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BIG MARIJUANA: HOW CORPORATIONS AND LOBBIES WILL SHAPE THE LEGALIZATION
LANDSCAPE

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P R O C E E D I N G S

MR. RAUCH: Hello, everybody and welcome to Brookings. My name is Jonathan Rauch. I'm a senior in governance studies. I am a co-author on both of the papers we are releasing today, but I'm taking off that hat and acting as moderator for both of our panels today. We've been running at Brookings a program about legalization of marijuana now since October of 2012, before it started at Colorado and Washington.

And we're doing something different from what pretty much anyone else is. We're not looking at public health and criminal justice and we're not either--not arguing for or against legalization. We're taking legalization as a fact. We're saying it is happening, likely or not--like it or not, and it's likely to continue. California may well legalize this November, which would mean the entire West Coast would have legal recreational marijuana. So, that's premise number one.

And premise number two is that how you do this, matters at least as much as whether you do it. Implementation matters a lot, so we focus on the day two agenda, which is after the election. What happens next? How do you set up the bureaucracies to cope with the challenges of governance? We also see marijuana legalization as the most important public policy reform in the country right now, or perhaps tied with Obamacare. But in terms of its implications for government, major reform and major policies, it's just absolutely huge. So, we're studying all of those aspects and have been for a while.

We're very grateful to Phil Harvey of the DKT Liberty Project and the Charles G. Coke Foundation, among others who supported this work on marijuana policy and the work we're unveiling today, which are a couple of papers, both on the themes of big marijuana, clearly, one of the most important pressing topics. Maybe the biggest topic is the fact that for the first time in American history, you're going to see corporate marijuana, which means you're going to see lobbying and you're going to see marketing and you're going to see the profit motive engaged in a big way.

We decided to try to think that through a bit. You all, I hope, have copies of the two papers that we're issuing today, trying to think through the first steps to think through both those issues. What we're doing today is two back-to-back panels. Both are brief panels and the format's going to be the same, which is try to keep it conversational. Keep opening statements short. Lots of back and forth and move briskly and keep it moving briskly is my job.

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Panel Number One--I'm delighted to--we have some amazing people on both these panels, but I'm delighted to introduce three fantastic people--well, four, beginning with my colleague, Phil Wallach, co-author of the paper "Bootleggers, Baptist, Bureaucrats and Bongs-How Interest Group Politics Will Shape Marijuana Regulation." Phil's a senior fellow here in Governance Studies and the author, most recently of "To the Edge-Legality, Legitimacy and the Responses to the 2008 Financial Crisis." He'll do a quick overview of our findings. Next to him is Andrew Freedman, who is the director of marijuana coordination for the state of Colorado. Works for Governor Hickenlooper. He's a native of Colorado. He's also a graduate of Harvard Law School, though no one is perfect. He (laughs). Sorry, I can't help it. We're especially grateful to you for coming all this way to be with us--all the way from Denver.

Kathleen Frydl is a prize winning historian and is the author of, among other things, this magnificent book, "The Drug Wars in America, 1940 to 1973," published in 2013. It's a synoptic view of the drug wars. And she's also the author of "The History--The G.I. Bill." Finally, at the far end of the table, my friend Alex Taborock, who is a professor of economics at George Mason University and also the director for the Center for the Study of Public Choice, which is very relevant because one of the things we're doing in this first paper is a public choice analysis of marijuana legalization. And to explain what that's all about. Phil over to you.

MR. WALLACH: All right, well, thanks Jonathan and thanks to all of you for being here today.

MR. RAUCH: I'm sorry to interrupt. We also--those of you out there in web land, hashtag, if you want to tweet a question, #BigMarijuana.

MR. WALLACH: All right. As Jonathan told you, our paper is called "Bootleggers, Baptists, Bureaucrats and Bongs." We're responsible for just two of those alliterative Bs. The first two come from a famous little paper by a regulatory economist named, Bruce Daendels, who worked in the public choice tradition that thinks about politics as serving interests. This way of thinking sometimes gets people surprisingly riled up, as if discussing the role of interest groups brings to light some scandalous revelation about the policymaking process.

We don't see it that way at all. Politics is quintessentially about the balancing of interests

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and so there is nothing scandalous or surprising about saying that a given policy is shaped by some interests. But often times, people do think about issues in other terms, which policies are efficient or just or fair without thinking about how deviation from those ideals might be serving the interests of particular groups.

So, what you're all here for--marijuana. Our paper tries to understand how the shape of the interest group landscape has affected policy as four states and the District of Columbia have moved toward legalization and how it will affect policy going forward from here. So, public choice economics helped us to understand why changing any policy is likely to be hard. Entrenched groups fight to keep what they have and groups that would be well-served by a different policy regime are often unable to organize.

And yet, change did happen in marijuana policy. Remarkable change, in which the boundaries of the conversation have dramatically shifted. Why did that happen? Well, for many years, the marijuana policy debate was dominated by three kinds of anti-legalization groups. First, the Baptists--moralist public health advocates, who believe that marijuana use is wrong or harmful. Second, the bootleggers--commercial and gray-market interests who directly benefitted from continued prohibition, including medical marijuana sellers enjoying a larger customer base than they might otherwise if they had to compete with recreational sellers and mandatory treatment providers. And third, the bureaucrats--law enforcement and quasi-governmental entities whose budgets and missions are sustained by the War on Drugs.

Those interests combine fire power, retarded change even as public support for marijuana prohibition softened. Reformers managed to disrupt that equilibrium by reframing the way that the public understands the status quos costs and benefits. They did that in the late 2000s by a shrewdly crafted campaign that aimed money and argumentation at the incumbent coalition's weakest points and changed the terms of debate. In particular, an increasingly professionalized cadre of reformers shifted the public's focus from the harms of marijuana use to the harms of marijuana criminalization, especially for low-income and minority communities.

