



From the President's Desk

Happy New Year! It looks like 2007 will be an exciting year for America's wineries as awareness and interest in local wineries keeps growing. It should be a special vintage year as well for public policy issues as a brand new Congress will be addressing key issues for wineries as it restructures the Farm Bill—a project which happens only once every five years. Specialty crop organizations, including WineAmerica will be making a strong push to bring balance to farm policy by including many provisions of interest to specialty crops. Previous farm bills provided huge subsidies for all kinds of farmers but did almost nothing for fruits and vegetables.

The New Congress

My column last month outlined some of the changes brought about by the ascendance of Democrats to the majority in both House and Senate. It is too early to know just what the implications of these changes will mean for winery issues but it will certainly provide challenges for WineAmerica as we need to build stronger relationships with many members formerly in the minority. As of press time we do not yet know who the chairmen of some key subcommittees will be.

Farm Bill

For the first time in the Farm Bill process, specialty crops—

crops which do not receive cash payments—are pushing to have their needs addressed. The headline issues we are working on and are most interested in are research and marketing. In addition, there are a raft of other issues that are important, such as trade promotion, crop insurance, value added grants, tree assistance program, sustainability and conservation. WineAmerica is part of a large coalition of over one hundred groups lobbying for these issues. Wineries, a great example of family farms, are located in every state and are providing new opportunities in farming, with a strong value added component and high value per acre. These strengths allow vineyard/wineries to be in a good position to fend off suburban encroachment. WineAmerica, as the National Association of American Wineries, is uniquely positioned to present a new face of farming and thus enhance the support for specialty crop issues as the Farm Bill is developed. We expect the House Committee on Agriculture to begin working on the Farm Bill shortly and to produce a final product in April or May. WineAmerica will publish periodic bulletins detailing progress and letting our membership know how the effort is proceeding. In the meantime, it is extremely important for all WineAmerica members to ask their Members of Congress and Senators to support a

“Farm Bill which is balanced between the needs of specialty crops and program crops.” The first concrete step for the specialty crop coalition will be the introduction in both the House and Senate of a Specialty Crop bill—a step we hope to complete by the end of January. We will be asking a broad range Representatives and Senators to cosponsor these bills. More details of our efforts will follow shortly.

Immigration

A hugely important issue, left hanging by the last Congress, is immigration reform. It is obvious to everyone in the country that the current system is not working. Grape growers and wineries have had sporadic but serious problems in obtaining the labor needed to properly grow and harvest grapes. This situation must be fixed. The prospects for progress have greatly improved with the change in party control of Congress. Democrats are committed to reasonable legislation and the President has indicated a willingness to work with Congress on this issue. WineAmerica will use its resources to help the farm coalition working on the Ag-Jobs bill.

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Direct Shipping

Although much progress was made last year in the wake of the Supreme Court's *Granholm* decision, there is plenty of work remaining. Florida has already introduced a shipping permit bill which unfortunately limits shipping to wineries producing less than 250,000 gallons per year. Several other states will be considering bills. New Jersey, which does not allow direct shipment, has a law suit claiming that only by allowing direct shipment from out-of-state wineries will the infirmities in their law be solved. It will take some time for that lawsuit to get worked out. Ohio, Illinois, Pennsylvania, Missouri and other states may be working on legislation. Retailers have begun to file lawsuits taking the *Granholm* approach—if local retailer can ship—out-of-

state retailers should be accorded the same privilege. They have filed in Texas and California so far and may file in other states as well.

Another impact of the *Granholm* decision involves self-distribution. Many states allow in-state wineries to distribute but forbid the privilege to out-of-state wineries. These issues will have to be addressed.

Allergen Comments

WineAmerica, in conjunction with the Wine Institute and also with a larger beverage industry coalition recently submitted Allergen labeling comments to the TTB. An important thrust in the comments was a suggestion that a ruling on fining agents should be delayed until after November 2007 in order to determine if the European authorities will be persuaded to exempt wine

fining agents. It seems that there is no scientific evidence that any person with a known allergy to proteins of fining agents shows allergic responses to wines which have been fined with the agent. That may or may not be adequate evidence to the regulatory authorities. Several other issues were addressed in the comments including a request to allow the term "processed with" rather than requiring the misleading term "contains" for fining agents. To read our filings please go to the WineAmerica website, click on Regulatory Compliance in the Issues & Policy section and look under Allergen Labeling (<http://www.wineamerica.org/issues/regulatory.htm>).

