Dean  
**Subject:** Tied House / Trade Practice Position Paper - BC Craft Brewers Guild



Tod Melnyk, CBA Chairman  
1083 Richter St.  
Kelowna BC, V1Y 2K6  
Tel. (250) 717 1091  
Fax. (250) 717 1519  
[tod@treebeer.com](mailto:tod@treebeer.com)

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March 14, 2011

## **Introduction**

The BC Craft Brewers Guild (BCCBG) represents over 15 Breweries across the Province of British Columbia. Independently owned and operated, we provide significant economic benefit in the communities that we work and live. We co-operate to educate and promote our unique high quality beers and to create an ethical business standard. We behave in a co-operative, inclusive, respectful and creative manner.

While we respect the Government's decision to amend the Liquor and Licensing Act, we believe the de-regulation of tied house and trade practices will significantly affect our memberships ability to remain viable and compete against an already competitive industry.

## **Public Safety and Public Interest**

We support the public safety priorities of over-service, over-crowding and service to minors.

With respect to public interest, there has been no evidence/discussion on the Public benefit to de-regulation. In fact, de-regulation will further impact the consumer's ability to gain access to the beers that they are looking for. The Craft beer segment is the only beer segment in North America that is growing. In British Columbia, the Craft segment grew over 20% in 2010. Further, the de-regulation has had little discussion or facts on the following:

- 1) Possible impact of employment in BC
- 2) The impact on the development and geographic dispersion of industry; specifically the Brewing industry
- 3) The economic impact; both in terms of the Government tax base and the local economy

## **Tied House Vs Trade practices**

We note the assertion that Tied Houses and Trade Practices are closely related and in general we agree with this statement. We also agree that Tied House de-regulation cannot take place without some degree of Trade Practice de-regulation.

However, we suggest that trade Practice de-regulation can take place without de-regulation of Tied Houses and therefore, Trade Practice de-regulation can indeed be dealt with separately. The LCLB could quite feasibly take meaningful steps towards Trade Practice de-regulation, whilst taking a cautious approach towards Tied House de-regulation. We strongly recommend the LCLB elect to do so.

## **A. Tied Houses**

We are concerned that the Government has not conducted (or released) any research into the possible Public interest or net economic benefit to Tied House de-regulation. In absence, we put forward the following points for consideration:

### **1. What other jurisdictions are changing towards Tied House de-regulation?**

At this time, we are unaware of any major economy that is moving towards Tied Houses. Within North America, if Tied Houses were allowed in BC, we would be the only Province or State allowing the practice. Of course this point, in and of itself, is no reason not to change, however it does beg answers to the following questions:

- What significant economic or Public Interest advantage does the Government anticipate from allowing Tied Houses, which other Governments in North America have overlooked?
- What is not working with our Tied House regulations?
- What other jurisdictions are voicing concerns with Tied House regulations and are contemplating change, and why?

### **2. Other Tied House examples**

The UK is an example of a jurisdiction that has moved away from a completely Tied House regime. The UK experience is instructive in that it demonstrates the extreme impact of market change that can be brought about by a change in regulation. The UK example is quite different than BC, however it is clear that changes to rules that impact ownership, can have very substantial and unintended consequences.

We understand the LCLB has expressed view in the proposed de-regulation that “it is unlikely that a liquor supplier(s) could impact the purchase or induce a significant number of licensed establishments so as to adversely impact consumer choice.” To the contrary, we believe the major brewers have the financial mass to do so. There is recent evidence that suggests this is already happening in BC even without a change in regulation.

### **3. Cross – Category Tied House arrangements**

There is a further aspect of tied House potential that we recommend the LCLB to consider. It is our belief that because the BC alcohol beverage market is relatively small in term of Global context, many manufacturers access the BC market via local and foreign owned distribution agencies. The agencies represent brands across the Wine, Beer, Cooler, Cider and Spirit categories. Tied House de-regulation in concert with any material loosening of Trade Practices will give these multi-category distribution agencies a significant competitive advantage in a new de-regulated market. The agencies (or manufacturing companies) will have the power to create cross category Tied Houses blocking competition.

#### **4. Economic Impact**

We believe that a change to Tied House regulations may result in a sea change of licensee control or ownership and will impact the geographic location of the BC Brewing industry; with resulting economic impact to the Province.

- BC-owned Brewing assets are broadly dispersed throughout BC: Prince George, Kamloops, Kelowna, Penticton, Salmon Arm, Fernie, Surrey, Salt Spring Island, Victoria (8 Breweries alone) and many other regional centers. All providing employment in these key centers.
- Foreign Breweries will benefit, however the government should not expect any net gain in jobs. The big 3 Breweries have a history of consolidating brewing assets and laying off BC employees.
  - Molson recently acquired Granville Island and consolidated production from Kelowna to Vancouver. Job losses have not been published but it is our understanding +/- 25 jobs have been lost in Kelowna
  - Labatt closed New Westminster with approx. 150 jobs lost
  - In earlier years, Sleeman Okanagan (now Sapporo) closed the Shaftesbury Brewery in the Lower Mainland and moved production to Vernon.

#### **5. Retail and On Premise Channel**

The government has been steadfast in their support and willingness to provide on-going benefits to the private retail and on premise channel. Support includes;

- Increased LDB discounts
- Continued moratorium on new LRS licenses
- 1km zoning rule
- Elimination of Pub license from LRS license

With de-regulation of Tied Houses and Trade Practices, we believe the Government will provide further benefits and power to an isolated group without concern for small Brewers that will have to pay “fees” for product distribution and merchandising.

## **6. The Competition Act Vs LCLB Regulations**

The LCLB paper suggests that the Federal Competition Act provide the adequate regulation needed in a new de-regulated market. We question the practicality of this approach and assert that clear language regarding Tied Houses and Trade Practices are a key barrier preventing anti-competitive business practices.

- The Competition Act is several hundred pages long and requires a lawyer to interpret and understand the legislation
- LCLB regulations are +/- 30 pages and are written in common language, easy for producers (large or small) to interpret and understand
- The BC Craft Brewers Guild members are small business BC. They do not have the resources or in house expertise to pursue recourse against anti-competitive conduct. Nor does the BC Craft Brewers Guild have a well-financed industry body capable of acting on anti-competitive conduct. Unlike the 3 large Beer manufacturers.

### **Tied House – Conclusion and Interim Proposal**

The Government has yet to make clear to the industry or regulators what it hopes to achieve by de-regulating Tied Houses (other than enforcement expediency). The Government has not conducted or provided any assessment on economic impact of allowing Tied Houses.

Given these factors, we do not support a move to de-regulation of Tied Houses. We believe an independent study take place to fully flush out the impacts of such proposed changes and to ensure any changes meet the needs of all stakeholders.

### **B. Trade practices**

We believe that an evolution of Trade practices can take place independently of Tied House de-regulation. We also believe that any change to Trade Practice regulations be based on the following principles:

1. Support of public safety priorities; over-service, over-crowding, service to minors
2. All trade support benefits the consumer and not the licensee.
3. It is the LCLB's intention to keep liquor pricing in control of the LDB. Therefore new regulations should not allow direct cash payments from supplier to licensee that are not part of a mutual marketing initiative. Otherwise this would be considered a price discount, an area intended to be controlled by the LDB

Of the 3 options presented in the paper, we would recommend that 'option 3' be pursued.

## ***BC Craft Brewers Guild***

### **Other Considerations**

BC is known for its Craft beer. Our members have won numerous awards around the World. Our vision is to continue to build on our success and showcase our Craft as the BC wine industry has successfully done.

As changes are contemplated we ask the Government to provide options on how our industry can continue to thrive and provide meaningful employment to Cities / Towns of BC. Areas of consideration include:

- Craft Brewers Guild status with BC Tourism
- Craft Brewers Guild section within BC liquor stores
- Craft Brewers Guild retail outlets – similar to VQA

Thank you for your time and we look forward to further discussions and an outcome that meets the needs of all stakeholders.



## ***BC Craft Brewers Guild***

### **Brewery Membership:**

Tree Brewing Co.  
1083 Richter St.  
Kelowna, BC  
V1Y 2K6

Phillips Brewing  
2010 Government St  
Victoria BC  
V8T 4P1

Tin Whistle Brewing  
954 W. Eckhardt Ave  
Penticton, BC  
V2A 2C1

Central City Brewing  
#190-13450 102<sup>nd</sup> Ave  
Surrey, BC  
V3T 5X3

Fernie Brewing  
26 Manitou Rd.  
Fernie, BC  
V0B 1M5

Russell Brewing  
#202-13018 80<sup>th</sup> Ave  
Surrey, BC  
V3W 3A8

The Whistler Brewing Company Ltd.  
1045 Millar Creek Rd  
Whistler BC  
V0N 1B1

Vancouver Island Brewery  
2330 Government St  
Victoria, BC  
V8T 5G5

Kamloops Brewery Ltd.  
965 McGill Pl.  
Kamloops, BC  
V2C 6N9

Cannery Brewing  
#112-1475 Fairview Rd.  
Penticton, BC  
V2A 7W5

Nelson Brewing  
512 Latimer St.  
Nelson, BC  
V1K 2T9

Dead Frog Brewing  
#3-26004 Fraser Hwy.  
Aldergrove, BC  
V4W 2A5

R&B Brewing  
54 East 4<sup>th</sup> Ave.  
Vancouver, BC  
V5T 1E8

## LCLB FOI LCLB, LCLB LCLB:EX

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**From:** Bieller, Barry JAG:EX  
**Sent:** Wednesday, March 9, 2011 9:28 AM  
**To:** Carlson, Janice JAG:EX  
**Subject:** FW: Tied Houses & Trade Practices Consultation

Jan - here's our next meeting. Would you please book the boardroom. Thanks.

-----Original Message-----

From: Cox, Bryan [mailto:Bryan.Cox@MOLSONCOORS.COM]  
Sent: Wednesday, March 9, 2011 8:52 AM  
To: Bieller, Barry HSD:EX  
Subject: RE: Tied Houses & Trade Practices Consultation

Barry,

2pm works well from our end. Let's block an hour.

Sound good?

Thanks,

Bryan

Bryan Cox  
Director, Public Affairs - Western Canada Molson Coors Canada  
(604) 664-1880 - Direct  
(s.21

Blog - <http://blog.molson.com/community> Twitter - <http://twitter.com/MolsonBryan> Web -  
<http://www.molsoncoorscanada.com>

-----Original Message-----

From: Bieller, Barry HSD:EX [mailto:Barry.Bieller@gov.bc.ca]  
Sent: Monday, March 07, 2011 1:40 PM  
To: Cox, Bryan  
Subject: RE: Tied Houses & Trade Practices Consultation

Hi Bryan:

Yes, I'm free anytime that afternoon. Please let me know what time works for you and how long you'll need.

-----Original Message-----

From: Cox, Bryan [mailto:Bryan.Cox@MOLSONCOORS.COM]  
Sent: Monday, March 7, 2011 10:29 AM  
To: Bieller, Barry HSD:EX  
Subject: RE: Tied Houses & Trade Practices Consultation

Hi Barry,

Would an afternoon meeting on March 24th work for you?

Cheers,

Bryan

Bryan Cox  
Director, Public Affairs - Western Canada Molson Coors Canada  
(604) 664-1880 - Direct  
s.21

Blog - <http://blog.molson.com/community>

Twitter - <http://twitter.com/MolsonBryan> Web - <http://www.molsoncoorscanada.com>

-----Original Message-----

From: Bieller, Barry HSD:EX [mailto:Barry.Bieller@gov.bc.ca]  
Sent: Friday, March 04, 2011 3:32 PM  
To: XT:Newton, Jeff LCLB:IN  
Cc: XT:Ryan, Jeff LCLB:IN; Cox, Bryan; chrissy@thestrongmangroup.com  
Subject: RE: Tied Houses & Trade Practices Consultation

Hi Jeff:

Thank you for your submission. I appreciate the time and effort required of all of you to put this together. I look forward to meeting with you later this month.

Cheers,

Barry

-----Original Message-----

From: Newton, Jeff [mailto:JNewton@nationalbrewers.ca]  
Sent: Friday, March 4, 2011 3:00 PM  
To: Bieller, Barry HSD:EX  
Cc: XT:Ryan, Jeff LCLB:IN; bryan.cox@molsoncoors.com; chrissy@thestrongmangroup.com  
Subject: Tied Houses & Trade Practices Consultation

Dear Mr. Beiller:

As you are likely aware Mr. Greg D'Avignon and Ms. Cheryl Muir have both left the CNB western office. In this period of transition I have been tasked by the CNB members to assist in managing industry issues in western Canada in addition to my duties for CNB East. It is in this capacity that I submit for your consideration the CNB submission (see attached) in response to the Tied Houses and Trade Practices consultation paper dated December 2010.

We appreciate you providing us an extension to the submission deadline so that we could fully consider the regulatory options in the paper and prepare our commentary. I understand that Mr. Bryan Cox from MolsonCoors is arranging a date for us to meet with you to discuss our comments in greater detail. I look forward to meeting you at that time. In

the meantime, should you have any questions concerning our comments please feel free to contact me at 905 361 4109.

Thanks.

Jeff

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## LCLB FOI LCLB, LCLB LCLB:EX

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**From:** Bieller, Barry JAG:EX  
**Sent:** Friday, March 4, 2011 3:30 PM  
**To:** Carlson, Janice JAG:EX  
**Subject:** FW: Tied Houses & Trade Practices Consultation  
**Attachments:** Tied house-Inducements Submission BC 2011 FINAL.pdf

FYI. A submission from the national brewers, i.e. Labatt, Molson and Sleeman.

-----Original Message-----

From: Newton, Jeff [mailto:JNewton@nationalbrewers.ca]  
Sent: Friday, March 4, 2011 3:00 PM  
To: Bieller, Barry HSD:EX  
Cc: XT:Ryan, Jeff LCLB:IN; bryan.cox@molsoncoors.com; chrissy@thestrongmangroup.com  
Subject: Tied Houses & Trade Practices Consultation

Dear Mr. Beiller:

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We appreciate you providing us an extension to the submission deadline so that we could fully consider the regulatory options in the paper and prepare our commentary. I understand that Mr. Bryan Cox from MolsonCoors is arranging a date for us to meet with you to discuss our comments in greater detail. I look forward to meeting you at that time. In the meantime, should you have any questions concerning our comments please feel free to contact me at 905 361 4109.

Thanks.

Jeff



March 4, 2011

Mr. Barry Bieller  
Director, Policy Planning and Communications  
Liquor Control and Licensing Branch  
Government of British Columbia  
Barry.Bieller@gov.bc.ca

Dear Mr. Bieller:

I am writing on behalf of Canada's National Brewers (CNB) to provide our association's comments on the B.C. Liquor Control and Licensing Branch (LCLB) Consultation Paper: *Tied Houses and Trade Practices, December 2010*.

As you are likely aware, the CNB member companies (Labatt, Molson Coors and Sleeman) each operate a brewery in British Columbia (Molson Coors on Burrard Street in Vancouver, Labatt at the Columbia Brewery in Creston and Sleeman at the Okanagan Brewery in Vernon) and have sales forces spread across the Province. Combined, these three companies directly employ 616 British Columbians. In addition to the significant capital investment and jobs associated with these three brewers, the industry also supports investment and job creation in the province through its distribution network, which includes a new \$50 million distribution centre opened by Brewers Distributor Limited in Port Coquitlam in 2009. Brewers Distributor Limited employs another 450 British Columbians.

Through these investments the CNB member companies are proud to be active participants in the British Columbia economy. It is also because of these investments that the CNB member companies find it particularly important to provide you with our comments on the regulatory reforms put forward in the above noted consultation paper. As a highly regulated industry that has been facing extremely challenging times over the past year with 2010 beer sales volume down by 7.3 million litres (2.54%) compared to last year, we are particularly concerned that any significant regulatory changes within the industry be carefully examined, analyzed and considered prior to implementation to ensure they don't further de-stabilize an already challenged business climate.

That said, we want to thank you for the opportunity to comment on the various proposals contained within the consultation paper and we look forward to future discussions with the LCLB and other industry stakeholders as this process unfolds over the coming weeks and months.

For ease of understanding we have separated our comments into two sections; the first dealing with more general comments on the proposed policy changes and consultation process, and the second dealing with specific comments on the options contained in the consultation paper.

