

THE ADVISORY COMMITTEE ON THE MISUSE OF DRUGS CONFIRMS WHAT WE AT THE CANNA CONSULTANTS HAVE ALWAYS STATED:

THERE IS CURRENTLY NO DEFINED CONTAMINANT LEVEL FOR CONTROLLED CANNABINOIDS IN CBD PRODUCTS (BUT THEY NOW RECOMMENDED ONE)

A year ago, on 11th January 2021, we informed you that there was about to be some progress on a topic that we had been championing for a long period – the defining of a Contaminant level for Controlled cannabinoids in CBD Products (available [here](#)).

On 25th January 2021 a letter from Kit Malthouse, Minister for Crime and Policing, was published in which he sought the advice of the ACMD.

We followed up with an explanation as to the mechanics of the means by which a Government changes Drugs Policy (available [here](#)).

If you were to review our Position Papers from 2019 onwards you would find that we have previously expressed ourselves as follows (emphasis now added):

- *What level of THC is “detectable” for the purposes of examination and testing and the Misuse of Drugs Act 1971, because in principle virtually everything is detectable if your equipment is sufficiently capable, and culpability for criminal liability should not rest with who has the best/newest/most capable testing machine?*
- ***The regulatory authorities in the UK have not yet provided any advice on what is a “detectable” level of THC. The government needs to engage with the industry in order to help those market participants who are willing to truly engage with them to better define what conduct and product formulae are acceptable, equally, the industry needs to take responsibility for complying with the law.***

- *As a means of progress we encourage the government, through the auspices of the FSA and Home Office, to define what an acceptable detectable level of THC in products is, pursuant to which manufacturers will then have a maximum tolerance to remain within.*
- *We know that due to the feeding of hemp biomass to cattle we now have what is, unless the practice is prohibited, an effectively permanent contaminant level of THC within milk and the onward food-chain. Therefore, it would seem that an argument that there can be no acceptable level of THC contamination in food products, would be an academic one.*
- *If that is correct, then one could suggest that **a sensible approach would be to then define what an acceptable level of controlled cannabinoid presence (THC/CBN) could be in foodstuffs generally, or in cannabis-derived products specifically.***
- *Given that no-one seriously believes that individuals consume cannabinoid products which contain technically measurable, but pharmaceutically insignificant amounts of controlled cannabinoids (THC/CBN) in order to achieve psychoactive results, then one could quite properly define them as “residues” of the natural origin of the end product or undesired “contaminants” to that product.*
- *To do so would not offend food law and regulation and if agreement could be found for the level at which acceptability was defined, then it is unlikely to have unintended consequences for those government departments charged with the control and eradication of narcotic drugs. **The question within this debate would be – what is an “acceptable” level below which the presence of “controlled cannabinoids” could be deemed an acceptable contaminant?***

The Advisory Committee on the Misuse of Drugs (ACMD) has now answered the questions asked of it, but the industry does not have the answer to all of the questions that it has – mainly because the real nub now concerns the interaction between Drugs Policy and Abuse Liability. Read on to understand the distinction...

WHAT WE HAVE SAID FOR MANY YEARS IS NOW WHAT THE ACMD SAYS - WHO'D HAVE THOUGHT THAT?

At The Canna Consultants, because the exemption under the Misuse of Drugs Act did not apply to CBD Products (despite many so-called “legal experts” claiming that it did), we had been pressing for many years for a contaminant level to be set – which itself would then exempt qualifying CBD products from the MDA. It was no surprise to us that the ACMD concurred with our analysis (available [here](#)) and confirmed that the current Exemption to the MDA does NOT exempt CBD products (available [here](#)).

WHAT IS THE LOWEST DOSE OF CONTROLLED CANNABINOIDS THAT WOULD PRODUCE AN ADVERSE EFFECT?

Therefore, the remit of the ACMD report was to recommend a “low”, trace level for the controlled phytocannabinoids in consumer CBD products under the MDA. To do so, the ACMD gave consideration to the maximum dose of Δ -9-THC that would be unlikely to produce any psychoactive effect (i.e. elevation of mood or “high”).

The ACMD consider that a Δ 9-THC dose of 1 milligram (mg) was unlikely to produce significant psychoactive effects. Therefore, in the absence of more definitive studies on the maximum dose of Δ 9-THC that would be unlikely to produce any psychoactive effect when given by different routes of administration the ACMD propose that 1 mg LOAEL should apply to all consumer CBD products.

