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COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
LIQUOR CONTROL COMMITTEE
and
SENATE
LAW AND JUSTICE COMMITTEE

NORTH OFFICE BUILDING, HEARING ROOM 1
HARRISBURG, PENNSYLVANIA

JOINT PUBLIC HEARING

WEDNESDAY, MAY 10, 2017
9:35 A.M.

BEFORE:

SENATE MEMBERS

- HONORABLE CHARLES MCILHINNEY, JR.,
MAJORITY CHAIRMAN
- HONORABLE JAMES BREWSTER, MINORITY CHAIRMAN
- HONORABLE GUY RESCHENTHALER
- HONORABLE ANTHONY WILLIAMS
- HONORABLE CHRISTINE TARTAGLIONE

HOUSE MEMBERS

- HONORABLE ADAM HARRIS, MAJORITY CHAIRMAN
- HONORABLE PAUL COSTA, MINORITY CHAIRMAN
- HONORABLE JIM MARSHALL
- HONORABLE SCOTT PETRI
- HONORABLE CURT SONNEY
- HONORABLE JOHN TAYLOR
- HONORABLE JESSE TOPPER
- HONORABLE JEFF WHEELAND
- HONORABLE MARIA DONATUCCI
- HONORABLE PETER SCHWEYER

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ALSO PRESENT:

SHAUNA BOSCACCY, MAJORITY EXECUTIVE DIRECTOR
MICHAEL BIACCHI, MAJORITY RESEARCH ANALYST
DAWN GINGRICH, MAJORITY LEGISLATIVE
ADMINISTRATIVE ASSISTANT
LYNN BENKA-DAVIES, MINORITY EXECUTIVE DIRECTOR

BRENDA J. PARDUN, RPR
REPORTER - NOTARY PUBLIC

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P R O C E E D I N G S

MAJORITY CHAIRMAN SENATOR

1
2
3 MCILHINNEY: I'd like to call the joint
4 hearing of the House and Senate liquor
5 committees to order.

6 Senator Brewster is in a
7 transportation meeting, so he will be joining
8 us shortly. But I'd like to open it up to my
9 counterpart and the chairman of the House
10 liquor committee, Adam Harris, to say a few
11 words.

MAJORITY CHAIRMAN REPRESENTATIVE

12
13 HARRIS: Good morning, everyone. Welcome. I
14 want to thank the members for their
15 attendance. I know there's a lot going on
16 this morning, but I think this is a really
17 important update on the successes of Act 39
18 and the flexible pricing in particular.

19 So, thank you for your attendance,
20 and we're looking forward to hearing from the
21 board members.

MAJORITY CHAIRMAN SENATOR

22
23 MCILHINNEY: And the minority chairman,
24 Senator -- Senator, I'm promoting you.
25 Representative Costa.

1 to -- first of all, I'd like to introduce, we
2 have the board, the liquor control board of
3 Pennsylvania, Tim Holden is the chairman.
4 Mike Newsome is a board member. Mike Negra is
5 a board member. And Charlie Mooney is the
6 executive director.

7 So, welcome, gentlemen, and the
8 floor is yours.

9 MR. HOLDEN: Okay. Thank you,
10 Chairman McIlhinney and Chairman Harris and
11 Chairman Costa and looking forward to Chairman
12 Brewster joining us shortly. And we really
13 want to thank you for the opportunity to
14 discuss pricing in the aftermath of Acts 39,
15 and 85 of 2016.

16 We submitted our annual report on
17 pricing on March 31st, which we know you had a
18 chance to review. It has been nine months
19 since Act 39 went into effect. And we want to
20 take this opportunity to share with you our
21 perspective on how we approach pricing when
22 the law went into effect, the lessons we
23 learned since the initial pricing
24 negotiations, and our future pricing strategy.

25 It is fair to say that Act 39 took

1 the agency by surprise, just as it took our
2 suppliers and licensees by surprise. In
3 December of 2015, House Bill 1690 was amended
4 by the Senate and sent back to the House for
5 concurrence. Months passed, and with little
6 notice, the measure was brought to a vote on
7 June 7th, 2016. Just one day later, on June
8 8th, Governor Wolf signed the historic
9 legislation.

10 Act 39, an omnibus measure
11 amending thirty-five sections of the liquor
12 code and adding several new ones became
13 effective on August the 8th, just sixty days
14 after passage.

