



**Cannabis Council
of Canada**

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September 6, 2019

Lionel Carmant
Ministre délégué de la Santé et des Services sociaux
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Submitted via email to: Lionel.Carmant.TAIL@assnat.qc.ca

Re: Cannabis Council of Canada Response to draft Regulation under the *Cannabis Regulation Act* published in the *Gazette Officielle du Quebec*, July 24, 2019, Vol. 151, No. 30.

Monsieur le Ministre délégué,

Enclosed is the formal response on behalf of the Cannabis Council of Canada ('the Council') concerning *draft Regulation to determine other classes of cannabis that may be sold by the Société québécoise du cannabis and certain standards respecting the composition and characteristics of cannabis* ('draft Regulation').

After careful review of the draft Regulation, the Council has crafted reasoned comments and proposed amendments based on our years of compliant and responsible operation in the Canadian cannabis market. The specifics of such are contained herein.

The Council has 5 members with operations in Quebec, with a total of 6 licensed facilities. 5 of these facilities are located in ridings held by the Coalition Avenir Quebec, including: Emerald Plants Health Source (Repentigny – Lise Lavallée), Aurora Cannabis Enterprises Inc. – 4th Site (Lac-Saint-Louis - Agnès Grondin), Les Serres Vert Cannabis Inc./Canopy Growth Corporation (Mirabel – Sylvie D'Amours), The Green Organic Dutchman (Beauharnois – Claude Reid), and HEXO (Papineau – Mathieu Lacombe). These organizations have invested \$317.5 million into their Quebec operations, with an additional \$122.4 million to be invested in the coming months. To date, our members have created 1654 jobs in Quebec, with another 1000 slated to be created by the end of year. Each of these individuals employed by our members contribute to the responsible growth of the Quebec cannabis industry and espouse the Council's commitment to product safety and quality.

The Council looks forward to working with the Government of Quebec to ensure that its intention to protect the health and safety of Quebecers captures the operational and market realities involved in the manufacturing of other classes of cannabis. Further, we would welcome the opportunity to share additional insights from across our membership as it relates to our submission.

Yours sincerely,

Original signed by...

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A. INTRODUCING THE COUNCIL

The Cannabis Council of Canada. (“the Council”) is the national organization of Canada’s licensed producers of cannabis under the federal *Cannabis Act*.

The Council’s mission is to serve as the national voice for our members in their promotion of industry standards; to support the development, growth and integrity of the regulated cannabis industry; and to serve as an important resource on issues related to the safe and responsible use of cannabis for medical and non-medical purposes.

Members share a philosophy of both patient-centric care and improved public health, and are committed to product safety and quality, secure and reliable access and the promotion of the safe and therapeutic use of cannabis.

B. CONTEXT

The Council acknowledges the government of Quebec’s constitutional right to tighten the regulation of edible cannabis, cannabis extracts, and cannabis topicals reflected in the current regulatory proposal. The Council agrees with, and applauds, the government for making the protection of public health, public safety, and Quebec’s youth population a top priority.

That said, the Council believes that the draft Regulation in question will spur a host of unintended consequences that will effectively drive Quebec consumers to the illicit market, discriminate against certain categories of users, and impact attitudes toward the Société québécoise du cannabis (‘SQDC’) – as well as the recovery of taxpayers’ investment in the SQDC and, most importantly, the government’s ability to use proceeds for prevention and public education.

According to public opinion research conducted on behalf of the Council, 64% of Quebecers support the legalization of cannabis, as well as safe, regulated access to cannabis products. Stringent rules and regulations are already being put in place by the federal government to ensure that new product forms do not fall into the hands of youth. These federal regulations have been expanded after extensive consultations with the public, a full range of stakeholders related to the legalization of cannabis in Canada, and with public health experts from Canada and other jurisdictions where cannabis has been legalized.

While it is of course the purview of the government of Quebec to adapt the federal regulations to the needs and realities of the Quebec population, it is our view that establishing a productive dialogue with the full range of stakeholders, including the Quebec cannabis industry and SQDC employees’ union, could ensure that its intention to protect the health and safety of Quebecers is aligned with industry realities and current capabilities.

