

The non-medical cannabis regime in Québec: A public health analysis

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Direction du développement des individus et des communautés

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Foreword

The Institut national de santé publique du Québec is a centre of expertise and reference in public health in Québec. Its mission is to support Québec's Minister of Health and Social Services, regional public health authorities and health and social services institutions in fulfilling their public health responsibilities. One of the Institut's missions is to inform the Minister of Health of the impact of public policies on the health status of the population of Québec based on the best available evidence.

In 1923, the Canadian federal government placed cannabis on the list of substances controlled by a criminal sanctions regime. Under the control regime to which it then became subject, its production, distribution and possession were permitted only in a medical or scientific context. The coming into force of the *Cannabis Act* on October 17, 2018, significantly altered Canada's approach to cannabis. Through this legislation, the federal government broadly authorized, subject to various regulations, the production, distribution and consumption of cannabis for non-medical or non-scientific purposes.

The federal government's approach has been to establish minimum rules in the Act that provinces and territories can adjust according to their respective jurisdictions and realities - without, however, diluting or contradicting the spirit of the federal legislation. This approach has allowed for the implementation of varying regulatory regimes that are liable to affect public health differently from one province and territory to another. The Québec authorities made use of this allowance for the adjustment of the federal framework by passing the *Cannabis Regulation Act*.

The INSPQ participated in the public deliberations that preceded and followed the adoption and implementation of the Act. Based on a public health analysis, the Institut made numerous proposals for a legal and regulatory framework - many of which were incorporated into Québec's Act and its regulations.

The analysis contained in this document has been presented orally by the author of this document or other members of the INSPQ cannabis team on numerous occasions, in whole or in part, over the past four years. These presentations were given in forums attended by experts, scientists and policy makers. The analysis has also been presented in forums open to other audiences, such as conferences, university courses and seminars at the bachelor's and master's level, and shared in interviews with various Québec, Canadian and foreign media.

The purpose of this analysis is to render explicit the public health perspective that guided the development of Québec's cannabis regime, and to identify the key issues to be monitored in the coming years in order to preserve its essential features. It is intended primarily for public health actors, although it may also be useful to various government, academic and community bodies.

Table of contents

List of initialisms and acronyms.....	V
Highlights	1
Summary	3
1 Introduction	7
2 Methodology.....	9
2.1 Descriptive and analytical framework.....	9
2.2 Sources of information about regulatory regimes	11
3 Distribution: a public, not-for-profit regime	13
3.1 Governance.....	13
3.2 The product	16
3.3 The price	17
3.4 The commercial environment	18
3.5 Promotion and communication	19
4 Consumption: questions of place, possession and contexts of use	21
4.1 Places for use and possession.....	21
4.2 Use in various high-risk contexts	22
5 Production: licensed producers and product quality.....	23
6 Analysis of the two main public health issues	25
6.1 Controlling the volume of cannabis use in Québec.....	25
6.2 Social and health inequalities	28
6.3 Limitations of the analysis	29
7 Conclusion.....	31
References	33
Appendix 1 The effects of measures for regulating psychoactive substances.....	37
Appendix 2 Topical, edible and extracted products: The corresponding Québec and federal rules.....	45
Appendix 3 The division of federal, provincial and municipal jurisdictions in Québec	49
Appendix 4 The process of legalizing and regulating cannabis in Québec and Canada	53

List of initialisms and acronyms

DCPP	Director of Criminal and Penal Prosecutions
INSPQ	Institut national de santé publique du Québec [Québec public health institute]
CDSA	Controlled Drugs and Substances Act
MSSS	Ministère de la Santé et des Services sociaux du Québec [Québec department of health and social services]
SAQ	Société des alcools du Québec [Québec alcohol corporation]
IRCCA	Instituto de Regulación y Control del Cannabis (institute for the regulation and control of cannabis)
SQDC	Société québécoise du cannabis [Québec cannabis corporation]

Highlights

- This document examines, from a public health perspective, the regulatory regime governing the production, distribution, use and possession of cannabis for non-medical purposes in Québec. The analysis describes the main characteristics of this regime and examines the main public health issues it raises. Thus, the analysis identifies elements that could inform the legislative review process planned for 2021.
- Compared to what has been put in place in other Canadian provinces and in other countries, the Québec regime has some distinctive characteristics:
 - The fully public nature of the distribution and sales system is unusual. The Société québécoise du cannabis, a not-for-profit state-owned enterprise, holds a monopoly on the purchase and sale of cannabis products for non-medical purposes to individuals in Québec. Compared to partially or fully privatized regimes, this monopoly allows for more direct control over cannabis products and their prices, the retail environment and promotional advertising.
 - Québec's regulatory regime for distribution prioritizes prevention and harm reduction, rather than private or government profit. Only Uruguay, among the jurisdictions studied, has similar objectives. Thus, the mandate of the Société québécoise du cannabis includes explicit objectives aimed at protecting the health of the population and ensuring that the legal market for cannabis does not encourage increased consumption. In most other jurisdictions, explicit statements regarding limiting use apply solely to youth.
 - The manner in which distribution prohibitions are managed is also a distinctive aspect of the Québec regime. For example, under the federal *Cannabis Act*, distribution to another person of more than 30 grams of dried cannabis or its equivalent is subject to a criminal penalty. Québec's Director of Criminal and Penal Prosecutions, on the other hand, has determined that many federal offences of this nature can be dealt with non-judicially by their prosecutors.
- Québec's regulatory regime for cannabis has already evolved significantly since legalization came into effect in October 2018. It will likely continue to do so, whether in terms of regulations, policies or marketing practices. This regime will have to be monitored to ensure that it remains consistent with its public health objectives. Three important elements to be monitored emerge from the analysis:
 - Studies of public alcohol monopolies tend to demonstrate that this model is the most likely to limit increased consumption. This gives cause to consider maintaining the Québec model, despite various expressions of interest in its privatization.
 - How to balance the tension between the objectives of not increasing cannabis use and of redirecting users from underground networks toward legal purchases will require constant and careful consideration. As the situation in other jurisdictions demonstrates, the downward trend in cannabis prices and the wide availability of cannabis products have contributed to an increase in the prevalence of cannabis use. This points toward a precarious balance between these two objectives.

- The Québec regime includes a relatively large number of restrictions and prohibitions, such as a general ban on smoking in public. The Act also allows third parties to introduce bans in a significant number of private locations (rental units, condominiums, etc.). The Act sets the age for access to authorized products at 21 years old and prohibits cultivation at home for personal use. The current state of knowledge on the effects of prohibitive measures indicates that they are likely to generate social inequalities in health and that these can be at least partially mitigated by harm reduction measures. Further to this, it will be important to monitor the frequency, nature and social distribution of sanctions to ensure that certain groups of people are not more affected than others due to their characteristics (e.g., age) or the vulnerable context in which they live.

Summary

With the Cannabis Act, the federal government established a basic framework for the regulation of the production, distribution and possession of cannabis for non-medical or non-scientific purposes. However, responsibility for the regulatory regime is shared with provincial and territorial governments. Québec authorities thus supplemented the federal law through adoption of the Cannabis Regulation Act (hereinafter, the Act).¹ Thus, the resulting regulatory regime for Québec has unique characteristics. This document renders explicit the main mechanisms that comprise the Québec regime, the rationale that underpins them and their main implications for public health. With a view to the legislative review process already planned, it is hoped that this can serve as an analytical framework that will enable public health actors to continue to play a leadership role in this matter.

The proposed analysis is based on legal texts and regulations, scientific articles, documents from the grey literature, websites and newspaper articles. It is structured around two major areas of concern. The first involves the tendency of the mass marketing of cannabis products to increase its use and the health impacts associated with this. For consideration of this issue, the analysis is structured around the elements of the regulatory regime that are most likely to influence consumption or its consequences: system governance, price, products, the commercial environment, and promotion and communication. The second area of concern considered in this report involves the health inequalities to which various prohibitions and restrictions in effect could give rise.

Regulation of distribution

The Société québécoise du cannabis holds a monopoly on the purchase and sale of non-medical cannabis products to individuals in Québec. It purchases cannabis products from producers licensed by Health Canada and resells them to individuals at its own sales outlets or through online sales. The fully public nature of this system for purchasing, as well as selling, cannabis is unusual.

Moreover, Québec's regulatory regime for distribution functions on a not-for-profit basis. It is a regime that prioritizes prevention and harm reduction rather than the pursuit of profit for private actors or for the state. Various legislative and regulatory provisions illustrate this public health orientation. Firstly, the mandate of the Société québécoise du cannabis is to manage the sale of cannabis such that consumers are integrated into the legal cannabis market without encouraging use. Secondly, the profits from the sale of cannabis (once the SQDC's operating costs are covered) are directed entirely toward prevention, harm reduction, rehabilitation and research activities related to cannabis and other psychoactive substances. The SQDC's board of directors includes persons from the fields of health and education. In addition, observers from departments with a social orientation may attend the meetings. An oversight committee, responsible for advising the Minister of Health and Social Services, has also been established, in particular, to evaluate the achievement of the Act's objectives. Its members cannot have any relationship to or interest in the cannabis industry. Finally, federal and provincial laws and regulations have established what is permitted in terms of the marketing of cannabis, while at the same time allowing the Société québécoise du cannabis direct control over many aspects of this. As a result, Québec has more direct and often more restrictive control than most other jurisdictions having legalized cannabis over the pricing, the product range, the commercial environment and the advertising related to cannabis products.

¹ Retrieved on June 7, 2021: <http://www.legisquebec.gouv.qc.ca/en/ShowDoc/cs/C-5.3>

Another distinct feature of Québec's regime is the way in which distribution prohibitions are handled. For example, under the federal Cannabis Act, it is prohibited to distribute more than 50 grams of dried cannabis or its equivalent to another person. This is designated as a ticketable offence. Québec's Director of Criminal and Penal Prosecutions, on the other hand, has determined that many federal offences of this nature can be dealt with non-judicially by their prosecutors.

Regulation of consumption

Québec's Act contains several sections concerning places for cannabis use, cannabis possession and various contexts involving the use of cannabis products. In terms of places where smoking is permitted, as of October 2018, all of the prohibitions regarding tobacco had been reproduced in their entirety with respect to cannabis and a few more had been added, (this aspect of the law has often been referred to as tobacco+). Since a modification to the Act was passed in November 2019, smoking has been prohibited in all other public places and outdoor areas accessible to the public - but permission is granted to municipalities to designate park areas where cannabis use is permitted.

A number of contexts deemed to be of higher risk are also subject to specific regulations. This includes, in particular, possession or use in the workplace or while driving road vehicles. In the latter case, while the Canadian Criminal Code provides for penalties for impaired driving, Québec legislation adds automatic administrative penalties based on a "zero tolerance" principle.

Regulation of production

The regulatory framework for production is primarily determined by federal law. Among other things, this regime allows individuals to cultivate up to four cannabis plants at home for their own use. However, such home production has been prohibited in Québec and is subject to a fine. In addition, Québec's Director of Criminal and Penal Prosecutions has determined that, through their program for the non-judicial treatment of certain criminal offences committed by adults, several federal criminal offences related to production can be dealt with non-judicially by their prosecutors. Finally, the legal framework allows the Société québécoise du cannabis to conduct quality tests on products, as a supplement to the control regime implemented by the federal government.