15 Act 39 completely altered the way
16 that the Pennsylvania Liquor Control Board and
17 liquor supplier approached pricing. Before
18 Act 39, the PLCB was limited in how it could
19 price products. We were required to apply the
20 same percentage markup on a common bottle of
21 red table wine as to a very rare,
22 highly-prized bourbon. This rigid markup
23 structure was inefficient, resulting in missed
24 opportunities for the commonwealth to realize
25 additional revenue and for licensees and

1 retail customers of the PLCB to share in cost
2 savings.

3 If we would have sought lower
4 product costs from suppliers, it would have
5 resulted in reduced commonwealth revenue due
6 to the required application of a flat
7 percentage markup and taxes. There was no
8 flexibility to the rigid language of the
9 liquor code, preventing the PLCB from
10 negotiating the best possible costs from
11 suppliers on popular items and adjusting
12 markups depending on the product, its
13 availability, and its demand.

14 As a result of Act 39, on August
15 8th of 2016, the PLCB was afforded the
16 flexibility in how it determines prices of its
17 best selling items, limited purchase items,
18 and discontinued items. The law clearly
19 provided that the PLCB was to establish prices
20 of those items in a manner that maximizes the
21 return on the sale of those items and provides
22 competitive prices for Pennsylvania consumers.
23 Basically, we were allowed to seek lower
24 product costs and adjust markups on products
25 to achieve a balance between maximizing

1 commonwealth revenue and keeping retail prices
2 competitive.

3 The PLCB worked to quickly and
4 efficiently implement the pricing changes of
5 Act 39 before the effective date. Act 39 made
6 it a very different world for both us and our
7 suppliers. Now that we had flexibility, we
8 had to formulate a pricing strategy and then
9 engage our suppliers in negotiations.

10 Immediately after the effective
11 date of Act 39, we began using the flexibility
12 we were afforded in pricing our limited
13 purchase items, including luxury products sold
14 in our Premium Collection stores, Chairman's
15 Selection, and Chairman's Advantage products,
16 Wine Club items, and products in our
17 e-commerce portfolio.

18 We have always been able to
19 negotiate with our suppliers to obtain great
20 values on these products, but with Act 39, we
21 have been able to price each item as
22 appropriately based on our supply and
23 anticipated demand and current marketplace
24 conditions.

25 The one-size-fits-all approach to

1 pricing that existed before Act 39 was
2 especially ill fitted for high demand, limited
3 release products, such as Buffalo Trace and
4 Pappy Van Winkle whiskies. Before Act 39,
5 these products were sold in Pennsylvania at
6 prices significantly lower than other states
7 because of the proportional pricing mandate.
8 Act 39 allowed us to price these items to
9 reflect market demand, while keeping them
10 competitively priced relative to surrounding
11 states.

12 Our use of a lottery system
13 ensures the fair distribution of these
14 products to interested Pennsylvania residents
15 and licensees. A recent lottery for sixteen
16 hundred and one -- that's an odd number -- but
17 for sixteen hundred and one bottles of Pappy
18 Van Winkle bourbons and whiskies resulted in
19 more than seventy-eight thousand eligible
20 entries, while, at the same time,
21 significantly increasing the total revenue
22 generated from those sales.

23 With regard to our best selling
24 items, Act 85 defined these items as the one
25 and hundred fifty most sold brands and

1 products types of wine and the one hundred and
2 fifty most sold brands and product types of
3 liquor. The initial calculation of best
4 selling items included 86 percent of wine unit
5 sales and 91 percent of spirit unit sales.
6 Pricing for other brands of wine and spirits
7 continued to be governed by the proportional
8 pricing requirement of the liquor code.

9 Our first step after the bill was
10 signed into law was to conduct the review and
11 analysis of our product acquisition costs and
12 our retail prices of these best selling items
13 and to determine how they compared to other
14 states. We started gathering this information
15 shortly after the bill was signed in June.

16 With the assistance of a pricing
17 consultant we hired from Deloitte, our product
18 selection category managers analyzed product
19 acquisition costs from other control states.
20 That information was obtained from the
21 National Alcohol Beverage Control Association.
22 And we contracted with Nielsen to survey
23 retail prices for the top one hundred wine and
24 spirit products sold in states bordering
25 Pennsylvania.

1 We then compared the pricing
2 information to identify opportunities to
3 increase gross margin on certain brands by
4 seeking lower product costs from suppliers.

5 To further bolster our pricing
6 expertise in October of 2016, the PLCB hired a
7 full-time pricing coordinator to assist the
8 product selection staff with pricing analysis
9 and negotiations. And that allowed us to
10 terminate the consultant contract.

