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Professor Owen Bowden-Jones
Chair, Advisory Council on the Misuse of Drugs
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By email only

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11 January 2021

Dear Owen,

ADVICE ON CONSUMER CBD (CANNABIDIOL) PRODUCTS

As you are aware, tackling drug misuse and the harms that it causes remains a top priority for this Government. The Home Office is keen to draw on ACMD advice on the issue of CBD products which are not medicines. There has been a proliferation of such products available online and on the high street in recent years. While as an isolated substance, CBD is not a controlled drug, there is recent evidence that many of the products available contain controlled cannabinoids and that it is difficult to isolate pure CBD. The Government currently has no plans to look at the status of CBD itself under drug legislation.

There is currently not a legal framework in place specifically exempting CBD products from control under the Misuse of Drugs Act 1971, and with this in mind, the Government wishes to explore the possibility of creating a specific exemption in the Misuse of Drugs Regulations 2001 ('the 2001 Regulations') for CBD products which contain no more than a defined trace percentage of controlled cannabinoids. Primarily THCV, Δ^9 -THC and CBN and the cannabinoid Δ^9 THCA-A. We are interested to hear if you believe other controlled cannabinoids require consideration too.

The Government is minded to amend the 2001 Regulations to permit CBD products that contain no more than a defined trace percentage of certain controlled cannabinoids as an impurity. Additionally, we are minded to amend the definition of an "exempt product" under the 2001 Regulations to give effect to the intent surrounding its introduction, being to only exempt products used for scientific or

diagnostic purposes which contain an extremely small amount and proportion of controlled drugs, but unambiguously excludes consumer products and any products intended for human consumption, other than in scientific research. We request the ACMD to provide advice on how the exempt product definition in the Misuse of Drugs Regulations may be amended to apply only to diagnostic equipment or for scientific research, as originally intended.

In terms of this trace amount, we propose that the defined trace percentage in CBD products be set at a level which will be between 0.01% and 0.0001% by weight per controlled cannabinoid. The precise level will be determined following further scientific testing advice. Given the current limited availability of reference chemicals, we consider that analytical capability is likely to be best focused on the quantification of THCV, Δ^9 -THC, CBN and Δ^9 THCA-A rather than all controlled cannabinoids that could be permitted to be present in trace amounts. The Government intends to work further with the forensic science sector to assist in determination of the method of testing and precise definition of the trace amount. The 0.01-0.0001% per named controlled cannabinoid level (or lower) is proposed on the basis of evidence and will be subject to further confirmation on our part that responsible producers are able to produce CBD to this level of purity, and it is within the capabilities of the forensic science sector to quantify consistently and affordably.

In order to keep the level of controlled cannabinoids in CBD products down to an unavoidable trace level, we would ask that the ACMD considers the maximum dose for any non-negligible effect for THCV, Δ^9 -THC and CBN and the cannabinoid Δ^9 THCA-A. We are seeking further scientific testing advice on analytical capability to test for a cannabinoid content of 0.01-0.0001% by weight or lower per specified cannabinoid. In particular, we would ask that the ACMD considers whether such products would be liable to be abused or have ill effects, and whether the controlled substances could, in practice, be recovered from such products.

A handwritten signature in blue ink, appearing to read 'Kit Malthouse', with a long horizontal flourish extending to the right.

Kit Malthouse MP
Minister of State for Crime and Policing

