



June 29, 2018

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**RE: Extension of Transition Period to Regulated Commercial Cannabis Market**

Dear Governor Brown and Ms. Ajax,

The Emergency Regulations contain a six-month period for Transition to Regulated Commercial Cannabis Market (“Transition Period”) from January 1, 2018 until July 1, 2018, which was based upon an assumption that permanent regulations would be approved and the State’s Track and Trace systems would be operational by July 1, 2018. Although the regulators hoped that this period would be sufficient to prepare the regulated market, there have been a number of obstacles and regulatory delays that have prevented these businesses from completing this transition within the allotted time. Mainly, the delay stems from lack of licensed testing facilities, large back-stock of product, lack of compliant packaging suppliers, a nascent regulated market, and the continued proliferation of illegal operators across the State of California (“State”). The licensing authorities should address these delays by extending the Transition Period in the readopted emergency regulations until the State has approved permanent regulations and has implemented the Track and Trace system, allowing license holders to be able to adequately prepare for the demands of a regulated market.

Shortage of Licensed Testing Laboratories

While all cannabis goods harvested or manufactured after January 1, 2018, are supposed to undergo Phase 1 testing, several obstacles have barred many, if not most, licensed cultivators and manufacturers from getting their cannabis goods tested. The few who have been able to gain access to a licensed testing facility are still working through the struggles of testing delays, implementation, and a looming deadline of even more stringent testing guidelines. More importantly, there is a lack of cross-lab standardization

and the licensed testing laboratories are all employing differing testing methods and standard operating procedures, all of which yields inconsistent and unreliable testing results.

As of May 28, 2018, only 30 temporary testing laboratory licenses have been issued throughout the State. A number of these license holders are not yet operational and those that are, tend to be concentrated in only certain areas of the State. Conversely, CalCannabis has issued over 3,800 cultivation licenses and the Manufactured Cannabis Safety Branch (“MCSB”) has issued approximately 800 licenses. A licensed testing facility can handle between 100-120 samples per day, and a 50-pound batch of cultivated cannabis needs 34 samples tested. Thus, on average, most can only handle up to 4 cultivated batches per day. This doesn’t even account for all of the manufactured cannabis product that needs to be tested on a daily basis. Given the disparity in the ratio of licensed testing facilities to licensed cultivators and manufacturers, it is clear that the licensed testing labs cannot meet the demand for testing. The shortage of licensed testing facilities makes it impossible for license holders to comply with the current testing requirement and will force the majority of license holders to halt operations until they can find a nearby testing facility with reasonable lead time, or even worse, look to the illicit market to sell non-compliant product. This will in turn interrupt the supply chain and result in a shortage of available cannabis products to meet medicinal and adult-use needs of the general public, and make compliance onerous for licensed retailers, cultivators, manufacturers, and distributors.

The following article further reiterates the bottleneck that will occur on July 1, 2018 as a direct result of the abundance of licenses issued for cultivation and manufacturing and the lack of licensed testing facilities to handle the demand: <https://mjbizdaily.com/california-testing-labs-expect-marijuana-bottleneck-july/>

#### Inaccessibility of Licensed Laboratories

An additional obstacle to testing is the complete absence of licensed testing facilities in certain regions of the State. Santa Barbara County has issued over 800 cultivation licenses and zero testing facility licenses to date. Similarly, the City of Los Angeles has yet to issue a single testing facility license and the closest testing facilities are in Monrovia, Pasadena, and Long Beach. These four facilities are expected to service Santa Barbara County, Ventura County, Los Angeles County, Orange County, and multiple additional surrounding counties. There are only 3 additional testing facilities in all of Southern California, two in San Diego and one in Coachella Valley. The remaining testing facilities are all located in Northern California.

#### Large Back-Stock of Product

Without a reliable Cannabis Track and Trace System in place (“CCTT”) and without any indication when METRC will be operational, many retailers and manufacturers stockpiled cannabis harvested prior to January 1, 2018, which did not have to be tested pursuant to Cal. Code of Reg. Section 5029(b)(5). As a result, the majority of cannabis goods sold to licensed retailers over the last six months have not been tested and identified as such in accordance with Section 5029(b)(5) prior to sale. The proliferation of illegal operators has greatly reduced the volume of sales for licensed retailers and thus their ability to quickly dispose of cannabis goods that they received during the Transition Period. This is particularly true for the 147 licensed retailers in the City of Los Angeles, who have been trying to compete with hundreds of illegal operators. If the Transition Period ends on July 1, 2018, these retailers will be forced to destroy everything in their inventory and repurchase new products. Not only will this financially cripple the majority of retailers, but there will not be enough compliant product on the market to meet the demand. Southern and Northern California has different demand for different products, especially on the medicinal side. Even in the City of Los Angeles, product demand changes from region to region. Until the market develops in the entire State, the July 1 deadline will likely drive retailers into deep financial hardship if

not to the edge of solvency. It will also cause patients to look elsewhere for the products that they depend on for their wellbeing.

Additionally, packaging companies are still struggling with designing child-resistant primary packaging for cannabis products as all new designs must pass the child resistant packaging testing and certification. This testing takes time and traditional packaging suppliers are just now starting to work with the cannabis industry. The ability to use child-resistant exit bags during the Transition Period to satisfy the child-resistant packaging requirements has been instrumental in ensuring access to manufactured cannabis products to medicinal and adult-use customers.

#### The State has the power to extend the Transition Period

Licensing authorities are empowered to “make and prescribe reasonable rules and regulations as may be necessary to implement, administer and enforce their respective duties.” Business & Professions Code §26013(a). However, the rules and regulations shall “mandate only commercially feasible procedures, technology, or other requirements, and shall not unreasonably restrain or inhibit the development of alternative procedures or technology to achieve the same substantive requirements, *nor shall such regulations make compliance so onerous that the operation under a cannabis license is not worthy of being carried out in practice by a reasonably prudent businessperson.*” (Emphasis Added) Business & Professions Code §26013(c).

