US Trade Challenge to BC Wine in Grocery

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Happier days



US trade challenge of the BC grocery store model



- Trade action launched by US trade representative (Jan 18th)
- Alleged that the BC grocery model breaches the National Treatment provisions in Article III: 4 of GATT
- GATT requires equal treatment of like domestic and imported products
- Action against Canada – Global Canada to defend
- February: EU and New Zealand joined challenge

GATT dispute resolution process



1. 60 day consultation period – opportunity to negotiate a settlement
2. Hearing in front WTO dispute panel – decision within a year
3. Panel recommendation automatically ratified by WTO General assembly unless there is a consensus to reject
4. Decision maker can impose a remedy

Wine in the context of other trade irritants



- NAFTA is up for negotiation
- Multiple issues and sectors in play
- Risk that Canada will trade off wine in grocery for other issues perceived to be more important

Wilbur Ross – list of trade irritants



- Supply management of dairy, chicken, turkey, and eggs
- Provincial wine and liquor monopolies
- Low limits on what Canadian tourists can bring home from a vacation duty-free
- Canadian subsidies to aerospace industry, including Bombardier
- Lax enforcement of Intellectual property rights, including pharmaceuticals
- Not all Canadian Crown corporations are open to US product suppliers; e.g. Hydro-Quebec
- Canada maintains a 46.7 per cent limit on foreign ownership of major telecommunications suppliers
- Canada's Seeds Act generally prohibits the sale or import into Canada of various seeds. Also, US wheat and barley exporters struggle to receive a premium grade that indicates use for milling purposes
- US wants to compete for government cloud-computing services contracts in Canada

A negotiated settlement is the preferred solution





Potential Canadian Defences



- Grandfathering provisions of NAFTA
- Taken as a whole the BC grocery model is not discriminatory
- 'Health and safety‘
- California and BC wines are not 'like' products
- No 'governmental measure’
- Differing views on whether any of the above are applicable

The Ontario approach hasn't provoked a challenge (yet)



- Initially limited to 70 licenses – 1/2 Ontario VQA and 1/2 universal
- 3 year phased in of full access for imported wines
- 150 existing Ontario only outlets in lobbies can move into the store
- Min $10.95 price

Did Ontario get it right?



Possible outcomes and their consequences



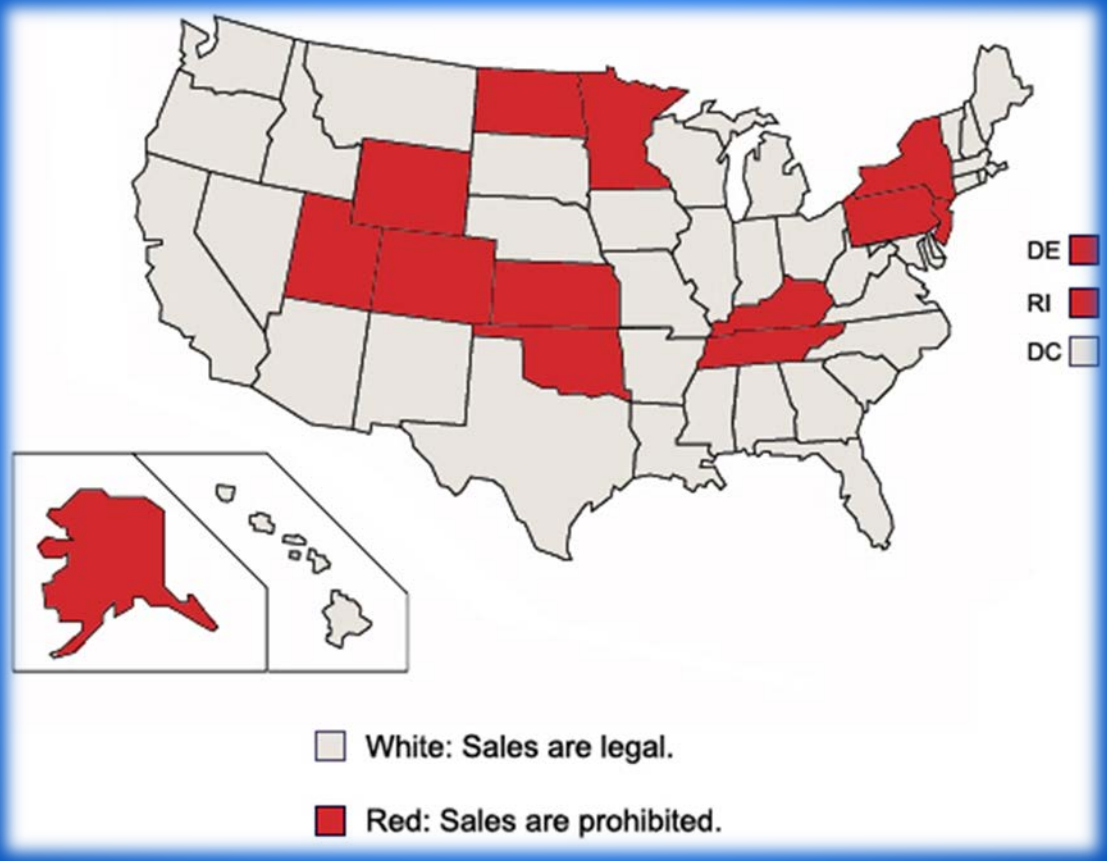
1. Eliminate all wine in grocery – orphans the VQA licenses
2. Permit all wine in all grocery immediately – risks foreigners immediately dominating the channel
3. Phase in import wine in grocery with permissible protections for the BC industry

Wine in grocery is inevitable



- Consumers want to buy their wine with their groceries
- 70% of market where it is permitted
- Already a fact or in the process of being implemented in Alberta, Saskatchewan, Manitoba, Ontario, Quebec
- Widespread in US

U.S. States That Allow/Prohibit Grocery Wine Sales



The preferred outcome



1. Grandfathering preserved for up to 60 appointments
2. 1 km rule upheld on a 'health and safety' rational
3. Minimum $15 price for 'on shelf' wine in grocery – 'health and safety‘ rational
4. Commitment to ensure phase in of 'store within a store' as locations become available

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