

This is the accepted version of the following article: Lenton, Simon. 2014. New regulated markets for recreational cannabis: public health or private profit? *Addiction*. 109 (3): pp. 354-359, which has been published in final form at <http://doi.org/10.1111/add.12451>

The first regulated markets for recreational cannabis: Public health or private profit?

We live in interesting times regarding cannabis policy, with legal, regulated schemes for recreational cannabis under construction and about to be implemented in Uruguay, Colorado and Washington. For so many years cannabis policy has been dominated by flawed criminalization schemes which, are expensive to the public purse, criminalize large numbers of largely otherwise law-abiding citizens, without adequately addressing cannabis as a public health issue,(1). It is now exciting to see fully legal models on the cusp of implementation, so we can see the evidence start to accrue to inform future considerations of cannabis law reform elsewhere. Many around the world will be watching to see how these schemes unfold and what impacts they have, both positively and negatively in terms of cannabis use and harm and the costs and benefits of these systems of control. There will be unintended consequences, and none of the schemes should be treated as the definitive litmus test of regulated availability schemes. Rather, we should deconstruct them and focus on the nuanced detail.

Room alerts us that there are reasons to be worried.(2) Importantly, the apparent loss of a public health focus, by those drafting regulations in the two US states in particular. A similar concern was raised in an interview with Ethan Nadelman, one of the driving forces of cannabis legalization in the US, which was published in *Rolling Stone* in July 2013. Expressing a preference for “the microbrewery or vineyard model” over the “Marlboro-ization of marijuana”, he is quoted thus: “I'm concerned now, because I see at my meetings, more and more of them are coming from the marijuana industry,"..."Some care about the broader principles. Some are just in it for the money."(3) Observers of the tobacco and alcohol industries will not be surprised.

To take just one issue, we know from the alcohol and tobacco experience that how advertising and promotion are handled is likely to be one of the determinants of rates of use and harm at a macro level, and particularly use by children.(4) Some of those in favor of a tax and regulate model for cannabis have argued that “cannabis advertising and marketing of all kinds should be banned from the outset”.(5) As Room has noted, advertising is banned in the government regulated pharmacy sale model in Uruguay(2), but the Colorado and Washington private enterprise schemes fall far short of this.

The Colorado Department of Revenue, Marijuana Enforcement Division having “determined that in order to prevent advertising that has a high likelihood of reaching minors, it is appropriate to model the Retail Marijuana Advertising restrictions on this voluntary standard used by the alcohol industry”.(6, pp.107-8) Consequently, consistent with recommendations of the industry, the relevant regulations require that: “A Retail Marijuana Establishment shall not utilize television (or radio, or print) advertising unless the Retail Marijuana Establishment has reliable evidence that no more than 30 percent of the audience for the program (publication’s readership) on which the advertising is to air is reasonably expected to be under the age of 21”. (6, p.108) Although there are restrictions on physical advertising under the Washington model,(7) requirements regarding advertising in print and electronic media appear to be missing. We should not be surprised that the

marijuana industry would lobby for treatment by the regulatory authority that would maximize its capacity to make money in a new, legal, recreational cannabis market. Yet we should be concerned that regulatory authorities would adopt the voluntary standard of the Alcohol Industry with regards to marketing of this newly legal drug.

Another fascinating aspect of the three models will be price. In Uruguay the head of the National Drugs Board, Julio Calzada, has been quoted as saying the price of cannabis through pharmacies has been set at \$US1 per gram, “to snatch the market away from the drug traffickers”,(8) whereas under the Washington scheme the average price at retail is estimated to be \$US12 per gram before the application of a 25% excise tax,(9) making it \$US15 per gram. In Colorado the retail price will be set by the market but Colorado regulators are embarking on a survey of marijuana retailers to determine an average market rate on which to apply to grower to seller transfers in order to apply excise tax.(10)

With contrasting models in Uruguay versus the Colorado and Washington schemes, there will be much to learn from the first 10 years of legal cannabis markets. One wonders whether the second decade will see the triumph of public health over private profit.

References

1. Room R, Fischer B, Hall W, Lenton S, Reuter P. Cannabis Policy: Moving Beyond Stalemate. New York: Oxford University Press; 2010.
2. Room R. Legalising a market for cannabis for pleasure: Colorado, Washington, Uruguay and beyond. *Addiction* (Abingdon, England). In press.
3. Dickinson T. Ethan Nadelmann: The Real Drug Czar. *Rolling Stone* (June 6, 2013) Available at <http://www.rollingstone.com/culture/news/ethan-nadelmann-the-real-drug-czar-20130606> (Accessed 27/7/2013) 2013 June 6, 2013.
4. Babor T, Caetano R, Casswell S, Edwards G, Giesbrecht N, Graham K, et al. *Alcohol: No Ordinary Commodity—Research and Public Policy*. Oxford, UK: Oxford University Press; 2010.
5. Wodak A. It's time to tax. *Of Substance* Available at: http://www.ofsubstance.org.au/images/archive/pdf/OfSubstance_July_2013.pdf (Accessed 02/07/13). 2013:10-2.
6. Colorado Department of Revenue MED. Permanent Rules Related to the Colorado Retail Marijuana Code, September 9, 2013. Denver: Department of Revenue (Available at: <http://www.colorado.gov/cs/Satellite?blobcol=urldata&blobheader=application%2Fpdf&blobkey=id&blobtable=MungoBlobs&blobwhere=1251883847085&ssbinary=true>) (Accessed 28/11/13), 2013.
7. Washington State Liquor Control Board. Chapter 314-55 WAC Marijuana Licenses, Application Process, Requirements, and Reporting. Olympia: Washington State Liquor Control Board Available at: http://lcb.wa.gov/marijuana/initiative_502_proposed_rules (Accessed 3/12/2013), 2013.
8. Goni U. Uruguay sets price of legalised cannabis at \$1 a gram. *The Guardian* Available at: <http://www.theguardian.com/world/2013/oct/22/uruguay-legal-cannabis-1-dollar-gram> (Accessed 3/12/2013). 2013 23 October 2013.
9. Washington State Liquor Control Board. FAQs on I-502. Olympia: Washington State Liquor Control Board Available at: http://lcb.wa.gov/marijuana/faqs_i-502 (Accessed 3/12/2013), 2013.
10. Ingold J. Colorado regulators want to know: How much does marijuana cost? *Denver Post* Available at: http://www.denverpost.com/marijuana/ci_24523519/colorado-regulators-want-know-how-much-does-marijuana# (Accessed 3/11/2013). 2013 Nov 14, 2013.