EDITORIAL

Legal cannabis industry adopting strategies of the tobacco industry

Recent actions and statements by the cannabis industry in the US should have public health advocates concerned as they mimic strategies adopted by the tobacco industry decades before them. Namely the cannabis industry is: (i) targeting regular daily users as ‘the backbone of the industry’; and (ii) pressuring regulators to weaken pesticide regulations.

Several jurisdictions have shifted away from the criminalisation and prohibition of cannabis towards legally regulated markets. Currently, 25 state governments in the US have enacted some form of medical cannabis legalisation. Colorado, Washington State, Oregon, Alaska and Washington DC have implemented laws allowing recreational consumption by adults [1] and other states have legislation pending [2]. In the 2016 US Presidential election, California and several other states will vote on legalising non-medical cannabis use by adults [3]. Elsewhere, the Canadian government is poised to legalise cannabis for non-medical use [4] and Uruguay is in the midst of implementing a state monopoly model for cannabis [5]. Governments of other nations such as Australia, France, Czech Republic, Jamaica and Mexico have, or intend to, amend laws to support provision of cannabis-based medicines [6].

It has been noted that public health lessons for regulating cannabis should be drawn from previous experience of regulating alcohol and tobacco [7]. However, regardless of whether lessons have been learned by those responsible for regulating legal cannabis markets, the cannabis industry has learned well from the tobacco industry about how to grow a market and subvert regulations that might be considered ‘bad for business’.

In Colorado, the first state to implement a ‘seed to sale’ legal cannabis market, tension is apparent between profit seeking and public health [e.g. 5,8]. Most concerning from a public health perspective is Colorado’s ‘collaborative approach’, which allows and actively encourages the cannabis industry to have input into developing regulations [9]. The logic behind this ‘work group’ approach is ‘the lack of historical precedent’ [10, p.245] and need for input from multiple stakeholders to find solutions [10]. However, it appears that the adverse effects of industry influence on regulation of alcohol and tobacco have gone unheeded.

For example, documents from prominent cannabis industry press indicate that, much like the tobacco industry 50 years earlier [11], the cannabis industry is strategically targeting daily users as the majority of their market share. Thus, a recent report by Marijuana Business Daily [12] was succinct in its description of market trends and strategy:

Another strong positive indicator for the industry is that the majority of people who use cannabis, both on the medical and recreational sides of the industry, consume marijuana every single day. These individuals form the backbone of the industry. Their preferences should be taken into careful account when developing plans to establish or update retail space, product offerings and price points for cannabis products. [12, P.9]

This statement does not include explicit recognition by the industry of the market importance of dependent users that was only brought to light in the tobacco case after decades of well-celebrated attempts to access internal company documents [11]. Nonetheless, there is a general agreement that the risk of cannabis dependence is greater among more frequent users, and may be as high as 1 in 2 for daily users [13]. Clearly, the cannabis industry recognises that it relies on daily users as its backbone, and about half of these will be cannabis dependent.

The relationship between crop protection and consumer well-being is complex [14]. Colorado’s Governor Hickenlooper has taken the precautionary step of issuing an executive order regarding the potential public health threat of pesticide use on cannabis crops [15]. Both cannabis and tobacco comprise combustible plant material and are susceptible to infestation from pests and other contaminants. Yet little is known about how dangerous these chemicals are when burnt or vaporised and inhaled. A complicating factor in the regulation of pesticides on cannabis crops is that the US Environmental Protection Agency cannot legally offer any assistance because of the federal prohibition of cannabis, although its effectiveness in regulating the use of pesticides in the ‘large and powerful agricultural industry’ that produces tobacco has also been questioned [16, p.3]. An extensive investigation revealed that the tobacco industry responded to pressure regarding the regulation of pesticides on crops by
attempting to alter outcomes in their favour by forestalling regulation and encouraging higher maximum residue levels [17].

The Denver Post has reported on the influence of the cannabis industry with regards to pesticides and showed that, like the tobacco industry before it, the cannabis industry is attempting to weaken pesticide regulations pertaining to cannabis. Reportedly, the Colorado Department of Agriculture:

...initially hoped to limit permissible pesticides to the most nontoxic, those that don’t even require federal registration. But industry pressure to use more effective pesticides pushed that back and the state eventually allowed an array of chemicals whose warning labels were so broadly worded that using them on marijuana would not be a violation [18].

John Salazar, a former Colorado Department of Agriculture commissioner, has been reported to have said the cannabis industry:

“...was the biggest obstacle we had” in attempting to regulate pesticide use effectively. “We were caught between a rock and a hard spot. Anything we wanted to allow simply was not enough for that industry” [19].

Public health stakeholders concerned with cannabis regulation post prohibition have been advised to learn lessons from regulating alcohol and tobacco. Yet it would seem the commercialised cannabis industry has been applying strategies used by the tobacco industry to develop its market strategy by: (i) targeting regular, and likely dependent, cannabis users as the backbone of its market, and (ii) trying to circumvent troublesome regulations regarding pesticide levels. While we should not be surprised, the unfolding déjà vu should remind jurisdictions considering their own legal cannabis policies of the importance of the difficulties of regulation to mitigate adverse public health consequences in a commercialised model where industry aims to maximise profit. A strongly regulated commercial cannabis market may be possible [20], yet non-commercial policy options must surely also be considered. Caulkins and colleagues [21] discuss potential benefits of a state monopoly such as the avoidance of advertising and controls on product ‘innovation’. Uruguay provides one unfolding example of a state monopoly model with less commercialisation and more restrictions on use [22], another example is the Netherlands’ medicinal cannabis model under which an authorised grower provides cannabis for a government run pharmacy dispensing program [23]. Jurisdictions should look beyond the commercialised legal market model to explore government operated, industry supplied models of cannabis regulation to reduce the likelihood of repeating the mistakes made in relation to alcohol and tobacco.

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