

Stephen F. Gambescia: FTC won't be keen on oversight of Big Marijuana

Will the Federal Trade Commission regulate the promotion of marijuana as strictly as they do for other potentially harmful products?

By Stephen F. Gambescia

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The Federal Trade Commission should have their first “public health enemy number one” on their list of companies that mislead consumers with unsubstantiated product claims: Big Marijuana. The Commission recently sent to hundreds of companies [guidance](#) on advertising health-related products, not to make unsubstantiated claims and warned them of penalties if violated.

The FTC has a long and storied history as a watchdog agency guarding the public against false, misleading, or unsubstantiated claims from merchant marketers, most notably Big Tobacco. Ironically, the regulators will be kept busy by a questionable, growing cottage industry that is being built by state governments, as the federal government [turns its back on legalizing marijuana use](#) — medicinal or recreational.

Since the late 1990s, state governments have passed medical [marijuana laws](#) under a cry for “compassionate care,” yet no state’s Act gives compelling evidence that the use of cannabis [meets the hallmarks of quality patient care](#), i.e., the care is a) safe, b) effective, c) evidence-based, d) standard practice, and e) patient centered. It is understandably unpopular to be against something that will help placate conditions or diseases that plague people, such as cancer, PTSD, Alzheimer’s and AIDS. Yet for all the talk lately about “following the science” in giving useful health advice, this substance is getting a pass, as its healthcare value is elusive.

FTC regulators could cry foul simply by reviewing the names of the hundreds of cannabis growing, manufacturing, and sales companies. For example, one medical marijuana dispensary in Pennsylvania is named “CURE,” another dispensary is called “Curaleaf.” A dispensary setting up in Philadelphia is called “Restore” and uses a tag line in print ads that it is “Dispensing Happiness” in your neighborhood; another is called “Beyond Hello.” San Francisco has its “Apothecarium;” Denver has “OD Medicinals.” In San Diego, you can get medicated by “Apothokare.” The examples go on, with names that give the impression to the public that at a minimum suggest “don’t worry be happy,” to “have we got the elixir for what ails you!”

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How did we make the big leap from a palliative remedy for those suffering to an actual cure? What medical evidence is there that cannabis *cures* a disease or condition? Even tacit mention that cannabis cures or has a high-level assurance of medicinal value should be enough to yank the product name or tag lines.

In reviewing the rules and regulations of the many state laws around marketing cannabis products, it is fair to say that the language is direct, clear, and unambiguous. In fact, anti-pot groups could not craft better guards in marketing this product, especially to minors, as the rules spell out: to whom the product can be marketed, the channel used for marketing, where the marketing takes place, the nature or manner of the marketing, explicit wording required on the product, and sponsorship.

However, controlling the access of marijuana, no doubt, will be similar to the rationale, awareness, education, public policies, and strategies used in the long and enduring challenge of youth access to other forbidden fruits, such as tobacco and alcohol. Ostensibly, those involved in the marketing and sale of cigarettes, vaping,

and alcohol products do not want our youth to take up these habits. It is naïve to think that some people working within the cannabis marketing and sales enterprise will not step over the line and work to attract youth to take up their product.

Any entity involved in the cannabis marketing enterprise that has a modicum of integrity should support and abide by any laws and regulation restricting the marketing, advertising, and promotion of the substance and guard against any way youth gain access to the product — direct sales or otherwise.

Unfortunately, early signs are here that players in the cannabis enterprise are not only loosely holding to the rules, but [overtly marketing to the public](#) to get the largest and widest share of the market. FTC regulators should be busy on cannabis marketing oversight. We cannot be optimistic, as the days of the consumer-friendly FTC are gone; they have moved to a pick and choose product regulation strategy, allowing clear violations to occur unfettered to their chosen companies or industry.

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