Cannabis Legalization: Lessons from Alcohol, Tobacco, Pharma

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Disclosure

No funding:
• alcohol
• tobacco
• pharma
• cannabis
• illegal drug cartels
A New Legal Drug Industry

• unprecedented for all living Canadians
• 57% have at least minor concerns, questions, unsure (Nanos, 2016)
• Govnt: Don’t worry, we’re going to strictly regulate it
Should we worry?
Today: 3 Key Questions

1. How well has regulation prevented harm?
2. How might legalization impact use & misuse of a drug?
3. Has government regulation balanced revenue with public health?
Q1: How well has regulation prevented harm?

- alcohol
- tobacco
- pharma
The Alcohol Industry

A legal, government-regulated, commercial drug industry
Alcohol Misuse: A Public Health Crisis

In Canada, per year:

• 4.3 M days hospital
• 4.2 K premature deaths
• 148 K yrs lost life
• economic cost: $14.6 B

(Rehm et al., 2006)
The Tobacco Industry

A legal, government-regulated, commercial drug industry
Tobacco Use: A Public Health Crisis

In Canada, per year:
• 2.2 M days hospital
• 37 K premature deaths
• 518 K yrs lost life
• economic cost: $17 B
(Rehm et al., 2006)
The Pharmaceutical Industry

A legal, government-regulated, commercial drug industry
Opioid Crisis in Canada

• Canada Health Minister Philpott: opioids a national public health crisis (Kirkup, 2016)

• Minister Philpott: > 2300 deaths in 2016 (Tierney, 2017)
Pharmaceutical Misuse: An Epidemic

- US Centre for Disease Control: misuse of prescribed medications “an epidemic” (CDC, 2016)
Summary

• 3 legal, government-regulated, commercial drug industries
• 3 public health crises
• Might commercial legalization of cannabis create a fourth?
Q2: How might legalization impact use & misuse of a drug?

- complicated
- indications from US limited; short time frame
- indications from history of other legal drug industries
Key Determinants

Impact of:

• legal permission on use
• product promotion on use
• ease of access on use
• use on associated harm
Legal Permission & Use

Office of Parliamentary Budget Officer (2016)

• “...on balance, legalization appears more likely to increase aggregate consumption.”

• projected approx. 600 K new users

Polling Data

• Forum Research, 2015: 1.5 M

• Nanos, 2017: 1.9 M
Promotion & Use: Alcohol

• more promotion associated with more consumption
• Babor (2010)
• Cdn Public Health Assoc. (2011)
• Pacula et al. (2014)
• Report of the Chief Public Health Officer for Canada (2016)
• children and youth (Heung, 2016)
Promotion & Use: Tobacco

• more promotion associated with more consumption
• Babor (2010)
• Tobacco Control Legal Consortium (2012)
• Pacula et al. (2014)
Promotion & Use: Cannabis Projections

Office of Parliamentary Budget Officer (2016)
• identifies advertising & marketing as a factor that will increase use

Federal Cannabis Secretariat (Feb 2017)
• advertising the major issue for cannabis industry lobbyists
Ease of Access & Use

- easier access is associated with more use

Alcohol
- Rehm et al. (2008)
- Canadian Public Health Association (2011)
- Pacula et al. (2014)
- Navarro et al. (2014)

Tobacco
- Ontario Tobacco Research Unit (2011)
- Navarro et al. (2014)
What to expect for cannabis?

Legal retail outlets:
- operate legally
- local & visible
- fixed locations
- predictable hours
- assured supply

• much more reliable & convenient than contraband sources
Expected Impact?

- current users will continue
- some will use more often
- some former users will resume use
- some lifetime non-users will try it; some continue

- Legal permission + promotion + easier access = increased use
Colorado: Legal Retail Jan 1 2014

Cannabis Use in Past 30 days

<table>
<thead>
<tr>
<th>Age</th>
<th>2006</th>
<th>2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>18-25</td>
<td>21%</td>
<td>31%</td>
</tr>
<tr>
<td>26+</td>
<td>5%</td>
<td>12%</td>
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</tbody>
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• no increase among youth  
(Reed, 2016)
Use & related problems

As prevalence of alcohol use increases in the general population, so too do related problems

- Rehm et al. (2008)
- Babor (2010)
- Cdn Public Health Assoc. (2011)
- Giesbrecht et al. (2013)
More problems...

- more demand for treatment
- longer waiting lists
- delayed treatment
- more harm
Colorado Harm Indicators
Post-Legal Retail

Increases in cannabis-related:

• hospitalizations
• ER visits
• calls to poison control centres

(Reed, 2016)
Q3: Has govnt regulation balanced revenue with public health?

