

RESPONSE TO THE ATTACK ON OUR INTEGRITY BY THE ASSOCIATION FOR THE CANNABINOID INDUSTRY

Those who have followed our observations on the CBD Health products market for the last 6 years will be aware that we don't hide behind Paywalls, that we don't charge membership fees for nebulous benefits and that we call out deceit and hypocrisy where we see it – especially where it is being deployed for the direct gain of an individual or organization which that individual represents.

We acknowledge that we do not devote time to challenging every transgression that we see – you just can't – but we pride ourselves in shining a light on the most overt self aggrandising instances, or those which have the potential for most harm if an industry participant were to believe what they read.

It was in this context that on 7th September 2023 we posted to LinkedIn the observations to be found in **Appendix 1** to this document. The post was in response to the flurry of media activity in respect of the Association for the Cannabinoid Industry's Press Release and the media coverage on the same.

On 8th September 2023 we noted that the Association had responded to our observations (see **Appendix 2** hereto) with an attack on our integrity. We have chosen to respond to this attack (we are not thin-skinned and could have ignored it) because we believe that the attack itself is a prime manifestation of what happens when an organization consists of 90% Spin and Lobbying and only 10% substance (and some might say we are being generous).

WHAT ARE WE BEING ACCUSED OF?

You will see that we are being accused of telling “a number of easily identifiable untruths”. We read that as we are being called “liars” because it is hard to understand anything else by it and it is a pity that the authors are unable to remove themselves from their Spin-mastery ways and can't help other than alighting on an underhand way of calling someone a liar when there is a perfectly good word for that which they seek to allege. In this response we will use the word “lie”, for that is the allegation and we do not recoil from its use or shirk from responding to it.

ALLEGATION 1: OUR PROPOSITION THAT THE HOME OFFICE SEE THE CURRENT LEGAL POSITION AS CLEAR AND UNAMBIGUOUS IS A LIE

THE HOME OFFICE POSITION

The reality is that the Home Office see the current legal position with absolute clarity:

- (a) they consider that CBD products will always contain controlled cannabinoids, intentionally (for “full spectrum” products) or as contaminants (for “broad spectrum” products and “isolate-based” products); and,
- (b) they consider that CBD products do not fall within the definition of “Exempt Products” under the 2001 MDA Regulations because the products are intended for administration to humans.

As a consequence of (b) the Home Office do not even get to the stage of considering whether there is more or less than 1mg of controlled cannabinoids within the individual products because to qualify for exemption all three limbs of the test must be fulfilled and CBD products fall at the first of the three limbs.

OUR ANALYSIS OF THE LAW WHICH APPLIES

It has always been our consideration at TCC that this analysis of the law at it presently stands is accurate - which is not the same as we like that that is the law, or that we want it to be maintained, but it is and always has been the true factual and legal position.

If anyone wants to read a 25-page analysis of what this is the law, then they have had the opportunity to do so here <https://www.thecannaconsultants.co.uk/there-is-no-exemption-for-thc-content-in-cbd-products/> since we published this analysis, free and to the whole of the market on 13th February 2020. We would invite analysis of the past observations of the ACI on this issue and ask the readers of the same to consider who has maintained absolute clarity on the issue and who has “blown in the wind” when it has suited them at any given moment?

It is precisely because of this “clear and unambiguous” position that:

- the Home Office require there to be a **change** in the current law in order for such products to become lawful in the context of drugs legislation - and such a **change** in the law would not be necessary if the law was already that such products could contain up to 1mg of controlled cannabinoids per product container; and,
- in January 2021 the government invited the Advisory Committee on the Misuse of Drugs to consider the position and recommend the most appropriate **change** to the to current “clear and unambiguous” law.

CHANGE OR CLAIIFICATION?

You will note that we have highlighted the word **change**. We are in a position to do this because we have always been clear as to what the current law is and that for it to transition to what the industry wants and needs then it must be **changed**.

This is in contrast to the ACI which is demanding “clarification” of the law – why the difference?

We venture to suggest that when you are an organization (and the ACI is undoubtedly not alone in this regard) who has previously asserted that CBD products are exempt from the Misuse of Drugs Act as long as the retail units contain less then 1mg of controlled cannabinoids, and pursuant to which:

- (a) you have received many millions (?) in membership fees;
- (b) you have received many millions (?) in consortium fees; and,
- (c) those members or market participants who listened to you have invested many millions of pounds and some have even had their entire businesses (which were funded with other people’s money) closed down,

it is rather hard for you to say that the law requires to be changed for your previous promises to be accurate – you might get a number of knocks at the proverbial door from those within (a) to (c) above and you might find yourself at the end of a significant lawsuit.

