



Grow the Pie for Canadians – Position Paper

Canada’s legalization of adult-use cannabis has been a success for Canadians, cannabis consumers, and governments. But it has been a challenge for Canadians working in the sector and for the individuals who helped build this industry. The 5-year anniversary of legalization provides an opportunity for governments, Canadians and the cannabis sector to celebrate our successes, reflect on our challenges, and make the changes needed to **Grow the Pie for Canadians**.

The Successes of Cannabis Legalization

On the public health front, concerns about increases in youth consumption of cannabis (persons aged 16-19) have failed to materialize. Today, consumers have access to safer, tested, and quality-controlled products. None of the fears about public disorder, unsafe roads and unproductive and dangerous workplaces have materialized.

On the economic front, we’ve shown the world that legal cannabis is good for governments and good for jobs. We’ve gone from \$0 to \$5+ billion in legal sales per year. Governments are earning billions in revenues from legal cannabis (excise duties, provincial distribution profits and income/sales taxes.) Tens of thousands of quality jobs have been created in small towns, rural communities, and cities across Canada.

On the public safety front, legalization has been a mixed success when it comes to “keeping the profits of cannabis out of the pockets of criminals.” After five years, legal cannabis sales account for roughly 50% of all cannabis sold in Canada meaning an estimated \$ 4 billion or more in yearly sales continues to go to the illicit market.

The Cannabis Sector’s Challenges

Legalization has been a challenge for the people working in the licensed cannabis sector and the Canadians who invested billions to set up the industry. While some consolidation is to be expected in a new sector, we are seeing companies closing facilities and scaling back production at a staggering rate. Cannabis companies are leading CCAA filings across the country and 70% of companies are in arrears on their excise duty payments. All this while the illicit cannabis industry remains a fierce and sophisticated competitor and while the government middle in the regulated sector reaps significant revenue.

How to “Grow the Pie” for All

The persistence of the illicit market is depriving governments of billions in revenues and threatening the livelihoods of the tens of thousands of employees in the legal cannabis sector. With the right mix of policies and actions from federal and provincial governments, we can drive the illicit market share down, fulfilling the promise of legalization to provide safer, tested products for more Canadian cannabis consumers.



On the 5th anniversary of the legalization of adult-use cannabis, the Cannabis Council of Canada is making the following recommendations to “Grow the Pie” for governments, for Canadians and for the legal cannabis sector.

1. Reform the Excise Duty Framework

Being the first G20 country to legalize cannabis at the federal level meant that we had little if any, experience to draw from when it came to creating the cannabis Excise Duty Framework. In the past five years, we’ve learned that the rate is too high for a nascent industry competing with an entrenched illicit market and that the administration of the stamp and remittance procedures are costly and burdensome for companies.

Reforming the Excise Duty Framework means:

- **Lowering the rate to a 10% fixed rate of sales**, a level more suited to a new industry competing with an established illicit industry.
- **Reducing or removing the operational burdens** on producers from the administration of the excise stamp.
- **Aligning the payment term of duties** (currently to the CRA) with provincial distributor payment terms.

Reforming the Excise Duty Framework will save cannabis industry jobs, increase revenues for governments, and provide companies with the funds needed to be sustained so they can develop innovative products that attract more cannabis consumers to the legal market.

2. Eliminate Excessive Regulatory Fees (compared to Alcohol and Tobacco)

Beyond the cannabis excise duty that generates close to \$1.5 billion dollars per year for governments, the regulated cannabis industry pays \$75 million annually in Health Canada Regulatory fees that is effectively a 2.3 % tax on most recreational cannabis sales. Tobacco and alcohol, which are also subject to excise duties, do not pay an annual regulatory fee to the federal government although one was promised for tobacco. The cost of regulating the cannabis industry should come from increased tax revenues and for fees charged for actual services. Eliminating Health Canada’s Annual Regulatory Fee will provide cannabis companies with immediate capacity to protect jobs and invest in the development of innovative products that can attract illicit consumers.

3. Reform the Edibles Product Category

Canada has ceded the edibles category to the illicit market. Canadian edibles sales account for 5% of all legal sales. In mature US jurisdictions, edibles account for 10-15 % of all sales. The 10mg THC limit on edibles is ceding \$300+ million per year in sales to the illicit market and exposing cannabis consuming families to undue risk. Data indicates that Canadian cannabis consumers buy flower, pre-rolls and vapes from legal dispensaries, while they continue to source edibles from the illegal marketplace.



Reforming the edibles category provides an immediate opportunity to increase government revenues while expanding the protections of regulated products to cannabis consumers. This policy would save cannabis industry jobs, and reduce the size of the illicit market thereby decreasing the risk to kids from candy and chip look a likes that are not allowed within the precautionary model surrounding the regulated cannabis sector.

Conclusion

After 5 years, the time has come to apply what we've learned and make changes to fulfill the policy objectives of legal cannabis and to "Grow the Pie" for all. The illicit market continues to prosper, keeping many of the profits of cannabis in the pockets of criminals while we are at a crossroads for the regulated cannabis sector.

5 years in is the time to revive the energy that made Canada a world leader in responsible drug policy and apply recipes for the lessons learned.