.../2

## Section 1: General Comments

### i.) A more rigorous multi-stage consultation process is required

At this point, the lack of detail provided under the various options proposed makes it difficult for CNB to lend its support or provide in-depth comment on any of the options proposed. For example, Option #2 under Section B on Trade Practices states that “This option would eliminate most trade practices restrictions and requirements ...”, however, very few examples of what exact restrictions would be eliminated are provided. Likewise, Option #3 under this same section talks about “streamlining some” trade practice policies and procedures, but again only limited definition of what constitutes “streamlining” or “some policies” is provided.

In our opinion, these options require significantly greater detail around what specific policy changes are being proposed and what they would mean in practice before CNB can provide anything more than general comments and a qualified willingness to engage in further dialogue about them.

To reinforce this point we reference the statements on page #3 of the consultation paper wherein it is noted that the options are presented “at a fairly high level with not every detail assessed”, and wherein it is further stated:

*“Given the large number of policies presently in place, especially regarding trade practices, it is not practical to address every issue at this time. **Implementation of any of these options will require more detailed analysis.**”(emphasis added)*

In light of the above, we are concerned that the Next Steps section of the consultation paper appears to only contemplate a single round of stakeholder consultation. More specifically, the consultation paper states:

*“Following the consultation process, a decision document will be prepared for the Minister.”*

This statement would seem to suggest that the LCLB intends to proceed to ministerial decision immediately following the current round of consultation. We believe that such an approach would be inappropriate and inadvisable and request that the LCLB consider a more interactive and a multi-stage consultation process with industry. By this we mean a process wherein stakeholder feedback is obtained first on the general policy approaches contained in the current paper, and then building from this feedback those approaches be narrowed to more specific and detailed options upon which further consultation can be conducted. Only in this way can the required “detailed analysis” on these important issues be completed.

.../3

- ii.) **There is a risk of severely under-estimating the significant restructuring effects that some of the proposed policy changes will have on B.C.'s beverage alcohol industry if implemented.**

The highly regulated nature of B.C.'s beverage alcohol and hospitality industry means that regulations like the tied house and trade practices restrictions (although originally enacted for social policy reasons following prohibition), have also played a significant role in shaping the economic structure of the industry and the competitive relationships within it. In particular, these restrictions have precluded the vertical integration of liquor manufacturing into both the on-premise and off-premise sales of alcohol which was a characteristic of the pre-prohibition era in North America and which is a current characteristic of markets like the U.K. which have less onerous restrictions in this area.

If the current prohibition on liquor manufacturers holding liquor licenses for both on-premise consumption (i.e. bars) or off-premise consumption (i.e. licensed retail stores or LRS's), is lifted or substantially relaxed as is proposed in Section A of the consultation paper, liquor manufacturers will be allowed to purchase existing licensed establishments (in whole or in part) or alternatively establish their own licensed establishments. Likewise, if trade practices regulations are completely or substantially eliminated as proposed in Section B of the paper, liquor manufacturers will be permitted to establish commercial arrangements with licensees that will enable them to exert even greater control and influence over licensees and essentially achieve marketplace outcomes identical to those that would result if they were permitted to hold the liquor license themselves. While it is difficult to predict how quickly structural change will happen in the industry in response to such regulatory changes, it is virtually guaranteed that competitive forces and the drive for market share will ultimately lead the industry in the direction of more and more manufacturer owned and/or controlled retail and on-premise establishments.

This dynamic will produce a significant restructuring in B.C.'s hospitality and liquor manufacturing industries. While some existing retail or on-premise licensees may benefit from these changes through manufacturer investment in their businesses or from an outright purchase, many will not and they will face a competitive environment that is likely to be substantially more intense than what exists today. Manufacturer investment in the market will undoubtedly shift from being focused primarily on building brand equity with the end consumer to purchasing distribution access.

Likewise, in the manufacturing community not all manufacturers will have the economic capacity to participate in a regulatory climate wherein manufacturers are required to essentially purchase both their on-premise and off-premise distribution. Consumer product markets characterized by this economic model are not typically comprised of the number and variety of market players that presently exist in the BC beverage alcohol and hospitality industries. A consolidation in the manufacturing and in the retailing and on-premise distribution channels seems inevitable.

.../4



As a result, it is a virtual certainty that there will be winners and losers in the transition to a new economic model. In the face of this, government will have to be confident that it can weather the political fall-out of the complaints that will ensue from those who have been dislocated through restructuring. It will also have to be confident that the federal Canadian Competition Act provides the protections that may be necessary for the B.C. beverage alcohol and hospitality industries under this new economic model. In our view, the Competition Act is not a substitute for provincial trade practices rules. The trade practices rules provide comprehensive and detailed direction to the industry not found elsewhere.

**iii.) The entire exercise comes across as being one of regulatory experimentation**

In numerous places throughout the consultation paper comments have been included that suggest that government will either reverse or add new restrictions and prohibitions should it find any restructuring of the industry not to its liking. Quite frankly, we find such an approach to be unacceptable.

If some of the major regulatory changes proposed are actually implemented, businesses in the both the manufacturing and hospitality sectors will be required to make new investments against the changed regulatory/business model (see our comments above). To have to make those investments under the specter of government reversing or nullifying the value of those investments through yet another new regulation or restriction if it doesn't like the market effects of those investments, introduces completely unacceptable and unreasonable business risk for industry.

In our opinion, one of the most important roles for government in a highly regulated industry such as beverage alcohol is that it deliver a stable and predictable regulatory climate. In making that statement we are not suggesting that government doesn't have the right or authority to change regulation in its sole discretion. It clearly does. However, we do strongly believe that if government elects to implement a major regulatory change it must be prepared to commit to and live with that change, including its potential outcomes. To proceed in a manner that effectively says: "We don't think the proposed regulatory changes will have much negative effect, but if they do, we're going to reserve the right to change some or all of it yet again", is to engage in the practice of regulatory experimentation with the beverage alcohol and hospitality industries. This will only lead to further destabilization of an already destabilized industry. We must respectfully reject this type of an approach.

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## Section 2: Comments on Specific Options

### Section A: Tied House Options

#### Option 1: Eliminate tied house prohibitions altogether – permit exclusivity.

The precise nature of what is being proposed under this option is very ambiguous to us. While the title of the option indicates that ALL prohibitions against tied houses including any prohibitions against product exclusivity would be eliminated, the final sentence in the descriptive paragraph states that the question of whether product exclusivity would or would not be permitted is still to be determined. These statements are contradictory.

In the view of the CNB it would be completely counter intuitive to allow liquor manufacturers to own their own bars and restaurants or licensed retail outlets and then require them to sell the products of their competitors. Furthermore, if product exclusivity were to be prohibited under this type of scenario then government would have to consider regulating and enforcing clear standards on how many competitive products would have to be sold as well as how those products must be displayed (e.g. must they be on the menu or on public display) and how they must be priced (e.g. can they be priced at twice the price of the tied house owner's products). The practicalities of this could be very challenging.

The descriptive paragraph under this option also correctly notes that:

"If the tied house prohibition was eliminated the laws around trade practices would have to be revised to reflect the new business relationships."

In our view, if the tied house provisions are completely eliminated and manufacturers have the unfettered right to own and operate their own bars and licensed retail outlets then the existence of trade practices laws seems completely redundant.

Trade practices regulations have been enacted to prevent manufacturers, who have traditionally been precluded from directly controlling bars through ownership (i.e. the tied house prohibition), from circumventing the tied house prohibition and controlling bars through indirect means called financial or material inducements. If manufacturers can now achieve control of bars directly through ownership what purpose do trade practices laws designed to prevent indirect control then serve?

In this way, Option 1 under Trade Practices seems to go hand in hand with this Option 1 under Tied Houses. As such, these two options represent the most significant and radical departure from existing regulatory requirements and would therefore have the most pronounced effects in terms of restructuring in the industry. As stated in the general comments, the pace of economic change in the licensee sector would difficult to predict, but significant change over time would be inevitable.

.../6

## Option 2: Limit the Number of Tied Houses Permitted Per Manufacturer

We agree with the paper's assessment that an arbitrary limit on the number of tied houses a manufacturer could hold would be difficult if not impossible to sustain over time. In the view of the CNB, this option would inevitably expand over time to the same outcomes as Option 1 as it becomes increasingly difficult to defend why a manufacturer can own five but not six, or six but not seven, tied houses.

If this approach of trying to contain the extent of tied houses in the market is to be adopted, CNB's view is that it would be more appropriate to consider allowing tied houses in unique or specially defined situations which are distinct from traditional or common licensed establishments (i.e. bars and restaurants) as has already been done with respect to stadiums or on-site winery restaurants. In other words, if the objective is to contain the extent of tied houses in the market then it may be more appropriate to consider the use of policy principles to define when and where tied houses are acceptable rather than use an arbitrary numerical limit.

## Option 3: Permit Tied Houses with Public Interest Restrictions

This option is undoubtedly the most difficult to evaluate given the significant ambiguity that exists around what would or would not constitute a "public interest restriction". In addition, the following statement in the descriptive paragraph is highly problematic:

*"An example of a prohibition would be the prohibiting or revoking of a tied house if competition in a community was adversely impacted due to the tied house(s)".*

As noted in our general comments about regulatory experimentation, we find the notion of imposing such an arbitrary and subjective restriction to be completely unacceptable. The imposition of such a restriction is to suggest that manufacturers will be allowed to invest in tied houses but if someone complains about the competitive consequences of the tied house then government will have the ability to revoke the license and nullify the investment made by the manufacturer. Such a provision would place a manufacturer's investment in a highly uncertain political mine field. As well, the ability of government to practically implement such a regulatory provision is also highly questionable. What would the standard be for "adversely impacted competition"? How would it be objectively measured and where would the threshold for license revocation be set?

We also find the concept that the LCLB, "either through regulation or policy", would be provided the authority to establish these public interest restrictions to be highly problematic. This statement would seem to suggest that the LCLB could establish different public interest restrictions for different licensed establishments. Such an approach significantly undermines industry's need for regulatory clarity and predictability. If this approach is to be considered, CNB believes that the so-called public interest provisions would have to be made transparent up front and universally applied to all licensees.

.../7

That all said, in order for this option to be meaningfully evaluated, the precise list of terms and conditions would have to be specified.

## **Section B: Trade Practice Options**

### **Option 1: Eliminate Trade Practice Restrictions Altogether**

As noted in the general observations, this option represents a radical departure from the existing parameters of the marketplace that are available to manufacturers and licensed establishments. Over time the outcome associated with this option would be similar to Option 1 under Tied Houses.

### **Option 2: Reduce or Eliminate Most Trade Practice Provisions**

Commenting on this option is difficult in the absence of specific detail on which of the existing trade practices restrictions would be “reduced” and which would be “eliminated”. That said, it is not entirely clear to the CNB why Buy/Sell agreements would be eliminated if there was an interest in maintaining a ban on product exclusivity. The Buy/Sell Agreement creates a record of what the manufacturer and licensed establishment have agreed to. If these arrangements become verbal, it will be more difficult to enforce whatever provisions remain.

### **Option 3: Streamline Some Trade Practice Policies and Procedures**

This option appears to be a softer or less aggressive softening of existing trade practices rules than Option 2. As such, the market place restructuring impacts of regulatory change are likely to be less than those that would occur under Option 1 or 2. That said, it is still impossible for CNB to provide specific comments or provide even directional support for this option in the absence of detail on which of the current trade practices rules would be “streamlined”. We note that while the descriptive paragraph in the consultation paper states that Buy/Sell agreements will be eliminated and the prohibition of providing items necessary to the operation of the licensed establishment will be retained, it also states that sponsorship rules “could be” relaxed. In our view, greater definition is required around this option in order for it to be fully assessed.

That said, as we noted under Option 2 above, the rationale for elimination of the Buy-Sell Agreement is not entirely clear to us. If enforcement issues around these rules remain a challenge, would the elimination of the requirement for Buy/Sell agreements not make enforcement more problematic?

## **Conclusions:**

As noted throughout this submission CNB is of the opinion that the type of regulatory

change being proposed in the consultation paper is fundamental and, depending on the option chosen, will have significant restructuring impacts on B.C.'s broader beverage alcohol industry. In this respect, we must respectfully disagree with the following statement in the consultation paper:

*"Anecdotally, it is known that inducements between suppliers and licensees are quite common. Given this, any deregulation may not lead to significant change in actual business practices"*

To accept this axiom is equivalent to saying that we know anecdotally that people speed on our highways and as such major deregulation of speeding limits is unlikely to lead to changes in people's driving behaviour. We do not accept this premise.

Furthermore, in light of the potential economic implications of the proposed regulatory changes, CNB takes the position that additional detail needs to be developed around the various options proposed to enable a careful and thoughtful analysis. To accomplish this, CNB believes that a more rigorous and multi-stage consultation process needs to be defined to ensure that the expertise of those who will be most affected by the proposed regulatory changes is tapped into.

Lastly, it is our view that the implementation of whatever regulatory changes are ultimately decided upon must be done a manner that ensures they are not subject to arbitrary modification or effective retraction through the imposition of non-transparent conditions or restrictions or the more extreme action of license revocation. In short, the final solution must pass the tests of regulatory clarity and predictability.

CNB and its member companies welcome the opportunity to engage in further dialogue on this subject with the LCLB and are open to working toward addressing the issues and concerns noted above. To commence this process we would welcome the opportunity to meet with you and your staff to explore these issues in greater detail.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Newton', with a stylized flourish extending from the end.

Jeff Newton  
Acting President, Western Canada

## LCLB FOI LCLB, LCLB LCLB:EX

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**From:** Bieller, Barry JAG:EX  
**Sent:** Wednesday, March 2, 2011 4:09 PM  
**To:** Carlson, Janice JAG:EX  
**Subject:** FW: Trade Practice Consultation

Hi Jan – what's your schedule like the week of the 21<sup>st</sup>?

---

**From:** Cox, Bryan [mailto:Bryan.Cox@MOLSONCOORS.COM]  
**Sent:** Wednesday, March 2, 2011 3:04 PM  
**To:** Bieller, Barry HSD:EX  
**Subject:** RE: Trade Practice Consultation

Hi Barry,

Hope you're doing well and are settling into the new office space.

Just wanted to provide an update on our submission. We are very close to having it completed and will definitely have it to you by Friday this week.

Regarding a face to face meeting, due to holidays/scheduling, it's looking like the week of March 21<sup>st</sup> would be the earliest that all CNB members could get to Victoria/Vancouver for a meeting. Do you have preferred times that week that would work for a meeting?

Thanks Barry.

Cheers,

Bryan

### **Bryan Cox**

*Director, Public Affairs - Western Canada  
Molson Coors Canada  
(604) 664-1880 - Direct*

s.21

Blog - <http://blog.molson.com/community>

Twitter - <http://twitter.com/MolsonBryan>

Web - <http://www.molsoncoorscanada.com>



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**From:** Bieller, Barry HSD:EX [mailto:Barry.Bieller@gov.bc.ca]  
**Sent:** Thursday, February 24, 2011 5:02 PM  
**To:** Cox, Bryan  
**Subject:** RE: Trade Practice Consultation

Thanks Brian. Next Wednesday would be fine. As for the 10<sup>th</sup>, that might work if we could do it in the morning. Potentially I could even come to Vancouver for the meeting as I have another meeting that afternoon that might require me to come to Van.

Cheers,

Barry

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**From:** Cox, Bryan [mailto:Bryan.Cox@MOLSONCOORS.COM]  
**Sent:** Thursday, February 24, 2011 4:04 PM  
**To:** Bieller, Barry HSD:EX  
**Subject:** RE: Trade Practice Consultation

Hi Barry,

Hope you're having a great week so far and that preparations for the office move are going smoothly.

I'm hoping that we can take you up on your kind offer for a little more time to get our submission into the Branch. Our goal is to get it to you by Wednesday next week; let me know if that works from your end.

Regarding dates for a face to face meeting, currently March 10<sup>th</sup> is looking workable; I will be able to confirm with you early next week and then we can land on a time.