The Alcohol Industry
Sober Reflections

• edited by Giesbrecht et al. (2006)
• chapters by various alcohol policy investigators
• 2 decades of alcohol industry indifference to public health & the law (1980-2000)
Specifically...

- smuggling operations: 100s of Canadian legal drinking establishments
- disinformation campaigns sway public opinion & policy
- aggressive lobbying, threats to withdraw charitable donations
- bribe elected officials with campaign contributions
Regulatory Permissiveness & Failure

- increased commercialization & liberalization of restrictions on alcohol
- despite evidence linking increased consumption to increased problems
- fewer advertising restrictions
- more industry self-regulation of ad practices
- no health warnings
Retail Vulnerability

• 2011: York Region LCBO sold 221 bottles low-quality Italian wine in bottles with premium labels
Also found in other LCBO outlets

• individuals charged with fraud & unlawfully receiving orders for sale of alcohol

(Rubin, 2011)
Did regulation work?

- no
- detected by sophisticated consumers (Rubin, 2011)

- Can legal, regulated retail outlets ensure integrity & safety of product?
Customers detect legal production failures

Bombay Sapphire London Dry Gin
• alcohol content 77%, not 40% as labelled

Georgian Bay Vodka
• alcohol content 81%

(Canadian Press, 2017)
And criminal collusion...

- 2015: Montreal winery sold over 2 million bottles on black market
- avoided $14M in taxes (Hamilton, 2015)
Blurring the line...

• CEO of Ontario vineyard among 12 arrested
• charges: fraud, conspiracy to commit fraud, recycling proceeds of crime
• 2 legal wine manufacturers involved in illegal alcohol trade (Hamilton, 2015)
• bottle pictured is actually legitimate
• cheeky!
Alcohol Industry’s Social Responsibility (SR) Campaign

• encourage responsible use of alcohol
• messaging disproportionate
• glamorous promotion to increase sales
  vs
• increasing awareness of risk & encouragement of responsible use
Do your own study

- alcohol ads in print media
- SR message: “Drink responsibly”
- 0-1% ad’s total space
- remainder develops positive associations
- no health warnings on bottles
Is govnt committed to prevention?

• evidence-based policies known to reduce alcohol-related harm
• not adopted or widely available in Canada
• What if Canada adopted them?
• CAMH report (Rehm, et al., 2011)
Each Year in Canada

• 800 fewer preventable deaths
• reduction of 26 K yrs lost life
• 88 K fewer acute care hospital days
• $1B in savings to Canadian economy
• conservative estimates

(Rehm, et al., 2011)
Calls for change

- results submitted to ON Govnt
- additional warnings against increased liberalization (Giesbrecht, 2015)
- renewed comprehensive public health-based alcohol policy (CAMH, 2015)
Undaunted by the data...

Industry & govnt:

• decided against reducing harm
• implemented even higher-risk practices: introducing beer & expanding wine retail in grocery stores (Giesbrecht, 2015)

• inconsistent with advice from orgs govnt funds to advise them
Ontario Best (least bad) in Canada

- inter-provincial comparison of adoption of evidence-based alcohol policies
- ON highest at 60%
- national avg below 50%

(Giesbrecht et al. 2013)
Internationally

USA

- also falls short of evidence-based alcohol policies (Xuan et al. 2014)
Developing Countries

- alcohol precipitates & worsens poverty
- bribes govnts for favourable regulation at expense of human welfare
- industry exploits poor & illiterate populations with advertising
  (Karnani 2013)
- it gets worse...
Q3: Has govnt regulation balanced revenue with public health?

The Tobacco Industry
An Epic Battle

- tobacco industry, public health, govnt regulators, courts

Canada
- *Smoke & Mirrors: The Canadian Tobacco War* (Cunningham, 1996)

USA
- *Ashes to Ashes* (Kluger, 1997)
United States of America vs. Philip Morris USA, Inc. 2006

Justice Gladys Kessler reviewed
- hundreds of depositions
- thousands of exhibits

Submitted
- 1,742 page judgement

(United States District Court for the District of Columbia, 2006)
Kessler: “single-minded focus”

“Defendants have marketed and sold their lethal products with zeal, with deception, with a single-minded focus on their financial success, and without regard for the human tragedy or social costs that success exacted.”
Kessler: “devastating health effects”

“Over the course of more than 50 years, Defendants lied, misrepresented and deceived the American public, including smokers and the young people they avidly sought as ‘replacement’ smokers about the devastating health effects of smoking and environmental tobacco smoke.”
What about Canada?

