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FDA -

My name is Bryan Thomas and I was in attendance at the FDA seminar held in Los Angeles on Nov. 14th. I spoke briefly at the break with Mrs. Leslye Fraser. I was hoping that I could actually speak with someone that could get me the clarification that I was looking for regarding the importation of wine and who is going to need to be registered. Her answer to me was that there were a number of issues regarding wine that FDA still did not have an answer for.

I have spent countless hours on the telephone and writing emails to various people at FDA only to get various interoperations of how everything is going to work. As I understand it now every line item on a particular invoice is going to need a registration code. Some people at the help desk say that this is true while others have told me that all that is needed is the registration number for the person creating the invoice. I don't know what to think.

I attached a copy of a packing list for some wine that is due to arrive in Los Angeles on November 30<sup>th</sup>. As you can see there are several hundred different wines purchased from 15-20 different suppliers. The piece count is 1668cs packed in a variety of different ways. This is going to create a logistical nightmare for my customs broker and the agent at customs trying to figure out the entry. It would literally take days to process a single entry.

It seems that what would make the most sense that we as importers would provide the registration number of the person or company that creates the invoice (negociants warehouse, holding facility - these are the names that appear in bold on the left column of my packing list) and who we pay for the merchandise. It makes sense that if I had a problem this is the person I would go back to because this is the person who took my money. I couldn't go back to the winery and say this was bad wine I want my money back for wine I bought from a different person. This is the same scenario for importers going to the winery and asking for their registration numbers for wine we purchased from someone else. In some cases they may provide the numbers and in some cases they may not - no one really knows at this point. If they don't, it affects a lot of people both in Europe and in the US who have done business like this for the last 50 years. What would happen is that the importer that had the registration number is going to be the only person able to import the wine, thus creating a monopoly. Prices will soar and many Americans that purchase these wines will be shut out not only by price but also by the decrease in supply.

What is making myself and my colleagues in Europe crazy is the manufacturer information (person that produced the wine) is printed directly on the label. All the information about the wine, who produced it, location of the producer (a lot of times address information) size, alcohol content, importer information are all listed on the label as a requirement for importation by ATF. I know that ATF is not responsible for safety, but it seems that if there was ever a problem all the information your agency needed is printed right on the label.

My proposal is this. FDA needs to write the regulations for the importation of wine so that the persons or company we purchase the wine from are registered and their registration is necessary for customs clearance. It is going to be very difficult for a person at customs looking at the entry to even determine the winery name for the specific line items on the invoice - because many

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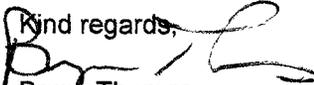
times there are abbreviations, vineyard names etc.. that make it difficult for some who is not familiar with the wines to even know what name they should be searching for in the database. It is going to also cause a processing nightmare for the customs broker who could easily be entering 400 different prior notice applications for all the different wines on a container if they are required to list every line item on a specific invoice. As for the specific line items on an invoice (different wines) we list them by name of the Domain along with the type of wine (Red, White, sparkling etc), as well as the town in which the wine was produced. This is what we have been doing in the past. Most of the wineries I deal with would fall under the exempt category of private residence of an individual - however if customs receives an entry with 90% of the wines listed on the prior notice as exempt, I think this is going to set off a red flag and then the person at customs is going to try and search for a winery name for which they could easily confuse with a vineyard name. It is not going to show up in their system and then the entire container is going to be held up while they try and figure it out. A logistics nightmare!

I can only imagine what a mess it is going to be when the wine containers arrive and all the time that is going to be needed to figure out these entries. The bottom line is that all the information that FDA is asking for is printed on the label - it seems that if the agency is looking for some accountability it should be the person selling the merchandise and collecting the money and not the winery itself because we already know who produced it by reading the label!

I hope the FDA considers the proposal I have made. If not, the way the regulations are written now it is going to have a devastating effect on the entire wine business. Not only here in the US but throughout the wine producing world. The person that is going to suffer the most is going to be the American consumer who is not going to be able to purchase many of the wines made available by importers like myself. FDA's goal is to protect the food supply which I agree with 100%. However, the interim final rule as it is written now would protect the American Public by limiting not only the supply but also their choices for many of the wines they have become accustomed to purchasing.

As a wine drinker the last thing I want is my government dictating what I can and can't purchase. Last time I checked this was still America and not some Communist Dictatorship! I appreciate FDA's attempt at bringing some accountability to the American Food Supply and would hope they make some exceptions as they relate to wine. Otherwise, you will be affecting an unprecedented number of people both who make a living in the wine business (US & Europe) but also a great number of American consumers. The intentions of FDA are good but implementing the plan as it is written is not going to be good for Americans.

I'll end with this one last thought - If someone was really intent on causing a Boiterrorist Threat to the Food supply, what is stopping them from registering all the information on the FDA's site, naming a US agent, importing the product and selling it in the market. Don't you think by the time people started falling over dead and FDA reacts, these people would be nowhere to be found?

Kind regards,  
  
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