

2

Beyond Brewing– Business Basics Bulletin



Marketing
Strategies

Page 2

Tasting Room
Architecture

Page 3

Employee
Benefits

Page 5

The B5 Legal
Corner

Page 4



THE TRUE COST OF BEER

By Troy Faris and Brian Carr

You reach out and grab that spotless pint glass, tip it at a 45 degree angle, hold about one inch below the beer tap, and pour a perfect pint of beer for your customer. As you slide the beer across the bar to your customer and he hands you cash in return, you smile knowing that you are now running a profitable brewery with the cash coming in covering the cost of your beer. Or is it? Do you really know how much that pint of beer just cost you?

All too often, breweries and brewpubs use their gross revenues to determine how profitable their business is. But this is not always the most accurate way of measuring your company's profitability. As a brewery owner you need to have an accurate beer costing program to understand your true costs of production and your true profitability. In the industry we call this the Cost of Goods Sold or COGS. Of course, this all sounds good in theory but how do you actually calculate your COGS? Typically, there are four components:

1. Direct Materials – This is the easiest part of the equation to calculate and includes the raw goods you purchase for the production of the beer. But remember, this cost also includes the packaging materials needed for the finished product (keg cost, bottles, labels, cardboard, etc.).
2. Labor Costs - A major cost that may be more difficult to allocate specifically to beer production is your labor costs. In just about every beer establishment, the employees work multiple positions and perform many different tasks. The difficulty arises when you attempt to segregate an employee's duties between beer production packaging, serving, merchandise sales, etc. To obtain an accurate beer cost, you must accurately

Continued on Page 6...



MARKETING STRATEGIES

By Bill Byrne,
Remedy Communications



Marketing Strategies: Take The “ME” Out Of Social Media... And Other Tips To Keep It Social!

Is your social media program really social? Or are you simply using these platforms as a form of ‘free’ advertising that’s nice to have, but doesn’t really do much for your brand?

Social media, by its nature, is meant to be *shared*. Yes, you can be on Facebook, Google+, etc., have a ton of fans and followers, but without two-way interaction (or as my industry likes to call it, ‘engagement’) your social media program may not be doing all that much for your brand.

When it comes to social media, keep the social aspect in mind and leave the ‘me’ out of it. Talk about your brand, but not in the same way you would in your advertising. Social media, done right, should be viewed as a conversation you’re having with your ‘friends’ that have taken an active interest in what you have going on. It should be a two-way street.

Here are some tips to keep in mind as you develop your social media program in order to keep it more social:

Social Media Is Not ‘Free Advertising’ PR (aka getting press coverage on your brand) and social media, often get lumped into the ‘free’ advertising column, but if you’ve been

thinking of them that way, stop. The barriers to entry with PR and social media are much weaker than with a paid ad placement, but when done right, they can be much more effective.

PR and social media perform a service for the audiences being targeted, but that service is NOT simply selling your brand. With organic reach on Facebook quickly going away, it’s more important than ever that your social media efforts be on point because now you’re not just spending time, but also money.

Focus And Set Goals! What are your goals for your social media program? Don’t say “to drive sales” because you’re no more likely able to judge that than you’ll be able to tell if a particular t-shirt design helped bring more people into your tasting room last weekend. Focus on setting goals you can measure and build them into your plan.

Develop A Plan With your goals in front of you, sit down with your team, your consultant, the ‘guru’ you found on LinkedIn, etc., and think it out. Then write it down. Not placing value on your social media plan is a mistake. Build a calendar and a plan that will help you achieve your goals. Don’t just go posting willy-nilly or as things come to mind.

Use The Right Tools The Right Way Your plan should include the different ways you’ll leverage the social media

platforms at your disposal. Understand the nuances of how each one operates and what resonates the best with their users. Do NOT simply stream your Facebook posts to Twitter so that your followers see “I just posted six pictures to...” four times in a row. Irrelevant over sharing is an easy way to get someone to hide your feed, which is actually worse than if they were simply to unlike you.

#WhyDoICare? I won’t tell you what to write, but I will mention that your hashtags should be relevant. The goal of your tags is to make your profile more discoverable and help with promotion.

Make your tags meaningful. Go with popular tags people are already searching for. A snarky one here or there is fine, but realize that a tag that no one else is using probably won’t get you much in terms of traction and too many tags can make it look like you’re trying too hard. Search before you tag and see what’s working. This may seem obvious, but a LOT of breweries are simply forgetting to tag their posts appropriately. True, if I follow you already, I know what you do. But what if I’m searching for new craft breweries in my city? Tag appropriately to attract new followers.

Remember... Take The “Me” Out Of It. You know that friend on Facebook that only talks about how great their life is and doesn’t comment on the

Continued on Page 6...



