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OUT OF THE SHADOWS: A GUIDE TO PROVINCIAL CANNABIS POLICY



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EXECUTIVE SUMMARY

This is a practical guide for British Columbia's legislators as they create a regulatory framework for legal cannabis in the province.



For July 1st 2018, the Canadian government has committed to a fully legal, regulated cannabis market for adult use. The Federal Government is centrally regulating some aspects of the new industry, notably production, but responsibility for many crucial areas of the new market has been handed over to provincial and territorial governments. Many provinces have been vocal that they are offered little by way of guidance.

Tantalus Labs supports the federal government's prioritization of health and safety as cannabis is both legalized and regulated across the country. We also believe that the provincial government

must balance these priorities with the potential for job creation, tax revenue, and economic spillover effects that benefit all British Columbians, while respecting cannabis' unique cultural impact in the province. Far from simply presenting a regulatory and bureaucratic burden, we believe the BC Government has been offered the opportunity to capitalize on the province's cultural heritage and wealth of talent. Through careful regulation we can enable BC to lead this massively economically impactful new industry as it finds its feet.

This report offers socially conscientious policy goals and practical policy recommendations for legislators to consider and adopt. We believe the cannabis industry has a responsibility to inform regulators and to help shape policies that encourage transparency, communication and respectability in the new industry. Tantalus Labs is a for-profit private enterprise, but its constituents have also spent years studying analogous jurisdictions and the pitfalls of policy experiments. In this report, we have ventured to steer our lens to the broader social impacts of legalization and regulation, as we believe we can thrive in even the most restrictive policy environment.

The focus of this report is on retail, supply chain management, and ancillary industries.

WE RECOMMEND

A provincial age minimum of 19 for sale of cannabis

Enforced by trained staff through the presentation of 2 pieces of ID for storefront sales (1 government issued including person's name, birth date, and picture, and one including an imprint of the person's name and include the person's signature and/or picture) and three-stage age verification for e-commerce and delivery sales. We also advise age restrictions and content guidelines on software that connects consumers with cannabis businesses to prevent the encouragement of underage use.

A hybrid model of retail

Including licensed, independent retail storefronts, vertical integration, and e-commerce. This system allows local concerns to be balanced against demand from customers and industry, while easing the burden of regulation and licensing gradually, as the industry expands.

Establishing a British Columbian Cannabis Licensing Body

To oversee licensing and regulation of supply chain management, retail, distribution, on-site consumption and quality assurance facilities. Licensing fees would be levied to cover the costs associated with this new branch. We advise partitioning of licensing streams, so that increased demand for one type of licence does not create bottlenecks in licensing for other purposes.

Transparency at all points in the supply chain

Monitored through the use of provincially mandated tracking software by trained staff, reporting seed-to-sale data currently required under the Access to Cannabis for Medical Purposes Regulations (ACMPR), with provincially contracted modules for the different actors in the supply chain.

A requirement that all participants in the legal cannabis program are screened for history of violent crime, gang related activity, and financial crime - to ensure that the respectability of the new industry is paramount, and every reasonable effort is made to prevent entry by undesirable criminal enterprise.

Avoiding arbitrary and sweeping restrictions

To nurture an environment that encourages diverse and inclusive entrepreneurial participation. Innovation will help drive a competitive and convenient shift from black market purchase habits to the legal market, if it is allowed to flourish in BC.

INTRODUCTION

“The effects of legalization are multi-dimensional, hard to predict, difficult to measure, and dependent on policy details”¹

This report is designed to be an industry-insider perspective for those tasked with regulating the cannabis industry in British Columbia. While the Federal Government is regulating some aspects of the new industry, notably production, responsibility for many areas requiring regulation has been handed over to the provinces and territories, in particular regulating retail, distribution and ancillary industries. Careful regulation of these areas is vital to ensure the success of the new industry, and to adequately protect public health and security.

This report provides guidance and information relevant specifically to British Columbia, as well as other provincial governments, focusing on regulatory options and considerations for retail, distribution and ancillary industries. This report does not address taxation, advertising, marketing, product restrictions, or quality assurance in detail.

¹Mark Kleiman, ‘Legal Commercial Cannabis Sales in Colorado and Washington: What Can We Learn?’, Center for 21st Century Security and Intelligence Latin American Initiative (2016)

ACMPR BACKGROUND

The Access to Cannabis for Medical Purposes Regulations (ACMPR, formerly MMPR) replaced the Medical Marihuana Access Regulations (MMAR) in August of 2016. Previously, the MMAR enabled certain individuals to access cannabis for medical purposes by cultivating their own cannabis plants, designating someone to cultivate cannabis for them, or by purchasing it from Health Canada. The

MMPR and ACMPR regulations changed this system to allow for large-scale, licensed commercial cultivation and supply of cannabis. These licensed producers (LPs) are heavily regulated by Health Canada to meet clear quality, testing, security, and reporting standards.

BILL C-45 & THE FEDERAL GOVERNMENT AGENDA

The Cannabis Bill (Bill C-45) aims to introduce a federal framework for legalization and to provide authority to the provinces and territories to regulate the sale and distribution of recreational cannabis. The proposed Bill provides a national minimum age limit of 18, maximum limits of four plants per household for home growing, offences for illegal possession and distribution, restrictions on advertising, promotions and packaging, and a framework for production. Importantly, it does not set out the regulations for the retail of recreational cannabis - this is left to the provinces and territories. The bulk of this report is concerned with regulations for the distribution and retail of recreational cannabis in British Columbia, which are not prescribed by C-45.

The core objectives of Bill C-45 are to prevent young persons from accessing cannabis, to protect public health and public safety by establishing strict product safety and product quality requirements, to deter criminal activity, and to reduce the burden on the criminal justice system in relation to cannabis. While the purpose of Bill C-45 is primarily to drive out organized crime and protect Canadian young people, there is undoubtedly an opportunity to develop an economically impactful industry which exists for the benefit of all of British Columbia.

Five values run through the heart of this report:

Responsibility

The industry's role in shaping safe, conscientious, and internationally bankable regulations.

Transparency

Supply chain reporting & removal of black market obfuscation practices.

Communication

No one left behind – finding the middle ground for all BC residents.

Collaboration

Industry working with regulators to ensure success.

Respectability

Creating an industry BC can be proud of, that will stand as a bellwether to other jurisdictions implementing progressive cannabis policy.

Tantalus Labs is a Licensed Producer of cannabis under the ACMPR. Our firm produces quality assured, sungrown cannabis through sustainable, carbon offset production methodologies. Taking cannabis out of the dark and into the light, we are part of a new wave of socially and environmentally sensitive entrepreneurs looking to rebrand an industry associated with criminality and limited transparency.

Tantalus Labs is interested in promoting regulations which help foster a responsible cannabis industry in British Columbia. When successful, these regulations will support the aims of Bill

C-45 in preventing young people from accessing cannabis, protecting public health, and producing products adhering to strict safety and quality requirements. Tantalus Labs believes that it is in the public interest to cultivate a regulatory framework which supports BC industry and erodes the black market by supplying adults with regulated products meeting stringent standards of quality and safety.

Hanway Associates are consultants providing support for groups working in emerging industries. They work with organizations in Canada, the United Kingdom, and others internationally who share their passion for change. Their focus is on helping entrepreneurs navigate emerging industries and preparing organizations to engage with government, media and the public. Bridging the gap between industry and policymakers is pivotal to their work. Hanway's guiding theory is this: you can't build safer public policy and better

futures for citizens without building responsible industries, and you can't build responsible industries without communication. The cannabis industry provides a unique opportunity to put this into practice.