The reformers caught their opposition largely off guard. They were comfortable in assuming that the old status quo would persist. And the reformers manage co-opt some of their potential

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opponents by giving them privileged access to the new system, as in the case of Colorado, medical marijuana dispensaries, or by cutting them checks as in the case of Washington's public health community that was promised dedicated revenue streams from marijuana taxes.

And the reformers managed to portray their movement as one being waged on behalf of the public's general interest. Already we're starting to see how those victories could be self-limiting. The rise of commercial marijuana interests in a potentially controversial marijuana lobby may impede legalization's momentum as its opponents change the subject once again from the harms of criminalization to the harms of corporate predation, a subject which our second panel today is going to focus on. In some ways, the most interesting questions about how interests play into marijuana legalization are about the period after, when it becomes a regulatory policy area complete with arcane rules about licensing and taxes.

Over the past few years, regulators in the vanguard states have enjoyed an extraordinary amount of freedom to craft new rules governing the new market. The public has zoomed out. They tend not to pay very much attention to these detailed matters. The old prohibitionist interests are discombobulated and the new commercial marijuana interests are still getting organized. But that situation probably won't last. Over time, multiple interests are sure to coalesce and colonize the regulatory process. Despite widely touted concerns that one or more disproportionately powerful players will come to dominate the regulatory system, we think regulatory incoherence should be of greater concern than regulatory capture. That is, we worry as much as mis-regulation that ill serves the public interest as we do about systematic under-regulation.

We don't suggest any prescription that will somehow make the world of legalized marijuana free of interest groups influence. No such thing exists. But we do think that the emerging decentralized model of state-level regulation offers an appealing way to proceed in the regulation of recreational marijuana. State-level regulation allows room for experimentation, limits the stakes of any misstep and spreads out the resources of interest groups preventing them from concentrating their fire power and securing nationwide monopoly rents.

Our paper offers some other gentle prescriptions for managing the influence of interest groups and we hope you read it. But we really think having some awareness about the issues that attach

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to the interest groups is really half of the battle as we try to figure out what a good regulatory regime looks like in this policy area. So, I'll leave it at that for now and look forward to the discussion with the panelists.

MR. RAUCH: Thank you, Andrew, your thoughts?

MR. FREEDMAN: Well, first, it's just an honor to be here. I tell most groups that I was lieutenant governor's chief of staff before this and my mom was really proud and she'd tell everybody that her son was lieutenant governor's chief of staff and now that I'm the world's first marijuana czar, she tells everybody that I'm the lieutenant governor's chief of staff. MS. WALLACE: (laughter) But this might actually go up on the rank that she might even brag about me a little bit after this one.

So, I find this to be an extraordinarily insightful paper, so, first of all, thank you. And I'm at the rare place where I actually don't have to think much about should we legalize or not. That question was answered for me by the voters of Colorado. And so the most interesting part for me was to think through why we're in the honeymoon period we are regulatorily. So, that's what I have a few thoughts on that. I actually didn't know, so thank you. It's sad to know it's going to go away, but important as well on this one. And let me give some examples of why I actually--I think I've seen this in real life and I think we've seen it start to go away already.

And so, the first would be edibles. You know, we started off with edibles when the market opened. They were much more popular in recreational than we anticipated. They were less popular in medical. And, of course, there were a few opening tragedies that were related to edibles and most notably, Lelvi Tambi who fell from a hotel roof and died. What was remarkable was I called up the industry groups immediately after that and they full-heartedly agreed in emergency rulemaking and to change dosing requirements for edibles, even though they had all spent an enormous amount of money on the edible equipment that existed already.

So, in that, you could see, and every time we had a regulatory meeting on it, there was 10 cameras and The New York Times reported on it and The Denver Post and anybody who was anybody knew everything going on in those meetings. Now, we are dealing with a pesticides problem and frankly, probably a more systematic and more worrisome problem in a lot of ways because the emergency doesn't come up right away. It'll be 10 years from now, you'll see a statistical blip in cancer rates or birth defects. It's much harder to deal with the industry in this way.

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And they have been much more combative. They've provided their own, in what I would say scientifically unsound solutions a lot of time. The industry is torn apart. Some people will want high regulation in this area and some people want a lot less regulation. There's a lot of confusion and there's a lot more mistrust. So, it's been interesting to watch where, at first, we all were very much problem solvers together. The much more typical government regulation versus industry battlegrounds have started to come up, particularly around pesticides.

The other thing I found interesting in the paper worth talking is this worry over regulation because I see that a little in tension, with I kind of want to take advantage of this honeymoon period to run what might be left of it to run as fast as possible with regulation knowing that it's going to be so much harder later on to enforce new regulations, especially as business models grow up around what we're doing and people start making capital investments. I'd much rather lay groundwork right now and that's difficult because we have very little data right now. And so, we might suppose that something is going to be a big problem because we can draw a few anecdotes out or we can just use some common sense, but the industry really wants hard data and I think good governance would probably want hard data. And so, how to draw the line between what is over-regulation and what's running as fast as possible, or as smart as possible, to create a good guideline for later on and I think that will be an interesting thing to think about with the warnings towards the back of this paper.

And then finally, what I find interesting about the dynamics that's setup this anti versus pro-legalization versus anti-legalization mindset. I don't know quite how to kind of coop the anti-legalization people to be part of a good governance model later on. So, I found a lot of the times, I'm in a battle with anti-legalization people where I think they should be helping me on advertising restrictions or on smart policy about caregivers and how to limit the gray market. And instead, I find myself to be more of a proxy for a national battle of whether legalization is a good idea.

