



Submission to The Senate Standing Committee on Social Affairs, Science & Technology regarding Bill C-45: An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts.

Introduction

As the Social Affairs, Science and Technology Standing Committee of the Senate examines Bill C-45, Up Cannabis welcomes the opportunity to share our perspective on the legislative and regulatory framework being developed.

About Up Cannabis Inc.

Up Cannabis Inc. is a wholly-owned subsidiary of Newstrike Resources Inc, (TSX-V:HIP) and a Licensed Producer of cannabis.

We received a federal cultivation licence on December 19th, 2016 for our facility in Brantford, Ontario, where we expect our annual production capacity to reach 2,500kg and received an amendment to our licence to allow for sales on January 5, 2018.

We have also acquired a proven automated Dutch-tray greenhouse facility in Beamsville, Ontario. We are currently expanding and upgrading this facility which received its licence to cultivate on March 29, 2018 . It is expected that our facility will be capable of producing approximately 24,500 kg per year of high quality dried-cannabis by the end of 2018. The expansion of the greenhouse will provide ample space for manufacturing and packaging of related products to meet the evolving cannabis market. Once both facilities are fully operational, we will employ approximately 150 people.

Up Cannabis differs from many of our competitors in that our sole focus is to provide safe, quality Cannabis to Canadians in the adult-use cannabis marketplace being created by Bill C-45.

Our integrity is steeped in responsible-use messaging supporting the paradigm shift away from the black market and keeping cannabis out of the hands of youth. As the world watches our industry develop and mature, Up Cannabis is committed to being a responsible leader with strong Canadian values – to be a company that this nation can be proud to call its own.



Our Views on Bill C-45

We support Bill C-45 and the government's goals of eradicating the black market in cannabis in order to protect Canadians and preventing youth access to Cannabis.

While we understand the government's rationale for plain packaging and labelling regulations, and for strictly regulating promotion and marketing; we would urge the Senate to consider the role strategic promotion and marketing can play in eradicating the black market and we believe that the Bill as currently worded allows for the proper regulatory flexibility, enabling the Minister and Governor in Council to adjust rules surrounding promotion in order to successfully reach the Government's stated objective of eliminating the black market and assuring consumption of safely produced and tested cannabis by only those legally able to do so.

Therefore, we ask that this committee and the Senate not amend Division 2, subdivision A – Promotion, nor Section 139.1 (f) and Section 139.1 (n). Further, we ask that you do not limit the Minister's discretion to review and adjust prohibitions based on pursuing the public good.

Promotion is Necessary to Shift the Marketplace to Eradicate the Black Market

The ability to responsibly promote our brand, subject to certain restrictions, helps achieve the government's goals of taking cannabis away from the black market. It is necessary to allow for communications to build brand loyalty in order to shift the marketplace from one which is illegal and run by criminal elements, to one which is legal, regulated, and run by governments in conjunction with licensed producers and retailers. The direct result of this market shift will be the reduction of illegal access points for youth to acquire illegal products and the eventual eradication of the black market.

The real issue is whether it is necessary to allow promotion in order to diminish black market sales or whether this will happen simply as a result of legalization.

We submit that it is absolutely necessary to establish brand equity in order to move current users to legal sources. Current users have established relationships with black market sellers of cannabis, some of which have already built brands themselves. Government messaging on the dangers of the black market alone will not be enough to sway users who are familiar with and engage the black market. The very fact that they access the black market proves that they are not swayed by government messages alone and are willing to flout the legal system.



Persuading these current users to switch to legal, regulated cannabis products is the key to undercutting the black market. All decisions around promotion should be viewed through the lens of getting these users to switch and displacing the illegal market with the one created by Bill C-45. Fewer users patronizing black marketers, means fewer profits for criminals and less access points for youth to obtain illegal products.

