Impact of *Granholm v. Heald* on Small Winery Distribution Agreements

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In 2005, the United States Supreme Court ruled in *Granholm v. Heald* that states must provide equal treatment for in-state and out-of-state wineries states’ provisions for direct shipment of wine. While this case affects the entire wine industry, it especially affects the small wine producers that rely on direct-to-consumer sales to build brand following. Most American wineries either do not have sufficient portfolios (in breadth or volume) to attract traditional distribution outlets or are unwilling to settle for the small margins that traditional distributors would offer. Instead, these wineries rely on direct-to-consumer channels to survive. Although these direct-to-consumer opportunities for small wineries only accounted for approximately 7% of total wine sales and approximately 16% of total winery revenue in the U.S. in 2005², their success has been troubling to larger wineries and traditional distributors because it raises the question of how far up the supply chain a “consumer” may go to purchase wines, challenging traditional distribution structures.

This controversial ruling has spurred waves of legislative and judicial activity as states have moved to comply. States that only allowed intrastate shipment have generally moved toward more open markets. States that formerly allowed reciprocal privileges with other states have adopted permitting systems that apply universally given concern about the discriminatory nature of reciprocal restrictions. To-date approximately 75% of states have adopted some form of direct shipment provisions, allowing wineries—particularly smaller wineries—the opportunity to reach near-national markets without dealing with traditional distributors.

We examine how access to these enlarged markets affects the likelihood that a winery will respond with a change in its distribution channels or in its distribution agreements. Our results suggest that while smaller wineries appreciate the opportunities of enlarged markets, various other legal and production factors dampen the incentive to make significant changes in their incumbent distribution relationships. These results suggest that while *Granholm v. Heald* had an impact on the wine industry, it did not create a sweeping change in the ability of small producers to augment their distribution relationships.

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