And so, what I hope to draw, again, also from this paper is how do we get to a point where when legalization is no longer the question, how do these groups then re-coalesce more around what is it that makes good government? How do you achieve your goals now that legalization is now simply part of the landscape. So, thank you for the very thoughtful paper.

MR. RAUCH: Thank you. What do you--if you were projecting another five years into the

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future, I guess you've been into this experiment now four years. In the next four to five years, what do you imagine the regulatory environment will look like, if you had to guess?

MR. FREEDMAN: Well, that's a tough one. Assuming that we are pretty much still just a state-based model and the national regulations haven't come in, I think the big pieces have been moved at this point and so, you will--I believe that what we found on pesticides will be much more like what we see on the day-to-day battles. That we will now--what has been a very transparent open process of debating what our good regulations will become, more and more closed off from each other will have to really battle to keep those connections going. I'm hoping it's not the case, but I think there will be more distance and more of a frienemy structure with industry groups that there is currently, which I would say was actually a friendship structure.

MR. RAUCH: So, more friction, more resistance, just a bit harder to move stuff around.

MR. FREEDMAN: And consolidated voices amongst the industry itself, which right now, we have four industry groups, which is a lot of industry groups for a \$1 billion market. I think those voices are going to find more cohesion along the way.

MR. RAUCH: Will you lose flexibility in terms of working with the legislature, which has been pretty responsive the first couple of years?

MR. FREEDMAN: The last year has shown, yeah, that people will find their own avenues, you know, they're also growing their own expertise. So, before, as we come a very trusted voice and I think still a trusted voice, but they're starting to kind of listen in other places as well.

MR. RAUCH: Thank you so much. Kathleen?

MS. FRYDL: Thank you. I want to join Andrew in encouraging everyone to read this wonderful paper. I learned a tremendous amount from reading it. And congratulations to both Phil and Jonathan for a really useful and I think important contribution to marijuana legalization. I want to identify myself, not as a disinterested scholar of marijuana legalization, but as a full-throated advocate of marijuana legalization and that should couch my remarks. Though hopefully, they'll be persuasive to others as well. I just have a couple of points that I'd like to raise and kind of describe in paragraph form.

The first is, you know, Phil and Jonathan chose a public choice framework to explain and couch their intervention. And in the opening paragraphs of their paper, they say that this may not be the

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best framework to explain a lot of different political issues, among them, for instance, abortion politics. Well, as somebody who's published on Catholic hospitals, I can tell you that, in fact, public choice may not be the best framework for cultural grievance politics, but it is, in fact, a neglected one. And we could actually do a lot more work on public choice theory when it comes to cultural grievance politics and in particular, politics of white backlash.

And I make that observation to introduce kind of my first quibble with the paper, which is its treatment of Washington, D.C. Jonathan was nice enough to mention my book in his introduction of me and people who are historians of the drug war ought to know, as this drug war historian knows, that Washington, D.C. played a special role in the formation of the drug war. Mandatory minimums were first introduced here. No knock search authority was first introduced here. Asset forfeiture was first introduced here. And I raise this to say the paper's treatment of Washington, D.C. is somewhat surprising in my eyes because it's--Washington is presented as having opted for home-grow, but as Washington, D.C. legalization advocates know, in fact, Washington, D.C. would have liked to, first of all put a system of taxation on the ballot itself, but because Washington, D.C. is still kind of governed by a racist architecture, we are not allowed to vote on fiduciary concerns in our popular measures.

So, we first of all would have liked to put a tax and spend measure on the ballot, but we are constitutionally prohibited from doing that. And second of all, when the marijuana legalization initiative passed in Washington, D.C., which it did in overwhelming numbers in every precinct in the city except for one, Congress intervened and in particular, Republicans in the House of Representatives intervened and prevented the city from implementing the measure in the way that it would have liked through its public representatives by inserting a rider, it must pass legislation. Many of you will remember this. And so, I think it's important, even if the public choice theory can't fully account for the varieties of marijuana experiences and the reasons for them. It shouldn't at least be silent on them. It's not the case that Washington, D.C. has chosen home-grow because that's the voter's choice. This is a congressional imposition and intervention on us. So, I think that's a qualification that's historically important enough to warrant consideration from the authors.

I want to make a larger kind of point about big marijuana, which I think we're very much on the precipice of big marijuana. We are now faced with two valid measures in western states. And I

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think if they pass as predicted, we'll be looking at basically a western regional monopoly on the legalization of marijuana. And that, I think, warrants very serious consideration and attention for us. I share and very much endorse the author's concern that a robust regulatory environment is best maintained by a variety of state experiences, right? And that when we have a monopolization where, if you will, a big marijuana emerging, we can see, not just the dangers of special interest capture, but also the dangers that the authors point to, which are more nuanced and very subtle and kind of accumulate over time. Dangers like regulatory incoherence and unwieldy regulations, for instance. I very much endorse and agree with that, though its concerns.

I, myself, would not position the concerns of big marijuana to be solely a function of anti-legalization advocates. I think there are many advocates for marijuana legalization, myself included, who have concerns about the emergence of big marijuana. And I think in some ways actually the anti-legalization advocates are the least desirable representatives for that concern because many of them actually represent interests, which if they can't be called big marijuana, they can certainly be called big pharma. So, I think they are discredited advocates as far as big marijuana is concerned in my eyes.

I say all that to dispute and raise some sense of trouble about whether or not leaving marijuana policy to the states is an adequate synonym for decentralization. Decentralization and the kind of prevention of economic concentrations of power is a hallmark of competitive industry in this country. It is also the atmosphere in which robust regulations thrive. I think we should be at the point where we question whether and the degree to which states are an adequate substitute or synonym for decentralization. I say that as somebody that's not just a historian of the drug war and we watch uniform criminal codes being implemented and widely accepted across the states in the 1930s, but I also say that as somebody who just reviewed a book on the conservative contribution to criminal justice reform.

