



3 November 2023

Committee Secretary  
Senate Legal and Constitutional Affairs Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Via email: [legcon.sen@aph.gov.au](mailto:legcon.sen@aph.gov.au)

### **Inquiry into the Legalising Cannabis Bill 2023**

Thank you for the opportunity to prepare a written submission to the Senate Legal and Constitutional Affairs Committee for the **Inquiry into the Legalising Cannabis Bill 2023**.

The Drug Policy Modelling Program (DPMP), UNSW Sydney is the leading drug policy research and practice program in Australia. Our mission is to improve government decision-making in relation to alcohol, cannabis, and other drugs. We have been conducting research into drug policy, including research relevant to the proposed Bill. We draw on our own research into cannabis regulation and alcohol policy as well as other research to inform our comments.

We commend the efforts underpinning this Bill to address harms that exist within the current cannabis legislative landscape in Australia. These harms include:

- the criminalisation of personal use/possession (Lenton & Heale, 2000; Lenton et al., 2000)
- the reliance on fines in decriminalisation and diversion schemes (Hughes et al., 2018; see also McCarron et al., 2008)
- uneven policing in decriminalisation and diversion schemes (Baker & Goh, 2004; Hughes et al., 2019; Taperski & Rahman, 2023; see also McCausland & Baldry, 2023)
- unregulated supply (Armstrong, 2021; Fischer et al., 2022; Lynskey et al., 2016).

The proposed Bill provides for the establishment of the Cannabis Australia National Agency, a system of registration of cannabis strains, a system of licensing for regulated cannabis activity, and some limits around particular commercial activities such as advertising.

We wish to draw the Committee's attention to three key points.

Firstly, strong industry regulation is required. The clash of commercial interests with public health principles is an area of key concern regarding a legalised regulated cannabis industry (Caulkins & Kilborn, 2019; Fischer, Lee, et al., 2020; Shanahan, 2011). Research into corporate interests influencing alcohol and tobacco policy, including our own work (Kowalski, Wilkinson et al., 2023; McCambridge et al., 2019; McCambridge et al., 2018; Miller et al., 2021; Miller et al., 2023; Savell et al., 2016; Smith et al., 2013), and emerging cannabis policy (Adams et al., 2021), suggest explicit exclusions and constraints around cannabis commercialisation and monopolisation would be

beneficial (Fischer, Bullen, et al., 2020). The alcohol and tobacco industries are well-known for supporting self-regulation systems (largely ineffective) and for establishing loopholes in existing regulatory arrangements (such as discounting and price promotions). Competition also encourages aggressive marketing and advertising, and typically results in price decreases (e.g. for alcohol see Kuo et al. (2003)). For this reason, many jurisdictions have used government monopolies for alcohol and tobacco (Room, 1993, 2017, 2020; Room & Cisneros Örnberg, 2019; Ritter et al., 2022). Evidence from alcohol, tobacco and cannabis suggests that legal frameworks permitting industry involvement are exceedingly difficult to change after the fact (Caulkins & Kilborn, 2019; Obradovic, 2021; Rotering & Apollonio, 2022). Industry influence should be restricted at all points in a legalised cannabis market, from a seat at the table of the regulatory agency itself to supply and retail arrangements. We hope that all approaches to cannabis regulation in Australia give due consideration to managing corporate interests that conflict with public health.

This links to our second key point – that any legislation concerned with cannabis is overseen by a health portfolio. CANA functions to regulate activities in the broader public interest in the proposed Bill. Public interest is difficult to define, and can change over time, but in the context of cannabis legalisation, should be concerned with public health (Pacula et al., 2014; Shanahan, 2011; Strang et al., 2012). In the absence of detailed additions regarding pricing restrictions (e.g. minimum unit price) (Englund et al., 2017; Freeman & Lorenzetti, 2020), maximum THC levels (Freeman & Winstock, 2015; Hall et al., 2023), and mandated THC/CBD ratios (Freeman et al., 2019), locating CANA within the Health portfolio would formalise the agency functions to maximise safety and minimise harm associated with regulated cannabis activities. Legalisation schemes require careful balancing of policy priorities (Kelaita & Ritter, 2023). As is clear from the evidence around other drug policy settings (Hughes et al., 2018), successful reform that reduces harms from criminalisation and possible harms around use requires simultaneous investment in prevention, treatment and public health education.

