

Professor Owen Bowden-Jones  
Chair, Advisory Council on the Misuse of Drugs  
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**CC: MP Kit Malthouse**

By email only on 04/02/2021 to: [ACMD@homeoffice.gov.uk](mailto:ACMD@homeoffice.gov.uk) [kit.malthouse.mp@parliament.uk](mailto:kit.malthouse.mp@parliament.uk)

Dear Kit and Owen,

We write to you both in regards to the letter sent to Owen from Kit on 11th January **2021 (see below critical review with additional comments)**. We are writing on behalf of many concerned members of the public and representatives of the CBD industry.

We are concerned that the ever growing restrictions as to the marketing and public access to whole plant hemp derived products (commonly referred to as CBD products) are being restricted without any scientific foundation evidence and that the removal of these products from the UK food market will result in a national public health issue (inability to supplement our endocannabinoid systems), the economic impact (and possible competition law implications) on the fastest growing sector within the food supplement industry, a breach of human rights to health as per Article 12 of International Covenant on Economic, Social and Cultural Rights and possible breaches of misconduct in public office.

*Advice on consumer CBD (Cannabidiol) products*

*As you are aware, **tackling drug misuse and the harms that it causes** remains a top priority for this Government. The Home Office is keen to draw on ACMD advice on the issue of CBD products which are not medicines. There has been a proliferation of such products available online and on the high street in recent years. While as an isolated substance, CBD is not a controlled drug, there is recent evidence that many of the products available contain controlled cannabinoids and that it is difficult to isolate pure CBD. The Government currently has no plans to look at the status of CBD itself under drug legislation.*

Full spectrum (whole plant) hemp (CBD) products cannot be classified as 'drugs', food supplements that are entirely non-psychoactive\* cannot be 'misused' and as one of the most commonly used supplements both in the UK and globally, a food which has been used for thousands of years with no report of harm is absolutely no risk to consumers.

\*Note: Although hemp flowers contain small amounts of controlled cannabinoids (generally 0.05 – 1% dependent on geographic legislation for industrial hemp cultivars, the amount of CBD present is generally 20-40 times that of THC. It is scientifically known (and acknowledged by the ACMD – 2008 report) that CBD counteracts the psychoactive effects of THC. The ratios of cannabinoids present in hemp results in NO possibility of misuse or harm. Furthermore, more than 6 million people in the UK have used hemp supplement products for several years, many reporting signs of increased health

and wellbeing, and no one has reported a psychoactive high from the small proportion of controlled cannabinoids present in hemp products.

It is widely accepted that there is a much greater risk of addiction, psychoactive effect and harm from black or green tea than that of hemp products.

*There is currently not a legal framework in place specifically exempting CBD products from control under the Misuse of Drugs Act 1971, and with this in mind, the Government wishes to explore the possibility of creating a specific exemption in the Misuse of Drugs Regulations 2001 ('the 2001 Regulations') for CBD products which contain no more than a defined trace percentage of controlled cannabinoids. Primarily THCV,  $\Delta^9$ -THC and CBN and the cannabinoid  $\Delta^9$ THCA-A. We are interested to hear if you believe other controlled cannabinoids require consideration too.*

The most logical solution would be to follow suit with the European Union, Switzerland, the US and Canada by allowing naturally occurring controlled cannabinoids within hemp cultivars, remove the 1mg cap within MDR 2001 for cannabis derived products and allow all hemp-based products to be exempt from the MoDA 1971, MDR 2001.

*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. Additionally, we are minded to amend the definition of an "exempt product" under the 2001 Regulations to give effect to the intent surrounding its introduction, being to only exempt products used for scientific or diagnostic purposes which contain an extremely small amount and proportion of controlled drugs, but unambiguously excludes consumer products and any products intended for human consumption, other than in scientific research. We request the ACMD to provide advice on how the exempt product definition in the Misuse of Drugs Regulations may be amended to apply only to diagnostic equipment or for scientific research, as originally intended.*

To categorise the use of the most important plant for industrial applications, a whole protein food source from the seed and the only plant which contains the full range of phytocannabinoids known to be essential to health as being allowable for use only for scientific or diagnostic purposes, especially when the plant is non-toxic and non-psychoactive and the fact that hemp is historically important to the British people and the British Empire depended on this plant is absurd and in conflict with the public interest of the British people.