And in that particular red state criminal justice reform story, we see very much like with marijuana, where Colorado and Washington led the way, we see Texas and Georgia leading the way. And they establish a certain set of best practices and those best practices get adopted by organizations like ALEK or other kinds of national organizations that then promote those best practices or what they see as best practices and the other states kind of fall as dominoes. It's not as if each state is independently considering its own indigenous concerns. They are, in fact, very often, just adopting the legislative menu,

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you know, they're ordering from the legislative menu, if you will, that's already proven and successful and is shown to be legitimate in other states. That's always been the case. We've always had that kind of domino effect. We have early innovators and then a domino effect.

But I want to raise a particular concern about whether states can be treated as adequate representatives of decentralization. In the midst of the kind of economic concentrations of power, the kind of mergers and acquisitions that we've seen in this country unfold since the Reagan administration and in particular, within the last 20 years. I mean, we are living in an unheralded gilded age, not just for reasons of economic inequality, for also for reasons of economic concentrations of power. This, I think, suggests that big marijuana might go down that path, but at a minimum, it also suggests that big marijuana will be affected by those economic concentrations of power. For instance, we now live in a world where the U.S. media market is controlled by only six companies, right, six corporations. As part of that economic consolidation in media, state house reporting has gone down dramatically, right. So, few charitable trusts have found that state house reporting has declined over 40 percent just in the last 10 years.

Just literally reporters being taken away from the state house beat. So, this suggestion turn that we don't have the same kind of effective monitoring and watchdogs at the individual state level as we used to have. And I raise all this, not to begrudge the authors for naming the states as the mechanisms of the decentralization. Louis Brandeis suggested that states were the laboratories of democracy. I raise it to raise a larger set of concerns really. Concerns that might be addressed by this institution and its great talent as well as many others. I think it's worth giving some sense of trouble. Some notion of friction as to whether states do, indeed, operate independently as laboratories of reform. I think initial early innovators do. I think Andrew's experience attests to that. He's clearly been in the honeymoon phase and is establishing best practices that will be replicated, as well as Washington.

But I think we should be attentive to and concerned about the ways in which states often don't enter into independent deliberative processes. They merely adopt like dominos what's gone before them.

MR. RAUCH: Thank you. That's very challenging and important and a breath of fresh air in many ways. Alex?

MR. TABARROK: So, let me tell you what worries me. I'm an economist. I have a kind

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of a free-market leaning, libertarian leaning and I love the--love capitalism, love markets, love innovation, creative destruction, invisible hand, all that kind of thing. And when I look at the market in Colorado, it's fulfilling. All of my predictions and expectations, that is, we see price has fallen. We see efficiency has increased. Quality of marijuana has increased. The THC content, you know, per leaf, has increased. We have a much greater variety and we have an incredible amount of innovation. We see things; this has already been mentioned, such as the edibles. You know, we see the chocolate. We've gone beyond brownies. We have the chocolate bars. We have gummy bears, you know, all kinds of things like that now. And how people consume marijuana has changed and has innovated. We see sort of marijuana bars, like coffee houses, where all these different varieties are available and you can have your marijuana with a different food pairings. You know, high class, five-star restaurant marijuana, that sort of thing.

We also have in addition to the edibles, the liquids and the vaporizers that you can put the liquids now with the vape cigarettes, right. A whole new kind of delivery system, more improved-- much improved delivery system. The former CEO, I believe of Green Mountain Coffee has developed a pod system for marijuana (laughs), okay. Doesn't even have to change the name, like Green Mountain would be just as good (laughs), okay. And so, I look at this and it certainly fulfilled all my expectations and yet, in the back of my mind, okay, I'm thinking capitalism, plus an addictive drug. Is this really the best combination? You know, I have some fears back there that maybe sometimes efficiency is not actually the best thing. Maybe innovation in all things is not always good.

You know, perhaps there are some arguments for a government-run system. You know, the Lada was a great car if you didn't want people to go anywhere (laughs) and maybe less innovation in some fields might actually be a good thing. In the end, I don't actually come down on that view. These things worry me. I am worried about them. I don't actually come down on that view. I still think that the benefits outweigh the costs. Arrests, of course, are way down--arrests for marijuana, possession where it has been legalized are way down. They're still occurring in much of the rest of the country. Violence is down. It looks even that the violence in Mexico may have decreased because of legalization in parts of the United States. That's a possibility. I don't know if we can approve that yet, but that certainly fits the correlation.

So, I think a lot of--overall, I think a lot of good things are going on. In the long-run, I

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expect that there will also be innovations in using marijuana in a responsible way. I think when there's a demand for that, that will happen. I do worry, you know, you look at like the slot machines and how much attention to detail has been put and how much investment has been put into slot machines to make them super-addictive kind of device and one worries about that. So, these things worry me, not only because there may be significant costs of marijuana use. Marijuana is great for the middle class in exactly the same way that alcohol is great for the middle class. You can enjoy it on the weekend and so forth, but there is a very large group of alcohol users, in fact, pretty much the majority of alcohol consumption is used by people who abuse alcohol. And one worries that that can happen with marijuana as well.

There is a very large right-hand tail of marijuana use of people who use it every single day. That is a large fraction of the consumption, people who use marijuana every single day. So, I worry, not only because of these costs, but also because there could be a public backlash, okay. And overall, I think a backlash would be a negative because I think we are moving in the right direction. Nevertheless, could capitalism innovate too much, create a public backlash and cause the system to be shut down? That's my main worry. Not so much the interest groups, but that the marketing and capitalist innovation will create something which we're all going to be a little bit afraid of and will create a public backlash.