11 In September and October of 2016,
12 our product selection category managers met
13 with representatives from seventy-seven
14 suppliers. The purpose of the meeting was to
15 discuss the results of our analysis, request
16 product acquisition cost reductions, discuss
17 potential retail price adjustments, and obtain
18 constructive feedback from the suppliers.

19 Supplier counter proposals were
20 evaluated and considered, based on the
21 potential impact on margin and feasibility.
22 In certain situations, the PLCB accepted these
23 counter proposals, while in others, we either
24 held our initial request or negotiated a
25 mutually agreeable proposal.

1 We made some mistakes at the
2 initial supplier meetings. We asked suppliers
3 for significant reductions to their product
4 costs to increase our margin. But we failed
5 to take a few things into consideration.
6 First, we asked them for cost changes just
7 before the busy holiday season, after many of
8 them had already approved their overall
9 marketing spend for those brands through the
10 end of calendar year 2016. As a result, a
11 number of suppliers asked for more time, until
12 early 2017, to negotiate costs.

13 Second, while we were focused on
14 cost concessions, suppliers view such
15 concessions as only a part of an overall
16 marketing strategy to promote their brands.
17 Accordingly, they wanted to negotiate other
18 aspects of the marketing strategy, including
19 how many times products could be listed as on
20 sale, consideration for new products they were
21 introducing, the use of special purchase
22 allowances, and other promotional strategies.

23 Finally, we learned that some
24 suppliers were more willing to entertain
25 incremental cost reductions over time rather

1 than all at once.

2 Results were positive but mixed
3 for the initial round of supplier
4 negotiations, with a number of suppliers
5 readily agreeing to our initial ask for cost
6 reductions or providing counter proposals,
7 while other suppliers refused to negotiate at
8 all. We miscalculated the reaction of some of
9 the largest suppliers of our best selling
10 brands, who refused to come to the table at
11 all.

12 As a result, in January and
13 February of this year, the board members and
14 our executive director met directly with these
15 suppliers to discuss negotiations. Many of
16 these meetings reaped positive outcomes and
17 further demonstrated the PLCB's pledge to work
18 with our suppliers.

19 We should note that many suppliers
20 wanted us to consider increasing shelf prices
21 as a means to increase gross margins. And
22 while we discuss and remain open to such
23 opportunities, we initially wanted to focus on
24 reducing product acquisition costs. In the
25 listed portfolio, which, of course, is our

1 most popular products available at all of our
2 stores, pricing flexibility has resulted in a
3 reduction of product acquisition costs for
4 almost seven hundred products, retail prices
5 decreases for more than one hundred and twenty
6 products and retail price increases of a
7 hundred twenty-five products.

8 A specific example of the PLCB's
9 success in the implementation of flexible
10 pricing is the 4 percent gross margin
11 improvement on a single mass marketing brand,
12 the 1.5 liter Pinot Grigio. Over the course
13 of a running twelve-month period, the
14 incremental margin generated on this single
15 product is projected to be more than 210,000
16 dollars, based on historical sales figures.
17 Again, this is simply one product, one
18 example.

19 Moving forward, armed with lessons
20 learned from the initial negotiations, our
21 strategy is to aggressively pursue lower
22 product acquisition costs until we achieve our
23 category margin targets. We will persuade
24 those suppliers who have yet to enter into
25 negotiation that it is in their best interests

1 to find common ground before they begin to
2 lose market share in Pennsylvania.

3 We will price our limited purchase
4 items in a way that maximizes commonwealth
5 revenue but keeps them at great values to our
6 licensees and to retail customers. We will
7 continue to seek opportunities to reduce shelf
8 prices where appropriate, but we will also
9 strategically increase shelf prices on certain
10 items if we and our supplier agree that an
11 increase is appropriate, based on market
12 conditions, bearing in mind that both the PLCB
13 and our suppliers are interested in growing
14 volumetric sales and that every supplier has a
15 unique opportunity strategy to achieve
16 profitability for each of their brands.

17 We will work with suppliers on
18 their suggested marketing strategies to grow
19 sales, resulting in increased revenue for the
20 commonwealth and our supplier partners.

21 In anticipation of the next round
22 of negotiations, we recently sent letters to
23 all suppliers, asking them to come to the
24 table with their marketing strategies and
25 reduced product costs. Negotiations with

1 suppliers will be an ongoing, perpetual
2 process for the Pennsylvania Liquor Control
3 Board and our suppliers.