Other measures in the service of public interest could focus on transparency, including a provision that the register of strains be made public. Additionally, consideration should be given to expanding CANA's reporting obligations to require data on existing illicit markets to be reported where possible as part of the Agency's regulatory functions (and in dialogue with police and the Australian Criminal Intelligence Commission). Another example of the primacy of a public health perspective is in relation to licensing conditions. Density limits should be included as licensing conditions. We know from extensive research on alcohol outlet density (Campbell et al., 2009; Sanchez-Ramirez & Voaklander, 2018) including our own (Livingston et al., 2015; Wilkinson et al., 2016) that limits on alcohol outlet density and trading hours (Kowalski, Livingston et al., 2023) are a key means of reducing alcohol-related harms (e.g., increased number of outlets and increases in trading hours are associated with increased harm).

The third key point we wish to make concerns the possibility that legalisation inadvertently and mistakenly criminalises some activities. Our research over the past few years with people who grow and use cannabis in the ACT suggests that harms can arise, especially to more marginalised and discriminated against populations (Barrett et al., 2022; Ritter et al., 2023). We welcome the provisions in the Bill allowing for individuals without a licence to grow cannabis at home, manufacture products for personal use only, and share cannabis products valued under \$50. It is vital that the Bill does not re-criminalise any of these practices. Yet importation and exportation offences included in the Bill have the potential to capture individuals sourcing seeds online for

home-growing for personal use. This has impacts for personal growers and for biosecurity more generally if importation practices are designed to avoid detection.

We look forward to Australia making progress on cannabis regulation. It is an area requiring long-overdue policy reform, in light of the substantial harms of the current recreational cannabis policies across Australia.

Yours sincerely,



On behalf of the Drug Policy Modelling Program

Director Drug Policy Modelling Program  
Social Policy Research Centre  
UNSW FASS | UNSW Sydney | Sydney | NSW 2052 | Australia  
T: [REDACTED]  
E: [REDACTED]

## References

- Adams, P. J., Rychert, M., & Wilkins, C. (2021). Policy influence and the legalized cannabis industry: learnings from other addictive consumption industries. *Addiction*, *116*(11), 2939-2946. <https://doi.org/10.1111/add.15483>
- Armstrong, M. J. (2021). Legal cannabis market shares during Canada's first year of recreational legalisation. *International Journal of Drug Policy*, *88*, 103028. <https://doi.org/https://doi.org/10.1016/j.drugpo.2020.103028>
- Australian Institute of Health and Welfare. (2019). *National Drug Strategy Household Survey*. Canberra: <https://www.aihw.gov.au/reports/illegal-use-of-drugs/national-drug-strategy-household-survey-2019/data>
- Baker, J., & Goh, D. (2004). *The Cannabis Cautioning Scheme three years on: An impementation and outcome evaluation*. NSW Bureau of Crime Statistics and Research (BOCSAR). <https://www.bocsar.nsw.gov.au/Publications/General-Series/r54.pdf>
- Barrett, L., Mellor, R., Ritter, A., McLauchlan, L., & Kearnes, M. (2022). Navigating the grey: Experiences of incremental cannabis reform in Australia. *Drug and Alcohol Review*, *41*(7), 1621-1629. <https://doi.org/https://doi.org/10.1111/dar.13518>
- Campbell, C. A., Hahn, R. A., Elder, R., Brewer, R., Chattopadhyay, S., Fielding, J., Naimi, T. S., Toomey, T., Lawrence, B., & Middleton, J. C. (2009). The effectiveness of limiting alcohol outlet density as a means of reducing excessive alcohol consumption and alcohol-related harms. *Am J Prev Med*, *37*(6), 556-569. <https://doi.org/10.1016/j.amepre.2009.09.028>
- Caulkins, J. P., & Kilborn, M. L. (2019). Cannabis legalization, regulation, & control: a review of key challenges for local, state, and provincial officials. *The American Journal of Drug and Alcohol Abuse*, *45*(6), 689-697. <https://doi.org/10.1080/00952990.2019.1611840>
- Englund, A., Freeman, T. P., Murray, R. M., & McGuire, P. (2017). Can we make cannabis safer? *The Lancet Psychiatry*, *4*(8), 643-648. [https://doi.org/10.1016/S2215-0366\(17\)30075-5](https://doi.org/10.1016/S2215-0366(17)30075-5)
- Fischer, B., Bullen, C., Elder, H., & Fidalgo, T. M. (2020). Considering the health and social welfare impacts of non-medical cannabis legalization. *World Psychiatry*, *19*(2), 187-188. <https://doi.org/10.1002/wps.20736>