If the State maintains the July 1, 2018 Transition Period deadline, the following will likely occur:

- There will be insufficient lab time availability for testing of all batches being cultivated and manufactured causing a bottleneck in processing as well as a shortage of tested products available for purchase by medicinal and adult-use customers;
- Licensed retailers will have to destroy any remaining inventory that hasn't been sold prior to July 1, 2018 causing an economic hardship for the retailers who still have product that complies with the Transitional Period requirements;
- Customers and patients will turn to the illicit market retailers and delivery services who will still have an abundance of products available for sale. See link below:  
<http://www.cbc.ca/news/world/colorado-marijuana-black-market-1.4647198>
- Licensed retailers will be forced to shut down as they will not be able to meet overhead and operating costs.

As evidenced hereinabove, the implementation of the post-Transition Period regulations shall make compliance so onerous that license holders will be forced to shut down their operations. This will defeat the purpose and intent of the Medicinal and Adult Use Regulation and Safety Act and its implementing regulations. With little or no enforcement against illegal operators Statewide, the nascent regulated market will suffer since the state is not ready to exit the Transition Period and enter a fully regulated cannabis market. This is further evidenced by the delay in issuance of licenses, the re-adoption of the emergency regulations, and the delay in implementing CCTT-METRC.

It should be emphasized that while CCTT-METRC is a required component of MAUCRSA, the implementation of METRC technology has been delayed since the State is not ready. The State is also not feasibly ready to require the July 1, 2018 implementation of the testing and packaging requirements set forth in the readopted emergency regulations. How can the State acknowledge that a key component of the regulations will be extended while demanding that another key component (testing and packaging) be required? This is punitive, and the State should extend the packaging and testing requirement to the implementation of CCTT-METRC.

While UCBA and the below businesses support transition into a fully regulated market, this should be enforced only when the State can provide the license holders with available resources to do so. This means licensing a sufficient number of testing facilities that will be able to meet the current industry demand, standardizing the testing methods, adopting final regulations, and implementing CCTT-METRC. Forcing the industry into compliance without the necessary resources will further cripple the already struggling regulated market and will inadvertently favor the illegal and unregulated market. And most importantly will leave patients without access to their necessary medications.

Respectfully submitted,



UCBA Trade Association  
Lisa Selan, General Counsel  
Yelena Katchko, Co-General Counsel

CC: Office of Secretary Alexis Podesta, Office of Director Dean Grafilo

**Associations and businesses who support:**

United Cannabis Business Association	Riverbank Cannabis Collective	Botanical Veterinary Products
Santa Ana Cannabis Association	Cannacraft	Sunbright Gardens
Greater Los Angeles Cannabis Alliance	Organic Grace Co	Supernova Women
California Cannabis Delivery Alliance	San Bernardino Cannabis Community Association	Canna Mommy
Los Angeles Delivery Alliance	Salamander Canyon	East Bay Therapeutics
San Diego Delivery Alliance	Free Range	Leave it 2 Nature
Inland Cannabis Farmers Association	420 HBP	Southwest Patient Group
Nevada County Cannabis Alliance	Get Cali Cubes	The Garden Society
Emerald Exchange	Canna Cost 805 Family	We Drop
VCC Brands	Wind Valley Gardens	Argi Pharma
	Oxalis California	STC Alternative Healing
	AV Holistic Care	420 Estates
	Holistic Rescue	Hum Local
		Mendocino Generations

Green Road Consulting	Sacred Source Seeds	TREEZ
Green Rush Direct	Stoney Ranch	JWC Deliveries
Cann Theon	Thrive Society	Bayflower
Change Maker Creative	East Bay Healing Alliance	Apothecarry Brands
MJ Hybrid Solutions	Frog Farms 420	Green Cross of Torrance
CBD Mendo	CWG Botanicals	LA Kush
Emerald Family Farms	Family 805	The SuperDope Company
The Super Dope Company	Horst Legal Council	Cannabis Culture
Luma California	Cold Creek Organics	The Cannabist
Fruit Slabs	Professional Organics	New Game Compliance
Lucky Box Club	Humble Extracts	OC3
Bloom Box	Fiddlers Greens	Marijuana Media
Emerald Coast Holding	Lakeview Organics	Family 805
Tahoe Wellness	Cannabiz Success	Canvas Farms
Direct Cannabis Network	Pink is the New Black	Jade House Extracts
Beard Bros Farm	Alchemist Scientific	CannaMommy
LC Merchants	Capay Valley Cultivation	Alternative Medicine Group
SVN 10	Golden Road Distribution	De La Mota Cannabis
Mad River Roots	CG Brands	New Game Compliance, LLC
White Label 710	Gocannabiz	Joy of Life Wellness Center
Goodland Farm	OARA Chocolate	Somatik
The Green Cross	Sanel Highlands	Satori Wellness
Gold Mountain Distribution	Cape Collective	Meadow Divide Consultation
Canvas Farms	Radicle Health	Bay Side Nursery
Cal Green Medical	Peace of Mind	Blessed Extracts
Dr. Raw Organics	Organic Solutions of the Dessert	Calixpress
Joy of Life Wellness	VETCBD	Nice Guys Delivery
Resurrection Painting	Feliz Farms	Green Broz
HL Dispensaries	Mateel Botanicals	K Street Consulting
Green Hummingbird Farm		Just Say CARE

Green Rush Consulting

Derby Bakery

Lifted Networks

Kin Slips

Goodland Farm

Shale Peak Horticulture

Hum Local

420 Estates