Canadian Chamber of Commerce | Chambre de Commerce du Canada

National Cannabis Business Coalition | Coalition nationale des entreprises du cannabis

National Cannabis Business Coalition

Re: Health Canada's Statutory Review of the Cannabis Act

Thank you for the opportunity to participate in Health Canada's statutory review of the *Cannabis Act*. The National Cannabis Business Coalition (NCBC) represents members from across the cannabis industry, including licensed producers, retailers, and ancillary businesses.

The legal cannabis sector has been an overwhelming contributor to Canada's national GDP since being legalized for adult-use in October 2018, generating over $43.5 billion and creating over 150,000 jobs. In 2021, the legal sector overtook the illicit market for the first time, comprising 55% of all sales in the country. While this is an impressive economic record – surpassing more mature industries such as forestry, automotive parts, and craft breweries – significant hurdles remain in fulfilling the cannabis sector's economic potential.

As part of the legislative review, the NCBC is proposing several recommendations to help businesses in the legal sector remain economically competitive in the long term and continue to displace the illicit market per the tenets of the *Cannabis Act*.

Minimizing harms to protect Canadians.

Canada needs to adopt a clear, balanced, and evidence-based approach to regulation on production, distribution, and sale of legal cannabis. The illicit market continues to pose severe public health and safety risks to Canadians, especially given the lack of control over youth access to illegal websites, delivery services, and storefronts by law enforcement agencies. Canada must work with industry and government counterparts to foster an environment that draws consumers away from those types of illegal access points and towards legal, regulated products.

As mentioned, governments should provide the public with direct guidance on the differences between licit and illicit products and allow Canadians to make their own decisions with the facts

that they have. Additionally, applying a “one-size-fits-all” approach to cannabis regulation only creates major consumer confusion – what is appropriate for one type of product, such as an ingestible, may not be appropriate for another, such as an inhalant or topical. An example of this is seen in leveraging standardized health warnings which cause confusion and undermine the intent of the warning message when the warning does not algin to the product format.

Another way to minimize harm to Canadians would be to increase THC limits in edibles from 10 mg to 100 mg per package, which would be competitive with the illicit market as well as more consistent with THC limits for other formats such as gel capsules. There is evidence from other jurisdictions where cannabis is legal for recreational use that consumers are more likely to turn to legal products rather than purchase through illicit means if THC limits are higher. Given the public health and safety implications of underage individuals acquiring illegal edibles through unregulated websites, delivery services, and storefronts, the *Cannabis Act* should be amended to increase the THC limits, which would draw consumers away from those illegal access points. This measure will also help reduce wasteful excess packaging.

Education and awareness to support informed choices.

While the NCBC recognizes and supports some restrictions to protect public health and safety, there are gaps that need to be addressed that will help Canadians make informed consumption choices and displace the illicit market. This can be accomplished by amending and revising certain marketing, promotional, packaging, and labeling restrictions under the *Act* as well as broader coordination between all orders of government on retail distribution and harmonization. Furthermore, education efforts should be expanded to include those within the industry who serve the public.

It is also important for governments to provide resources on the differences between licit and illicit sources of cannabis. Many Canadians currently can not differentiate between a licit product, and one purchased through the illicit market. Similarly, Health Canada’s approach to promoting the different types of cannabis has been overly precautionary, especially from a risk perspective. It is difficult for the average consumer to understand where cannabis fits in, by comparison to other products such as alcohol and tobacco, which may lead to the selection of more harmful products.

To fund these education efforts, the governments must be transparent about the use and deployment of the 2.3% regulatory fee charged by the federal government to License Holders on their revenues, which is additional to the exorbitant fees charged by provinces. Extensive consultation and collaboration with industry is needed to ensure that the money is spent appropriately and goes towards public education initiatives.

Increased education and the relaxing of advertising, marketing, and packaging restrictions go hand in hand. Mandatory information required from Health Canada and the restrictions related to packaging and labelling create limited opportunity to educate consumers on the product

directly on the packaging. The restriction on inserts also prohibits opportunity for legal producers to reach target audiences and provide factual information about legal products available. Welcome information would include strain genetics, terpene/cannabinoid composition, extraction methods (if applicable), ingredient lists (if applicable), typical sensory effects, and/or access to Certificates of Analysis.

