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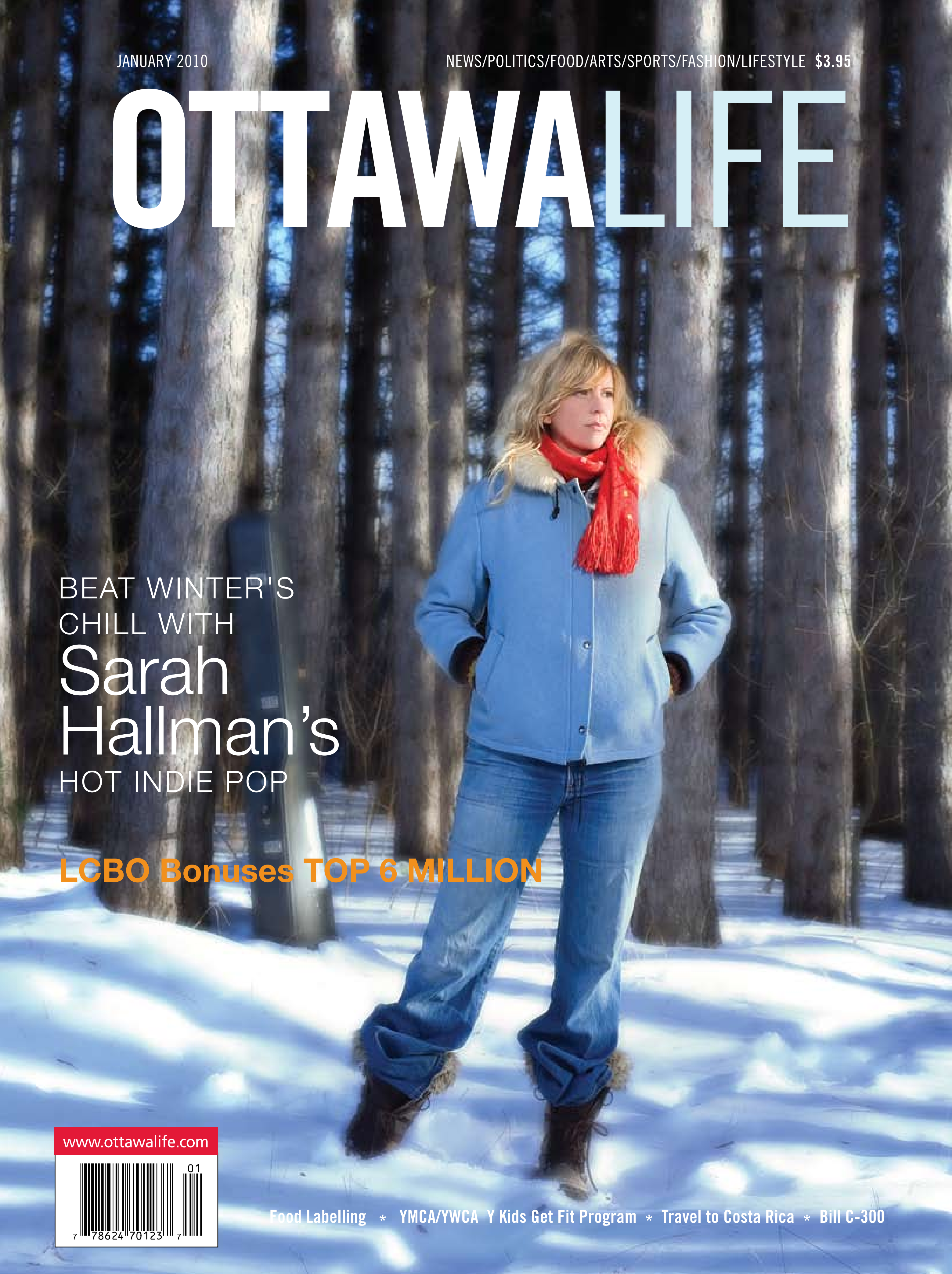

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LCBO MONOPOLY

During a global recession, which has seen 234,000 Ontarians laid off or lose their jobs and the province incur a 30 BILLION dollar debt, the Liquor Control Board of Ontario management team pays itself over 6 million in bonuses…

A while back, my brother and I were talking and the topic of the LCBO came up. "How exactly does it work?" he wondered. I gave him my layman's knowledge. Imagine, if you will, that for every camera that comes into Ontario (he happens to work for a camera retailer so it seemed an appropriate analogy), whether you had anything to do with it or not — sourcing it, selling it, whatever — you made a dollar. (The LCBO makes much more than a dollar per bottle, but you get the picture.)

