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Strategic Innovations in Cannabis Legalization Policy: Lessons from Early Adopters

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Legal approaches to cannabis have changed quite dramatically in recent times and perhaps most noticeably in a number of U.S. jurisdictions since 2012. In December of that year both Washington and Colorado legalized recreational use of cannabis by adults, and in 2014 retail sales of cannabis commenced in both states. As of early 2020, 10 more U.S. jurisdictions have legalized adult recreational use of cannabis (Alaska, California, District of Columbia, Illinois, Maine, Massachusetts, Michigan, Oregon, Nevada, Vermont), with all but two also endorsing and regulating retail sales of cannabis. Further, in December of 2013 Uruguay became the first country in modern times to legalize cannabis, permitting pharmacy sales and cultivation by registered cannabis growers clubs. And most recently, in June of 2018, Canada became the first G-7 country to legalize cannabis, premised on preventing youth use, protecting public health and safety, and eliminating the illicit market.

We have, then, witnessed recent policy developments in a number of jurisdictions of a range of legal and regulatory approaches to recreational cannabis. Over time, we expect that a growing number of countries will adopt similar policy innovations. The four articles included in this special issue address various objectives and outcomes of cannabis legalization, offering strategic policy

design and implementation lessons to policymakers who are considering similar reforms in their own jurisdictions.

Ivana Obradovic (2021) compares the dynamics of cannabis policy reform efforts in Uruguay with those in the U.S. states of Colorado and Washington, arguing that different justifications for reform dominated each jurisdiction: commercialization and tax benefits in Colorado, social justice in Washington, and public health in Uruguay. These various frames, Obradovic continues, elicited divergent regulatory approaches that influenced how rapidly the cannabis industry innovated and expanded, with follow-on implications for the consequent balance of societal harms and benefits. Obradovic highlights lax industry regulations in Colorado, for instance, that permitted industry development and marketing of high potency cannabis products with potentially unforeseen consequences. As more countries debate not whether but how to legalize, the trade-offs between profit-maximization and public health incentives will continue to frame these policy debates. Ultimately, Obradovic cautions that reform groups that dominate the agenda early on could set cannabis policy development on a trajectory from which subsequent course correction is difficult.

Davenport (2021) focuses exclusively on the evolution of cannabis prices and potency in Washington, raising important questions about unchecked industry innovation and the public health consequences of that innovation, particularly in relation to cannabis concentrates. Using a novel traceability dataset, he provides empirical confirmation of the different commodities that can emerge in a lightly regulated legal market, including edibles, solid and liquid extracts, and

various tinctures, topicals, capsules, and suppositories. Moreover, Davenport documents substantial price decreases and potency increases over time, pinning these market trends on Washington State's accommodating regulatory framework. A key policy lesson from this research is that clear regulations should be proactively developed concerning product types, prices, and potency to adhere to legislative intents.

Hammond (2021) picks up on a similar theme in Canada, noting that information regarding THC dosing in flower, edibles, and extracts is not uniform and not communicated adequately, especially given the need for consumers to know the potency of the products they consume. Hammond notes further that a focus on THC and CBD ignores terpenes and other constituents of cannabis, all of which can be relevant to individual experiences, positive and negative, with cannabis. In light of these concerns, Hammond's commentary offers common sense recommendations for labeling cannabis products in regulated markets. Not only is dosage knowledge important for individuals seeking to responsibly consume cannabis, but it can prevent negative consequences due to overdose, including panic attacks and, in a worst case scenario, psychotic episodes. Hammond argues that cannabinoid content be clearly labeled to indicate a standard sub-intoxication dose, eliminate the need to personally calculate dosage, and allow for easy dose comparison across product types. The key lesson for policymakers considering regulations in new legal markets is that consumers will benefit from industry packaging and labeling standards that promote effective dosing and low-risk patterns of use.

Marian Shanahan and Philippe Cyrenne (2021) apply a cost benefit analysis (CBA) framework to the evaluation of cannabis legalization in Canada, but the considerations are relevant to other settings. The authors identify key outcome domains, drawn from objectives delineated in government policy documents. In their analysis, the authors raise a number of dilemmas, including how to account for a shift from illegal to legal sector profits. On balance, this shift might be expected to yield net societal benefits, but to the extent that labor opportunities in the legal market are not equally distributed by race, education, and other socioeconomic factors, then net benefits may accrue more to certain groups. The question of whether marijuana and alcohol are complements or substitutes presents another dilemma for CBA, due to the unclear implications for the prevalence of alcohol-related harms. The core challenge in assessing the costs and benefits of cannabis legalization is understanding how to select and weight relevant factors. Cannabis policies also vary considerably across Canadian provinces; a credible CBA will need to be attentive to these policy variations, as the types and strengths of cannabis products available for purchase will affect the costs of enforcement and regulation. Conducting a credible CBA will therefore require considerable forethought and a multidisciplinary team that is attentive to both policy design and outcomes.

In sum, all four articles take legalization as a given, but then go on to explore the issues that arise as a consequence of what has been a rather significant change in law and policy. We expect that the consideration of these issues will be with us for many years to come: the costs and benefits of legalization, its impacts on public health, particularly with emerging products, the problem of controlling continuing illicit markets, and the provision of appropriate information for potential

consumers of cannabis products. This collection of papers provides key insights and lessons for this exercise.

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