Cheers,

Bryan

**Bryan Cox**

*Director, Public Affairs - Western Canada  
Molson Coors Canada  
(604) 664-1880 - Direct*

s.21

*Blog - <http://blog.molson.com/community>  
Twitter - <http://twitter.com/MolsonBryan>  
Web - <http://www.molsoncoorscanada.com>*



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**From:** Bieller, Barry HSD:EX [mailto:Barry.Bieller@gov.bc.ca]  
**Sent:** Monday, February 21, 2011 10:52 AM  
**To:** Cox, Bryan  
**Subject:** RE: Trade Practice Consultation

Hi Bryan:

Thanks for the email. If you guys need more time, that's OK. We've had a few requests from other associations for that so an extra week or two is fine with us. Having said that, if you're still able to meet the earlier timeframe that would be great. In terms of a meeting I'm presently available at these times. Hopefully, one of them works:

March 2<sup>nd</sup> – anytime  
March 4<sup>th</sup> – afternoon, after 1:30  
March 7<sup>th</sup> – afternoon  
March 10<sup>th</sup> – anytime  
March 11<sup>th</sup> – afternoon, after 1:30

Btw, effective February 28<sup>th</sup>, we're at a new location. We're moving to 3350 Douglas St, 4<sup>th</sup> floor. The building is a block or two past the Mayfair Mall, on the left if you're going north on Douglas. My telephone # is also changing, it's 250 952-5755.

Cheers,

Barry

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**From:** Cox, Bryan [mailto:Bryan.Cox@MOLSONCOORS.COM]  
**Sent:** Monday, February 21, 2011 10:28 AM  
**To:** Bieller, Barry HSD:EX  
**Subject:** Trade Practice Consultation

Hi Barry,

Hope you had a great weekend.

Just wanted to link back in regarding the Trade Practice consultations.

As discussed, we are working toward having a Canada's National Brewers submission to you by Friday, February 25<sup>th</sup>.

Also, as discussed, we would like to book a face to face meeting with you in Victoria the week of Feb 28<sup>th</sup> to discuss our submission in further detail. If you could let me know days/times that week that work in your schedule, I will canvass my colleagues.

Cheers,

Bryan

**Bryan Cox**

*Director, Public Affairs - Western Canada*

*Molson Coors Canada*

*(604) 664-1880 - Direct*

s.21

*Blog - <http://blog.molson.com/community>*

*Twitter - <http://twitter.com/MolsonBryan>*

*Web - <http://www.molsoncoorscanada.com>*



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## LCLB FOI LCLB, LCLB LCLB:EX

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**From:** Ayers, Karen J HSD:EX  
**Sent:** Wednesday, February 16, 2011 11:13 AM  
**To:** Bieller, Barry JAG:EX; Carlson, Janice JAG:EX  
**Subject:** FW: Trade Practices Consultation  
**Attachments:** Co-op Advertising.pdf; Supplier Supported Advertising.pdf

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**From:** Mark Hicken [mailto:mark@winelaw.ca]  
**Sent:** Wednesday, February 16, 2011 10:37 AM  
**To:** Ayers, Karen J HSD:EX  
**Cc:** 'Randy Wilson'  
**Subject:** Trade Practices Consultation

Hi Karen,

Randy Wilson has asked me to contact you regarding the trade practices consultation period, which officially ended yesterday. <sup>s.22</sup> right now and was ill for a length of time prior to his departure. He wasn't aware that the consultation period was set to end yesterday until yesterday at which time he phoned me (unfortunately, I didn't get that message until after the Branch had closed).

He has asked if he can get a time extension in order to provide some formal input on these issues. He also asked me to forward the attached documents which provide his summary thoughts on the issue of co-op advertising (although he said he may have already sent them to you previously).

Thank you for your consideration on a time extension.

Mark.

Mark Hicken, BA JD  
Vintage Law Group  
T: 604 868 1375  
E: [mark@winelaw.ca](mailto:mark@winelaw.ca)  
W: [www.winelaw.ca](http://www.winelaw.ca)

## **CO-OP ADVERTISING**

At present, it is illegal for a liquor supplier, manufacturer or importer to assist or contribute to any cost of advertising which may be done to promote a product, location, service or other item in a private store. The LCLB has determined that a supplier or agent's promotions may only be geared towards the end consumer. Consequently, many private stores display a plethora of contest items ranging from Bar-B-Q's to snowboards to bicycles.

It is assumed that this policy goes back to the regulations pertaining to a 'tied house' which stopped any one manufacturer (usually beer) from purchasing 'exclusivity' in a bar or pub.

However, while private retailers are prohibited from accepting any monetary assistance with advertising costs, the LDB does this on a daily basis. It would appear that the LDB is exempt of this regulation.

The LDB publishes a quarterly magazine called 'Taste', this magazine is available only in government liquor stores and is given free to the public. The cost of producing this magazine is paid in part by various liquor suppliers who advertise within the pages. The cost for a full page ad in the magazine is approximately \$10,000.00. The LDB prints 400,000 copies per annum, suffice it to say; it's readership is not very high. What is interesting about this is that suppliers who are looking for display space (also referred to as end caps) do not usually receive such shelf space unless they participate in the Taste magazine program. Accordingly, the LDB is not only soliciting advertising money but in point of fact, are receiving ad money to guarantee placement of product within government liquor stores. One can imagine the importance, to a supplier, of guaranteed end displays in 197 GLS's across the Province.

In addition to this, the LDB is now charging suppliers for each shelf talker that is located in every GLS. Shelf-talkers are the small product descriptors located in front of products which tout the latest reviews, awards won or other attributes of the particular product. It is illegal for a private retailer to receive payment for a shelf talker within the current regulations.

As a retailer I have no issue with the LDB using either their volume of stores or their buying power to obtain co-op money to reduce their advertising costs, it is simply smart business sense. What most private retailers do have an issue with is the restriction on their own 'free market economy' practices which removes their ability to defray some of the high costs of advertising. I, personally, strongly believe that this regulation for private stores is antiquated and is no longer a necessary 'protection'.

Making changes to the LCLB regulations on this subject can in no way cost the government funds nor can it do harm to the public. It is simply the acknowledgement of smart business sense and the creation of a level field of opportunity for private business.

## **SUPPLIER SUPPORTED ADVERTISING**

Supplier supported advertising/marketing (commonly referred as Co-Op advertising) is an integral part of any business operation. Both businesses (operating in a supplier/retailer relationship) share the common goal of having their customers purchase their products or services.

Co-Op advertising/marketing is done in virtually every type of business. It is a mutually beneficial means of one business working with another business to improve customer awareness and acceptance in a product or service that both businesses are trying to sell to the end user. It is most commonly used when the two businesses have realized that the business receiving the co-op can get the best message out to their mutual customers by a means that is more direct and economical.

At present, current policies prohibit a supplier, manufacturer or agent from participating in any form of advertising within the LRS (private) channel.

However, there are no such restrictions as it pertains to the LDB stores. In fact, the LDB has an entire department dedicated to soliciting and obtaining funds from various liquor suppliers. These funds and ads are directed to the LDB publication called "Taste" magazine.

Taste magazine is published quarterly and only available in government stores. A full page for Taste Magazine costs approximately \$10,000.00.

In addition, the LDB is charging suppliers, agents and manufacturers for in store marketing such as shelf-talkers and display boards. This is illegal in private stores.

The private channel (LRS's) needs the same ability to market their stores, services or products no different from what the LDB currently enjoys.

When amending the policies as it pertains to Co-op advertising/marketing it is important to note the following. Co-op is more than a supplier paying for an ad or a portion of an ad. Co-op, in its true sense, provides the retailer with the necessary funds to market a product as they see best both in and out of the store. Therefore, supplier supported promotions would include but may not be limited to the following:

- 1) Adds in published magazines, flyers, periodicals, internet, news papers (including inserts), radio and television.
- 2) In store tastings
- 3) Staff education
- 4) In store displays and signage
- 5) Public events

Any and all supplier ads will meet with both the CRTC and LCLB regulations so that alcohol is marketed in a responsible manner.

Governing conditions are recommended as:

- 1) All Co-Op funds received by a LRS from any supplier, manufacturer or agent will only be paid to the specific licensee.
- 2) No funds can be paid to a staff member or any individual.
- 3) No free product can be used for co-op.

The implementation of a Co-Op advertising/marketing policy for private stores will have absolutely no cost to the government.

**MINISTRY OF ENERGY AND MINES  
LIQUOR CONTROL AND LICENSING BRANCH  
BRIEFING NOTE**

**PREPARED FOR:** The Honourable Rich Coleman  
Minister of Energy and Mines  
**FOR DECISION**

**ISSUE:** Implementation considerations for de-regulation of tied house relationships and related trade practice rules

**BACKGROUND:**

In June 2010 the Liquor Control and Licensing Act was amended to allow for the deregulation of tied house and related trade practice laws. The legislation was not brought into force pending consultation with stakeholders and the subsequent development of policies and potentially regulations. Industry consultations were completed in 2011 and in July 2012 the LCLB received ministerial direction to eliminate the tied house prohibitions and trade practice restrictions.

Bill 20 removes restrictions on tied houses, inducements and product exclusivity unless specifically restricted or prohibited by regulation. The amendments will allow licensed manufacturers and import agents to have unrestricted joint ownership of other licensed establishments and to also integrate their businesses through means other than ownership. The one exception is that the tied house rule for a Ubrew/Uvin being unable to be associated with a licensed establishment or liquor supplier will continue unchanged.

Implementation of this decision will require proclamation of the relevant sections of Bill 20 (2010) and regulatory amendments to remove current limited exemptions respecting stadiums and concert halls as well as regulatory restrictions on joint promotions, advertising and sponsorships between licensees and liquor suppliers. If Government wishes to retain any tied house or trade practice restrictions they will need to be placed in the regulations.

**DISCUSSION:**

The implications of de-regulation are difficult to predict with certainty since BC's model, with respect to trade practices, will become the least regulated of any jurisdiction in North America. Generally speaking, over time, de-regulation can be expected to result in significantly greater market influence by large well financed companies to the detriment of small companies.

Government may wish to consider strategies to mitigate some of the potentially negative consequences of the decision to de-regulate, which can be summarized as follows.

**LDB Revenue Loss**

Significant potential loss of LDB revenue is anticipated from agreements between suppliers and licensees once common ownership and other types of business integration are permitted. A

supplier selling a product exclusively to its associated licensed establishments might choose to artificially reduce the price it sells the product to LDB thereby impacting the revenue LDB collects through its percentage liquor mark-up. This issue is one of the reasons that Alberta changed its percentage-based mark-up system to a volume-based “flat tax” in 2003 when they privatized.

As an example of the possible revenue loss, the Earls restaurant chain, consisting of Earls, Joeys and Cactus Club, purchases<sup>s.21</sup> litres of mark-up bearing wine each year (equivalent to <sup>s.21</sup> ml bottles). If they were allowed to be their own exclusive supplier or have exclusive relationships with other suppliers, they could artificially reduce the price of their products to the LDB to reduce the LDB mark-up applicable (123% for wine). If they artificially lowered the price by \$1.00 bottle on 50 per cent of their wine purchases, the LDB would lose \$194,000 annually (317,000 bottles X 50 percent X \$1.00 X 123 per cent mark-up). The table below extrapolates additional revenue losses if the price reduction was greater.

#### **Revenue implications for every dollar of price reduction respecting Earls**

<b>Price Reduction</b>	<b>LDB Revenue Loss</b>
\$1.00	\$194,000
\$2.00	\$388,000
\$3.00	\$582,000
\$5.00	\$970,000

#### Consumer Choice

Consolidation of economic power and product exclusivity has the potential to adversely affect consumer choice. Consumers may be less able to obtain the same variety of products in the same number of locations that are currently available to them.

#### Impact on Smaller Volume Licensees

While all licensees will be required to purchase liquor at the same price from LDB, the removal of tied house and trade practice restrictions will permit suppliers to provide funds or other services to licensees that will effectively lower the price paid. Suppliers are more likely to provide these benefits to larger volume accounts. This may lead to lower prices in these establishments compared to lower volume establishments that don't receive the benefits or smaller benefits. Licensees facing a competitive disadvantage are likely to strongly oppose these changes.

#### **OPTIONS:**

The following options (which are not mutually exclusive) are proposed to address, to some extent, the uncertainty around the effects of de-regulation and the potential negative impacts outlined above.

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## **RECOMMENDATION**

s.13

**APPROVED / NOT APPROVED**

**DATE:**

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*The Honourable Rich Coleman*

**Approved by:**

Karen Ayers  
ADM/General Manager  
LCLB  
250 952-5791

**Prepared by:**

Janice Carlson/Barry Bieller  
Policy Analyst  
LCLB  
250 952-5756



Page 173 to/à Page 177

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**MINISTRY OF ENERGY AND MINES  
LIQUOR CONTROL AND LICENSING BRANCH  
BRIEFING NOTE**

**PREPARED FOR:** The Honourable Rich Coleman  
Minister of Energy, Mines and Natural Gas and Deputy Premier  
**FOR DECISION**

**ISSUE:** Proposal for streamlining tied house relationships and trade practice rules

**BACKGROUND:**

A tied house relationship is any association by a licensee with a liquor manufacturer or its agent that is likely to lead to its products being favoured. Trade practice laws place restrictions on the commercial interactions between liquor suppliers and licensed establishments to similarly prohibit a licensee from favouring a supplier's products.

While separate, tied houses and trade practices are closely related and realistically cannot be dealt with separately. For instance, it would not be feasible to, say, repeal most or all limits on tied houses while maintaining the present trade practice rules. This is because tied houses invariably demonstrate to some degree favouritism to products made by the associated liquor manufacturer.

Consultation with industry in 2011 found an industry with widely disparate views (see Appendix 1). Generally speaking, those opposed to significant deregulation were strongly opposed. Those favouring significant deregulation indicated it was not a priority issue for their sector.

Tied house and trade practice rules exist throughout North America and most jurisdictions have some exemptions, e.g. brew pubs. Determining an appropriate balance is challenging and has been approached in differing ways by other jurisdictions (see Appendix 2 (still to come)).

**POTENTIAL "MID-RANGE" OPTIONS**

**Section A: Tied House**

**Provide limited exemption to the tied house prohibitions**

Permit a BC liquor manufacturer to have an on-site licensed establishment. A manufacturer or import agent would be permitted to have up to 2 off-site establishments (e.g. restaurant, bar or liquor store) under the same ownership.

Establishments located at a manufacturing site would be permitted to sell only the manufacturer's products. Any tied off-site establishment could carry the supplier's product but must also carry a representative selection of products from other suppliers.

In addition to the above, permit partial tied houses, i.e. permit a manufacturer/agent to hold a minority interest in a licensed establishment (e.g. 10% maximum), and vice versa, where their product can be sold.

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>• Limiting number/percentage will protect LDB revenue</li> <li>• Will “fix” the problem for a number of existing tied houses where the manufacturer has been prevented from selling their product in a jointly owned licensed establishment (e.g. Carbreia Winery on Hornby Island)</li> <li>• Recognizes that a small minority interest in an establishment may not have any impact on a licensee’s liquor purchases</li> <li>• Provides some limited investment opportunities for industry</li> <li>• Is an approach successfully used by some other jurisdictions</li> <li>• Potential LDB revenue loss through price collusion between suppliers and licensees is minimized by limiting the number of tied houses</li> <li>• Consumer choice is not adversely impacted</li> <li>• Not the preferred option of industry groups (preferences vary) but will not be objectionable to most</li> </ul>	<ul style="list-style-type: none"> <li>• Depending on the number of exemptions permitted per licence, will likely not address all existing tied houses</li> <li>• Any number/percentage limit is arbitrary and subject to challenge</li> <li>• Likely to lead to further lobbying from industry and other stakeholders to create further exemptions</li> <li>• The current complexity of many corporate structures makes this option difficult to administer as tied houses generally deal with individual shareholders who may be buried deep within the corporate structure. However, it not more burdensome then the status quo</li> <li>• Systems changes will be required</li> </ul>

## **Section B: Trade Practices**

### **Streamline/reduce some trade practice requirements**

This proposal would eliminate some regulatory requirements and restrictions but retain the general prohibition on suppliers providing goods and services to licensees except for those that flow to the consumer. The following changes are proposed:

- Remove requirement for Buy/Sell agreements between suppliers and licensees. This removes a significant regulatory burden on industry of recording contractual arrangements between suppliers (see Appendix 3 for current Buy/Sell agreement template);
- Relax sponsorship rules to permit joint licensee and supplier sponsorships in licensed establishments; and
- Remove the reporting requirements for contests in a licensed establishment.

