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Submission Regarding Criminal Code and Other Legislation Amendment (Removing Commonwealth Restrictions on Cannabis) Bill 2018

It is a pleasure to make a submission regarding the *Criminal Code and Other Legislation Amendment (Removing Commonwealth Restrictions on Cannabis) Bill 2018* (Cth) (hereafter 'the Bill').

Doogue + George is Australia's largest criminal law firm, with over 20 years experience providing specialist criminal defence services across the country.

It is in light of our decades of experience at the coalface of Australia's 'war on drugs' that

Doogue + George supports this Bill. More broadly, our firm supports:

- The decriminalisation of all drugs across Australia.
- The treatment of drug dependence and drug-related offending as primarily a health and not a criminal justice issue.
- The legalisation of low risk substances such as cannabis.

The following will outline the evidence in favour of cannabis decriminalisation as well as cannabis legalisation in support of the Bill.

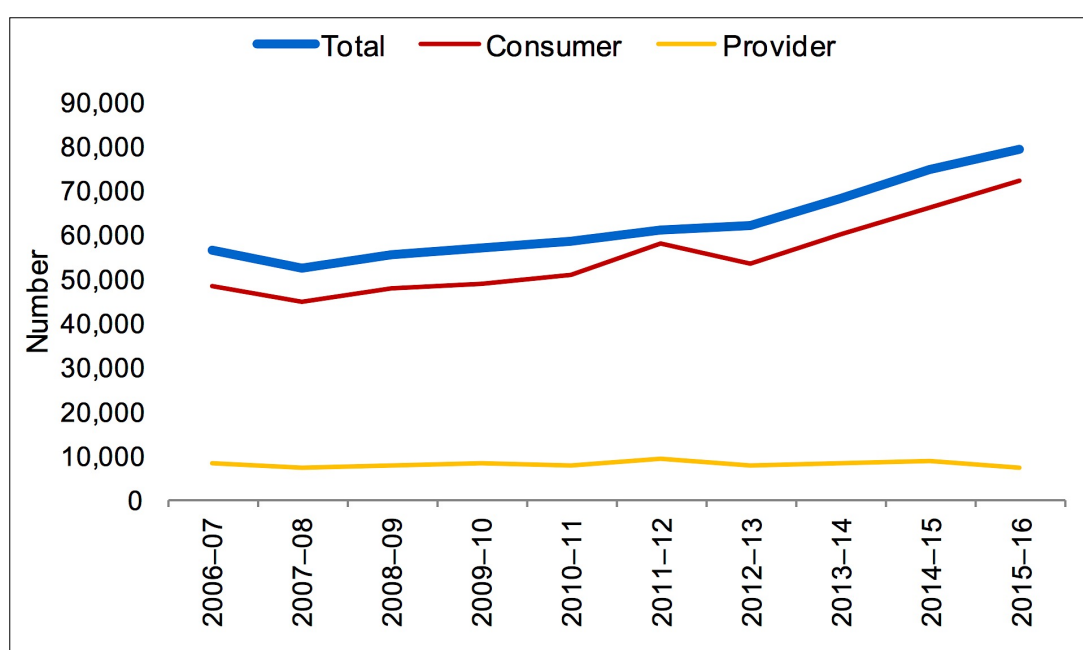
The Case For Decriminalisation

Doogue + George supports the removal of cannabis and cannabis-derived substances from offences under the Criminal Code and other federal criminal provisions.

Around one third of Australians will consume cannabis recreationally at some point in their lifetime, with around 1 in 10 users consuming at least once a year.¹

Despite this, a disproportionate amount of police and border protection resources are dedicated to cannabis seizures and arrests.

Table 1: National Cannabis Arrests, ACIC Illicit Drugs Report 2015-2016



The persistence of cannabis consumption despite policing efforts, clearly indicates that current enforcement measures are not having any effect on the consumption of cannabis at home.

This reality appears to be partially realised by the States and Territories who have either partially decriminalised or ‘depenalise’ cannabis use and possession.

