

# Frequently Asked Questions About Advertising

## 1. How does the Commission define “Advertising”?

The Cannabis Control Commission’s (Commission) regulations define advertising as: “A form of marketing communication that employs a sponsored, non-personal message to sell or promote Marijuana Establishment or Medical Marijuana Treatment Center’s (ME or MTC) Brand Name, Branded Good, service, or idea.”<sup>1</sup>

“Brand Name” is a brand name (alone or in conjunction with any other word), registered trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other identifiable marker associated with an ME or MTC.<sup>2</sup> A “Branded Good” is merchandise offered for sale by an ME or MTC that is identifiable by the ME or MTC Brand Name on the item.<sup>3</sup> A Branded Good does not include Marijuana, Marijuana Products, or Marijuana Accessories; and may be an apparel item, a water bottle, or other similar non-edible merchandise.

## 2. What types of Branded Goods can a licensed ME or MTC sell?

The Commission’s regulations limit the type of items that MEs and MTCs can sell as Branded Goods. A Branded Good may include apparel, water bottles, or other similar non-edible merchandise, but may not include Marijuana, Marijuana Products, or Marijuana Accessories. For the purposes of this document, packaging and labeling created by an ME/MTC is not considered a Branded Good. Licensees are allowed to include their Brand Name and/or logo on their packaging.

This means an ME or MTC may use its Brand Name on and sell the following Branded Goods: t-shirts, water bottles, cups, drink holders, key chains, hats or other apparel items, electronic equipment or accessories, sporting equipment, novelty items, and similar portable items. However, Marijuana, Marijuana Products, or Marijuana Accessories (e.g., vaporizers, pipes, bongs, or any item used to introduce Marijuana to the human body)

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<sup>1</sup> See 935 CMR 500.002 and 935 CMR 501.002.

<sup>2</sup> See 935 CMR 500.002 and 935 CMR 501.002.

<sup>3</sup> See 935 CMR 500.002 and 935 CMR 501.002.



may not be sold as Branded Goods. A grinder, lighter, or rolling tray, for example, are not considered Marijuana Accessories and therefore may be sold as a Branded Good.

### **3. What kind of messages are prohibited on Branded Goods like t-shirts?**

While a licensee may use advertising to promote its business and Brand Name on non-Marijuana related goods, it cannot sell a Branded Good with Marijuana or a Marijuana Product advertised on it. In other words, an ME or MTC may not use Branded Goods to promote Marijuana or Marijuana Products. For example, a t-shirt with “Try Blue Dream X Pineapple Express at ABC Dispensary” printed on it would be prohibited. However, a t-shirt with “ABC Dispensary” printed on it would be allowed because it only promotes the entity’s Brand Name. MEs and MTCs should ensure that their advertising does not focus on Marijuana, or a specific Marijuana Product, available for sale.

Please note that Branded Goods do not include Marijuana Accessories. Therefore, an ME or MTC may not use its Brand Name on a Marijuana Accessory.

Please refer to the regulations at [935 500.105\(4\)](#) and [935 CMR 501.105\(4\)](#) for additional limitations on advertising practices.

### **4. Can a Branded Good include the name of a business and/or business logo?**

Yes, a Branded Good may include an ME or MTC Brand Name, registered trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other identifiable marker associated with the licensee.

When developing Branded Goods, licensees should maintain compliance with the restrictions on advertising outlined above to ensure that they are not promoting Marijuana or Marijuana Products.

### **5. Are licensees allowed to sell a Branded Good and use the proceeds to support a charity or non-profit as part of a Plan to Positively Impact Areas of Disproportionate Impact?**

Yes, this is allowed. However, prior to making any donation to a charity or non-profit as part of a Plan to Positively Impact Areas of Disproportionate Impact (Positive Impact Plan), the licensee must obtain written correspondence from the recipient organization indicating that they will accept the donation. This relationship should be disclosed within



the Positive Impact Plan and the certified letter should be included in the license application.

For more information about Positive Impact Plans and their requirements, please refer to the [\*Guidance on Plans to Positively Impact Disproportionately Harmed People\*](#) and the [\*Guidance on Licensure\*](#).

**6. Can licensees provide branded apparel containing their business name and/or logo to employees?**

Yes, licensees may give branded apparel to their employees as a workplace uniform, provided that it does not appeal to anyone under the age of 21.

**7. When advertising using different mediums (e.g., radio, podcast, broadcasting, spoken word, or video), what should be considered?**

Before an ME or MTC seeks to advertise, they should ensure that the medium – such as television, radio, internet, mobile application, social media, or other electronic communication; billboards or other outdoor advertising; or print publication – targets an audience of which 85% of the population is reasonably expected to be 21 years of age or older. Licensees should use reliable and current audience composition data to determine audience makeup. The Commission may request to see and/or verify the information used for these purposes.

In addition to the requirements highlighted above, there are further limitations on advertising noted in the adult- and medical-use cannabis regulations. Please refer to [935 CMR 500.105\(4\)](#) and [935 CMR 501.105\(4\)](#) for more information.

**8. Can standalone Marijuana Product Manufacturers, Microbusinesses, Craft Marijuana Cooperatives, or Cultivators sell Branded Goods?**

Yes, standalone Marijuana Product Manufacturers, Marijuana Microbusinesses, Craft Marijuana Cooperatives, and Marijuana Cultivators can sell Branded Goods wholesale to another ME in compliance with the Commission’s regulations. Additionally, Marijuana Product Manufacturers, Marijuana Microbusinesses, Craft Marijuana Cooperatives, and Marijuana Cultivators may sell their Branded Goods via their own e-commerce platforms, however, they may not sell such items directly to consumers from their physical location. Marijuana Couriers and Marijuana Delivery Operators may sell Branded Goods to consumers as part of completing a delivery order. Additionally,



licensees must ensure customers are 21 years of age or older when they purchase the item and continue to maintain compliance with all advertising requirements set forth in [935 CMR 500.105\(4\)\(b\)\(15\)](#).

**9. Can a logo or company name include the words “Cannabis”, “THC”, or “Marijuana”?**

Yes, the Commission allows the terms “Cannabis”, “THC”, and “Marijuana,” which describe the regulated product, to be used in logos and business names. However, colloquial references to Marijuana, including terms commonly used in pop culture to describe Marijuana, are not allowed, and will be evaluated for compliance.

**10. Can an ME use descriptive clauses or phrases such as “Recreational Marijuana Dispensary” or “Cannabis Dispensary” on store signage?**

Yes, these descriptive clauses on store signage do not violate the Commission’s advertising regulations. MEs and MTCs must also comply with local ordinances pertaining to the types of allowable descriptive text on store signage.

**11. Can an ME offer free or discounted Marijuana or Marijuana Products or offer promotions, giveaways, coupons, or rewards programs that offer free or reduced-price Marijuana or Marijuana Products?**

No, an ME may not offer free or reduced-price Marijuana or Marijuana Products as part of a marketing scheme or rewards program. However, MTCs may offer free or reduced Marijuana or Marijuana Products and may offer rewards programs, coupons, or other discounts of Marijuana or Marijuana Products to Registered Qualifying Patient.