Into the Light

Into the Light (2017) was a white paper produced by Tantalus Labs and Hanway Associates that looked at the unique opportunities for political and economic leadership on cannabis in British Columbia. It argued that British Columbia is well placed to lead the legal cannabis industry in quality, environmental, and industry standards. No other province or territory has the same combination of skills, infrastructure, reputation, and potential. The report recommended the facilitation of greenhouse cultivation on the Agricultural Land Reserve, business licensing, strict adherence to federal and provincial regulations, prohibition of dispensaries at cultivation sites, and measures to reduce light, air, and odour pollution. Dealing with the deeply held concerns of citizens when it comes to cannabis, Into the Light set the scene for responsible industry cooperation with policymakers.

Getting it right in B.C.

Each province and territory has a local context which will guide its implementation of the new federal legislation, but BC is uniquely positioned to optimize regulations that both support the nascent industry while ensuring the safety of citizens. British Columbia has a unique cannabis culture, climate, economy and people, 75% of whom support legalization.² Embracing a responsibly managed industry, in keeping with British Columbia's rich culture, can attract great minds from a diverse range of sectors.

Provinces are looking at the new industry very differently. It is clearly seen as a substantial economic opportunity in Ontario, which is the centre of production for the medical market. New Brunswick has embraced the new industry and its recent Report of the New Brunswick Working Group on the Legalization of Cannabis³ sees the economic opportunity presented, whereas other provinces, such as Quebec, may be more conservative and seek to limit the impact of the new industry.

Across the Atlantic, European legislators are cautious, unsure of what looks like the Wild West of cannabis springing up in US states like Colorado. Fearful of mixing vice products and capitalism, they are looking for a more reasoned and thoughtful alternative. A BC-led Canadian industry that tackles public health and safety concerns, embraces new technology, and encourages economic prosperity can be that alternative. The world is watching with bated breath to see if a realistic, progressive and - above all - responsible industry can grow here.

² Daniel LeBlanc, 'Majority of Canadians agree pot should be legal: poll', The Globe and Mail (February 29, 2016) <http://www.theglobeandmail.com/news/politics/majorityof-canadians-agree-pot-should-be-legal-poll/article28944411>

³ 'Report of the New Brunswick Working Group on the Legalization of Cannabis', Province of New Brunswick (2017) <http://www.nbliquor.com/documents/report-legalization-of-cannabis-062017.pdf>

Supporting Ancillary Industries

Closer to home, entrepreneurs are hoping for a system of regulation that harnesses their passion and energy as this new market emerges. Entrepreneurial participation will not be limited to cannabis producers or retailers. Amongst them are developers of new health technologies, specialized lawyers, social enterprise start-ups, financial technology businesses, and consultants who don't require further regulating, but do need support. Working alongside the cultivators and retailers will be more traditional services for delivery, security, and hospitality. The challenge is to bring these actors into the system in a way that doesn't stifle growth, but rather facilitates the building of reliable ancillary industries and capitalizes on the economic spillover effects of legalization.

The challenges faced are diverse and complex. Regulators and members of the industry are vying to restrict or explore certain corners of the market. Industry should be empathetic to the task ahead for regulators; they all hold one thing in common - they would all benefit from a responsible and successful cannabis industry in British Columbia. One proven way to achieve these ends is through communication and cooperation.

Federal Level

Under Bill C-45, there are some key parts of the new industry which will be regulated at the federal level and others which have been devolved to the provinces and territories. Federal level regulation includes: a minimum age limit of 18 for sale and consumption, regulation of production and products, production taxation, and cannabinoid upper limits. Health Canada will regulate the production of cannabis, processing, product restrictions, production reporting, and inventories.

Provincial Level

A large and decisive part of cannabis regulation has been left to the provinces and territories, including any increase of the legal age limit above 18, supply chain management and reporting, distribution and logistics, retail licensing, ancillary services, and some taxation. This responsibility leaves provinces and territories to determine their own system for distribution and retail, as well as how to regulate, audit, receive reporting, and inspect those distribution systems and retail outlets.

How legalization is implemented in British Columbia will have long-lasting economic implications. In the run up to the 2017 provincial elections, most of the political parties voiced their opinions on how cannabis should be regulated in BC. The former Liberal administration, led by Christy Clark, were criticized for their lack of direction and action on issues related to the BC cannabis industry. Clark had previously stated that the Liberals would rely on an expert panel to create the province's regulatory guidelines.

After the Liberals failed to achieve a majority, the BC New Democratic Party and the Green Party formed a coalition. Both parties have been vocal about cannabis regulations in the past. The NDP have met with many groups preparing to operate in the legal cannabis market, from liquor stores to pharmacies and dispensaries. Their leader, now British Columbia Premier John Horgan, has said that he supports the co-location of cannabis retail in liquor stores as part of a 'hybrid model'.⁴

Premier Horgan is not alone in his engagement with the debate around cannabis regulation. The man tasked to "lead the provincial government's planning for the safe implementation of legalized cannabis",⁵ the Honourable Mike Farnworth, Minister of Public Safety and Solicitor General, visited Washington and Colorado in 2016. Both states prohibit the sale of cannabis in liquor stores. Minister of State for Trade, the Honourable George Chow, was a member of the Task Force for Cannabis Legalization and Regulation which recommended 'no co-location of alcohol or tobacco and cannabis sales, wherever possible'.⁶

Environmental sustainability is, of course, high up in the Green's priorities for the new industry. Their leader, Andrew Weaver, has spoken about the importance of craft producers and ensuring "big multinationals do not step in and take up the market".⁷

⁴ Dirk Meissner, 'B.C. eagerly anticipating federal bill legalizing marijuana', The Globe and Mail (April 12, 2017) <https://www.theglobeandmail.com/news/british-columbia/bc-eagerly-anticipating-federal-bill-legalizing-marijuana/article34693494/>

⁵ 'Read Premier John Horgan's mandate letters to the new BC NDP government ministers, British Columbia New Democratic Party (July 26, 2017) <https://www.bcnep.ca/latest/read-premier-john-horgans-mandate-letters-new-bc-ndp-government-ministers>

⁶ 'A Framework for the Legalization and Regulation of Cannabis in Canada', Health Canada (2016) <http://healthycanadians.gc.ca/task-force-marijuana-groupe-etude/framework-cadre/alt/framework-cadre-eng.pdf>

⁷ Dirk Meissner, 'B.C. eagerly anticipating federal bill legalizing marijuana', The Globe and Mail (April 12, 2017) <https://www.theglobeandmail.com/news/british-columbia/bc-eagerly-anticipating-federal-bill-legalizing-marijuana/article34693494/>

BENEFITS OF A REGULATED MARKET

Regulating the production of cannabis allows a market of consistent, quality-assured products to flourish, cultivated from trusted Licensed Producers.

Uncertainty around the origin or contents of cannabis products, as is the case in the illegal market and unregulated dispensaries, will be removed in the regulated industry. This transparency and supply chain audit trail is central in the objective of instilling greater consumer confidence in legal cannabis.

With the aid of accredited cannabis testing services, the THC and CBD content of cannabis products can be assured and checked, while signs of poor quality, such as mould, heavy metal and pesticide content, can be prevented. Cannabis from British Columbia, even while illegal and unregulated, has become nationally and internationally renowned, and this reputation offers an early advantage in placing British Columbia at the forefront of the legal market. Stringent quality control on legal products is essential to ensure that this reputation is retained in the context of competition with high quality cannabis production in other provinces or territories.