The ACMD then applied two additional uncertainty factors were then applied:

- (a) The first of 10 (to account for differences in age, body size, individual variation in response) and,
- (b) a second of 2 (to take account of variations in use or concurrent use of more than one product).

MANIFESTATION INTO REALITY

What impact on actual acceptable levels do the uncertainty factors have?

- Reducing 1mg by 10-fold produces 100µg.
- Reducing 100µg by two-fold produces 50µg.

Therefore, the ACMD's recommendation is that an acceptable level of **each** Controlled Cannabinoid is **50µg "per unit of consumption"** (where a unit of consumption or "single serving" is the typical quantity of a CBD product consumed on one occasion).

THIS IS ONLY HALF THE ANSWER

We acknowledge that this is the full answer to what the ACMD was asked, but it is, in reality, only half the answer to the question.

So, what we know is that if the recommendation is accepted, then CBD products can have up to 50µg per Controlled Cannabinoid "per unit of consumption". However, what the ACMD have not said anything about is the aggregate weight of Controlled Cannabinoids within a consumer product (lets call it a Retail Unit).

The ACMD acknowledge that it should not make a recommendation based on the aggregate Controlled Cannabinoid level within a Retail Unit because to do so would unfairly prejudice certain products when compared to others (with oils being the most penalised because of the large number of "Consumption Units" in each "Retail Unit" when compared with other products, such as drinks, chocolate or gummies.

THE INDUSTRY NEEDS TO BE CAREFUL IN TAKING 50µg AT FACE VALUE

The 50µg per Consumption Unit cannot be a measure of what is permitted on the shelves vis-à-vis the Retail Unit because in order to pivot from being a “CBD Company” to a “THC Company” all a manufacture would need to do is:

- define its “Consumption Unit” as being 1 drop (which is typically 0.05mL); and,
- utilise a strain in which the extraction contains 50µg THC per 0.05mL of the end product.

In so doing, every 10mL bottle of their CBD product would contain 10mg of THC (50µg/drop x 200 drop), a 20mL bottle would contain 20mg THC and so on.

To put this in context, academic reports identify 5mg THC as being a dose at which mild psychoactive effects are produced, similar to a standard unit of alcohol. In Washington State, where Adult-Use THC products are lawful, manufacturers sell 10mg THC products with the intention of getting the user “high”.

ABUSE ASSESSMENT AND DRUGS POLICY

So, we if believe that we can assume that the Government does not intend to legalise Adult-Use of THC through CD products (and believe us that you can be absolutely sure that it doesn't), then the real answer will not come from the ACMD, but from Abuse Liability Assessments and Drug Policy, because (on the assumption that the 50µg recommendation will be accepted in the terms in which it is offered), the question really is:

What weight of Controlled Cannabinoids will the Government be comfortable with in a single Retail Unit?

Whether intentionally or otherwise, the ACMD have probably answered this question as well because, as we have identified above, “*the ACMD consider that a Δ9-THC dose of 1 milligram (mg) was unlikely to produce significant psychoactive effects*”. Therefore, in undertaking the most rudimentary Abuse Liability Assessment, one might conclude that limiting the aggregate Controlled Cannabinoid level to 1mg per Retail Unit might be appropriate.

DO WE COME FULL CIRCLE?

There is a potential irony here in that if the Government:

accepts the LOAEL as identified by the ACMD;

AND

accepts the two Uncertainty Factors;

AND

accepts the proposition of the “Consumption Unit”;

AND

applies the LOAEL to the Retail Unit

then we would arrive full-circle at the permitted level of Controlled Cannabinoids in a Retail Unit as being 1mg.

It is not lost on us that this is the exact figure which those who we refer to as “so-called legal experts”, have repeatedly advanced as being the current limit.

We have always said that they were wrong in the application of their co-called expertise, the Home Office have repeatedly said that they were wrong and the ACMD have now, yet again, confirmed that they were wrong.

We expect that they will “spin, spin, spin” and tell everyone that this is what they have always said and we will smile when they do so – a broken clock is correct twice a day – that is for 2 seconds out of 86,400, which is 0.002%.

We therefore continue to remind the industry to ***“Be Careful Who You Listen To”***.