C. THE COUNCIL’S COMMENTS ON THE DRAFT REGULATION

The Council appreciates the government of Quebec’s consideration of its views on the draft Regulation to determine other classes of cannabis that may be sold by the Société québécoise du cannabis and certain standards respecting the composition and characteristics of cannabis. The Council’s views on specific elements of the regulatory proposal are provided below.



1. Chapter II, s. 3: The concentration of THC present in cannabis, excluding edible cannabis products, must not exceed 30% weight per weight (w/w).

Issue:

The proposal to place a maximum of 30% THC on non-edible products will have the effect of curtailing other products – such as vape pens – from entering the Quebec market.

While there exist some risk when consuming high-potency concentrates, the risk of harm inherent in their production strongly suggest that they be included as a part of the regulated industry, subject to effective safety and quality-control restrictions. The harms associated with high-THC potency remain a concern and should be minimized. The Council does not believe that limiting THC content in concentrates is the most effective way to do so, based on available information and experience.

Insight:

- a) Neither the federal *Cannabis Act* nor its Regulations contain any limit on the percentage of THC which may be present in cannabis products, including cannabis extracts. This was an intentional decision by the federal government, which held that, “Establishing limits on the quantity of THC that will be allowed in the new classes of cannabis is considered a more effective means of addressing the risks of accidental consumption and overconsumption than establishing a maximum concentration of THC (or ‘potency’) that could be in a product.” The rationale being that certain product categories naturally hold a higher THC concentration, but come in smaller sizes and with mechanisms designed to lower the risk of accidental consumption. Such products also happen to be less attractive to children, such as disposable vaporizer pens or cartridges for use in such products.

In the context of these products, the federal Cannabis Regulations will (once coming-into-force on October 17, 2019) impose a limit of 1,000 mg of THC per immediate container. As such, the more concentrated a product is, the smaller the amount of that product will be permitted to be sold in a single container. This, in conjunction with clear and detailed labelling, including health warnings (a finding supported by the federal Task Force on Cannabis Legalization and Regulation), will effectively guard against negative outcomes.

- b) When removed from the cannabis plant, cannabinoid extracts take the form of a dense and sticky substance which can have a THC potency of up to 80-90% w/w. However, this substance would be too thick to be used effectively in vaporizers. ‘Cutting agents’, such as propylene glycol, are added to the cannabinoid extract to render the viscosity of the product appropriate for use in vaporizer hardware.

While the introduction of a cutting agent does reduce the THC potency, the resulting product would still exceed the limit proposed by s.3 of the Draft Regulations. Traditionally, the THC concentration after the addition of cutting agents is typically anywhere from 65-80% w/w, well above the proposed limit of 30%.

Impact:

- a) Imposing a THC potency cap on cannabis extracts in Quebec would likely cause Health-Canada licensees to forego supplying cannabis extracts to the Quebec market. Consequently, consumers and patients who elect to purchase inhalable cannabis products will be forced to resort to combustion-only products (ex. Dried flower consumed through pipes, joints, etc.) Non-combustible inhalation methods, like through a



vaporizer device, allow for the cannabis to be heated to a temperature where therapeutically active cannabinoid vapors are produced, but below the point of combustion where noxious by-products are formed.¹ By implementing a THC potency cap, the government of Quebec is denying cannabis users a less-harmful alternative, which stands to conflict with its objectives to protect the public health and public safety of Quebecers.

That being said, the Council is cognizant of news stories purporting to reveal specific harms associated with using a vaporizer device. While Health Canada has [stated](#) that there have been no reported pulmonary illnesses related to ‘vaping’ in Canada, and former FDA Commissioner Scott Gottlieb believes the [incidents involved illegal products](#), the Council understands the government of Quebec’s reticence in regard to vaporizer products. It should be noted that the industry takes these reports seriously and commits to closely monitoring scientific evidence, reporting to the Quebec government as appropriate, and adapting its offering accordingly.