MR. RAUCH: So, Alex, one reason I was keen to invite you was to ask you a mischievous question.

MR. TABARROK: (laughs) Okay.

MR. RAUCH: In the world of public choice, people worry about regulatory capture where the agencies wind up representing the regulated interests and they worry about rent-seeking where the regulations wind up building and, you know, large implicit subsidies to existing stakeholders and barriers to entry and so forth. Is it possible that marijuana is a place where all these bad public choice outcomes are actually a good thing because they will slow down innovation, new entry and so forth?

MR. TABARROK: Yeah, I think that's true. So, you know, Jim Buchanan, Nobel prize winner, you know, he once said that the mafia is a good thing because the only thing worse than a monopoly in crime is competitive crime, right? And so, if we have a sort more monopoly in the marijuana producers, they're going to want to raise the price, which is probably something we want to do anyway. Have a reasonably high price, you know, with taxes, perhaps. So, raising the price is not all a bad thing,

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but the problem is, I don't think that's going to happen until too late.

So, those kind of things, which you are talking about, that's when the public is no longer paying attention. That's when the rent seekers and the special interest groups and the small player--the small, you know, changes in the law, that's when those things--the turnover, you know, the revolving door between government and the industry. These things take time to develop and they develop when the public's no longer paying attention. Right now, the public is paying attention, so I think there's less of that and it's going to take too long before those forces sort of save us, if they would save us.

MR. RAUCH: Terrific, well, believe it or not, we're already down to 15 minutes. Phil, would you like to respond to anything that's been said before we go to Q&A?

MR. HARVEY: I'll just make one quick point. Maybe response to a couple of things, just that, you know, one of our prescriptions that we offer that I didn't mention before is just that states embarking on these experiments should do their best to put in place some information gathering processes that they're going to trust because part of the difficulty isn't just knowing exactly what is happening and being able to look at the whole body of experience knowing what the status quo was like and how it differs from the legalized regime that comes after. Because obviously, many of the worries that Alex just raised are worries that apply to marijuana prohibition states. I mean, the kind of use patterns and such. So, we need to know how legalization affects it, such that we can tailor the regulatory regime accordingly. And so, we do hope that states are thinking about how they can put themselves in a position not just to be buffeted around by the messages of advocates, but to have some trusted information as they go forward and try to make the best of their regulation.

MR. RAUCH: And Washington State has done that, as you have documented. It's not a theoretical idea. One state has already built in that kind of internal information gathering and baseline building process. So, let's go to all of you guys. I saw some heads shaking in vigorous disagreement at various stages. So, we have a microphone in the back. I think we might also got Twitter questions at some point. I'm going to start in the way back because I can't really--I see a man in a maroon shirt over by the wall.

Everybody, we're really short on time, so really keep it short or I'll get mean and nasty.

MR. BORDEN: David Borden with StoptheDrugWar.org. Just a quick reaction to

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something Professor Tabarrok said, the idea of keeping prices high as something beneficial. I think that may--it may be that high prices are beneficial, but high prices have their dark side as well. People who are hooked on a substance wind up spending more. Some of the most extreme harms related to addition to hard drugs are directly tied to the high prices. And with marijuana dependence, people in that situation may spend more than they can afford with all the harms that can go with that. So, I'm just raising the question. Are we sure that high prices are the best route to go, that they might not be?

MR. RAUCH: Alex, you want to respond?

MR. TABARROK: I mean, you know, look, there's lots of benefits of low prices. The very being that, you know, consumers benefit. So--and I don't think we should dispute which--and I think we should take these benefits into account. So, the marijuana users are the main beneficiaries of marijuana legalization and those count as real benefits. However, I do worry about the abusers and people and it's a large share of the market who use an awful lot of either marijuana or alcohol. And the thing about high prices, it won't dissuade the weekend user. It won't dissuade the casual user because you're only paying this occasionally, but it may have a bigger effect on the habitual user and probably that's a good thing. These other things that you're talking about, we have other means, other margins on which we can go after those things. You know, criminal law, so I think it's best we focus on the margin of sort of reducing the number of habitual users and deal with the problems of the habitual users with other methods, other than price.

MS. FRYDL: I just want to say very, very quickly, we should be distinguishing between high prices as a result of corporate monopoly and high prices at the point of sale. One of the virtues of a low price and competitive market is to make room for state taxation. State taxation is the principal way in which states can regulate marijuana.

MR. TABARROK: And one of the things I think about when we're talking about no federal involvement is, we have some pretty strange outcomes already by the way we've done this. I mean, medical marijuana is taxed at 2.9 percent recreational. Somewhere in the 20s and 30s when all is said and done, which actually can serve as a buying in bulk discount and I'm not sure we're using taxes in all the ways taxes are supposed to be used in the state of Colorado. And so, it's something interesting to think about of ways in which we don't have the reset buttons to try some of this stuff again and create a

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unified more coherent system, especially because it's written into our Constitution.

MR. RAUCH: There was a woman with her hand up for a long time. Your shoulder must be getting sore.

MS. BOVAT: It is. Sharyn Bovat, Voice of a Moderate. The week before the GOP debate in Denver, I went to Colorado. Hadn't tried marijuana for over 25 years and I researched the industry. Great research trip, but what I learned is 20,000 people a month are moving to Colorado. Violent crime is down, talked to the police, they said the homeless that have come in are mainly from Texas. They just got out of jail for drug busts. The homeless actually help the tourists cross the street. My question for you is when you look at all the problems, you have to look at the good and when you look at PTSD and 22 vets a day are dying and the number was only 200 in 2008, now it's every 10 days, there's more vets committing suicide. PTSD...

