



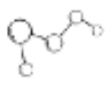


# Executive Order on Promoting Competition ... In the Wine Industry

By **Stacy Briscoe** - July 15, 2021

Advertisement

<p>THE M. A. SILVA ADVANTAGE</p> <h2>NATURAL CORK</h2> <p>MASILVA.COM</p>	 <p><b>STANDARDS</b></p> <p>Meets or exceeds quality levels by APCOR, C.E. Liege, and Systecode.</p>	 <p><b>CONTROL</b></p> <p>Vertically integrated = more control over supply chain.</p>	 <p><b>IMPACT</b></p> <p>M. A. Silva natural cork retains up to 262.7g of Co2.</p>	 <p><b>CUSTOMIZATION</b></p> <p>Three colored washes, standard and custom sizes, and laser, fire, or ink printing.</p>	 <p><b>QUALITY</b></p> <p>Individual TCA inspection, 100% of the time.</p>
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**Wine Industry Advisor managing editor, Stacy Briscoe, speaks to Michael Kaiser, VP of WineAmerica, about President Biden's Order affecting the beverage alcohol industry**

*"A fair, open, and competitive marketplace has long been a cornerstone of the American economy, while excessive market concentration threatens basic economic liberties, democratic accountability, and the welfare of workers, farmers, small businesses, startups, and consumers.*

*The American promise of a broad and sustained prosperity depends on an open and competitive economy. [...] For small businesses and farmers, it creates more choices among suppliers and major buyer."*

—Executive Order on Promoting Competition in the American Economy



On July 9, 2021, President Biden gave the [Executive Order on Promoting Competition in the American Economy](#). The Order itself, detailing plans to increase economic competition by opening opportunities

for small businesses across the U.S., came without shock. The creation of a Competition Council is very much in keeping with the tone the Biden-Harris administration has put forth.

“But nobody had any idea there would be a section completely dedicated to alcohol,” says Michael Kaiser, vice president of [WineAmerica](#). “It was a surprise for everyone, including the TTB—they had no idea it was coming.”

Much of the Order can be taken as good news for the alcohol beverage industry as a whole—beer, wine, and spirits. As Kaiser notes, this is the first time that the Federal Government has taken a deep look at some of the “issues,” the industry has been battling for years.

### First Order of Business

*To protect the vibrancy of the American markets for beer, wine, and spirits, and to improve market access for smaller, independent, and new operations, the Secretary of the Treasury, in consultation with the Attorney General and the Chair of the FTC, not later than 120 days after the date of this order, shall submit a report to the Chair of the White House Competition Council, assessing the current market structure and conditions of competition, including an assessment of any threats to competition and barriers to new entrants.*

Those “threats,” include any discriminatory, or anti-competitive practices (such as tied-house laws). “What they want to do is even the playing field for smaller producers who may want to get into the wholesale and retail sector,” comments Kaiser.

Of the major points listed under this statement, it is the inclusion of “patterns in production, distribution, or retail” that has drawn the most immediate attention from the wine industry.

“There’s so much consolidation in the past years,” says Kaiser citing the recent purchase of [Chateau Ste. Michelle Wine Estates](#) by private equity firm Sycamore Partners and the [Gallo-Constellation](#) deal as recent examples. “Basically, they’re trying to avoid monopolies ... These things were already scrutinized, but this will put much more of a spotlight on these [transactions].”

Kaiser notes that much of what’s dictated in the Order will affect producers less directly; more immediate impacts will be seen on the wholesale/distribution and retail tiers and what consolidation has done to the market.

"Right now, it's difficult for new or small producers to get their products out there unless they're self-distributing," Kaiser says. "Although, for many they're ok with that—they don't want to be in the grocery store. But for every person who's happy selling out of their tasting room, there are those who may want to be in more retail shops." The Order opens the opportunity to do so.

This portion of the Order also includes regulations on bottle sizes, labeling and permitting. "This is something the TTB has already been looking at," Kaiser says. "They're constantly trying to make these processes more user friendly. But I think they'll take more of a deep dive into these things in the report."

Again, Kaiser adds, streamlining these processes may benefit smaller producers who don't have staff dedicated to the compliance part of their wine business, making it easier and more efficient to get their products to market.

## **Second Order of Business**

*To follow up on the foregoing assessment, the Secretary of the Treasury, through the Administrator of the Alcohol and Tobacco Tax and Trade Bureau, shall, not later than 240 days after the date of this order, consider:*

- *initiating a rulemaking to update the Alcohol and Tobacco Tax and Trade Bureau's trade practice regulations;*
- *rescinding or revising any regulations of the beer, wine, and spirits industries that may unnecessarily inhibit competition; and*
- *reducing any barriers that impede market access for smaller and independent brewers, winemakers, and distilleries.*

Kaiser calls these points "basically telling the TTB to do things they've already been doing." But also notes they're a bit "vague," bringing up more questions than answers as to what "inhibits competition."

"Does it inhibit competition that you're only allowed to ship to certain states?"

"Is the Federal Government looking to supersede shipping laws ... create a federal shipping license?"

And "If the Federal Government gets involved in alcohol distribution, what does that do in terms of the 21<sup>st</sup> amendment? There's only so much they can do in relation to that."

In the end, Kaiser, comments, "The whole point [of the Order] is whatever helps the smaller producer get their product out there—that's what they want to look at. That's what you should take away from this."

Additionally, with the first report's deadline for 120 days following the Order, the second 240 days following, "Any changes we see from this, probably won't go into effect until 2023."

—Stacy Briscoe

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### Stacy Briscoe

*Stacy Briscoe*

Stacy Briscoe is a Sonoma-based freelance wine journalist as well as the managing editor of Wine Industry Advisor. Outside of the Advisor, she produces content for publications such as *Wine Enthusiast*, *Sonoma Magazine*, *PIX*, *SevenFifty Daily*, among many others. Briscoe also speaks at wine industry conferences, judges wine competitions, and is a WSET Diploma candidate, studying through the Napa Valley Wine Academy. She has her Bachelor of

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