We believe there are three pillars to the strategy to eradicate the black market:

1. Allow for legal producers and retailers to convey clear and concise information to consumers about the attributes of legal cannabis products. It is essential that consumers recognize that legal products are of high, consistent quality and are safer and more attractive than illegal products, so that consumers can make better, informed choices.
2. Ensure that consumers have reasonable retail access to a safe, legal product; and
3. Set prices that are competitive with black market alternatives.

While the second and third pillars of the strategy are widely supported and recognized, there is debate about the efficacy of the first.

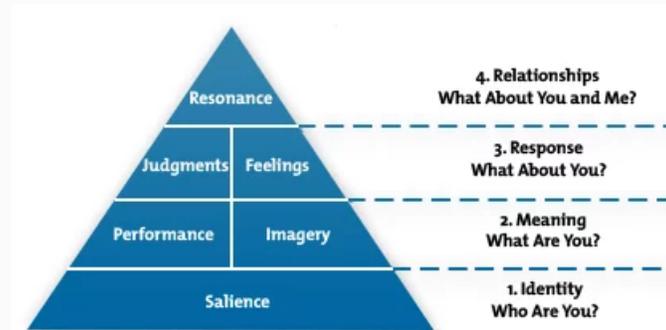
The strongest brands do not achieve and maintain their leadership positions by accident. There are a number of well-known brand equity models and theories that are leveraged by leading marketers. One of the most popular is Keller's Brand Equity Model (sometimes referred to as the Customer-Based Brand Equity Model)¹.

The premise behind Keller's Model is that in order to build a strong brand, a company must shape how customers think and feel about the product. This includes building the right type of experiences around a brand so that customers have specific perceptions of the brand.

Keller's model includes a four-step pyramid that includes four questions customers will ask about a brand. The four steps contain six building blocks that must be in place to create and maintain a successful brand:

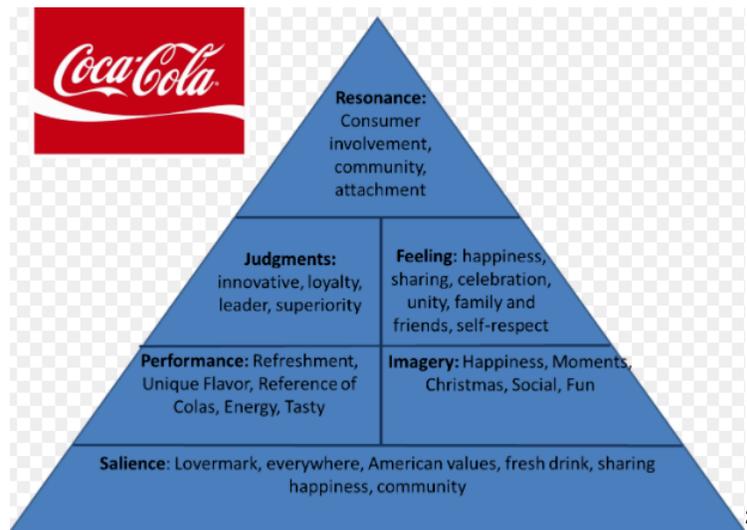
¹ <https://www.mindtools.com/pages/article/keller-brand-equity-model.htm>

Figure 1 – Keller's Brand Equity Model



From "Strategic Brand Management: Building, Measuring, and Managing Brand Equity" by Kevin Lane Keller. © Pearson Education Limited 2013.

Consider how one of the world's strongest brands has built and maintained its leadership position over many decades when viewed through the lens of Keller's Brand Equity Model:



A similar approach to brand building, along with the requisite customer communication, will be integral for legal cannabis producers as they seek to build brand equity attracting customers away from the black market. If this brand equity is missing, attracting and retaining customers in the legal market will be difficult.

² <https://cokevpepsibm2013.wordpress.com/2013/12/07/kellers-brand-equity-model/>



In fact, there is already evidence that brand building and communication is delivering positive results for cannabis producers in other jurisdictions where cannabis has been legalized.

