

Are Restrictions on Advertising Marijuana Constitutional? Balancing Public Health and Charter Rights

In April 2016, the federal government announced plans to legalize recreational marijuana, with the goal of keeping marijuana out of the hands of children and profit out of the hands of criminals. One way to control the dissemination of information to children is to restrict advertising. Currently, advertising medical marijuana is prohibited, beyond listing the common and medicinal name of the strain, price per gram, and the cannabinoid content. It is not yet known whether these same restrictions will be expanded to recreational marijuana, but it is likely that some restrictions will be put in place given the emphasis on restricting advertising to protect children in other contexts (e.g. tobacco, alcohol, food products). Advertising is recognized as a protected form of expression under the *Charter of Rights and Freedoms* (s. 2(b)), so if the government infringes on this right, they must be able to prove that it is justified in a free and democratic society (s. 1). The Supreme Court of Canada has assessed restrictions on tobacco advertising, providing a framework for determining whether advertising restrictions pass constitutional muster. Using this framework, I will analyze whether restrictions on advertising marijuana are constitutional. This interdisciplinary research relies on legal analysis, scientific and medical research on the harms of marijuana use, and social science evidence on the connection between advertising and marijuana use to balance the infringement of individual rights against protecting the public from potentially harmful products.

Keywords: freedom of expression, cannabis, drug policy, Charter of Rights and Freedoms, public health, marijuana, advertising