"Nice racket," my brother said. "You don't know the half of it," I responded. As it turned out, neither did I.

Now, I'm not an activist, nor am I a crusader, but I was interested, as you might be, on the inner workings of that great provincial monopoly, the LCBO. Much in the same vein as eHealth and the OLG were working at arms' length from the government, so too is the LCBO. (And we all know how eHealth and OLG turned out.) So, off I went to investigate. I interviewed agents, winery owners, and other people around the industry to find out how the LCBO is perceived and what exactly it does, besides putting \$1.4 billion into the provincial coffers.

Before I reveal the secrets and scandals, first let me tell you a couple of stories I recently heard.

Friend A, we'll call him Fred, found himself in New Zealand about a year back with his wife. They were touring around and tasting wines. They walked into one tasting room that was packed with people sipping fine Kiwi vintages. Many of them, while enjoying the wine, wanted to know if they could purchase it and have it shipped to their home.

"Where are you from?" the owner asked. Some were from the U.S., others Australia, Mexico and parts of Europe. The answer to each patron was yes. Yes, until Fred piped up.

"Ontario, Canada."

To hear Fred tell it, you could have heard a pin drop.

"No, I'm sorry, that is the only place in the world we can't ship to. It's a logistical nightmare and not worth the hassle and red tape."

Friend B, we'll call him Dave, found himself with his wife in Portugal this past summer. Quite by chance they found themselves at the door of a little winery and decided to check it out. The place was quiet with a gentleman standing behind the counter wiping down the tasting bar. He greeted them with a smile, invited them to sit down and poured them a taste. As is always the case in a foreign winemaking country, the folks behind the bar want to know where you are from. Dave replied.

"Ontario, Canada."

This time there was no silence and for about 15 minutes the man behind the bar gave him an earful of what he thought about the LCBO. Dave said that none of it was good and the language was not all that clean either. When they left, the air was blue. (For those who are interested, Dave says the wines were very good.)

So, why do people get so riled up about the LCBO from countries as far away as New Zealand and Portugal? They are little mom and pop wineries that you would not expect to know much about Canada, let alone one of her provinces. The LCBO seems to have put us on the map in winemakers' minds and not in a good way. These feelings exist not only in Portugal and New Zealand. They are worldwide.

Sitting down with producers, winemakers and owners from around the world was not possible, so I decided to look into the state of affairs a little closer to home. What do industry insiders in Ontario think about the LCBO?

The first thing you have to know about the LCBO is that it has a history of questionable practices (to say the least), uncovered by reporters David Menzies and Kevin Donovan. Their stories were published in such reputable publications as the *Toronto Star* and the *Toronto Sun*, but it is stuff worthy of the *National Enquirer*, except the stories were all proven to be true. In December of 1999, for example, Donovan uncovered that then LCBO Chair Andy Brandt had taken trips to the Caribbean courtesy of Bacardi, the LCBO's largest rum supplier. In fact, Brandt went to a lot of places courtesy of Bacardi (Bahamas, Paradise Island, Puerto Rico) and also ate a lot of lunches and dinners thanks to the spirit maker. At the time, Bacardi held 60 percent of the Ontario rum market and yet had only 49 percent of the world market. Donovan also discovered that Brandt was traveling to southern Italy (Sicily, both in 1996 and 1997) on what seemed to be the dime of a "counsellor" for the Italian wine industry named Fuda. Brandt accepted stock options and directorships in three Fuda-related companies. In this time period, the LCBO purchased six new southern Italian wines in 1997 and seven in 1998. Much more ink was spilled by Kevin Donovan about other irregularities at the liquor monopoly and yet Mr. Brandt stayed on as Chair of the LCBO for another 6 years.

In 2004, it was learned that Brandt was living in a $2,100 a month Toronto condominium paid for by the LCBO. This same kind of transgression that year got a gentleman by the name of Glen Wright in trouble. He resigned abruptly as Chair of the Workplace Safety and Insurance Board. (He had a $2,800 a month apartment in Toronto covered by the Board). And yet, despite even this, Brandt remained on for another 2 years as LCBO Chair. Here is another little gem. Mr. Brandt was getting rare wines for buddies and cronies, using his connections at the LCBO. Nothing was ever done about any of these proven misdeeds.

