Legalization of Cannabis in Canada

Lesson Learned from Legalization in the US

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Background

- Cannabis was first criminalized in Canada in 1923 under *the Opium and Narcotic Control Act* (*Controlled Drugs And Substances Act*)
- Medical cannabis was legalized in 2001 under the Marihuana Medical Access Regulation; now regulated by the Access to Cannabis for Medical Purposes Regulations

- Federal government has committed to legalizing recreational cannabis by July 1, 2018
  - It was a campaign promise in the 2015 federal election
- Task force was commissioned in 2016 to advise on development of a regulatory framework
  - Issued a report in November 2016 with 80 recommendations

- Bill C-45 (*Cannabis Act)* was introduced in April 2017
  - Establishes criminal and regulatory framework for cannabis
  - Provides for licensing and oversight of cannabis supply chain
- Bill C-46 (*Amendment to Criminal Code)* was also introduced
  - New impaired driving offences related to drug impaired driving
  - New provisions governing blood samples

Context

- Canada has one of the highest rates of cannabis use in the world, particularly among youth
- The federal government's goals for legalizing cannabis is primarily to strictly regulate cannabis to:
  i. limit access to cannabis by youth
  ii. prevent organized crime from continuing to profit from the illegal market

Federal Jurisdiction

- Regulate licensed producers and types of legal products including contents and potency
- Set minimum age for consumption and maximum amounts for possession
- Set industry wide rules for labelling, advertising and promotional activities

Provincial Jurisdiction

- License and oversee retail sale and distribution
- Set minimum age (option to set it above federal limit)
- Option to create additional rules to govern "home grow"
- Regulate public consumption

Federal Cannabis Framework

- By July 1, 2018 Canadians will be able to purchase cannabis from federally licensed producers with delivery by mail
- The medical cannabis framework will remain in place
- Federal Ministry of Health will license production, import/export and distribution from “seed to sale”

Federal Cannabis Framework (proposed)

- Adults(18+) will be able to possess up to 30 grams and purchase up to 30 grams in a single sale
- Home cultivation for own use permitted with maximum of 4 plants (100 cm in height) per “dwelling house”
- Strict regulation of advertising, promotion and marketing
- Purchase on-line from licensed producers with delivery by mail

Ontario's Cannabis Framework (proposed)

- Minimum age to use, purchase or possess will be 19 (same as alcohol and tobacco)
- Retail sales only permitted through Crown Agency modelled after the LCBO (150 locations by 2020)
- Prohibition of consumption in public spaces, workplaces and motorized vehicles

Impact on Municipalities

Zoning, siting and licensing of producers and retail sales

- Nature of impact will depend on retail model selected by each Province
- Some municipalities welcome licensed producers but many want to be able to limit where cannabis can be sold and consumed
- Municipalities need new planning tools to allow them to regulate location of retail and production operations

Regulation of consumption in public places

- Most Canadian jurisdictions already have very strict “no smoking” laws
- Enforcement likely to be a municipal responsibility and will be more difficult if not aligned with tobacco laws
- Will create new offences which will impact municipal enforcement and provincial courts
- Federal Task Force recommends against allowing cannabis and alcohol to be sold or consumed in the same public place

Public Health

- In Ontario, municipalities are responsible for public health
- Anticipate increased responsibilities and costs for:
  - Public education
  - Prevention/addiction services
  - Enforcement
- Restriction on edibles may encourage smoking of cannabis which conflicts with strict “no smoking” policies

Police

- Impaired driving
  - Roadside “breathalyzers” for cannabis not readily available and costly
  - More training is required to deal with drug impaired driving
- Enforcement of home cultivation
  - Significant workload/resource increases and difficulty in enforcing the law

Police

- Additional training required for front line officers
  - Identify legal vs. illegal cannabis
  - Dealing with search/seizure of plants and products
- Confusion between medical and non-medical regime
- Organized crime still likely to be prevalent

Costs and lack of revenue

- Municipalities in most Canadian jurisdictions do not have the power to impose taxes on retail sales
  - Taxes will likely be retained by the federal/provincial governments
  - Municipalities are advocating for funding and/or revenue sharing

Implementation

- Municipalities need more time for implementation
  - Acquire resources
  - Develop policy, bylaws
  - Training

Lessons learned from legalization in the U.S.

- Start with restrictive provisions and expand only after legalization is normalized
  - Federal government will strictly limit the number of licenses issued
  - Edibles will not be legal at first (only dried and oil)
  - Strict limits on places of consumption (no public places)

- Policy needs to balance access to a legal substance and regulation
  - Pricing and access used to compete with illegal market
- Implementation should be phased in over time to allow for response to impacts and unintended consequences
- Local government will experience significant impacts and revenue is required to offset costs
  - Funding/revenue needs to be addressed at the outset

- Some aspects of police workload will decrease (possession offences) but others may increase:
  - New offences under the *Cannabis Act*
  - Organized crime
  - Theft, property damage
  - Impaired driving
  - Violations of home cultivation provisions
  - Eliminating existing illegal operations

Conclusion

- Federal and provincial legislation is still in draft and no regulations have been drafted
  - "Devil is in the details"
- Implementation time line is extremely tight
  - Federal government is driving the timelines for other levels of government
- Some lessons from the U.S. are reflected in the proposed legislation but many adverse impacts are not addressed