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Submission to Health Canada on the regulation of edible cannabis, extracts and topicals

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The Canadian Chamber of Commerce is pleased to provide a submission to Health Canada's consultation on the regulation of edible cannabis, extracts and topicals. The Canadian Chamber is Canada's largest and most influential business association with our network of over 450 chambers of commerce and boards of trade, representing 200,000 businesses of all sizes, in all sectors of the economy and in all regions.

The long-term, global success of the Canadian cannabis industry is tied closely to the regulatory environment that is being established by the department. It affects their ability to compete with the illegal market, attract investment, build global brands and develop innovative products. At present, overly restrictive marketing and packaging rules, high-user fees (specifically the annual regulatory fee) and licencing delays are creating a complex and costly regulated environment for companies and consumers. Disproportionate regulation has the potential to erode Canada's economic advantage as a first-mover on recreational cannabis for adult use while providing only limited additional public health benefits. In setting the final regulations for edibles, extracts and topicals we encourage the department to work closely with regulated companies to develop a framework that protects public health without placing excessive restrictions and burden on firms.

Broadly, the department's framework for these regulations is a positive development. Allowing for a wide range of non-smokable forms of cannabis will permit for responsible consumption by Canadians and help displace illegal market cannabis products. Industry is supportive of child resistant containers, responsible consumption and ensuring the regulatory framework protects public health. More narrowly, we have concerns that some aspects of the regulations do not reflect industry or consumer realities.

THC limits

- While we support a 10 mg limit per discrete unit of edibles, the 10 mg maximum per childproof package should be increased.
- A 10 mg maximum per package will inhibit the ability of producers to compete with the illegal market. It will increase packaging and processing costs and result in lower revenue, higher cost single packs. The restriction will make it more challenging for producers to achieve economies of scale and benefit from increased revenue per unit attributed to multi-packs. Uninhibited by these regulations, the illegal market could find itself in a position to offer similar products at a much lower cost.
- The 10 mg per package maximum will create significant packaging waste which not consistent with this government's own sustainability goals.
- 10 mg per package maximum is significantly lower than US jurisdictions that allow up to 50 or 100mg of THC per-package.
- Concerns regarding overconsumption cannot be addressed through regulation alone; there is a need for increased consumer education and cannabis literacy regarding the consumption of edibles and extracts.
- We recommend that the final regulations allow multi-packs up to a maximum of 50 or 100 mg per package while retaining the maximum of 10 mg per discrete unit. Precedent already exists for pre-rolls, where multiple discrete units are allowable. Each discrete unit is not in individual child resistant packaging but rather the entire multi-pack resides in child resistant packaging.

Separate Facilities

- The requirement for edibles, extracts and topicals to be processed in a separate building from any facility that produces conventional food products will be prohibitive for many Canadian companies. The requirement will create a high barrier to entry for small and medium sized food manufacturers with strong food safety and production records.
- We recommend that the department work with industry to explore alternative approaches to mitigating cross-contamination concerns that build on industry's experience with existing quality management practices.

Alcohol linkages

- While industry is strongly supportive of the prohibition against mixed alcohol-THC products, the prohibition of 'all elements' that associate a cannabis product, its packaging, and labeling / brand element with an alcoholic beverage may create confusion and requires clarification.
- For example, several Canadian breweries have taken steps to enter the infused cannabis beverage market. It is likely that many of these companies will produce non-alcoholic THC-infused beverages that look like beer, taste like beer and will colloquially be referred to by the public, consumers, and in the media as THC-infused beer.
- While the proposed regulations are clear that these products cannot be labelled as 'beer,' it is unclear if 'all elements' would include names and descriptions similar to those for THC infused non-alcoholic beer that are being used in the US. Examples include 'craft brew,' 'IPA inspired beverage,' 'Belgian-style white ale' and 'sparkling hoppy beverage.'
- The regulations should be clarified, with guidance regarding the definition of 'all elements.' The final regulations should also be reflective of how Canadians will commonly refer to these products so as not to create confusion. Like edibles, restrictive naming rules for beverages cannot be a substitute for education and cannabis literacy.