

# Beer Business Daily

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## Three-Tier System Gets Unlikely Kudos

Dear Client:

Take a guess as to who wrote this statement:

"Maintaining the integrity of the three-tier system is necessary for ensuring the health and safety of the public. The three-tier system ensures that alcoholic beverages are distributed and sold in a responsible manner. By requiring all alcoholic beverages sold in New York to go through the channels established by the system, the state is able to more easily hold parties responsible for violations of the law, as well as more easily collect taxes."

It wasn't the NBWA. It wasn't the New York beer distributors. And it wasn't BBD, more's the pity. It was the chief fun buncher, Michele Simon, at the Marin Institute (although that's not her real title. She goes by "Research and Policy Director"). This statement and more were included in Marin's testimony to the New York State Law Revision Commission's Preliminary Report on the Alcoholic Beverage Control Law and its Administration, a commission charged with taking a look at New York's laws, which is part of a complete regulatory review that New York is doing, soup to nuts.

But wait, there's more. Michele goes on to write:

"Prior to the establishment of the three-tier system, manufacturers could sell directly to drinkers through tied houses. These vertically integrated systems often resulted in overly aggressive marketing and excessive sales, which in turn led to problems with over-consumption. Because larger manufacturers were not located in many of the communities in which their beverages were sold, it was difficult for communities to hold manufacturers responsible for their irresponsible sales practices. The system now requires manufacturers to sell their products to local or regional distributors, who in turn sell the products to local retailers. The three-tier system creates a structure that ensures that the state has adequate oversight of alcohol sales. It is in this way that the three-tier system helps prevent aggressive and abusive marketing and sales techniques, as well as encourage moderation. For these reasons, Marin Institute strongly supports maintaining the integrity of the three-tier system.....the 21st Amendment grants states with the power to regulate alcohol within their border. New York should not cede this authority without a very good reason."

We couldn't have said it better ourselves. But the point is that, significantly, an alcohol watchdog group, who definitely has some over-zealous ideas but nonetheless have succeeded

somewhat on the horns in a seat at the alcohol policy table, has publicly testified as to the public policy benefits of having a strong three-tier system. It is forever in the public record (which means it can be cited in court. Remember, the public policy argument for the three-tier system in direct shipping cases has been the weakest link).

There has been some controversy as to the wisdom of the National Beer Wholesalers Association engaging with these fun bunch groups like Marin and MADD, who often offer, in our opinion at least, over-reaching and draconian measures to fight alcohol problems instead of common sense social norms tactics (MADD's attachment to ignition interlocks for low-BAC and first-time offenders, and Marin's love affair with excise tax increases -- although they didn't propose them in this testimony -- are two examples). The breweries are vehemently against this engagement, even though by all appearances it's been at arm's length -- long arms. But this document does seem to indicate that this engagement can have benefits, particularly when public policy strategies are aligned.

The testimony goes on to recommend limiting the number of retail licenses in the state, as the "scientific literature is abundantly clear that the more access people (especially youth) have to alcohol, the greater the number of problems communities will suffer," restricting wine sales in grocery stores, restricting Internet beer sales, advocating "post-and-hold" pricing laws, prohibiting channel pricing, and keeping New York's label approval process. Can't really oppose any of those recommendations. This may be the first time BBD and Marin are completely on the same page. That's a first.