Quick Tip:

Don't forget that the WineAmerica Lobby Center has example letters on important federal issues that you can send to your Members of Congress. The Lobby Center also has Congressional contact information personalized for your district.

You can find the Lobby Center under the Members Only tab on the main menu of the WineAmerica website.

2007 Outlook for Direct Shipping & Self-Distribution

While 2006 was an active year in state legislatures, there is more to come in 2007. Round two will start in early January when most legislatures reconvene as many states will just start dealing with direct shipment or self-distribution issues, while other states will re-examine the issues and deal with related issues brought up by the *Granholm* decision.

There are several large issues that will take up the most attention by winery groups and state legislators: reciprocity, production (capacity) caps, anti-trust issues/ Costco appeal, and retail direct to consumer shipping. The following is a brief run down of each of these major issues.

- **Reciprocity:** Several states used the concept of reciprocity in crafting their direct shipping laws. In the wake of the *Granholm* decision (stating that laws must apply equally to in and out-of-state wineries), several states decided to amend their shipping laws by removing the reciprocity requirement and implementing a permit system. However, several reciprocal states have yet to make the change and at the end of 2006, lawsuits were filed in Oregon & Missouri claiming that reciprocity laws are unconstitutional. Look for the remaining reciprocal states (IL, IA, MO, NM, OR, WV, WI) to make the change to permit systems in 2007.
- **Production Caps:** In a compromise deal, a few states passed direct shipping laws that contain production limits (ie only wineries that have annual productions under a certain level are eligible to apply for direct shipping permits). Lawsuits filed in both Arizona and Massachusetts challenge production caps as discriminatory under the *Granholm* decision because they continue to favor the in-state industries over out-of-state wineries. It is unclear whether these challenges will be successful.

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Funding Opportunities for Wineries Interested in Soil & Water Conservation

The Environmental Quality Incentives Program (EQIP) offers funding for farmers and ranchers interested in soil and water conservation. This program is administered by the USDA National Resources Conservation Service (NRCS) with the aim of promoting "agricultural production and environmental quality as compatible national goals." EQIP is setup as a cost sharing program where eligible participants may receive up to 75 percent of the costs of certain conservation practices to

be covered. Additionally, "limited resource producers and beginning farmers and ranchers may be eligible for cost-shares up to 90 percent." The maximum amount of funding allocated per individual or entity is \$450,000 for all EQIP contracts entered during the term of the Farm Bill. There will likely be more EQIP funding contained in the next Farm Bill being proposed this year.

The application process for EQIP funds varies by state and applications are

accepted on an ongoing basis. For more detailed information about the EQIP program and to learn how to become a participant, please visit the WineAmerica Development Center located under the "Members Only" drop down menu of the WineAmerica website or visit the 2007 EQIP website at:

www.nrcs.usda.gov/PROGRAMS/EQIP/EQIP_signup/2007_EQIP_Signup/index.html.

Quick Tip:

Don't forget to use the newly created WineAmerica Export Assistance Center when you are looking for rules to shipping your wines abroad. Now all the information is in one place: links to TTB required documentation to export and a country by country listing compiled by the TTB that offers contacts and export information.

Wineries should contact the destination country directly for the most up to date information, as regulations may change and are specific to each country.

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- **Anti-Trust Issues/Costco Appeal:** Washington State and the wholesalers have appealed the Costco ruling and the appeal will be heard in the 9th Circuit Court of Appeals. Currently the Costco ruling that overturned many aspects of the three-tier system has been stayed to give the Legislature time to act. The state and wholesalers are seeking a permanent stay while the appeal is pending. A decision is likely by the summer if the legislature fails to act. The outcome of the case will affect how the three-tier system is constructed and allow other states to challenge many of the same provisions (ex: price-posting, central warehousing, quantity discounts, etc).

- **Retail Direct to Consumer Sales:** Another fallout issue from the *Granholm* decision is the right of retailers to ship wine directly to consumers. Many states allow in-state retail stores to do so, but do not extend the same privilege to out-of-state retailers. Lawsuits on this issue have been filed in both California and Texas. The California ABC decided not to enforce their law, so currently both in and out-of-state retailers can ship directly to California consumers. A decision has not yet been reached in the Texas case and will have implications for other states depending on the outcome.

