



3 November 2023

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600
Via email: legcon.sen@aph.gov.au

Inquiry into the Legalising Cannabis Bill 2023

Thank you for the opportunity to prepare a written submission to the Senate Legal and Constitutional Affairs Committee for the **Inquiry into the Legalising Cannabis Bill 2023**.

The Drug Policy Modelling Program (DPMP), UNSW Sydney is the leading drug policy research and practice program in Australia. Our mission is to improve government decision-making in relation to alcohol, cannabis, and other drugs. We have been conducting research into drug policy, including research relevant to the proposed Bill. We draw on our own research into cannabis regulation and alcohol policy as well as other research to inform our comments.

We commend the efforts underpinning this Bill to address harms that exist within the current cannabis legislative landscape in Australia. These harms include:

- the criminalisation of personal use/possession (Lenton & Heale, 2000; Lenton et al., 2000)
- the reliance on fines in decriminalisation and diversion schemes (Hughes et al., 2018; see also McCarron et al., 2008)
- uneven policing in decriminalisation and diversion schemes (Baker & Goh, 2004; Hughes et al., 2019; Taperski & Rahman, 2023; see also McCausland & Baldry, 2023)
- unregulated supply (Armstrong, 2021; Fischer et al., 2022; Lynskey et al., 2016).

The proposed Bill provides for the establishment of the Cannabis Australia National Agency, a system of registration of cannabis strains, a system of licensing for regulated cannabis activity, and some limits around particular commercial activities such as advertising.

We wish to draw the Committee's attention to three key points.

Firstly, strong industry regulation is required. The clash of commercial interests with public health principles is an area of key concern regarding a legalised regulated cannabis industry (Caulkins & Kilborn, 2019; Fischer, Lee, et al., 2020; Shanahan, 2011). Research into corporate interests influencing alcohol and tobacco policy, including our own work (Kowalski, Wilkinson et al., 2023; McCambridge et al., 2019; McCambridge et al., 2018; Miller et al., 2021; Miller et al., 2023; Savell et al., 2016; Smith et al., 2013), and emerging cannabis policy (Adams et al., 2021), suggest explicit exclusions and constraints around cannabis commercialisation and monopolisation would be

beneficial (Fischer, Bullen, et al., 2020). The alcohol and tobacco industries are well-known for supporting self-regulation systems (largely ineffective) and for establishing loopholes in existing regulatory arrangements (such as discounting and price promotions). Competition also encourages aggressive marketing and advertising, and typically results in price decreases (e.g. for alcohol see Kuo et al. (2003)). For this reason, many jurisdictions have used government monopolies for alcohol and tobacco (Room, 1993, 2017, 2020; Room & Cisneros Örnberg, 2019; Ritter et al., 2022). Evidence from alcohol, tobacco and cannabis suggests that legal frameworks permitting industry involvement are exceedingly difficult to change after the fact (Caulkins & Kilborn, 2019; Obradovic, 2021; Rotering & Apollonio, 2022). Industry influence should be restricted at all points in a legalised cannabis market, from a seat at the table of the regulatory agency itself to supply and retail arrangements. We hope that all approaches to cannabis regulation in Australia give due consideration to managing corporate interests that conflict with public health.

This links to our second key point – that any legislation concerned with cannabis is overseen by a health portfolio. CANA functions to regulate activities in the broader public interest in the proposed Bill. Public interest is difficult to define, and can change over time, but in the context of cannabis legalisation, should be concerned with public health (Pacula et al., 2014; Shanahan, 2011; Strang et al., 2012). In the absence of detailed additions regarding pricing restrictions (e.g. minimum unit price) (Englund et al., 2017; Freeman & Lorenzetti, 2020), maximum THC levels (Freeman & Winstock, 2015; Hall et al., 2023), and mandated THC/CBD ratios (Freeman et al., 2019), locating CANA within the Health portfolio would formalise the agency functions to maximise safety and minimise harm associated with regulated cannabis activities. Legalisation schemes require careful balancing of policy priorities (Kelaita & Ritter, 2023). As is clear from the evidence around other drug policy settings (Hughes et al., 2018), successful reform that reduces harms from criminalisation and possible harms around use requires simultaneous investment in prevention, treatment and public health education.

Other measures in the service of public interest could focus on transparency, including a provision that the register of strains be made public. Additionally, consideration should be given to expanding CANA's reporting obligations to require data on existing illicit markets to be reported where possible as part of the Agency's regulatory functions (and in dialogue with police and the Australian Criminal Intelligence Commission). Another example of the primacy of a public health perspective is in relation to licensing conditions. Density limits should be included as licensing conditions. We know from extensive research on alcohol outlet density (Campbell et al., 2009; Sanchez-Ramirez & Voaklander, 2018) including our own (Livingston et al., 2015; Wilkinson et al., 2016) that limits on alcohol outlet density and trading hours (Kowalski, Livingston et al., 2023) are a key means of reducing alcohol-related harms (e.g., increased number of outlets and increases in trading hours are associated with increased harm).

The third key point we wish to make concerns the possibility that legalisation inadvertently and mistakenly criminalises some activities. Our research over the past few years with people who grow and use cannabis in the ACT suggests that harms can arise, especially to more marginalised and discriminated against populations (Barrett et al., 2022; Ritter et al., 2023). We welcome the provisions in the Bill allowing for individuals without a licence to grow cannabis at home, manufacture products for personal use only, and share cannabis products valued under \$50. It is vital that the Bill does not re-criminalise any of these practices. Yet importation and exportation offences included in the Bill have the potential to capture individuals sourcing seeds online for

home-growing for personal use. This has impacts for personal growers and for biosecurity more generally if importation practices are designed to avoid detection.

We look forward to Australia making progress on cannabis regulation. It is an area requiring long-overdue policy reform, in light of the substantial harms of the current recreational cannabis policies across Australia.

Yours sincerely,



On behalf of the Drug Policy Modelling Program

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