A paramount public health issue: not encouraging cannabis use

Québec's public, not-for-profit regime is less likely to encourage cannabis use than the for-profit regimes implemented elsewhere in Canada or the United States. Indeed, the public monopoly structure allows for more direct control over important aspects of cannabis product marketing, and the predominance of public health objectives minimizes conflict with the sales growth imperative.

The most significant issue facing the Québec regime is the sustainability of the public monopoly and its not-for-profit orientation. Firstly, several aspects of the sales practices of the Société québécoise du cannabis can be seen to conflict with the Act's stated objective of not encouraging the use of cannabis. These include the sale of: products with high THC content; products whose names or information sheets evoke feelings of well-being or flavours that are potentially popular with youth; a range of products with a variety of tastes and flavours; "ready-to-consume" products; and products with lower prices or discounts for larger formats. These are all elements of strategies that have been proven to increase use in the alcohol and tobacco industries.

Secondly, phenomena external to the distribution regime could have implications for usage patterns and their social and health consequences by exerting pressure on the SQDC's activities. The adaptation of underground networks is one of these. Another is the marketing practices used by some medical cannabis producer-distributors, which the Société is prohibited from using, such as: discounting product prices; offering products the Société is prohibited from selling (e.g., chocolate); and using product advertising that implies associations between cannabis use and well-being or health. In addition, certain actors are publicly expressing their interest in seeing this monopoly opened up, if not abolished, in favour of a privatized, for-profit sales system. These economic pressures in favour of privatization are likely to increase in strength given that Ontario authorities have largely privatized their public cannabis distribution system.

A second public health issue: social and health inequalities

Québec's regulatory regime for cannabis could affect social and health inequalities in two main ways. Firstly, access to the quality-controlled products offered by the SQDC may be geographically and socio-economically stratified. This would mean that the prevention and risk reduction advice offered at the SQDC would be less accessible to socio-economically disadvantaged cannabis users or those living far from the sales outlets.

Secondly, it will be important to monitor the frequency, nature and social distribution of criminal or penal sanctions for various offences related to cannabis production, distribution, possession or use. For example, such sanctions could be imposed on adults aged 18 to 20, who have been prohibited from accessing the SQDC network since January 2020. Such sanctions could also be imposed in efforts to control where cannabis is used: in this case, it would seem that tenants and persons who are more likely to consume in public places (such as persons experiencing homelessness) could be more subject to criminal sanctions. In addition, it is conceivable that outdoor smoking bans may encourage indoor smoking, potentially exposing family members to toxins from second-hand smoke. Finally, it is possible to anticipate that “racial” or “ethno-cultural” disparities in the enforcement of the laws and in the associated consequences may emerge, based on the history of the enforcement of so-called prohibitive laws.

Conclusion

In view of the two principal public health issues that are and will likely continue to be bound up with Québec's regulatory regime for cannabis, it is hoped that the analysis presented in this report will provide useful reference points for subsequent analyses of the regime to be carried out by public health authorities. Such concerns make it all the more important to analyze these issues in terms of gender, age, socio-economic status and diverse regional realities.

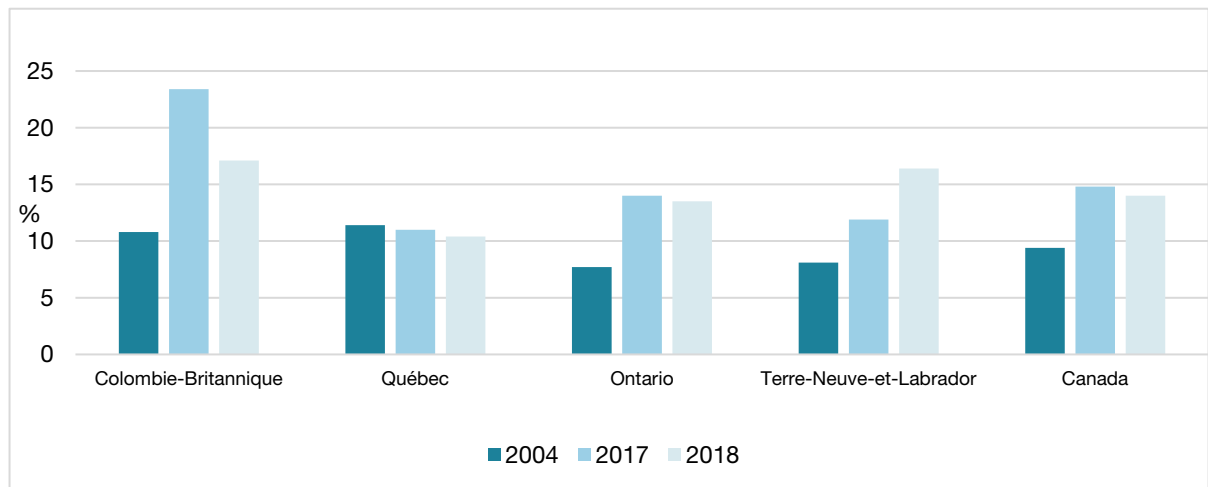
1 Introduction

Disclaimer: this document contains interpretations of laws and regulations for the purposes of public health analysis. It does not constitute legal advice and has no legal bearing.

In Canada, the federal *Cannabis Act* came into effect on October 17, 2018.² This legislation significantly altered Canada's approach to cannabis regulation. Through this legislation, the federal government broadly authorized, subject to regulation, what had been prohibited in this country since 1923, – namely the production, distribution and possession of cannabis for non-medical or non-scientific purposes. This broad authorization, however, subjects these activities and the use of cannabis to various rules and sanctions, including criminal sanctions, applicable to those who do not respect the established framework. As in many areas of government regulation in Canada, the exercise of authority in this area is broadly shared among federal, territorial, provincial and municipal authorities and Indigenous communities. This shared authority, as is often the case, is not exercised in the same way throughout the country. Nevertheless, a table distinguishing the main powers related to cannabis as exercised by each jurisdiction in Québec is presented in Appendix 3.

The federal legislative approach was relatively flexible. It consisted of defining a minimal set of rules that the provinces and territories can modulate according to their respective jurisdictions and realities. These realities differed significantly in a number of ways – for example, with respect to the prevalence of cannabis use. Indeed, as shown in Figure 1 below, Statistics Canada survey data indicate that prevalence was lower in Québec than in other provinces prior to legalization. These results also indicate that, since 2004, prevalence had declined in the province, while it had increased in many other provinces and in Canada in general.

Figure 1 Self-reported cannabis use (within the last year for 2004 and 2017; within the last three months for 2018). 15 years and older, Canada and selected provinces.



Data source: Rotterman (2019).

² Retrieved on December 9, 2019: <https://laws-lois.justice.gc.ca/eng/acts/c-24.5/>

However, the modulations proposed by provinces and territories must not diminish or contradict the fundamental objectives of the federal legislation. This approach explains the implementation of regulatory regimes for cannabis that differ across provinces and territories on many levels that are of significance to public health, and points toward the potential for conflict between federal and provincial laws and regulations.

For their part, Québec authorities modulated the federal law by adopting *An Act to constitute the Société québécoise du cannabis, to enact the Cannabis Regulation Act and to amend various highway safety-related provisions* (hereinafter, the Act).³ It is this Act that establishes, for example, the Québec distribution model centred on the Société québécoise du cannabis (SQDC). The SQDC is the organization that holds a monopoly on the purchase and sale of cannabis products in Québec. This exclusively public, not-for-profit model is unique in the country and in the world, as will be demonstrated below. This Act also modulates the conditions for the production, use and possession of cannabis. For example, it prohibits home cultivation and allows for smoking rooms in certain health and social services facilities, such as those providing palliative care.⁴

This document presents a study, from a public health perspective, of the regulatory regime governing the production, distribution, use and possession of cannabis for non-medical purposes in Québec. Its goal is to render explicit the main mechanisms that comprise the Québec regime, the rationale underpinning them and their main implications for public health. In anticipation of the upcoming legislative review process, it is hoped that this can serve to frame consideration of these issues by public health stakeholders, such that the strong public health foundation of the regime is preserved and the challenges it presents can be addressed.⁵ This analysis was informed by scientific knowledge about the prevention of smoking and alcohol-related problems, as well as by foreign experiences with the legalization of cannabis.

The remainder of this document is structured into five main sections. In the first, the methodological principles underlying the description and analysis are rendered explicit. The subsequent three sections successively provide descriptions of the frameworks for the distribution, use and possession, and finally the production of cannabis. The final section contains an analysis of the two main types of public health issues identified.

³ Retrieved on December 9, 2019: <http://www.legisquebec.gouv.qc.ca/en/ShowDoc/cs/C-5.3>

⁴ Appendix 4 provides a chronology of the passage of federal and provincial legislation and the major regulations that accompanied their implementation.

⁵ The review of the Act is scheduled for 2021, as is that of the non-medical dimension of the federal law. The regulation of the medical dimension of the federal law is planned for 2023. It is also foreseeable that the policies and practices that comprise the regime will be subject to readjustment, as was the case, for example, when An Act to tighten the regulation of cannabis, which amended the *Cannabis Regulation Act*, was passed in the fall of 2019.

2 Methodology

This section details the process that led to the establishment of the principles and broad orientations that form the conceptual basis for the descriptions and analyses developed in the following sections, as well as the sources of information used.

2.1 Descriptive and analytical framework

The study of the characteristics of Québec's regime presented in this report focuses on two important areas of public health concern, namely:

- issues related to the mass marketing of cannabis products; and
- the social and health inequalities that may be generated by prohibitions and restrictions tied to the production, distribution and use of cannabis.

The proposed analyses do not purport to be exhaustive. Only those elements associated with the public health issues considered most important based on the scientific literature, and identified in Appendix 1, will be addressed in this report. Comparisons with other jurisdictions have also been included, where relevant, to better illustrate points.

2.1.1 THE REGULATION OF MARKETING

The analytical framework used in this report to examine the regulation of cannabis marketing was formulated with reference to several other analytical frameworks that highlight, in different ways, key measures of alcohol, cannabis or tobacco regulation that are favourable to public health. The analytical categories used in this framework are: governance; price; product; commercial environment; and promotion and communication.

These analytical categories were established through a method involving two parallel processes. Firstly, an effort was made to identify various proposed frameworks and the categories they contained. Table 1, below, presents these proposed categories.

Table 1 Proposed analytical categories for examining the marketing of psychoactive substances

Authors	Categories
(Henriksen 2014) ⁶	Price; packaging; place; promotion.
(Stockwell et al. 2019)	Pricing and taxation; physical availability; impaired driving countermeasures; marketing and advertising controls; minimum legal drinking age; screening, brief intervention and referral; liquor law enforcement; alcohol control system; provincial and territorial alcohol strategy; monitoring and reporting; health and safety messaging.
(Kilmer 2019)	Production; profit motive; power to regulate; promotion; prevention and treatment; policing and enforcement; penalties; prior criminal records; product types; potency; purity; price; preferences for licenses; permanency.
(Barry & Glantz 2016)	Five main categories: lead agency; advisory committees; regulatory complexity; tax revenue and prevention and control programs. The last category includes seven sub-categories: media campaign; smokefree laws; marketing and advertising; licensing rules; retail sales; product standards; and warning labels.

