

Legislative Review of the *Cannabis Act*: Submission to the Expert Panel

December 31, 2023

The Centre for Addiction and Mental Health (CAMH) is pleased to present this submission to the Expert Panel undertaking an assessment of the *Cannabis Act*. In this document, which builds on our joint [November 2022 submission](#) to the Expert Panel, we wish to address some of the cannabis industry positions shared in the Panel's ["What We Heard" report](#).¹

As reflected in the Panel's report and elsewhere, the cannabis industry takes the position that the Act's regulations – especially those intended to safeguard public health – are stifling the legal cannabis market and fueling the illicit market.^{2,3,4} The industry's proposed remedy is to loosen those regulations. The Panel's report states that:

We also heard about the importance of creating conditions for the legal market's success (for example, through relaxing restrictions on promotion, packaging and labelling, increasing the THC quantity for edible cannabis, increasing remote and after-hours access to cannabis, and removing the possession limit to allow higher volume purchases). Many industry stakeholders advocated for this approach, arguing that the many struggling legal companies need support to continue offering a legal, regulated alternative to illicit products, and that restrictions drive consumers to the illicit market...^{1, p. 75}

The *Cannabis Act*'s dual objectives – protecting public health and eliminating the illicit market – are often in tension.⁴ It seems clear that the Cannabis Act is intended to prioritize the former. The stated purpose of the Act is to protect public health and public safety, with an emphasis on youth. In particular, it is intended to "protect the health of young persons by restricting their access to cannabis and protect young persons and others from inducements to use cannabis."⁵

As Panel members know, youth who use cannabis are at increased risk for a range of harms including "adverse mental health and cognitive outcomes, including development and exacerbation of early-onset psychosis, depression and anxiety, suicidal ideations and suicide attempts, alteration of brain development and structure, lower educational attainment, lower cognitive function, and decreased motivation."⁶ This is the case whether the cannabis consumed is licit or illicit. From a public health perspective, the most effective measures to minimize substance-related harm are controls on promotion, availability, and price.^{7,8} These are the very measures the industry is seeking to undermine.

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Promotion, Packaging and Labelling

Of the Act's regulations intended to minimize harms and safeguard public health, those around promotion, packaging and labelling may be the most innovative. Youth in particular are known to be susceptible to the promotion of psychoactive substances, and packaging can influence young people's consumption.^{9,10} The Act's restrictions on these activities are in line with public health experts' recommendations, and there is emerging evidence that the Act's requirements for plain packaging and labelling appear to be successfully making cannabis less appealing to youth.^{11,12,13,14,15} This is despite widespread violations of existing advertising rules.¹⁶

The *Cannabis Act*'s evidence-based regulations around advertising and packaging should be considered the gold standard and a model for any jurisdiction seeking to legalize cannabis. Regulations on promotion, packaging and labeling should be maintained in their entirety.

THC Levels for Edible Cannabis

The *Cannabis Act* takes a cautious approach to edible cannabis products, with a limit of 10mg of THC per package and a broad ban on products and packaging that are appealing to youth. Even despite these precautions, Canada has seen a marked increase in unintentional cannabis poisonings in children since legalization.¹⁷ The limit of 10mg of THC per package for edibles should be maintained.

Increasing Access to Cannabis

Some provinces and territories, especially those with private retail systems, have seen an increase in retail stores that can be expected to lead to more consumption and more harm, including among youth.^{6,18} The Panel's report states that:

Some industry representatives suggested that governments should reconsider the underlying assumption that growth in the cannabis market has a negative impact on public health. They discussed anecdotal observations that, in some situations, consumers use cannabis as an alternative to other harmful substances, including alcohol, tobacco, and opioids.^{1, p. 25}

This claim contradicts over 50 years of public health research, which has clearly demonstrated that as the availability of psychoactive substance increases, so do the associated harms.^{8,19} Even if it was the case that cannabis is used as an alternative to other substances, this would not constitute a valid basis for loosening cannabis regulations; in any case, these anecdotes have not been substantiated.²⁰

Tax and Price

Price controls may be the single most effective way to address substance-related harms.^{8,19} Reductions in cannabis prices can be expected to lead to increases in consumption. Conversely, prices based on potency,

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with more potent products being more expensive, can encourage the consumption of less potent products.²¹ Federal excise tax is currently based on THC for potency cannabis oils, extracts, edibles, and topicals, but not for dried or fresh cannabis, which accounts for most of the cannabis consumed in Canada.²² The federal government should move towards an excise tax based on THC for dried and fresh cannabis in order to incentivize the consumption of less potent products.

