

Overview:

CMA Cannabis Marketing Guide

CMA Members can access the full Guide [here](#).

A recognized leader in industry self-regulation, the Canadian Marketing Association has a Code of Ethics and Standards of Practice, and series of guides, that establish best practices for marketers in Canada and assist members with understanding and navigating regulatory frameworks.

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PURPOSE AND BACKGROUND

This Cannabis Marketing Guide provides an overview of permissible and prohibited marketing activities contained in the federal [Cannabis Act and regulations](#), effective October 17, 2018, and the amended regulations effective October 17, 2019. As well, it identifies aspects of the legislation that are unclear, and lists relevant policies to be considered as marketers endeavour to promote cannabis and cannabis-related products in a compliant manner.

This Guide is not intended to take the place of legal advice. Rather, it is intended to provide marketers with information and insights to facilitate compliance with the legislation and best practices in relation to this relatively new business sector. It is relevant not only for licensed producers but also manufacturers of cannabis accessories, providers of services related to the cannabis industry and suppliers, as it covers activities such as signage/billboards, packaging, and the sale of non-cannabis items such as promotional items. Whenever the Act is not clear, we encourage our members to seek legal advice.

Marketing restrictions on cannabis are **similar but not identical to** those faced by other product categories, particularly tobacco. It is important for marketers to understand these differences.

The CMA and its members recognize that maintaining high standards of practice is a fundamental responsibility to the public and the foundation for a successful and strong business community in Canada.

The CMA is the leader in providing legislative and regulatory guidelines and articulating best practices for the marketing profession in Canada. As the self-regulatory body for the marketing profession in Canada, we provide educational resources to maintain and strengthen the professionalism and integrity of the marketing community. Our [Code of Ethics and Standards of Practice](#), which is widely recognized as a benchmark for effective self-regulation, is mandatory for members and regularly updated.

As this is an evolving area, this Guide is frequently updated to reflect regulatory developments, further clarity from regulators and precedent that is established over time. For more information, contact the [Public Affairs team](#) at CMA.

This document provides general information. It does not constitute legal advice.

Those with specific questions about the legislation and regulations should seek independent legal advice.

INTRODUCTION

The *Cannabis Act* was crafted to achieve specific stated purposes, centered around the protection of public health and public safety. These purposes can be summarized as:

- Protecting young persons' health by restricting their access to cannabis and exposure to promotional messaging.
- Protect young persons and others from inducements to use cannabis.
- Displacing the illicit market by offering adult consumers legal access to products that are regulated and quality controlled.
- Enhance public awareness of the health risks associated with cannabis use.

As such, the Act: “prohibits any promotion, packaging and labelling of cannabis that could be appealing to young persons or encourage its consumption, while allowing consumers to have access to information with which they can make informed decisions about the consumption of cannabis.”

Promotion of cannabis is regulated by sections 16 to 24 of the [Cannabis Act](#). These sections govern the “promotion” for cannabis and cannabis related accessories and services in Canada. The word “promote” is broadly defined in the Cannabis Act as follows: “In respect of a thing or service, means to make, for the purpose of selling the thing or service, a representation — other than a representation on a package or label — about the thing or service by any means, whether directly or indirectly, that is likely to influence and shape attitudes, beliefs and behaviours about the thing or service.”

The promotion section of the [Cannabis Act](#) is modelled after the [Tobacco and Vaping Products Act](#) in that it begins by prohibiting all promotion activities, and then provides exceptions to the blanket prohibition. **All activities of marketers in Canada must work within an exception provided in the Act.**

General prohibitions include:

- Communicating information about its price or distribution.
- Appealing to young persons.
- Testimonial or endorsement.
- Depiction of a person, character, or animal, whether real or fictional.
- Evokes a positive or negative emotion or ‘way of life’ such as one that includes glamour, recreation, excitement, vitality, risk or daring.
- Promotion that is false, misleading or deceptive or that is likely to create an erroneous impression about its characteristics, value, quantity, composition, construction, design, etc.
- Publish, broadcast or otherwise disseminate prohibited promotions.
- Promote using foreign media.
- Display brand elements or names on a facility used for a sports or cultural event or activity.
- Engage in inducements.

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Even permitted promotional activities must meet certain conditions, as indicated in the next section. In these instances, it is recommended that companies consult with a lawyer.

Health Canada does not review or pre-approve any communications, materials and activities before they are published, distributed or launched, nor does Health Canada provide advice on legal matters. To date, the federal government has not issued additional guidance; however, the CMA meets frequently with Health Canada officials and where possible, our Guide reflects additional insights from these conversations.

When enforcing the prohibitions on promotion in the [Cannabis Act](#), Health Canada considers whether activities are in compliance on a case-by-case basis based on a range of factors including, but not limited to, the purpose of any promotion, its content, its context, and its intended audience. Therefore, it is recommended that companies consult with a lawyer before proceeding with activities where conditions apply. Health Canada is expected to publish its final draft guidance on the “Distinction Between Promotional and Non-promotional Messages and Activities for Health Products” in 2020.

Note that additional provincial and municipal restrictions may apply. A list of provincial regulators is provided in the Resources section of this Guide.

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CMA would like to acknowledge and thank the members of the [Working Group on Cannabis Marketing](#) for their help in creating this Guide.

This Guide is current as of November 25, 2019.

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