

Mitigating the risks of corporate capture in emerging legal cannabis markets

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What is corporate capture?

The concept of 'corporate capture' refers to the means by which corporate entities pursue profit and power by 'exerting undue influence over domestic and international decision-makers and public institutions'

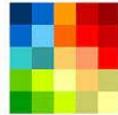
Such 'corporate capture' may weaken regulatory powers, and undermine the realisation of shared goals in public health, social justice, and sustainable development by exerting undue influence over domestic and international decision-makers and public institutions more generally.

International Network for Economic, Social and Cultural Rights Corporate Capture Project.

Corporate capture: mechanisms of influence

- Overt conventional lobbying, and 'soft' lobbying (including provision of hospitality);
 - Direct and indirect funding of politicians or political parties
 - Influencing provision of expertise through funding of think tanks, civil society organisations and academia
 - Membership of government committees or task forces
 - 'Revolving doors' movement of staff between corporate and government posts
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- Bigger entities, especially in the context of monopoly or oligopoly market dominance, are the biggest threat.....N.America?

Corporate capture: risks



Altria



DIAGEO



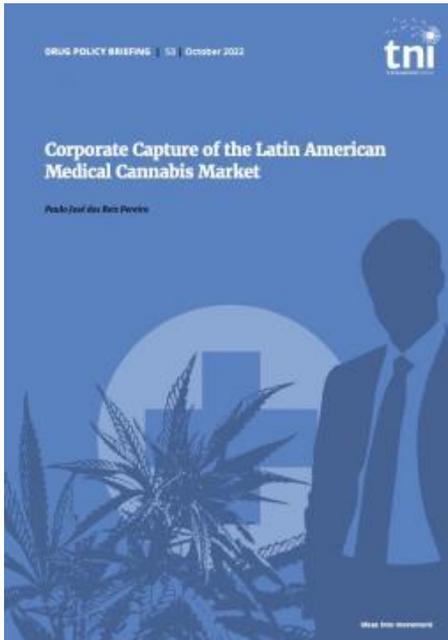
BACARDI

- Problems most obviously witnessed with alcohol and tobacco - where a small group of powerful corporate entity dominate global markets
- *“Both the alcohol and tobacco industries have much more experience opposing sensible regulations than they do recommending them.”*

Alcohol & tobacco industry moving into cannabis?

- Altria has invested over a billion US dollars into Cronos Group, where it now owns a 45% stake and has three out of seven seats on the board
- In March 2021, British American Tobacco bought a £126m stake in Canadian producer OrganiGram, also with a focus on product innovation
- Constellation Brands (the third largest market share holder of all beer companies) owns a 38% share in Canopy Growth and has four out of seven seats on the board
- AB inBev and Molson Coors (two of the largest alcohol companies in the world) have joint partnerships with Canadian cannabis companies Tilray and HEXO respectively, to create drinkable cannabis products

Corporate capture: international dimension



- Medical cannabis used to establish market presence - For-profit extractive industries, with questionable local benefits.
- Canopy Growth has established a medical presence in Australia, Europe, Africa & South America, Cronos Group similarly operates across five continents
- Medicinal cannabis companies in Colombia are nearly 75% owned by foreign investors. Over \$600 million was invested in the Colombian market between January 2018 and June 2019, mainly by Canadian companies



BUSINESS PUBLIC

Curaleaf Chairman: Cannabis Could Emulate Tobacco Oligopoly

“This industry has to consolidate. There’s no way there’s going to be 35 or 40 or 50 or 100 cannabis companies 10 years from now,”

“It’s probably going to be three to four large operators, all of whom are probably going to be closely doing what the tobacco industry has done, in terms of their supply chain and their costs, in order to be able to earn a very healthy margin.”

TRANSFORM
Drug Policy Foundation



coalition
for **cannabis**

Policy, Education,
and Regulation

“We represent a vast group of stakeholders — from public safety to social equity — focused on establishing a responsible and equitable federal regulatory framework for cannabis in the United States.”