The economic opportunity provided by the regulated market cannot be overstated. While all provinces and territories stand to benefit from the new national industry, those that embrace the opportunity for supportive regulations enthusiastically are set to make the greatest gains. It is estimated that up 15,000 jobs in the industry could become available in BC within months of legalization, with many more in ancillary industries, ranging from specified, skilled jobs in management, agronomy, horticulture, analytical chemistry, software development, and related work in professions such as law and accountancy, through to a wealth of opportunities at different stages of the supply chain from cultivation, to logistics, to sales.

While federal taxation can be levied on cannabis cultivation and online sales, further provincial taxes can be levied on cannabis sold in retail stores within the province, as well as corporation tax on companies founded within the province. Even if a system of taxation is established with low taxation rates to aid in undercutting the illegal market, provincial tax revenue will be substantial and escalating over the first months and years of legalization. Tax revenue in Colorado over the first three and a half years of a legally regulated adult use market totalled over \$500M.⁸

It is in the interests of British Columbia, which stands to become a major centre for cannabis cultivation for ACMPR firms today, to develop regulations that facilitate and encourage inter-provincial exports. While online sales will allow for instantaneous export from the province to a national audience at a retail level, allowing a wholesale export economy to develop would place the province in both a stronger position to benefit from the industry nationally, and improve its ability to influence regulation in other provinces and territories.

Around 1st July 2018, the whole of Canada will be waking to the reality of a fully legal cannabis market, and the accompanying economic benefits and regulatory challenges that this brings. It behooves a cultural and economic centre like BC to take a lead in shaping the landscape of this new system. In moving early to remove uncertainty in its own provincial regulations, BC will improve its chances of being a base for the new industry.

Establishing BC as a hub for the new industry means, in an encouraging regulatory environment, that much of the innovation and associated IP will also be founded within the province. Consequently, BC stands to gain not just from the industry itself, but from the export of the services and expertise that will prove vital to the industry as it grows.

⁸ 'Colorado Exceeds \$500 Million in Cannabis Revenue Since Legalization', VS Strategies (July 19, 2017) <http://vsstrategies.com/wp-content/uploads/VSS-CO-MJ-Revenue-Report-July-2017.pdf>

PROVINCE / TERRITORY-SPECIFIC LEGAL AGE

The core purpose of legal age limit policy is to inhibit recreational cannabis access for youth. Factors to consider include:

- > Health risk for young people
- > The aim of reducing the black market
- > Harms of unregulated cannabis products
- > Safety messaging
- > Harmonization to avoid cross-border shopping
- > Ease of implementation & enforcement

CHOOSING THE RIGHT AGE

Bill C-45 provides a minimum age of 18 for the purchase of cannabis, but provinces and territories may set a higher age. When considering the aim of reducing youth use rates and availability through legal regulation of the adult use cannabis market, understanding the current black market penetration is essential. Currently, youth use rates and availability are high in Canada. A World Health Organization report showed that it had the second highest youth use rate of forty countries surveyed, with 13% of 15 year olds reporting use in the past month.⁹ The current prohibition has not been a successful policy in terms of reducing youth use rates and availability. A robustly regulated industry presents the opportunity to rectify this through controlling the supply of cannabis.

⁹ 'Growing up unequal: gender and socioeconomic differences in young people's health and wellbeing', World Health Organization, Health Behaviour in School-aged Children (2014)
http://www.euro.who.int/__data/assets/pdf_file/0003/303438/HSBC-No.7-Growing-up-unequal-Full-Report.pdf?ua=1

The Options

Age 18

This is the dominant choice in the interest of reducing the penetration a black market, as all adults would be able to purchase through the regulated and taxed system. However, it would leave the highest amount of young adults with access to cannabis, which presents optical and policy challenges as well. It would also create enforcement and implementation hurdles due to the disparity with alcohol and tobacco.

Age 19

This is the best option in terms of messaging, by suggesting that cannabis is no safer than alcohol and preventing anyone of highschool age from having access to the drug. It also only leaves a very small portion of Canadian adults unable to access regulated cannabis, thereby leaving a small target market for criminals. It is also the most feasible option for implementation and enforcement.

Age 21

This option would harmonize with neighbouring Washington to avoid youth tourism, but there the rationale for the age limit was linked to the 21 age restriction for purchasing alcohol. This option leaves more young adults unable to legally access cannabis, but with 18-21 year olds having high rates of use this leaves a large portion of the adult market potentially open to exploitation by criminals selling unregulated and potentially dangerous products.

Age 25

This is the age at which most experts agree that the brain is fully formed, but setting the age limit this high would leave the demographic with the highest rates of use (18-24) unable to participate in the legal industry and thereby leave a very extensive target market open to exploitation by criminals or encourage cross-border shopping.

Protecting Health

Some research does suggest correlation between heavy cannabis use at a young age and risk of negative physical and mental health outcomes including depression, anxiety, addiction, psychosis and poor educational achievement.¹⁰ While cannabis' causal role in this is still debated,¹¹ there is a consensus that a priority for the new industry must be to reduce access for young people. It is worth noting that setting the highest possible age limit will not necessarily protect young people as it may leave them exposed to empowered black market operators who seek to exploit the significant share of the market which is left outside of the legal regime (18-24 year olds).

¹⁰ Maria Melchior, Camille Bolze, Eric Fombonne, Pamela J. Surkan, Laura Pryor, Marie Jauffret-Roustide, 'Early cannabis initiation and educational attainment: is the association causal? Data from the French TEMPO study', *International Journal of Epidemiology* (2017)
<https://academic.oup.com/ije/article-abstract/doi/10.1093/ije/dyx065/3830700/Early-cannabis-initiation-and-educational>

¹¹ Charlie Ksir & Carl Hart, 'Cannabis and Psychosis: a Critical Overview of the Relationship', *Current Psychiatry Reports* (2016)
<https://www.ncbi.nlm.nih.gov/pubmed/26781550>

WAYS TO VERIFY AGE [1]

A number of safeguards are advisable to ensure that cannabis is kept out of the hands of minors. As well as public education around the issue and promoting awareness of the strict new penalties for supplying cannabis to minors under Bill C-46, which accompanies Bill C-45, there are also ways in which the retail regulations can be tailored to ensure the best outcomes. This latter issue is the focus of this chapter.

Alcohol Model

Double verification, easier if same age

The existing model for preventing people under 19 years of age accessing alcohol includes a monopoly on retailing alcohol under the Liquor Distribution Branch, who employ trained and monitored staff to ensure that only age-verified customers are able to purchase alcohol. The process involves a 2-stage verification process, requiring both a provincial ID and a secondary corroborating piece of ID. This second stage verification may improve the security to a slight extent, but is far from foolproof.

WAYS TO VERIFY AGE [2]

Independent Retail

Training & regulating staff

There are already a number of black market dispensaries operating in British Columbia. Mostly, these stores require age verification to do so but there is no system in place to ensure compliance, and limited risk of a fine or operational status being revoked should the store

fail to verify someone's age. This is partly due to stores existing outside of any operational regulatory framework, and new regulations could provide strict guidelines for regulated independent retail stores.

E-commerce *3-stage*

Online retail is likely to be included as a component of the national legal retail supply chain. The ACMPR today has demonstrated excellent identity verification, delivery, and risk mitigation consistency in a marketplace of close to 200,000 Canadians, and stakeholders such as Bill Blair have alluded to its inclusion publicly throughout the exploration phase of Bill C-45. This system counterintuitively allows for greater age verification security than any other model. 3-stage verification involves proof of age at the point of registration, purchase from a card linked to the buyer's identity and registered address, and then further proof at the

point of delivery to ensure that the purchaser is the person receiving the product at their address.¹² A number of online identity verification software options exist for online retailers to use, including Vancouver-based Trulioo, which has more recently begun development of ID verification software for age-restricted e-commerce. Others include more well established Veratad and IDology, both US-based, which have been used for age restricted e-commerce in a number of areas, including vice industries such as online gambling, and alcohol and tobacco sales.

