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August 25, 2020

Dear Stakeholder:

This guidance is provided by the Office of Marijuana Policy (OMP) in response to inquiries regarding OMP's rules for the packaging, labeling, and marketing of marijuana and marijuana products for retail sale in the Adult Use Marijuana Program (AUMP).

The information provided is intended to supplement OMP's February 21, 2020 "Considerations for AUMP and MMMP Advertising and Marketing" available at:

<https://www.maine.gov/dafs/omp/resources/guidance-documents>.

Frequently Asked Questions

Question: Which licensees may package marijuana into individual retail sale containers?

Answer: A cultivation or products manufacturing facility may package marijuana or marijuana products into individual retail sale containers.

Q: Which licensees may label individual retail sales containers with all required information on the marketing layer?

A: The cultivation or products manufacturing facility that creates the retail unit should affix a label to the marketing layer of the marijuana or marijuana product that includes all required information.

A marijuana store licensee must affix its license number to the marijuana or marijuana product before it is placed in exit packaging. A marijuana store licensee may have its license number printed directly onto the marketing layer by the licensee responsible for packaging the marijuana into individual retail sale containers.

Q: May a licensee provide "white labeling" services? That is, may a licensee contract with another licensee to put that licensee's brand or logo on the product?

A: Yes. A cultivation or products manufacturing facility may contract with other licensees to put a licensee's brand or logo onto the product label, provided that use of the brand or logo does not violate any of the labeling prohibitions of the AUMP rule.

Q: May a licensee develop a "brand" and market marijuana and marijuana products, or their marijuana establishment, under that brand name?

A: Yes. A licensee may develop a brand or multiple brand names to use in the marketing or advertising, provided that the use of a brand in marketing or advertising does not cause the licensee to violate OMP rules for marketing and advertising.

Q: Are there any restrictions on the form or content of any logos, brands, or other marketing materials?

A: Yes. Generally, advertising and marketing cannot be attractive to people under the age of 21, promote irresponsible use of marijuana or marijuana products, promote illegal activities, violate consumer protection laws, or present a significant risk to public health and safety.

Q: How can a brand or logo be used on the marijuana product itself as well as labels, packaging, signage, advertising, or marketing materials?

A: It is important to note that a brand or logo that is appropriate for the purposes of advertising and marketing may not always be appropriate for use in labeling and/or packaging.

For instance, a logo that includes an image of an animal (designed in a manner not to appeal to people under 21 years of age) would be permissible for marketing and advertising purposes. However, it would not be permissible for that same logo, with the image of an animal, to be included on a product label.

Further, a brand or logo that is appropriate for the purposes of advertising and marketing may not be appropriate to include on exit packaging used by a marijuana store. For instance, a logo or brand that includes “words, images, markings or designs that...indicate or suggest that...[the exit package contains] marijuana, marijuana concentrate or marijuana products” would not be permissible to include on said exit packaging. A logo that includes an image of a marijuana leaf or words like “marijuana”, “bud”, “ganja”, “weed”, “cannabis” or other synonyms for marijuana or marijuana products would be impermissible on exit packaging. Likewise, a brand name that includes those words could not be included on exit packaging. For example, a hypothetical brand operating as “Country Cannabis Cooperative” could include an abbreviation of that brand name, such as CCC, but could not include the full brand name on the exit packaging.

Comparison

So where can various images and statements be used in manufacturing, packaging, labeling, and marketing marijuana and marijuana products?

Item and/or Words	Marketing Layer/Labeling	Exit Packaging	Marketing	Manufactured Product
Geometric Shape	Y	Y	Y	Y
Marijuana Leaf	Y	N	Y	Y
Depict a Human, Animal or Fruit	N	N	Y	N
Marijuana-related Terms	Y	N	Y	N/A
Word “Candy” or “Candies”	N	N	N	N/A

Conclusion

This guidance, taken in concert with previous guidance issued by OMP, should not be considered an exhaustive summary of all program requirements regarding advertising and should not be construed to exempt a licensee from any state or federal advertising regulations.

We encourage you to consult an attorney regarding additional requirements related to advertising and marketing within the AUMP.

Sincerely,

A handwritten signature in black ink, appearing to read 'Erik Gundersen', written in a cursive style.

Erik Gundersen
Director
Office of Marijuana Policy