Regulatory Clarity and Enforcement

A functioning legal cannabis industry is necessary for cannabis legalization to be successful. Legal retailers have made good progress to date in capturing the market, with the share of consumption captured by legal cannabis increasing year over year.²³ The federal government can continue to support the legal market by ensuring compliance with the Act, working with provincial and municipal authorities to eliminate illegal storefronts. This could be accomplished through enforcement as well as novel methods such as allowing landlords of illegal storefronts to be charged and prosecuted. The federal government should also ensure compliance with regulations around promotion, at points of sale and online.

In some areas, the federal government should be urged to clarify its regulations for provinces and territories. For example, the *Cannabis Act* prohibits displays of cannabis and accessories “in a manner that may result in it being seen by a young person, such as when walking by a store window.”²⁵ Despite this, some provinces have eliminated their own requirements in this area, leading to widespread violations of the Act’s regulations on the promotions and display of cannabis. To our knowledge, the federal government has not commented on this or issued any clarification. This regulation is an important part of Canada’s public health approach to cannabis and it is critical that it be maintained.

Conclusion

We wish to thank the members of the Expert Panel for their service. As the Panel reviews the evidence before it, we urge it to do so through with public health as the overriding priority – with an emphasis on youth. We believe that doing so will lead to the conclusion that the harm minimization measures in this legislation, including plain packaging and mandatory health and product information, must be maintained, protected, and enforced.

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The Centre for Addiction and Mental Health (CAMH) is Canada's largest mental health and addiction teaching hospital and one of the world's leading research centres in this field. CAMH is committed to playing a leading role in transforming society's understanding of mental illness and substance use and building a better health care system. To help achieve these goals, CAMH communicates evidence-informed policy advice to stakeholders and policymakers.

¹ Legislative Review Secretariat (Health Canada). (2023). Legislative review of the Cannabis Act: 'What We Heard' report. Retrieved from <https://www.canada.ca/en/health-canada/services/drugs-medication/cannabis/laws-regulations/cannabis-act-legislative-review/expert-panel/legislative-review-cannabis-act-report.html>

² Cannabis Council of Canada. (2022). Cannabis industry submission to Cannabis Act review calls for immediate financial relief and for governments to bring down the walls of stigmatization. Retrieved from <https://cannabis-council.ca/media/cannabis-industry-submission>

³ Raycraft, R., (2022). Canada must help legal cannabis sector compete with the illicit market, experts say. *CBC News*. Retrieved from <https://www.cbc.ca/news/politics/cannabis-act-review-industry-changes-1.6688485>

⁴ Crépault, J.-F., Rueda, S., & Tang, V. (2023). Five years after cannabis legalization, is it time to ease restrictions on promotion? *Healthcare Policy*, 19(3), pre-release.

⁵ Department of Justice (Canada). (2022). Cannabis Act (S.C. 2018, c. 16). Retrieved from <https://laws-lois.justice.gc.ca/eng/acts/c-24.5/>

⁶ Rubin-Kahana, D. S., Crépault, J. F., Matheson, J., & Le Foll, B. (2022). The impact of cannabis legalization for recreational purposes on youth: a narrative review of the Canadian experience. *Frontiers in Psychiatry*, 13, 984485.

⁷ World Health Organization (2017). "Best buys" and other recommended interventions for the prevention and control of noncommunicable diseases. Updated appendix 3 of the global action plan for the prevention and control of noncommunicable diseases 2013-2020. Geneva, Switzerland: WHO.