¹² Mike Power, 'Green Screen', Volteface (2017) <http://volteface.me/publications/green-screen/>

CHALLENGES FOR ENFORCEMENT

If the new BC system includes independent retailers, these retailers will require training and validation of such training on age verification. This will necessitate the implementation of a routine at least as stringent as that which alcohol retailers are subject to, and there will be a regulatory cost in terms of site visits, audit and other oversight to ensure compliance. The cost will be linked both to the number of licensed retailers, along with the potential cost of non-compliance.

A system with stricter penalties for non-conformance and higher initial licensing and application costs is more likely to incentivize compliance. The inclusion of e-commerce in the future model should have lower enforcement costs due to retailers having no physical premises that need to be inspected, as well as the near-perfect compliance record of the identity validation software service providers. Machines do a better job at identity validation than humans, and the audit trail of time stamped identity checks makes for more universal transparency and communication of regulatory compliance than retail storefronts that can only be validated at a time of inspection. A single auditor could hypothetically audit compliance on the e-commerce portion of the supply chain from the comfort of their desk at very little cost, as is demonstrated in the ACMPR today.

RECOMMENDATIONS

- > **Legal age of 19 to purchase cannabis**
- > **Retail**
 - Presenting 2 pieces of government-issued ID to a trained member of staff
- > **Ecommerce**
 - 3-stage process
 - Membership requirement to access inventory listing
 - Mandated identity verification software
 - Identity verification at point of delivery

RETAIL LICENSING

Introduction

The most public-facing and heavily-scrutinized policy measures will likely revolve around the prevalence, zoning, ownership, and operation of retail storefronts. The design of regulations in this area will impact local communities directly, influence their stake in the new industry, and determine what the new industry looks and feels like.

The broad powers conferred to the provinces and territories will mean that there are winners and losers between them. The worst situation for BC may be a failure to support the domestic industry while allowing the market to become dominated by the importation of

products from other provinces. This could extrapolate to retail stores which are run by companies from other provinces with net cash outflow from the British Columbian economy. BC must find a path forward that allows for effective distribution, appropriate product choice, and safe and responsible consumption.

POLICY GOALS

Primary Goals

- › Establish a regulated and taxpaying system of distribution and retail access run by reputable operators.
- › Minimize the risk of cannabis retail being overly sensationalized, offering misleading statements about the product, or attracting children.
- › Facilitate industry inclusion and drive towards perfect competition, leveraging market forces to drive economic value creation, job creation, tax revenue, and individual merit-based success.

Secondary Goals

- › Protecting public health
- › Limiting black market sales
- › Security
- › Ease of enforcement
- › Ease of regulation, compliance and control

Tertiary Goals

- › Maximising revenue
- › Reducing cost of regulation
- › Education and awareness
- › Customer experience – competing with the black market
- › Timeliness (July 2018 implementation date)
- › Adaptability (regulations will likely develop both federally and provincially)

DISTRIBUTION MODELS - POLICY OPTIONS

Bill C-45 prohibits the sale of cannabis in places accessible to minors, so provinces and territories cannot likely allow sale of cannabis in grocery stores or other such locations. Aside from this, the provinces and territories have very broad discretion to choose a retail and distribution model that suits them. Each province and territory has a unique culture to consider, and what works well in Ontario may not work well for BC. It is worth noting that federal legalization stakeholders have stated publicly that legacy e-commerce distribution will continue to exist. Its supply chain transparency, defense against cannabis diversion to the black market, and access to remote populations that may opt out of cannabis retail opportunities have been celebrated as successful in the ACMPR historically.

The four main models available to British Columbia, as demonstrated by analogous jurisdictions wherein cannabis has been legalized are:

- > An entirely private model – independent retail exclusively
- > Only producers can distribute – vertical integration of retail & e-commerce
- > A liquor monopoly – liquor stores only
- > A hybrid of public and private distributors and retailers

Independant Retail

Benefits

- > Optimal job creation
- > Industry diversity and entrepreneurial inclusion
- > Staff knowledge
- > Encouraging range of products from a range of suppliers
- > Supporting a craft industry with localized consumption trends
- > Customer experience

Drawbacks

- > Protecting public health
- > Limiting black market sales
- > Security
- > Ease of enforcement
- > Ease of regulation, compliance and control

Considerations

Independent retail is viewed by many to be essential for the support and development of local industry and development of a BC entrepreneurship. Proponents advocate allowing for a range of products, from a range of suppliers, in a place where consumers can get advice about new products. Stand-alone, regulated, privately-owned stores in Colorado, with knowledgeable customer service and considerable product variety, seem to be broadly successful from both tax revenue and job creation perspectives. BC residents are already familiar with their unregulated cousins in BC with dispensaries common in both Victoria and Vancouver. The existence and financial success of dispensaries, despite their illegality, is a testament to their popularity with consumers.

Independent retail presents both opportunity and cost. The opportunity is that these stores can be regulated and controlled, ensuring an insistence on strong age verification processes, stringent regulatory standards, well-educated staff who can provide advice (including around harm reduction and safety), and lack of risk associated with alcohol co-location. However, these advantages come with the cost of increased regulatory burden on provincial and local governments. Setting up a system of regulatory oversight is discussed further below, but strong penalties for non-compliance along with rigorous, datafied, and automated monitoring and inspection programs has been shown to be successful in ensuring strong compliance.

Limiting Numbers of Independent Retailers

The New Brunswick Working Group suggested that: “One of the lessons learned from Colorado and Washington was that the retail model should begin small and be strictly controlled. It was suggested that this is the most effective way to combat the illegal market, control access and to get the legal industry up and running.”¹³

prudent to proceed with caution as was the case with licensing producers under the ACMPR. In doing this, resources can be devoted to ensuring compliance from the time a licence is granted and, as provincial capacity grows, more licences can be granted as is necessary and desired to meet growing and proven demand within local communities.

Limiting the number of independent retail licenses increases the value placed on obtaining and keeping a licence. This scarcity, and the associated high cost of non-compliance incentivizes sophisticated firms. This incentive equally exists if licences are slowly awarded, keeping them scarce during market implementation. In order to impose high regulatory standards on the retail storefronts, the licensees will need to be kept to a low enough number for proper regulatory oversight while the province is building its capacity to regulate the industry. BC could permanently cap the number of licences but this potentially hampers local autonomy and may fail to deliver on policy goals. It would be more

¹³ ‘Report of the New Brunswick Working Group on the Legalization of Cannabis’, Province of New Brunswick (2017) <https://www.gnb.ca/legis/publications/ReportNBWorkingGroupLegalizationOfCannabis.pdf>

Liquor Model

Benefits

- Ease of implementation
- Ease of regulation
- Age verification with tolerable consistency already established

Drawbacks

- Lack of entrepreneurial inclusion
- Limits job creation
- Lack of community involvement – liquor stores in every town
- Multifarious concerns around co-location with alcohol – public disorder, public health etc.
- Lack of staff training – would require investment
- Potential to homogenize consumer preference
- Issues regarding monopoly of distribution – would likely lack incentives to stock a wide range of products from a range of producers

Considerations

The B.C. Government and Service Employees' Union and the B.C. Private Liquor Store Association formed the Responsible Marijuana Retail Alliance of B.C. to "work together on a common goal: to see legal, non-medical marijuana warehoused and distributed through the existing Liquor Distribution Branch system, and sold in B.C. along with alcohol in liquor stores."¹⁴

There are liquor stores in every town. This could create a problem for some municipalities if they are used to distribute cannabis, as those who want to keep the sale of cannabis out of their locality will be unable to opt out.