No problem, just as those who practice Three Card Monte (TCM) on Oxford Street you revert to you previously and well-honed skills of distraction and spin – you are now not seeking to **change** the law (because that would expose the fallacy of your previous position and conduct), instead you are seeking **clarification** of the law – because then you can seek to distance yourself from that conduct upon which you would rather not have a light shone.

When the ACI say “untruth”, they mean “lie” - and we at TCC are not covered by it.

When the ACI say “clarification”, then mean “change” – and they are absolutely covered by it.

ALLEGATION 2: OUR PROPOSITION IS THAT THE HOME OFFICE ARE NOT MINDED TO ACT TO *PRIORITISE* A RESOLUTION TO THE CURRENT LEGAL POSITION IS A LIE.

It is our position that the Home Office do not see this as a priority for them to deal with - because they don't. This is not the same as they are refusing to deal with it, simply that it is within the huge list of matters that are “on the agenda” and, depending upon the operational and political variances:

- from one Minister to the next;
- from one Month to the next; and,
- from one Matter to the next,

the place in the departmental pecking order of this issue changes.

We stand by our position that the **changing** (one really can't escape that word) of the Misuse of Drugs Act (and associated Regulations) **is not of the highest priority** to the Home Office. We certainly know that it is something which they are considering, and the pressure which will be generated if the FSA get themselves in a position to want to authorise CBD Health products as foods (but couldn't do so without a change in Drugs Legislation to identify a permitted contaminant level), then the pressure on the Home Office to conclude their position and **change** (oops!) the law may well increase.

WHAT ACTUALLY IS THE ACI POSITION?

In their LinkedIn response the ACI rely upon a 32-month old letter to the ACMD in which the government indicated a willingness "to amend [for which you can read **change**] the 2001 Regulations to permit CBD products that contain no more than a defined trace percentage of certain controlled cannabinoids as an impurity".

In our mind 32-months after the expression of such a mindset it is apt to conclude that it is **not** a **priority**. Furthermore, the ACMD acted relatively swiftly (in the context of these matters) and responded to the January 2021 request in December 2021. Therefore, we are now 21-months since the ACMD's response and there has yet been no **change** in the law. At TCC we believe that if this issue actually was a **priority** then the law could have been **changed** before now. The reality is that it is not a priority, but that does not mean that it will never happen, simply that the Home Office are not giving it "special treatment".

One reason that we were surprised that we were attacked in this manner in the first place, and why we ask what the ACI's position is (?), is that it seems that the ACI actually agree with the proposition that the Home Office have **NOT prioritized** this issue. We say this because despite the ACI asserting that **OUR** proposition that the Home Office have **NOT prioritized** this issue is untrue, in the various media reporting of the ACI's launch of the "Campaign" the ACI themselves complain that the Home Office have not acted as swiftly as they should have done. For our part we would consider saying one thing one day and the opposite another when it suits you is rather duplicitous (but very TCM).

What follows are extracts from the ACI's pre-briefed media coverage of the campaign. Where the reports are those of the media publication itself we are unable to suggest that it is anything other than the views of the authors (and not the ACI), but if they are the views of the journalists, then we at TCC are not alone in believing that this has not been a **priority** for the Home Office. Where they are the view of the ACI, they are the views of the ACI – and they are stuck with the exposure of the duplicity between them and their attack on TCC for expressing they very same opinion.

MEDIA REPORTING

- "[the] ACMD submitted a comprehensive report to the Home Office in December 2021 outlining clear recommendations regarding what would constitute an appropriate legal framework to accommodate CBD sales" (Business of Cannabis)
- "The Home Office, for example, still hasn't taken action on a 2021 report by the government's Advisory Committee on the Misuse of Drugs." (Business of Cannabis);
- "The resulting uncertainty constitutes an existential threat... (Business of Cannabis);
- [the ACI] "accused the Home Office of failing to act on a "comprehensive report" into changes needed to the Misuse of Drugs Act to accommodate the sale of CBD products it was given in December 2021." (The Grocer)

THE ACI CAMPAIGN WEBSITE

- "The Home Office has yet to act. Throughout this process, it has been aware of the growth of this market and has acknowledged the necessity of establishing a legal framework for CBD products within which it can operate."

