



STATE OF CONNECTICUT
DEPARTMENT OF CONSUMER PROTECTION

From the Office of John Suchy, Director, Liquor Control Division

June 25, 2019

RETAILER PURCHASE OF MARKETING MERCHANDISE -
GUIDANCE STATEMENT

The Department of Consumer Protection (“DCP”) has been asked whether a retailer may purchase from a manufacturer or wholesaler marketing items, advertising material, and consumer novelties. DCP has undertaken a review of the applicable statutes and regulations, and concludes that retailers may purchase items, subject to certain limitations.

Regulations of Conn. State Agencies § 30-6-A32a discusses marketing items, advertising materials, and consumer novelties. That regulation states, in relevant part:

No brand owner, manufacturer, out-of-state shipper or wholesaler may furnish any retailer with services, advertising material or equipment except as follows, and, with respect to alcohol, spirits and wine, if allowed by federal law:

(a) Inside advertising material, including window displays, which has no intrinsic or utilitarian value other than point-of-sale advertising, whose aggregate cost shall not exceed five hundred dollars per retail outlet per calendar year per brand, exclusive of installation cost;

(b) Advertising novelties and specialties for use on the retail premises, such as trays, coasters, napkins, stirrers, scrapers and scraper holders, menu sheets and menu covers, change mats, calendars and pourers displaying brand names, whose aggregate cost shall not exceed five hundred dollars per distributor of such items per retail outlet per calendar year; wine lists may be distributed without cost limitation, such lists may contain listings from different brand owners, manufacturers, out-of-state shippers and wholesalers at the discretion of the retailer.

(c) Consumer novelties of nominal value for unconditional distribution to patrons of retail outlets, whose aggregate cost shall not exceed five hundred dollars per distributor of such items per retail outlet per calendar year. . . .

This regulation solely limits a manufacturer or wholesaler’s ability to provide retailers marketing items, advertising material and consumer novelties for free. It places no restrictions on a manufacturer or wholesaler’s ability to sell those items to retailers. Indeed, no other statute or regulation prohibits a manufacturer or wholesaler from selling marketing items, advertising materials, and consumer novelties to retailers. In the absence of such a prohibition, we must conclude that the sale of those items to retailers is allowed.

There are, however, statutes and regulations that place limits on a manufacturer or wholesaler’s ability to sell such items. First, Regulations of Conn. State Agencies § 30-6-A29(a) states that “[n]o permittee in transactions with another permittee shall directly or indirectly offer, furnish, solicit, or receive any free goods, discounts, gratuities, gifts, prizes, coupons, premiums, combination items, quantity prices, cash

returns, loans, guarantees, inducements or special prices or other inducements with the sale of alcoholic liquors.” Similarly, Conn. Gen. Stat. § 30-63(b) states that no “manufacturer, wholesaler or out-of-state shipper permittee [shall] allow in any form any discount, rebate, free goods, allowance or other inducement for the purpose of making sales or purchases.” In other words, wholesalers and manufacturers must treat all retailers on an even footing, and cannot provide direct or indirect discounts or benefits to retailers.

Therefore, DCP concludes that retailers may purchase from a manufacturer or wholesaler marketing items, advertising material, and consumer novelties subject to the following limitations:

- Items must be made uniformly available to all retailers;
- Items must be sold to all retailers at a uniform price;
- Items cannot be sold for less than the cost of the item to the manufacturer or wholesaler;
- A retailer must pay for items in full by the time the items are delivered;
- No retailer can be required to purchase items or purchase a certain dollar amount of items in order to have access to other items or alcoholic liquors; and
- A manufacturer or out-of-state shipper must allow all wholesalers with rights to a brand the same ability to sell an item bearing that branding.