Direct shipping and self-distribution continue to be of importance to wineries and are popular with consumers and the media. Wholesalers still

wield influence in state legislatures and remain especially opposed to self-distribution for wineries. Wineries gained a lot of ground in 2006 and, thanks to education and grassroots efforts, were able to achieve favorable legislation in many states.

In 2007, wineries need to build on the positive momentum in many states by continuing to build coalitions, educate lawmakers, reach out to consumers, and even work with wholesalers (not just on shipping & self-distribution, but on other areas of wine laws where updates and changes are necessary). The goal in 2007 is to create and rework industry policies to grow and strengthen state wine industries. With a little legwork, wineries can make 2007 a good year.

From the COLA to the Shelf: Tips for Getting Your Labels Out the Door

The following is an important notice from the TTB regarding the revocation of COLAs for certain semi-generic names.

TTB Notice December 20, 2006

COLAS Revoked for Certain Semi- Generic Names

Washington, DC – On March 10, 2006, the U.S. and the European Union (EU) signed an Agreement on Trade in Wine in which the U.S. committed to seek to change the legal status of certain semi-generic names to restrict their use solely to wine originating in the applicable EU member states, except as provided for under a “grandfather” provision. These names, along with Retsina, are Burgundy, Chablis, Champagne, Chianti, Malaga, Marsala, Madiera, Moselle, Port, Rhins Wine or Hock, Sauterne, Haut Sauterne, Sherry, and Tokay. The “grandfather” provision exempts certain non-EU wines labeled with a semi-generic name or Retsina provided the applicable label was approved on a certificate of label approval (COLA) or certificate of ex-

emption issued before March 10, 2006. For more details, see TTB Industry Circular 2006-1 on the TTB’s web site at www.ttb.gov.

A legislative proposal that will effect the change in legal status of the EU semi-generic names and Retsina was included in Tax Relief and Health Care Act of 2006 that was enacted on December 20, 2006. Enactment of this legislation means that any COLA or certificate of exemption for a non-EU wine with a semi-generic name or Retsina that was not approved under the “grandfather” provision is subject to immediate revocation by operation of law.

How can you tell if your COLA or certificate of exemption is subject to the revocation? You can tell by the qualification statement that appears on the COLA or certificate of exemption. Beginning March 10, 2006, the Alcohol and Tobacco Tax and Trade Bureau (TTB) earmarked those COLAs and certificates of exemption that would be affected if the legislative change occurred by qualifying them with the statement:

“As per the Agreement Between

the U.S. and EC on Trade in Wine, the U.S. is seeking to change 26 U.S.C. 5388(c) regarding the use of semi-generic names and Retsina to limit their use to wines solely from the applicable EU member country unless used on a COLA prior to 03/10/2006. If enacted, this change will result in this certificate being revoked by operation of law (27 CFR 13.51).”

As a result of the recently-enacted law, further use of any COLAs or certificates of exemption bearing the above qualification by TTB must cease. However, products which have been bottled or imported before December 20, 2006, may still be removed from bond.

Questions regarding this issue should be directed to the Advertising, Labeling and Formulation Division (ALFD) of the TTB. ALFD can be reached at (202) 927-8140 or toll free at 1-866-927-2533 or by e-mail at ALFD@ttb.gov

NOTE: The WineAmerica Online Lobby Center is ready for 2007!

Last year, WineAmerica created the Online Lobby Center. This is one of many membership tools accessible through the WineAmerica website that empowers members to find useful legislative information for working on state and federal wine issues.

As you start working on legislation this year, don’t forget that the Online Lobby Center is a useful resource that includes guides to working with the media, lobbying state legislators, and examples of practices used by state associations last year.

The Lobby Center also allows you to track wine legislation in all states. You can search through past legislation from 2006 and also search legislation introduced in 2007. The database is searchable by state or subject. 2007 legislation will be updated on a weekly basis.

For questions on the Lobby Center or on state legislation, please contact Jenny Mattingley at jmattingley@wineamerica.org or 202-783-2756 x124.

REthink: Your Customer Lifetime Value

WineAmerica has invited its Platinum & Gold Supplier members to provide newsletter articles on issues of interest to WineAmerica winery members. This month's article is provided by Inertia Beverage Group.