All this was happening at the top, so you can be sure it was happening all the way down the food chain. In fact, it wasn't until the summer of 2008 when the cork was finally put in the bottle of LCBO freebies by now President and CEO Bob Peter. Even that seems a little ironic, considering his own daughter benefited from a scholarship handed out by Spirits Canada. (She now works for Molson.)

What is past is prologue and what we the public are most interested in is the here and now. We want to know if the LCBO has really changed. Are we seeing a new LCBO? To listen to some of the agents I spoke with, you would believe that the bad old days are well behind us.

"The only corruption could be where contracts are awarded," one agent said to me. "As for listings there haven't been any of that [wrong doing, people on the take] for years, due to the gift rules brought down by the organization a year ago. We certainly push any levers available to us to get a listing, but there aren't too many levers available."

"Personally, I'm very happy with the system," said another. "Privately-owned stores can't afford the inventory that the LCBO has and the LCBO is one-stop shopping no matter where you are. Besides, I don't think the consumer would like privatization if they've seen what I've seen." When asked about the gift giving and potential for corrupt behaviour he added, "those things don't happen anymore because of the conflict of interest."

When told about these comments, freelance journalist and LCBO watchdog David Menzies doesn't mince any words. "These guys lack the testicular fortitude to say anything, they complain in private but don't want to go on the record."

Lawyer Arnold Schwisberg is someone whom David considers "the LCBO's worst nightmare because he knows more about the Liquor Licence Act and the LCBO's soft underbelly than anybody else."

Schwisberg explains that "any of those who deal with the LCBO are fearful of reprisals, and reprisals can be very subtle and hard to prove — not ordering as much next year, subjective conclusion about the quality of your wine, stuff like that." He adds, "many amongst the regulated parties, such as the wineries, agents and distributors, have some legitimate issue but are afraid to proceed."

His implication here is, of course, do you really want to piss off the 'make it or break it' organization that runs your profession? After all, where else can you sell booze in Ontario?

Agent 3, is a little more critical but seems to understand his role in the process. "Agents are not importers, the LCBO is the importer, agents buy nothing. The LCBO pays suppliers, they distribute, and they're the retailer. I'm the sales agent. Basically, I'm part of the marketing department of the LCBO."

According to Agent 3, here is how the process works.

"The LCBO cuts the purchase order, arranges freight, receives the product, stocks and warehouses it, pulls it and delivers it to its stores. It's then shelved and sold to the public. Only when the LCBO sells it does it see any return on investment."

In the case of a consignment agent, the product remains stored at the LCBO warehouse until the agent sells it and picks it up for immediate delivery to the customer, though storage is not indefinite.

In private systems such as Alberta and to some extent British Columbia, the onus is on the supplier and importer to get the product to the province. Once it is there, the government starts taking its cut of taxes and fees, needing to recoup nothing. "The LCBO is great for protecting agents. It is a good security system because LCBO cheques don't bounce. It's like a government subsidized agent support system."

The problem, according to Agent 3, is not the LCBO, it's the "antiquated liquor laws that govern this province. They prohibit the modernization of the system." He freely admits that "the Ontario government should not be in retailing, it should be in charge of police, firemen, social services, health care and such. It doesn't sell pharmaceuticals so why should it be selling alcohol? I could have a whole warehouse full of pharmaceuticals and there would be little to no government intervention, but if I have one bottle [over my limit in my possession] of alcohol I could be arrested."

This sentiment is shared by David Menzies who wrote, in his article of February 6, 2006, with tongue planted firmly in cheek: "Alcohol is a potentially addictive and even dangerous substance; therefore, the province can't possibly entrust the sale of booze to private-sector entrepreneurs (we'll overlook the fact that an even more potentially addictive and dangerous substance, tobacco, can be obtained at the local variety store.)" And yet, the LCBO preaches its mantra to all who'll listen, and we all do, about being the bastion of social responsibility and our last line of defence between sobriety and chaos in the streets. However, it finds itself in a "catch-22 of its own making," says David Menzies. "Social responsibility boils down to preaching moderation via the occasional 'don't drink and drive' TV or billboard advertisement. Yet, the lion's share of the Board's marketing budget goes toward promoting consumption."