- direct relationships between US & Canadian tobacco companies
- crimes described by Kessler also occurred in Canada at same time

Mahood (2013)
Legal tobacco companies commit fraud

• early 1990s: Canada’s 3 tobacco companies involved in tobacco smuggling
• govnt lost $Bs in unpaid taxes
(Mahood 2013)
Guilty of...

- fraud, conspiracy to commit fraud, possession of the proceeds of crime, deceit, fraudulent misrepresentation, spoliation
- Justice E.F. Ormston: “...the largest offense of its nature in Canadian history.”

(Mahood 2013)
It is happening again: 2008 & 2010

• the trials are not what they seem
• companies pled guilty, but no individuals convicted of wrong-doing
• eventual out-of-court settlements recovered very little of lost taxes
• payment schedules: 10-15 yrs – pass on cost to customers
• where is the incentive to change?
(Mahood 2013)
Health Care Cost Recovery Actions

• most Canadian provinces & territories vs Canadian cigarette manufacturers & foreign parent companies
• none have gone to trial as yet
• more small, out-of-court settlements?
• another lost opportunity to reform industry?

CAMPAIGN FOR JUSTICE ON TOBACCO FRAUD
CAMPAGNE POUR OBTENIR JUSTICE FACE À LA FRAUDE DU TABAC
Industry opposition continues

- plain packaging (Hatchard et al., 2014)
- bans on flavourings (Brown et al., 2016)
- increased taxation (Zhang & Schwartz, 2015)
- improving safety of e-cigarettes (Brownson et al., 2016; Kusnetz, 2016)

- concerned with repercussions of this conduct for pending legal actions?
Globally...

- industry concentrating more on undeveloped countries
- sabotaging international public health efforts
- “The tobacco industry is not and cannot be a partner in effective tobacco control.”

(World Health Organization, 2008)
Q3: Has govt regulation balanced revenue with public health?

The Pharmaceutical Industry
A New Epidemic: Opioids

• 1996: Purdue Pharma introduces OxyContin
• aggressive, misleading marketing to MDs
• large #s of pain sufferers dependent (Van Zee, 2009)
• HC eliminates access to oxycodone meds; fentanyl replacement
• black market steps up (Fischer, 2016)
• crisis spirals out of control
Early Warning

• Govnt of Newfoundland & Labrador Oxycontin Task Force Final Report (2004) recommended:

• “...that Health Canada ensure that pharmaceutical manufacturers use appropriate marketing strategies that includes information on the dangers of drug abuse and diversion.”
Purdue Canada’s View

- President, Mr. John H. Stewart:
  - “The answer to abuse of prescription medications is greater education and substance-abuse treatment. The answer to diversion is tough law enforcement, not restrictions on patients and physicians who treat them.”

(Robertson, 2016)
Purdue, USA

• execs found guilty making false claims & fraudulently marketing a drug for unapproved use (CBC News, 2007)
• fined $634M; no individuals punished
• lower level employees made “misstatements”
• “retirement” of its CEO, filled by Mr. Stewart from Purdue Canada in 2007

(Robertson, 2016)
By 2012, Mr Stewart chastised by US Senate Committee on Finance:

• continued economic harm upon health insurance industry
• lack of cooperation in responding to govnt requests for information
• shortly thereafter, Mr. Stewart left Purdue (Robertson, 2016)
Any further accountability?

- opioid crisis has continued to persist & mutate
- pharma’s continued role?

USA
- Mass: Feds charged *Insys Therapeutics* execs with bribery of MDs to prescribe fentanyl off-label & for misleading insurers
- Oregon: company paid fine

(Thomson Reuters, 2016)
Regulatory Failure

Federal Health Minister Ambrose:

• Health Canada’s guidelines allowed it to consider only a medicine’s effectiveness for its intended purpose (eg. painkiller); not its potential for public health or safety implications

(Ivison, 2015)
Reform industry, Improve regulation

- Lexchin & Kohler, 2011
- Centre for Addiction and Mental Health, 2016
The New Canadian Regime

• under new Liberal govnt & Health Minister Dr. Jane Philpott, *Health Canada's Action on Opioid Misuse*

• several areas of improvement

• not included: holding industry accountable; improving regulation of industry practices

(2016, Health Canada)
Canadian OxyContin class action settled

- thousands of deaths
- un-measurable amount human suffering
- $31B in revenue for Purdue Pharma
- May 2017: $20M settlement; no admission (Howlett, 2017)
- you make $1550; lose $1
- why not do it again?
“some conversations”

- Federal Minister of Health Jane Philpott
- Ontario Minister of Health Eric Hoskins
- legal action against Purdue to recover health care costs

(Howlett 2017)
“We’re only just getting started”

- Purdue takes OxyContin to undeveloped countries in Latin America, Asia, Middle East, Africa
- same marketing strategy
- promotional videos include diverse ethnicities
- combat “opiophobia”
(Ryan et al.,2016)
What will happen?