The arguments they have made for incorporating cannabis into the existing system include:

- > Current compliance rates for age verification of over 90 percent
- > A lack of evidence that co-location increases co-use
- > Alternative options for reducing co-use
- > Existing system already transporting hundreds of millions of dollars in controlled substances every year
- > That a separate system would be "unnecessarily costly and time-consuming"¹⁵

¹⁴ Stephanie Smith, Damian Kettlewell, 'Comment: Best pot-regulation system already in place', Times Colonist (December 27, 2016) <http://www.timescolonist.com/opinion/op-ed/comment-best-pot-regulation-system-already-in-place-1.5389789>

¹⁵ Responsible Marijuana Retail Alliance of BC <http://www.responsible-retail.ca/>

Co-Location with Alcohol

The increased risk of accident¹⁶ when co-consuming alcohol and cannabis has been well-researched and documented.¹⁷ Locating cannabis in the same retail location is considered likely to encourage co-consumption and therefore presents a serious risk on public health and safety grounds. These assertions have been challenged by the Responsible Marijuana Retail Alliance who suggest there is no evidence that co-location increases co-use, although this may simply be because there are no jurisdictions where co-location currently exists. It is worth noting that, as well as the task force recommendation against co-location with alcohol, co-location is not available in other established legal markets, and there is a strong public health voice in opposition to co-location.

Separate In-Store Location

The “store-within-a-store” model for co-location is not ideal as it still involves both alcohol and cannabis being purchased at the same location, but would add cost through expensive renovations and implementation time to using liquor stores. If cannabis businesses are looking to avoid causing concern to locals, this may be a poor

decision as assumptions will already be made due to co-location despite the existence of stringent regulations aimed at reducing intoxication and public nuisance. Residents might argue that this would create vice product hotspots within their communities, while public health officials might be concerned that the combination may have a negative impact on public health.

Separate Locations Entirely

The existing Liquor Branch Distribution System could be utilized with a separate location designated for sale of cannabis. This would give the control desired by some members of the public health community, but foregoes the benefits of speed of implementation as new sites would have to be developed and additional sites would be created for inspection in much the same way as independent retail would. This option would allay concerns around the encouragement of co-use of alcohol and cannabis, but would add substantial implementation hurdles and cost.

¹⁶ Andrew Sewell, James Poling, Mehmet Sofuoglu, ‘The Effect of Cannabis Compared with Alcohol on Driving’, *The American Journal on Addictions* (2009) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2722956/>

¹⁷ Scott E. Lukas, Sara Orozco, ‘Ethanol increases plasma Delta(9)-tetrahydrocannabinol (THC) levels and subjective effects after marijuana smoking in human volunteers’, *Drug and Alcohol Dependence* (2001) <https://www.ncbi.nlm.nih.gov/pubmed/11543984>

Vertical Integration Only

Benefits

- > Supports craft producers
- > Ease of regulation
- > Reduces costs for industry
- > Can be either retail &/or e-commerce stores – gives local municipalities some choice in regards to whether they want a retail location in their municipality while ensuring access for consumers online.

Drawbacks

- > Some fear it could lead to domination of the market by a few companies
- > Fear of growth of lobbying power also a factor in restricting vertical integration
- > Risk of 'commercialization' – strong incentives to grow demand in order to meet profits.

Discussion

BC could prohibit, require, or allow vertical integration (where all stages of the production and supply chain are undertaken by one company). Vertical integration presents benefits both to the companies in question and regulators by having one point of contact for all regulatory and compliance issues and thereby saving costs for both parties. It also presents opportunities for “craft cannabis” by giving smaller producers an opportunity to sell their products free from potentially onerous deals with distributors, and facilitates brand-building through retaining control of their whole customer experience.

Vertical integration is welcomed by many smaller scale producers as an opportunity to find a foothold in the market, but it also presents the opportunity for large-scale businesses to develop significant economies of scale. Some fear it could lead to the domination of the market by a small number of large corporations as is the case with beer and tobacco. Others see the potential for it to facilitate the growth of craft industry and a market more closely resembling the wine industry.

Under the current ACMPR medical market, companies are licensed to produce and supply cannabis. Should the provincial government wish, it could choose the same model of single licences for the whole chain precluding the need for a third-party distributor and banning independent retail. Colorado initially required all participants in the market to be vertically integrated (mostly due to the same historical background as Canada of requiring medical companies to provide seed-to-sale tracking) but it now allows non-integrated options too. This is where cultural context is key.

British Columbia’s provincial capital already has the highest density of independent cannabis retailers in the country, so it would be an unusual and dramatic shift in culture to require only LPs to retail cannabis. For other provinces or territories, this may be the best option to start the industry in a controlled and strictly regulated manner. Where there is only one company to deal with, it is easier to collect taxes, administer regulations, and monitor compliance.

Advocates of vertically integrated operations contend that banning it will make operations costly and inefficient,¹⁸ although some public health voices see this as a desirable feature to inflate retail prices. However, vertical integration inflates retail prices through industry costs that include the creation of jobs and the associated economic ripple effects, rather than taxation which arguably has less social value.

There is a lack of agreement among professionals on whether vertical integration would either facilitate the domination of the market by a few small players or whether it could help protect the craft industry. Many craft producers are in favour of being allowed to vertically integrate their business so that they have a chance to enter the market without mediating through third-party distributors. Such distributors could favour large volume deals to the detriment of craft producers. Being able to own the consumer journey would also help them preserve their control over their full experience and differentiate themselves in the marketplace.

In California, the regulatory requirement of having separate businesses conduct distribution in the alcohol industry has not prevented a few large alcohol brands dominating the market. Distributors are paid by volume and their focus therefore favours bigger companies. The same could be true for Liquor Board distribution of cannabis in British Columbia.

Further facilitating e-commerce beyond what is federally mandated has a number of benefits including the 3-stage age verification mentioned in the previous section, consumer access in remote areas, minimising issues of local opposition, tackling the black market by beating its consumer convenience, and improving the service available to consumers.

¹⁸ Kevin R. Kosar, 'Let It Flow: Chipping Away at the Three-Tier Alcohol System', American Enterprise Institute, (August 18, 2011) <http://www.aei.org/publication/let-it-flow-chipping-away-at-the-three-tier-alcohol-system/>

Hybrid

Rather than choose one of the above options, BC could choose to allow various models to coexist, with a careful system of regulation and monitoring to review the successes and failures of the various systems. Illegal dispensaries have flourished despite their illegality, as have black market operators who deliver to consumers on demand. If the new adult use industry is to thrive it must leverage a similar range of options, better service, and convenience at a competitive price.

Neither exclusively mail order nor exclusively retail storefronts or liquor stores will sufficiently compete with the illicit market on their own. Consumer preference is diverse, and an eventual target of an omnichannel industry is the logical path to ensure dominance of regulated, secure, taxed, and quality assured supply. There is a path which can maximize the benefits while mitigating the risk. A hybrid model would allow for time in the licensing process of independent retail outlets without limiting consumer access in the early days of the new industry.