ACI REPRESENTATIVES

- "We call on the Home Office to provide urgent clarity regarding the establishment of a legal framework within which businesses can operate securely, safely, and responsibly." (the campaign to Business of Cannabis);
- "We understand the complexities the Home Office faces, but businesses have consistently acted responsibly throughout this period. There is no valid reason why it cannot provide the much-needed legal clarity the industry urgently seeks." (Steve Moore to Business of Cannabis);

- “The Home Office needs to respond to the ACMD’s report on consumer cannabidiol products. The Home Office solicited a response to these legal questions from the ACMD, who submitted its recommendations in December 2021” laments Risby. Twenty months on, and the Home Office is yet to formally act on these recommendations.” (Tom Risby, ACI Campaign Researcher, to Nutrition Insight);
- “the Home Office has still not taken any further action or provided any such legal clarity” (attributed as “ACI” only by Natural Newsdesk); and,
- “Despite this, the Home Office has still not taken any further action or provided any such legal clarity” (the ACI in a statement to Confectionary News);

ALLEGATION 3: TCC DO NOT WANT TO HAVE CLARITY REGARDING THE LEGAL FRAMEWORK WITHIN WHICH THE INDUSTRY OPERATES

In their attack on TCC the ACI suggest that it is *“bizarre that anyone involved in the CBD industry or anyone with a pretence to provide stewardship for the sector would not want to have **clarity** regarding the legal framework within which they operate.”*

Therein lies the nub - Three Card Monte once again – because the suggestion that there is a lack of clarity in the legal position is a false and disingenuous one – there is no such lack of **clarity** and there never has been.

At TCC what we want is there to be a legal manner in which market participants can invest and trade without the fear of criminal or regulatory sanction. In order to do this there needs to be a **change** in the law: we want that **change** and have always advocated for such **change**.

The fact that we have repeatedly drawn attention to the misstatements of “lawyers”, “legal experts”, “industry leaders” and entities which purport to represent the industry is a manifest demonstration that we have absolutely sought to achieve clarity – but not clarity of the law (because it is not and never had been needed), but clarity from the inaccurate statements of those who purport to have a knowledge and understanding of the legal position – seeking to protect the industry from them.

At TCC what we have NEVER done is:

- intentionally (or negligently) mis-state or misinterpret the law to be what it is not (and never was); then,
- when painted into a corner that the law is, and always has been, entirely certain - perhaps by the demands of those who have funded us through the mis-statements and/or mis-interpretations;
- demand that the law be “*clarified*” (because one couldn’t use the word *change* in such circumstances because to do so may expose one to awkward questions about ones previous mis-statements).

“WE ARE THE ONE TRUE SAVIOURS AND LEADERS”

We have said that at TCC we are not thin-skinned, but we were surprised to find that we have attacked in this manner, especially given the undoubtedly accurate observations that we have been able to make as to the law and the speed of the Home Office’s movement. Perhaps the answer is how organisations believe that they should be perceived, perhaps even how they *demand* to be perceived and how they will act to stamp out any dissent?

A CYNICS POTENTIAL VIEW

We note that the conclusion of the LinkedIn attack on ourselves is: “We are heartened by... the official and political response to [the campaign] and are ***confident that the campaign goals will be achieved imminently.***”

This is no more than a thought (because at TCC we are not (Ex?) lobbyists or (Ex?) Spin-Doctors and are not able to seek membership fees on the back of our alleged access – indeed, we rarely know what might happen before it happens), but just imagine a long time ago, in a land far, far away...

- 45-months ago the department for which the same government had responsibility announced that it would regulate the sale of what are actually an dual-unlawful products (on the basis of drugs law and food law), were they to be made legal;

- 32 months ago a government stated that it was considering a **change** to the drugs laws to permit the sale of a previously unlawful product;
- that government was required to seek the opinion of an independent committee before it **changed** the drugs laws;
- it did so and that committee reported back to it 21-months ago and agreed with the principle of the intended **change** to the drugs laws;
- 45-months later the original regulatory department was wanting to know the drugs law criteria against which it was to assess the products which had been submitted to it for approval; and,
- as a result of which the government concluded – of its own independent thought - that it was going to have to “pick up the pace” and now focus on the issue and, perhaps, even make it of higher priority.