- Fischer, B., Lee, A., O'Keefe-Markman, C., & Hall, W. (2020). Initial indicators of the public health impacts of non-medical cannabis legalization in Canada. *EClinicalMedicine*, *20*, 100294. <https://doi.org/10.1016/j.eclinm.2020.100294>
- Fischer, B., Robinson, T., Bullen, C., Curran, V., Jutras-Aswad, D., Medina-Mora, M. E., Pacula, R. L., Rehm, J., Room, R., Brink, W. v. d., & Hall, W. (2022). Lower-Risk Cannabis Use Guidelines (LRCUG) for reducing health harms from non-medical cannabis use: A comprehensive evidence and recommendations update. *International Journal of Drug Policy*, *99*, 103381. <https://doi.org/10.1016/j.drugpo.2021.103381>
- Freeman, A. M., Petrilli, K., Lees, R., Hindocha, C., Mokrysz, C., Curran, H. V., Saunders, R., & Freeman, T. P. (2019). How does cannabidiol (CBD) influence the acute effects of delta-9-tetrahydrocannabinol (THC) in humans? A systematic review. *Neuroscience & Biobehavioral Reviews*, *107*, 696-712. <https://doi.org/10.1016/j.neubiorev.2019.09.036>
- Freeman, T. P., & Lorenzetti, V. (2020). 'Standard THC units': a proposal to standardize dose across all cannabis products and methods of administration. *Addiction*, *115*(7), 1207-1216. <https://doi.org/10.1111/add.14842>
- Freeman, T. P., & Winstock, A. R. (2015). Examining the profile of high-potency cannabis and its association with severity of cannabis dependence. *Psychol Med*, *45*(15), 3181-3189. <https://doi.org/10.1017/s0033291715001178>
- Hall, W., Leung, J., & Carlini, B. H. (2023). How should policymakers regulate the tetrahydrocannabinol content of cannabis products in a legal market? *Addiction*, *118*(6), 998-1003. <https://doi.org/10.1111/add.16135>
- Hughes, C., Seear, K., Ritter, A., & Mazerolle, L. (2019). *Criminal justice responses relating to personal use and possession of illicit drugs: The reach of Australian drug diversion programs and barriers and facilitators to expansion*. DPMP Monograph 27. Drug Policy Modelling Program, UNSW. <http://unsworks.unsw.edu.au/fapi/datastream/unsworks:55882/binf110b3d5-712f-4ac6-9909-f07567a0e22e?view=true>
- Hughes, C., Stevens, A., Hulme, S., & Cassidy, R. (2018). *Review of approaches taken in Ireland and in other jurisdictions to simple possession drug offences. A report for the Irish Department of Justice and Equality and the Department of Health*. [http://handle.unsw.edu.au/1959.4/unsworks\\_55881](http://handle.unsw.edu.au/1959.4/unsworks_55881)
- Kelaita, P., & Ritter, A. (2023, September 18). Legalising drugs? Improving the quality of the debate. *The Policymaker*. <https://thepolicymaker.jmi.org.au/legalising-drugs-improving-the-quality-of-the-debate/>
- Kowalski, M., Livingston, M., Wilkinson, C., & Ritter, A. (2023). An overlooked effect: domestic violence and alcohol policies in the night-time economy. *Addiction*, *118*(8), 1471-1481. <https://doi.org/10.1111/add.16192>
- Kowalski, M., Wilkinson, C., Livingston, M., & Ritter, A. (2023). Piloting a classification framework for the types of evidence used in alcohol policymaking. *Drug and Alcohol Review*, *42*(3), 652-663. <https://doi.org/10.1111/dar.13599>
- Kuo, M., Heeb, J.-L., Gmel, G., & Rehm, J. (2003). Does Price Matter? The Effect of Decreased Price on Spirits Consumption in Switzerland. *Alcoholism: Clinical and Experimental Research*, *27*(4), 720-725. <https://doi.org/10.1111/j.1530-0277.2003.tb04410.x>
- Lenton, S., & Heale, P. (2000). Arrest, Court and Social Impacts of Conviction for a Minor Cannabis Offense under Strict Prohibition. *Contemporary Drug Problems*, *27*(4), 805-833. <https://doi.org/10.1177/009145090002700405>
- Lenton, S., Humeniuk, R., Heale, P., & Christie, P. (2000). Infringement versus conviction: the social impact of a minor cannabis offence in South Australia and Western Australia. *Drug and Alcohol Review*, *19*(3), 257-264.
- Livingston, M., Wilkinson, C., & Room, R. (2015). *Community impact of liquor licences: an evidence check rapid review brokered by the Sax Institute (www.saxinstitute.org.au) for the NSW Ministry of Health*. Sydney: Sax Institute.

