

Responsible Regulation of Edible Cannabis Products in Canada

Issue:

The Government's Bill C-45 does not propose to immediately establish a regulatory framework for the sale of cannabis edibles, other than cannabis oils and fresh cannabis (1). This will result in popular edible cannabis consumption options being illegal and the demand for these products being served by an unregulated black market. This will likely cause an increase in illegal sales of cannabis edible products to the Canadian public who will not understand that these types of products remain illegal after the coming into force of the *Cannabis Act*. There is also considerable risk that the lack of regulatory oversight of cannabis edibles will lead to food safety issues as these products will be supplied by the black market.

Background:

Cannabis edibles can include oils, baked goods, confectionary, infused foods, drinks, etc. These products are very popular in jurisdictions where cannabis is sold legally for recreational use. For example, edibles constituted 13% of sales in Washington State in 2016 (2) and edibles sold in 2016 in the states of Oregon, Washington and Colorado were valued at \$269.8M US (3). Consumers often see edible cannabis products as a healthier and easier way to consume cannabis compared to smoking or vaping.

Current Situation

The Government of Canada has decided not to immediately establish a regulatory framework for cannabis edibles other than cannabis oil and fresh cannabis as it deems it to be *“a complex undertaking and there are unique potential health risks and harms that need to be carefully understood before the development and coming into force of these regulations. For this reason, the Government of Canada will need to take an appropriate amount of time to develop, and implement regulations that will result in safe edible products eventually coming to market.”*(1) This stance will effectively mean that Canada will only partially legalize cannabis for recreational use and leave a significant sector as illegal and lacking any responsible regulatory oversight. This contradicts the Government's stated policy goal of *“strictly regulating, and restricting access to cannabis is to keep cannabis out of the hands of Canadian youth, and to prevent organized crime from continuing to profit from the illegal cannabis market.”*(1)

Key Considerations

1. **Black Market:** By not regulating key cannabis edibles, the Government will force legal cannabis producers not to sell in these edible market spaces, that will likely be then filled by black market operators. Illicit operators in the cannabis black market already have well established edible cannabis production and supply systems in place that will likely increase as other recreational cannabis consumption types (e.g., dried, etc) are legalized,

leaving the edible market open for the expansion of illicit sales. Allowing the regulated sales of edibles would allow legal producers to out compete the black-market producers.

2. Public health: If illicit sales of unregulated edibles increase, public health risk linked to (a) food safety, (b) over dosing and (c) pesticide residues will also increase. Consuming cannabis orally via an edible has increased food borne illness risks (e.g., *Clostridium botulinum*) (4, 5). Illicit edibles will have no oversight thus exposing the public who access them to misleading labels, incorrect dosing (6), spiking with other narcotics, illegal pesticide residues, etc.
3. Commercial issues: If edibles remain unregulated and their illicit use increases it will only be a matter of time until a high profile public health issue occurs, which could then stigmatize this new sector for legal producers in the future.
4. Licenced Producers' Capabilities: Canada's federally licenced producers of cannabis, who are selling cannabis oil (over 18 companies to date), are already well equipped and have demonstrated experience in the safe production and sale of cannabis oil that is orally consumed as an edible. Several already have certified Good Manufacturing Practice (GMP) or Hazard Analysis and Critical Control Points (HACCP) programs in place and some already sell companion food stuffs such as baking mixes (7) and gelatine capsules (8). Therefore, these entities are well prepared to responsibly operate within a regulatory framework for the production and sale of a broad range of cannabis edibles.

Conclusions:

There are considerable risks in leaving the edible cannabis sector without regulations. Therefore, it is recommended that the Government amend Bill C-45 to allow for:

1. the ability to legally sell cannabis edibles (other than cannabis oil and fresh cannabis) to help combat a key black market sector;
2. cannabis edible products to contain caffeine to a maximum level of 0.5mg/g (+/- 5%) to allow chocolate use; and
3. a regulatory framework that could be immediately established similar to those already in place in the State of Colorado or Washington, that could effectively mitigate the food safety and mis-dosing risks that experienced federally regulated licenced producers could operate within.

References:

- (1) Government of Canada (2017) *Introduction of the Cannabis Act: Questions and Answers*, <https://www.canada.ca/en/services/health/campaigns/introduction-cannabis-act-questions-answers.html>
- (2) Headset Inc (2016) *What are the Most Popular Cannabis Products?* <http://headset.io/blog/what-are-the-most-popular-cannabis-products>
- (3) BDS Analytics (2017) *Consumers In CO and OR Go Their Own Way With Edibles*. <http://www.bdsanalytics.com/edibles-2/>
- (4) Gourdet, C., Giombi, K. C., Kosa, K., Wiley, J., & Cates, S. (2017). *How four US states are regulating recreational marijuana edibles*. *International Journal of Drug Policy*, 43, 83-90.

- (5) State of Denver (2014) *Special Concerns Associated with Marijuana Extractions, Concentrations, Infusions, and Infused Foods*
<https://www.denvergov.org/content/dam/denvergov/Portals/771/documents/PHI/Food/Special%20Concerns%20with%20MJ%20extractions.pdf>
- (6) Ghosh, Tista, et al. (2016) *The public health framework of legalized marijuana in Colorado*.
American journal of public health 106.1: 21-27.
- (7) Tweed (2017) Baking Mixes <https://www.tweedmainstreet.com/collections/baking-mixes>
- (8) Hydrothecary (2017) Decarb cannabis and capsules
<https://www.thehydrothecary.com/products/decarb>

Prepared by:

Dr. Shane Morris is Vice President, Quality Assurance and Scientific Affairs with Hydrothecary, a Canadian licenced producer of medical cannabis. Dr. Morris has over 14 years of experience at the science-policy interface working on high profile risk issues within the Canadian Federal government. He has held senior positions and executive appointments at the Canadian Food Inspection Agency, Public Health Agency of Canada, Natural Resources Canada and Treasury Board Secretariat where he advised cabinet on regulatory issues. Dr. Morris holds a doctorate from the National University of Ireland in biotechnology and publishes/lectures widely in the area of regulation, risk and policy.