

STATE OF NEW YORK
LIQUOR AUTHORITY

To: All manufacturers, importers, wholesalers, and agency staff

Subject: Improper marketing of wines bearing the same brand, trade name and vintage

The purpose of this Advisory is to provide guidance to manufacturers, wholesalers and importers with respect to their ability under the Alcoholic Beverage Control Law (“ABCL”) to sell wines featuring the same brand, trade name and vintage with or without the addition of a sticker featuring the wording “Direct,” “Reserve,” or any similar wording. This Advisory assumes compliance with Advisory #2012-5.

Pursuant to ABCL §101-b(2)(a), manufacturers and wholesalers are prohibited from discriminating, directly or indirectly, in price, in the sale at wholesale or retail of liquor or wine bearing the same brand or trade name of like age and quality. The Authority is aware that certain entities involved in the chain of distribution of wine have engaged in the practice of obtaining separate federal Certificate of Label Approvals (“COLAs”) for both the standard brand labels of wines as well as for substantially similar labels which bear the words “Direct,” “Reserve,” or similar wording on the label. These entities subsequently place stickers bearing the words “Direct,” “Reserve,” or similar permutations thereof on bottles and/or cases of standard labeled wine as needed to satisfy the needs of their preferred New York business partners. The stickered product is thus marketed and sold at different prices from the standard labeled product, and is thus utilized for discriminatory market behavior at both wholesale and retail in New York. The Authority thus finds that the act of placing stickers on bottles and/or cases of a given brand, trade name or vintage of alcoholic beverages - even if said stickers appear to comport with a separate federal COLA – does not create a separate brand or trade name sufficient to support separate pricing in compliance with §101-b(2)(a).

This Advisory is not intended to impact the ability of manufacturers, importers or wholesalers to sell the same brand, trade name and vintage of wine in

different “ornamental” labels at different prices from standard labels – industry members are reminded that said practice is provided for in Advisory 2012-5, and that a request must first be sent to the Wholesale Bureau in writing or via electronic mail at: wholesale@sla.ny.gov. This Advisory is also not intended to affect the ability of manufacturers to use terms such as “Reserve,” “Select,” or similar wording on the brand label to distinguish different wines.