- Lynskey, M. T., Hindocha, C., & Freeman, T. P. (2016). Legal regulated markets have the potential to reduce population levels of harm associated with cannabis use [Note]. *Addiction*, *111*(12), 2091-2092. <https://doi.org/10.1111/add.13390>
- McCambridge, J., Kypri, K., Sheldon, T. A., Madden, M., & Babor, T. F. (2019). Advancing public health policy making through research on the political strategies of alcohol industry actors. *Journal of Public Health*, *42*(2), 262-269. <https://doi.org/10.1093/pubmed/fdz031>
- McCambridge, J., Mialon, M., & Hawkins, B. (2018). Alcohol industry involvement in policymaking: a systematic review. *Addiction*, *113*(9), 1571-1584. <https://doi.org/10.1111/add.14216>
- McCarron, E., Clarke, S., & Forell, S. (2008). Fine but not fair: fines and disadvantage. *Justice Issues* (3), 1-11. <https://search.informit.org/doi/10.3316/ielapa.201215076>
- McCausland, R., & Baldry, E. (2023). Who does Australia Lock Up? The Social Determinants of Justice. *International Journal for Crime, Justice and Social Democracy*, *12*(3). <https://doi.org/10.5204/ijcsd.2504>
- Miller, M., Livingston, M., Maganja, D., & Wright, C. C. J. (2023). Unpacking assertions made by the alcohol industry and how they make them: An analysis of submissions into Australia's National Alcohol Strategy. *Drug and Alcohol Review*. <https://doi.org/10.1111/dar.13682>
- Miller, M., Wilkinson, C., Room, R., O'Brien, P., Townsend, B., Schram, A., & Gleeson, D. (2021). Industry submissions on alcohol in the context of Australia's trade and investment agreements: A content and thematic analysis of publicly available documents. *Drug and Alcohol Review*, *40*(1), 22-30. <https://doi.org/https://doi.org/10.1111/dar.13219>
- Obradovic, I. (2021). From prohibition to regulation: A comparative analysis of the emergence and related outcomes of new legal cannabis policy models (Colorado, Washington State and Uruguay). *Int J Drug Policy*, *91*, 102590. <https://doi.org/10.1016/j.drugpo.2019.11.002>
- Pacula, R. L., Kilmer, B., Wagenaar, A. C., Chaloupka, F. J., & Caulkins, J. P. (2014). Developing Public Health Regulations for Marijuana: Lessons From Alcohol and Tobacco. *American Journal of Public Health*, *104*(6), 1021-1028. <https://doi.org/10.2105/ajph.2013.301766>
- Ritter, A., Barrett, L., O'Reilly, K., Wilkinson, C., Belackova, V., & Room, R. (2022). *Lessons learnt from alcohol and tobacco for cannabis regulation*. Sydney: Drug Policy Modelling Program, UNSW.
- Ritter, A., Lancaster, K., McLauchlan, L., Barrett, L., & Kearnes, M. (2023, September 5). As many states weigh legalising cannabis, here's what they can learn from the struggles of growers in Canberra. *The Conversation*. <https://theconversation.com/as-many-states-weigh-legalising-cannabis-heres-what-they-can-learn-from-the-struggles-of-growers-in-canberra-212009>
- Room, R. (1993). The evolution of alcohol monopolies and their relevance for public health. *Contemporary Drug Problems*, *20*(2), 169-188.
- Room, R. (2017). The case for government-run liquor stores in the Australian Northern Territory: Looking outside the box in regulating the supply of alcohol. *Drug and Alcohol Review*, *36*(5), 575-577. <https://doi.org/10.1111/dar.12594>
- Room, R. (2020). The Monopoly Option: Obsolescent or a "Best Buy" in Alcohol and Other Drug Control? *The Social History of Alcohol and Drugs*, *34*(2), 215-232. <https://doi.org/10.1086/707513>
- Room, R., & Cisneros Örnberg, J. (2019). Government monopoly as an instrument for public health and welfare: Lessons for cannabis from experience with alcohol monopolies. *Int J Drug Policy*, *74*, 223-228. <https://doi.org/10.1016/j.drugpo.2019.10.008>
- Roterig, T., & Apollonio, D. E. (2022). Cannabis industry lobbying in the Colorado state legislature in fiscal years 2010–2021. *International Journal of Drug Policy*, *102*, 103585. <https://doi.org/10.1016/j.drugpo.2022.103585>
- Sanchez-Ramirez, D. C., & Voaklander, D. (2018). The impact of policies regulating alcohol trading hours and days on specific alcohol-related harms: a systematic review. *Inj Prev*, *24*(1), 94-100. <https://doi.org/10.1136/injuryprev-2016-042285>