Cannabis Council of Canada
Ottawa, ON
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BACKGROUNDER

About Legal Cannabis:

- Between 2018–2021, the legal cannabis industry generated \$11B in sales, \$29B in investments, 98,000 jobs and added \$43.5B to Canada’s GDPⁱ
- Consumers spent \$8B on cannabis in Canada in 2022: \$5.1B in the legal market \$2.4 billion in the illicit market, and \$0.4 billion on cannabis for medical purposes.ⁱⁱ
- As of March 31, 2023, there were 913 total license holders (LPs) authorised for cannabis activities including cultivation and processing.ⁱⁱⁱ

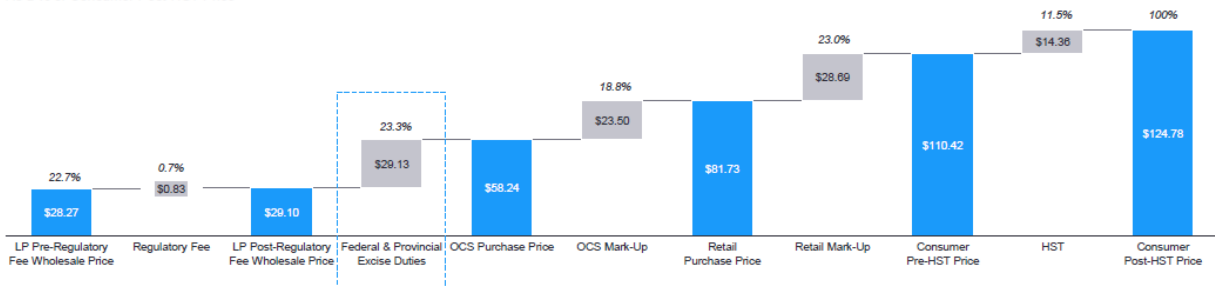
Cannabis Companies are Struggling:

- **14 of 35 (40%) applications under the *Companies’ Creditor Arrangement Act* in 2022 were from the cannabis sector.**^{iv}
- As of April 2023, 166 LPs have exited the market, representing 15% of all licenses issued to-date.^v
- As of March 2023:^{vi}
 - Almost half of LPs (141 of 305) with excise duty payable in the past year had more than \$25,000 owing, with a cumulative debt of \$192.9 million
 - For the fiscal year (2022–2023), \$63.1 million in regulatory fees were charged to LPs, as of October 2023, \$7.6 million were in arrears.

Burdensome Excise Tax & Regulatory Fees:

- In 2021–2022, federal excise taxes were \$160M, provincial/territorial excise taxes were \$592M, and sales taxes were \$458M.^{vii}
- **Government taxes and markups represent almost 50% of what the consumer pays.**^{viii}

ON Legal Product Mark-Up Structure & Comparison with Illegal Product Price – Based on Aggregated Data from Jul 2021 to Apr 2022
Price Per Gram
As a % of Consumer Post-HST Price



ON Legal Product Price Share Breakdown



- In 2021/2022, the provinces net income from cannabis distribution was \$332,319,000.^{ix}



- The government does not impose a regulatory fee for alcohol or tobacco sectors. For tobacco, specifically on the grounds that it would make it harder for them to compete with illegal cigarette suppliers.

Cannabis Purchasing Habits & Pricing Trends:

- As of March 32, 2022, **only 57% of Ontario consumers reported purchasing cannabis from legal sources.**^x
- Price is the most common reason for purchasing cannabis from an illicit source, cited by 26% of consumers who had purchased illicit cannabis in 2022.^{xi}
- Price per gram of legal cannabis declined from \$10.70 in 2019 to \$6.12 in 2022; price per gram of illicit cannabis declined from \$7.22 to \$4.62 over the same period.^{xii}

ⁱ Deloitte and Ontario Cannabis Store. (2021). *An industry makes its mark: The economic and social impact of Canada's cannabis sector*.

ⁱⁱ Statistics Canada. (2023). *Table 36-10-0124-01 Detailed household final consumption expenditure, Canada, quarterly (x 1,000,000)*.

ⁱⁱⁱ Health Canada. (2023). *Data on commercial cannabis licence applications and licences*.

^{iv} Israel, S. (2022). *Struggling cannabis companies turn to Canadian insolvency law*. *MJBizDaily*.

^v Health Canada. (2023). *Data on commercial cannabis licence applications and licences*.

^{vi} Canada Revenue Agency. (2023). Submission to the Expert Panel <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>

^{vii} Statistics Canada. (2023). *Table 10-10-0165-01 Net income of cannabis authorities and government revenue from the sale of cannabis (x 1,000)*.

^{viii} EY Parthenon (2022) *Economic Analysis of Cannabis Excise Duties, Mark-Ups and Regulatory Fees*.

^{ix} Statistics Canada. (2023). *Net income of cannabis authorities and government revenue from the sale of cannabis*.

^x Ontario Cannabis Store (2022) *A Quarterly Review: Jan 1 – Mar 31, 2022*.

^{xi} Hammond, D., Corsetti, D., Fataar, F., Iraniparast, M., Danh Hong, D., & Burkhalter, R. (2023). *International Cannabis Policy Study—Canada 2022 Summary*.

^{xii} Shim, M., Nguyen, H., & Grootendorst, P. (2023). *Lessons from 20 years of medical cannabis use in Canada*.