We know that most of you agree that your company should be customer-focused. Have you analyzed your database to measure your customer-focused activities? Can you answer the questions you need to know:

- How much is a Direct-Sale customer worth?
- How much should I invest in customer acquisition? What is the lifetime value of my customer?

The 'Customer-Worth' Equation

The "lifetime value" (or LTV) of a customer can be used as a marketing metric. This metric can help your winery understand how much a customer is worth in dollar terms, and therefore how much you should be willing to spend to acquire new customers and/or how much to spend on keeping existing customers.

The LTV of a customer is determined by subtracting the amount of money spent to acquire the customer from the total dollar amount that customer will spend at your business throughout the course of their spending lifetime.

Example of calculating customer LTV:

Customer acquisition = \$50

First calculate customer profitability: Annual profit x "spending lifetime" of customer, in years = profitability

\$50 per year x 4 years = \$200 profit

Now subtract amount spent to acquire the customer from profitability:

\$200 total profit - \$50 customer acquisition = \$250 LTV

Thus, the goal is to acquire as many customers with high spending ratios and longest spending lifetimes as possible, to maximize profit. So, the sum of your entire customer LTV should equal your future profits.

Value

After *measuring* customer value, the next step is to *manage* customer value. Wineries with experience in e-commerce find ways to maximize sales and minimize expense by evaluating purchase trend data and finding new and interesting ways to segment their customers. With the increasing availability of customer-based information, as well as sophisticated Customer Relationship Management (CRM) software and analytics tools, wineries can rank their customers by long-term profitability. In today's world, segmentation and one-to-one marketing are no longer based on demographics or customer preferences alone, but are paired with an assessment of customer profitability. Your customers, through their actions, can tell you which route is the most profitable to take.

New customer acquisition vs. maintaining current customers:

Because growth is critical for most wineries, consistent gains in customers, market share, and revenue are typically the yardsticks for success. But, it doesn't make sense to spend more than the 'customer-value' to acquire a customer. (This is where we help you to *rethink* your methods of acquisition). The focus *should* be on gaining more customers, but on acquiring the *right* customers—those with the *greatest* LTV—to focus your energy on profitable growth. This includes maintaining the relationship you already have with your existing loyal customer base. Why spend the

money to acquire the right customer if you don't put the time and effort into the retention of that relationship. So, the fine line between when to keep a customer and when to cut them lose, broadens a bit with intuitive customer data. Use it to your advantage, and collect and analyze that information for your maximum benefit and maximum profit!

Remember, direct is the best way to Communicate with, Acquire, and Retain your customers.



Inertia Beverage Group is a WineAmerica Supplier Member. To learn more about IBG's products and services, visit their booth in the WineAmerica Virtual Trade Show.

Important Label Note:

The TTB now requires a copy of a previously approved Port label COLA to be attached to any new Port COLA being submitted for approval.

For questions about this rule, or any other label issue, please contact Michael Kaiser at labels@wineamerica.org.

WINEAMERICA
MONTHLY
NEWSLETTER
-JANUARY 2007-

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Important Information About the 2007 Wine & Grape Policy Conference

Don't forget to mark your calendars for the 2007 Wine & Grape Policy Conference— March 18-21, 2007.

As you read in the President's Column in this edition of the newsletter, the Farm Bill, along with research and funding issues, will be working its way through Congress. In order to ensure that winery needs are represented on Capitol Hill, we need your help. We invite you to join us as we learn about the pressing policy issues and visit Members of Congress to educate them on industry needs.

Attendees to the meeting will also be able to participate in the WineAmerica and WGA Board meetings, the WineAmerica State Associations Council meeting, and hear from USDA Directors. Conference attendees also participate in the popular Taste the Wines of America congressional reception that draws Members of Congress and their staff and highlights the American wine industry.

This is a great opportunity to become involved in WineAmerica and to help effect strong public policy for the industry.

** Registration forms will be posted on the WineAmerica website by mid-January:
www.wineamerica.org/meetings/spring.htm.

** Be on the lookout for wine donation forms for the Taste the Wines of America at the end of January.

For any questions about the Wine & Grape Policy Conference, please contact Jenny Mattingley at jmattingley@wineamerica.org or 202-783-2756 x124.

We hope to see you there!!



Pouring wine at Taste the
Wines of America



Meeting with USDA officials



Meeting with Members of
Congress