CCIA D.I.S.E Committee's Preferred Language Document

Produced by the CCIA Diversity, Inclusion, and Social Equity Committee
To ensure equal participation in the legal cannabis market some states and municipalities have taken proactive steps to mitigate inequalities, by developing Social Equity Programs/Ordinances with equity and fairness in mind.

The California Cannabis Equity Act of 2018 was signed into law to assist local governments in the creation and administration of equity programs, and to support equitable access to the regulated market for individuals through financial and technical assistance.

The California Department of Justice data shows that from 2006 to 2015, inclusive, “Black Californians were two times more likely to be arrested for cannabis misdemeanors and five times more likely to be arrested for cannabis felonies than White Californians. During the same period, Latino Californians were 35 percent more likely to be arrested for cannabis crimes than White Californians,” even though the rates of usage were equal among all groups. “The collateral consequences associated with cannabis law violations, coupled with generational poverty and a lack of access to resources, make it extraordinarily difficult for persons with convictions to enter the newly regulated industry.”

While guidelines and principles for a model local equity program and a model equity local ordinance used to adopt a local equity, program has yet to be developed by the Bureau of Cannabis Control, those jurisdictions with Social Equity Programs have defined eligibility based on several demographic factors:

- Low income (below 80% Area Medium Income (AMI)),
- California cannabis arrest or conviction for any crime under the laws of the State of California or the United States relating to the sale, possession, use, manufacture, or cultivation of cannabis that occurred prior to November 8, 2016. and,
- Residency of a disproportionately impacted area where cannabis arrest rates are proven to be higher than most other areas.

Data has demonstrated that communities most harmed by cannabis prohibition are benefiting the least from the legal marketplace.
A legacy of racial and ethnic injustices, compounded by the disproportionate collateral consequences of decades of cannabis prohibition, and enforcement limits participation in the industry for people of color.

Although cannabis legalization ends prohibition in some states, it does not necessarily stop or reverse the harm created by the punishment regime. It is estimated that less than 1 percent of the cannabis industry is owned or operated by people of color.

This definition of social equity was borrowed liberally from social equity ordinances in Los Angeles, Oakland, San Francisco, Sacramento and the Minority Cannabis Business Association’s Model Municipal Social Equity Ordinance.

The Need for a Cultural Language Shift

The DISE committee and this paper seeks to provide the cannabis industry alternative words to replace some of the most commonly used in the industry. The passages and discussion of terms below highlight the need for alternative language.

**Black Market** - Let us please be rid of this racist language. This terminology is western-biased and Eurocentric. It is part of the legacy of racism. It connotes “black is bad, white is good” and perpetuates black-white dualism. The etymology of “blacklist,” “black sheep,” and “black market” all imply disreputable, shameful, illicit or outcast. Recognizing that the term “Black Market” is a term plagued in racial overtone, the preferred language is “Unregulated Market.”

The impetus behind using “Unregulated Market” in place of the term, “black market” arises from the acknowledgment and understanding that the cannabis community is, has always been and should continue to be one of inclusiveness and unity. Use of the term “Unregulated Market” is the preferred alternative language to be used industrywide because it describes the activity and the marketplace, rather than the operators participating in it.

**Cannabis Vs. Marijuana**

According to textbook definitions, “Cannabis is a tall plant with a stiff upright stem, divided serrated leaves, and glandular hairs. It is used to produce hemp fiber and as a
drug”. Although there are different classifications of Cannabis, the term that seemed to stick around until most recently is “marijuana”.

Due to the popularization of the term in the 1930s, the term “marijuana” quickly became associated with Black and Mexican individuals by the Federal Bureau of Narcotics (FBN), specifically the Director of the FBN, Harry Anslinger, who was credited in saying, “There are 100,000 total marijuana smokers in the US, and most are Negroes, Hispanics, Filipinos and entertainers. Their Satanic music, jazz and swing result from marijuana use. This marijuana causes white women to seek sexual relations with Negroes, entertainers and any others.”

Anslinger sought to portray Cannabis as a powerful addictive substance, using the exotic-sounding term “marijuana” to emphasize its foreignness and to polarize particular groups of people of color during a time of racial segregation. Although the word “marijuana” is not inherently racist, speeches and propaganda against the use of Cannabis were purposefully manipulated as white men in positions of power associated Cannabis with the notion of addiction, social deviance, and violence, inherently tying people of color to these notions.

