



**Submission to the Standing Committee on Health
Bill C-45 (Cannabis Act)**

August 17th, 2017

About the NCACT

The National Coalition Against Contraband Tobacco (NCACT) is a Canadian advocacy group formed in 2008 with the participation of businesses, organizations and individuals concerned about the growing danger of contraband tobacco. The NCACT's eighteen members share the goals of working together to educate people and urge government to take quick action to stop this growing threat.

The NCACT works to raise awareness amongst all levels of government and the public about contraband tobacco, as well as to encourage meaningful action on this important problem. More information about the coalition can be found on our website, www.stopcontrabandtobacco.ca.

The members of the NCACT are: Association des détaillants en alimentation du Québec (ADA), Association des marchands dépanneurs et épiciers du Québec (AMDEQ), Canadian Chamber of Commerce, Canadian Convenience Stores Association (CCSA), Canadian Manufacturers and Exporters, Canadian Taxpayers Federation, Canadian Tobacco Manufacturers Council, Conseil du patronat du Québec (CPQ), Customs and Immigration Union, Échec au crime Québec, Fédération des chambres de commerce du Québec (FCCQ), Frontier Duty Free Association (FDFA), National Capital Area Crimes Stoppers, National Convenience Stores Distributors Association (NACDA), Ontario Chamber of Commerce, Retail Council of Canada, Toronto Crime Stoppers and United Korean Commerce and Industry Association (UKCIA).

Introduction

With C-45, the government of Canada is taking on the substantial and complicated task of legalizing marijuana. There are a number of challenges that must be overcome as part of this process, including, production, distribution, safety, and restrictions on access and advertising. Not least concerning of these, legalizing a substance that is currently a product grown and distributed by organized crime groups, for substantial profit, is not something that government has done very often.

The NCACT's mandate is to encourage action on Canada's illegal cigarette problem. NCACT believes that Canada's experience with illegal cigarettes can offer a number of important lessons for the federal government as it considers marijuana legalization. There are also a number of concerns that, without care, the legalization of marijuana could exacerbate the illegal tobacco problem.

What is Contraband Tobacco

Contraband tobacco is any tobacco product that does not adhere to all federal and provincial regulations or pay all appropriate taxes. It takes many forms, from transparent plastic "baggies" of 200 cigarettes to elaborate branded packs. In some cases, federal, but not provincial taxes may have been paid for a tobacco product. This would also be contraband.

Contraband tobacco is a major problem in Canada. About 1 in 3 cigarettes purchased in Ontario are illegal and Quebec has identified a contraband incidence of about 15%. Police are seizing more and more illicit tobacco products heading into Atlantic Canada and the Prairies.

The Royal Canadian Mounted Police (RCMP) has identified about 175 criminal gangs involved in the trade; producing as many as 10,000 cigarettes a minute in 50 illegal factories operating in

Canada. Gangs use the proceeds to fund their other illegal activities, including guns, drugs and human smuggling.

The social complications of contraband tobacco are reason enough to take action, but the trade has a meaningful impact on government revenues as well. Obviously, given the nature of underground economies, it is difficult to measure the exact tax loss from the illegal cigarette trade. However, a number of provincial governments and third parties have identified hundreds of millions of dollars in increased revenues from action against contraband tobacco.

In Ontario, Don Drummond's 2012 report on the future of Ontario's finances highlighted how actions such as those suggested below could increase provincial revenues by as much as \$225 million a year¹. In Quebec's last budget, increased enforcement through the Acces Tabac program netted an additional \$180 million in revenues in Quebec alone. In New Brunswick, government sources show that every percentage reduction in contraband tobacco increases the province's revenues by \$1 million. Additionally, the Canadian Taxpayers Federation has estimated that tax loss for the Federal and Provincial governments in Ontario alone is as much as \$1.1 billion a year².

If provinces are losing money to illegal cigarettes, so too is the Federal Government. Effective action against contraband tobacco hurts organized crime, increases the effectiveness of tobacco control regulations, especially those limiting youth access, and increases revenues for the Federal Government and provincial partners. These are many reasons to act.

Contraband Tobacco Enforcement

Addressing criminal marijuana, following legalization, will present a significant challenge for the government. The NCACT is concerned that these efforts could reduce or overshadow efforts against contraband tobacco.

It will be important that the government not let efforts to curb illegal marijuana sales take away effort or resources from its efforts on contraband tobacco. Ontario has introduced a number of programs to address illegal cigarettes, including a dedicated OPP task force, licensing of cigarette filter materials and raw leaf tobacco, and some additional enforcement powers. Quebec maintains an active anti-contraband enforcement regime through Acces Tabac, and enforcement units have been developed in Manitoba and New Brunswick. Given the size and scope of the contraband tobacco trade, reducing or diluting enforcement efforts should not be considered.

It is important that the government have separate approaches for marijuana and contraband enforcement. From enforcement standpoint, if combined there won't be enough resources for already stressed departments

Challenges to Branding/Packaging

Striking an appropriate balance on advertising and branding of marijuana presents an important challenge for government. As a product that is already widely, albeit illegally, available, it is important to allow for licensed distributors to distinguish their product. Similarly, there's an

¹ <http://www.fin.gov.on.ca/en/reformcommission/chapters/ch18.html#ch18-a>

² <https://www.taxpayer.com/media/How%20Much%20is%20Contraband%20Tobacco%20Costing%20Taxpayers%20in%20Ontario%20-%20December%202012.pdf>

important public health consideration in restricting advertising and marketing activities to discourage use by minors and to reflect health concerns.

To this end, C-45 broadly restricts all forms of advertising, except in narrow circumstances where minors are never present. Sponsorships are prohibited, and there will be requirements for health warnings on packages. Broadly speaking, this approach is similar to the current treatment of tobacco products.

It is worth noting that the government is actually moving beyond this approach when it comes to cigarettes and other tobacco products. The government's proposed plain packaging system for tobacco products will remove any distinguishing brand characteristics, like logos, from cigarette packages. As there is already substantial confusion among consumers between what is legal and not, such changes will make it even more difficult to distinguish legal product for regulating use and distribution. Indeed, following the introduction of plain packaging, Australia observed an increase in contraband incidence.

There should be no doubt that the illegal marijuana industry will not adhere to regulations government puts in. This is already seen with contraband tobacco, where a visit to any smoke shack presents an opportunity to see tobacco products sold in plain view, often without any health warning at all.

The sensible approach proposed for branding and packaging in C-45 is an appropriate policy direction. If there is logic to it with marijuana, the same reasoning would also apply to tobacco products, contrary to government efforts through legislation like S-5.

Challenges from Low-Cost Illegal Alternatives

Marijuana is already readily available at low cost throughout Canada- if anything, restricting access is an impetus for C-45. However, government should remain cautious about treating marijuana as an immediate source of hefty tax dollars.

As has been highlighted by Finance Minister Bill Morneau and the Parliamentary Budget Officer, even a small difference in price between newly-legal and illegal marijuana will mean that consumers will continue to purchase from criminal distribution networks. Canada has seen the evidence of that with tobacco for years.

The contraband trade has developed in Canada because organized crime groups have been able to sell illegal cigarettes for a fraction of the price of legal product. A "baggie" of 200 contraband cigarettes can cost as little as \$8, \$80-100 less than the cost of a carton of legal product. Successive governments have increased the price of cigarettes, making the value of contraband tobacco, as well as potential profits, all the greater.

We are pleased to see that the government seems to be adopting a sensible approach with marijuana that will allow criminal elements to be addressed before dramatic increases in taxation. Tobacco has taught that this is not a process that necessarily ends, and that small price shocks can have lasting repercussions.