

Response to the Proposed Approach to Cannabis Regulation

January 20, 2018

Thank you again for your continued work to move us closer to regulation. We are happy to see the direction regulation is taking: the inclusion of micro license classes, a full range of product diversity, and the softening of restrictions to participate in the cannabis industry are all positive steps in a solid foundation for a successful legal market.

1. Regarding Proposed License Types

The proposed license types are to be applauded as they create the potential for a diverse legal industry. We believe that the transition of existing industry participants to the regulated industry is critical for the health and success of a regulated market. To build on this potential, we have the following recommendations.

1.1. Encourage a Transition

We know from analyzing US markets that an ineffective transition of illicit market participants to the regulated program leads to an extension of black market activity, subsequent reduction in consumer buy-in to the regulated market, and costly ongoing law enforcement activity. Failing to encourage a transition could undermine the purposes of the cannabis act.

1.2. Amnesty and Expungement

The Proposed Approach does not discuss amnesty for non-violent cannabis prisoners and expungement of their records. Exercising this option, which was recommended by the Le Dain Commission, would by extension relieve applicants of the risk of failing security clearances for similar charges. This would prompt greater success in bringing existing producers and processors into the regulated system.

1.3. Support for Small Business

Reviewing the Colorado experience, producers and retailers who transitioned to the regulated market were given a year to operate prior to the entrance of new, better funded businesses. This allowed small locally owned businesses to become more established, in turn supporting their local economies and communities. It is unfortunate to see the reverse of this successful transition being enacted in Canada.

The proposed restrictions on sales privileges for Micro licenses is a further disadvantage for small business. In BC and Canada, over 98% of businesses are small, and in BC small business provides 44% of employment. *Supporting small businesses in the cannabis sector is critical to a successful regulated program, and to reducing black market activity.*

2. Security Clearance

We strongly recommend that nonviolent cannabis records not be a barrier to obtaining security clearance or licenses. Further to that we recommend that an amnesty for non-violent cannabis prisoners and expungement of all non-violent cannabis related records. Exercising this option, which was recommended by the Le Dain Commission, would by extension relieve license applicants of the risk of failing security clearances for similar charges. This would prompt greater success in bringing existing producers and processors into the regulated system.

We know from analyzing US markets that an ineffective transition of illicit market participants to the regulated program leads to an extension of black market activity, subsequent reduction in consumer buy-in to the regulated market, and costly ongoing law enforcement activity. Failing to encourage a transition would defeat the purposes of the cannabis act.

3. Product Diversity

Product diversity is essential to the success of the regulated market, and we are pleased to see the availability of oils, seeds, plants, fresh cannabis, concentrates and edibles.

We recognize the validity of government needing more time to adequately understand and regulate concentrates and edibles, however these products are currently in use by Canadians. The one-year delay for the regulation of these products has the potential to unfairly criminalize consumers who rely on these products, and who may continue procuring them from the illicit market.

4. Potency Limits

Because there are no excise or GST exemptions for medical cannabis, we expect that many medical consumers will continue to access storefront dispensaries to find the products they need. Providing adequate diversity and a range of potencies in regulated cannabis retail will be an important service to these Canadians.

4.1. Flowers

THC limits on flowers is not recommended. By nature consumers will have different tolerances and preferences to cannabis; we need to give them the freedom to access the products that suit them in the regulated market. The full spectrum of plants and cannabinoid profiles currently available on the existing market should be included in the regulated market. Without this, certain consumers must seek black market sources to meet their needs, and put them at risk of criminalization.

4.2. Edibles

Many edible consumers (those not capable or able to prepare their own) will obviously be forced to remain in the black market for a least a year. The risk of them staying there after edibles are regulated will be strong if a wide range of potencies are not allowed.

Storefront dispensaries are currently providing capsules ranging from 2.5 mg THC up to (and sometimes exceeding) 100 mg THC. With proper education for staff, and the transfer of that knowledge to consumers, consumers will make appropriate choices for their needs.

Further, restricting capsule or edible potency to 10 mg THC seems unnecessary when one can readily consume 30 mg THC in a single 1ml dropper of a 3% oil tincture, or 150 mg in a teaspoon of the same tincture.

4.3. Oils

The restriction on additives in infused oils to those found in the carrier oil should have exceptions for plant or cannabis based terpenes. It would be appropriate to allow formulators the freedom to create unique products. This would promote competition and diversity, and would in no way compromise safety of the product or consumers.

5. Packaging

5.1. Sustainability

The proposed rules for packaging do not include sustainability as a requirement. From certain US markets we've seen the over-regulation of packaging, and excessive amounts of plastic waste resulting from it. Sustainable, affordable, re-usable, compostable and recyclable packaging solutions are recommended.

5.2. Packaging Requirements

The requirement for child resistant packaging for this non-toxic plant remains a mystery to us, as a bottle of spirits contains a potentially lethal dose of alcohol and has a simple screw off top, and cancer causing cigarettes are packaged in an open top paper box. This requirement is not based in evidence, nor is it proportionate to the harms of these substances, rather seems to cater to fears and stigmas around cannabis.