⁸ Babor, T. F., Casswell, S., Graham, K., Huckle, T., ... & Sornpaisarn, B. (2022). *Alcohol: No Ordinary Commodity* (3rd edition). Oxford, UK: Oxford University Press.

⁹ Jernigan, D., Noel, J. K., Landon, J., Thornton, N., & Lobstein, T. (2017). Alcohol marketing and youth alcohol consumption: A systematic review of longitudinal studies published since 2008. *Addiction*, 112(Suppl 1), 7–20.

¹⁰ Lovato, C., Watts, A., & Stead, L. F. (2011). Impact of tobacco advertising and promotion on increasing adolescent smoking behaviours. *Cochrane Database of Systematic Reviews*, 10, CD003439.

¹¹ Centre for Addiction and Mental Health. (2014). *Cannabis Policy Framework*. Toronto, ON: CAMH. Retrieved from <https://www.camh.ca/-/media/files/pdfs---public-policy-submissions/camhcannabispolicyframework-pdf.pdf>

¹² Haden, M., & Emerson, B. (2014). A vision for cannabis regulation: a public health approach based on lessons learned from the regulation of alcohol and tobacco. *Open Medicine*, 8(2), e73-80.

¹³ Institut national de santé publique du Québec. (2016). *Légalisation du cannabis à des fins non médicales : pour une régulation favorable à la santé publique*. Montréal, QC: INSPQ. Retrieved from https://www.inspq.qc.ca/sites/default/files/publications/2193_legalisation_cannabis_fins_non_medicales.pdf

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¹⁴ Canadian Public Health Association. (2017). A public health approach to the legalization, regulation and restriction of access to cannabis: position statement. Retrieved from <https://www.cpha.ca/public-health-approach-legalization-regulation-and-restriction-access-cannabis>

¹⁵ Goodman, S., Rynard, V. L., Iraniparast, M., & Hammond, D. (2021). Influence of package colour, branding and health warnings on appeal and perceived harm of cannabis products among respondents in Canada and the US. *Preventive Medicine*, 153, 106788.

¹⁶ Sheikhan, N. Y., Pinto, A. M., Nowak, D. A., Abolhassani, F., ... & Witek, T. J. (2021). Compliance with Cannabis Act regulations regarding online promotion among Canadian commercial cannabis-licensed firms. *JAMA Network Open*, 4(7): e2116551.

¹⁷ Myran, D. T., Tanuseputro, P., Auger, N., Konikoff, L., Talarico, R., & Finkelstein, Y. (2022). Edible cannabis legalization and unintentional poisonings in children. *New England Journal of Medicine*, 387(8), 757–759.

¹⁸ Myran, D. T., Staykov, E., Cantor, N., Taljaard, M., ... & Tanuseputro, P. (2022). How has access to legal cannabis changed over time? An analysis of the cannabis retail market in Canada 2 years following the legalisation of recreational cannabis. *Drug and Alcohol Review*, 41(2), 377–385.

¹⁹ Anderson, P., Braddick, F., Conrod, P. J., Gual, A., ... Ysa, T. (2017). *The new governance of addictive substances and behaviours*. Oxford, UK: Oxford University Press.

²⁰ Mathur, N. K., & Ruhm, C. J. (2023). Marijuana legalization and opioid deaths. *Journal of Health Economics*, 88, 102728.

²¹ Rehm, J., Crépault, J.-F., Hasan, O.S.M., Lachenmeier, D. W., Room, R., & Sornpaisarn, B. (2019). Regulatory policies for alcohol, other psychoactive substances and addictive behaviours: the role of level of use and potency. *International Journal of Environmental Research and Public Health*, 16(19), 3749.

²² Health Canada. (2021). Canadian Cannabis Survey 2021: summary. Retrieved from <https://www.canada.ca/en/health-canada/services/drugs-medication/cannabis/research-data/canadian-cannabis-survey-2021-summary.html>

²³ Statistics Canada. (2023.) "Table 36-10-0124-01: Detailed household final consumption expenditure, Canada, quarterly (x 1,000,000)." Retrieved from <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=3610012401>