This proposal would also impose limits on liquor suppliers working through LDB to sell certain products exclusively to one licensee or a chain of licensees where price manipulation could reduce LDB revenues.

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>• Limits adverse impact on smaller volume licensees and suppliers that would occur through deregulation</li> <li>• Consumer choice not adversely impacted</li> <li>• Provides significant streamlining of regulatory requirements</li> <li>• Limits risk of LDB revenue loss</li> <li>• Supported by most suppliers. Those not supporting would greatly favour this proposal over more extensive deregulation</li> </ul>	<ul style="list-style-type: none"> <li>• Not supported by two restaurant associations who want complete deregulation nor by ABLE who support the status quo</li> <li>• Regulating trade practices is very challenging and requires significant dedicated resources to thoroughly investigate suspected contraventions.</li> </ul>

**APPROVED / NOT APPROVED**

**DATE:**

---

*The Honourable Rich Coleman*

**Approved by:**  
 Karen Ayers  
 ADM/General Manager  
 LCLB  
 250 952-5791

**Prepared by:**  
 Barry Bieller  
 Director Policy  
 LCLB  
 250 952-5755

**Appendix 1**  
**Summary of Stakeholder Input**  
**Tied House/Trade Practices Consultations**  
**February - May 2011**

Stakeholder Group	Tied House	Trade Practices
Canada's National Brewers	Support status quo. Fear vertical integration and its impact on small players in the industry.	Support status quo. Current regulatory framework "keeps the lid on" industry practices.
ABLE (Association of Beverage Licensees)	Support permitting tied houses with some restrictions.	Support status quo.
BC Wine Institute	Support permitting tied houses with some restrictions.	Support streamlining (permit supplier/licensee activities without documentation and relax sponsorship rules).
Craft Brewers Guild	Support status quo. Not supportive of removing tied house prohibitions without more information on the possible industry impact. Fear impact on small players in the industry.	Support status quo with some streamlining of supplier/licensee relations.
Spirits Canada	Support status quo, or full deregulation, but no middle ground.	Support status quo, but supportive of some streamlining as long as overall objective (value-added flows to patrons) is met.
BCRFA	Support deregulation.	Support deregulation (market forces exert enough pressure that risks are minimal).
CRFA	Support deregulation, but do not object to current rules.	Strongly support deregulation.
Estate and Fruit Wineries	Support status quo.	Support status quo with increased enforcement.

## APPENDIX 2

Jurisdiction	Permit tied house exceptions?
Alberta	<p>On-site manufacturer establishments are exempted from the tied house prohibition.</p> <p>One other exception is made for a cottage winery to allow sales of product at farmers' markets approved by Alberta Agriculture as long as the annual production capacity of the manufacturer is less than 10,000 hectolitres.</p>
Manitoba	<p>On-site manufacturer establishments are exempted from the tied house prohibition.</p> <p>A brew pub licence may also be issued in conjunction with, or to a licensee who holds any of the following classes of licence:</p> <ul style="list-style-type: none"> <li>• Dining Room;</li> <li>• Cocktail Lounge (must also hold a dining room licence);</li> <li>• Beverage Room; and</li> <li>• Cabaret.</li> </ul>
Saskatchewan	<p>The following are exempted from the tied house prohibition:</p> <ul style="list-style-type: none"> <li>• local micro-manufacturers who operate restaurants and taverns, either on or off their manufacturing site;</li> <li>• Trains or premises owned and operated by a railway company incorporated prior to January 2, 1989;</li> <li>• Brew pub premises for which a manufacturer permit has been issued; and</li> <li>• Sports stadiums, theatres, and concert halls.</li> </ul>
Ontario	<p>On-site manufacturer establishments are exempted from the tied house prohibition.</p> <p>Large manufacturers with multiple sites (operating under the same manufacturing licence) producing more than 10M litres of wine per fiscal year may apply for approval for a second on-site location, but it must be located at one of the manufacturing sites.</p>
Quebec	<p>Only the holder of a brewer's permit may operate an off-site establishment, sell his products to it (to himself) directly and then serve them (for consumption on the premises or for delivery as part of a meal) providing he has the applicable permit (restaurant, bar, etc.).</p> <p>The holders of a distiller, wine maker or cider maker's permit can only</p>

	<p>sell their products to the SAQ and at their place of production.</p> <p>Small-scale producers are allowed to sell their products at their place of production and also, as an extension of their permits, off-site at approved public markets, agricultural fairs and at farmer's market.</p>
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**APPENDIX 3**  
**BUY-SELL AGREEMENT**

Between

**Parties:** \_\_\_\_\_ and \_\_\_\_\_  
Liquor Manufacturer/Agent Licensee  
(licence name as shown on face of licence) (licence name as shown on face of licence)

\_\_\_\_\_ and \_\_\_\_\_  
Liquor Manufacturer/Agent Licence Number Licensee Licence Number

**Purpose:** The contractual obligations stated below are agreed to and will be adhered to by both Parties throughout the duration of this agreement.

**Duration** (must not exceed 36 months)

Start Date: \_\_\_\_\_ End Date: \_\_\_\_\_

**Terms Agreed to by Licensee:**

1. \_\_\_\_\_ hereby agrees to:  
(Licensee)

A. Purchase or order over the duration period:

Product Name	UPC	Size	Quantity / Volume

B. Placement of product displays, promotional displays or items, point-of-sale or other similar material:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ Over the duration period.

**Terms Agreed by Liquor Manufacturer/Agent:**

2. In return for the considerations noted above \_\_\_\_\_ agrees to:  
Liquor Manufacturer/Agent

A. Provide (promotional items such as mirrors, ceramic draft beer towers, menu boards, patio umbrellas, or T-shirts, hats, etc.):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ RETAIL VALUE: \_\_\_\_\_

B. Conduct (theme night, manufacturer's dinner, or non-LDB approved contest):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ RETAIL VALUE: \_\_\_\_\_



C. Implement Value-Added Promotions (on-packs, near-packs, or coupons):

RETAIL VALUE:

D. Other (educational events or activities):

RETAIL VALUE:

### Conditions and Understanding:

Promotional activities must be directed to the consumer and promotional items must be provided to or be for the principal benefit of patrons.

This Agreement shall not exclude, restrict or otherwise prohibit the licensee from carrying, selling, or displaying the products of any other liquor manufacturer/agent.

Both Parties agree to maintain, on site, certifiable copies of this Buy-Sell Agreement and any related documents for two years after their expiry date. All such documents must be available and provided, without delay, when requested by the general manager of the Liquor Control and Licensing Branch.

Buy-Sell Agreements must not exceed 36 months in duration.

Value-added items may not exceed 20% of the retail price of the liquor item being promoted.

The names of recipients of prizes over \$100 must be recorded and retained with this agreement.

Despite any provision in this agreement to the contrary, the Parties agree not to engage in any promotional activity that is not, or that ceases to be, authorized under one or more of:

- a. The Liquor Control and Licensing Act
- b. The Liquor Control and Licensing Regulation
- c. The terms and conditions to which one or more of the parties are subject to under licence from the Liquor Control and Licensing Branch.

**This Agreement and its contents have been read and are fully understood.**

**Authorized Signatory:**

\_\_\_\_ and \_\_\_\_\_  
Liquor Manufacturer/Agent Name Licensee (or Manager)  
\_\_\_\_\_  
Position or Title Position or Title

Dated this                  day of                  2                  at                  , British Columbia.

Page 186 to/à Page 188

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Page 189 to/à Page 191

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DUPLICATE

Page 192 to/à Page 198

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DUPLICATE

**LEGISLATIVE AND POLICY PROPOSALS**  
**LIQUOR CONTROL AND LICENSING BRANCH**

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s.12,s.13

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Program Priority	<i>Name of Act</i>	Magnit ude of Legislat ion	Proposed Year (2009/2010 , 2011/2012, Any)	Timing Rationale	Outcome of Proposed Legislation	Description and Background	Alignment	Development Status
Liquor Control and Licensing Branch								

high

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Approved

Minister

Approved by:\_\_\_\_\_

Deputy Minister

Date:

Date:\_\_\_\_\_



**Ministry of Housing and Social Development**  
Legislative Proposals – 2010 – Summary of Proposal

s.12,s.13,s.17

**Ministry of Housing and Social Development**  
Legislative Proposals – 2010 – Summary of Proposal

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**Ministry of Housing and Social Development**  
Legislative Proposals – 2010 – Summary of Proposal

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**Ministry of Housing and Social Development**  
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Legislative Proposals – 2010 – Summary of Proposal

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**Ministry of Housing and Social Development**  
Legislative Proposals – 2010 – Summary of Proposal

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## **REQUEST FOR LEGISLATION - 2009**

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**Summary of Stakeholder Input  
Tied House/Trade Practices Consultations  
February - May 2011**

Stakeholder Group	Tied House	Trade Practices
Canada's National Brewers	Support status quo. Fear vertical integration and its impact on small players in the industry.	Support status quo. Current regulatory framework "keeps the lid on" industry practices.
ABLE (Association of Beverage Licensees)	No consensus.	No consensus.
BC Wine Institute	Support permitting tied houses with some restrictions.	Support streamlining (permit supplier/licensee activities without documentation and relax sponsorship rules).
Craft Brewers Guild	Support status quo. Not supportive of removing tied house prohibitions without more information on the possible industry impact. Fear impact on small players in the industry.	Support status quo with some streamlining of supplier/licensee relations.
Spirits Canada	Support status quo, or full deregulation, but no middle ground.	Support status quo, but supportive of some streamlining as long as overall objective (value-added flows to patrons) is met.
BCRFA	Support deregulation.	Support deregulation (market forces exert enough pressure that risks are minimal).
CRFA	Support deregulation, but do not object to current rules.	Strongly support deregulation.
Estate and Fruit Wineries	Support status quo.	Support status quo with increased enforcement.
Randy Wilson (LRS lobbyist affiliated with Liquor Plus)	Did not comment.	Support deregulation (specifically supplier supported advertising)





Tod Melnyk, CBA Chairman  
1083 Richter St.  
Kelowna BC, V1Y 2K6  
Tel. (250) 717 1091  
Fax. (250) 717 1519  
[tod@trcebeer.com](mailto:tod@trcebeer.com)

March 14, 2011

## **Introduction**

The BC Craft Brewers Guild (BCCBG) represents over 15 Breweries across the Province of British Columbia. Independently owned and operated, we provide significant economic benefit in the communities that we work and live. We co-operate to educate and promote our unique high quality beers and to create an ethical business standard. We behave in a co-operative, inclusive, respectful and creative manner.

While we respect the Government's decision to amend the Liquor and Licensing Act, we believe the de-regulation of tied house and trade practices will significantly affect our memberships ability to remain viable and compete against an already competitive industry.

## **Public Safety and Public Interest**

We support the public safety priorities of over-service, over-crowding and service to minors.

With respect to public interest, there has been no evidence/discussion on the Public benefit to de-regulation. In fact, de-regulation will further impact the consumer's ability to gain access to the beers that they are looking for. The Craft beer segment is the only beer segment in North America that is growing. In British Columbia, the Craft segment grew over 20% in 2010. Further, the de-regulation has had little discussion or facts on the following:

- 1) Possible impact of employment in BC
- 2) The impact on the development and geographic dispersion of industry; specifically the Brewing industry
- 3) The economic impact; both in terms of the Government tax base and the local economy

## **Tied House Vs Trade practices**

We note the assertion that Tied Houses and Trade Practices are closely related and in general we agree with this statement. We also agree that Tied House de-regulation cannot take place without some degree of Trade Practice de-regulation.

However, we suggest that trade Practice de-regulation can take place without de-regulation of Tied Houses and therefore, Trade Practice de-regulation can indeed be dealt with separately. The LCLB could quite feasibly take meaningful steps towards Trade Practice de-regulation, whilst taking a cautious approach towards Tied House de-regulation. We strongly recommend the LCLB elect to do so.

## ***BC Craft Brewers Guild***

### **A. Tied Houses**

We are concerned that the Government has not conducted (or released) any research into the possible Public interest or net economic benefit to Tied House de-regulation. In absence, we put forward the following points for consideration:

#### **1. What other jurisdictions are changing towards Tied House de-regulation?**

At this time, we are unaware of any major economy that is moving towards Tied Houses. Within North America, if Tied Houses were allowed in BC, we would be the only Province or State allowing the practice. Of course this point, in and of itself, is no reason not to change, however it does beg answers to the following questions:

- What significant economic or Public Interest advantage does the Government anticipate from allowing Tied Houses, which other Governments in North America have overlooked?
- What is not working with our Tied House regulations?
- What other jurisdictions are voicing concerns with Tied House regulations and are contemplating change, and why?

#### **2. Other Tied House examples**

The UK is an example of a jurisdiction that has moved away from a completely Tied House regime. The UK experience is instructive in that it demonstrates the extreme impact of market change that can be brought about by a change in regulation. The UK example is quite different than BC, however it is clear that changes to rules that impact ownership, can have very substantial and unintended consequences.

We understand the LCLB has expressed view in the proposed de-regulation that “it is unlikely that a liquor supplier(s) could impact the purchase or induce a significant number of licensed establishments so as to adversely impact consumer choice.” To the contrary, we believe the major brewers have the financial mass to do so. There is recent evidence that suggests this is already happening in BC even without a change in regulation.

#### **3. Cross – Category Tied House arrangements**

There is a further aspect of tied House potential that we recommend the LCLB to consider. It is our belief that because the BC alcohol beverage market is relatively small in term of Global context, many manufacturers access the BC market via local and foreign owned distribution agencies. The agencies represent brands across the Wine, Beer, Cooler, Cider and Spirit categories. Tied House de-regulation in concert with any material loosening of Trade Practices will give these multi-category distribution agencies a significant competitive advantage in a new de-regulated market. The agencies (or manufacturing companies) will have the power to create cross category Tied Houses blocking competition.

## ***BC Craft Brewers Guild***

### **4. Economic Impact**

We believe that a change to Tied House regulations may result in a sea change of licensee control or ownership and will impact the geographic location of the BC Brewing industry; with resulting economic impact to the Province.

- BC-owned Brewing assets are broadly dispersed throughout BC: Prince George, Kamloops, Kelowna, Penticton, Salmon Arm, Fernie, Surrey, Salt Spring Island, Victoria (8 Breweries alone) and many other regional centers. All providing employment in these key centers.
- Foreign Breweries will benefit, however the government should not expect any net gain in jobs. The big 3 Breweries have a history of consolidating brewing assets and laying off BC employees.
  - Molson recently acquired Granville Island and consolidated production from Kelowna to Vancouver. Job losses have not been published but it is our understanding +/- 25 jobs have been lost in Kelowna
  - Labatt closed New Westminster with approx. 150 jobs lost
  - In earlier years, Sleeman Okanagan (now Sapporo) closed the Shaftesbury Brewery in the Lower Mainland and moved production to Vernon.

### **5. Retail and On Premise Channel**

The government has been steadfast in their support and willingness to provide on-going benefits to the private retail and on premise channel. Support includes;

- Increased LDB discounts
- Continued moratorium on new LRS licenses
- 1km zoning rule
- Elimination of Pub license from LRS license

With de-regulation of Tied Houses and Trade Practices, we believe the Government will provide further benefits and power to an isolated group without concern for small Brewers that will have to pay “fees” for product distribution and merchandising.

## **6. The Competition Act Vs LCLB Regulations**

The LCLB paper suggests that the Federal Competition Act provide the adequate regulation needed in a new de-regulated market. We question the practicality of this approach and assert that clear language regarding Tied Houses and Trade Practices are a key barrier preventing anti-competitive business practices.

- The Competition Act is several hundred pages long and requires a lawyer to interpret and understand the legislation
- LCLB regulations are +/- 30 pages and are written in common language, easy for producers (large or small) to interpret and understand
- The BC Craft Brewers Guild members are small business BC. They do not have the resources or in house expertise to pursue recourse against anti-competitive conduct. Nor does the BC Craft Brewers Guild have a well-financed industry body capable of acting on anti-competitive conduct. Unlike the 3 large Beer manufacturers.

### **Tied House – Conclusion and Interim Proposal**

The Government has yet to make clear to the industry or regulators what it hopes to achieve by de-regulating Tied Houses (other than enforcement expediency). The Government has not conducted or provided any assessment on economic impact of allowing Tied Houses.