4 A few final thoughts on our future
5 pricing strategy. First, brands that are not
6 within the statutory definition of best
7 selling wines and spirits continue to be
8 governed by the proportional pricing
9 requirement of the liquor code. For a future
10 legislative consideration, we respectfully
11 recommend that the same pricing flexibility be
12 extended on all products sold by the PLCB.

13 Certain supplier industry groups
14 we spoke with would be in favor of such a
15 change so that their entire product portfolio
16 will be on equal footing in pricing
17 negotiations.

18 Secondly, we have to consider the
19 complex and interrelated impacts of the
20 components of Act 39 and 85 and 166 on our
21 overall business plan. For example, with
22 licensed grocery stores and convenience stores
23 selling wine to go and wineries shipping wine
24 directly to consumers, we have to continually
25 evaluate our strategic plan, including the

1 product mix in our stores, store layouts,
2 store sizes, featured and discounted products,
3 pricing strategies, et cetera. As a result,
4 future pricing strategies will be developed
5 based on performance and profitability in the
6 post-Act 39 wine and spirits marketplace.

7 We hope it is evident that we are
8 committed to actively partnering with our
9 suppliers and industry stakeholders in the
10 implementation of flexible pricing both to
11 optimize revenue for the commonwealth and
12 provide consumers with a fair and competitive
13 price.

14 As we have mentioned at previous
15 legislative hearings regarding Act 39, we
16 would be remiss not to thank the devoted PLCB
17 staff, both in Harrisburg and across the
18 commonwealth, who have worked tirelessly to
19 ensure that flexible pricing and other parts
20 of Act 39 reforms were efficiently and
21 effectively implemented.

22 Thank you for your time, and we
23 look forward to your questions.

24 MAJORITY CHAIRMAN SENATOR

25 MCILHINNEY: Thank you, Mr. Chairman Holden.

1 At this point, I want to recognize
2 Senator Brewster did join us from his previous
3 meeting.

4 Welcome, Senator.

5 Do we have any questions? I want
6 to start down -- Adam or --

7 MAJORITY CHAIRMAN REPRESENTATIVE

8 HARRIS: If I could briefly, I just want to
9 reiterate and have you confirm, through these
10 negotiations, we did not lose a single product
11 off our shelves. That's correct?

12 MR. HOLDEN: That's correct.

13 MAJORITY CHAIRMAN REPRESENTATIVE

14 HARRIS: Excellent. I think that's --

15 MR. HOLDEN: Not through
16 negotiations, obviously, or delisting or --

17 MAJORITY CHAIRMAN REPRESENTATIVE

18 HARRIS: Sure. Absolutely.

19 I think that was the main concern
20 we heard, so I'm really glad to hear that's
21 the case.

22 Thank you.

23 MAJORITY CHAIRMAN SENATOR

24 MCILHINNEY: Representative Topper.

25 REPRESENTATIVE TOPPER: Thank you,

1 Mr. Chairman.

2 Just real quick, on page three,
3 when you guys talked about the number of
4 suppliers readily agreeing to the initial asks
5 while other suppliers refused to negotiate,
6 could you put a percentage for me on that, or
7 at least something close, a number versus
8 other suppliers? I mean, how many is "a
9 number"? Was it a good -- I mean, did you
10 feel like it was a good start with who wanted
11 to come to the table?

12 MR. NEGRA: Yeah. It was a good
13 number. We have about eighty suppliers that
14 we deal with. About seven or eight suppliers
15 right now have taken the stand that their
16 strategy and their pricing is exactly what
17 they want, okay, and don't see any additional
18 FOB consideration for us. And it's not like
19 we are going to kick them out of our stores,
20 as Representative Harris mentioned, made sure
21 that we're not doing.

22 So, I think seven out of eighty is
23 pretty good right now.

24 REPRESENTATIVE TOPPER: Very good
25 number. Thank you.

1 Thank you, Mr. Chairman.

2 MAJORITY CHAIRMAN SENATOR

3 MCILHINNEY: See any other questions?

4 I'll interject if I could. The
5 pricing strategies, you're kind of running a
6 balance here. You're trying to get more
7 profit out of the store by lowering your
8 acquisition costs. We also gave you that
9 flexible pricing to increase shelf space. You
10 do have that flexibility to decide what your
11 final shelf space is going to be.

12 The consideration, I think what
13 the folks at home were most concerned about,
14 they -- they wink and nod saying, Well, the
15 state's making more money, but what they
16 really want to know is, are they getting good
17 deals? Are we still maintaining the
18 pass-through onto the consumers compared to
19 other states?