Further, this prohibition will only serve to push patients and consumers to the illicit market. According to a [May 2019 report](#) from Canaccord Genuity, vaporizer sales made up 25% of the retail market in California, Colorado, Oregon, and Arizona – up 21% from 2018. It stands to reason that with consumers seeking alternative channels to purchase products readily available in other provinces, the return of investment for public monies into the SQDC will be quite poor.

In addition, the government of Quebec should recall that the health risks associated with purchasing cannabis products from illicit channels cannot be understated. Per a report from [La Presse](#) in January 2018, the publication found that its tests conducted on illicit dried flower cannabis purchased within Quebec showed high concentration of certain pesticides and high levels of bacteria harmful to humans with weakened immune systems. If consumed in large, regular doses, the identified pesticide can cause fatal heart attacks; while long-term exposure runs the risk of causing thyroid problems and instability in the nervous system. Though the Council acknowledges the *La Presse* report did not include product forms currently under consideration, it should be noted that the risks highlighted in the report could be exacerbated in relation to cannabis extracts given their highly complex formulation procedures. The Council asks that the government of Quebec strongly consider these findings as they move forward with the current regulatory proposal.

- b) Across all legalized jurisdictions, there is no precedent for the increased addition of cutting agents to reduce THC potency to 30% w/w, thereby rendering the health and safety standard of the product a relative unknown. If additional cutting agents must be added solely for the purpose of reducing the THC potency to no greater than 30% w/w, the result will be a ‘runny’ product that will pose a risk of leakage from currently available vaporizer hardware. In turn, consumers who elect to purchase these products are likely to return them due to significant dissatisfaction and may choose to file a formal complaint to the SQDC or the Quebec Ombudsman. There is also the potential for legal action on the part of harmed or disgruntled consumers.

The substantial health impacts of product leakages aside, the Council asks the government of Quebec to contemplate the financial loss as a result of product returns in conjunction with the perceived loss from consumers turning to alternative channels; a total that likely surpasses estimates currently under consideration by the province.

¹ Gieringer, Dale, et al. “Cannabis Vaporizer Combines Efficient Delivery of THC with Effective Suppression of Pyrolytic Compounds.” *Journal of Cannabis Therapeutics*, vol. 4, no. 1, 26 Feb. 2004, pp. 7–27, 10.1300/j175v04n01_02.



Proposed Amendment:

The Council respectfully requests that s.3, purporting to impose a THC potency limit on certain cannabis products, be amended to reflect the provisions in the federal *Cannabis Act* and its Regulations to create regulatory consistency across jurisdictions.

2. Chapter II, s. 4: An edible cannabis product may not be sweets, confectionery, dessert, chocolate or any other product attractive to minors.

Issue:

An outright prohibition on ‘sweets, confectionery, dessert [and] chocolate’ effectively deprives Quebecers from purchasing a wide array of non-combustible products, incentivizes consumers to seek out alternatives from the illicit market, and creates uncertainty for SQDC suppliers due to the absence of specific guidance on exact products that are to be restricted.

Insight

Section 17 (1)(b) of the federal *Cannabis Act* already prohibits the promotion of “cannabis or a cannabis accessory or any service related to cannabis...in a manner that there are reasonable grounds to believe could be appealing to young persons.” Further, in a [guidance document](#) published by Health Canada on August 19, 2019, the department elaborates on Section 17 (1)(b) by stating that it considers ‘Cannabis...in the shape of or evoking (including through a related brand element) popular toys or games related to young persons, sporting equipment or candies, etc.’ to be indicative of appeal to young persons. Moreover, the same document warns regulated parties of non-compliance as it pertains to product attributes including colour, shape, smell, flavours, and scents that could be considered attractive to minors (ex. A cannabis product package that evokes cotton candy).