Given these factors, we do not support a move to de-regulation of Tied Houses. We believe an independent study take place to fully flush out the impacts of such proposed changes and to ensure any changes meet the needs of all stakeholders.

### **B. Trade practices**

We believe that an evolution of Trade practices can take place independently of Tied House de-regulation. We also believe that any change to Trade Practice regulations be based on the following principles:

1. Support of public safety priorities; over-service, over-crowding, service to minors
2. All trade support benefits the consumer and not the licensee.
3. It is the LCLB's intention to keep liquor pricing in control of the LDB. Therefore new regulations should not allow direct cash payments from supplier to licensee that are not part of a mutual marketing initiative. Otherwise this would be considered a price discount, an area intended to be controlled by the LDB

Of the 3 options presented in the paper, we would recommend that 'option 3' be pursued.

## ***BC Craft Brewers Guild***

### **Other Considerations**

BC is known for its Craft beer. Our members have won numerous awards around the World. Our vision is to continue to build on our success and showcase our Craft as the BC wine industry has successfully done.

As changes are contemplated we ask the Government to provide options on how our industry can continue to thrive and provide meaningful employment to Cities / Towns of BC. Areas of consideration include:

- Craft Brewers Guild status with BC Tourism
- Craft Brewers Guild section within BC liquor stores
- Craft Brewers Guild retail outlets – similar to VQA

Thank you for your time and we look forward to further discussions and an outcome that meets the needs of all stakeholders.

## ***BC Craft Brewers Guild***

### **Brewery Membership:**

Tree Brewing Co.  
1083 Richter St.  
Kelowna, BC  
V1Y 2K6

Phillips Brewing  
2010 Government St  
Victoria BC  
V8T 4P1

Tin Whistle Brewing  
954 W. Eckhardt Ave  
Penticton, BC  
V2A 2C1

Central City Brewing  
#190-13450 102<sup>nd</sup> Ave  
Surrey, BC  
V3T 5X3

Fernie Brewing  
26 Manitou Rd.  
Fernie, BC  
V0B 1M5

Russell Brewing  
#202-13018 80<sup>th</sup> Ave  
Surrey, BC  
V3W 3A8

The Whistler Brewing Company Ltd.  
1045 Millar Creek Rd  
Whistler BC  
V0N 1B1

Vancouver Island Brewery  
2330 Government St  
Victoria, BC  
V8T 5G5

Kamloops Brewery Ltd.  
965 McGill Pl.  
Kamloops, BC  
V2C 6N9

Cannery Brewing  
#112-1475 Fairview Rd.  
Penticton, BC  
V2A 7W5

Nelson Brewing  
512 Latimer St.  
Nelson, BC  
V1K 2T9

Dead Frog Brewing  
#3-26004 Fraser Hwy.  
Aldergrove, BC  
V4W 2A5

R&B Brewing  
54 East 4<sup>th</sup> Ave.  
Vancouver, BC  
V5T 1E8

Barry:

Further to our meeting on February 15, 2011, please find attached the BC Craft Brewers position re: Tied Houses and Trade Practices.

I look forward to continued discussions on this very important industry issue.

Please do not hesitate to call with any questions.

Best regards,

Tod J. Melnyk | President

Tree Brewing Company

Email: [tod@treebeer.com](mailto:tod@treebeer.com)

T - 250 717 1091

T - 1800 663 4847

*Brewed In Kelowna, BC*



## **BCWI Position Paper LCLB: Tied House & Trade Practices Consultation Paper February 18, 2011**

### **Introduction**

This document is submitted on behalf of the BC Wine Institute to the BC Liquor Control and Licensing Branch (the LCLB) in response to the January 2011 Consultation Paper request for input into the new legislation permitting tied houses and inducements unless specifically restricted or prohibited by regulation or by government policy.

The BC Wine Institute's (BCWI) volunteer membership represents 95% of BC VQA sales, 95% of the total wine production in the province, and 88% of 100% BC grape wine production. Wholly supported through member sales, the BCWI represents the interests of BC VQA wine producers in the marketing, communication and advocacy of their products to all stakeholders. Whether in partnership with the BC Liquor Distribution Branch, our 21 BC VQA wine stores, the export market via the Canadian Vintners Association (CVA), or wine industry, tourism and media stakeholders, the BCWI strives to provide leadership for the BC wine industry.

The opinions expressed within this document are based on the responses of 28 BCWI member wineries to an online questionnaire: <http://tinyurl.com/46dvr6y>

### **Overview**

Overall, there is general support for the legislation amending the *Liquor Control and Licensing Act* and the government's goal of deregulating in as many areas as possible and recognizing today's consumer has a number of choices while ensuring that public safety and the public interest are maintained.

While one of the potential 'pros' of tied house elimination is the opening up of industry investment between distributors and manufacturers, it is difficult to determine if this contributes to the provincial wine industry's incremental growth and expansion or simply consolidation.

Furthermore, given the BC wine industry relies almost entirely on the BC market and is small in comparison to other countries that access the BC market via local and foreign owned distribution agencies representing a number of brands across the wine, beer, cooler, cider and spirits categories, deregulation may give these multi-category distribution agencies a significant competitive advantage in a new and deregulated market.

These agencies will have the capability to create cross-category tied house arrangements linking beer, wine, cooler and spirits into a single tied house arrangement potentially limiting competition from all categories.

Given the uncertainty of the effect to the BC wine industry, we suggest an economic impact study be commissioned to assess the legal and economic impact of tied house deregulation and provide a business case on how the industry can best take advantage.



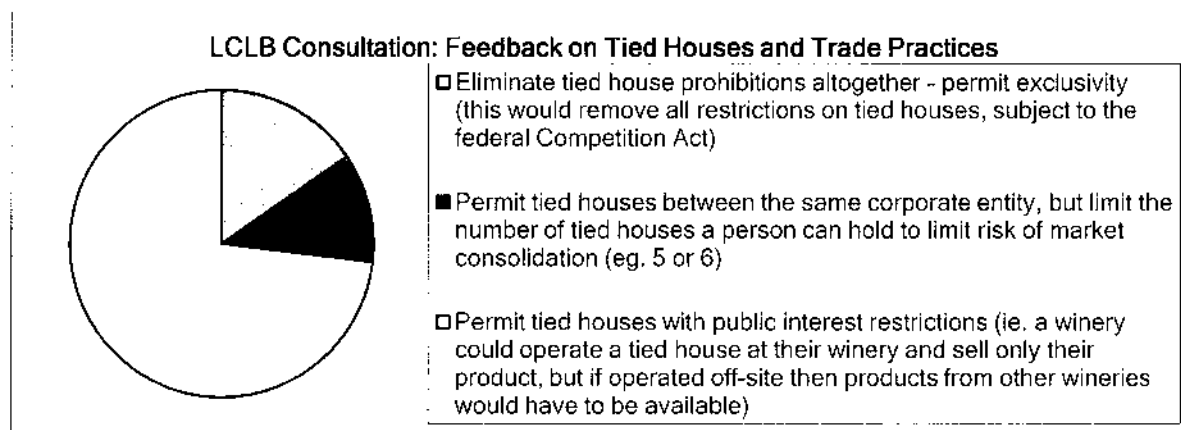
## Discussion on the LCLB Options

The Consultation Paper asked for stakeholder feedback on several options and we offer the following based on direct input from member wineries:

### Section A: Tied House

Of the three options provided:

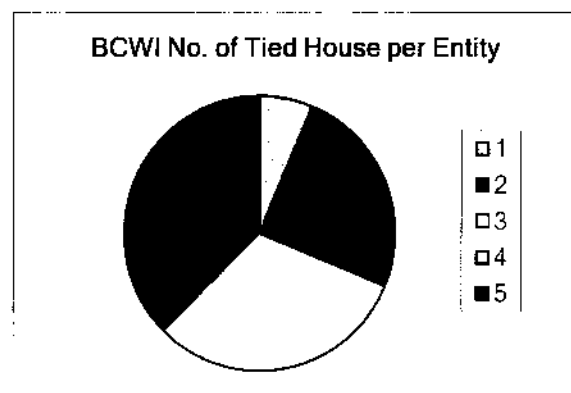
- 73% preferred - Permit tied houses with public interest restrictions
- 15% preferred - Eliminate tied house prohibitions altogether - permit exclusivity
- 12% preferred - Permit tied houses between the same corporate entity, but limit the number of tied houses a person can hold to limit risk of market consolidation



While the majority of the respondents indicated a preference for tied houses with "public interest restrictions", definition of the restrictions will require further stakeholder input.

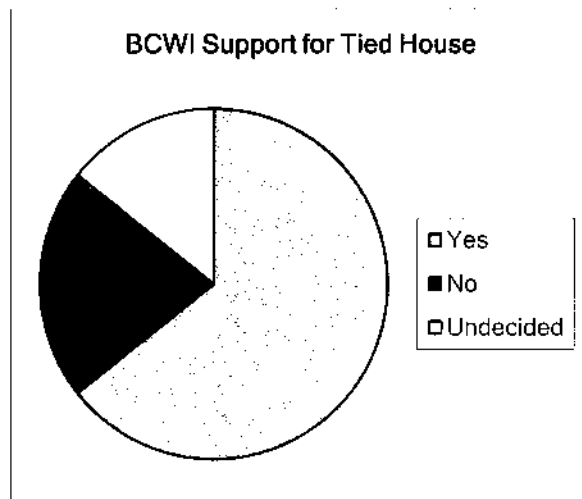
Of those indicating preference to limits to tied houses, the following were appropriate for one entity to operate:

- 1 - 6.3%
- 2 - 25.0%
- 3 - 31.3%
- 4 - 0.0%
- 5 - 37.5%



When specifically asked: Do you support a company holding an interest in a retail or licensed outlet when they also hold interests in an alcohol manufacturer?

- 64.3% - Yes
- 21.4% - No
- 14.3% - Undecided



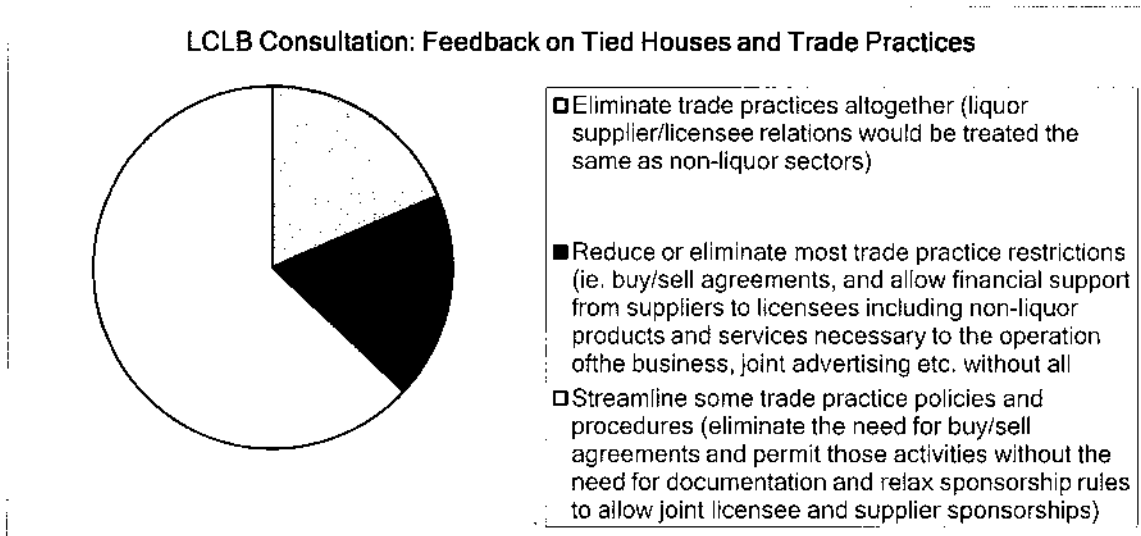
Comments included:

- Permit one off-site if it replaces a seasonal on-site - like xxx moving their summer store to the ski hill. Even with public interest restrictions, still limit the number between the same corporate entity.
- This is a bit tricky as some manufacturers have several brands/labels which may lead consumers to believe they have many choices when in fact all the choices are produced by the same manufacturer. Although I'd like to say I would agree to limiting the number of tied houses a person can hold I don't know what that number would be.
- Permit tied houses with public interest restrictions. We have a winery with a restaurant. In our case we would want to be able to sell primarily our products in our winery's restaurant, but we currently also offer other winery's VQA wines in styles that we do not produce, so that in the end, the consumer has a better overall culinary experience.
- I do not believe that tied houses are in the best interest of true competition.
- There should be no limitation to the Liquor, Beer and Wine sales establishments owning a manufacturing company as well, or wineries owning their own stores. This way the smaller guys could establish sales outlets in good locations without interference. At the moment many stores are paid under the table to carry and sell products, this may be in form of free vacations, promotional t-shirts, hats or other incentives not known to the government. We all know this is happening but nobody does anything about it.

## Section B: Trade Practices & Inducements

Of the three options provided:

- 63.0% preferred - Streamline some trade practice policies and procedures (eliminate the need for buy/sell agreements and permit those activities without the need for documentation and relax sponsorship rules to allow joint licensee and supplier sponsorships)
- 18.5% preferred - Eliminate trade practices altogether (liquor supplier/licensee relations would be treated the same as non-liquor sectors)
- 18.5% preferred - Reduce or eliminate most trade practice restrictions (ie. buy/sell agreements, and allow financial support from suppliers to licensees including non-liquor products and services necessary to the operation of the business, joint advertising etc. without allowing product exclusivity)



As a marketing organization on behalf of our member wineries, the BCWI believes that relaxed sponsorship rules and the elimination of buy/sell agreements for would allow for the cross-promotion and co-operative marketing initiatives between the wineries and tourism product.

Comments included:

- As stated in the background info, these trade matters are handled in other federal & provincial legislation. The LCLB should focus its resources on safety.
- The focus of Liquor Laws always seems to be more on the rules and regulations than on the consumer. Our winery-restaurant customers are primarily tourists who primarily want to enjoy our wines in our restaurant, but sometimes we know they would prefer a beer or a locally produced liqueur, etc, that we cannot carry. The licenses should be flexible enough so that the visiting tourist has the maximum benefit, and is not disappointed because of a series of restrictive rules that make little sense.
- Reduce the paperwork to obtain one. Provide clear expectations and guidelines for the application process. Be upfront with what needs to be done and when ..... which will speed up the application and approval process.
- Yes, consolidate the winery, lounge and picnic into one license and application.

*would require amendment to the license unless it's a 10*

*by 10-15-16 as application form ready. Similar to LP process could be sent back. Started to work.*

- Allow off-site winery licenses (which were supposed to be just like an on-site) to have this same ability to have lounge and picnic.
- It currently takes at least a year and over \$1000 to get approval to sell wine by the glass at an existing winery. Regulations and process need to be streamlined. Too many authorities involved and sometimes circular process.
- There needs to be some kind of restriction to keep foreign entities from bottling foreign juice in BC and calling it BC wine. BC wine should be made with primarily BC grapes.
- Less red tape.
- Allow BC artisan beers to be sold in a winery lounge. *30% rule*
- Yes, allow land based wineries to open their own retail outlet stores up to a limit of 5 anywhere in BC so they can compete with the big guys who are doing all these above mentioned things already behind the curtains.
- The simplest solution for on-site winery restaurants is to have a Food Primary License for the restaurant with the Tied House rules removed. Most of us with winery restaurants also want to sell beer (locally produced), as well as other local winery's VQA (made in BC) products and fruit-based liqueurs. This proposed change would accomplish that.
- Reduce red tape, streamline requests for information and improve communications.
- Tied houses would disadvantage smaller wineries.



ALLIANCE OF BEVERAGE LICENSEES  
FOR A RESPONSIBLE LIQUOR INDUSTRY

To: Barry Bieller, Director, Policy, Planning and Communications  
From: ABLE BC  
Date: August 30, 2011  
Re: Tied House and Trade Practices Consultation Paper

Dear Barry,

Thank you very much for making yourself available to our Board of Directors on August 17<sup>th</sup>. I now write to submit our position detailed below for government's consideration in the development of policies stemming from the legislative changes to Tied House and Trade Practices.