No Escaping High Implementation Costs

Whatever option is selected, there is no easy way out of the costs of effectively implementing the new industry. These costs will have a front end load, but the initial investment in analog jurisdictions has proven to generate exceptional new tax revenue streams. As the New Brunswick Working Group noted when considering lessons learned from Colorado and Washington:

“The changes required to prepare for legalization cannot be underestimated. The jurisdictions needed to invest in the development of a framework that includes the engagement of stakeholders, data collection, and time to train and resource various agencies appropriately (i.e., law enforcement, health care, product sales).¹⁹”

¹⁹ Report of the New Brunswick Working Group on the Legalization of Cannabis
<http://www.nbliquor.com/documents/report-legalization-of-cannabis-062017.pdf>

Integral to the regulation of the legal industry in BC will be the creation of the body responsible for issuing licences, ensuring compliance, and monitoring the performance of regulations as time progresses. Besides retail licences, regardless of the retail model ultimately chosen in BC, a number of other licences will also fall under the purview of this licensing body. These potentially include licences for accredited cannabis testing labs, social consumption spaces, delivery services, and distribution management. These are discussed in the Ancillary Industries section.

Options for the location of this body within the BC government:

- An entirely independent new branch within the business and employment department or similar. This is the option chosen by the Colorado state government.
- An expansion of the Liquor Control and Licensing Branch, where cannabis and liquor licensing are treated by distinct sub-departments. This is the option chosen by the Washington state government, which oversees cannabis regulation through the Washington State Liquor and Cannabis Board.
- As a sub-department within the Liquor Control and Licensing Branch.

The considerations of the Cannabis Licensing Body will be distinct from those of the Liquor Control and Licensing Branch, although there is clearly much overlap in the issues being considered. Consequently, a joint board where the the different licensing duties are devolved to separate sub-departments, as Washington State has established, can ensure due care and attention is given specifically to cannabis licensing. This also enables a hybrid approach with the Liquor Control and Licensing Branch to be maintained, and experience to be shared closely.

HOW — STANDARDS

The Cannabis Licensing Body will have the authority to levy licence fees from businesses participating in the industry and will be responsible for ensuring compliance with the province's regulations.

License Fees

- A fee should be determined which would cover the costs of the new regulatory body.
 - E.g. if the establishment of the Licensing Body will cost \$10M and 1000 serious applicants are anticipated, then a \$10,000 fee would be appropriate.
- Regulation & compliance including:
 - Inventory Management
 - Supply Chain Management
 - Age Verification checks
 - On-site Inspections
- Requisite Features:
 - Point of sale integration
 - Customer Relationship Management software integration
 - Auditable reporting documents available at 72 hours' notice

WHERE — ZONING

Balancing control of municipalities while not overburdening them is an essential role of this governing body. Some municipalities have already expressed concerns with allowing medical cannabis operations within their boundaries.

Those municipalities who do support the new industry are likely to see a boon for associated job creation and municipal tax revenues. Certain municipalities may wish to reject applications through planning applications or bylaws, as seen in the municipal push-back on ACMPR licensed cultivation sites through restrictive local zoning bylaws. These additional complications may delay and obfuscate the licensing process. There ought to be clear, provincial-level guidance on zoning policy and storefront density, and the opportunity for municipal governments to feed into licensing applications submitted to the provincial government. An extreme case of this could be a veto on applications held by municipal governments.

Vancouver attempted local regulation of medical cannabis dispensaries in 2015. The conditions dispensaries were allowed to operate under mainly related to zoning, with businesses allowed in

commercial zones and a minimum of 300m from schools, community centers, neighbourhood houses, youth facilities that serve vulnerable youth, and other cannabis-related businesses.²⁰ These city regulations are similar to those found in Colorado and Washington. Other regulations include purchasing a business licence (which could cost up to \$30,000) and obtaining a development permit that includes a standard community notification process. These are familiar regulations for anyone who has set up a business offering a vice product or service.

Vancouver medical cannabis retailer regulations also include the signing of a 'Good Neighbour Agreement'. These good neighbour agreements may hold the key to the harmonious locating of cannabis retail businesses in the towns and cities of BC. In the deployment interim, and for municipalities who opt out of enabling cannabis retail, fostering the e-commerce model may reduce community concerns and still provide access.

Recommendation

- Ensure that licence applications include submission from local municipalities.
- Assist local government with building, health, and other code enforcement.

²⁰ 'Regulations for medical marijuana-related businesses'. City of Vancouver (2015)
<http://vancouver.ca/doing-business/medical-marijuana-related-business-regulations.aspx>

WHO — APPLICANTS

In order to ensure a high standard of professionalism and defend against organized crime moving into the legal market, a number of checks and balances are advisable. Criminal record checks provide a useful tool to ensure those who have been involved in gang-related organized crime, financial crime, or violent crime are prohibited from working in the new industry. They also present a number of challenges. It would be arguably detrimental to social justice to prohibit those with minor non-violent drug offences from participating in the new industry.

A balance which mandates criminal checks, but provides the necessary guidance to ensure people are not discriminated against for irrelevant offences is advisable. Crimes of dishonesty such as fraud or financial crime should arguably preclude people from participating in the market as well, outside of the context of drug crime alone.

Training for workers in the industry is also essential. As well as licensing and ensuring compliance in the industry, the new Cannabis Licensing Body will also be crucial in mandating educational courses fitting certain roles to ensure there are high standards of best practice throughout the industry. In particular, a minimum standard of training for customer-facing jobs is essential. The cannabis licensing body could require that anyone selling cannabis undertake a training course which includes how to advise consumers on potency, safer methods of consumption, harm reduction and risks.

Merit-Based System

Some states have successfully implemented merit-based systems where points are attributed to desirable applicant qualities to stratify the quality of applicants based on competencies in:

- > Security
- > Supply Chain Management
- > Absence of organized criminal associations, financial crime, or violent criminal history
- > Funding
- > Overall preparedness

Staff Requirements

- > Understanding potency
- > Understanding forms of use
- > Understanding effects of use
- > Product knowledge
- > Age verification

RECOMMENDATIONS

- Establish a British Columbian Cannabis Licensing Body overseeing:
 - Supply chain management
 - Regulatory compliance and licensing for:
 - Retail
 - Distribution (both business to business and business to consumer)
 - On site use – smoking lounges etc.
 - Accredited cannabis testing/quality assurance labs
- Require all participants in the legal cannabis program to undergo a certain level of criminal record check and known criminal associations check, with judgements made on a case by case basis according to threat level for diversion to the black market, financial crime, and violent crime
- Audited financials and investment capitalization tables demonstrating origins of financial resources as legitimate
- Licensing fees to cover the costs of a British Columbian Cannabis Licensing Body

SUPPLY CHAIN MANAGEMENT, TRANSPARENCY & REPORTING

“Regulators, like the lay public, will think more clearly about an issue when they are informed by a steady stream of relatively rigorous data and findings.”²¹

Introduction

Transparency is one of the key benefits of a legal market. It gives regulators the best information to aid the development of policy, encourages good practice from the industry, and gives customers assurances that their products meet established standards.

In Washington State, the Liquor and Cannabis Control Board assumed responsibility for licensing, maintaining, and auditing lawful practices within the cannabis supply chain. To accomplish this, they instituted mandatory supply chain reporting software. Producers, processors, and retailers are obligated to report production and inventory supply,

business to business transactions, and retail sales. These audit tools prevent diversion of legal products to and from the black market.

It is likely that British Columbia will have its own set of reporting and auditing requirements, borrowing elements from the alcohol distribution model and successful states like Washington. Nonetheless, nuances of the British Columbian cannabis supply chain will require insightful and specialized policy.