To help build awareness of the public health impacts of cannabis, especially in minor cannabinoids, the NCBC suggests creating a national Cannabis Research and Innovation Hub in partnership with industry and provinces. This Hub could use the taxes collected by governments to initiate research projects, clinical trials, and fund consumer education programs. It could also create high-quality and innovative products while working to eliminate the illicit market.

Progress towards establishing a responsible supply chain.

As the licit cannabis sector begins to mature and become a major economic contributor, there are various tools at the federal government's disposal that can ensure consistency, standardization, and increased product recognition without compromising public health and safety.

For instance, there is no consistent industry standard under the *Cannabis Act* or *Cannabis Regulations* relating to lab testing and analysis. Each laboratory is therefore responsible for developing and implementing its own standards, which leads to variation and lack of cohesion across the industry. The pursuit of high THC has created unethical lab testing practices with no regulatory oversight or enforcement over the laboratories. Diverging labeling requirements for concentration vs. quantity of THC and CBD make it very difficult for consumers to rationalize the two types of products, which can lead to over consumption.

Moreover, the lack of standardization to the name of cultivars and no means of verifying whether a name matches a genetic characteristic of a plant causes divergence within the industry about naming conventions and trademarks. For example, Grape Purple Kush does not actually include grapes. The lack of consistency creates a real risk of false and misleading statements being made to consumers about a strain's genetic pedigree. It has also led to inconsistent examination practices within the Canadian Trademarks Office.

Health Canada should develop and implement a standardized procedure for analysis, validation, and proficiency testing, as well as simplified labelling requirements across different cannabis classes. A framework should also be created to standardize naming cultivars, which will ensure quality and authenticity of origin for strain genetics, similar to what exists under the VQA Wine Program. These standards could be introduced through *Cannabis Regulations* or through a guideline for the industry to use. The changes would ensure product consistency and build

consumer trust. Whether it is under GPP or GMP regimes, businesses in the industry will need to know for certain which is being applied in order to better prepare.

The unification of Canada's excise tax stamp would also greatly benefit businesses in the industry. Currently, the stamp is applied each time a product enters a new jurisdiction, including in different provinces. This is added on to the excise tax paid by Licence Holders at the federal level, which accounts for about 30% of the selling price. The current process is inefficient, burdensome, and costly for businesses that sell their products across Canada. The NCBC recommends eliminating the need to manually apply a new stamp every time a product enters a new jurisdiction or eliminating the tax entirely.

Access to cannabis for medical purposes.

Canada legalized cannabis for medical purposes in 2001 but there are still significant challenges for patient access throughout the supply chain, from research and development to production to distribution to consumption.

The Canadian approach to R&D in medical cannabis should be reformed to support patient access. Health Canada's proposed regulations for non-therapeutic research on cannabis will serve as a model for licenced producers to perform non-therapeutic research into medical cannabis, but the regulations do not address the dearth of clinical studies into cannabis for therapeutic purposes. To remedy this, the NCBC reiterates the call for a Research and Innovation Hub, which could study the public health impacts of minor cannabinoids such as CBD and CBG.

In terms of distribution, the NCBC urges the inclusion of pharmacies as authorized distribution channels for medical cannabis. The average patient is highly unlikely to step into a retailer and the current mail-order system is archaic in comparison to the variety Canadians have access to for other medicines. Pharmacy involvement in purchases would align with other traditional medicines, reduce stigma and increase patient education.

For consumers, one way to improve the medical regime is by eliminating the tax on medical cannabis, which is unjust and unparalleled as drugs are not taxed in Canada. It presents an undue barrier for patients and can force a consumer to turn to the illicit market if a licit product is more expensive than its illicit counterpart.

In addition to the above recommendations, the NCBC supports the inclusion of a sunset clause in the *Cannabis Act* that includes a mechanism for a triennial review of the Act. The objective of the review should be to assess the current state of the sector, analyze research and facts, and take into consideration global developments and align with new policies and regulations.