



**KATHY HOCHUL**  
Governor

**VINCENT G. BRADLEY**  
Chairman

**LILY M. FAN**  
Commissioner

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**DECLARATORY RULING**  
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Garnish LLC

Agenda # 2022-01703

**Introduction**

Garnish is a free mobile application (“App”) that enables users to receive rebates from the purchase of wine and liquor at establishments licensed for on-premises consumption (“Retailer”).

Garnish assists brand owners, producers, suppliers and distributors (“Suppliers”) with developing marketing campaigns to be featured on the App. Garnish provides Suppliers with customizable campaign data. Users that sign up for the Garnish App choose from a selection of brands for rebates. Users provide proof of purchase by uploading to the App the customer receipt issued by the Retailer. Purchases may be made at any Retailer offering the product. Users pay the retailer full price. Rebates are transmitted from Supplier to Garnish. Garnish transfers the rebates to users on a weekly basis. No Retailer advertisements appear on the App. Garnish charges flat fees to the Suppliers for set-up, per marketing campaign, and per transaction.

**Statutes Involved**

Section 101(1)(c) of the Alcoholic Beverage Control Law [ABCL] provides that it shall be unlawful for a manufacturer or wholesaler to make any gift or render any service of any kind whatsoever, directly or indirectly, to any licensee which in the judgment of the Authority may tend to influence such licensee to purchase the product of such manufacturer or wholesaler.

ABCL Section 117-a prohibits a licensee, acting individually or in conjunction with another licensee, from advertising, promoting or charging a price for drinks that in the judgment of the Authority creates an offering of alcoholic beverages, including but not limited to free drinks or drinks priced at such a minor amount that it would constitute an attempt to circumvent the intent and purposes of this section.

**Analysis/Determination**

Suppliers cannot give rebates to Retailers or involve them in consumer rebate programs. Suppliers choose what wines and liquors will receive rebates and the amounts of those rebates, to be featured on Garnish. The Garnish App has no Retailer involvement. Any Supplier can contract with Garnish, and consumers may purchase such products at any Retailer that offers them. There is no violation of ABCL § 101(1)(c).

The SLA has long interpreted ABCL § 117-a to require that no discount exceed 50% off the regular price of the drink. Garnish represents that drink receipts will be reviewed prior to issuance of any rebate, to insure that the rebate does not exceed 50% off the regular price. Garnish further represents that rebates are limited to a maximum of four per user per day. Based upon these conditions, there would not be a violation of ABCL § 117-a.

Based upon and limited by the foregoing facts and representations, the Members declare that the ABC Law does not prohibit Garnish from operating the free mobile App as more particularly set forth above.

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This matter was heard and determined by the Members of the Authority at a Full Board meeting held on November 22, 2022 before Chairman Vincent Bradley, Commissioner Lily Fan and Commissioner Greeley Ford. The above written ruling was approved by Chairman Bradley on behalf of the Members on April 13, 2023.

Dated: 04/13/23

A handwritten signature in black ink, appearing to read "Donald Roper", written in a cursive style.

Donald Roper  
Secretary to the Authority