Legalization Across the Continent
Searching for Successful Regulatory Models

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About MPG

Leaders in marijuana policy, economics and finance

Founded in 2014

Government Policy Advisors:

- MMJ & Rec Market size (Rec & Medical)
- Merit-based license design & selection
- Policy Design (Permits, Regulations, Zoning)
- Economic Impacts
- Procurement (licensing systems, monitoring)

Private Sector:

- Investment due diligence, forecasting
- License strategies
- Market forecasts and dynamics
About MPG

Clients:

• Colorado: Marijuana Enforcement Division
  – New market study to be released Fall 2017
• Canada: Secretariat for Cannabis Legalization and Regulation
• Los Angeles County
• Southern University
• Tribal Governments
• Local Governments:
  – Market size, tax strategy, licensing, negotiation support
• Others:
  – Alaska, Connecticut, Ohio, Pennsylvania, Nevada, Denmark, Mexico, National Associations, etc.
Presentation in Context

- **MPG is neutral:**
  - MPG takes no position on whether legalization is “good” or “bad”.
  - MPG supports government and the private sector to achieve efficient polices and improved economic outcomes.

- **MPG uses observable/official indicators and market data:**
  - No other firm has comprehensive, accurate, official data
  - Conflicting views and unofficial data make regulation more difficult:
    - Nascent industry – no reliable “google” facts
    - Emerging data from legal states is helping to understand regulatory policy outcomes
  - Coming soon: The MPG “Regulatory Performance Index” (RPI)
Terminology / Regions

- “Generation 1” – pre-2007 ~ West US
- “Generation 2” – post-2007 ~ East US
- Canada
- Mexico
- Jamaica
“Generation 1”

- California, Colorado, Washington, Oregon, Alaska, Rhode Island, Maine, Vermont
- Legalized medical before 2007
- Originally a non-commercial model
  - Caregiver and home grow focus
  - Decriminalization
- Converted to commercial (medical) around 2008-2010
- Open licensing – indirect limits
- Higher patient counts
- More inclusive medical conditions
- Pioneers of adult-use through voter initiative – 2012
“Generation 2”

- New York, New Jersey, Illinois, Minnesota, Florida, Connecticut, Massachusetts
- Medical legalization after 2007
- Medical only – exception of Massachusetts
- Overt and strict license limits – cultivation and retail
- Competitive application process
- Higher initial and ongoing license fees
- Capital requirements for licensing
- Product limits
- Limited qualifying conditions
- Markets in early stages
Federal Issues

• Cannabis remains Schedule 1 narcotic
• Tenuous federal guidance
• No interstate commerce
• No organized capital
• Product tracking systems
• Limited financial services
• Tax complications (280e)
• Fragmentation
• Regulatory issues (pesticides, what else??)
• Positive – Local economic impacts
Canada

• Legalized medical marijuana in 2001
• Resembles Gen 2 more than Gen 1
• Plan to open adult use market in July 2018
• Moving on federal level with some provincial freedom
• 54 current licenses for cultivation/sale
• Mail delivery only
• Quasi-legal dispensary system
• Public companies
• Product limits
• Adult use – distribution system in question
Mexico

- Supreme Court – November 2015
- Decision based on ‘personal freedom’ to cultivate
- Medical cannabis legislation – 2017
- Limit to 1 percent THC
- Health Ministry to study therapeutic effects
- Currently formulating rules
- Expect a slow and deliberate process
- Adult-use in the distant future
- Generation 2
Jamaica

• Reduce incarceration and court activity
• Create economic opportunity for a diverse set of stakeholders
• Acknowledge the Rastafari
• Decriminalization & home cultivation
• Tiered production limits
• Small farmer inclusion
• Tourism and export-focused
• Licensing just underway
• Generation 1
Observations and Outcomes
Topics

- Regulatory “Success”
- Path to legalization
- Participation
- Pricing
- Prevalence
Regulatory Success can be “Elusive”

Disparate Priorities
- Crime reduction & social stability (Canada, Colorado)
- Safe medical treatment access
- Economic growth & tax revenues (e.g., Jamaica, NV, smaller cities and counties)
- Minimize political risk (NY, LA, NJ)

Knowledge Gap Effects
- Most policymakers new to Marijuana
- Industry lobbyists posing as experts can easily influence govt. officials
- Public staffers (analysts) often make logical errors:
  - 2016: NV gov staff estimates MMJ demand to be 10 times too large. Uses inflated figure for permit allocation.
  - 2014: WA control board approves combined 95% tax on flower, implicitly assuming that legal pot will be purchased “at any price.” Uses lottery for permit selection.
  - 2014: CO limits sale of “flower” (1 oz) - but concentrates/edibles are unlimited
Ability to Make Changes

- MJ regulation is new – so rules should be changeable
- No legal state had policy experts – initial regulators generally have experience with other vices
- Strong rulemaking processes are recommended
  - Washington - revised taxation system; eliminated medical marijuana system
  - Colorado - implemented edibles regulations, revised production control tiers, revised tax rates
  - Illinois, New York and Florida - changed qualifying conditions, product limitations
Legalizing Body Affects Outcomes

• **Ballot Measure – Public Vote (easier)**
  • Many rules are designed in the measure, leaving fewer decisions to be made by public officials
  • Decisions about possession, concentrates, and most governing items are designed by experts, making the rollout much easier
  • Downside: the measures are usually “un-balanced” because those “experts” are marijuana advocates

• **Legislative Process (harder)**
  • Key dates, and all major decisions must be “agreed” taking more time and allowing (often ill-informed) non-experts to exert influence.
  • Example: Canada disallows concentrates for “unknown” period – will lead to underground BHO market. Also distorts demand estimates.
  • Benefit: non-advocates can participate in the process more than under a ballot process, leading to more balanced outcomes.
Price Comparison – Gen 1 v. Gen 2

• 500mg vaporizer cartridge
  – Colorado - $32
  – New York - $94
  – Connecticut - $70
  – Minnesota - $59
• Anecdotal
Public Revenue

• Comparison of tax yields:

  • Colorado (2015): $27.70/resident
  • Washington (2015): $22.63/resident
  • Oregon (2016): $16.53/resident
  • Alaska (‘16/’17): $2.70/resident* (est)
  • Denver (2016): $47.85/resident
  • Anchorage (2017): $2.60/resident* (est)

* Anchorage imposed a 5% sales tax in Jan. 2017
Observations

- Generation 1 systems:
  - Government reacts
  - Fast implementation – ballot measure
  - Rooted in compassion and personal freedom
  - Fiscal motivation – adult-use
  - Home cultivation with limits
  - Larger patient markets (50K-100K)
  - Local control as market control
Observations

• Generation 2 systems:
  – Favor public safety
  – Government control
  – Restrict access
  – Small patient markets (5K – 30K)
  – Slow implementation – legislative
  – No home cultivation
Observations

• Gen 1- voters were in front of the government
• Government developed its regulatory system in reaction to initiatives
• In adult-use markets, declining prices and increasing sales indicate reduction of black market activity
• Gen 2 governments value public safety and a slow, deliberate process
• Prices will remain high and markets will remain small until more patients enter the regulated market
• Success is defined locally
Questions and Discussion

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