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May 19, 2021

Monet Vela
Office of Environmental Health Hazard Assessment
1001 I Street, 23rd Floor
P. O. Box 4010
Sacramento, California 95812-4010

RE: Proposed Amendments to Article 6, Clear and Reasonable Warnings Cannabis
Smoke and Delta-9-THC Exposure

Der Ms. Vela:

On behalf of CMG/Caliva, the largest vertically integrated cannabis company in the state, we wish to offer the following public comments relative to the proposed amendments referenced above.

Caliva is engaged in one of the most regulated and consumer safety-focused industries in the state. Current law in the cannabis industry imposes robust warning requirements to ensure that consumers have abundant information in hand before making a decision to purchase a product. These warnings include reproductive health warnings for both pregnant and breastfeeding persons, child safety warnings and stringent protections against misleading health claims. Caliva subscribes to the commitment to full regulatory compliance, especially as it relates to consumer safety.

Because current cannabis statute is already more rigorous than Proposition 65, we are concerned that under these proposed regulatory changes, we would be facing unnecessary challenges for our consumers and ourselves that our governing statutes and regulations do not similarly create.

Our primary concern is the burden these regulations would place on warning label “real estate.” As already noted, current law for cannabis requires labels to include a lengthy statutorily prescribed health warning statement as well as other information, including:

- Unique identifier linked to a testing certificate of analysis
- Product manufacturer information
- Batch numbers
- Concentration levels of THC and/or CBD
- Expiration or “best by” date
- Universal cannabis symbol.

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These new regulations would require us to include even more prescribed verbiage, most of which is redundant of the language required in cannabis law but differently worded. Depending on the outcome of the short form warning label changes currently under consideration, all of this information must be placed on a label that resides on a product that is often substantially less than 5 square inches.


This overabundance of information effectively crowds all of the warnings to the point that they become the visual equivalent of “white noise.” Ultimately, all of the verbiage on the label will be so small and dense that it will be meaningless to the consumer. The effect will be to seriously undermine the public policy goals of both Proposition 65 and the cannabis laws.

Because cannabis products already have expansive warning requirements, we submit that OEHHA should not force cannabis labeling to include language that is simply repetitive of the messaging already defined. In order to avoid doing a disservice to consumers, OEHHA and the cannabis industry, we urge OEHHA to reconsider these proposed changes by, at the very least, stating in these proposed sections that a cannabis licensee that is compliant with the labeling requirements in Business and Professions Code Section 26120 is also compliant with Proposition 65. Under that alternative, Section 26120 and the regulations thereto can serve double duty in meeting the consumer safety requirements of cannabis law and Proposition 65.

It is also critical to note that the cannabis industry suffers from the viability of a substantial black market. Illicit operators have decided that they prefer to risk legal consequences than to abide by the raft of regulatory requirements and taxation obligations that add heavy costs to the product. The state and the legal cannabis industry have been working fervently to eradicate that black market through enforcement and, where appropriate, through regulatory relaxation. When other agencies like OEHHA expand their regulatory footprint without coordinating with similar missions by cannabis regulators, they send the black market eradication effort backwards and more illicit operators are discouraged from becoming legal.

We thank you for your favorable consideration of these comments.

Sincerely,



Rand Martin