Menzies, Schwisberg, agents, winery and many other critics of the LCBO point to a variety of entitlement factors, which the LCBO holds so dear. "The Liquor Licence Act," says Schwisberg, "is a very short piece of legislation, it hasn't been changed in … actually, it has never been changed. It gives the LCBO very, very, broad, sweeping, loosely-defined powers, which have never been challenged in court. Unlike the OSC (Ontario Securities Commission), which is very, very detailed, with a huge statute setting out its powers … the Liquor Licence Act is very, very general. This gives a lot of room for the regulator to operate and, at the end of the day, be fairly confident the courts are gonna back it up. For example, it says in the Act that the LCBO has the power to price fix, meaning the LCBO feels it can override the federal Competition Act." (FYI: In early 2006, 2 V.P.s of the SAQ (the liquor board of Quebec) were fired for doing just that.)

"Agents have little to complain about when compared to the domestic industry's treatment by the LCBO," said one agent. And it's true. Many of the wineries in Ontario are limited by so many of the LCBO's policies that they consider shutting their doors if they didn't love what they do so much. "I love this industry. If I won a million dollars in the lottery tomorrow, I would pay off my debts and continue on, but the policies continue to keep me down," said one winery owner. "Without a doubt, my major competition is the LCBO," says another. "The government pushes VQA through the LCBO, not the wineries' cellar doors. Three years ago, they did a promotion to push sales to the wineries and my sales took off. When they stopped the campaign my sales leveled off. This *Go Local* campaign has been a failure for direct winery sales because the urbanites feel that all they have to do is go to the LCBO to pick up an Ontario wine, which is true, but what about the 50+ wineries that don't retail through the LCBO? And of course, the mark-up stays with the LCBO and doesn't filter down to the wineries."

When asked if it's just about getting a listing, my cynical, cash strapped, small winery owner shows off not only his biting wit but his clear memory of LCBO past transgressions. "They ask you to buy shelf space, buy air miles, defer payment past 90 days, the list goes on and on … the only question they don't ask is, will you take Andy Brandt down to the Bahamas for a week." He concludes on a serious note. "There are rules and there's the game, and everybody bends the rules, which is part of the game. The more you give away the more they'll sell your product."

There is no doubt that most Ontario wineries see the LCBO in a negative light and as the major stumbling block to their success in this industry in Ontario. Here are some other opinions.

> "I no longer differentiate the government from the LCBO, they're one and the same."

> "The LCBO is a government cash cow and patronage house, it's where they send retired politicians and those they owe favours to."

> "Aside from the political issues, there is the fact that here we are, supposedly in a free market enterprise system, and yet we have this dinosaur of a government agency squatting on everybody's chest, preventing any sort of growth."

There are also comparisons made to their brethren across the country in B.C.

"British Columbia vineyards cost twice as much per acre and their wineries are worth twice as much, not because they make better wine but because they have access to the market."

Then there's the manner in which the LCBO treats its competition, the wineries of Ontario. "They go out of their way to bring inexpensive wines into my market, foreign wines that are highly subsidized. Now, if you're an LCBO product consultant and you had a choice to go on a buying trip to Burgundy or Bordeaux to be wined and dined or head down to [Niagara] to sit at someone's kitchen table and be fed a cracker while you tasted the wines, what would you do? There's a prestige to the department you're in and Ontario is the bottom rung, they switch people in and out so quickly it is kinda like the LCBO's penalty box."

The lack of access to market is a bone of contention. "Where else can you go as a small winery with 2-3 thousand cases of single vintage wine, that's hard to push through your own little, out of the way store? I'd much prefer to take my wine to Toronto than try to drag customers down to Niagara one by one."

But what really toasts the barrels of the winery owners continues to be their lack of access especially at shows like the *Wine and Cheese*, *Food and Wine* and others held in places like London, Ottawa and Toronto. "Nothing infuriates me more than going to a show in London, Ottawa or Toronto. I've rented a booth, I'm pouring my wine and patrons will ask me if they can buy a bottle of this to take home, but I can't, it's against LCBO regulations. But if Vintages/LCBO is there, I see people walking out with Yellow Tail tucked under their arm. The LCBO can sell Australian wine at a show in Ontario but I can't sell Ontario wine in my own province. Where's the fairness and the logic in that?"

Speaking of things that aren't fair and logical, Menzies, agents and others want to know why the LCBO is putting up these gigantic Taj-Mahal-like stores?