In addition, an effort was made by the author to streamline the categories identified based on exchanges with several expert colleagues from the INSPQ, from the Observatoire français des drogues et des toxicomanies (OFDT), from the American research institute RTI International and from the Public Health Law Center. This effort was guided primarily by two selection criteria. Thus, categories that did not directly relate to the legal and regulatory framework for marketing were excluded from the outset: media campaign; smokefree laws; prior criminal records; prevention and treatment; monitoring and reporting; screening, brief intervention and referral; and impaired driving countermeasures. Since this was largely a prospective exercise and it was impossible to predict what specifically would happen in these areas, the categories “policing and enforcement” and “permanency” were also eliminated. Secondly, conceptual work was carried out to arrive at categories that are sufficiently comprehensive, consistent, clear and exclusive. For example, one of the categories proposed by Kilmer (Kilmer 2019) is that of production. However, what is included in this category is essentially price control mechanisms designed to forestall the foreseeable collapse of cannabis production costs and its potential effects – such as increased use. The category of “price” proposed in the other frameworks was deemed sufficient to focus the study on the considerations put forward by Kilmer. To take a second example, one of the categories put forward by Stockwell and colleagues (Stockwell et al. 2019) is physical availability. In the literature on the 4Ps of marketing, the concept of “place” (herein referred to as “commercial environment”) includes the notion of physical availability, while extending beyond it.

It was therefore felt that the concept of a commercial environment was preferable, as it highlights the notion of physical availability while incorporating a number of other phenomena that are key to an analysis of the commercial environment – such as the legal age of access to licensed products.

⁶ These categories were broadly inspired by the literature from marketing studies concerning the so-called 4Ps of the “marketing mix”.

2.1.2 SOCIAL AND HEALTH INEQUALITIES GENERATED BY PROHIBITIONS AND RESTRICTIONS

The two analytical categories identified for this topic were based on British Columbia's public health framework for substance regulation and work on this issue by certain researchers over the past decade (Health Officers Council of British-Columbia 2005; Provine 2011; Friedman et al. 2016). The two categories addressed in this report deal with the harmful consequences of underground networks and those related to the judicialization of cannabis users. The analyses related to this issue focus on prohibitions and restrictions imposed on production, distribution and use.

For sections 2.1.1 and 2.1.2, more details are available in Appendix 1.

2.2 Sources of information about regulatory regimes

In order to identify and describe the dimensions of the marketing regulations and the prohibitions that could generate social and health inequalities, the following diverse sources of information were used.

The description and analysis of Québec's regulatory regime are based on “Bill 157, An Act to constitute the Société québécoise du cannabis, to enact the *Cannabis Regulation Act* and to amend various highway safety-related provisions.” The passing of this bill led to the development or amendment of several pieces of legislation and regulations. The texts of these laws and regulations were also used for the descriptive and analytical purposes of this report.⁷ The *Cannabis Regulation Act* sets out most of the rules and penalties relating to the production, distribution, possession and use of cannabis.⁸ Since the SQDC was constituted as a subsidiary of the Société des alcools du Québec (SAQ), its governance and other rules of conduct are defined in section 23 of the Act respecting the Société des alcools du Québec.⁹ The edible products and extracts that can be sold in Québec are identified in the Regulation to determine other classes of cannabis that may be sold by the Société québécoise du cannabis and certain standards respecting the composition and characteristics of cannabis, a regulation under the *Cannabis Regulation Act*.¹⁰ Finally, the provisions relating to the driving of motor vehicles were introduced into the Highway Safety Code.¹¹

In addition, where references are made to other Canadian jurisdictions (federal, provincial or territorial), the information was drawn from the relevant laws and regulations¹² or from the summary produced by the Canadian Centre on Substance Use and Addiction (CCSA).¹³ In the cases of the United States and Uruguay, the information was drawn from the text of the relevant laws and regulations, from scientific publications or from the websites of public agencies involved in regulation, such as the Instituto de Regulación y Control del Cannabis (IRCCA - institute for the regulation and control of cannabis) in Uruguay.

Various types of public statements made by different actors associated with the regime (websites, journal articles, or descriptive works published in the scientific and grey literature) were also referred to in some cases.

⁷ Retrieved on July 1, 2020: <http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=5&file=2018C19A.PDF>

⁸ Retrieved on July 1, 2020: <http://www.legisquebec.gouv.qc.ca/en/ShowDoc/cs/C-5.3>

⁹ Retrieved on July 1, 2020: <http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/S-3>

¹⁰ Retrieved on July 1, 2020: <http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=1&file=104152.pdf>

¹¹ Retrieved on July 1, 2020: <http://www.legisquebec.gouv.qc.ca/en/ShowDoc/cs/C-24.2>

¹² Federal, provincial and territorial laws and regulations can be accessed from this link, retrieved on July 1, 2020: <https://www.canada.ca/en/health-canada/services/drugs-medication/cannabis/laws-regulations/provinces-territories.html>

¹³ Retrieved on July 1, 2020: <https://www.ccsa.ca/policy-and-regulations-cannabis>

3 Distribution: a public, not-for-profit regime

Many practices and activities enable or promote the distribution of cannabis products between producers and consumers. Whether it is the structuring of sales networks or other marketing strategies and tactics, such as pricing or advertising, such structures and strategies are among the most important determinants of sales and, therefore, of levels of population use of these products.

The primary objectives of Québec's regulatory regime for distribution are prevention and harm reduction - rather than the pursuit of private or government profits. In other words, it is a not-for-profit regime. Uruguay is the only other jurisdiction that clearly prioritizes prevention and harm reduction. Elsewhere, a balance is opted for between profit generation and prevention and harm reduction, or priority is clearly given to private or public profit generation. To enable a better understanding of Québec's regime, this section will present the main provisions that were put in place to achieve these objectives.

3.1 Governance

3.1.1 A PUBLIC MONOPOLY

The Société québécoise du cannabis (SQDC) is a state-owned enterprise, that is, a publicly owned joint stock company. It holds a monopoly on the purchase and sale of non-medical cannabis products to individuals in Québec. This means that the SQDC buys cannabis products from Health Canada-licensed producers and resells them to individuals at its own sales outlets or through online sales.

To begin with, this entirely public system of both purchasing and sales is quite distinctive. In Canada, with the exception of Saskatchewan, all provinces and territories have implemented public monopolies for purchasing and distribution to retailers (the role of wholesaler). However, only three other provinces also restricted sales exclusively to a public monopoly: Nova Scotia, Prince Edward Island and New Brunswick. In most other provinces and territories, a so-called mixed model is used for retail sales: they are carried out partly at retail stores owned by the public purchasing monopoly or through their online sales, but also partly through private for-profit businesses. Finally, in two cases, retail sales were outsourced exclusively to private for-profit entities (Saskatchewan, Manitoba).¹⁴

In the United States, in most states, distribution is carried out entirely by private for-profit companies – as in Colorado, Washington State and California. The cases of the District of Columbia (Washington, D.C.) and Vermont are unusual: the authorities in these states do not permit the sale of Cannabis products by any legal means. Only non-monetary exchange is permitted. This translates, at least in the case of the District of Columbia, into a system that allows retailers to sell coupons or various clothing items with “donations” of cannabis, for example. Uruguay is also unique, in that distribution is only permitted through not-for-profit organizations (NPOs) such as “growers’ clubs” (producing cannabis themselves and distributing it only to members) or community pharmacies supplied by the Instituto de Regulación y Control del Cannabis (institute for the regulation and control of cannabis – IRCCA). The IRCCA has the dual function of being a purchasing monopoly and a regulatory agency. In both cases, Uruguayan users must be registered with the IRCCA and must choose only one of the access modes.¹⁵

¹⁴ Retrieved on June 7, 2021: <https://www.ccsa.ca/policy-and-regulations-cannabis>

¹⁵ Retrieved on December 19, 2019: <https://www.ircca.gub.uy/>

3.1.2 THE SQDC'S MANDATE

As stated in the preamble to Bill 157, which was preliminary to the Act, the mandate of the SQDC is “to ensure the sale of cannabis from a health protection perspective, in order to integrate consumers into, and maintain them in, the legal market without encouraging cannabis consumption.”¹⁶

The notions of protecting health and combating the underground market are frequently mentioned in the legislation of other jurisdictions or in documents detailing their rationale. However, explicit integration of the objective of not promoting use distinguishes the Québec regime from that of most other jurisdictions. As far as we know, only in Uruguay is limiting population use to some extent a stated objective of the distribution system. In this case, the IRCCA's website lists goals such as delaying the age of cannabis initiation, increasing awareness of the risk associated with use, and reducing problematic cannabis use.¹⁷ In most other jurisdictions, although the idea of health protection is often referenced, explicit attempts to limit use focus solely on youth.

3.1.3 REVENUE FROM CANNABIS SALES

Since the SQDC was constituted as a subsidiary of the Société des alcools du Québec (SAQ), the rules establishing its governance were set out in the Act respecting the Société des alcools du Québec. Section 23.30 of this Act establishes the Cannabis Sales Revenue Fund at the Ministère des Finances. According to this Act, all revenues from the sale of cannabis generated by the SQDC must be paid into this Fund (they cannot be paid into the Québec government's general revenue fund). Money deposited in this Fund must be used:

- to cover the SQDC's operating expenses;
- to cover the transfers the Minister of Finance must make to the Cannabis Prevention and Research Fund (see section 3.1.6);
- for the prevention of the harms associated with psychoactive substance use.¹⁸

In most other jurisdictions, by comparison, the existence of a private retail industry means that a share of sales revenues goes directly to private operators. In the other cases of public monopolies over purchasing and sales, profits are directed entirely to the government's consolidated fund (Nova Scotia and Prince Edward Island), or separated between this fund and a Cannabis Education and Awareness Fund (New Brunswick).

¹⁶ Retrieved on December 19, 2019: <http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=5&file=2018C19A.PDF>

¹⁷ Retrieved on March 21, 2019: <https://www.ircca.gub.uy/objetivos-y-cometidos/>

¹⁸ Other revenues may also be deposited into this Fund, such as excise taxes collected by federal authorities.

3.1.4 COMPOSITION OF THE SQDC'S BOARD OF DIRECTORS (BOD)

Section 23.6 of the Act respecting the Société des alcools du Québec states that the BOD of the SQDC must “include members who collectively have significant expertise or experience in public health, education, substance abuse and youth intervention.” The same section of the Act also stipulates that the Minister of Municipal Affairs, Regions and Land Occupancy, the Minister of Finance, the Minister of Health and Social Services and the Minister of Public Security each appoint an observer to the BOD. These observers participate in board meetings, but do not have the right to vote.

The members of the first board were appointed by the BOD of the Société des alcools du Québec. The chair of the SAQ board is also the chair of the SQDC board. As of the fall of 2020, two of the members are from the health community - a researcher in public health and epidemiology and an emergency physician, while some are from the academic community (business or management schools). The other members of the board are from the private for-profit sector.¹⁹

Elsewhere in Canada, the composition of the BODs of public entities with distribution monopolies that are involved in cannabis distribution varies. These are often the same entities responsible for the distribution of alcohol products, and the board members are usually drawn exclusively from for-profit private business circles. Some Canadian boards have members with professional health training or expertise, but only the SQDC board has a member with expertise in public health and epidemiology.²⁰

In contrast, in Uruguay, the IRCCA board is composed of eight members appointed by the President of the Republic. The chair of the board, or their designate, is ex officio the chair of the national drug council, a government agency responsible for drug prevention, treatment, rehabilitation and criminal law enforcement in the country. The other six members are from the department of public health (two members), the department of social development (two members) and the department of livestock, agriculture and fisheries (two members).