Members

- Altria Client Services
- The Brink's Company
- Constellation Brands, Inc.
- Convenience Distribution Association
- Council of Insurance Agents & Brokers
- Molson Coors Beverage Company
- National Association of Convenience Stores

11 (22) One representative from a trade organiza-
12 tion or other non-profit entity with members from
13 multiple, highly regulated adult goods and consumer
14 package goods, appointed by the Attorney General.

15 (23) Two representatives who have worked to
16 develop two successful, separate, and unique State-
17 level regulatory systems, appointed by the Attorney
18 General.

13 SEC. 3. PURPOSE.

14 The President and Congress shall prepare the Fed-
15 eral Government for an inevitable and prompt end to Fed-
16 eral marihuana prohibition by establishing a commission
17 to advise on the development of a regulatory framework
18 with respect to marihuana regulation, including account-
19 ing for the different characteristics of communities, agen-
20 cies, and industries impacted by Federal marihuana prohi-
21 bition. Such regulatory framework shall be modeled after
22 Federal and State regulatory frameworks with respect to
23 alcohol.

4 (5) FINAL RECOMMENDATIONS.—Not later than
5 one year after the date of the enactment of this Act,
6 the Commission shall publish a report including
7 findings and recommendations pursuant to section
8 4(b), including an identification of barriers to and
9 suggestions for regulating cannabis in a way that is
10 similar to the regulation of alcohol, on the internet
11 website of the Department of Justice.

Preventing state monopolies / oligopolies



- Allow home growing for personal use
- Allow licensed social clubs (Malta/Uruguay)
- Explore other not for profit models (NYC) including state monopolies
- Prohibit vertical integration
- Limit how much of a market any one person or entity may control.
- Create equity programs that incentivise for states to license small or disadvantaged businesses.

Preventing state monopolies / oligopolies



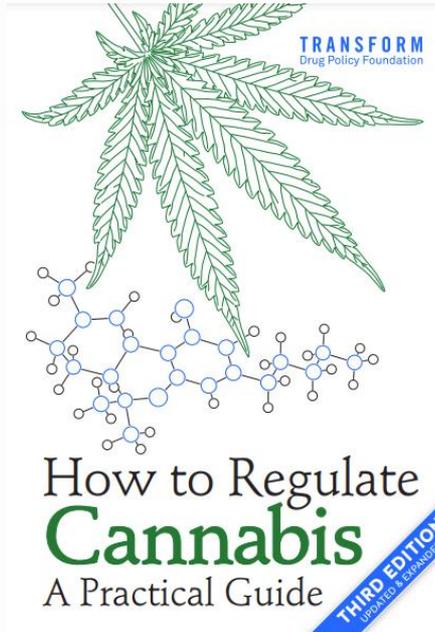
- Disqualify corporations from the cannabis industry if they have engaged in corporate crimes, defrauded the public, or caused significant public health damage.
- Create a multi-agency task force to enforce anti-monopoly limits.

Preventing transnational monopolies/oligopolies?



- National non medical industries can currently be protected to some extent, But...
- Unless specifically legislated, company ownership is not protected and capital investment unconstrained
- Will be vulnerable when markets opening up in future when international law allows trade (WTO, NAFTA etc)
- Corporate capture can also take place in non production/supply market sectors such as technical innovation, intellectual property, and other forms of expertise
- Roll for multilateral entities?

Conclusions



- Corporate capture and emergence of monopolies already evident in N.America
- Particular concern re Alc/Tobac industries
- Its not inevitable: emerging good practice in equity programmes & not for profit models shows another way is possible
- Particular attention needed regarding Global North / Global South dimension - and roll of of multilateral trade bodies and UN.
- 'Blank slate' gives us a unique opportunity - but requires involvement of key stakeholders at the early stages of policy development (not afterwards!)