"Every LCBO store going up is like a big box store," says Menzies. "They're beautiful with towers, demo kitchens and other incredible frills. Truth is, you could make these stores look like nuclear fallout shelters and you'd still be ringing up sales at a record pace because consumers have no other option of where to shop. So why spend like drunken sailors on these stores? [No other retailer's] cost per square foot is higher than the LCBO's, and yet they have no competition, why is that?" Menzies answers his own question. "It's to ward off privatization. Privatizing the LCBO was the third pillar in Mike Harris' *Common Sense Revolution* in 1995, and the only promise he didn't keep. Because they own so many properties and so many leases, if you were to privatize, you'd be left with a whole lot of orphaned assets. The LCBO is also the last remaining government graveyard for political hacks to get jobs, where officials go to live out their years in the public sector. So really, there is no political will to dismantle it."

The next time you walk into a big beautiful 6-million dollar LCBO store, remember it was paid for with your tax dollars, money that could be better spent building hospitals, upgrading health care or improving social programs. Menzies wonders aloud if Ontarians' priorities are really that skewed. "We are spending money on making the most beautiful liquor stores in the world in a monopoly system. Does that make sense to you?"

The issue is not just with the size and money spent on those stores but also their geographical location. Where is the marketing data coming in terms of where to build or house them? The answer to that lies with the competition. Off-site stores, mainly run by Peller and Vincor (Jackson Triggs, Inniskillin), are governed by a letter of authorization issued by the LCBO. Each is required to submit any relocation information and all sales data. Amongst other things, regulations state that they can't be close to an LCBO store. (Of course, this is not a reciprocal agreement.) What happens to those sales numbers that each store must submit? "It is my opinion," says Arnold Schwisberg, "they use this data to locate their new stores in advantaged locales."

So, the LCBO puts its store next to the wineries' best performing off-site stores, thus forcing them to relocate again. Talk about insider information. With one hand the LCBO learns from the competition and with the other it eliminates it.

Then there's the bee in the bonnet of Ontario's publishing industry: *Food & Drink* magazine. Everybody I spoke with agrees that it is truly a beautiful magazine (the layout, the articles, the recipes). That may be the case, but since when is it acceptable for a government agency to compete with its own people? The LCBO is out there fighting for precious advertising dollars at a time when the publishing industry is struggling.

Agent 2 told me early on in my interview process, "I don't think they are taking advertising dollars away from other magazines, and besides, they are doing a better job of advertising to the consumer." The data does not support that analysis. A 2005 submission to the Ontario Beverage Alcohol System Review Panel by the Canadian Magazine Publishers Association (CMPA), cited many reasons and competitive advantages the LCBO has over its privately-owned competition.

1. "There is a belief among alcohol beverage manufacturers that the decision to purchase advertising space in *Food & Drink* magazine is directly tied to the level of support LCBO provides to the sales of their product."

2. "LCBO incurs none of the normal costs of building and maintaining a subscription base and none of the expensive promotional costs associated with newsstand sales."

3. "A further advantage is fueled by an editorial budget … tied directly to it subsidization from Ontario liquor sales."

4. "*Food & Drink* is based on an economic model made possible only by the advantages of government ownership and alcohol sales. It is a business model that cannot be replicated …"

The CMPA also noted the ad revenue in *Food & Drink* is not based solely on businesses in the beverage alcohol industry. "Slightly less that 46 percent of *Food & Drink* advertising space was sold to the beverage alcohol system." That means that 54 percent is non-booze related. The CMPA also said that, "these products have nothing whatsoever to do with the LCBO's raison d'être: the promotion and sale of beverage alcohol." These arguments fell on deaf ears and *Food & Drink* continues to be published.

Menzies is not surprised. "*Food & Drink* is a horrendous conflict of interest. The publishing industry should hire a lawyer like Arnold Schwisberg and launch a multi-million dollar lawsuit. The LCBO has absolutely no mandate for this magazine and to be competing in the private sector." And when it comes to the question of being forced to buy ad space in the magazine, Menzies explains, "it's not as blatant as 'buy space or lose your listing', it's a more subtle kinda thing, like when the mob approaches you and says, 'let's go for a ride'. If you want to remain in the good books of the LCBO you know which way the land lies." Schwisberg echoes Menzies' opinion. "The bottom line is that many advertisers and agencies complain that the rate card is so high it draws ad budgets away from other media, but they feel compelled to make the buy regardless (*F&D*'s rate card is equivalent to a national media buy in top ranked magazines like *Macleans* or *Time*)." We'd better like *Food & Drink* magazine because we pay for it through our hard-earned tax dollars.