• NA: opioid crisis harmful & health systems unprepared
• undeveloped countries less capacity to prevent & respond
• outcomes horrific
• less capacity to hold Purdue accountable
Jail Time

- no one from Purdue has gone to jail
- Mr. Walter James McCormick, BC street dealer
- Jan 2017: convicted of trafficking in fentanyl
- 14 yrs prison
Bigger Picture

Justice Bonnie Craig:
• admonished McCormick for contributing to suffering & potential death, but also...

"McCormick did not create the problem with opioid addiction in the community. He is just one of the players in a far more complicated problem."

(McElroy, 2017)
Context for the Opioid Crisis

• not an isolated case
• *Pharmaceuticals, Corporate Crime and Public Health* (Dukes, Braithwaite & Moloney, 2014)
• peer-reviewed academic journals, court cases, govnt health/justice agency investigations
• document illegal, unethical conduct at 64 pharma companies in 31 countries, all continents
Dizzying List of Malfeasance (Pt. 1)

- manipulation of research practices & findings
- intimidation, suppression of uncooperative researchers
- overly-aggressive, misleading, & illegal advertising/marketing practices
- tampering with court proceedings & legislative processes; bribery
Dizzying List of Malfeasance (Pt. 2)

- testing new drugs in countries with weak regulations, harming vulnerable populations
- deaths of children in illegal trials; parents pressured into uninformed consent
- non-payment of court-ordered settlements to parents whose children died
Dizzying List of Malfeasance (Pt. 3)

• selling drugs to publicly-funded medicare programs at inflated prices
• tax breaks from donations of expiring drugs that were useless or harmful to recipients
• workplace safety, environmental, animal rights violations
Regulatory Permissiveness

- allowance of high-risk, highly-profitable drugs on market
- industry whistleblowers not protected & sometimes prosecuted by the state
- regulators complicit with industry in commission of crimes
Penalties


• settlements: often $hundreds of millions

• insufficient as deterents

• fines, settlements punish shareholders

• executives are rarely charged, fired or disciplined
Summary: alcohol, tobacco, pharma

- all legal, government-regulated, commercial drug industries
- not balanced revenue & public health
- legal violations a part of doing business
- govnt has not effectively regulated
Regulation of drug industries is not simply less than perfect, it is substantially less than adequate.
The Cannabis Industry

- legal, government-regulated, commercial drug industry
- How’s that going so far?
- separate presentation

L’association Association Cannabis Canada

CANNABIS TRADE ALLIANCE of CANADA

CMCIA

CNMMA

CANADIAN NATIONAL MEDICAL MARIJUANA ASSOCIATION

CANADIAN MEDICAL CANNABIS COUNCIL
A teaser...

Medical (2001)

- little evidence to guide legal prescribing
- little research in progress
- variety of violations licensed producers
- serious threats to patient safety
- attempted coverup
Health Canada Regulation

- continued legacy:
- permissive
- non-transparent
- ineffective
- John Stewart, Purdue, granted license by HC to produce cannabis meds (Emblem, Paris ON)
Recreational Use in Canada

• industry partnerships forged with criminal elements from US
• conflicts of interest: National Liberal Party, cannabis industry, Govnt’s Task Force
Take-home Messages

- no one knows for sure how this will play out
- potential for a fourth drug crisis
- yellow & red flags

- When govnt says, “Don’t worry, we’re going to strictly regulate it.” - Worry!
And write...

• Canada’s Cannabis Secretariat
  cannabis@canada.ca

• Canada’s Attorney General
  mcu@justice.gc.ca

• Canada’s Minister of Health
  Hon.Jane.Philpott@Canada.ca
So What Would I Do?
Executive Orders

#1: Decriminalize cannabis immediately

#2: Cautiously work towards strictly-regulated, non-commercial legalization for recreational use
Want More?

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feedback, please

Cannabis Law Reform in Canada: Pretense & Perils

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No really, write...

- Canada’s Cannabis Secretariat
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- Canada’s Minister of Health
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