In that imaginary world one can also imagine that if this information came to the attention of someone skilled in the art of manipulation and Spin-Doctory, that they might have a thought:

- if they formed an entity, perhaps even a Campaign, with the aim of demanding action from the government;
- and they announced that Campaign with great fanfare;
- and that Campaign pressed the government for an update and demanded action through the campaign’s saber-rattling and grand-standing; and,
- **and the government did nothing more than it was always going to so (because the interaction of its own two departments had created the timely imperative that it needed to move the issue forwards).**

If that were the chronology, then the organization which organized the Campaign might seek to assert the view that it alone was the orchestrator of the industry's transformation, perhaps even its savior and the "one true industry body", to be subscribed to everyone in the industry until its coffers ranneth over, while at the same time divert attention from the fact that they had consistently told people that no change in the law was necessary (using a positive to mask a negative).

... but that is only a cynics fairytale and I'm sure not something that would ever come into the minds of an industry-leading body.

We will post a link to this document on LinkedIn and thereafter we do not intend to engage in any further debate on whether we have lied to the market – if this detailed and in-depth explanation of our position and our thoughts about the wider situation have not convinced the reader of our genuine and unnerving commitment to achieve the best outcomes of all CBD market participants (not simply for those who pay membership and consortium fees – hand on, we don't have any), then we have failed in our intention and you will have your view.

If that is the case, then clearly we will disagree with your view, but we nevertheless respect it. What we do ask is that you ensure that it is **your** view and not simply the view of another which you have adopted without question or challenge.

Remember what we always say: *Be Careful Who You Listen To....*

APPENDIX 1



Home



My Network



Jobs



Messaging



Notifications



Me



For Business



Network Sn

Try Premium



Stephen Oliver

The Canna Consultants

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Stephen Oliver · 1st

The Canna Consultants

1d ·



Regarding the current 'Save Our CBD' campaign and why it is disingenuous.

There is clarity in the current legal position: For CBD to be authorised a product must contain 'Zero' controlled cannabinoids and achieve Regulated Products authorisation.

CBD is not controlled.

You, (we) the consumer, may prefer distillates and full spectrum but the misinformation peddled over the last five years has led to this situation.

First the false message that Novel Foods was not enforceable, then that 0.2% THC was allowed, then 1mg and now it's the Home Office failing to act.

LinkedIn timelines are wonderful for retracing the 'Peddler's of such myths'.

What the campaign authors are seeking is a 'change' in the law as it stands. Given the fact the Home Office has insufficient resources to conduct its priorities it is highly unlikely they will devote time to an issue they see as clear and unambiguous. One only needs to see their one word response to the previous weeks proposals from Scotland - a 'No'.

Rather than 'Save our CBD' the campaign is actually 'Save our CBD containing controlled cannabinoids'.

I agree a defined 'contaminant level' is the best for the industry but this campaign is just another attempt to maintain the membership of a failed model.

Perhaps the better question is; 'Please define 'zero' by level of detection'. Then there is a pathway for authorised products and licensed U.K. manufacturers.

That would be an easier win and pave the way for a campaign such as this for the inclusion of other cannabinoids.

Never 'ever' get your mum to mark your homework and always be careful who you listen to.

[#cbdproducts](#) [#cbdnovelfoods](#)

[#cbdindustry](#)

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What about...

Thank you for...



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APPENDIX 2



Association for the Cannabinoid Industry

Association for the Cannabinoid Industry



ACI is a membership organisation committed to nurturing a safe, legal and flourishing commercial cannabinoid market

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Association for the Cannabinoid Industry

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This recent post contains a number of easily identifiable untruths.

The foundation premises of the post are that the Home Office see the current legal position as clear and unambiguous, and are not minded to act to prioritise a resolution to this.

The former is not true and is directly contradicted by Home Office's officially stated position on the legal status of CBD which was clearly set out in the Minister of State's letter to Owen Bowden Jones in January 2021 commissioning the advice of the ACMD:

"The Government is minded to amend the 2001 Regulations to permit CBD products that contain no more than a defined trace percentage of certain controlled cannabinoids as an impurity."

<https://lnkd.in/ddtpA75>

The second assertion regarding the Home Office unwillingness to devote time to the issue is completely unfounded. Dialogue with senior Home Office officials on this issue with industry representative bodies has been continuous and indeed intensified in recent weeks. Their on the record responses to media coverage of the campaign expressly acknowledge their intent to reach a resolution.

Frankly it's bizarre that anyone involved in the CBD industry or anyone with a pretence to provide stewardship for the sector would not want to have clarity regarding the legal framework within which they operate.

We are heartened by the support the campaign has generated, the official and political responses to it and are confident that the campaign goals will be achieved imminently.



Stephen Oliver · 1st
The Canna Consultants
1d ·

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