3.1.5 THE OVERSIGHT COMMITTEE

Section 63 of the *Cannabis Regulation Act* establishes an oversight committee. Its role, as stated in section 64, is to advise the Minister of Health and Social Services on any cannabis-related matter. To fulfil its role, the Committee may, for example:

- advise the Minister on matters the Minister submits to it;
- evaluate the application of the measures provided for in the Act and the attainment of its objectives;
- refer to the Minister any matter deserving of government attention or action and submit its recommendations to the Minister;
- carry out any other mandate entrusted to it by the Minister;
- require the SQDC to provide it with any information necessary to carry out its mandate.

¹⁹ Retrieved on August 5, 2020: <https://www.sqdc.ca/en-CA/about-the-sqdc/the-sqdc/governance?origin=dropdown&c1=a-propos&c2=la-sqdc&c3=gouvernance&clickedon=gouvernance>

²⁰ Retrieved on December 17, 2019: https://www.ccsa.ca/sites/default/files/2019-10/CCSA-Composition-of-Boards-Retail-Cannabis-Sales-Distribution-Canada-Policy-Brief-2019-en_0.pdf

Section 65 of the Act stipulates that the oversight committee be made up of members “the majority of whom must collectively have significant expertise or experience in public health, education, substance abuse, youth intervention, municipal affairs and public security and the remainder of whom must collectively have significant expertise or experience in governance and ethics, risk management, and finance and auditing.” The Act also stipulates that “no member of the Committee may, directly or indirectly, have any link with the cannabis industry or any interest in that industry, including any financial, commercial, professional or philanthropic interest.”

To our knowledge, no other jurisdiction — Canadian or foreign — has created a new structure of this nature. In most cases, existing public health or public safety agencies have been given mandates to monitor consumption and its consequences. Several reports have been produced by these agencies, but none of them have contained preventive recommendations such as reducing population use or delaying the age of initiation.

3.1.6 THE CANNABIS PREVENTION AND RESEARCH FUND

The Act also establishes the Cannabis Prevention and Research Fund at the Ministère de la Santé et des Services sociaux du Québec (MSSS). It is expected that this Fund will hold, for each of its first five years of existence, a minimum of \$25 million to finance:

- monitoring and research activities and programs relating to the effects of cannabis on the health status of the population;
- curative care related to cannabis use;
- health promotion and harm prevention activities and programs.

3.2 The product

The SQDC chooses the products it wishes to sell from among those offered by Health Canada-licensed producers, while respecting the parameters laid out in Québec’ Act.

This means that as of October 2018, the SQDC could only sell fresh products, dried products and oils, the only three categories allowed at that time by Health Canada. The range offered by the SQDC at that time included approximately 140 products - including dried flowers, pre-rolled cigarettes, oils, capsules and oral sprays. Within this line of products, THC levels on a weight-per-weight basis ranged from 0 % to 28 % for dried products, with a maximum of 3 % for oils (the limit then imposed by Health Canada). CBD rates ranged from 0 % to 19 %. THC/CBD ratios therefore varied between these lower and upper limits.

In the summer of 2019, Health Canada passed a regulation allowing the sale of products in the edible, extract (which now includes oils) and topical (products applied to the skin) categories, effective December 2019. The Government of Québec responded by adopting the Regulation to determine other classes of cannabis that may be sold by the Société québécoise du cannabis and certain standards respecting the composition and characteristics of cannabis.²¹ As the name implies, this regulation authorizes the sale of products in the new categories defined by Health Canada while limiting what the SQDC is authorized to sell. Québec is the only province that has introduced a regulation that places restrictions on the sale of products the federal government has authorized. This regulation does not apply to cannabis production carried out in Québec, or in the other provinces and territories, that respects the legal parameters of the federal framework.

²¹ Retrieved on December 17, 2019:
<http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=1&file=104152.pdf>

The purpose of the Québec regulation was to limit the risks and harms to public health and safety associated with the new categories of cannabis and the risks associated with certain characteristics and compositional elements of cannabis. Firstly, the regulation prohibits the SQDC from selling topical products. Furthermore, it stipulates that no edible product may contain a component other than THC (delta-9 THC) whose aim would be to strengthen its intoxicating psychological effects. Edible products, whether in solid or liquid form, may not be sweets, desserts, chocolates or “any other product attractive to persons under 21 years of age.” Single portions of edible products may not contain more than 5 mg of THC (the federal regulation imposes a limit of 10 mg per portion) and packages may not contain more than 10 mg.²² Liquid products are limited to 5 mg of THC per container. As for extracted products, their THC concentration is limited to 30 % weight-per-weight. The federal regulation does not impose a concentration limit, but rather relies on a one gram limit for the total weight of THC in a package. Finally, the regulation stipulates that the SQDC may only sell extracts that do not contain “any characteristic flavour or odour other than those of cannabis” or “any colouring agent intended to modify its colour.” Appendix 2 contains a table highlighting the specificities of Québec’s provincial rules as compared to the federal rules - the provincial rules are in addition to the federal rules, they do not override them.

3.3 The price

As the Minister of Finance has not yet exercised their authority to set parameters for the determination of the price at which cannabis is sold by the SQDC (s. 23.2), the SQDC currently has considerable leeway in determining the price at which its products are sold. In an interview with a daily newspaper given prior to the start of commercial operations, the President and CEO of the SQDC explained that the pricing strategy was designed to draw users away from the underground market in Québec and not to differ too much from prices charged in other provinces. Thus, they explained, the selling prices were based on the purchase price negotiated with each of the producers.²³ A profit margin was added to this purchase price that kept prices competitive with the underground market and with other provinces. In short, the CEO concluded in this interview, the SQDC would charge the lowest prices in the country, in part because of the lower prices charged in Québec's underground networks prior to legalization.²⁴ This intention appears to have been fulfilled according to reports from Statistics Canada, which collects self-reported data from users.²⁵

The only legal constraint on pricing is that the Act generally does not allow the SQDC to offer discounts. The only exception to this rule is where a producer regularly adopts a cost structure that offers a lower price for a product or product format. In this case, the SQDC is authorized by section 48 of the Act to apply a reduction in its purchasing costs to its retail price structure. In fact, the SQDC announced, in the fall of 2019, that it would offer dried cannabis flowers in a large format, allowing it, according to the SQDC, to offer prices that are competitive with the underground market.²⁶

²² Since the category of edible products includes beverages, the concepts of package and portion can be understood with reference to the example of a case of beer (the package) containing six bottles (the portions).

²³ In addition to production costs and a certain profit margin, the price at which producers can sell products to the SQDC is also determined by a federal excise tax: <https://www.canada.ca/en/revenue-agency/services/tax/businesses/topics/excise-duties-levies/collecting-cannabis.html>

²⁴ Retrieved on March 22, 2018: http://plus.lapresse.ca/screens/9d574b14-781a-4724-acf0-65c4286fc942_7C_0.html

²⁵ Retrieved on December 20, 2019: <https://surveys-enquetes.statcan.gc.ca/cannabis/en>

²⁶ Retrieved on December 20, 2019: <https://www.journaldequebec.com/2019/10/16/du-pot-legal-a-bas-prix-pour-lutter-contre-le-marche-noir>

In other jurisdictions that have legalized cannabis for non-medical purposes, prices are also set at rates competitive with the underground market, and a balance plays out between licensed retailers and public authorities. In most cases, direct government impact on prices is exercised only through excise or sales taxes. The exceptions are British Columbia, Newfoundland and Labrador and Uruguay. In Uruguay, the price for sales in pharmacies is set by government decree. In British Columbia, a minimum price is set. In Newfoundland and Labrador, the retail price is set by the Newfoundland and Labrador Liquor Corporation (NLC), the Crown corporation responsible for regulating the sale of cannabis by private retailers in the province.

3.4 The commercial environment

With respect to the regulation and organization of the commercial environment, it can first be noted that twelve SQDC stores were opened on Québec territory on October 17, 2018. The CEO of the SQDC estimated that the number of stores would gradually increase to about 100 in the subsequent years.²⁷ The situation in Québec in July 2019 was close to the Canadian average in terms of the number of stores per resident, the average distance a resident has to travel to access a branch or the percentage of the population within 3, 5 or 10 km of a branch.²⁸ As of the finalization of this document (January 2021), the SQDC was operating 57 stores and the rollout plan was proceeding according to plan.

In addition, rules stipulating the minimum required distance from educational institutions were set out in section 33 of the Act. For Québec, in general, this distance is 250 metres, except in Montréal where it is 150 metres. The reduced distances in Montréal were justified by the higher density of educational institutions. This density would have severely restricted the possibility of opening branches. The SQDC worked with the municipalities, to assess their interest in having branches on their territory and to determine the location of these branches.

Canadian provinces and territories and American states have all enacted rules with similar or even greater minimum distances, whether from educational institutions or from other locations frequented by minors. Many have also limited the number of licences available to private entrepreneurs, effectively imposing a maximum outlet density within their territory. Their legislation also allows municipalities to manage the establishment of stores (density, location) by means of their zoning by-laws, in particular. In addition, all U.S. states allow municipalities to prohibit any commercial cannabis activity within their territory, including sales.

As mentioned above, the SQDC also offers a transactional website for online purchases and home delivery of products. A delivery fee of \$5 per order is added to the cost of the products. Delivery is made within 2 to 5 business days by Canada Post. Canada Post employees must deliver the package to the person who ordered it or to someone else who is at least 21 years old – the minimum legal age for access to cannabis products in Québec since January 2020.

²⁷ Retrieved on March 25, 2019: <https://www.lapresse.ca/actualites/national/201803/16/01-5157661-societe-quebecoise-du-cannabis-20-succursales-au-depart.php>

²⁸ Retrieved on December 20, 2019: <https://www150.statcan.gc.ca/n1/pub/11-621-m/11-621-m2019005-eng.htm>

3.5 Promotion and communication

Section 48 of the Act and subsequent sections restrict the commercial promotion of cannabis products, including accessories. These restrictions are in addition to the federal rules, although some could be considered duplicative.

With the exception noted earlier of price reductions that are part of regular marketing operations by a producer, producers and the SQDC are prohibited from reducing prices based on volume, from giving or distributing products free of charge, from granting rebates, and from offering a gift, contest, or game or any other form of benefit to a customer. The SQDC may not receive any rebate or other financial benefit from a producer. The SQDC and producers are also not permitted to sponsor or associate themselves with sports, social or cultural events or facilities.

In addition, the Act stipulates that advertising that promotes cannabis, a brand of cannabis, or the SQDC is prohibited where it:

- is directed at minors;
- is false or misleading with respect to the characteristics and health effects of cannabis;
- associates the use of cannabis with a particular lifestyle;
- uses testimonials, endorsements or slogans;
- contains a text that refers to real or fictional persons, characters or animals;
- contains anything apart from text, with the exception of an illustration of the package or packaging.

Advertising is only permitted in printed newspapers and magazines that are sent and addressed to a person 21 years of age or over who is identified by name (and must include the warning attributed to the Minister and prescribed by regulation), and on signs visible only inside a point of sale. Section 51 prohibits direct or indirect sponsorship associated with the promotion of cannabis.

