A Tale of Two Cannabis Markets

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As of June 30, 2017, there were 201,398 Canadians registered to purchase cannabis from licensed producers and 6,880 registered to grow for personal use as provided for in the federal regulations that support the Canadian medical cannabis market.[1] Canadian licensed producers are large-scale indoor or greenhouse grows, some with hundreds of thousands of square feet of canopy. At market close on October 17, 2017, four publicly-traded companies that own licensed producers as primary assets had market valuations exceeding a billion dollars (CAD), and each was listed on the Toronto Stock Exchange, Canada's leading stock exchange. Each of those entities also holds international cannabis assets — chiefly in Germany and Australia. Cannabis is a big business in Canada and Canadian expertise is gaining global traction.

Canada's Cannabis Market

Medical cannabis has been legal and federally regulated in Canada for over sixteen years. The system was established in 2001 with options for personal production or to purchase directly from Health Canada. A system based on personal production proved difficult to regulate and a commercial medical cannabis system was introduced in 2013, eliminating growing for personal use and allowing only purchases from licensed producers. In 2016, the law was again updated, reintroducing personal production alongside licensed producers.

Canadian law is about to change again. The Government of Canada has committed to descheduling cannabis from the *Controlled Drugs and Substances Act* and regulating cannabis for adult use under new legislation called the *Cannabis Act*. Canada will be the first G20 nation to step away from cannabis prohibition and toward regulation, with the twin goals of protecting youth and eliminating a key source of revenue for organized crime. The timeline leaves about eight months before the *Cannabis Act* becomes law, thereby creating a regulated adult-use market for cannabis in Canada.

Colorado's Cannabis Market

What will life after *Cannabis Act* look like? In Colorado, cannabis is regulated for production and sale in both medical and adult use markets. As of September 30, 2017, 502 adult use stores and 510 medical centres were licensed by the State of Colorado Marijuana Enforcement Division, many of which are co-located as an adult use store

paired with a medical center at a single location.[2] The shelves of these storefronts hold a variety of dried cannabis, concentrates (shadder, hash, live resin, rosin, distillate, etc.), infused foods and beverages, tinctures, lozenges, topicals, clones and seeds. Dried cannabis can be sold rolled for smoking. A wide variety of concentrates are commonly available loaded into pens similar to e-cigarettes for discreet use. Infused foods are available for a variety of palates. The products are diverse, and both medical and adult-use markets are convenient and accessible. Whether purchased for medical purposes or otherwise, federal illegality prohibits cannabis from leaving Colorado's borders.

In contrast to Colorado, Canada's current medical cannabis system under the *Access to Cannabis for Medical Purposes Regulations* (the "ACMPR") allows purchase exclusively by mail delivery. Licensed producers ship cannabis across the country to clients who are entitled to fly with anywhere from 15 to 150 grams of cannabis, depending on their permitted daily allowance of cannabis. As of October 16, 2017,[3] there were 67 issued licenses for production, sale or both. The ACMPR currently offers only two products for immediate consumption — dried flower and cannabis oil. Canadian cannabis oil is liquid food oil infused with cannabis extract, similar to "edibles" without the food matrix or "topicals" without creams or thickeners, and is not to be confused with vaporizable concentrates. Both products are manufactured to strict production standards that are uniform across Canada. Dried flower is sold in 5 grams increments and cannot be rolled for smoking or prepared in any other dosage form. Cannabis oil is sold in a bottle with a dropper, a spray pump, or capsules. The *Cannabis Act* allows import and export of cannabis for medical or scientific purposes, and a handful of licensed producers have already exported Canadian products under the ACMPR for distribution to pharmacies in Germany and other jurisdictions for clinical trials or medical use.

The Colorado cannabis industry is in many ways the inverse of the current Canadian cannabis industry. The storefronts and product diversity, combined with a **much** lower barrier to entry, and a far more permissive advertising environment, have resulted in significant competitive pressures in terms of product design, marketing, effective production and other innovations in Colorado. Some of these innovations would be welcome additions to the Canadian cannabis industry from the perspective of patients. Based on the *Cannabis Act* as published on April 13, 2017 and announcements related to the regulation of concentrates, solids containing cannabis (*e.g.* infused foods, lozenges, creams, etc.), and non-solids containing cannabis (*e.g.* infused beverages, some infused foods, etc.), the future Canadian medical and adult-use markets may be adopting some strengths of the Colorado approach. While the Canadian adult-use market will begin with the same two products available in the current medical market, the *Cannabis Act* provides for product expansion in the future. The *Cannabis Act* also allows provincial regulation of distribution and storefront sales (adult use or medical). Distribution is likely to be operated by provincial monopolies in all or most provinces. Ontario and New Brunswick have announced a provincial monopoly on cannabis storefronts, and industry participants are looking to Alberta and British Columbia with hopes of private retail sale opportunities.

Canada's stringent regulations on quality and production, coupled with federal legality, means that Canada is well-positioned to export talent, technology and the products themselves internationally. Learning from Colorado and other states to improve product diversity and introduce storefronts, while maintaining stringent and consistent quality controls, will soon position Canada as a world-leader in the cannabis industry.

[1]*Cannabis Market Data*, Government of Canada, 2017.

[2]*MED Licensed Facilities*, Colorado Department of Revenue, 2017.

[3]*Authorized Licensed Producers of Cannabis for Medical Purposes*, Government of Canada, 2017.

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