5.3. Branding restrictions and Health Warnings

Regarding restrictions on branding, again we must remind that cannabis is a non-toxic plant, and its harms and costs to society are miniscule when compared to alcohol and tobacco. More freedom around branding and labelling should be available to allow product differentiation and ready identification by consumers.

The proposed health warnings on cannabis packaging are comprehensive, however it leads one to question the logic of basing these guidelines for cannabis when compared to the major threats to health and safety in Canada, those being tobacco, alcohol and prescription drugs.

Cannabis regulations are created with the premise of being evidence based, however as shown below, evidence suggests that cannabis use has a number of potential benefits

for society. CAMCD recommends that health warnings be applied to product types that create significant harms to society.

5.3.1. Tobacco

Tobacco is the number 1 cause of preventable death in Canada, killing over 37,000 Canadians each year. Smoking is linked to 12 different types of cancer, is responsible for 30% of cancer deaths and 85% of lung cancers. Over 800 people die each year from secondhand smoke, and 4% of Canadian children are exposed to secondhand smoke. Cigarettes contain over 4,000 chemicals, including 69 known carcinogens.¹ The estimated total cost of tobacco related harm in Canada was more than \$16 billion in 2012.²

5.3.2. Alcohol

The logic of cannabis warnings is further questioned when realizing that there are no health warnings on alcohol.

Data from 2015/2016 show that there were over 77,000 hospitalizations and 5000 deaths as a direct result of alcohol. This doesn't include the indirect hospitalizations from alcohol related auto accidents and violence. The estimated total cost of alcohol-related harm in Canada was more than \$14 billion in 2002, the most recent year for which this data is available.³

5.3.3. Prescription Drugs

Despite being prescribed by MD's and dispensed by pharmacists, prescription drugs are one of the biggest threats to public health and safety in Canada: use of prescription drugs has reached epidemic proportions.

This has led to a crisis in Canada. There were 2861 apparent opioid deaths in Canada in 2016.⁴ Canada has become the second largest consumer of prescription opioids, second only to the United States. With a 203% increase in usage between 2000 and

¹ <https://www.simcoemuskokahealth.org/Topics/Tobacco/EffectsontheBody/TobaccoLungCancerandSecondhandSmoke.aspx>

² <https://www.canada.ca/en/health-canada/services/publications/healthy-living/costs-tobacco-use-canada-2012.html>

³ <http://www.cbc.ca/news/health/alcohol-hospital-admissions-1.4172091>
<https://globalnews.ca/news/3547212/77000-canadians-hospitalized-because-of-alcohol-in-2016/>
<http://www.cbc.ca/news/health/alcohol-hospital-admissions-1.4172091>

⁴ <https://www.canada.ca/en/health-canada/services/substance-abuse/prescription-drug-abuse/opioids/apparent-opioid-related-deaths.html>

2010, growth of the prescription opioid industry in Canada is outpacing that of the United States, in spite of the US's first place ranking for opioid use.⁵

It is apparent that the instructions for use and warnings for risk of addiction, death and other health concerns are very inadequate for pharmaceutical products. Pharmaceutical companies and their products are allowed colorful branding, advertising, and lifestyle claims, with token mention of the plethora of side effects compressed at the end of television commercials.

5.3.4. Cannabis

There are no recorded deaths directly as a result of cannabis consumption, and there is no data available for cannabis related deaths, hospitalization, or associated health care costs in Canada in any year.

We know from American markets that when legal cannabis has been available, prescriptions for opioids, antidepressants and anti-anxiety meds have been reduced by up to 25%. Alcohol consumption in these markets has reduced by nearly 14%.

CBD has been shown to be an effective tool in reducing cigarette consumption. In a recent study, a group that was given a CBD spray saw a 40% reduction in the number of cigarettes they smoked.⁶

Evidence supports the fact that cannabis has the potential to significantly reduce the harms and costs associated with tobacco, alcohol, and prescription drugs in Canada.

The comprehensive warnings proposed for cannabis are clearly misplaced when alcohol is sold without similar warnings, when prescription opioids are an epidemic and the gateway to street opioids, and when both these substances have far greater harms than cannabis.

Canadians are not adequately protected from the harms of tobacco, alcohol and prescription drugs, and it seems that these failures are being compensated for by warnings and restrictions around cannabis that are disproportionate to the harms, and not cognizant of the benefits.

Evidence supports the contention that cannabis is actually a solution to the harms of these other substances. There is no evidence or data to suggest that cannabis should

⁵ <https://canadiancentreforaddictions.org/drug-related-deaths-in-canada/>

⁶ <https://www.ncbi.nlm.nih.gov/pubmed/23685330>

have restrictions on branding and health warnings based on and potentially more stringent tobacco.

CAMCD recommends against the restrictions on cannabis branding and requirements for labelling, as they are not proportional to the harms of the product and are not evidence based.

6. Cannabis for medical purposes

Access to cannabis for medical purposes is clearly deficient in three key areas: authorized practitioners, tax exemptions, and storefront access.