In South Australia, ACT and the Northern Territory small quantity cannabis possession is currently

¹ National Drug Survey 2016, AIHW < <https://www.aihw.gov.au/reports/illicit-use-of-drugs/2016-ndshs-detailed/contents/summary>>

dealt with via a civil penalty scheme.² Moreover all jurisdictions have some form of police caution or court diversion program for cannabis possession and use.

A Better Approach

Doogue + George supports the 'Portugal Model' of full drug decriminalisation, which removes all criminal offences for drug use and possession whilst retaining offences in relation to illicit trafficking and importation.

In Portugal, when a person appears to have a problematic relationship with illicit drugs police issue them with a summons. This summons requires the problematic user to attend one of the 18 Commission for the Dissuasion of Drug Abuse panels or "CDTs" across the country.

A CDT consists of a three person interdisciplinary team: a lawyer, a health professional and a social worker. The CDT assesses the risks associated with a user and provides a ruling on what is in the individual's best interest and that of the community.

The CDT can make several rulings, including punitive orders such as fines, banning individuals from certain areas or associating with particular groups as well the removal of professional licenses. However, all of these potential orders are secondary to ensuring users are offered access to treatment and support services.

Portugal's model treats problematic drug use as primarily a health, rather than criminal justice, issue. The model is intelligently designed to guide problematic users toward treatment through tailored case management.

Independent evaluation has shown that the Portugal approach has increased the number of dependent users seeking treatment and drastically decreased drug-related harms.³

As guidance in the implementation of this Bill – as well as future drug law reform efforts by parliament – Doogue + George highly recommends looking toward the Portugal Model.

The Case For Legalisation

Doogue + George also supports the legalisation of a recreational cannabis market in Australia.

Whilst decriminalisation of cannabis is ideal for managing problematic users, only cannabis legalisation can tackle the illicit cannabis market and associated organised crime.

Recreational cannabis markets are currently legal in Uruguay, Catalonia and several parts of the United States.⁴ Whilst these legalised models are still relatively new, recent evaluations indicate that

² Hughes, C., Ritter, A., Chalmers, J., Lancaster, K., Barratt, M. & Moxham-Hall, V. (2016). Decriminalisation of drug use and possession in Australia – A briefing note. Sydney: Drug Policy Modelling Program, NDARC, UNSW Australia.

³ Caitlin Elizabeth Hughes and Alex Stevens, "What Can We Learn from the Portuguese Decriminalization of Illicit Drugs?," *British Journal of Criminology* 50, no. 6 (2010): 999-1022.

⁴ EMCDDA, 'Models for the legal supply of cannabis: recent developments' Published online May 2016 emcdda.europa.eu/topics/pods/legal-supply-of-cannabis

legalisation has not increased drug-related harms,⁵ and is unlikely to result in increased usage of cannabis by young people.⁶

Cost-benefit analysis of cannabis legalisation in Australia has calculated the net social benefit of legalisation at A\$727.5 million per year,⁷ largely as a result of increased tax revenue.

Overall, cannabis legalisation appears a necessary step in order to undercut the black market and to ensure maximum benefits to the community as a result of recreational use.

Conclusion

Overall there is an overwhelming case in favour of the Bill on both a legal, health and economic analysis.

Doogue + George supports all efforts by parliament to move away from the ‘war on drugs’ approach which has caused untold harm to many Australians.

Yours sincerely,

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⁵ Cato Institute, Policy Analysis No.: 799, Angela Dills, Siete Goffard, and Jeffrey Miro: “Dose of Reality: The Effect of State Marijuana Legalization”, September 16, 2016, p.3

⁶ Choo, Esther K., Madeline Benz, Nikolas Zaller, Otis Warren, Kristin L. Rising, and K. John McConnell. “The Impact of State Medical Marijuana Legislation on Adolescent Marijuana Use.” *Journal of Adolescent Health* 55, no. 2 (2014): 160–66

⁷ Shanahan M and Ritter A, 2014, 'Cost benefit analysis of two policy options for cannabis: Status quo and legalisation', PLoS ONE, vol. 9, 10