**Section A: Tied House:**

ABLE BC supports Option 3 detailed in the consultation paper: to permit tied houses with public interest restrictions. Additionally, we submit that breweries, wineries and distilleries **not** be permitted to own or operate a Licensee Retail Store (LRS) with an exclusion pertaining to cottage breweries and brew pubs.

**Section B: Trade Practices:**

ABLE BC does not support any of the three options pertaining to Trade Practices outlined in the consultation paper.

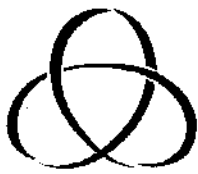
ABLE BC supports a fourth option: that Trade Practices laws remain in effect as they were prior to the June 2010 legislative amendments; to maintain status quo contained in that legislation for both Liquor Primaries and Licensee Retail Stores.

While we acknowledge that our Association requested these amendments, we are obliged to change our position as a result of the challenging times our industry has been facing since these legislative changes occurred. Our industry continues to face devastating financial effects resulting from the impaired driving legislative changes. These impacts will be amplified if the failed HST referendum results in a reinstatement of the 10 percent liquor tax without elimination, by the LDB, of the 3% wholesale price increase which accompanied the introduction of the HST. We further submit that our position protects British Columbian small businesses from the negative effects of a monopoly.

Thank you for your consideration and we would appreciate continued consultation as these policies develop.

Regards,

Al McCreary  
President, ABLE BC



## ALLIANCE OF BEVERAGE LICENSEES FOR A RESPONSIBLE LIQUOR INDUSTRY

**To: Barry Bieller, Director, Policy, Planning and Communications**  
**From: ABLE BC**  
**Date: March 31, 2011**  
**Re: Tied House and Trade Practices Consultation Paper**

The Alliance of Beverage Licensees (ABLE BC) is pleased to provide our response to the tied house and trade practices consultation paper. After careful deliberation we submit the following positions for your consideration.

The hospitality industry has seen a lot of change over the last several years and ABLE BC feels strongly that these changes need time for all the stakeholders to assess their impact before further changes should be considered. These extensive changes include; a trend for some Food Primary Licensees to operate more like Liquor Primary (LP) operations, removal of smoking rooms, expansion of the 500 meter minimum separation of LRS's to 1 kilometer, HST, and of course the reduction from .08 maximum allowable blood alcohol level to .05 as it relates to driving. With our recommendations we seek to maintain the status quo and avoid potential unintended consequences of changes that might ultimately have a negative effect on public safety.

### **Section A: Tied House**

ABLE BC does not support any of the three tied house options outlined in the consultation paper. A change in tied house rules to allow suppliers to provide significant amounts of support to certain large chains, or alternatively to operate Liquor Primary establishments directly, will only serve to drive prices down which will have harmful effects on public safety.

#### **ABLE BC supports a forth option:**

Maintain tied house restrictions status quo as contained in the legislation.

We would also suggest allowing for the ability to recognize and make exemptions for the few businesses that operate under special circumstances. In example; a business which runs both a winery and a hotel in the same city/town should be able to sell their own wine.

### **Section B: Trade Practices**

ABLE BC does not support any of the three trade practices options outlined in the consultation paper. A change in trade practices to allow suppliers to provide significant amounts of support to certain large chains will only serve to drive prices down which will have harmful effects on public safety.

**ABLE BC supports a forth option:**

Maintain the status quo that was contained in the legislation for both Liquor Primaries (LP's) and Licensee Retail Stores (LRS').

While ABLE realizes that many of the changes proposed were requested by ABLE, the business has evolved since those requests were made and for the reasons listed above ABLE does not support their introduction at this time. This does not mean that they will not become viable at some point in the future, only that they are part of a larger picture of change today and ABLE is concerned about the potential negative effects on public safety and job creation. With so many LP's and LRS' suffering sales losses due to the new drinking and driving penalties, now is not the time to alter the delicate balance that is keeping many ABLE members in business and providing jobs. The current landscape in our industry, particularly for our members in small communities where there are no alternative transportation options, is precarious and cannot afford to undergo anything that could further threaten their viability.

Changes to tied house and trade practices would favour larger members and chain accounts while threatening the profitability and survival of the smaller operators. The majority of customers, pubs, and LRS' would not benefit from sales incentives offered to larger players in the industry such as chain restaurants and multi-unit liquor store owners.

We look forward to discussing this with you further and in the future as the industry continues to develop.

Please feel free to contact us at the ABLE office should you have any further questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Al McCreary', written in a cursive style.

Al McCreary  
President, ABLE BC

**Position Paper**  
**LCLB: Tied House & Trade Practices Consultation Paper**

**Parties Responding to the LCLB Consultation Paper**

Kamloops Brewery Ltd.: Kamloops  
Lighthouse Brewing Co: Victoria BC  
Russell Brewing Co: Surrey BC  
Whistler Brewing Co.: Whistler BC

**Introduction**

This document reflects the shared views and concerns of the breweries listed above, and is submitted to the BC Liquor Control and Licensing Branch (the LCLB) in response to the recently issued stakeholder Consultation paper, regarding possible de-regulation in the areas of Tied House and Trade Practices.

The concerns and questions in this document are raised in context of the Brewing industry which, due to the size of the market (+/- \$650 million in BC) coupled with extreme concentration (+/- 85% in the control of 3 manufacturers) poses some unique challenges and issues which require special consideration.

The following headings are presented in the sequence they are raised in the Paper, followed by discussion of the options put forward by the LCLB in the Paper.

**Public Safety and the Public Interest**

We note the LCLB's concerns for "ensuring that the public safety and the public interest are maintained" and also Minister Coleman's priorities regarding; over-service of alcohol, serving of alcohol to minors, overcrowding in liquor establishments and the sale of illegal liquor.

While the Paper does suggest a possibility of new investment arising from regulatory change, the paper offers little discussion in key areas of the Public interest such as;

- The possible impact on employment in BC
- The impact on the development and geographic dispersion of industry; specifically the brewing industry
- The economic impact; both in terms of the Government tax base and the local economy

We discuss and raise concerns in these areas of Public Interest in this document.

**The Potential for New Investment**

The Paper suggests that new investment might result from Tied House de-regulation and we would like to understand any assessments and calculations the Government may have provided the LCLB in this regard.

From our perspective we believe that, because the BC beer market is fully serviced (in fact, has excess capacity) and because the Government and LCLB is, for public safety reasons, not desirous of an increase in consumption, any "new investment" would be temporary and would simply result from a relocation of brewing investments from one location and ownership group to another. There are several, easy to anticipate examples;



**Position Paper**  
**LCLB: Tied House & Trade Practices Consultation Paper**

- Small breweries are dispersed across BC, including the interior and the Islands. These breweries rely in material part on the sale of their products in the Lower Mainland. If there were to be any focal point for Tied House attention by large breweries, the Vancouver and Victoria cities would form the centre of activity. Tied House agreements which materially impact supply by small breweries would simply be a shifting of brew source, with no real new investment and potentially serious impact to small breweries.
- Brewpub groups with on-premise breweries at multiple sites across the Province might close satellite breweries and consolidate production into a single location. No real new investment would result.
- Restaurant chains that currently contract brew private label recipes at BC-owned breweries, might build breweries for exclusive production of their brands. Again no real new investment would result, simply a relocation of brewing capacity and ownership.

Later in this document we discuss the potential economic impact for small breweries and the Province, if a shifting in brewery production and ownership were to occur.

### **Tied House vs Trade Practices**

We note the assertion that Tied Houses and Trade Practices are closely related and in general we agree with this statement. We also agree that Tied House deregulation cannot feasibly take place without some degree of Trade Practice deregulation.

However, we suggest that Trade Practice deregulation can take place without deregulation of Tied Houses and therefore that Trade Practice deregulation can indeed be dealt with separately. The LCLB could, quite feasibly, take meaningful steps towards Trade Practice de-regulation, whilst taking a more cautious approach towards Tied House deregulation – and we recommend the LCLB should elect to do so.

### **Tied House de-regulation**

We are concerned that the Government has not conducted (or released) any research into the possible Public Interest impact of Tied House deregulation. In absence, we put forward the following points for consideration:

**1. *Are there other Jurisdictions changing towards Tied House regulations?***

At this time, we are unaware of any major economy that is moving towards allowing Tied houses. Within North America, if Tied Houses were allowed in BC, we would be the only Province or State allowing the practice. Of course this point, in and of itself, is no reason not to change, but it does beg answers to the following questions;

- a. What significant economic or Public Interest advantage does the Government anticipate from allowing Tied Houses, which other Governments in North America have overlooked or deliberately chosen to avoid?
- b. What is not working with our Tied House regulations, which seem otherwise to be working effectively elsewhere across North America?
- c. What other jurisdictions are voicing concerns with Tied House regulations and are contemplating change, and why?

**Position Paper**  
**LCLB: Tied House & Trade Practices Consultation Paper**

**2. Other Tied House examples**

We are aware of only 2 other relevant country comparables where Tied House rules have previously, or do currently exist.

*a) Australia*

In Australia, virtually every major hotel is owned or tied to one of the major brewing groups; very few "free houses" exist. As a result, imports and smaller breweries wishing to access the on-premise sector must align themselves with one of the major brewing groups in order to access the hotel or "pub" market. The comparable in BC, would be that Russell Brewing (for example) would need to exclusively contract Coors Molson (for example) to act as on-premise distributor in order to access their Tied Houses; if indeed Coors Molson would accept them as an agency brand to align with.

In Australia, however, there are two other areas of regulation which give small breweries (and wineries and distilleries) countervailing access to the beverage alcohol market.

1. In Australia the retail market is served by a numerically larger and less price-regulated retail sector, than exists in BC. There are more retail outlets per head of population, a greater diversity of liquor retail ownership in Australia, than exists in BC, through which smaller producers can distribute and gain market access.
2. In Australia, popular and broadly accepted "bring your own" (BYO) alcohol regulations allow smaller breweries and other producers to access the restaurant sector which allows patrons to bring their preferred beverage to the Restaurant, via the open, less regulated retail channel.

And so, via the very open Australian retail sector there remains indirect market access to the Licensee channel by small beverage alcohol manufacturers. The Paper does not contemplate similar deregulation and market access for BC producers. The result of Tied House deregulation without countervailing Retail sector deregulation could result an extreme marginalization of small local breweries, when / if major hotels and chains are purchased by or align with big business, foreign owned brewers in Tied House arrangements.

*b) The United Kingdom*

The UK is an example of a jurisdiction that has moved away from a completely tied house regime. The UK experience is instructive in that it demonstrates the extreme impact of market change that can be brought about by a change in regulation.

Up to 1989, the UK had an unrestricted tied house regime. In late 1989, the 6 major brewers in the UK owned the following numbers of pubs:

○ Bass	7,300
○ Allied-Lyons	6,600
○ Whitbread	6,500
○ Grand Met	6,100
○ Courage	5,100
○ Scottish & Newcastle	2,300

**Position Paper**  
**LCLB: Tied House & Trade Practices Consultation Paper**

The six brewers controlled about 75% of the beer output and owned 75% of the tied houses. There was said to be significant concentration and little competition.

In 1989, the 'Beer Orders' were passed, significantly reducing the numbers of pubs that large brewers could own. The 'Beer Orders' were passed to comply with European Community rules which are intended to promote competition. In fact, following 1989, the brewing industry consolidated principally in the hands of large non-UK brewers.

As of 2003, four brewing companies, Interbrew, Carlsberg-Tetley, Scottish & Newcastle and Coors shared an estimated 85% of the capacity and several brewers disappeared. A large portion of the pub industry became owned by large PubCo companies while the numbers of pubs is continuing to decline.

The UK example is quite different from that of British Columbia. However, it is a clear example that changes to rules that impact ownership, can have very substantial and unintended consequences. Many would argue that the UK 'Beer Orders' were ill-considered and ultimately unsuccessful. We urge care and understanding of potential consequences before new regulations are implemented which could have substantial, unexpected consequences in BC.

We understand the LCLB has an expressed view in the Paper that "it is unlikely that a liquor supplier(s) could impact the purchase or induce a significant number of licensed establishments so as to adversely impact consumer choice". To the contrary, we believe the major brewers have the financial mass, the portfolio structure and the will to indeed induce Tied House circumstances in a large portion of the BC market.

### **3      *Potential Scale of Tied House Agreements***

The scale of consolidated public house ownership in the UK gives insight into the willingness of, and financial merit for, big breweries to own or induce public houses. We do not believe these financial imperatives have changed. What has changed since the UK situation is a material consolidation of brand ownership and the increasing critical mass of the global brewers that today dominate 85%+ of the BC market. Consider:

Molson- Coors: With global revenues exceeding \$7.5 billion, the company now owns or exclusively distributes the Molson Brands, plus Miller, Coors, Corona, Granville Island, Carling, Rickards and others.

Ab-Inbev (Labatt): With global revenues exceeding \$36.5 billion, the company now owns or exclusively distributes the Labatt brands, plus Alexander Keith's, Kokanee, Stella Artois, Budweiser, Becks, Hoegaarden and others.

Sapporo: With global revenues exceeding \$4.0 billion, the company now owns or exclusively distributes Sapporo, Sleeman, Okanagan Spring, Old Milwaukee, Pabst and others.

We assert that the financial scale of these breweries, their share of the BC market (+/- 85% of the BC market), coupled with the brand diversity under their control, gives these dominant brewers the very real potential to purchase and or induce a large number of Licensed Establishments and so materially change market structure in BC and leave the BC consumer with the perception of consumer choice, when in reality a consolidation of the supply options would have occurred.

The BC Government should be concerned about this potential and its impact on the local economy and the related impact on Public Interests.

**Position Paper**  
**LCLB: Tied House & Trade Practices Consultation Paper**

#### **4. Cross-Category Tied House Arrangements**

There is a further aspect of Tied House potential that we recommend the LCLB consider. It is our observation that, because the BC beverage alcohol market is small in the global context, many manufacturers access the BC market via local and foreign owned distribution agencies. These agencies represent brands across the wine, beer, cooler, cider and spirits categories. Tied House de-regulation, in concert with any material loosening of Trade Practices, will give these multi-category distribution agencies a significant competitive advantage in a new and deregulated market. The agencies will have the capability to create cross-category Tied House arrangements linking beer, wine, cooler and spirits into a single Tied House arrangement blocking all competition, from all categories. We recommend the LCLB explore this topic in the various industry consultations to understand the level of concern and impact other industry producers might anticipate.

#### **The Competition Act vs LCLB Regulations**

The Paper suggests that the Federal Competition Act might provide adequate regulation in the BC Beverage alcohol market and that small producers should look to the Federal Act for protection. We question the practicality of this approach and assert that clear-language LCLB regulations regarding Tied Houses and Trade Practices are a key barrier preventing anti-competitive conduct. Consider:

- The Competition Act is several hundred pages long and requires a lawyer or at least a “law-savvy” reader to interpret and understand the legislation.
- LCLB regulations are, by comparison, +/- 30 pages and are written in common language terms, easy for producers large and small to understand and know what they can / cannot do.
- Most BC breweries are truly small business operations, in many instances with only a handful of employees. The individual brewery owners do not have the resources or in-house expertise to pursue recourse against anti-competitive conduct. Nor are small breweries organised via an industry body financed and capable of acting against anti-competitive conduct.
- Conversely, the 3 large, foreign-owned breweries are aligned in an industry lobby group, “The Canadian National Brewer’s Association” and have in-house legal counsel and Corporate Affairs staff. This group is well-financed and positioned to respond to political, regulatory or legislative challenge without challenge to day-to-day operations.

#### **Potential Economic Impact**

Absent of analysis to the contrary, we believe that a change to BC Tied House regulations may result in a sea-change of Licensee control or ownership and along with it will impact the geographic location of the BC brewing industry; with resulting economic impact to the Province.

- BC-owned brewing assets are broadly spread across the Province: Prince George, Kamloops, Kelowna, Penticton, Salmon Arm, Fernie, Victoria, Surrey, Salt Spring Island and many other regional centres. Tied House arrangements will favour big-brewers thereby causing a loss of production volume in regional areas and, in the extreme; some breweries will fail and close. The result will be a job loss in regional centres without any offsetting gain.

