

ENABLING BC'S CANNABIS ECONOMY

Issue

. The legal recreational cannabis market opened many aspects of the supply chain to the private sector to fill the need for the responsible production and sale of cannabis products in Canada.

Early market projections for the recreational cannabis market continue to fall short due to:

- Jurisdictional issues between the provincial and municipal governments
- Complex supply chain
- The cost of legal cannabis relative to the illicit market
- Packaging restrictions

Although not a primary consideration for the government, in order to achieve its stated policy objectives, the private sector must be able to operate in the recreational cannabis market in a sustainable manner.

Background

Increased Enforcement

The two biggest challenges to the development of the nascent regulated cannabis industry are entrenched illicit market competition and inefficient and costly regulation. The continued operation of illegal cannabis retailers, dispensaries and dealers today is a failure of a key goal of legalization: eliminating the illicit market. As they do not operate within the legal and regulatory framework, they are able to forgo many of the associated costs which legal companies must incur – both regulatory charges and fees, and mark-up paid on wholesale orders from the Liquor Distribution Branch. They also do not pay taxes as business entities, nor do they collect sales or other taxes which contribute to government revenue. As a result of these forgone costs, these illegal operations are able to undercut legal cannabis businesses on price, siphoning customers away and putting the legal industry at risk.

The illicit market in British Columbia is active in three interconnected areas: unregulated production, unlicensed retail stores, and illicit e-commerce sales. There is limited enforcement against illicit operators. The independent expert panel established by the Government of Canada¹ in 2022 will take an extended period to research and report current issues. The report will clarify provincial expenditures around compliance and enforcement against future expected transfers from the Federal Government to BC from the province's share of the excise duty.

Financial Services

Despite cannabis businesses and products being legalized for years now, many private operators have reported being excluded from key financial services and products because of their chosen industry. These businesses can experience refusal of service by financial institutions where they are

¹ <https://www.canada.ca/en/health-canada/services/drugs-medication/cannabis/laws-regulations/cannabis-act-legislative-review/expert-panel.html>

unable to open bank accounts or access key services such as credit cards or investment vehicles. If this industry is legal, the financial services sector should be required to service and support it like any other legal industry. Provincial and federal governments and regulators should work with the financial sector to identify and overcome challenges with serving this industry to allow these businesses fair access to financial services.

Zoning

Several BC municipalities have made it nearly impossible for legal cannabis businesses to establish in their communities. Some local governments have simply refused to entertain legal cannabis applications and have not established zoning policies or bylaws to allow these businesses. Some other governments allow cannabis businesses, but their zoning is so restrictive as to only allow government-run BC Cannabis Stores to operate, or they create such strict location restrictions that they de facto prohibit these operations.

To ensure these legal businesses can operate in communities across BC, the provincial government should create province-wide allowable zoning rules for cannabis retail which should be implemented in those communities which have failed to enact their own policies. In those communities with cannabis zoning policies, the provincial government should instead require that these policies permit private cannabis retail subject to *reasonable* guidelines and requirements.

In all cases, rules applying to legal cannabis distribution must include First Nations and Indigenous participation.

Excise Tax Changes

Cannabis producers are required to remit significant excise taxes to the CRA as part of the legal cannabis regime. Currently, the excise tax is \$1 per gram of dried cannabis flower. During the lead up to legalization, a common projection was that cannabis would retail for \$10/gram, and the \$1/gram tax was communicated in this context. However, the post-legalization market realities are quite different. As of February 8, 2023, the Canada Cannabis Spot Price Index pegged the market price at \$5.03/gram, just over half of the commonly projected \$10/gram price. Therefore, the excise tax represents nearly 20% of the market price, instead of the 10% it was originally presented as. This presents a financial challenge for cannabis producers, and further erodes the competitiveness of the legal market vis a vis the illicit market.

Taken together, these policies, bylaws and regulations greatly increase the costs of operating a regulated cannabis business in BC. The corporate infrastructure required to support a chain of legal cannabis retail stores will likely exceed the profits that will be generated. The findings of the Cannabis Act legislative review are expected to address this issue with stakeholder input recommendations creating a more robust bottom line for legal operators

The issues noted above present an important observation – some regulatory decisions potentially run counter to the overall objectives of eliminating the illicit market and keeping cannabis out of the hands of youth. While the legal market continues to establish itself, a high percentage of Canadian consumers purchase unregulated cannabis products. Furthermore, the patchwork of regulation across all provinces and municipalities, along with the increased cost (due to taxation framework, licensing delays, and supply chain considerations) further erode the policy objectives. Aligning the interests of the private

sector along with the policy objectives and public safety is critical to the long-term success of the initiative to legalize recreational cannabis in Canada..

THE CHAMBER RECOMMENDS

That the Provincial Government:

1. Enable better access to legal cannabis, which in turn will help to extinguish the current illicit market through, but not limited to, the following:
 - a) Focus resources and attention for policing and prosecution of illicit and illegal cannabis production and sales, including dispensaries operating outside of the established legal regime;
 - b) Province-wide retail operator licensing, allowing companies to be screened once, with subsequent applications focused on location specific criteria;
 - c) Create province-wide allowable zoning for cannabis retail for municipalities which lack their own policies, and ensure existing municipal cannabis zoning policies permit private cannabis retail locations under reasonable guidelines and requirements;
 - d) Increase the cap on the number of allowed retail locations per operator to help meet consumer demand for legal cannabis and eliminate regional supply gaps.
2. Reduce regulations that cause operational inefficiencies for licensed retailers and do not meaningfully contribute to high health and safety standards for consumers and producers through, but not limited to, the following:
 - a) Allow for different ordering and delivery days for in-demand product or eliminate additional delivery fees to private retailers.
3. Review tax policy related to cannabis focusing on:
 - a) Exempting medical cannabis from PST;
 - b) Work with the federal government on a single national excise stamp. The current requirement for a provincial/territorial specific stamp increases the cost and complexity of the manufacturing process (adding cost to the final product that is passed on to consumers), and restricts producers to respond to rapidly changing supply and demand conditions in a nascent industry; and
 - c) Removing the 20% tax on cannabis vape products. The manufacturing, distribution, and sale of inhalable cannabis products is already highly regulated to ensure public safety and keep products out of the hands of youth. Our view is that the tax was implemented as a response to nicotine vaping products that have increased in popularity amongst youth, which has an entirely different manufacturing process and supply chain in Canada. The imposed tax on cannabis vape products is counter to the policy objective by

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encouraging sales from the illicit market by making legal products significantly more expensive in B.C.

4. Work through the BC Financial Services Authority and provincially regulated credit unions to ensure legal cannabis operators can access and receive business banking products and services like any other legal business, and that they are not unduly excluded or restricted from service

That the Federal Government:

5. Treat medicinal cannabis equitably as a medicinal product by:
 - a) Exempting GST on medicinal cannabis;
 - b) Allow for pharmacies to dispense medicinal cannabis;
6. Focus federal enforcement on illicit cannabis e-commerce and shipments via Canada Post and other avenues to support the established legal framework;
7. Reduce the current \$1 per gram excise tax to better reflect the current market price for cannabis and to help prevent legal product from being undersold through the illicit market;
8. Work with banks and federally regulated credit unions to ensure legal cannabis operators can access and receive business banking products and services like any other legal business, and require that they are not unduly excluded or restricted from service.

Submitted by the Kelowna Chamber of Commerce, Greater Langley Chamber of Commerce and the Surrey Board of Trade