Brightfield Group studies and advises on consumption patterns and demand trends in U.S. markets that have legalized cannabis and associated products. A couple of their recent articles highlight how participants in the legal cannabis sector have successfully branded:

- A survey of 400 medical marijuana patients in California found that “between 60 and 70 percent of those surveyed are loyal to their brands, so much so that they are willing to pay more money and travel farther to get them.” The study also found that “the frequent user demographic made **over 70%** of the cannabis purchases reported among all users over a given two-week period. This makes them not only loyal customers, but loyal customers who make up a majority of sales. Businesses offering consistent product quality over time will receive generous returns in the form of frequent, long-term customers who remain loyal to their brands. Keeping the customer base happy will also help ensure that loyal customers continue providing free, valuable word-of-mouth marketing for their favorite brands.”³
- A second article from Brightfield Group notes that “in many states, the top ten brands make up at least 60% for [cannabis] edibles and 30% for concentrates.” Brightfield urges cannabis companies to “Invest in quality branding and advertising, including package design and labeling. One of the primary reasons cannabis consumers purchase a product is because they trust it to give them a consistent experience. Your packaging, marketing, and social media say a lot about your brand, and if it is not polished and professional, and if you skimp there it will make your consumers wonder if you skimmed on product quality as well.”⁴

Given the importance of branding and the positive impact it has had in other cannabis markets towards building strong brands and as a result limiting the black market, the Senate and Parliament should consider the importance branding will have in the Canadian context. There is a risk that over-regulation could stymie the ability of legal cannabis operators to build their brands. The inadvertent result would be a large, unregulated black market selling to minors – along with the associated health risks, and lower revenues from taxation.

³ <https://www.brightfieldgroup.com/post/consumer-loyalty-in-cannabis-patients-top-five-takeaways>

⁴ <https://www.brightfieldgroup.com/post/cannabis-market-data-insights-and-branding-how-to-succeed-in-a-crowded-market>



Further, consumer education around responsible use and quality production and products are important brand equity components.

On March 28, 2018 Dr. Benedikt Fischer (Senior Scientist, Institute for Mental Health Policy Research, Centre for Addiction and Mental Health) cautioned the Standing Senate Committee on Legal and Constitutional Affairs on the problems with over-regulation.

We agree with his view that overregulation may hamper attracting current consumers to legal retail outlets and continue to allow illegal cannabis and youth access to the black market to flourish.

We also support robust regulations on promotion that allows the legal market to establish consumer loyalty through brand equity and provide consumers with solid information to make responsible choices. Brands promoting consumer education, responsible use, and information on quality and consistency, deliver the Government's responsible use and education messages while establishing loyal customers who previously supported the black market.

Therefore, to effectively transition Canadians away from the black market, we believe regulations must provide flexibility to allow LPs to promote and educate consumers as to why their products are better and safer than those on the illegal market. We strongly support the prohibition on promoting cannabis in any way that is attractive to youth.

The Senate, and Parliament, should take into account the potential negative unintended consequences of a highly restrictive approach.

Conclusion

As we embark into relatively unknown territory, we must draw on the body of accepted marketing practice and heed the message of experts who caution against the dangers of overregulation of information flow to adult consumers.

Communication through promotion can offer important opportunities to educate current consumers on how to differentiate between high and low-quality products, as well as responsible use and the dangers of black market products. It can also establish loyalty to legal product over illegal product. Ultimately, consumers must be convinced that legal products are better and safer than illegal products for LPs to be able to attract customers away from their current criminal suppliers.

We believe that all levels of government, LPs, law enforcement, and healthcare providers have roles to play to ensure we reach the goal of eliminating the black market.



Moving current illegal users to the legal market is key. Therefore, we ask the Senate to leave the language around promotion, and the ability of the Minister to set regulations, as it is currently stated in Bill C-45.

We believe that by working together we can protect our youth and eliminate the black market for cannabis in this country. Ultimately, the eradication of the black market will make Canada a safer and healthier country. Up Cannabis is committed to being a strong partner for government in that effort.