**Position Paper**  
**LCLB: Tied House & Trade Practices Consultation Paper**

- Beneficiaries of this change will be large, foreign owned breweries, most of whom import a significant proportion of their sales volume into the Province. The government should not expect any gain in jobs from these breweries, as offset to losses in small BC brewing contraction or closure. The change in market share will simply be swallowed by existing big-brewer production capabilities; partly inside but also outside the Province.
- The big-3 breweries have a history of consolidating brewery assets and laying off BC employees.
  - a. Molson recently acquired Granville Island brewing and have consolidated production from Kelowna into existing production at Burrard St. Job losses have not been published, but it is our understanding +/- 25 brewing related jobs have been lost in Kelowna.
  - b. Labatt in very recent times closed the New Westminster brewery with approximately 150 jobs lost.
  - c. In earlier years, Sleeman Okanagan (now Sapporo) closed the Shaftesbury brewery in the Lower Mainland and moved production to Vernon. The Lower Mainland jobs were lost.

The BC Government should be aware that both Molson-Coors and Labatt have well publicised cost cutting programs, focusing on plant closures and layoffs. The following are excerpts from public documents

- AB InBev: "we grew EBITDA\* 16.6% (by) *divesting assets and deleveraging the balance sheet*"
- Molson Coors: "net income increased by nine per cent... on higher prices *and cost cutting, even though it sold less beer.*"

The Province should anticipate a continued loss of BC employment from these companies, over time. In addition, any market share gains, resulting from Tied House arrangements, will not likely result in increased employment at the major brewers.

The Companies best financed to buy Tied Houses or induce supply-exclusivity arrangements are clearly the 3 big brewers. Profits from Tied on-premise or retail locations acquired by these companies will leave the Province.

It is hard to reject the conclusion that allowing Tied House (with supporting change in Trade Practices) will favour big business and disadvantage small business. This disadvantage to small business will result in employment loss and erosion of the related tax base without an offsetting employment gain by big business. Cash will exit the Province, as big business in the brewery sector is out of Province and foreign owned.

**Tied House – Conclusion & Interim Proposal**

The current proposal to move towards allowing Tied Houses is inconsistent with any major international or North American trends that we are aware of. Further, the Government is yet to make clear to industry or the regulators what it hopes to achieve by de-regulating in this area, (other than for enforcement expediency) nor has the Government conducted or provided any assessment on economic impact of allowing Tied Houses; in context of the financial wherewithal big-business clearly possesses to create sea change impact on the sector.

Given these factors, we strongly recommend that an independent study be made to assess the legal and economic impacts of potential regulatory change and to provide a recommendation to the LCLB and Government on how regulations might be constructed which meet Governments objectives and the disparate needs of big and small industry groups. Research groups such as the BC Law Institute or Conference Board of Canada could be used for this research.

**Position Paper**  
**LCLB: Tied House & Trade Practices Consultation Paper**

**Discussion on the LCLB Options**

The LCLB has expressly asked for stakeholder feedback on several options put forward. While we do not believe the BC Government should proceed to relax Tied House regulations without further analysis and understanding of the potential economic impact, we offer the following comments and suggestions for consideration; after a more thorough review has taken place.

**Section A: Tied House**

**Option 1:**

**Eliminate tied house prohibitions altogether – permit exclusivity**

Based upon our understanding, the concept of exclusivity between supplier and licensee is in conflict with the Competition Act, which reads:

“exclusive dealing” means

(a) any practice whereby a supplier of a product, as a condition of supplying the product to a customer, requires that customer to

(i) deal only or primarily in products supplied by or designated by the supplier or the supplier's nominee, or

(ii) refrain from dealing in a specified class or kind of product except as supplied by the supplier or the nominee, and

(b) any practice whereby a supplier of a product induces a customer to meet a condition set out in subparagraph (a)(i) or (ii) by offering to supply the product to the customer on more favourable terms or conditions if the customer agrees to meet the condition set out in either of those subparagraphs

Any new LCLB regulations which are silent or imply that supply exclusivity agreement are allowable in BC could at minimum be misleading and, in the extreme, may leave the BC Government in legal conflict with Federal law.

**Option 2:**

**Permit Tied Houses between the same corporate entity, but limit the number of tied houses a person can hold to limit risk of market consolidation.**

Our prime understanding from the Consultation document is that enforcement of Tied House regulations is challenging and that any new regulations should be simpler to enforce. We do not foresee that limiting the number of Tied Houses a person may hold will create any alleviation of this challenge.

Option 2 suggests that parties tempted to enter into unlawful Tied House agreements, will be satisfied with, say 5 or 6 lawful Tied Houses. We do not believe this will be the case. Once the allowed cap per person is reached, the same enforcement difficulties will exist, investigating and enforcing breaches of the Tied House regulations above the cap.

Further, as the prior discussion document suggests, parties enjoying the incremental profits from vertical integration will not be satisfied with a small number of Tied Houses and will lobby to increase the cap.

**Position Paper**  
**LCLB: Tied House & Trade Practices Consultation Paper**

Particularly so, for large international companies who clearly have the financial resources and experience in other markets to operated hundreds, or more, of Tied Houses.

**Option 3:**

**Permit tied houses with public interest restrictions**

Of the options, Option 3 has some potential to simplify Tied House regulations, alleviate some enforcement difficulties and pay heed to the public interest concerns we have raised. Several factors need be considered;

- Definition of Tied House

The LCLB will necessarily need clearly to define what a "Tied House with public interest restrictions" is; so that persons establishing the Tied House will know from the outset what is allowable / not allowable. This definition will require further stakeholder dialogue.

- Tied House License Application

*100% of all Tied House License Applications should be reviewed by the LCLB*  
We recommend that persons intending a Tied House should declare so in a discrete Tied House License application and in doing so make undertakings regarding the actions taken to ensure the Public Interest. This will make for easier future enforcement by the LCLB, in that the Branch will be monitoring approved business practices previously committed to by the Applicant. Further by requiring a Tied House license application (or license change), adequate time can be allowed, before approval, for any potential opponents to object to the application.

- Public Interest Retail Licenses

The Government already recognises offsite retail wine stores (VQA Stores) as being in the public interest and has created a separate class of licenses to recognise this. We recommend this class be extended to allow a matching class of offsite "Craft Brewers Guild" stores; either independent of VQA stores or perhaps via integration of the VQA / CBG concepts. *trade challenges involved in separating wine & craft retail in public*

- Cap on vertical integration

We are concerned that full vertical integration of ownership across retail, on-premise and manufacturer licenses may lead to disingenuous commitment to the concepts of public interest and fair completion. We therefore recommend a cap on percentage of ownership a supplier / manufacturer, retailer or on-premise licensee may have in the other, so that a level of independent commercial decision making is ensured.

- On-site licenses

Currently, wineries, breweries and distilleries are all allowed on-site allowances. However, the scope and limitation across the license types is quite different and the reasons for this are unclear. For example: a winery is allowed a "wine garden" in which it may serve its product outdoors. The concept of a "beer garden" is not however afforded breweries. We recommend that the on-site licenses be reviewed and harmonised across the 3 alcohol manufacturing types.

**Position Paper**  
**LCLB: Tied House & Trade Practices Consultation Paper**

**Section B: Trade Practices & Inducements**

As mentioned earlier, we believe that deregulation in the area of Trade Practices can take place independently of Tied House deregulation.

We also agree that contemporary business practices increasingly focus on marketing initiatives that differentiate the retail or on-premise licensee and a partnering supplier's brand. Further, we believe that joint business initiatives can be implemented which do not conflict with the Public Interest. Changes to the LCLB Trade Practice regulations can therefore be made which simplify and generally attract compliance from the beverage alcohol sector.

It is generally accepted that some suppliers are of a size that they can, if allowed, exert undue influence and control on a licensee and, vice versa. This is an important factor in contemplating regulatory change in the area of Trade Practice.

**Option 1:**

**Eliminate trade practice restrictions altogether.**

We do not believe that such a broad sweeping concept can exist, as it is in apparent conflict with the Federal Competition Act.

**Options 2 & 3:**

**Reduce or eliminate most trade practice restrictions. Or, Streamline some trade practice policies and procedures.**

Other than the control mechanism of documentation via Buy/Sell agreements, these options have much in common. In considering either, we recommend that any revised Trade Practices regulations consider the following concepts.

- **The Public Interest**

As a foundation, any new regulations should include basic Public Interest tenets;

Licensees and / or suppliers may not engage in practices which encourage excess consumption, are targeted to minors or, will lead to over-crowding of establishments.

- **Fair Competition**

We advise that the regulations not be so broad as to be construed that, in BC, Suppliers or Licensees may engage in activities which are in conflict with the Federal Competition Act. We enclose an extract of the Federal Act, which sets out to prevent Exclusive Dealing, Tied Selling and Market Restriction. We recommend any new regulations include simple English statements that practices in breach of these concepts will not be tolerated.



**Position Paper**  
**LCLB: Tied House & Trade Practices Consultation Paper**

- **A Trade Inducement Cap**

We note the LCLB's statement that liquor pricing is to remain in control with the Liquor Distribution Branch. Therefore we recommend the new Regulations impose a cap on the level of inducement (at, say, 25% of LDB listed price) and that such investments must be directed into joint marketing programs benefiting both supplier and licensee. Not to do so may otherwise allow trade members to circumvent LDB pricing policies and, in the extreme, engage in deep price discounting and a breach of the LDB's price floor policies.

- **Direct Cash Payments - Supplier to Licensee**

Again, we consider the LCLB's intention that liquor pricing is to remain under the control with the LDB. Therefore any new regulations should not allow direct cash payments from Supplier to Licensee that are not part of a mutual marketing initiative. These would otherwise be a form LCLB facilitated price discount, an area clearly intended to be controlled by the LDB.

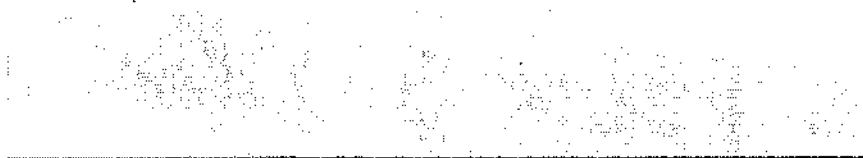


**Liquor Control Licensing Branch – February 15, 2011**

## Discussion Agenda



- BC Craft Brewers Guild
  - ✓ Members
  - ✓ Mandate
- Challenges
- Current trends
- Tied House / Trade practice Discussion
- Next Steps







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- Tree Brewing Co.
  - ✓ Tod Melnyk – Owner TBC
  - ✓ **Chairman BC Craft Brewers**
- Phillips Brewing
  - ✓ Matt Phillips – Owner PBC
  - ✓ **Director BC Craft Brewers**
- Vancouver Island Brewing
  - ✓ Jim Dodds – General Manager VIB
  - ✓ **Director BC Craft Brewers**
- Nelson Brewing
- R&B Brewing
- Russell Brewing
- Tin Whisker Brewing
- Whistler Brewing Company
- Dead Frog Brewing
- Cannery Brewing
- Central City Brewing
- Fernie Brewing
- Mt Begbie Brewing
- 5-10 looking to join CBG



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- The Craft Brewers Guild is dedicated to growing BC Craft Beer and developing a sustainable business environment.
- We co-operate to educate and promote our unique, high quality beers, to create an ethical and co-operative business standard. We will behave in a co-operative, inclusive, respectful and creative manner.
- We support our local communities that we live, work and play...WE ARE BC.



## Our Challenge


- Distribution and Availability
  - ✓ On premise channel
  - ✓ Retail channel
  - ✓ Venues
- We Grow our businesses through the strength of our people and business plan, not the amount of marketing money we have available



## Beer Trends

- Craft Beer is the only segment growing in a flat to declining beer market
  - ✓ >10% per year
- Consumers are looking for authentic, flavourful beer
  - ✓ 4 ingredients – Hops, Malt, Water and Yeast
  - ✓ No shortcuts (adjuncts) to flavour
- BC is known for its Craft Beer. Our membership have won numerous awards around the World

*We Are Delivering On The Changing Consumer Preference*



## Proposed Changes - Discussion

## Current Landscapes

- Over 85% of the beer market is controlled by 3 manufacturers. Foreign owned. Proven to eliminate investment and jobs.
- On premise and retail marketplace continues to consolidate
- Government steadfast support for the ABLE group
  - Increased LDB discount
  - Moratorium on new LRS licenses
  - 1km rule
  - Limited LDB openings during 'convenience' store operating hours
  - Elimination of Pub license from LRS license



## Craft Brewers Guild Position

- We believe the proposed changes to Tied Houses and Trade Practices will seriously jeopardize the BC Craft Brewers.
  - Erosion of distribution channels
  - The biggest marketing budget wins
- We have not see any substantiated 'facts' as to the economic benefit or public interest advantage of such proposed changes (especially Tied House)
  - Is it real investment or shift of ownership group
- There are no options from Government on how to support Craft Brewers as a result of proposed changes
  - Liquor Distribution Branch - BC Craft Brewers section
  - Craft Brewers Guild status with BC tourism
  - Craft Brewers Guild retail outlets - similar to VQA wine outlets



## Craft Brewers Guild Position

### Support

- Public safety priorities
  - Over-service
  - Over-crowding
  - Service to minors
- Streamline trade practices
  - ✓ No buy-sells
  - ✓ Consumer benefits
  - ✓ No inducements that allow the licensee to directly profit (i.e. must be able to run a business based on a strong P&L, not supplier inducements)

### Not In Agreement

- Elimination of Tied houses
  - ✓ No facts on net economic benefit
  - ✓ Continued support for large business Vs. the small companies that invest and keep profits in BC
  - Consolidation of distribution channels with no alternative solutions
  - ✓ Practicality of Federal Competition Act enforcement



## Next Steps

- The Craft Brewers Guild will provide a formal response to the proposed changes by February 25<sup>th</sup>, 2011.



2/15/11



BC LCLB Public Consultation  
February, 16 2011

1

## BC Licensing Focus

### Public Safety Priority:

- Service to Minors;
- Over-Service;
- Overcrowding; and
- Illegal liquor.





## Buy-Sell Agreements

### Documented "quid pro quo":

- ✓ Promotional items greater than nominal value;
- ✓ Manufacturer Theme Nights;
- ✓ Manufactured Sponsored Contests;
- ✓ Value-Added Promotions.



Approved  
Disinfectant  
12-15-11

## Buy-Sell Agreements

### Prohibited Inducements:

- ✓ Items necessary to operation;
- ✓ Money, credit, fixtures, furnishings, fridges, permanent display fixtures, advertising;

**Principle: manufacturer value add to flow to patron not licensee owner so that each retains INDEPENDENCE.**



## Public Interest

Ensure Public Safety while:

- ✓ Minimizing Provincial Enforcement Costs;
- ✓ Protecting Treasury Revenues;
- ✓ Manage Justice and Health Costs;
- ✓ Promoting economic activity.



## Tied House Rationale

- ✓ Avoid vertical integration and associated (historical) abuses;
- ✓ Encourage competition and avoid consolidation of market power;
- ✓ Security of tax revenue collection through audit of independent parties.



*Confidential in  
collection of taxes*

## Current Exceptions to Tied-Houses

- ✓ Brewpubs;
- ✓ Stadiums;
- ✓ On-site wineries/manufacturers;



## Trade Practices Rationale

- ✓ Prohibit practices that, if allowed, would transform otherwise independent operator into essentially a tied house;
- ✓ Encourage competition, diversity, and creation of a dynamic market responsive to consumer demands.



## Uniform Pricing Policy

Following business practices inconsistent and undermine stated goal of retaining uniform pricing:

- Volume product discounts;
- ✓ Manufacturer – Licensee co-operative advertising;
- Manufacturer – Licensee cash payments.



## North America

*"Nearly all states and the federal government have some form of tied house law".*

Washington State, Commerce & Labor Committee,  
HB 2040.



## California

- ✓ Manufacturer may hold a small financial interest in retailer (and vice versa) but may not result in exercise of control;
- ✓ No exclusion of competitor's brands;
- ✓ No cash payments allowed for services, space or advertising;
- ✓ No consignment sales;



*one that doesn't open - there are a number of guys who are lobbying for it. once given, can't be taken away*

## California

- ✓ Winery can own winery retail license;
- ✓ Winery can own up to two restaurants but can account for maximum 15% of beverage alcohol sales; if greater than 125,000 gallons must sell through wholesaler, if more than 2 restaurants can't sell own wine, etc.