MR. RAUCH: Is there a question?

MS. BOVAT: My question, yes, is that cannabis can be a cure if it's funded for research and my issue is that a lot of those people moving are vets.

MR. RAUCH: Can I get you to...

MS. BOVAT: The question is, is high price really that important? It's a plant. People can grow it. Is there any way that everyone can have access to this? Thank you.

MR. RAUCH: Anyone want to respond to it? Take it as a comment. What was the question? Andrew? Yeah.

MR. FREEDMAN: First, we have a--we use some of the fees that have come in from medical marijuana to aped PTSD sponsored research. And the second would be, I hope nobody's taking any of my comments to be positive or negative. The model I'm under is totally good governance and so, I'm not here today to go either way on whether or not legalization is a good idea or bad idea.

MR. RAUCH: Who else? Gentleman--we'll go male, female here. Gentleman about six rows from the back.

MALE SPEAKER: Hi, my question is when do you think institutional investors will start getting into the industry and then how that will affect the lobbying efforts and the opinions of policymakers on the Hill? Thank you.

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MS. FRYDL: Now, they're getting in now. So, one of the challenges I issued to the authors of this paper is that regulation and decentralization is not just a function of state governance. It's also a function of economic concentrations of power. Washington state is now considering broadening out its investor groups. Investors are coming now. These ownership questions—this honeymoon period that we're in, I think the window is closing. We are now at the precipice of big marijuana and it's principally because of the question of investors.

MR. RAUCH: Phil, Andrew?

MR. WALLACH: On the other hand, it's because of the federal prohibition that remains in place today, this area presents sort of a special combination of risks to investors and that has definitely slowed things down and kept it among, you know, out of the true financial mainstream. And the banking concerns are there as well. So, I think it's--as long as the federal prohibition remains firmly in place that will really slow things down.

MR. RAUCH: Andrew, we'll have a second panel about investment and corporate marijuana. Is there anything that you'd like to say in this specific context of lobbying and investment?

MR. FREEDMAN: Just an interesting fact is Colorado--the marijuana lobby in Colorado just passed the allowance for out-of-state institutional investors as well as closely held corporations that are owned entirely by people--are the two that now can invest or will be able to invest in Colorado marijuana.

MR. RAUCH: Who else? The gentleman in the front row's been patient.

MR. WOOLDRIDGE: Howard Wooldridge with LEAP Law Enforcement Against Prohibition, for the good professor. Regarding one of the goals of Legalize, Regulate was to eliminate the cartels, the illicit market. My brother lives in Norway. A bottle of Jack Daniels will cost you \$80, so it has reduced consumption. However, people die every year in Norway from bad Jack Daniels as it's being smuggled from Sweden and Denmark. So, I would submit--yes it sounds great to increase the price so that people will smoke less. The trouble is, as you know, you should know, that in New York City today, what, about 40 percent of cigarettes are from Virginia. So, we have a robust black market there.

We need to find that sweet spot, and I would urge you to look at it that way, the sweet spot where you can destroy the black market, but not--and find that nice spot where you can do that. I

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would urge you to look at that as a goal because the black market employees' kids who get shot and killed, et cetera.

MR. RAUCH: Of course, the challenge in the public choice perspective is you can set all the goals you want to. The problem is implementing the goal when you're dealing with many interest groups, rent seekers, and so on. Anyone want to comment on that? No? Thank you for the point. Let's go over here, by the fire alarm.

MS. WALLACE: Hi, my name is Ann Wallace and I'm an independent cannabis blogger. I'm wondering--as I understand your central premise, it is that the decentralization of regulation in some way prevents the concentration of economic power and hence, the discouragement of big marijuana. I wonder if you've considered that, in fact, the reverse might be true, and that for instance failure of federal--failure of the federal government to address some questions like the repeal of Section 28E of the Internal Revenue Code, or the failure of amendments for Intellectual Property Law, or the amendments that would be necessary to banking law to permit legal cannabis businesses to have better access to banking. Isn't it possible that that failure, in fact, favors the more concentrated power, the deeper pocket?

MR. WOOLDRIDGE: Well, just to be clear--so, I don't think, really, anybody could look at the legal status quo with the federal prohibition and the states going forward and creating these regulatory regimes. I don't think anybody could look at that and say that it's optimal in any way. It just--I mean, it's embarrassing, as a matter of law. It creates all sorts of logistical problems, all sorts of problems in tax law like the one you alluded to, that John Hudak has written about. And so, yeah, we certainly don't want to give the impression that we think the ideal situation is just federal prohibition coupled with this state allowance.

Rather, we're saying that if we look ahead and think about what legalized federal regime might look like, we think it makes a lot of sense to treat it like alcohol is treated under the 22nd Amendment and leaving pretty much all of the decisions up to states rather than making those decisions in Washington. Once you've taken the necessary legal steps to normalize it to some degree as a matter of federal law.

MR. RAUCH: Yeah. The notion here is, the federal government, is federal regulation is one-stop shopping for lobbyists, and very hard to reverse once you go down that road. Makes

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experimentation more difficult, and while taking on board, Kathleen's critique as very important, there is no guarantee in the states, either. Interstate competition and variety does provide some buffer against this sort of rent seeking on the national level. We've got another minute. We can do one more question. Let's go to the gentleman by the aisle. Let's bundle the last two. Keep them really short.

MR. POUNDS: All right.

MR. RAUCH: There's one in the back row. So...

MR. POUNDS: Okay, I'll be --

MR. RAUCH: This gentleman, that gentleman, we'll do them both and then we'll --

MR. POUNDS: Okay.