Despite these fairly broad prohibitions, the regulatory regime allows for some promotional and communication activities. Firstly, SQDC communications may include factual information about its products or activities. In addition, the SQDC must provide each of its clients with information “attributed to the Minister and prescribed by regulation” concerning the health risks of cannabis products.

Secondly, the names assigned by producers to products sold to the SQDC are not subject to any supervision. Advertising in publications imported into Québec is not subject to the above rules, except if the advertisers are conducting business in Québec. Industry advertising that is not directed to consumers is also permitted.

To conclude this section on the regulation of cannabis distribution, a few brief remarks are in order regarding a number of federal and provincial prohibitions surrounding the personal distribution of cannabis. As the analytical framework developed in Appendix 1 demonstrates, it is widely recognized that the enforcement of laws prohibiting the possession or use of psychoactive substances contributes to health inequalities (Friedman et al. 2016). The ways in which the Québec regime might contribute to reducing or increasing these will be discussed in section 6. Under the federal *Cannabis Act*, for example, a person is prohibited from distributing to another person or to an organization more than 30 grams of dried cannabis or its equivalent in other forms. Québec's Director of Criminal and Penal Prosecutions, on the other hand, has determined that several federal offences that are subject to criminal sanctions, but that can be handled as ticketable offences, can be dealt with non-judicially by their prosecutors, through their program for the non-judicial treatment of certain criminal offences committed by adults.²⁹ Although these provisions of the Québec program were not developed to reduce potential impacts on the health of users, this may well be the effect. It is therefore relevant to attempt to discern their implications.

²⁹ Retrieved on January 15, 2019: http://www.dpcp.gouv.qc.ca/ressources/pdf/Programme_traitement_non_judiciaire.pdf

4 Consumption: questions of place, possession and contexts of use

Québec's Act contains several sections regulating places for use, possession, and various contexts involving the use of cannabis products.

4.1 Places for use and possession

Québec's regime regulating places where tobacco use is permitted served as a constant reference point during deliberations surrounding places for cannabis use, which led to the adoption of the Act in 2018. Smoking, in the Act, includes the use of vaping devices, as is the case with tobacco. Thus, all the prohibitions in effect regarding tobacco are reproduced in their entirety with respect to cannabis smoking, including smoking within nine metres of an opening in a building frequented by the public. The regulation of places for cannabis use has often been characterized as “tobacco+”. Cannabis smoking was additionally banned in certain places besides those where tobacco use is banned, including in bus shelters, on the grounds of health, social services, and post-secondary educational institutions, and in bicycle lanes.

In 2018, the Act also gave municipalities the power to tighten these regulations. Several municipalities have banned cannabis smoking or even any form of cannabis use in additional areas or in all areas of public domain under their jurisdiction.

In addition to use, the Act also prohibited possession:

- on the grounds and in the buildings of an educational institution (pre-school, elementary, secondary, vocational training or general adult education);
- in the buildings of a college-level educational institution;
- on the grounds and in the facilities of a childcare centre or daycare centre;
- on the grounds or in the buildings of a correctional facility.

However, An Act to tighten the regulation of cannabis, which was adopted in November 2019, significantly changed the regulations concerning places for use.³⁰ Since its implementation in December 2019, smoking has been prohibited in public places and outdoor areas accessible to the public. The only exception is the authorization given to municipalities to designate park areas where cannabis use is permitted, under certain conditions. Possession in buildings and on the grounds of post-secondary institutions - excluding student residences and the grounds of university-level institutions - was also added to the existing prohibitions. In brief, the ability to smoke cannabis without being in breach of the law or of housing conditions is in effect only available to homeowners residing in individual houses, who can smoke at home. This points to a potential issue related to social and health inequalities, because it increases the exposure to criminal sanctions and their consequences of those with a lower socio-economic status, such as persons experiencing homelessness and renters.

³⁰ Retrieved on January 15, 2020: <http://www.assnat.qc.ca/en/travaux-parlementaires/projets-loi/projet-loi-2-42-1.html>

Québec's regulation of places for cannabis use, which was largely modelled on the restrictions that apply to tobacco before December 2019, was until then quite similar to that of other Canadian provinces such as British Columbia. The changes brought into effect in December 2019 made it similar instead to other Canadian regimes, such as that of Manitoba. It is also similar to those of Uruguay, Colorado and California – the difference being that in all three of these jurisdictions, indoor spaces other than the home are permitted.

4.2 Use in various high-risk contexts

Several contexts deemed to be particularly high-risk are subject to specific regulation in the Act. With respect to cannabis use in the workplace, the Act confirms the management rights and responsibilities of employers already codified in other legislation. However, the Act also adds, in section 19, a specific prohibition of the use of cannabis while working with vulnerable persons (minors, seniors or persons with disabilities).

In addition, the Act proposes new regulations regarding the use of cannabis while driving a road vehicle. In this regard, it should be noted firstly that the Canadian Criminal Code provides for penalties for impaired driving. Québec's Act provides for additional automatic administrative sanctions that are not limited to impaired driving, but are based instead on a "zero tolerance" principle. Indeed, section 202.4.1 of the Highway Safety Code stipulates that automatic administrative sanctions will be applied to any person who is driving, or has the care or control of a road vehicle if "analysis (...) demonstrates that cannabis (...) is present in the person's body." However, this provision will only come into force once saliva testing devices are able to provide reliable results.

5 Production: licensed producers and product quality

As noted earlier, the federal government has taken general responsibility for regulating production practices. For example, it is responsible for licensing cannabis producers and processors and enforcing the many requirements applicable to them. These concern the safety and cleanliness of facilities as well as the nature and quality of the products, among other things. In addition, the federal regime for non-medical cannabis allows individuals to cultivate cannabis plants for their own use – four per household, specifically. Home growers respecting this limit are not required to apply for a production licence.

However, the Québec regime tightens the federal regulations in this area. In Québec, home cultivation of four or fewer plants is prohibited and is a ticketable offence. In this regard, Québec and Manitoba are the only two Canadian provinces or territories that have adopted such bans. In Québec, moreover, this aspect of the Act was challenged in court in September 2018. The plaintiff won their case and the court struck down the disputed section in September 2019, but the provision remains in effect as the provincial authorities appealed the judgement in December 2019.

Québec's Director of Criminal and Penal Prosecutions has also determined that, under the program for the non-judicial treatment of certain offences committed by adults, several federal offences can be dealt with non-judicially by their prosecutors, including two relating to the cultivation of more than four plants at home.³¹ How this aspect of Québec's regulatory tightening will evolve therefore remains particularly uncertain at this time.

Québec's Act also allows the SQDC to conduct quality tests on products, in addition to those implemented under the federal government's control regime. The SQDC makes use of this prerogative by employing the services of private laboratories.

³¹ Retrieved on July 1, 2020: http://www.dpcp.gouv.qc.ca/ressources/pdf/Programme_traitement_non_judiciaire.pdf

6 Analysis of the two main public health issues

Québec's regulatory regime for cannabis is multidimensional and involves many actors. It has also changed significantly since legalization came into effect in October 2018. It will likely continue to evolve, whether in terms of federal, provincial or municipal regulatory frameworks, of public and private policies (e.g., organizational), or of a number of practices – such as the product marketing practices of the SQDC. Keeping track of these developments and understanding their implications for public health is both important and challenging.

In this section, an analysis of the two main public health issues raised by the Québec regime is proposed. Firstly, the volume of cannabis use within the population that can be generated or limited by marketing or its regulation will be addressed. Next, the issue of social and health inequalities that may be generated by legal restrictions and prohibitions will be discussed.

6.1 Controlling the volume of cannabis use in Québec

On the face of it, Québec's distribution regime, based on a not-for-profit purchasing monopoly, seems to be well positioned to avoid a significant reversal of the downward trend in cannabis use observed in Québec in recent years. In fact, the regime relegates the objectives of generating private and public revenue to the background. In addition, compared to partially or even fully private regimes, this monopoly allows for more direct and public health-oriented control over the other four important dimensions of cannabis product marketing: price, product, retail environment, and promotional advertising and risk reduction information. This said, several aspects of Québec's regime or its environment could contribute to an increase in cannabis or THC use in the fairly near future. The two dimensions assigned the greatest importance in the scientific literature are discussed here: the sustainability of the public monopoly and the not-for-profit orientation of the regime.

6.1.1 SUSTAINABILITY OF THE PUBLIC MONOPOLY

To guide this public health analysis of the sustainability of the public monopoly model for the purchase and retail sale of cannabis, the experience of Uruguay, the first country to legalize cannabis, was considered. There, a purchasing monopoly was established to supply community pharmacies, which are responsible for retail sales to the general public throughout the country (Uruguayan consumers can also obtain supplies by cultivating cannabis for their own personal use or through growers' clubs, which are cooperatives that distribute their own produce to members only). However, the partial nature of this monopoly and the limited number of evaluations available did not allow for it to form the basis for a comprehensive and rigorous analysis of the issues facing the Québec regime. It was therefore necessary to draw on existing research on public alcohol distribution monopolies to guide the study.

Research on these monopolies indicates that they provide better control over population alcohol consumption and its health risks as compared to private for-profit distribution models (Room & Örnberg, 2019). State monopolies generally allow for more direct and complete control over the products sold, the prices at which they are sold, the number and location of sales outlets, and the legal age of purchase. According to alcohol policy experts, state monopolies thus have the potential to directly affect the most important determinants of alcohol consumption: legal accessibility,

affordability, and physical accessibility (Stockwell et al., 2019; Kerr & Barnett, 2017). Moreover, the World Health Organization (WHO) identifies not-for-profit public monopolies as a beneficial mechanism in its strategic proposals for reducing alcohol use.³² This model provided the basis for the establishment of the SQDC in Québec.

This advantage has been confirmed by studies of the establishment of monopolies as well as by studies of partial or complete dismantling of monopolies in favour of private for-profit actors. The dismantling of monopolies has usually been followed by population-wide increases in alcohol use. This proved to be the case in Finland as well as in some American states a few decades ago (Gleen, 1997). More recently, partial privatization of the sales regime resulted in increased usage in British Columbia (Stockwell et al., 2011). Conversely, the re-monopolization of part of the supply in Sweden was followed by a reduction in alcohol-related health problems (Hahn et al., 2012).

In a few cases, however, the results show that partial privatization of the retail sales regime did not result in an increase in the prevalence of use. This was the case in two studies that examined the opening of wine sales to convenience stores in Québec beginning in 1978. One of the two studies concluded that price controls on wine mitigated the potential effects on population consumption of increasing the number of sales outlets (Adrian, M. et al., 1996). In the other, the author hypothesized that since the policy change affected only a limited selection of wine compared to the range of products offered by the public monopoly, consumers continued to make their wine purchases primarily in public stores (Trolldal, 2005).

These summary considerations have clear implications for the monitoring that will be required of any changes to the public monopoly on Québec cannabis sales. Firstly, since the start of deliberations concerning the Québec distribution regime, several actors have publicly expressed their interest in seeing this monopoly opened up, if not abolished, in favour of a privatized for-profit sales system. These are more or less the same types of expressions of interest that have led to the partial or complete privatization of other public alcohol sales monopolies in recent decades, whether in Québec or elsewhere in the western world. These economic pressures in favour of privatization are likely to increase in strength given that Ontario authorities have already proceeded with a large-scale privatization of their public cannabis distribution system.