TASTING ROOMS AND OCCUPANT LOADS A LA THE CALIFORNIA BUSINESS CODE

T. Dustin Hauck, Architect
Hauck Architecture

HAUCK ARCHITECTURE

The design of a brewery and its tasting room can be impacted by two occupant loads. The first, which we will address here, is the Use and Occupancy Classification as defined by the 2013 California Building Code (CBC). The second, which will be addressed in a subsequent article, is the Occupant Load Factor and the Minimum Plumbing Facilities required as defined by the California Plumbing Code.

Breweries are classified with respect to occupancy as a "Factory and Industrial group," also known as Group F-2 which comprises any low-hazard factory industrial building for beverages up to and including 16-percent alcohol content. Group F-2 has its own set of regulations in regards to maximum floor area and the number of stories but for the purpose of this article, we will focus on brewery tasting rooms. Tasting rooms are considered Assembly Group A-2 by the CBC as a portion of a building for the gathering of persons for drink consumption. However, there is an exception that allows these spaces to be classified as Group B (business) occupancy or part of the primary occupancy if the occupant load is less than 50 persons or less than 750 square feet and acts as an accessory to another occupancy. This is important because 1-hour fire separation or fire sprinklers are required between A-2 and F-2 occupancies. If your building does not have fire sprinklers and your tasting room is over 749 square feet, there will have to be 1-hour fire rated wall between the brewery and the tasting room which can interfere with your customers view and experience with the brewery. However, if your building is equipped with fire sprinklers, this separation wall is not required. Also, if your

building is over 7,500 square feet there is another opportunity to reduce the separation requirements. Accessory occupancies, up to 10 percent of the building area, are not required to be separated from the main occupancy.

When it comes to figuring out how many people you are allowed to have in your tasting room, we look at the Maximum Floor Area Allowances per Occupant according to the California Building Code. Tasting rooms are considered Assembly spaces. For tasting rooms with standing room only, the occupant load factor is 1 person per 5 square feet and 1 person per 15 square feet for tables and chairs. For example, a 749 square foot tasting room would have an occupant load of 49.93 with tables and chairs or 149.8 without. There is an allowable increased occupant load to a maximum of 7 square feet per person as long as all other requirements are met. This means that the 1:15 tables and chairs example above could be increased to 1:7 or 107 persons provided an approved exit aisle is provided. Outdoor areas are not included in these calculations as long as the outdoor area has its own path of travel to an exit without travelling through the tasting room.

There are many factors that go into this and other calculations necessary for governmental approvals. Like so many regulations in the craft brewing world, the building code is open to interpretation and may be interpreted differently in different jurisdictions. Consult with your architect to make sure you are getting what you expect from your tasting room and to act on your behalf when interpreting the building code. *

BEYOND A REASONABLE STOUT

The B5 legal corner complete with disclaimer stating you should always consult a legal professional about your personal



Donating to Non-Profits

Candace L. Moon, Esq.

"This beer is amazing! You know, I run this fantastic non-profit that [fill in worthy cause here] and we are hosting a fundraising event in a few weeks. Would your brewery be able to donate a few growlers or a keg by chance?"

If you haven't heard it yet, I assure you it is most certainly coming. Non-profits have discovered the lucrative effect libations have on fundraising and are involving beer more and more everyday. Whether a bottle to be auctioned off to the highest of-legal-drinking-age bidder or a keg to be served at the event itself, non-profits are approaching breweries seemingly daily for donations. Luckily for the non-profits, this is allowed; *but only to a certain extent*. Unfortunately for the breweries, the laws that govern who, what, when, and where can be a bit tricky to navigate. Following is a primer on the basic laws governing brewery donation *in the state of California*. That being said, it is of course, always advisable to consult your attorney with legal questions as violations of these rules can entail steep consequences.

To begin, the WHO. Only a beer *manufacturer* may donate beer. More specifically, Type 01 and Type 23 license holders are allowed to donate, while Type 75 and Type 17 license holders are not. Per the Alcoholic Beverage Control Act, retail licensees are not allowed to donate beer under any circumstances. On the other end of the "who" spectrum, only a non-profit corporation or association exempt from the payment of income taxes under the provisions of the Internal Revenue Code may receive such donations. In other words, only non-profits designated as such *federally* qualify. These organizations are designated as a 501(c). This can get tricky as some states

Continued on Page 7...

Jessica M. Hardacre-Gianas, Esq.

School is wrapping up and the college students are coming home for the summer. Many students will be looking for resume building internships or summer jobs. Maybe you have a friend or family member that is looking to pick up "a little extra cash" and has offered to "volunteer" or "intern" at your brewery for free beer and tips. Maybe you have some odd jobs or summer festivals where an extra pair of hands would be useful. Before you bring an unpaid "intern" or "volunteer" into your brewery, there are a few rules that you must keep in mind.