20 I know we have special programs
21 with the Chairman's club, but even just the
22 regular sales that we would have, how are they
23 comparing? And are we keeping an eye on that,
24 that the consumers who own our -- the state
25 citizen's own this system, and they should be

1 able to get some any benefit by having a good
2 deal when they go to the liquor store.

3 MR. HOLDEN: Absolutely,
4 Mr. Chairman.

5 As I mentioned in the testimony,
6 the industry's first reaction was to increase
7 shelf price, and we resisted that. That
8 was -- certainly we tell them we'll consider
9 it in the future, but that's not how we start
10 these negotiations. So, I think the
11 Pennsylvania consumers have benefited.

12 MR. MOONEY: Senator and everyone,
13 thanks for having us this morning.

14 Senator, we're absolutely watching
15 everything very carefully. We just conducted
16 our second Nielsen study of all the
17 surrounding border states. We analyzed over
18 four hundred skews of what everybody else is
19 selling for in our competitive markets. Our
20 suppliers are coming in for their second round
21 of negotiations. The letters are out.

22 And we are committed to keeping
23 the shelf price either where it is or lowering
24 it through better FOB acquisition.

25 MAJORITY CHAIRMAN SENATOR

1 MCILHINNEY: In some cases, though, I'm going
2 to throw the one that you mentioned, the Pappy
3 Van Winkle, that price was -- if you look at
4 compared to other states, you're saying it was
5 dramatically lower. It was tremendously
6 lower. I mean, other states are up to 1,000,
7 2000 percent higher.

8 We did change that pricing. What
9 did we move that to? Say, what did this
10 result in that -- was it a 60 or 80 dollar for
11 the bottle of twelve year, I think, that we
12 were selling prior, and what did that move to
13 now?

14 MR. MOONEY: Among all the Pappy
15 line, from the twelve year old all the way up
16 to the twenty and the twenty-three, as most of
17 you know, when we were in proportional
18 pricing, we had the lowest price on Pappy in
19 the country. So, our marketing team took at
20 look at that and decided we could raise the
21 price on Pappy, and its still very sought
22 after.

23 We made, margin for the
24 commonwealth, along the Pappy line, just shy
25 of 100,000 dollars additional revenue.

1 MAJORITY CHAIRMAN SENATOR

2 MCILHINNEY: But do you know, that 30 percent
3 markup went to what percent markup? Roughly.

4 MR. NEGRA: I'm not really sure,
5 because there was a price increase from
6 Buffalo Trace as well. So, I want to say that
7 we're somewhere in that 40 to 42 percent, but
8 we're not in the 50s or 60s.

9 MAJORITY CHAIRMAN SENATOR

10 MCILHINNEY: And, remember, we're on TV here,
11 so I want the folks to know. So, when we do
12 make that increase, it went from 30 percent to
13 42 percent, but compared to the 2000 percent
14 markup in New York state, we're still making a
15 good deal on it?

16 MR. NEGRA: Exactly.

17 MAJORITY CHAIRMAN SENATOR

18 MCILHINNEY: Thank you.

19 MR. NEGRA: Thank you.

20 MAJORITY CHAIRMAN SENATOR

21 MCILHINNEY: Senator Williams.

22 SENATOR WILLIAMS: Thank you,
23 Mr. Chairman.

24 While I appreciate the anecdotal
25 commentary, I'm confused I think, as many

1 consumers are.

2 Page four, I'm not sure whether
3 we're talking about making more money for the
4 commonwealth, whether we're protecting the
5 distributors, or whether we are, in fact,
6 reducing shelf pricing. With all due respect,
7 this doesn't answer that.

8 Businesses and folks in government
9 should operate off of a study and a report.
10 Do you have any such documentation which
11 individual items of where they were before and
12 where they are now and what the profit margin
13 is? I think that's the basis of what we
14 should be talking about and what
15 Pennsylvanians want to know about.

16 So, absent that, I don't really
17 want to ask you on, you know, rose or -- and
18 you turn around and the guy may or may not
19 know. We deserve to have -- not we here, but
20 the public deserves to have an understanding
21 of the impact of what this meant in a studied
22 and thorough and detailed analysis. Do you
23 all have one?

24 MR. MOONEY: Absolutely. We
25 are -- we are looking at each skew on an

1 individual basis with each supplier within
2 their portfolio. They bring their portfolio
3 in -- we're talking -- we won't talk about
4 individual skews, we can't in the time lines.
5 But every skew is analyzed, and we do have a
6 profit margin goal. We have a margin goal for
7 each product.

