

The California Wine Cluster and the Nagging Direct Shipping Question: Given the 21st Amendment Does the Federal Government Have a Role in Cluster Upgrading?

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This paper represents a juxtaposition of the innovative nature of the California wine cluster and the legacy of the Prohibition Era.

The California wine cluster is a well-developed cluster with a solid network of grape growers, winemakers, research institutions, state agencies, restaurateurs, and tourism agents interconnected in the production and distribution of California wine product. Additionally, the customer base for wine consumption is generally an affluent society characterized by discerning tastes. The rise of e-commerce has opened a door to new distribution opportunities. These opportunities if fully allowed to come to fruition would likely nurture innovation on the part of small and large wineries; in the meantime it is not clear that unlimited access to direct shipping opportunities would necessarily hurt the wholesalers' profit margins significantly. In fact, increased consumer access to products could drive higher sales revenues and potentially, profits.

The U.S. entered an era of Prohibition upon passage of the 18th Amendment. The 21st Amendment repealed prohibition and gave states the right to determine how alcohol is produced and distributed within their borders. Following passage of the 21st Amendment, many states instituted a middleman system, where licensed producers sell their product to a state-sanctioned wholesaler who in turn distributes the product to the retailers. In many states, direct to consumer shipping is prohibited or limited. Wholesalers have a vested interest in the *status quo* along with a strong fear of being "dis-intermediated"; lobbyist groups for the wholesalers are powerful at both the state and federal level. Wholesalers and the states they dominate will continue to fight direct shipping as long as they perceive there is a controlling state interest.

For the time being, the constitutionality of suspect state laws exhibiting *de facto* discrimination will continue to be tried in the federal court system; however, this is a long and arduous process with limited applicability to other state legislation affecting direct wine shipments. Additionally, federal agencies, such as the Federal Trade Commission, may take a more active stand in the promotion of the model act proposed to make administration of direct shipping requirements less costly and more universal; however, this role is still more advisory than active.

Cluster analysis works well at the participant level for those members with a strong vested interest – in this case the grape growers and winemakers as well as the complementary industries supporting these entities – however, cluster analysis dictates

that the state governments and federal government should also take an active role in the promotion of the cluster but this is very difficult given the opposing interests involved.

Modification of the 21st Amendment would most efficiently reduce barriers to direct shipping access for California wineries. However, this is not a likely scenario. In the final analysis, a policy change at the federal level requires a comparison of incumbents fighting a turf war: one lucrative and surrounded by local complementary industries and the other a network of distributors, also lucrative, and created and 'protected' by the states.