

Commentary: The Conflict Between Protecting Public Health and Raising Tax Revenue

Commentaire : Conflit entre la protection de la santé publique et augmentation des recettes fiscales

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Abstract

When Canada created a legal market for cannabis, it gave priority to public health by restricting marketing using branding and promotion via social and other media sources. These restrictions to protect the public from harmful use are under increasing pressure from the legal cannabis industry, which claims that they prevent them from outcompeting and replacing the illicit market. Public health advocates are reasonably concerned that these restrictions will not hold given our experience with alcohol, tobacco and gambling where governments' fiscal dependence on tax revenue favours the liberalization of regulation.

Résumé

Au moment de créer un marché légal pour le cannabis, le Canada a accordé la priorité à la santé publique en restreignant la commercialisation au moyen de l'image de marque ou de la promotion sur les médias sociaux et autres. Ces restrictions visant à protéger le public contre une consommation nocive sont soumises à une pression croissante de la part de l'industrie légale du cannabis, qui prétend que ces mesures les empêchent de supplanter et de remplacer le marché illicite. Les défenseurs de la santé publique craignent, avec raison, que ces restrictions ne tiendront pas, compte tenu de l'expérience vécue avec l'alcool, le tabac et les jeux de hasard, alors que la dépendance des gouvernements à l'égard des recettes fiscales favorise une libéralisation de la réglementation.

Introduction

The Canadian government gave a high priority to protecting public health when it legalized a cannabis market for adult use, as Crépault et al. (2024) note, by adopting evidence-informed

ways to regulate cannabis sales that would minimize uptake among youth (Babor et al. 2023; CPHA 2017; Crépault et al. 2016). The *Cannabis Act* (2018) accordingly regulated cannabis retail sales to minimize the promotion of cannabis to youth by, for example, banning the use of brand names, only allowing promotions at the point of sale and requiring plain packaging and health warnings on cannabis products.

Discussion

Crépault et al. (2024) argue that the goal of protecting public health should take precedence over reducing the size of the illicit market for cannabis, a common objective of legalization. A legal cannabis market reduces the role of criminal organizations in cannabis supply and protects public health by ensuring that adults can obtain cannabis products of known quality and potency. It can also provide tax revenue to cover the costs of regulation and fund programs to prevent youth uptake and treat persons who develop cannabis-related problems (Crépault et al. 2016).

The cannabis industry has argued that Canada's public health-oriented cannabis regulations put them at a disadvantage as new market entrants in competing effectively with a well-established illegal cannabis market (Laba 2020; Raycraft 2022). They also claim that the danger posed to public health by illicitly produced cannabis of uncertain quality and safety justifies policy changes to allow the promotion of legal products (Cannabis Council of Canada 2022). These arguments seem to have persuaded the Canadian government's Competition Bureau to support an easing of cannabis marketing restrictions (Competition Bureau 2023).

The cannabis industry also cites evidence from recent reviews that cannabis legalization in Canada has had modest effects on the prevalence of cannabis use and cannabis-related harm (Fischer et al. 2023; Hall et al. 2023; Rubin-Kahana et al. 2022). Legalization has, as intended, produced a large reduction in arrests and convictions for cannabis use (Hall et al. 2023). The proportion of Canadian adults who report that they obtain their cannabis from the illicit market has decreased from 86% in early 2019 to 30% in 2022 (Statistics Canada 2023). Legalization has not, so far, increased the prevalence of adolescent cannabis use, but it has not reduced it either (Fischer et al. 2023; Rubin-Kahana et al. 2022). Surveys indicate that cannabis use has modestly increased among adults but arguably at a similar rate to that preceding legalization (Fischer et al. 2023). Rates of adult and pediatric emergency department visits and hospitalizations for cannabis-related health problems have increased (Hall et al. 2023), but the evidence is more mixed on whether legalization has increased the prevalence of cannabis-impaired driving (Fischer et al. 2023).

Given the modest adverse effects of legalization to date in Canada and concerted cannabis industry lobbying, it would not be surprising if some relaxation of marketing regulations was allowed. However, as Crépault et al. (2024) remind us, our experience with the past liberalization of alcohol policy suggests that the relaxation of marketing restrictions (e.g., by allowing brand names and social media advertisements) will incentivize the promotion of

more frequent use of cannabis products of higher potency by a larger proportion of adults and, thereby, is likely to increase the prevalence of problematic patterns of cannabis use and cannabis-related harms.

Even if existing marketing restrictions are not reduced at this time, the future of the public health-oriented regulation of cannabis use in Canada remains at risk in the longer term.

First, most immediately, a future centre-right government is likely to give a different priority to the policy goals embodied in the *Cannabis Act* (2018) than the centre-left liberal government that enacted it. Centre-right governments often disparage the public health regulation of alcohol and tobacco as expressions of “the nanny state” while, nonetheless, supporting the use of criminal penalties for the use of illegal drugs. They also prefer to maximize tax revenue from alcohol and tobacco so that they can cut income taxes. For example, a recently elected centre-right coalition government in New Zealand has decided to repeal public health-oriented legislation designed to reduce the prevalence of tobacco smoking in the New Zealand population to less than 5%. The new government derided these policies as *nanny-state* measures and argued that their abolition will enable them to raise sufficient tax revenue from tobacco sales to permit cuts to direct taxes (Dyer 2023).

Second, in the longer term, governments of all political hues in high-income countries have a problem with fiscal dependence on revenue from alcohol, tobacco and gambling taxes. Given the popularity of reductions in personal income tax, we can expect future Canadian governments to develop a similar fiscal dependence on cannabis taxes and, thus, incrementally relax the regulation of cannabis sales in ways that maximize tax revenue.

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