8 SENATOR WILLIAMS: And so, do you
9 have that in document form?

10 MR. MOONEY: We do.

11 MR. NEWSOME: I'd like to answer
12 that one.

13 One of the first things we had to
14 deal with when we started, when we were
15 afforded flexible pricing, was the fact that
16 everything suddenly became very delicate. The
17 negotiations were delicate. Our -- the
18 relationship among suppliers became pretty
19 delicate. And we were concerned about private
20 information from suppliers getting out to
21 their competition.

22 So, we're a little sensitive to
23 that, providing that type of information in a
24 public-type forum. We changed our board
25 meeting minutes, for example, to remove

1 pricing strategies that we were involved in.
2 And the reason for that, again, was to give us
3 maximum flexibility and making the negotiation
4 decision that we needed to make.

5 So, yes, I am sensitive to what
6 you're saying, and we're certainly respectful
7 of that, but that's proprietary information
8 that we like not to have suppliers share with
9 each other.

10 SENATOR WILLIAMS: So, I would
11 suggest, while I respect what you're saying,
12 it's not personal to me. It's not about
13 what --

14 MR. NEWSOME: I understand.

15 SENATOR WILLIAMS: The public. We
16 made a legislative change for a reason. And
17 it's supposed to help the consumer in
18 Pennsylvania.

19 We literally just passed a bill
20 in -- in the Senate that would say that
21 negotiating contracts with unions should be
22 more transparent and public. And everyone
23 said the same -- almost literally what you
24 just said. Negotiations are sensitive. We
25 get past that.

1 If we're going to have that bar
2 established as a commonwealth, it should be in
3 all places that the public are involved, and
4 then we, as agencies or those who represent
5 them, understand the limitations on what we
6 could do in private.

7 Now, I'm not suggesting that, nor
8 did the bill that we did this with the unions,
9 suggest that there are not times when we are
10 talking in matters and in places that are not
11 totally open. I understand that. I worked
12 for a large corporation myself. I do
13 understand the dynamics of what you're talking
14 about.

15 But I also understand, when that
16 deal's cut with whoever you cut it with, the
17 public should know what the profit margin is
18 from the commonwealth. That's what we said.
19 That's a minimum.

20 Two, they should also know
21 whether there's a better bargain that we're
22 getting as a result of this new structure we
23 put in place. We don't have that.

24 Those two things we can actually
25 bring to the public. That should be

1 documented in some format.

2 So, when the chairman asked the
3 general question about this product versus
4 that product, we should be able to say that to
5 not just us but to the general public.
6 Otherwise, we are doing activities in earnest
7 that we think are positive but we don't have
8 any documented way to suggest to me or to Joe
9 John in my district that this is -- this is,
10 in fact, true.

11 So, I'm not suggesting that we
12 take away all the ability to talk privately to
13 distributors or whoever supplies the product,
14 but what I am suggesting to you is that we've
15 made these changes and they are significant,
16 and I am respectful of the fact that we did it
17 without a lot of time sensitivity or
18 interaction. Trust me, I'm very sensitive to
19 that.

20 But now that we're here in this
21 new world, you can't just exist and then we
22 think that the public has to eat what we give
23 them. They have a right to know whether this
24 is working or not working in their best
25 interest as a consumer. So, that's all I'm

1 suggesting.

2 MR. NEWSOME: Just one final point
3 then, and I -- again, I respect all of that.

4 I would suggest two ways that we
5 convince hopefully you and the committee and
6 the general public that things are working
7 pretty well. Number one, overall margins,
8 without getting into specific product
9 negotiations, we can prove that our overall
10 margins are increasing. That's number one.

11 Number two is the bottom line
12 profit that's being produced by the liquor
13 control board. I would think that if -- we
14 should be held to a standard that forces us to
15 increase our bottom line profit. But there
16 are so many other factors involved.

17 Essentially -- especially the
18 first year, when we have one-time costs
19 associated with these changes we're making.
20 Our profit is being affected by that in the
21 first year.

22 And as the chairman mentioned,
23 these are ongoing negotiations that are going
24 to take place over time, over a few years.
25 And these costs that we're putting -- upfront

1 costs will be amortized over a few years as
2 well. So, we would hope that the bottom line
3 that we're producing would answer that
4 question for you.