6.1.2 CONTINUED PREDOMINANCE OF PREVENTION AND HARM REDUCTION OBJECTIVES

In addition to the continued existence of the public monopoly, the predominance of prevention and harm reduction objectives (i.e., of the not-for-profit orientation) may be threatened in coming years. The not-for-profit orientation is important because it minimizes the tension that exists in for-profit systems between the need to profit from cannabis sales and the goal of avoiding increasing the harms resulting from its use. Thus, in a for-profit system, the maximization of profits is achieved by means of three main targets: increasing the number of consumers, increasing the frequency of consumption or increasing the quantity consumed by each consumer. Each of these targets being met would have the direct consequence of increasing cannabis use and its associated harms in the population. Various marketing strategies would be used precisely to reach one or more of these three targets. Examples include reducing prices, increasing the geographical accessibility of sales outlets, broadening the range of products offered and their attractiveness, and promoting products (see Appendix 1 for more details).

³² Retrieved on June 10, 2021: https://www.who.int/substance_abuse/alcstratenglishfinal.pdf

In keeping with its not-for-profit orientation, the Québec cannabis regime includes certain provisions that set limits on the use such marketing strategies, among other things. However, despite these guidelines, various pressures could, in the long or short term, jeopardize the priority currently given to public health objectives or the framework's not-for-profit orientation. Several aspects of the regime, related, in part, to the desire to draw consumers away from existing underground networks toward the legal network, can already be seen to conflict with the Québec Act's stated objective of not promoting the use of cannabis and THC. Here are a few examples:

- The SQDC sells products whose names and information sheets evoke feelings of well-being, lifestyles or flavours popular with young people. Such strategies have been widely used in the tobacco and alcohol industries to attract young people and promote consumption.
- The range of products offered by the SQDC, which has risen to about 250 since the introduction of edible products in January 2020, is already wider than that offered by individual sellers active in underground networks. This is the case given the variety in terms of taste and flavour, THC content, and practical features such as being "ready-to-consume" (e.g., pre-rolled cigarettes). In the same vein, since October 2018, the SQDC's inventory has included products whose high THC levels are considered by more and more researchers to represent a high risk for users. Moreover, the average THC level of products is likely to increase further with the introduction of extracts.³³
- The retail prices charged by the SQDC are among the lowest in the country, if not the lowest, making cannabis relatively affordable in Québec, a factor that encourages increased cannabis use in the population. Some products are also subject to volume discounts, as the SQDC obtains its supplies from at least one producer that has integrated a lower price structure for large volumes into its regular marketing strategy (as permitted by Québec law, as discussed earlier).

The pathways that will be taken to reconcile the public health objectives of not encouraging use (which implies not recruiting new users and not intensifying use among existing users) and of redirecting toward legal purchasing those users who obtain their supplies from existing networks, is something that will need to be monitored. Indeed, in American states such as Colorado and Washington, the widespread decline in cannabis prices and the widespread availability of edibles and extracts have clearly contributed to an increase in the prevalence of cannabis use and in rates of frequent and intense THC use in particular (Hilkey et al., 2018; Everson et al., 2019; Smart et al., 2017). Several studies attest to the health impacts of these trends (Hall et al., 2018; Kim and Monte, 2016; Wang et al., 2016).

Other phenomena, external to the SQDC, could also have implications for consumption trends and their social and health consequences by exerting pressure on the corporation's practices. The resilience of underground networks and their adaptation to the development of the legal distribution network and to enforcement policies and practices require monitoring. Indeed, there are already indications that the underground networks are able to make some adjustments to the prices they charge in order to remain competitive with the SQDC and the authorized networks in the other provinces and territories. In the same vein, the use of the provisions of the medical cannabis regime as a coverup for underground activities is a phenomenon that appears to be of great concern to the police.³⁴ Finally, some medical cannabis producer-distributors currently offer discounts on product prices, discounts on mail deliveries above a certain price, and products the SQDC is prohibited from selling (e.g., chocolate), or they associate cannabis use with wellness and health in their advertising.

³³ In research showing links between high THC levels or THC ratios: CBD and mental health, researchers classify products with more than 10 % or 15 % THC as being of "high concentration".

³⁴ On January 23, 2020, the Royal Canadian Mounted Police organized a meeting in Montréal with Health Canada, several police departments and the Collège des médecins du Québec to try to find solutions to these problems.

These are all practices that are prohibited at the SQDC under the non-medical cannabis marketing regulations implemented in Québec.

6.2 Social and health inequalities

Social and health inequalities could be reproduced and even amplified in diverse ways by the various restrictions and prohibitions brought into effect by the Québec regulatory regime for cannabis. Access to the SQDC and to legal products, and the regulation of places for use, which appear to be the two dimensions of greatest importance in this regard, are discussed here.

6.2.1 DIFFERENTIATED ACCESS TO THE SQDC AND TO LEGAL PRODUCTS

One of the main arguments presented by those who supported the legalization of cannabis was the ability of a legal system to offer quality-controlled products. However, based on the Uruguayan experience in particular, access to quality-controlled products may be geographically and socially stratified - that is, access to products may not be equivalent for all residents in a given territory, and those least likely to obtain quality-controlled products may be those with the lowest incomes (Nazif-Munoz et al., 2020). If this situation were to materialize in Québec, it would also mean that the prevention and risk reduction advice offered at the SQDC would be less accessible to socio-economically disadvantaged cannabis users or those living far from SQDC branches.

The introduction of high-volume products at reduced prices appears to have eliminated price as a deterrent to purchasing from the SQDC rather than from underground networks. Were access to be socially differentiated in Québec, this might be more likely to result from the increase in the legal age of access and from the geographical location of SQDC outlets.

As previously mentioned, legislative changes in the autumn of 2019 effectively raised the age of access to the SQDC to 21 and introduced administrative penalties for cannabis possession for those under 21. It will, thus, be important to monitor the frequency, nature and social distribution of administrative penalties that may be levied against persons in this age group. Based on the scientific literature on the enforcement of laws prohibiting the possession of psychoactive substances, one would expect to find significant social and economic disparities in the application of these administrative penalties.

Access to SQDC products is characterized by disparities in terms of geographic access, as is shown by its map of branches.³⁵ Firstly, branches are clearly located in urban areas. In addition, and even more importantly, they are relatively few in number – in fact, while the SQDC network will include 57 branches in January 2021, the SAQ network, in comparison, will include over 800 branches and agencies. It is likely that the SQDC's online sales offer partly compensates for its limited network of branches. That said, this disparity of geographic access to legal products could raise issues of inequality on at least three levels:

- Firstly, there is a risk that purchasing online does not allow one to benefit to the same degree from the advice about safe consumption offered by advisors as when shopping in person at a branch.
- Secondly, the few evaluations of the Dutch experience that are available demonstrate that the availability of legal products sold in *coffee shops* seems to have reduced the exposure of cannabis users to what are considered higher-risk products sold by underground dealers. Moreover, this was a desired effect of this experiment, which was based on the doctrine of market separation (MacCoun 2011).

³⁵ Retrieved on October 19, 2020: <https://www.sqdc.ca/en-CA/Stores>

- Finally, while most of Québec's population has Internet access at home and can take advantage of the SQDC's online sales offer, this is not the case for everyone, especially the materially disadvantaged.

Documenting the potentially unequal access to quality-controlled products and preventive advice, as well as their impact, would appear to be an important step toward developing strategies for addressing these concerns where applicable.

6.2.2 PLACES FOR CANNABIS USE

The experience of Colorado gives rise to the expectation that social or economic disparities in the application of penalties may follow from the regulation of places for cannabis use. Both here and there, it appears that tenants and those more likely to consume in public places (such as persons experiencing homelessness) may be more subject to criminal sanctions. In addition, it is conceivable that outdoor smoking bans may encourage indoor smoking, potentially exposing family members to toxins from second-hand smoke. Furthermore, "racial" or ethno-cultural disparities in the enforcement of laws have been observed (Hilkey et al. 2018). These socio-economic, racial and ethno-cultural disparities are well documented with regard to the enforcement of laws prohibiting the possession of psychoactive substances, whether as relates to cannabis or to other substances (Owusu-Bempah & Luscombe 2020; Alexander 2010).

6.3 Limitations of the analysis

The analysis presented in this paper has two major limitations. In the first instance, the choice and framing of the issues and dimensions addressed here were based on the scientific literature or on analyses published by other public health organizations, but they were also determined by aspects of Québec's policy context. For example, one issue related to social inequality that has generated much public health analysis in other jurisdictions is that of access to retail licenses and store ownership for disadvantaged people. The entirely public structure of the Québec network made a discussion of this issue irrelevant here.

Secondly, it was possible to present some data concerning pre-legalization levels of use as a reference point for future assessment of the effects of implementing the Québec regime. However, no sufficiently reliable data on the THC content of products used prior to legalization are available. Yet, the THC content of products is a crucial factor to consider when studying the impact of the effects of legalization. Similarly, there is no data available on the socio-economic status or ethnic or cultural background of persons apprehended for possession, distribution or production of cannabis prior to legalization. These two elements are examples of the limitations of the analysis as carried out.

7 Conclusion

For several decades, deliberations surrounding cannabis legalization have largely consisted of arguing for an end to prohibition from positions based on principles or on presumed effects, but ignoring the operational details of the two broad options for regulation. However, regimes for regulating legal substances vary significantly in several respects from a public health perspective, whether in terms of the goals and objectives of the system put in place, or in terms of the regulation of price, product or advertising, for example. The very different approaches to alcohol and tobacco regulation opted for in Québec and elsewhere illustrate this diversity. In the case of alcohol, the liberalization of marketing rules and the weakening of enforcement mechanisms has been ongoing for several decades, to the detriment of public health objectives, while in the case of tobacco, the legal and regulatory framework for marketing is being tightened, to the benefit of public health objectives.

Standing apart in North America, the not-for-profit cannabis distribution regime implemented in Québec aims primarily to protect public health by relegating to the background the objectives of generating revenue for the state or for private for-profit actors. The most important question with respect to the Québec regime likely concerns its sustainability given the pressures currently being exerted by actors in the underground networks and through the medical cannabis regime or by calls for the liberalization of sales from various actors. The latter perceive here a market to be exploited for their benefit and will probably continue to make themselves heard in the future. The experience of Québec and other countries with alcohol makes it easy to envision the consequences of the potential liberalization of sales on the health of the Québec population.

In addition, several restrictions and prohibitions related to production, marketing and use in effect in Québec raise concerns about the social and health inequalities they could generate. Whether with reference, for example, to the absence of branches in many municipalities or the setting of the age of access to the SQDC at 21 (leading many to continue buying from underground networks) or to criminal offences tied to public consumption (a consequence of the lack of authorized places for use for many persons), these issues merit fuller exploration.

It will therefore be very important to monitor the evolving implications the Québec regime for the aspects of population health identified in this report. To this end, it will be necessary to continue to develop mechanisms for monitoring the use of cannabis products and its consequences. It will also be important to monitor developments relating to the implementation of Québec's regulatory regime for production, distribution and use.

It will be important, moreover, to integrate into these monitoring activities certain realities that have not been addressed, or have been addressed only partially, in this report. There are population group variations relating to the consequences of cannabis use under Québec's regulatory regime. Such variations, dependant on gender, age, social and economic status, and regional specificities, will be examined in future studies of cannabis legalization in Québec.