²¹ Philip A. Wallach, 'Washington's Marijuana Legalization Grows Knowledge, Not Just Pot', Brookings (August 25, 2014) <https://www.brookings.edu/research/washingtons-marijuana-legalization-grows-knowledge-not-just-pot/>

POLICY GOALS

- Prevent diversion of legally produced cannabis into the black market.
- Prevent illegally produced cannabis from being sold by Licensed Producers or retailers.
- Maintain an easily auditable and thoroughly reported supply chain for simple data analysis and monitoring.
- Real time understanding of how much cannabis is being produced, consumed, exported, and imported.

Striking the Right Balance

The BC industry needs smart regulation in order to allow BC businesses to thrive locally and globally. Protectionism will help BC business within BC, but there is a growing global market that Canada has the potential to lead. BC companies have the opportunity to be key players in a globalized cannabis future, creating compelling net economic inflows from export of cannabis products and IP.

Allowing a diverse range of distribution models to coexist while imposing stringent testing and tracking regulations can help facilitate this.

Excessive regulation may:

- > Be costly to enforce
- > Create opportunities for black market activity to continue to thrive
- > Impose costs on those regulated
- > Increase prices for consumers
- > Reduce tax revenues
- > Make BC companies uncompetitive nationally and globally

Under regulation may:

- > Encourage industry to drive up demand
- > Allow unsafe products to enter the market
- > Impose external costs on BC, particularly health costs
- > Drive down costs & increase appeal of products
- > Reduce tax revenue
- > Prevent BC companies from entering other markets

SUPPLY CHAIN MANAGEMENT SYSTEMS

Seed-to-sale tracking, which is already mandated under the ACMPR medical system, requires industry participants to implement a system that allows regulators to identify cannabis products as it proceeds from cultivation, into distribution, right up to point of sale.

Properly managed reporting systems provide policy benefits in reducing the potential for diversion from the legal market onto the black market and reducing the scope for black market produced cannabis to be sold through legally regulated retailers. Reporting systems also make recalls of unsafe products easily practicable, allowing regulators to track a contaminated or

unsafe product back to the manufacturer. Appropriate steps can then be taken to protect public health and provide any legal recourse that may be needed for the consumer. This is common practice in many industries, and may very well be mandatory in the cannabis industry. Further benefits include the ability to monitor supply and identify potential surplus or deficit of supply as well as spotting potential diversion onto or out of the legal market. It also improves the efficiency of tax collection.

Features of supply chain reporting:

- > Tracking of movement of products
- > Collection of market data
- > Monitoring Sales
- > Identifying issues of excess or insufficient supply
- > Efficient tax collection
- > Reduction of scope for diversion

Stakeholders:

- > Regulators
- > Law Enforcement
- > Tax Collectors
- > Customers
- > Cannabis Businesses

No system of seed-to-sale tracking is foolproof, and care needs to be taken in designing a system that minimizes costs to both the regulator and the market participant while maximising the efficiency and effectiveness of the system. The data is entered onto the system by the business and therefore the system's integrity relies to some extent on how accurate the data is. Data needs to be checked both through in-system monitoring to cross-check accuracy and by on-site inspection to ensure validity. Alongside the supply chain management software, regular on-site compliance inspections should likely be required. The system needs to be linked to licences so that licences can be revoked or fines issued in instances of noncompliance.

LICENSED PRODUCERS' REPORTING REQUIREMENTS

ACMPR

The Health Canada requirements for record keeping and data collection are stringent. Under the ACMPR, licensed producers receive regular inspections. These inspections include the 'verification of record keeping procedures' and 'verification of reporting methods for loss or theft, adverse reactions, dried marijuana and cannabis oil recalls, and changes of key personnel'.²²

Examples of Software

There are a number of companies that have developed software to help track, report and prevent compliance issues for cannabis companies. The range of reporting technology on the market includes:

- > Tracking of movement of products
- > Collection of market data
- > Monitoring Sales
- > Identifying issues of excess or insufficient supply
- > Efficient tax collection
- > Reduction of scope for diversion

²² 'Inspections - What to Expect - Information Package', Health Canada (2017)
<http://www.hc-sc.gc.ca/dhp-mps/marihuana/info/licencedproducer-producteurautorise/inspections-eng.php>

There could be flexibility in how companies and regulators adopt these products but, as seen in some states in the US, it is often only one that becomes widely used within a region. Blanket roll-outs of software are more fitting with state regulators' aims, timeframes and expertise. Colorado uses licensing data, inventory data from METRC™, monitoring and enforcement data, and administrative actions when compiling their Marijuana Enforcement Division reports. The current market leader in Canada's medical market is Toronto-based Ample Organics.

REDUCING THE SCALE OF THE BLACK MARKET

It is well known that organized crime participates in illegal marijuana production and distribution. It is a key aim of the new market to disrupt this criminal involvement.

The reduction in the cost of production offered by the shift to legally regulated enterprise may have their own natural market effects that reduce the scale of black market production. This, along with enforcement on criminal organizations should help significantly reduce the role of organized crime in the cannabis market.

There is also the issue of products diverted onto the legal market. These may be black market produced without the relevant local taxes having been paid. In order to prevent this black market activity, it is important to ensure full supply chain reporting for all companies operating in the market including retailers. The process of reporting information on supply to the provincial government will make it harder for potentially unsafe or untaxed products to be sold.

SUPPORTING A HYBRID MODEL

One of the most pressing considerations for the regulation of the cannabis industry is industry structure. This includes the enforcing or removing of requirements around vertical integration. In Colorado, in order to make reporting and regulation of industry easier, the state initially only allowed vertically integrated businesses to receive licences. These are businesses licensed to produce and sell cannabis directly to consumers. Now, since software has improved and the market is better established, companies are able to apply for licences to only retail or produce cannabis, but all must comply with the reporting requirements.

It is important that BC builds a model which allows for the highest standard of monitoring possible. This is best achieved through allowing both vertically integrated businesses and stratified businesses alike to operate in the market under license and by imposing the same system of reporting on both businesses. This system will help track what works best and allow flexibility in the regulatory approach as the market grows. The regulators' costs are reduced by imposing provincially mandated software which can deal with this range of business models and licensees.

ADDED VALUE FEATURES

We recommend that the government of BC prioritize data and knowledge gathering as they advance their cannabis regulations. At all stages they need to know: does the regulatory system hit the key policy areas for the provincial and federal governments? Is diversion onto the black market occurring, and if so, where in the supply chain, and to what extent?

Partnerships with universities and NGOs could help evaluate the impact of legal change and regulations on the province. Product tracking, sales recording, market size data, and public consumption levels are all important data to gather. Some provinces and territories are consulting with the public, public health officials, industry, and local government in advance of legislation, but the real feedback and evaluation will be the data collected over time. The data is removed from the pitfalls of opinion and free of intuitive concerns. For those fearful of what they see as a risky experiment in their province or territory, data can assuage some of those concerns over time.

Tracking trends in the data gathered does not simply aid with taxation and monitoring of the market. Uncovering market trends as they emerge and the industry develops should assist provincial regulators in the development of more effective policies in a quantified and objective manner.

RECOMMENDATIONS

- > Contract the development or adaption of a provincially mandated software reporting tool which includes:
 - Modules for production, processing, and retail sales for use in vertically integrated businesses and stratified businesses alike
 - Regulator access to real time audit capability
 - Information on the cannabis available in the system, where it is currently located in the supply chain, and what trends emerge

- > Reporting obligation of seed-to-sale data currently required under the ACMPR

Extension modules for:

- Distributors
- Retailers
- Delivery services

ANCILLARY INDUSTRIES

Introduction

As public opinion on cannabis shifts and the industry moves into its regulated framework, 'non-cannabis touching' companies will look to enter the space. Key to attracting these ancillary services is the creation of a responsible industry with high standards, populated with companies with respectable brands. A recent poll of marketing agencies and consultancies in the US and Canada revealed '43% of companies would be willing to take on a client in the cannabis industry, with 32% saying they would not.' Those unwilling to work with the cannabis industry cited 'negative perception of their company' with some suggesting the industry is not 'robust enough'.²³ The right regulations can instil the necessary trust in the cannabis industry to attract ancillary industries.