5 SENATOR WILLIAMS: Well, actually,
6 it still confuses me. The consumer wants to
7 know are they paying more on average for their
8 product. So, the fact that, as you described
9 it -- which I'm not sure we should be getting
10 a profit at the commonwealth -- but a revenue
11 that drives back to consumers, I think that
12 that's what they're concerned about. But
13 who's paying for it?

14 So, I represent a district, and I
15 have working class folks. And the question
16 they want to know, are they now paying more or
17 are they paying less for the same product? I
18 don't know. I can't tell you. And so, I get
19 mixed reactions to what we've done. And I
20 don't have a way to tell them, here's a
21 document that shows you you're paying less,
22 you're paying the same, you're getting more
23 for your -- I don't have any way to do that.

24 And we're not doing that today.
25 We're just sort of talking around it, and

1 we're putting dressing on it to say, Yeah,
2 this is great and -- those items, but that
3 doesn't give a detailed analysis of what I'm
4 asking for.

5 And, frankly, I want to end on
6 this, we are either going to get a report or
7 we're not, but I do -- and I'm -- for the
8 record, we should have a report. And it
9 should be -- it should be a detailed study
10 analysis of product -- either product line,
11 maybe not by -- by item but product line,
12 margins, and then revenue returns. That's a
13 basic thing that I think consumers should want
14 to be able to do and trust, because maybe it
15 will turn out that we reduced prices overall
16 and we're still making more money. That's
17 great.

18 I don't have a dog in the fight
19 one way or the other. I just want to know --
20 get the facts.

21 MR. MOONEY: Senator, we -- I am
22 confident, without all the data in front of
23 me, that, overall, consumer prices have
24 decreased. And I'd also add that we update
25 our website every single day with every retail

1 price that we carry. All the prices are on
2 the website for anyone in the commonwealth to
3 go in and look at on our website. And as I
4 said, we update it daily, after these delicate
5 negotiations continue.

6 So, we are being -- we're trying
7 to be as transparent as we can, protecting the
8 delicate negotiations that member Newsome
9 talked about.

10 SENATOR WILLIAMS: I'm going to --
11 I would appreciate before and after analysis.
12 So -- I mean, I understand you said it's on
13 the website and you're confident. And I don't
14 have the staff to go through every item to
15 show the difference. I would appreciate if
16 you could give me a reference point, and give
17 me, at least what's on the website, the
18 difference, and then we can go from there. If
19 that's not too much to ask. Is that all
20 right?

21 MAJORITY CHAIRMAN SENATOR
22 MCILHINNEY: If I could, I think there is --
23 Senator, I think there is an annual report
24 that's still due. They put it by category, as
25 opposed to specific products.

1 But as far as the transparency,
2 I'd like to say, we addressed that in Act 39.
3 This very hearing right now that they have to
4 come back to every year to report to us, when
5 you hear from your constituents, is the
6 opportunity to kind of take them to task over
7 this.

8 Now, they've only had this for
9 nine months. So, we don't have a full year of
10 data yet. But I would expect that, as we go
11 forward -- this is an annual event that they
12 need to report back to us on how this is
13 going. And it was put in there just because
14 of that fear that we needed to have some sort
15 of accountability and openness.

16 And I appreciate your support for
17 voting for that bill, too.

18 Thank you.

19 Are there -- do we have any other
20 questions or -- Senator Brewster, to say a few
21 words?

22 MINORITY CHAIRMAN SENATOR

23 BREWSTER: Yes. Sorry I was late.

24 But let me -- we've heard some
25 detail, and I'd rather just focus on the macro

1 level concept here. The public's watching
2 what we've done. There's been significant
3 changes to the liquor laws, thanks to
4 leadership of Senator McIlhinney and our
5 friends in the House.

6 I, for one, haven't had one
7 complaint. I think people are excited about
8 what's in Act 39. They don't know what you're
9 negotiating. Maybe Senator Williams was
10 hitting on that point. But I think we don't
11 want to miss the idea that we still have a
12 network of folks out there that are working
13 for you, that are doing a great job.

14 I was one of the ones that was
15 concerned about minor's access to alcohol.
16 Our beer distributors appear to be happy.
17 Everybody wants to fine-tune this a little
18 bit.

19 But, you know, as I heard the
20 testimony, I thought back to the -- you may be
21 calling it the infamous drink tax in Allegheny
22 County. It was a big deal. And there was
23 this fear that all of our drinkers in
24 Allegheny County were going to flock to
25 another county. They didn't, even when they

1 were across the street from the other county.
2 So, we have to get past the myth that we are
3 going to be somehow disadvantaged by these
4 changes.