- Savell, E., Fooks, G., & Gilmore, A. B. (2016). How does the alcohol industry attempt to influence marketing regulations? A systematic review. *Addiction*, *111*(1), 18-32.  
<https://doi.org/10.1111/add.13048>
- Shanahan, M. (2011). *Assessing the economic consequences of two cannabis policy options*. Sydney: Drug Policy Modelling Program, UNSW.
- Smith, K. E., Savell, E., & Gilmore, A. B. (2013). What is known about tobacco industry efforts to influence tobacco tax? A systematic review of empirical studies. *Tobacco Control*, *22*(2), e1.  
<https://doi.org/10.1136/tobaccocontrol-2011-050098>
- Strang, J., Babor, T., Caulkins, J., Fischer, B., Foxcroft, D., & Humphreys, K. (2012). Drug policy and the public good: evidence for effective interventions. *The Lancet*, *379*(9810), 71-83.  
[https://doi.org/10.1016/S0140-6736\(11\)61674-7](https://doi.org/10.1016/S0140-6736(11)61674-7)
- Taperski, A., & Rahman, S. (2023). *Why are Aboriginal adults less likely to receive cannabis cautions?* (Crime and Justice Bulletin, No. 258). Sydney: NSW Bureau of Crime Statistics and Research (BOSCAR). <https://www.bocsar.nsw.gov.au/Publications/CJB/CJB258-Report-Cannabis-cautioning-2023.pdf>
- Wilkinson, C., Livingston, M., & Room, R. (2016). Impacts of changes to trading hours of liquor licences on alcohol-related harm: a systematic review 2005-2015. *Public Health Res Pract*, *26*(4). <https://doi.org/10.17061/phrp2641644>