MR. RAUCH: --hit them both and then we'll switch panels.

MR. POUNDS: All right, I'll try to brief as possible.

MR. RAUCH: Thank you.

MR. POUNDS: I'm Eddy Pounds. I'm a Maryland-based lobbyist, and if you're familiar with Maryland, we just--we're in the early stages of implementing our medical cannabis program. Now, our governor, Governor Larry Hogan, is said to be anti-legalization, and partly because of issues he has seen in Colorado. So, my question is to Mr. Freedman. If you could hit the reset button, what would you do differently with respect to recreational use?

MR. RAUCH: Great question. Second question?

MALE SPEAKER: Thanks. Hi, I just wanted to ask if anyone in the panel could please address the topic of dosages on medical marijuana and where that stands now in terms of who's developing this--the regulations and standards, and if there is any kind of a unification of that effort?

MR. RAUCH: I'm going to say both of those are for you, Andrew. Good luck.

MR. FREEDMAN: This is why you paid for a plane ticket, right? So, I would say to the first question, lessons learned that I would start differently--and again, this is going to be entirely from a good government standpoint. If I could hit the reset button, the very first thing I would do is put a moratorium on unlicensed growing and run everything through the License System 304. I don't know if that's five years, I don't know, but we have an economic incentive right now to grow in Colorado and ship to another state, and we have many ways in which that can happen, and it's a little bit like letting AI

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Capone's men continue to run liquor while you're trying to set up legitimate licensed liquor. And so that would be my absolute number one.

The other ones that I would do are kind of less important than that, but first of all, I would start data collection right away. I think one of the reasons there are so many different points of view of how Colorado is going is that we actually weren't collecting a lot of marijuana-specific data before legalization. And so, you can say there's been an incredible increase in DUIs, but we weren't actually enforcing DUIs all that much before 2014. We wrote a new law on it, and so all of that data is kind of out the window, and it's going to take much longer to get a good grasp on what is happening in complicated public safety and public health situations.

The third one I would do is--and this is maybe a little minor, but important--is, I would take a loan out against your general fund and start public education campaigns right away. I think a lot of what we saw in the first couple of months on this was that people didn't have their culture of responsible use at the beginning, and so I'm pretty proud of our campaign. Good to know, it's a campaign that doesn't talk down to people, it merely gives them information, but I would have liked to had that a month before or half-a-year before we ever legalize marijuana. And then, minorly--maybe not minorly--I would think of a moratorium on advertising until we can figure out what responsible advertising looks like, as well.

To the question on dosing, we've spent a lot more time--your question was medical marijuana, and the answer is, we don't know, nor do we think we have the resources in Colorado to answer very complex, "What is helpful amounts? What are side effects? What are beneficial amounts of medical marijuana?" and most of that is unfortunately done anecdotally rather than through rigorous science, and that's a part of the fact that it's a Schedule 1 and a lot of that research can't happen. Most of our dosing--so we now say that 10 milligrams is a quote-on-quote "dose," and you can only have 10 milligrams per product, or that it's clearly demarcated and stamped if it's more than one dose. It has to do more with, what would be a bad experience for a marijuana-naïve user? And so that dosing is, if you have 10 milligrams in a marijuana-naïve user, most of our pretty informal studies show you're not going to have a bad experience with that.

MR. RAUCH: Please join me in thanking our panelists. Andrew will stay with us.

(Applause)

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MR. RAUCH: I hope you folks will stay long enough to take questions as they come up.

(Applause)

(Conversation)

MR. RAUCH: So, we'll begin the second half with a reminder that those who want to Tweet in questions for our panel, please use the hashtag #BigMarijuana, one word. Thank you, now, to our second panel, equally distinguished and, I think, equally provocative. Andrew Freedman is staying with us. John Hudak is my colleague here at Brookings. He's a senior fellow in Governance Studies and deputy director for--of the Center for Effective Public Management. He's the author of a whole lot of stuff, including tons and tons of superb work on marijuana, which you'll find on our website, and most recently, "The Medical Marijuana Mess: A Prescription for Fixing a Broken Policy."

Just next to Andrew, to Andrew's left, we have Michael Correia. It's an honor to have him with us. He's the director of government relations for the National Cannabis Industry Association, which is the national trade group for licit--for the licit marijuana industry and now has almost a thousand member companies. And finally, at the far end, Jeffrey Zinsmeister, who is executive vice president of Smart Approaches to Marijuana, a national group that's become a leading voice in marijuana policy. He's also a senior fellow at the University of Florida's Drug Policy Institute. We'll begin as before. John, if you could give us a summary of our findings.

MR. HUDAK: Sure. Thank you for the introduction. Thanks, everyone, for coming. I'm on panels often that have to do with this topic, and sometimes you have some great panelists and sometimes you have some not-so-great panelists, and I have to say, having seen everyone on this panel speak before, you're in for a treat. I can't say that about necessarily my own performance, but the people up here today are truly top notch, so if this is your first marijuana panel, they only go downhill from here.

(Laughter)

MR. HUDAK: So, Jon and I, as he said, penned the second paper we're discussing today, and it focuses around big marijuana, and one of the challenges as we started out in talking about this paper and thinking about this paper and eventually researching it was defining, what is big marijuana? Big marijuana is everything and it's nothing. It's a tagline that gets attached to small firms and big firms and medium-size firms, and different behaviors within the industry, and so the challenge is,

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understanding what it's meant to be. Oftentimes, it's discussed as the Philip Morrisization of marijuana, and you can understand, yeah, that's it. Big marijuana equals big tobacco in that sense. That's certainly something no one wants, and--but big marijuana can be something else. It can be larger firms that are not the size of Philip Morris, that are not the size of some of these large corporate entities in other industries in the United States.