Let's address the internship first. Should they be paid, and if so, how much? Does college credit suffice? Can an intern "work" for job training where the training itself is the only compensation?

In order for an intern to meet the federal requirements for an unpaid internship, *all* of the following six criteria must be true:

1. The internship, even though it includes actual operation of the facilities of the employer, is **similar to training which would be given in an educational environment**;
2. The internship experience is for the **benefit of the intern**;
3. The intern **does not displace regular employees**, but works under close supervision of existing staff;
4. The employer that provides the training **derives no immediate advantage** from the activities of the intern; and on occasion **its operations may actually be impeded**;

Continued on Page 6...

The Myth of Interns and Volunteers



ATTRACTING & RETAINING EMPLOYEES WITH COMPETITIVE BENEFITS

*Because retaining employees
is easier than terminations,
resignations, and new hires.*

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In a 2011 survey conducted by the Harvard Business Review's Analytic Services, 60% of human resource leaders said an attractive benefits package is "very important" for recruiting and retaining quality employees; only 38 percent said a high base salary is "very important." Given the climate of our current job market, these findings have only proven to be more relevant today.

The Individual Mandate resulting from the Affordable Care Act has required all Americans to be medically insured. Employees seem to be more concerned with the cost of their own insurance as well as that of their dependents, and this creates a unique opportunity for employers as they now have an alternative to monetary reward by placing a higher value on the importance of their staff and their families.

Newly growing companies do not necessarily have to offer employee benefits in the form of employer-sponsored insurance as soon as they open their doors. In fact, most small business employers-both new and

seasoned-know they are not required to offer health insurance to their employees. What they might not know is that if they choose to offer employee benefits, the employer's premium contribution requirement is fairly minimal. As a growing business with time among your most precious of assets, the last thing you need is the brewery down the street attracting your competently trained staff with an enticing benefit package.

A new business owner may be asking themselves "Where do I start?" Well, there are many resources for small business owners such as the National Association of Health Underwriters (NAHU) or the Service Corps of Retired Executives (SCORE), but many employers aren't aware of the ability to partner with an Employee Benefits broker. Partnering with a trustworthy insurance broker will maximize the administrative process of purchasing benefits; a broker will not only help you evaluate various product options, but also assist in implementing those options with accordance to the necessary Federal

and State compliance requirements. Additionally, a broker can be enlisted to advise your employees on options relative to their individual needs the same way a business would partner with a broker to advise on options relative to the company as a whole. While the administrative cost and time it takes to build an employee benefits package may seem overwhelming for business owners, return is realized in the form of employee retention and long-term success.

The benefits of a comprehensive employee benefit package are undeniable: employees feel appreciated, team morale increases, retention of staff becomes more constant, and revenue grows. Moreover, by offering a resource for your employees to go to for their insurance needs, even if you aren't able to initially offer an employer-sponsored plan, you demonstrate to each of your employees that you care about their health, happiness, and financial security. *

Interns Continued...

5. The intern is **not necessarily entitled to a job** at the conclusion of the internship; and
6. The employer and the intern **understand that the intern is not entitled to wages** for the time spent in the internship.

California then goes on to add five *additional* criteria:

7. Any clinical training is **part of an educational curriculum**;
8. The interns **do not receive employee benefits**;
9. **The training is general**, so as to qualify the interns for work in any similar business, rather than designed specifically for a job with the employer offering the program;
10. The **screening process** for the program is not the same as for employment, and does not appear to be for that purpose, but **involves only criteria relevant for admission to an independent educational program**; and,
11. **Advertisements** for the program **are couched clearly in terms of education or training, rather than employment**, although the employer may indicate that qualified graduates will be considered for employment.

So, how do you offer an unpaid internship? Ideally, your brewery will write up a program/course with objectives for the intern "experience". It will detail the skills that will be learned and the benefits that the intern will receive. Keep in mind that unpaid internships are about "giving back" not about getting the menial tasks done at the brewery for free (See Rule #4 above). Also, because you work in the alcohol industry, it is highly

discouraged to consider allowing a minor into your premises, specifically if you have a tasting bar/room at your facility.

When it comes to those friends and family "volunteers," keep in mind there is no such thing as a volunteer in the for-profit commercial world. You can volunteer for a non-profit or civic institution, but unless you are an immediate family member, i.e. a spouse, parent, or child working in the family enterprise, everyone else must be "paid" (whether by wages or educational experience, in the case of internships).

The only situation in which a volunteer should truly arise in the beer world would be someone pulling tap handles at a festival held to benefit a non-profit 501(c), but that person would likely need to be a volunteer for the charity, not your brewery.

