

The “High” Life: The Regulation, Competitive Advantage, and Ethical Considerations of Marijuana Advertising

Casey Rockwell, University of Arkansas at Little Rock

Madeline Burke, University of Arkansas at Little Rock

Abstract

State-by-state, the legalization of medical marijuana is progressing. Yet, dispensaries and cannabis products, along with many other vice brands, must overcome hurdles to advertising. Specifically, The Controlled Substances Act (CSA) deems it a felony to “place in any newspaper, magazine, handbill, or other publications, any written advertisement knowing that it has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance.” The CSA also deems it a felony to “use any communication facility in committing or in causing or facilitating” a drug offense. Essentially, marijuana advertisements cannot be broadcast on television or on the radio nor can they be mailed. Moreover, major online platforms such as Facebook and Google have created policies restricting drug or drug-related promotions on their websites. Because of these strict regulations, marijuana dispensaries and cannabis brands have turned to geofencing advertising. This allows companies to send advertisements to consumers on their mobile devices, based on geographical boundaries or “fencing” around a central focal point. This research seeks to analyze the current restrictions on marijuana advertising, the competitive advantage created through the use of under-regulated geofencing marketing, and the ethical considerations of whether dispensaries and cannabis brands should advertise.

Keywords: marijuana, cannabis, Controlled Substances Act, geofencing, First Amendment, dispensary

Track: Ethical Business and Marketing Considerations

ID#: 1351