5 I didn't support all of them, but
6 it's law now. And you're expected to guide
7 the ship. You're expected to be competitive,
8 know what's going on in other states. You're
9 doing that. Negotiate with your vendors,
10 you're doing that.

11 I personally am not concerned
12 about the negotiation. I'm concerned about
13 the public feedback. And I think people are
14 happy about Sunday sales and all the other
15 elements in Act 39.

16 We're comfortable that we didn't
17 lose four or five thousand jobs. That was
18 important to me. We talk about creating jobs
19 in this building, and I don't think we should
20 be in the business of losing jobs. So, we've
21 done that. Your employees have to be excited
22 by the fact that they're still here. I think
23 they're working hard. Zero complaints.

24 And I'm sure you're checking the
25 profitability of those stores, you know, as

1 often as you can through the administration.
2 That's important to you. I'm sure they are
3 excited about new products and new pricing.
4 They take pride in their work.

5 I don't think we should lose track
6 of these things, because there is other
7 legislation that's pending, and my -- my
8 feeling about this whole thing is, let's let
9 the process work. Let's give you time to do
10 what the act is intended to have happen and
11 generate more revenue for the general fund and
12 all the other resources that benefit from what
13 you do.

14 So, my question is -- and this is
15 a simple question -- are you comfortable that
16 you're going down that path and that you have
17 the vision that that's in the law now? Do you
18 feel good -- do you have the assets available
19 to you and the resources available to you to
20 get done what the law wants you to do?

21 MR. HOLDEN: Yes, Senator. I
22 think we are comfortable. I think, as
23 mentioned by my colleagues here, we -- you
24 know, we misjudged a few instances with the
25 industry, but we think we're progressing and

1 we're making progress and we're going to
2 continue to make progress.

3 And we're also, when you're
4 talking about our employees and our stores and
5 our customers' satisfaction, we're going to
6 continue to rebrand stores and upgrade stores.
7 And every time we do that, we see a
8 significant increase in volume.

9 So, we're staying focused on the
10 big picture as well.

11 MINORITY CHAIRMAN SENATOR

12 BREWSTER: Well, it's important. Because, to
13 me, you're almost like in a business. The
14 rules have changed for you. You're able to do
15 thing you couldn't do before. And we always
16 want to be competitive. I think we have to
17 get past this statement that we have some sort
18 of monopoly here, and because it's a monopoly,
19 we can't -- it won't work. Okay.

20 We've kind of changed that a
21 little bit for us. And I think that -- and
22 Senator Williams, Senator McIlhinney and
23 others have mentioned -- that the public wants
24 to see the results. I haven't had one person
25 complain about the prices of anything. I've

1 had folks stop me and say, Listen, we're happy
2 we can get wine this way. We can get -- we
3 have package reform. We can go in on Sundays.

4 All these things are important to
5 them. Okay. Me, personally, I couldn't tell
6 you the price between one item and another.
7 Okay.

8 And so, I just wanted to make
9 that, because there are folks that are -- as
10 Senator McIlhinney mentioned, this is part of
11 the process, that you come in here every year
12 and explain the progress. We don't want to
13 hear bad news. Bad news will generate more
14 legislation, which is worse news. I mean,
15 that is -- I mean, that's the way I look at
16 it.

17 So, I have a lot of confidence in
18 what you're doing. I'll leave the details to
19 folks that know more about this than I do.
20 But I am excited about where you're at. And I
21 think maybe nine months is a little early.
22 But we have to give hope and show progress.
23 And I think that's what you're doing today.

24 So, I thank you for your work.
25 And I thank the folks out there in the pits

1 doing the work. And get ready to negotiate the
2 best you can.

3 Thank you.

4 Thank you, Mr. Chairman.

5 MAJORITY CHAIRMAN SENATOR MCILHINNEY:
6 Do I see any other questions or comments?

7 Well, gentlemen, I want to thank you
8 for coming in for this report. Next year's will
9 probably be a little longer and a lot more in
10 depth, but, you know, get that one year under your
11 belts and we're looking forward to having this
12 meeting next year.

13 And I want to thank the House and the
14 chairmen of the House committee as well for working
15 with us to get this done today.

16 The hearing is adjourned.

17 (Whereupon, the hearing concluded at
18 10:11 a.m.)

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REPORTER'S CERTIFICATE

I HEREBY CERTIFY that the foregoing is
a true and accurate transcript, to the best of my
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BRENDA J. PARDUN, RPR
Court Reporter
Notary Public