Also, don't advertise "free beer" for volunteers, interns, staff, customers, or otherwise. The laws in California substantially limit occasions in which free goods can be given in connection with the sale or distribution of alcohol.

Finally, remember all the various workplace risks that can arise when on-boarding someone. If someone is injured in a car accident while performing a task for the brewery, a claim could be made by the injured party against your company's commercial hired, non-owned auto policy. If someone is injured on the brewery premises, you could have a worker's comp claim on your hands. Over-service of a consumer, due to inadequate training, could trigger liquor liability claims. Not to mention employment practices liability insurance risks that can arise from a brewery employee flirting with the college-aged hunk waiting for a pint. Contact your broker to advise you on whether your current policies would cover claims by interns or volunteers. *

COGS Continued...

allocate labor costs to the production of beer.

3. Taxes – Excise taxes are directly related to the production of beer so it only makes sense that this number is taken into consideration when determining your COGS.
4. Overhead – This is arguably the most difficult portion of your COGS to calculate. Your overhead will include utilities, rent, insurance, etc. Though these costs may not seem directly related to the production of beer, they are very much a necessary business expense when operating a brewery.

There are of course variations, but once you have come up with a methodology to accurately determine your true COGS you can measure your brewery's true profitability. And not only that, but having an accurate COGS can help increase your revenues as it can serve as an effective pricing guide for your brew. The goal is to track your costs on a consistent and constant basis so as to help you make informed decisions and efficiently manage costs. *

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Donations Continued...

designate non-profits as well but, unless they are also federally designated, then they are not eligible to receive such donations. And remember, it is the brewery (not the non-profit) that will get hit with the penalty.

Secondly, the WHEN. Simply being a 501(c) does not mean that the nonprofit may host a socially lubricated event any time it pleases however. Generally speaking, the nonprofit is also responsible for having one of those pesky ABC licenses. Further, the type of license a non-profit is eligible depends on the type of non-profit. The license is requested for a particular day and generally lasts no longer. That license type also determines WHAT can be donated and WHERE the event can be held.

WHAT can be done with the beer is also regulated. While a beer manufacturer is free to either give the beer to non-profits for free or sell it to the non-profit at a discount; only a 501(c)(3) may *auction* beer and only if in possession of the corresponding license. All other licenses provide solely for the *consumption of beer on the premises* where it was sold. Off-

sale, off-premises privileges are specifically unavailable. So it is worthwhile to double check with the non-profit to make sure that when your product is put in their hands it does not find itself in an ABC violation that could be traced back to you.

However, the non-profit is not required to get a license if: (1) no sale is made (including no admission charged for entry to the event) *and* (2) the premises at which the event is hosted are NOT open to the general public while serving alcohol *and* (3) the premises are NOT already licensed through the ABC. This means that the event cannot be at a bar, a restaurant, or your beautiful brewery. Nor can those premises be open to the general public but admission cannot be charged either. All three conditions must be met to waive the license requirement. This is most applicable for events hosted by the non-profit for its own staff at someone's home perhaps or maybe a library or church that has been closed to the general public.

But also important is the WHY. Depending on the type of 501(c), only certain types of events can be

licensed. A 501(c)(6) may only be licensed for meetings and conventions. A 501(c) is eligible for public services or fundraising. As mentioned earlier, only a 501(c)(3) may host an auction.

Lastly, let's circle back to the WHAT. Above, we mentioned that a beer manufacturer may give or sell beer to an eligible non-profit. But that is true **ONLY** for BEER. Nowhere in the ABC have provisions been made for the donation of *merchandise*. In other words: no t-shirts, no glassware, no bottle openers, etc. And yes, that also applies to gift baskets. This is likely an oversight as the ABC Act is a rather sprawling document, ever changing, ever growing. This may or may not change at some point in the future, but for now the rules only allow for beer to exchange hands. Again, as penalties can be steep, it is likely better to be safe than sorry.

As a last word of caution, these rules are admittedly tricky and non-profits are not always well informed about how they work either. But now that you know the basics, go forth, earn good karma, and distribute that nectar of the gods for a worthy cause.*

EDITOR'S NOTE:

Here at B5 we strive to provide craft breweries with the business tools necessary to run a successful business. We bring the odds and ends to you so that your focus can stay where it belongs: with the beer. We love those hoppy brews as much as you do and we want the art of brewing to stay front and center. This quarterly newsletter comes to you from the offices of the Craft Beer Attorney, APC in San Diego, California. We hope that the information contained in these pages is helpful to you and your team. While the information provided in this newsletter is not designed to be legal advice, each and every one of our providers serve the craft beer industry and are available for your questions. Should you have more general questions about this publication or the providers listed herein please feel free to contact me at:

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*A quarterly newsletter
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business practices direct to craft brewers.*