The preferred term across the spectrum is Cannabis; it is the proper term in specifying the plant genus. It is inclusive, and when using the word “cannabis” instead of "marijuana", you acknowledge the history of oppression against those affected by the war on drugs. Unfortunately, the term “marijuana” remains persistent as major publications in the cannabis industry continues to use the term in headlines. The California Bureau of Cannabis Control has used the disambiguation, “marihuana,” in its recent public safety campaign known as #WeedWise for the Spanish-speaking community.
<table>
<thead>
<tr>
<th>Regulated</th>
<th>Unregulated</th>
</tr>
</thead>
<tbody>
<tr>
<td>The arena or market created by Proposition 64 in the State of California in which participants engage in commercial cannabis transactions within a closed-loop system, subject to oversight and control by various administrative agencies whose authority is derived largely from the California Health &amp; Safety Code, California Business &amp; Professions Code and clarified by the California Code of Regulations.</td>
<td>A group, entity, operator, enterprise or interactions that is not currently sanctioned because that activity, or those persons, are not in possession of local and state permits or the activity is outside of what is permitted. Activity outside of the regulated supply chain for whatever reason. Unregulated can be because of an unwillingness, inability based on resources, know-how or location. Unregulated includes subcategories that includes operators who have no intention of being regulated, dry areas where there is not a path to a permit, and under resourced or under informed. Please see the further discussion below as to why the DISE Committee rejected championing other alternative language beyond “Unregulated.”</td>
</tr>
</tbody>
</table>

With the passage of Proposition 64, the State of California implemented a complicated, robust regulatory system to govern commercial cannabis activities, creating a “Regulated Market” for commercial cannabis activities within California. The Regulated Market is controlled by various administrative agencies throughout the State of California.

Participants in the Regulated Market have taken or are in the process of taking the necessary steps to obtain permits and licenses issued at both the local and state levels. These operators within the Regulated Market exist within a closed-loop system whereby wholesale commercial transactions may only take place between participants within the Regulated Market.

The reasons why a participant may participate in the unregulated market are varied. Some operators have no pathway to participating in the regulated market, others lack access to real estate or capital, while others still intentionally choose not to participate in the regulated market.
## Terms to Consider

<table>
<thead>
<tr>
<th><strong>Compliant:</strong></th>
<th><strong>Illicit Market:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Cannabis is a regulated marketplace in California, therefore, all cannabis companies with some form of licensure are operating in a compliant marketplace. While a cannabis company is trying to do all activities in compliance, if they were to not achieve full compliance that does not apply to legality. It would apply only to complaint activity that could/should be changed to achieve compliance.</td>
<td>Definition of illicit: “not sanctioned by custom or law; improper or unlawful; disapproved of or not permitted for moral or ethical reasons.” Illicit still invokes some level of shame, which still perpetuates the same paradigm. Illicit also seems to be the wrong connotation for a legal activity, the example is: it is legal to possess cannabis and legal to use cannabis, how is an operator in the industry then in the illicit market if the underlying actions are legal actions in the State of California.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Legal:</strong></th>
<th><strong>Unlicensed Market:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>The legal marketplace is already established in California for cannabis businesses. However, because a business may fail at certain aspects of compliance that should not affect the legality of either the business or the industry.</td>
<td>Unlicensed can mean both “not in possession of a license” as well as “operating without a license” -- this distinction is important, in that not all persons “not in possession of a cannabis license” are necessarily “operating without a license.” In states that regulate medicinal and adult use cannabis, some form of a state and/or local license is required to compliantly participate in the regulated cannabis industry. It is also important to note that state and local rules that regulate licensees vary widely from state to state and locality to locality and are always changing. In a state such as California, both a local and state license is required. With only (approximately) 1/3 of municipalities currently regulating cannabis activity in California, to be “licensed” requires that a licensee not only have their cannabis business located in one of the municipalities currently regulating, that has begun actively issuing licenses, but they...</td>
</tr>
</tbody>
</table>
must actually win/qualify for one of the available licenses, which may be very limited in number. As California regulations state, a license is required to conduct or participate in the profits of commercial cannabis transactions. Licensees are restricted from conducting business with non-licensees/unlicensed cannabis businesses.

DISE does not recommend terms that further divide. This committee is dedicated to advancing the principles upon which the cannabis industry was founded because the cannabis community is, has always been and should continue to be one of inclusiveness and unity.

**DISCLAIMER**

The information provided in this document is not intended to constitute legal advice and therefore should not be relied upon as such. Instead, this document is exclusively intended for general informational | educational purposes. Given the dynamic nature of the industry, this document may not constitute the most up-to-date legal or other information. Use of this document does not create an attorney-client relationship between the reader and any individual at CCIA or CCIA as a whole. Operators should contact their attorney to obtain advice with respect to any particular legal matter. No reader of this document should act or refrain from acting on the basis of information without first seeking legal advice from counsel in the relevant jurisdiction. Only a retained attorney can provide assurances that the information contained herein – and your interpretation of it – is applicable or appropriate to your particular situation. For specific legal needs please contact an attorney. Should you need an attorney recommendation CCIA has several resources, please contact info@cacannabisindustry.org for more information.