As the federal government sought to protect young persons from accessing cannabis and reduce their inducements to use cannabis, so too has the government of Quebec through the draft Regulation. However, where the two prohibitions differ is in their specificity – and the outcomes of such as a result. While the federal prohibitions serve to protect youth without barring legal access to products manufactured for safe and responsible consumption, the Quebec proposal would in effect impose a blanket ban on product varieties without consideration for consumer and patient demand.

According to Deloitte’s third annual cannabis industry report, “[Nurturing new growth: Canada gets ready for Cannabis 2.0](#),” 59% of likely users in Canada intend to consume edible cannabis products upon their availability. Further, per a [2018 report from Arcview Group](#), Colorado consumers demonstrated a strong interest in the product class, noting, “Edibles outpaced the overall cannabis growth rate, increasing at a compound annual growth rate of 35% between 2014 and 2018.” Given the demonstrated and estimated demand for such products, and the government of Quebec’s proposal to prohibit those permitted by federal legislation, it can be said that consumers and patients will look to alternative channels, including the illicit market.

As reflected in Statistics Canada’s [National Cannabis Survey](#) for Q1 of 2019, 38.1% of Canadians continued to source cannabis products from illicit channels following October 17, 2019. Also per [Statistics Canada](#), in 2018, there were 205 total possession violations under the *Cannabis Act* in Quebec (compared with 458 for all of Canada). As explored in the *La Presse* report referenced above, illicit cannabis provides no substantiation on its content or associative effects, and there is no age-verification process in place at the time of purchase. Incidents involving the hospitalization of youth as a result of accidental ingestion of cannabis edibles, including [3 cases at Montreal Children’s Hospital](#) in 2018, take place in a context where access to such products is not regulated.



Impact

Quebec's illicit cannabis market will not disappear willingly, and efforts to restrict regulated access to quality-controlled, non-combustible cannabis products will only serve to harm instead of help. The draft Regulation runs counter to sound consumer insights and the demonstrated market share of edible cannabis products from other jurisdictions. As such, this will severely hinder the determinations of the legal cannabis industry to displace the illicit market and keep such products out of the hands of youth.

Further, the construction of s.4 of the draft Regulation fails to consider the plethora of product varieties in its scope. By imposing such a broad prohibition, Council members with executed or pending SQDC supply agreements struggle to determine which of its planned offerings will be permitted. The logistics involved in supply chain management for regulated industries, including cannabis, are incredibly complex. Proceeding without clear direction, a mere 3-4 months before such products are to hit the shelves, is detrimental to industry and consumer confidence in Quebec's approach to cannabis legalization.

Proposed Amendment

The Council recommends that s.4 be amended to remove reference to "sweets, confectionary, dessert [and] chocolate" and in its place include a schedule of prescribed products consistent with guidance provided by Health Canada in August 2019 concerning appeal to youth.

For more information, please contact:
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Cannabis Council of Canada – Quebec Member Companies

1. HEXO Corporation
2. Emerald Health Therapeutics
3. Aurora Cannabis
4. Canopy Growth Corporation (Vert Mirabel)
5. The Green Organic Dutchman

Cannabis Council of Canada – Member Organizations

1. Aphria Inc.
2. The Supreme Cannabis Company, Inc.
3. Tilray Inc.
4. 48North Cannabis Corporation
5. Cronos Group Inc.
6. Canopy Growth Corporation
7. Organigram Inc.
8. Sundial Growers Inc.



9. HEXO Corporation
10. Newstrike Resources (UP Cannabis)
11. Emerald Health Therapeutics
12. Aurora Cannabis
13. The Green Organic Dutchman Holdings Ltd.
14. Aleafia Health Inc.
15. Emblem Corporation
16. WeedMD Inc.
17. Wayland Group
18. ABcann Global Corporation
19. Zenabis Global Inc.
20. Harvest One Cannabis Inc.
21. Starseed Medicinal Inc.
22. TerrAscend Corporation
23. Beleave Inc.
24. Delta 9 Cannabis Inc.
25. Canada's Island Garden Inc.
26. AgMedica Bioscience Inc.
27. Benchmark Botanics Inc.
28. Aqualitas Inc.