The production, distribution and supply of cannabis products will provide a huge economic impetus for the growth of ancillary industries. A range of products and services will become possible following legalization, with the rapid growth of the nascent industry sure to spark innovation in spillover businesses. This has already been demonstrated in more mature legal cannabis marketplaces.²⁴

²³ Josh Kolm, 'Are agencies ready to work with cannabis?', Strategy (August 9, 2017) <http://strategyonline.ca/2017/08/09/are-agencies-ready-to-work-with-cannabis>

²⁴ Rob Meagher, 'Cannabis Business Executive 100 Top Ancillary Businesses of 2016', Cannabis Business Executive (June 7, 2016) <https://www.cannabisbusinessexecutive.com/2016/06/cannabis-business-executive-100-top-ancillary-businesses>

The provincial government of British Columbia should aim to nurture the growth of ancillary businesses in the region, which will enable job creation and the inclusion of diverse entrepreneurial participation. Many of these new entrants may prefer not to focus on cultivation or retail sales of cannabis products. As the opportunities for ancillary businesses will present themselves nationally, BC should position itself to become a centre for these industries – both to complement and strengthen the region’s lead in the national cannabis market, and to ensure that it does not miss out on benefitting from this valuable sector.

Regulation of some ancillary business sectors is necessary to ensure they help to achieve the stated aims of cannabis market regulation by the federal government: eroding the illegal market and reducing access to minors. These may include delivery services, subscription models, logistics, consumption lounges and restaurants, testing labs, and aspects of technology development. Service providers requiring little or no cannabis-specific regulation may include lawyers, accountants, brand agencies, public relations firms, government relations firms, security providers, leasing agents, real estate developers, architects, interior designers, software developers, media, events and many other beneficiaries of this new economic driver.

POLICY GOALS

- Facilitate a competitive and convenient shift from black market purchase habits to the legal market.
 - Regulate high performance quality assurance, to engender greater consumer confidence in legal cannabis
 - Establish convenient, reliable, and trackable delivery services that exceed the convenience and user experience of black market delivery
 - Provide discreet, well regulated social consumption spaces

- Prevent an under-regulated environment that could encourage use by minors or increased consumption.

Implement efficient and streamlined regulation for indirect participants in the cannabis supply chain.

 - Clear guidelines on limits for quality assurance - cannabinoid content, consistency and contaminants
 - Robust, simple tracking technology for delivery

- Diverse entrepreneurial participation.
 - Avoid broad, restrictive regulations that could prevent innovative services from basing themselves in BC, or restrict their growth

ANCILLARY INDUSTRIES REQUIRING REGULATION [1]

Consumption Spaces

The development and licensing of social consumption spaces has not yet been fully addressed in legal cannabis markets. To date, Denver, Colorado, is the only location in a regulated market that is attempting to license social consumption spaces for cannabis, although Spain has regulated cannabis social clubs in its decriminalized market, which allow for social consumption.

Cannabis is often consumed in a social setting, ergo demand for social consumption spaces exists. Thus, while it is not the first priority for regulators, the licensing for social consumption spaces must be considered in due course. Regulations should take into account regulations on zoning, co-consumption of alcohol, employment of minors, membership requirements, and methods of cannabis consumption. Temporary licences for events may also need consideration. Edible consumption in social settings, such as cannabis

'restaurants', may require different licensing from spaces designed for consumption through vaporization or 'smoking lounges', for example. Overly restrictive regulations may unintentionally prohibit or restrict more than one form of consumption space and so a range of licence types may be required for venues with different purposes.

Licensing for consumption spaces should be carefully considered by the Cannabis Licensing Body, and a separate stream of consumption space licences made available in due course.

Delivery and Logistics Services

Whether transporting cannabis business to business (B2B) or business to customer (B2C), the fundamentals of regulating the supply chain still apply, as discussed in the Supply Chain Management chapter, to maintain seed-to-sale reporting. Transparency and ease of tracking and reporting for logistics and delivery services are important to ensure legally produced cannabis is not diverted into the illegal market, or that illegally produced cannabis does not enter the legal supply chain at these points. Tracking software, as already discussed, must be optimized for these services and then mandated for use by licensed logistics and delivery services, with unlicensed services not permitted to transport and distribute cannabis. Staff in these services must be trained in how to use tracking software.

A shortage of licensed and sufficiently trained logistics services could create a bottleneck in the supply chain for the province, which could limit access to the newly legal market. It is important that the logistical demand is met and that sufficient licences are granted for adequate cannabis transportation within BC. Consequently, obtaining transportation licences should not be unduly burdensome, and the granting of these licences should be a priority for the Cannabis Licensing Body.

An essential challenge for the legal industry is how the purchase convenience of black market delivery is met and exceeded. Legal business-to-customer delivery services provide a potential solution, as well as a wealth of delivery jobs. Alongside the transparency needed for logistics at other stages of the supply chain, when supplying directly to customers, there is the added need to verify the identity and age of customers receiving delivery. Use of delivery services may take place along similar lines to online retail models, with three-stage identity and age verification: at registration, purchase, and delivery. The convenience of cannabis delivery services may cause concern among some about the over-availability of cannabis, and care should be taken to ensure such services do not act to overly increase sales and consumption. We recommend restrictions on the advertising of delivery services for this reason, and municipalities may choose to apply additional restrictions on delivery services, such as permitted hours of operation.

Software

Software that connects businesses with cannabis consumers provides an opportunity for marketing and advertising cannabis products. Consequently, such software should only be accessible to adult audiences through age verified registration and its content should be aimed at adult audiences. Software that does not meet these guidelines should not be permitted for use within the province, and compliance from tech companies that provide access to software will be required to ensure this.

SERVICES NOT REQUIRING SPECIFIC CANNABIS RELATED REGULATION

Professional Services

A wide range of professional services, such as from lawyers, accountants and PR firms will also act as ancillary services to the cannabis industry and receive a substantial boost from this new market. While such services have operated in a legal grey area in US States due to conflict between state and federal policy, in some cases necessitating careful regulation and limitations on their services,²⁵ this is not the case in Canada, and so such services can continue to work with cannabis businesses without cannabis-specific regulation. Regulation of these professions can be maintained through existing structures.

²⁵ Canna Law Blog, 'Ancillary Marijuana Businesses: A Legal Gray(er) Area'. Canna Law Group (March 31, 2014) <http://www.cannalawblog.com/ancillary-marijuana-businesses-a-legal-gray-area/>

Recommendations

- > Separate licensing streams and specific licences for delivery services, logistics services, on-site consumption, and testing services
- > In-depth consideration given to licensing of consumption spaces
 - Licensing conditions must include zoning, co-consumption of alcohol
 - Multiple forms of consumption space licence will be necessary to accommodate different consumption methods, habits and environments
- > Software developers producing software that connects consumers with cannabis businesses should aim their content at adult audiences and restrict access to adults using age verified registration.
- > Integration for logistics and delivery services with tracking and reporting software
- > Delivery services must be mandated to require age verifiable ID checks at the point of delivery, and delivery staff must be sufficiently trained and auditably accountable in this requirement.

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