*In terms of this trace amount, we propose that the defined trace percentage in CBD products be set at a level which will be between 0.01% and 0.0001% by weight per controlled cannabinoid. The precise level will be determined following further scientific testing advice. Given the current limited availability of reference chemicals, we consider that analytical capability is likely to be best focused on the quantification of THCV,  $\Delta^9$ -THC, CBN and  $\Delta^9$ THCA-A rather than all controlled cannabinoids that could be permitted to be present in trace amounts. The Government intends to work further with the forensic science sector to assist in determination of the method of testing and precise definition of the trace amount. The 0.01-0.0001% per named controlled cannabinoid level (or lower) is **proposed on the basis of evidence** and will be subject to further confirmation on our part that responsible producers are able to produce CBD to this level of purity, and it is within the capabilities of the forensic science sector to quantify consistently and affordably.*

In order for the determination to be proposed on the basis of evidence, the science of the 'entourage effect' (the importance of the synergistic qualities of the combination of a full range of phytocannabinoids, terpenoids and flavonoids present in the flower) discovered by Dr Ethan Russo and the increase of safety and reduction of psycho-activeness, particularly in relation to the much

larger ratio of CBD present must be assessed and scientifically investigated. Furthermore, it must be noted that lab derived cannabidiol (CBD) or any other isolated or synthetic cannabinoid is an entirely different substance with different properties to herbal cannabis.

*In order to keep the level of controlled cannabinoids in CBD products down to an unavoidable trace level, we would ask that the ACMD considers the **maximum dose for any non-negligible effect** for THCV,  $\Delta^9$ -THC and CBN and the cannabinoid  $\Delta^9$ THCA-A. We are seeking further scientific testing advice on analytical capability to test for a cannabinoid content of 0.01-0.0001% by weight or lower per specified cannabinoid. **In particular, we would ask that the ACMD considers whether such products would be liable to be abused or have ill effects, and whether the controlled substances could, in practice, be recovered from such products.***

If the ACMD are to carry out an assessment to ascertain the 'maximum dose for any non-negligible effect' of hemp derived products, this assessment should use **whole plant** hemp products (not isolated or synthetic cannabinoids) using hemp cultivars with varying THC limits (ie: European cultivars containing up to 0.3% THC, Swiss and US cultivars containing up to 1% THC).

The assessment must be scientific and not politically motivated as we have seen within the damning report by the House of Commons, Science and Technology committee – Making a hash of it (2006). If no significant scientific evidence is found in relation to potential for abuse, physical or mental harm or abuse such as addiction, then we would expect that legislation reflects public interest, public health, industrial competition law, agricultural, environmental and economic interests.

The risks of abuse, harms and ill effects must exceed that of commonly marketed food ingredients available in the UK such as but not limited to: sugar, caffeine, aspartame, alcohol and mono-sodium glutamate. Risks should also be measured against the positive health benefits of the action of phytocannabinoids on the endocannabinoid system.

Mr Malthouse, you recently (December 2020) responded to a letter from Seed our Future, having noted our reports, and you dismissed the contents by stating the following:

*Thank you for your letter of 23 November to the Home Secretary on behalf of one of your constituents, who wrote to you to highlight the work of the Seed our Future campaign, whose recent publications 'A Critical Review of Home Office and ACMD FOI Responses' and 'Cannabis and the Law – No Evidence, No Crime?' maintain that there is a lack of evidence to support the legislative controls to which cannabis is subject in the UK. I am replying as the Minister of State for Crime and Policing.*

*Whilst the Seed our Future publications have been noted, the Government's stance on cannabis and the harms it causes remains unchanged. The Misuse of Drugs Act 1971 ("the 1971 Act") established the Advisory Council on the Misuse of Drugs (ACMD) to provide independent expert advice to the Government on the operation of the Act. Ministers are subject to a duty to receive advice from, or consult with, the ACMD prior to controlling drugs under, or making regulations under, the 1971 Act. Advice relating to cannabis received by the Government from the ACMD, which details the harms associated with cannabis use and the evidence used in formulating its advice, is in the public domain at: [www.gov.uk/government/collections/acmd-drug-specific-reports--2](http://www.gov.uk/government/collections/acmd-drug-specific-reports--2).*

The Advisory Council on the Misuse of Drugs (ACMD) review of the classification of cannabis concluded that 'the high use of cannabis is not associated with major health problems for the individual or society', the criteria required by the MoDA. However, the ACMD report continued, 'cannabis is not a harmless substance' which would imply that any substance with a degree of

possible harm could be prohibited. Cannabis is within the MoDA 1971 based on ideological, racist and political motivations, not that of a strong scientific foundation.

Owen, please find attached report: **Cannabis and the Law – No Evidence, No Crime?** I would appreciate your feedback. Kit, can you please read the report this time?

We would like to ask both of you, how can you with any degree of professionalism or decency, consider the flowers, leaves or extracts of low THC industrial hemp as being justified as Schedule 1 substances with a Class B penalty without any evidence of harm? We urge you to reconsider this with immediate effect before you destroy a UK industry currently worth £300 Million, negatively impact on the health of at least 6 million UK residents and prevent the development of a global fast growing industry which would provide jobs, support our farmers, create sustainable industries and boost our economy during such dire times.

The following organisations wish to be included in the consultation as stakeholders with immediate effect and be consulted prior to any changes to legislation:

- Seed our Future Ltd
- Global Cannabinoid Solutions Ltd

**Please respond to our concerns and suggestions within 30 days of the date of this letter. Failure to respond may lead to a public call for resignation and/or legal action.**

Regards,

Guy Coxall (Founder of Seed our Future Campaign).