



Commissioner of Competition "Hops" on Board with Recommendations for less Restrictive Liquor Policies

August 16, 2019

Jessica Rutledge

In response to a report on Ontario's alcohol sector, Canada's Commissioner of Competition expressed his support for recommendations to reduce certain restrictions to private competition in Ontario's liquor policy.

The report by the Ontario Special Advisor for the Beverage Alcohol Review, entitled "[The Case for Change: Increasing Choice and Expanding Opportunity in Ontario's Alcohol Sector](#)," was made to Ontario's Minister of Finance.

The report makes a number of significant recommendations, including encouraging the government to do "everything possible" under its Master Framework Agreement to authorize additional retail outlets, and to enable price competition between retailers. The Commissioner, in an [open letter](#) to the Minister of Finance on August 13, 2019, advocated that many of these recommendations would increase competition in Ontario's alcohol sector.

The Commissioner highlights three key recommendations that would bolster competition:

1. Less restrictive retailer requirements

Ontario's current framework caps the number of grocers that can be licensed to sell wine, beer and cider at 450. In addition, only grocery stores meeting certain criteria, including minimum square footage requirements, are eligible for such licenses.

The Commissioner notes that these limitations not only restrict the number of retailers able to compete, but also specifically eliminate competition from smaller retailers. A less restrictive system would bring both greater convenience and selection, particularly in the case of rural and remote communities.

The report recommends that the Ontario government take several steps to increase the number of retailers authorized for retail sale, including prioritizing underserved communities.

2. Cease Uniform Pricing

Licensed retailers in Ontario are not currently able to set pricing for products. Instead, all retailers are obligated to charge a single price set by the manufacturer. The Commissioner's letter observes that this

practice of uniform pricing prevents consumers from reaping the benefits of price competition: lower prices.

The special advisor's report recommends that the government end the practice of uniform pricing for licensed Ontario retailers, and recommends instead instituting other guardrails, such as price floors, to ensure alcohol continues to be sold in a socially responsible manner.

3. Wholesale pricing for the hospitality sector

Finally, the Commissioner's letter advocates for developing a wholesale pricing model in Ontario. Under Ontario's current system, bars and restaurants must purchase from provincially-regulated retailers (the LCBO and the Beer Store) at the same prices offered to consumers at retail. The Commissioner notes that, as a result, establishments' prices are driven up, and their product selection is restricted to only the range of products available from the LCBO and the Beer Store.

The Commissioner's letter supports allowing private ordering and consignment programs and implementing a proper wholesale pricing system to improve both pricing and product selection to consumers in bars and restaurants. The Commissioner also touts the improved market opportunities that wholesale rules would bring to new craft breweries and wineries. These comments echo the Commissioner's views expressed earlier this year in an [open letter on B.C.'s liquor policy](#).

The Ontario report did not recommend any specific changes to Ontario's current wholesale model, but did make the general recommendation that the government seek to reduce unnecessary regulatory burdens and inefficiencies for the industry. In particular, the report notes that there are a number of opportunities to streamline distribution and wholesale in Ontario.

DISCLAIMER: This publication is intended to convey general information about legal issues and developments as of the indicated date. It does not constitute legal advice and must not be treated or relied on as such. Please read our full disclaimer at www.stikeman.com/legal-notice