In mid-December 2009, some interesting information came to light from ex-LCBO employee and watchdog Larry Patterson. Now, some people consider Larry to be one of the LCBO's strongest and harshest critics, while others consider him to be a bit of a one note song when it comes to the LCBO, a fellow with an axe to grind. Regardless, you can't discount his recent findings, obtained through Freedom of Information requests. (They are posted on his website, www.littlefatwino.com). This one is a doozy. Larry wanted to know how much the LCBO has paid out in bonuses to management from 1997 to 2008. He discovered that bonuses in 1997 were $416,908. In 2008, they had climbed to $6,084,011 … that's over 6 million dollars in bonuses to the liquor monopoly hierarchy, a job that could be performed, some critics say, "by a hamster in a cage". In a monopoly, how could you not succeed, especially when you're selling something as popular as booze? Furthermore, the bonuses paid far exceeded the percentage increase of the dividend the LCBO pays to the province. Larry Patterson elaborates. "In 2001 the dividend was $850 million, which by 2008 had increased to $1.345 billion, an increase of 1.58 times. The rate of increase for bonuses is more than three and a half times the rate of the increase of the dividend." Try as you might to discount these numbers, you can't ignore the gross number of 6 million dollars in bonuses (2008) during a recession year. People were losing their jobs and the LCBO was passing out your money to its executives for a job well done.

Is there a better way than the wasteful bureaucracy we call the LCBO? In July 2005, the Beverage Alcohol System Review Panel, chaired by John Lacey, submitted its report to the Minister of Finance (at the time, Greg Sorbara). In his letter to the minister, Lacey wrote, "the challenge you put to us was to determine if the beverage alcohol system is delivering the maximum benefits to the people of Ontario. It is not."

The Panel's conclusions were very clear and straightforward:

"Our conclusion: in order to ensure the socially responsible sale and use of beverage alcohol, it is not necessary for government to own and operate retail and wholesale facilities. In the 21st century, government can protect the public interest just as well, as if not better, through modern regulatory tools such as pricing policies and active enforcement."

"[We call] on the government to focus on its regulatory role and leave wholesale and retail operations to the private sector. We unanimously recommend that the government create a regulated, competitive market that would expand opportunities for producers, improve convenience and selection for consumers, extract the government from commercial risks and increase revenues for the public purse."

"We have found that the current system falls considerably short of generating the maximum return for taxpayers. We conservatively estimate that, following a transition period, this plan would produce at least $200 million more government revenue than the government currently receives from the beverage alcohol system."

In his letter, Lacey concluded that "some may prefer to keep the system as it is and muddle through. This, however, would solidify the existing vested interests and make it much harder to effect change in the future. After 78 years, action is long overdue. It is time to transform Ontario's beverage alcohol system."

This government-requested and sanctioned report that was 6 months in the making and cost $600,000 was shelved and never heard from again.

Now, I have to admit, when I was handed this assignment, I rubbed my hands together with glee thinking, 'I'm going to be the one to find the scandal that'll bring down the LCBO. But the more you research, interview and learn, the more you discover the LCBO is loaded with skeletons both past and present. The LCBO is like an onion, the more layers you peel the more it stinks. Scandal after scandal has past over this monopoly and each has been treated like water off a duck's back.

The LCBO can't leap buildings — but it sure does build some pretty ones to sell booze, a product we'd buy anyway from a dingy, troll-run store, if that was our option. But this monopoly seems to be so mired with policies and practices that date all the way back to their 1930's beginnings. That, in turn, has given them a sense of always being right and one of absolute entitlement to do whatever it chooses. Why do we even care? The LCBO brings money to the provincial coffers, publishes a fabulous magazine and looks beautiful. Who cares if it spends a little money doing it? Well, to that, I say it's our money the LCBO is using. We, as taxpayers, pay for the glossy, recipe-filled magazine, the multi-million dollar stores and everything else the LCBO sells back to us — all the while making a tidy profit. In the process, it squashes all forms of business standing in its way of achieving that profit, be it a winery or a magazine, which isn't even part of its mandate. Think about it this way: in essence, wineries and magazine publishers pay taxes to put themselves out of business.

I bring up the past LCBO transgressions because those who forget the past are doomed to repeat it. Well, the LCBO has done it time and time again, and yet we, the people, give the organization a pass each and every time. The LCBO is a monopoly system of the past and should seriously be revamped and/or sold off. Premier Dalton McGuinty recently announced that the Ontario government will consider possibly selling crown agencies such as the LCBO to lower the deficit. One can only hope. ■