6.1. Authorized Practitioners

MD's and Nurse Practitioners are not educated in the potential benefits of cannabis, are required to not view cannabis as first tier medicine, and often deny legitimate requests for access, undermining the rights and freedoms of their patients to choose. Though there are over 20,000 peer reviewed studies on cannabis and anecdotal evidence from thousands of Canadians who have realized health benefits, the absence of human trials and DIN numbers have left MD's and NP's unsure of how to prescribe cannabis and in what form, and patients are left without access or guidance.

Other healthcare professionals including Naturopaths and Traditional Chinese Medicine practitioners often have a greater understanding of this plant and it's benefits.

CAMCD recommends that Naturopaths and TCM's be permitted to integrate medical cannabis into their practice, and grant access to patients.

6.2. Tax Exemptions

Considering the low cost of harms due to cannabis and the tremendous potential to offset harms of other substances to the tune of several billion dollars per year, GST and excise taxes should certainly be removed from medical cannabis products. Further to this, Health Canada should subsidize cannabis products to medical patients to improve affordability.

6.3. Storefront Access

In the Supreme Court case *Allard et al v. Crown*, Judge Phelan called the more than 100 illegal dispensaries across the country "the heart of cannabis access."

Following this decision, Kirk Tousaw, a Vancouver Island lawyer on the case, said "I call upon the prime minister to act much more swiftly and immediately end all criminal sanctions against medical cannabis patients and their providers. In addition, the justice minister should immediately dismiss all pending criminal cases involving medical cannabis producers and dispensaries."

The omission of storefront retail in the medical cannabis regime is unfortunate, and perpetuates the challenges patients have in securing access and information regarding the successful integration of cannabis into their health and wellness regimes.

Though without doubt the health and wellness ethos of the original compassion clubs has been deviated from by some operators, there are many who have maintained this ethos and provide a valuable service to their communities.

CAMCD recommends that the proposed approach to providing medical cannabis access be revised to include the existence of storefront retail, and that Health Canada encourage the transition of responsible operators.

7. Health Products

A plethora of cannabinoid infused natural health products are currently available in the existing market. These products include but are not limited to:

- Pain Topicals
- Skin balms
- Bath soaks
- Massage oils
- Lip balms
- Shaving soaps, after shave

Consumers use THC and CBD infused topical ointments to manage pain, inflammation, arthritis, and to soothe skin disorders. The body's mechanism to absorb topically applied cannabinoids is through CB-2 receptors in white blood cells. There is no psychoactivity when cannabinoids are absorbed in this manner.

Pain topicals in the existing market vary in composition. One example contains 200mg THC in 30ml of carrier, a concentration of over 6000 ppm. This product has been an effective pain reliever and anti-inflammatory agent for many consumers with no reports of psychoactivity.

A 10 ppm limit for THC to limit risk of psychoactivity is misguided for a couple of reasons.

- 10 ppm would equate to 0.01mg/ml or 10mg per litre of solution, a concentration 600 times lower than existing products that also provide no psychoactivity.
- A THC or CBD concentration of 10 ppm is almost certainly too low to provide any therapeutic benefit, and from our experience these products are not an attraction for youth in any way.

CAMCD recommends that potency limits for natural health products be revisited. Restrictions unsupported by fact should not be enacted when industry experience shows that these products do not pose a risk to consumer health or safety, or present any demonstrable harms.

8. Final notes

We thank you for the opportunity to submit our responses to the Proposed Approach for Cannabis Regulation.

Overall this is undoubtedly a step in the right direction, however there are still areas where the promise of evidence based regulations don't strike the right balance to achieve the purposes of the cannabis act, which require the simultaneous consideration of protecting public health, reducing black market activity, and reducing the burden on police.

8.1. Public Health

From our discussion above it is clear that the benefits cannabis can offer society outweighs the potential harms of consumption. Cannabis substitution has been an effective harm reduction agent for tobacco, alcohol and prescription drugs. The statistics suggest that cannabis can significantly reduce the pain, suffering, addiction, injury and cost to society caused by these other more harmful substances. We would like to see more focus on these benefits, as we feel the focus on cannabis harms is not supported by the available evidence.

8.2. Reducing Black Market Activity

The focus on reducing black market activity has shifted from sanctions and enforcement measures to a more inclusive approach that includes transition opportunities for participants in the existing market. We would like to see this reinforced by the creation of an Amnesty for non-violent cannabis prisoners, and expungement of the records for non-violent cannabis offences. This would undoubtedly encourage many to apply for regulation, and effectively reduce black market activity.

This strategy is supported by the experience in Colorado, Oregon and now California. Note that Washington state, which did not encourage a transition, has a thriving black market.

8.3. Reduce burden on law enforcement

On the verge of legalization, enacting an Amnesty and Expungement would appropriately relieve many Canadians of cannabis related criminal records, reduce black market activity and reduce the burden on law enforcement.

This simple strategy has the added benefit of stabilizing regional economies that have mature existing cannabis industries, and repairing Canadian families struggling under the stigmas of criminal records.