By identifying current issues relating to the regime, as well as those that may arise in the future, and by drawing on other work, both completed and underway, at the INSPQ, this report hopes to provide some reference points to guide and orient these analyses.

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Appendix 1

The effects of measures for regulating psychoactive substances

The issues related to the regulation of psychoactive substances that are broadly authorized for non-medical and non-scientific purposes in Canada, such as alcohol, tobacco and cannabis, are diverse. They concern all points in the production, distribution and consumption cycle. The considerations range from permitted and prohibited products, to product quality and safety standards, to standards concerning where products are grown, processed, sold or consumed, to packaging, labelling and wrapping standards, among others. These issues intersect with many others, such as the judicialization of users, for example.

This report addresses the two broad areas of concern related to the process of legalizing cannabis for non-medical or non-scientific purposes, in Uruguay, the United States and Canada, that have been and remain for many public health actors the most important at the population level. The first issue is the regulation of the mass marketing of this substance. As the experiences of alcohol, tobacco and cannabis, in particular, have shown, too much liberalization of the marketing of cannabis products is likely to increase use and its associated harms. The second issue is in a sense the inverse of this. As the history of the prohibition of alcohol and “illicit” substances (more appropriately referred to as “controlled”) demonstrates, regulation that is too restrictive can have significant consequences for health and its determinants. It is therefore necessary to explicitly state why and how these two areas of concern are addressed in this report.

The regulation of mass marketing

As the experiences with alcohol and tobacco demonstrate, marketing regulation is the dimension of regulatory frameworks that most clearly affects usage patterns and the related health consequences (Levy et al., 2008). With respect to alcohol, a regulatory framework that has grown increasingly supportive of the mass marketing of alcohol in recent years and decades in Canada has been accompanied by a significant increase in alcohol use and its harmful consequences (Stockwell et al., 2019). Conversely, in recent years and decades there has been a tightening of constraints on the free marketing of tobacco products in Canada and elsewhere in high-income countries (higher tobacco prices, advertising restrictions, etc.), contributing to the denormalization of smoking, apparent in public and private spaces. These interventions have resulted in an overall decline in tobacco use and a reduction in tobacco-related health consequences at the population level. While 50 % of Canadians aged 15 and older reported having smoked in the past year in 1965, there were four times fewer smokers in 2017 (about 15 %) (Reid et al., 2019). Because the health impacts of tobacco use are long-term rather than acute, smoking-attributable mortality has remained relatively stable, or even continued to rise, in many jurisdictions despite declining use. Nonetheless, modelling shows that these reductions in smoking rates have resulted in significant gains in longevity, and further gains can be expected in the coming years with the attrition of cohorts (Van Meijgaard et al., 2012).

Because of the significant impact of the commercial distribution of alcohol and tobacco on public health, numerous legal regulatory measures have been put in place to limit the harmful effects. An abundance of descriptive and evaluative literature on these has also been produced in recent decades. This literature makes it possible to identify measures for regulating product distribution that have demonstrated some level of effectiveness and to assess various regulatory models that have integrated these measures in practice. For the purposes of this analysis, the emphasis in this report is on those regulatory measures that have demonstrated some effectiveness in limiting — or inversely, contributing to the increase of — use or its consequences. We have divided these measures into five analytical categories informed by four analytical frameworks that were developed to examine measures for regulating tobacco (Henriksen, 2014), alcohol (Stockwell et al., 2019), and cannabis (Kilmer, 2019; Barry & Glantz, 2016). These categories are: price, product, commercial environment, promotion and communication, and governance.

The price. Lowering prices is one of the most effective strategies for stimulating product use, as experience with alcohol and tobacco demonstrates (He et al., 2018). The industrialization of production and distribution generally makes it possible to reduce production and distribution costs, whether through the standardization of manufacturing techniques, the development of production technologies or the effect of economies of scale. Incidentally, since the opening of the first cannabis distribution markets in the United States, the average retail price per unit of THC has decreased significantly (Caulkins et al., 2018; Kilmer, 2019). Several price control measures have been shown to be effective in limiting the consumption or controlling the price of alcohol or tobacco: setting a price floor or minimum price; adjusting prices according to the strength of psychoactive components; adjusting prices for inflation; and prohibiting sales discounts (Stockwell et al., 2019; El-Toukhy et al., 2018).

The products. The diversification of products, modes of use (i.e., smoked, ingested, vaporized, vaped or “dabbed”) and consumption accessories is another marketing strategy that allows industry actors to increase the use of a psychoactive substance. This diversification can take different forms: multiple varieties of products that vary according to the strength of the psychoactive component; products with added flavours, odours or colours and with very different forms (food, cosmetics, etc.); easy-to-use products or accessories (e.g., pre-rolled cigarettes, devices using disposable liquid vials), etc. Several measures for regulating products have been shown to be effective in limiting these characteristics and their impact on alcohol and tobacco consumption, including limiting the range of flavours, odours and colours of products. Some initiatives aimed at restricting products with high levels of psychoactive components also show good potential (Calvert et al., 2020; Heckley et al., 2018).

The commercial environment. Increasing physical accessibility is a business strategy for increasing consumption. Various strategies are used by companies to achieve this, such as increasing the number of sales outlets and territorial coverage close to target clientele (youth, women, etc.), selling online with delivery or pick-up, extending opening hours, etc. In this regard, it has been widely observed that regimes with public purchasing or sales monopolies are more adept at limiting levels of use and negative health effects than are private, for-profit systems, which are logically geared toward expanding clientele and increasing clientele use. This remains true although the strength of the social missions of public regimes varies somewhat across time and place and many have undergone significant “shifts toward privatization” (Stockwell et al., 2019; MacKenzie et al., 2017).

Various regulatory measures have been shown to be effective in limiting tobacco or alcohol consumption, especially among minors: limits on the density of sales outlets; restrictions on opening hours; prohibition of sales via vending machines or in certain places (schools, stadiums, gas stations, etc.); and limits on the number of servings offered to customers “at a time” for on-site consumption (Henriksen, 2014; Stockwell et al., 2019).

Promotion and communication. Generating increased consumption of psychoactive products implies making them increasingly visible, known and recognized, and attractive. Numerous strategies are used to achieve this, such as marketing and designing packaging that is recognizable by its colours, names or logos (e.g., use of toys or animated characters to attract youth), advertising on various platforms (traditional media or the Web), associating products with lifestyles or benefits to health or well-being, etc. Several measures for regulating promotion-communication that have been implemented with respect to alcohol and tobacco have clearly demonstrated their effectiveness, particularly among youth, at limiting such practices and their effects on consumption or its underlying mechanisms (including exposure to advertising, overestimation of peer use or brand recognition, for example). These measures include requiring that cigarettes be sold in plain packaging that displays

the risks and harms of tobacco use; communicating risks through retail or online sales agents, or through in-store or online displays; restricting sponsorship of sporting or cultural events; extensively restricting advertising, including product placement in traditional media (film, television or radio, print) and displays in public places (on billboards, clothing and other objects) or in retail outlets; prohibiting sample distribution; and finally, prohibiting association with widely recognized brands (Henriksen, 2014; Stockwell et al., 2018).

Governance. The authorization of a commercial distribution system for psychoactive substances is in conflict, from the outset, with efforts to reduce their physical and economic accessibility. Regimes that authorize the commercial distribution of psychoactive substances are constantly maintaining a precarious balance between financial imperatives, the fight against underground distribution and the protection of public health. Thus, for example, many public distribution systems for alcohol that were initially established with a public health mission have seen this mission relegated to the background behind the need to generate financial returns for the benefit of governments and private for-profit actors. This has been reflected not only in the mission statements of the organizations, but also, at various levels, in how the sales system is governed. For example, there have been changes to the agencies responsible for enforcing the laws concerning distribution and to practices for enforcing those laws.³⁶ Changes were also made to accountability mechanisms and exercises, evaluation mechanisms and practices, and to how revenues are used. A final example of the changes to governance regimes concerns the role of industry actors in regulation. They have been entrusted with a share of the distribution system, or even its entirety, and have sometimes become not only stakeholders in the organizations whose role it is to enforce legislation, but also, in some cases, the exclusive holders of so-called self-regulatory powers - achieving, in varying degrees, what researchers have termed “regulatory capture” (Kilmer, 2019). These changes to governance systems have demonstrably contributed to a significant increase in alcohol use and its associated harms (Stockwell et al., 2018; Grubestic et al., 2012). Overall, research shows that the privatization of the tobacco industry was accompanied by the weakening of a public health approach (Gilmore et al. 2011).

³⁶ For example, from 1961 to 1971, the Régie des alcools held a monopoly on the purchase and sale of several products in Québec. It also had the power to regulate retail licences. Starting in 1971, with the creation of the Société des alcools, this power was instead entrusted to the Commission de contrôle des permis d'alcool (today, control over liquor permits is the responsibility of the Régie des alcools, des courses et des jeux).

Prohibitions and restrictions

As the so-called prohibition experiments with alcohol and “illicit” substances have shown, an overly broad spectrum of prohibitions can lead to a number of risks or consequences for public health. The risks in this case relate to various effects that prohibitions on production, distribution, possession or use may have on the consumers who are sanctioned, their relatives and the community. In contrast to the case of regulated mass marketing, there are no analytical frameworks in the scientific literature that offer a comprehensive synthesis of the relevant dimensions and indicators linked to prohibition that could be widely shared by researchers in the field. Nevertheless, there is an abundance of literature on this subject, and it is possible to identify two broad analytical categories through which to address the risks or negative consequences for public health of the prohibitions and restrictions imposed on cannabis in Québec.

Harmful underground networks

Prohibiting certain activities related to the production and distribution of psychoactive substances leads to the possibility of activities developing outside the law. In these liminal spaces, apart from the criminal and penal sanctions aimed at eliminating or limiting these activities, controls (over the quality of the products, the people who have access to the products, the places for production and distribution, etc.) are necessarily private and are generally described as informal.

In the case of cannabis, as in the cases of alcohol and tobacco, these underground activities are of various kinds and can be positioned on a continuum of scales and levels of organization. Indeed, some of these activities are small-scale and unorganized, and are likely to have little impact on population health status, whether because of the lack of a desire to increase consumption, the lack of quality control over the substances that circulate, or the nature of the social controls that are exercised. Cases of local and rather informal self-production and social sourcing of cannabis (not-for-profit or even non-monetized gifts or exchanges of products between friends or relatives) are indeed quite well documented in these respects (Coomber, Moyle, & South, 2016; Hakkarainen & Perälä, 2016). At the other end of the continuum, underground activities are carried out internationally in a much more organized fashion (McCarthy-Jones, A. et al., 2020). These relatively structured production and distribution networks, often referred to as organized crime, aim to generate significant profits.

The case of relatively organized, for-profit international production-distribution, like several intermediate cases (e.g., the home-based producer selling synthetic substances through websites that participate in so-called cryptomarkets), creates significant public health issues - in addition to seeking, in many cases successfully, to increase their profits by increasing consumption.

