Weeding Out Compliance Issues: The Do's and Don’ts of Marketing Cannabis and Cannabis Products under Canada’s New Cannabis Act

October 16, 2018

On October 17, 2018, new legislation and regulation will come into force making cannabis use legal in Canada. Under this new legislation, both the adult-use and medical cannabis industries, along with the industrial hemp industry, will be primarily regulated under one act, *Bill C-45: An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts* (the *Cannabis Act*).

Industry brand developers and cannabis companies will be looking for ways to differentiate their products through marketing and branding in a tightly regulated but valuable market. However, the *Cannabis Act* prescribes certain regulations regarding the marketing and promotion of cannabis products.

The following is a brief overview of some of the "Dos and Don’ts" when engaging in the promotion of cannabis and cannabis products.

- **Do tailor communications to potential customers (but don’t market to youth):** Under the *Cannabis Act*, it is prohibited to market cannabis or cannabis products to young persons (defined as persons under the age of 18, but can be varied by provincial statute). However, it is compliant to promote cannabis or branded cannabis products in situations where the communication is addressed and sent to an individual who is 18 years of age or older, and is identified by name. In addition, companies can utilize websites to promote their products, as long as the website is age-gated. As such, it is important that if a cannabis company wishes to engage in promoting their brand via targeted marketing, that they are aware of the age of their customers.
- **Don’t utilize celebrity endorsements (and this includes cartoons!):** Under the *Cannabis Act*, it is prohibited to promote cannabis or cannabis accessories by means of a testimony or endorsement, or by means of depicting a person, character or animal, whether real or fictional. This means that celebrity endorsements of cannabis brands, or even the use of cartoon characters are prohibited under the *Cannabis Act*.
- **Do engage in branding:** Under the *Cannabis Act*, it is permissible to promote cannabis, cannabis products, or services related to cannabis by displaying a

brand element of cannabis on an item that is not cannabis or a cannabis accessory. This means that so-called branded 'swag' such as t-shirts and hats are permissible under the *Cannabis Act*. The *Cannabis Act* also allows for signage. However, any such swag or signage that could be reasonably associated with young persons is not permitted under the *Cannabis Act*.

- **Don't engage in sponsorship of events:** Under the *Cannabis Act*, it is prohibited to display, refer to, or otherwise use a brand element of cannabis or cannabis products in the sponsorship of a person, entity, event, activity or facility. Moreover, it is prohibited to display a brand element of cannabis on a facility, where the facility is used for sports or cultural events. As such, the display of a brand element in association with sponsorship by cannabis companies of music festivals, sporting events or athletes is prohibited under the *Cannabis Act*.
- **Do retain copies of promotions:** As noted in the *Cannabis Regulations* (SOR/2018-44), under the *Cannabis Act*, samples or copies of any promotional materials of a product must be retained for two years after the last day on which the promotion took place. As such, cannabis marketers will want to keep a detailed record of the promotions they engage in.
- **Don't forget that promotion by foreign media is encompassed in the legislation:** Foreign companies looking to enter the Canadian market must consider that promotions targeted to Canadians that are communicated, broadcasted or published outside of Canada still come under the purview of the *Cannabis Act*. As such, it is important for all cannabis companies — whether Canadian or foreign — to be aware of the rules surrounding the marketing of cannabis or cannabis products in Canada.

We Can Help

BLG is committed to helping its clients effectively and responsibly navigate Canada's move from prohibition to regulation of cannabis. Our multi-disciplinary Cannabis industry focus group is at the forefront of Canadian legal service providers and is continuously involved in corporate transactions and advisory services across all cannabis industry subsections.

By

Denes A. Rothschild, Samantha Breaks, Danielle Ridout

Expertise

Competition/Antitrust and Foreign Investment, Advertising & Marketing

BLG | Canada's Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 800 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

blg.com

BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing unsubscribe@blg.com or manage your subscription preferences at blg.com/MyPreferences. If you feel you have received this message in error please contact communications@blg.com. BLG's privacy policy for publications may be found at blg.com/en/privacy.

© 2026 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.