## Federal Competition Law

Weaknesses as primary enforcement tool:

- ✓ Sledgehammer vs. focused enforcement;
- ✓ Little federal competency;
- ✓ Only true dominant firm is the LDB.



comp. law is a  
sledgehammer approach  
- deals w/ egregious  
behaviors.  
- not intended to manage  
business aspects of  
beer/alcohol market  
licensees.  
- they aren't interested  
in small players  
and small entities?

## Recommendations

- ✓ Either retain principle of no financial interest between licensee and manufacturers or eliminate all restrictions;
- ✓ If there is a public interest in keeping distinction between manufacturer and licensee then retain for all with no indefensible artificial limits; *eg. California situation*
- ✓ Otherwise enforcement complexity will actually increase, as will lobby efforts.



do not support  
middle ground  
either full  
vertical integration  
or no red house  
at all.

## Recommendations

- ✓ Retain principle of no financial interest between licensee and manufacturers;
- ✓ No cash payments, credit, volume discounts, co-op advertising, etc;
- ✓ Regulatory written "buy-sell" agreements provide clarity and transparency.



*but no change.*

## Public Interest

No Tied Houses (or their equivalents) so as to:

- ✓ Minimize Provincial Enforcement Costs;
- ✓ Protect Treasury Revenues;
- ✓ Manage Justice and Health Costs;
- ✓ Promote economic activity.



*difficult to enforce - opening up mischief  
much harder to audit books of 1 entity and track the mischief*

Mark Speck  
Dorothy Wilson  
Liquor Plus  
advice  
mt. lobbyist

## CO-OP ADVERTISING

At present, it is illegal for a liquor supplier, manufacturer or importer to assist or contribute to any cost of advertising which may be done to promote a product, location, service or other item in a private store. The LCLB has determined that a supplier or agent's promotions may only be geared towards the end consumer. Consequently, many private stores display a plethora of contest items ranging from Bar-B-Q's to snowboards to bicycles.

It is assumed that this policy goes back to the regulations pertaining to a 'tied house' which stopped any one manufacturer (usually beer) from purchasing 'exclusivity' in a bar or pub.

However, while private retailers are prohibited from accepting any monetary assistance with advertising costs, the LDB does this on a daily basis. It would appear that the LDB is exempt of this regulation.

The LDB publishes a quarterly magazine called 'Taste', this magazine is available only in government liquor stores and is given free to the public. The cost of producing this magazine is paid in part by various liquor suppliers who advertise within the pages. The cost for a full page ad in the magazine is approximately \$10,000.00. The LDB prints 400,000 copies per annum, suffice it to say; it's readership is not very high. What is interesting about this is that suppliers who are looking for display space (also referred to as end caps) do not usually receive such shelf space unless they participate in the Taste magazine program. Accordingly, the LDB is not only soliciting advertising money but in point of fact, are receiving ad money to guarantee placement of product within government liquor stores. One can imagine the importance, to a supplier, of guaranteed end displays in 197 GLS's across the Province.

In addition to this, the LDB is now charging suppliers for each shelf talker that is located in every GLS. Shelf-talkers are the small product descriptors located in front of products which tout the latest reviews, awards won or other attributes of the particular product. It is illegal for a private retailer to receive payment for a shelf talker within the current regulations.

As a retailer I have no issue with the LDB using either their volume of stores or their buying power to obtain co-op money to reduce their advertising costs, it is simply smart business sense. What most private retailers do have an issue with is the restriction on their own 'free market economy' practices which removes their ability to defray some of the high costs of advertising. I, personally, strongly believe that this regulation for private stores is antiquated and is no longer a necessary 'protection'.

Making changes to the LCLB regulations on this subject can in no way cost the government funds nor can it do harm to the public. It is simply the acknowledgement of smart business sense and the creation of a level field of opportunity for private business.



## **SUPPLIER SUPPORTED ADVERTISING**

Supplier supported advertising/marketing (commonly referred as Co-Op advertising) is an integral part of any business operation. Both businesses (operating in a supplier/retailer relationship) share the common goal of having their customers purchase their products or services.

Co-Op advertising/marketing is done in virtually every type of business. It is a mutually beneficial means of one business working with another business to improve customer awareness and acceptance in a product or service that both businesses are trying to sell to the end user. It is most commonly used when the two businesses have realized that the business receiving the co-op can get the best message out to their mutual customers by a means that is more direct and economical.

At present, current policies prohibit a supplier, manufacturer or agent from participating in any form of advertising within the LRS (private) channel.

However, there are no such restrictions as it pertains to the LDB stores. In fact, the LDB has an entire department dedicated to soliciting and obtaining funds from various liquor suppliers. These funds and ads are directed to the LDB publication called "Taste" magazine.

Taste magazine is published quarterly and only available in government stores. A full page for Taste Magazine costs approximately \$10,000.00.

In addition, the LDB is charging suppliers, agents and manufactures for in store marketing such as shelf-talkers and display boards. This is illegal in private stores.

The private channel (LRS's) needs the same ability to market their stores, services or products no different from what the LDB currently enjoys.

When amending the policies as it pertains to Co-op advertising/marketing it is important to note the following. Co-op is more than a supplier paying for an ad or a portion of an ad. Co-op, in its true sense, provides the retailer with the necessary funds to market a product as they see best both in and out of the store. Therefore, supplier supported promotions would include but may not be limited to the following:

- 1) Adds in published magazines, flyers, periodicals, internet, news papers (including inserts), radio and television.
- 2) In store tastings
- 3) Staff education
- 4) In store displays and signage
- 5) Public events

Any and all supplier ads will meet with both the CRTC and LCLB regulations so that alcohol is marketed in a responsible manner.

Governing conditions are recommended as:

- 1) All Co-Op funds received by a LRS from any supplier, manufacturer or agent will only be paid to the specific licensee.
- 2) No funds can be paid to a staff member or any individual.
- 3) No free product can be used for co-op.

The implementation of a Co-Op advertising/marketing policy for private stores will have absolutely no cost to the government.

**THREE COLUMN DOCUMENT**

s.12

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s.12

s.12

s.12

**Jones, Kathleen HSD:EX**

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**From:** HSD Minister HSD:EX  
**Sent:** Friday, July 16, 2010 11:49 AM  
**To:** HSD MHSD Correspondence HSD:EX  
**Subject:** NEW MAIL - Bill 20 & LCLB Regulation changes.

Draft Reply on behalf of MLA Krueger with cc to him

**From:** Bruce Dean [mailto:bruce@northamgroup.com]  
**Sent:** July-13-10 2:44 PM  
**To:** Krueger.MLA, Kevin  
**Subject:** RE: Bill 20 & LCLB Regulation changes.

Hello Kevin,  
Just left you a voicemail to ask for your initial feedback on the email below and also an understanding on what the steps might be from here.  
Please call me on my cell for a quick chat: s.21

Many thanks

Bruce

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**From:** Bruce Dean [mailto:bruce@northamgroup.com]  
**Sent:** Tuesday, July 06, 2010 5:03 PM  
**To:** Kevin.Krueger.mla@leg.bc.ca  
**Subject:** Bill 20 & LCLB Regulation changes.

Dear Kevin,

Thanks for taking my call last Monday and for the opportunity to discuss my questions and concerns regarding Bill 20 and, importantly, the process for any possible changes to the LCLB regulations that might flow from the revised Act in the coming months.

My concern with Bill 20 is how Section 18 (Tied House) and 45 (Inducements) might be interpreted in any coming LCLB Regulation changes. Below is a "before & after" excerpt of key changes:

**Liquor control & Licensing Act - Section 18**

Previous wording to section 18 (4)

"Subject to the regulations the General Manager (of the LCLB) **may exempt** a person from prohibition and restrictions under subsection 1 in respect of an establishment and may impose terms and conditions for the exemption.

Revised wording to section 18.

"Subject to the regulations the General Manager (of the LCLB) **may specify** that a License, other than a license referred to in Section 52, 57, or 58, must not be issued or transferred:

- a) to a person who has agreed or arranged with another to sell the liquor of a manufacturer to the exclusion of the liquor of another manufacturer or
- b) to a Liquor Manufacturer or the manufacturers agent, or to a person who is associated with, connected with or financially interested in them, that is likely to promote the sale of liquor for that manufacturer or person.

**Similar changes have been made to Section 45 of the Liquor Control and Licensing Act covering Inducements**

Section 45 previously made it clear that, subject to the Regs, a Licensee could not give or accept gifts unless the GM of the LCLB granted a specific exemption. Now, subject to the Regs, the GM **may specify** that a licensee must not offer or give or agree to offer or give, demand or accept or receive or agree to accept or receive money, gifts, rewards or remuneration directly or indirectly, for promoting, inducing or furthering the sale of liquor.

My key concern with the above is how subsequent LCLB regulation changes that may flow from the subtle word changes "the General Manager (of the LCLB) may exempt" in the old version of the Act, versus "the General Manager (of the LCLB) may specify" in the new section of the Act.

"May exempt" is clearly interpreted in the current LCLB regulations that Liquor Manufacturers must get **prior approval** from the LCLB General Manager before they may establish a Tied House (i.e. monopoly) relationship, or offer financial inducements to sports venues or other establishments.

"May specify", however could be interpreted otherwise - that a Liquor Manufacture may engage in a Tied house monopoly or offer financial inducements to a Licensed establishment and only if the LCLB "specifies otherwise" would these monopolies or financial inducements be prevented - after they are already in place.

Put simply, the current Regs state that you can't enter into a tied house monopoly relationship between a manufacturer and a licensee unless special application is made to the GM of the LCLB they say it's OK. Going forward, the subtle change suggests that it's open season on Tied House relationships unless the GM of the LCLB says you can't do something. That being the case Tied House arrangements and a new slate of financial inducement practices, I believe, will become our industry norm. Previously, these exemptions were the exception rather than the rule.

In the event that LCLB regulation changes occur to allow Tied House monopolies and Financial inducements to sell a particular manufacturers brand of liquor, I believe the breweries, (and for that matter wineries and distillers) that are financed and organizationally best positioned to take advantage of such changes will be the multinationals and global conglomerates. In the case of the brewing industry they are the big-3, foreign-owned breweries that, together already dominate the BC beer market...

- o Molson-Coors (part of the US Coors Miller Brewing Group ~ \$4.5 billion annual revenue)
- o Labatt (part of the global Budweiser-Inbev Group - ~\$40 billion annual revenue)
- o Okanagan Spring (part of the Sleeman Group, owned by Sapporo of Japan ~ \$5 billion annual revenue).

It may be that my concerns are ill-founded, but recent events do suggest that the LCLB has become more receptive to allowing Tied House arrangements to take place. In the build up to the 2010 Olympic Games, we repeatedly made inquiries to VANOC to see when a "Tier 2" beer manufacturer might be afforded the opportunity to assume the minority beer serving relationship at Olympic events. We anticipated VANOC and the LCLB to apply the current regulations which have, over the long term, prevented Tied house relationships from occurring and, moreover, to follow international precedent for such major events such as;

- the 2006 FIFA World cup in Germany, wherein a minor beer serving right was awarded to local "Bit Brewing" in addition to the global Budweiser brand sponsorship.
- the 2008 Summer Olympics in China, wherein a minor beer serving right was awarded to local Nanjing Brewing, in addition to the global Budweiser brand sponsorship.

At a very late hour, to our surprise, the LCLB awarded an exclusive Tied house relationship for all 2010 events to their "exclusive" sponsors in the beer category, Molson-Coors, thereby eliminating any other, perhaps locally owned brewery, an opportunity to benefit from the Province's 2010 Olympic investment. If Tied House exclusivity had been public knowledge well before the Olympics I am quite sure there would have been a good deal of "public and industry" discussion over the matter given, the loss of consumer choice. In the last hour euphoria of the impending Olympics, the Tied House "amendment" left little time for public discussion.

I note that the LCLB documents suggests that there will be consultation on this matter before any changes are made,

## **Liquor Control and Licensing Branch**

~~Bill-20: The Miscellaneous Statutes Amendment Act (No. 3), 2010~~

Liquor Related Changes

... "LCLB will consult with stakeholders on the development of these regulations and policies before they go forward."

I would be pleased to know what the process will be regarding stakeholder consultation and to have the opportunity for my views to be heard by the LCLB for consideration in any regulation changes. To this end I also recommend that consultation with the Province's top-10 breweries might give the LCLB a broad consultation base from a very short list of brewery ownership representatives. Recently released LDB purchase data lists these breweries as follows:

<b>Top 10 BC beer suppliers</b>	<b>Brands</b>	<b>Brewery / H.O. Riding(s)</b>
1. Molson Coors Canada	Molson, Granville Island, Miller, Rickards...	Vancouver - False Creek
2. Labatt Breweries Canada	Budweiser, Kokanee, Keiths, Labatt's, Stella Artois...	Nelson - Creston
3. Okanagan Spring Brewery	Sleeman, Pabst, Old Milwaukee, Sapporo...	Vernon - Monashee Delta North
4. Pacific Western Brewing Co.	Pacific Western brands	Burnaby North
5. NorthAm Brewery LP	Whistler Brewing, Bowen Island Brewing.	Kamloops-South Thompson West Van Whistler
6. Vancouver Island Brewing	Vancouver Island & Islander brands	Victoria - Beacon Hill
7. Big Rock Brewery Ltd. Inc	Big Rock Brands	No BC HO or Brewery
8. Phillips Brewing Co	Phillips Brewing Brands	Victoria - Beacon Hill
9. Lighthouse Brewing Co Inc	Lighthouse brands	Victoria - Beacon Hill
10. Russell Brewing Co.	Russell, Fort Garry	Surrey - Green Timbers

Importantly, breweries ranked 1 - 3 can be consulted via a single industry association "Canada's National Brewers"; while breweries ranked 4 thru 10, are not represented by an industry group. Interestingly breweries 1 through 3 are foreign owned, while breweries 4 through 10 are wholly Canadian, in most cases mostly BC owned. No doubt truly local breweries should have a voice in the consultation process. Below the 10 are very many, even smaller breweries, that may be represented by the Craft Brewers Guild. It is very important then, in my view, that LCLB consultation takes place with breweries well below the dominant top 3.

I am hopeful that the details of the LCLB consultation process will be available soon and look forward to understanding how and with what industry segments and stakeholders the consultations will take place. These changes in the Act could very well result in a fundamental change on how beverage alcohol is sold in the province of BC. Through this consultation process I believe that it is critically important for the LCLB to explore and assess potential impacts on consumers, licensees and manufacturers to ensure that the cumulative effect of pending regulatory changes are in the best interest of all stakeholders.

I am of course available for further comment or clarification of my concerns.

Sincerely,

Bruce Dean

**Bruce Dean | President | The Whistler Brewing Company Ltd.**  
**W 604.905.0776 | s21-1111 F 604.962.8898**  
**1045 Millar Creek Rd. Whistler BC Canada V0N 1B1**

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**Bieller, Barry HSD:EX**

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**From:** Ayers, Karen J HSD:EX  
**Sent:** Monday, August 23, 2010 1:00 PM  
**To:** Bieller, Barry HSD:EX  
**Subject:** FW:

**From:** Ayers, Karen J HSD:EX  
**Sent:** Monday, August 23, 2010 1:00 PM  
**To:** 'Randy Wilson'  
**Subject:** RE:

Hi Randy.

We are putting together a consultation document that we intend to provide to industry this fall, and I would look forward to receiving your comments/feedback. Co-op advertising is certainly a subject that we have already received feedback about from some in the supplier and retail sectors, so I would expect it to receive consideration during the review.

If you check back with me in another month or so, I should have a better sense of timing in terms of the consultation.

Thanks.

Karen Ayers  
Assistant Deputy Minister and General Manager  
Liquor Control and Licensing Branch  
(250) 387-9131

**From:** Randy Wilson [mailto:rwilson@liquorplus.ca]  
**Sent:** Monday, August 23, 2010 10:22 AM  
**To:** Ayers, Karen J HSD:EX  
**Subject:**

Hi Karen,

Now that summer is coming to an end I was hoping you could spare a few minutes to discuss some of our suggestions in regards to the new policies and rules pertaining to Bill 20: specifically Co-Op. As previously mentioned all of our suggestions will benefit every LRS, have no cost to the government and will in no way affect public safety.

I am available any time.

Cheers

s.22

Randy Wilson  
Liquor Plus.  
s.21



Email: [rwilson@liquorplus.ca](mailto:rwilson@liquorplus.ca)