The first issue is the toxicity of the products that these underground networks put into circulation. Firstly, as occurred in relation to authorized tobacco networks, in particular, the actors in underground networks can increase the strength of the psychoactive component of products in order to meet the perceived needs of their clientele (DeCorte, 2010). With tobacco, increasing nicotine levels in products was intended to increase their addictive potential (Anderson et al., 2002). Subsequently, due to a lack of control over production conditions or to efforts to reduce production costs, the products distributed can contain widely varying levels of psychoactive components or contaminants that may be harmful to health. With respect to cannabis, actors in underground networks have succeeded in developing synthetic molecules (e.g., K2/Spice), with significant variations in psychoactive potential and increased health risks attributable to other factors, at lower costs than producing phytocannabinoids. With respect to contaminants, the use of fields containing heavy metals and the use of pesticides or growth hormones in illegal cannabis production can result in products containing significant traces of these substances (Schneider et al., 2013). The underground distribution of

cannabis increases risks related to the toxicity of the products in another way. Some cannabis dealers offer a wide range of psychoactive substances, exposing their customers to substances that may be even riskier than cannabis itself. The challenge of reducing exposure to and consumption of these products that pose a greater risk than cannabis was the basis for the introduction of *coffee shops* - places where the retail sale and consumption of cannabis are tolerated - in the Netherlands in the early 1970s. Indeed, the basis for this initiative was the theory of market separation, whereby it would be possible to reduce the contact of cannabis users with sellers of substances considered more risky, such as cocaine and opioids, in particular. The few evaluations of this initiative indicate that this objective was largely achieved (Reinarman, 2007; Wouters & Korf, 2009).

A second issue is the trauma and violence inherent to these networks. The profits at stake and the absence of formal mechanisms for regulating conflicts between actors expose the producers, distributors and consumers active in these networks to much higher levels of violence and trauma than would be the case with authorized substances. This violence occurs between network participants, but also between network participants and police or community members more generally (Jacques & Allen, 2015; Jensen, 2000; MacCoun & Reuter, 2011; Sarang et al., 2010; Werb et al., 2011).

The undesirable effects of the judicialization of consumers

In the scientific literature, it is possible to distinguish two types of effects relating to the possession or use of psychoactive substances.

Firstly, deprivation of liberty and criminal records can significantly impact many of the major determinants of the health of disciplined individuals, negatively affecting social relationships (isolation, family life, etc.), employment (access, retention) or housing (access, residential stability), with consequences for the public health system (Iguchi, 2002; Alexander, 2010). In a similar vein, fear of punishment leads many substance users to avoid seeking health and social services (Iguchi, 2002; Wolfe et al., 2010).

In addition, it is well established that socio-economic inequalities tie in with population health status (Pickett & Wilkinson, 2015). Furthermore, the literature on the enforcement of criminal and penal laws on the possession and use of psychoactive substances reveals pronounced socio-economic disparities. On the one hand, research that has focused on racial or ethno-cultural categories has demonstrated both more frequent and more severe law enforcement for certain categories than for the general population (Owusu-Bempah & Luscombe, 2020; Pan et al., 2013). Similarly, research that has examined economic categories has demonstrated the same trends (Friedman et al., 2016). The many intersections between racial or ethno-cultural categories and the enforcement of laws and their effects on health and its determinants are well documented (Collins et al., 2020).

Appendix 2

**Topical, edible and extracted products:
The corresponding Québec and federal rules**

Table 2 Topical, edible and extracted products: The corresponding Québec and federal rules

Product category	Jurisdiction	
	Federal	Québec
Topicals	Authorized	Prohibited
Edibles	<p>10 mg of THC per portion and 10 mg of THC per package.</p> <p>Cannot be attractive to young people (based on an overall assessment of shape, colour and other criteria).</p>	<p>5 mg per portion, 10 mg per package.</p> <p>Cannot be sweets, candies, desserts or chocolate.</p> <p>Cannot be attractive to those under 21 (criteria include shape and colour, but also whether such marketing generally targets this age group).</p> <p>No substance may be added to amplify the intoxicating psychological effects.</p>
Extracts	<p>Limit of 10 mg of THC per unit or per quantity dispensed and 1 g of THC per package.</p> <p>No sugars, colouring or sweeteners may be added.</p>	<p>THC level limited to 30 % weight-per-weight.</p> <p>No substance intended to modify the odour, the characteristic flavour, except with that of cannabis, or the colour may be added.</p> <p>No substance may be added to amplify the intoxicating psychological effects.</p>

Appendix 3

The division of federal, provincial and municipal jurisdictions in Québec

The division of federal, provincial and municipal jurisdictions in Québec

The division of powers between the federal and provincial/territorial governments is set out in Canada's Constitution Acts. However, the exercise of these powers varies significantly from one province, territory or municipality to another. This table provides an account of how this power is exercised in Quebec and is not intended to be exhaustive. It is worth remembering that provinces and territories can tighten up the *Cannabis Act* and its related federal regulations – but they cannot do so in a way that contradicts the fundamental objectives of the Act. For example, federal law has set the minimum age for purchasing cannabis products from legal sources at 18, but provinces can raise it. In most cases, these modulations have not been problematic, but some are likely to result in legal challenges questioning either their compatibility with federal law or the legitimacy of the federal government in preventing provincial modulations. Municipalities have been included in the table because certain powers have been delegated to them by the government of Québec. Finally, the exercise of power over cannabis use is not exclusively dependent on laws or regulations. For example, no law or regulation allows a Québec municipality to refuse to allow an SQDC branch to open on its territory. Thus, this table sometimes makes reference to practices that are not codified in laws or regulations.

Table 3 Main powers exercised by federal, provincial and municipal authorities in Québec

Dimension of provision cycle	Production	Distribution	Possession and use
Authority			
Federal	<p>Production standards: categories or types of products permitted for production; packaging and labelling requirements and prohibitions; THC content limits and portion sizes; permitted and prohibited ingredients (alcohol, nicotine, etc.); pesticide and other contaminant prohibitions and limits; system for tracking supply chain logistics.</p> <p><i>Health Canada</i> is responsible for production and processing licensing, inspection of products and sites where these activities take place, as well as penalties, where appropriate.</p> <p>The <i>Cannabis Act</i> allows for personal home cultivation of a limited number of plants. It also allows for home processing (provided no organic solvents are used to create concentrated products).</p>	<p>The provinces and territories implement a system for the distribution and sale of cannabis. The <i>Cannabis Act</i> stipulates that in the event that a province or territory does not implement such a system, consumers in that province may purchase their cannabis by mail. Thus, the <i>Act</i> makes producers and processors subject to provincial and territorial distribution rules.</p> <p>Stipulation of a minimum age (18 years) for access to cannabis from legal distribution networks.</p> <p>Stipulation of criminal penalties for selling outside of licensed networks, selling or gifting to minors or using minors to commit distribution-related offences under the <i>Cannabis Act</i>.</p>	<p>Stipulation of a limit for possession in a public place.</p> <p>Stipulation of criminal offences for impaired driving (DWI).</p>

Table 3 Main powers exercised by federal, provincial and municipal authorities in Québec (continued)

Dimension of provision cycle	Production	Distribution	Possession and use
Authority			
Provincial (Québec)	<p>The Québec <i>Cannabis Regulation Act</i> prohibits personal cultivation at home. This provision is still in force despite its invalidation by an initial court ruling, as the decision was appealed by the provincial government.</p>	<p>The <i>Cannabis Regulation Act</i> gives the SQDC a monopoly on the purchase (from Health Canada-licensed producers) and sale of cannabis products to individuals in Québec.</p> <p>Québec authorities have restricted access to federally authorized cannabis products, for example by limiting the range of products that can be sold by the SQDC (e.g., THC limits) and by raising the age of access (to 21).</p> <p>The SQDC may perform quality tests on products received from its suppliers.</p> <p>A minimum distance from educational institutions for the establishment of SQDC branches is stipulated in the <i>Cannabis Regulation Act</i>.</p> <p>Internet sales are permitted.</p> <p>The Director of Criminal and Penal Prosecutions has included 14 offences under the federal <i>Cannabis Act</i> in its <i>program for the non-judicial treatment of certain offences committed by adults</i>. This program allows Québec prosecutors to forgo prosecution, under certain conditions, of a person who has been indicted by police.</p>	<p>The Sûreté du Québec, the provincial police force, is responsible for enforcing Québec and federal impaired driving (DWI) laws and other provisions (including those that can lead to criminal sanctions) in jurisdictions that do not have a municipal police force and on Québec's highway system.</p> <p>Québec authorities have generally prohibited smoking and vaping of cannabis products in public spaces, but have given municipalities the authority to designate certain park areas for this purpose.</p>
Municipal (Québec)	<p>Municipalities may use their zoning powers to direct cannabis production activities to certain areas within their jurisdiction.</p>		<p>A local municipality may, by by-law and subject to certain conditions, permit the smoking of cannabis in a municipal park, except in those areas of the park where smoking or vaping tobacco is already prohibited.</p> <p>Municipalities are consulted regarding the establishment and location of a SQDC outlet.</p> <p>Municipal police forces are responsible for enforcing the Québec and federal DWI laws and other provisions (including those that can lead to criminal sanctions).</p>

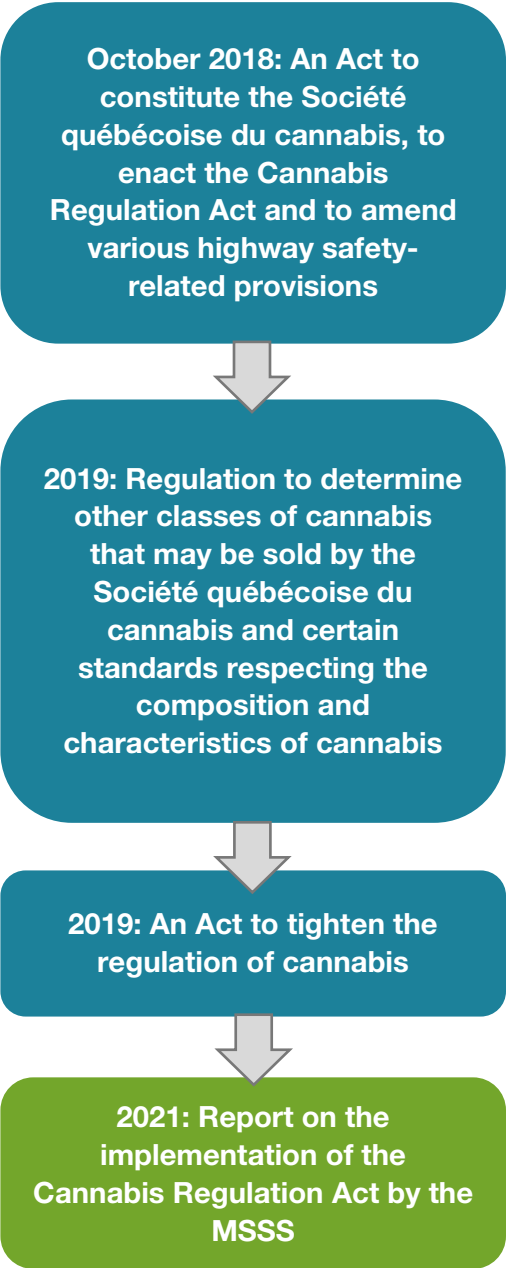
Appendix 4

The process of legalizing and regulating cannabis in Québec and Canada

Federal acts and regulations



Provincial acts and regulations (Québec)



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