So, what we set out to do is try to understand not necessarily what that firm might look like, but what are the types of behaviors that you want to avoid? Because at the end of the day, that's the real challenge. If you had a Philip Morris-sized marijuana firm that was behaving in all of the right ways, engaging in none of the bad behaviors that we have seen in tobacco, that we have seen in alcohol that we have seen in the pharmaceutical or the financial industries, a lot of people wouldn't have much of a problem with it.

And so, what are some of those, in terms of marijuana, that we want to avoid? One is anti-social marketing, and that's marketing to children, that's marketing specifically to heavy users by capitalizing on what, for them may be an addictive substance or a substance that they are overusing. Those are real challenges. It's something we know happened in tobacco for years, both in terms of marketing, in terms of how the products were made, how they were talked about, how they were researched, how that research was held down or kept private. And so, those are the things--that's one area that you want to avoid from a big corporate entity and an industry like this one. Another is regulatory capture. We talked about that on the last panel. Regulatory capture is when the fox is guarding the henhouse, when the regulators are getting all of their information from industry and not thinking through what the biases might be about that information. That's something we don't want.

We also, in marijuana, understand that there are patient concerns about big marijuana. Will big marijuana emerge from a recreational market and start to crowd out what among medical marijuana patients believe are legitimate health concerns, legitimate safety concerns, and serious concerns about access? As Andrew said, in Colorado, medical marijuana is taxed at a much lower rate than recreational marijuana is. In some states, they don't tax it at all. In Connecticut, for instance, Connecticut initially started by having their standard sales tax attached to medical marijuana, and then the legislature said, "We don't tax prescriptions. And so if we're going to treat this like medicine, we're

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going to treat it like other medicines,” and they got rid of the taxes entirely. And so, there are patients who are concerned that if big marijuana muscles its way into the recreational market that the carve-outs that patients appreciate right now, they might go away.

In addition, big marijuana could also create or push for extraordinarily high barriers to entry. So, increasing the barriers to entry in an industry that already has quite high ones, that can cause a crowd-out effect as well, and at the end of the day you have large firms that just cannot be displaced. So, those are the types of things that you try to avoid. And so, when we talk about big marijuana, it's seen as bad marijuana. Big equals bad. But the flip side of that is that small and medium equals good, and that's a real problem.

There are, in industries across the United States, big corporate actors that are good actors, and there are some that are bad actors. But at the same time, when you look out at the states that have legal marijuana right now, there are a lot of small actors who are bad actors, too. Home-grows are creating problems in Colorado. There are a lot of good, honest, genuine home-growers who are abiding by the rules laid out in the Constitution and in the limited amount of regulation that goes--that exists around home-grows, but there are bad actors, too. There are bad actors among medium-sized firms. And so this idea, as I said, that big is always bad is wrong, and that differently-sized is always good is also a real problem.

So then Jon and I explored, what are some of the benefits of a big corporatization of marijuana? This is something people not to talk about, right? One of them is compliance. Big actors are--they are incentivized to play by the rules because they have a heck of a lot to lose, and in an environment in which regulation is legitimate, and in Colorado it certainly is--if the state shuts down one of the bigger players, there's going to be a lot of people to swoop in and take that business, and they're going to do it. And so because of that, big firms are induced to comply. They're interested in regulation.

Bigger firms can also afford larger regulatory departments within those firms. People who are keeping up-to-date, understanding what's going well, what's changing in the regulatory landscape, what may change in the regulatory landscape, those are all good things, and attached to that is reputational accountability.

The one thing that's very interesting among marijuana consumers in legal states is that

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they actually have buy-in to good companies, companies who are making a difference in their communities, companies who are playing by the rules. And having talked to a lot of consumers from legal states, they are not interested--or, several of them, who I've talked to anyways, are not interested in buying from firms that are breaking the rules, that are getting either cited or shut down for short periods of time or longer periods of time. That reputational accountability means a lot. Branding means a lot to a much larger firm in a way it doesn't necessarily to a very small firm.

Big marijuana also employs business acumen. Not every marijuana grower in the United States should own a business, and not every businessman should be growing marijuana. But what you see in a big corporate structure is not just someone who used to grow marijuana when they were a kid diving into the corporate world, but people who are bringing minds together, minds that know a lot about growing and minds that know a lot about business, and those are successful models. Not everyone can learn, either. I'd argue it's probably a heck of a lot easier to learn the business side than to grow high-quality bud, but people aren't thinking about it in that way, and so you get a lot of marijuana startups that very quickly shut down.

And also attached to that is product quality. These firms are able to test in much better ways and absorb the costs of testing of their product to make sure that you know the potency, the strength, whether they are--they have pesticides in them, whether there's black mold or other bacteria. Those are all very important things in terms of growing marijuana. Big businesses are better at than small businesses.

So, we have a couple of recommendations about how we should think about big marijuana, its costs and benefits, and how states should move forward as they're thinking about it. The first is, don't talk about corporate structure or industry structure in hyperbolic ways. Don't always compare this demon of big marijuana to Philip Morris because there are a lot--as I said, there are a lot of firms that don't have to look like Philip Morris that can do all of the things that you're scared of.

So, talking about it hyperbolically, I think, really misses the point and a disservice to the discussion. But also, my recommendation for states would be, don't talk about corporate structure or industry structure at all. That's not the point. The point is the outcomes you're interested in. This is a space that very few people think should go unregulated, and frankly, those people are crazy. It's a space

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that a lot of people want a lot of regulation.

A regulatory model in this sense is great because that's the way States in society can achieve the outcomes that they want from the businesses that they're overseeing. Well, the best way to get the outcomes you want is to think about those outcomes. Don't think about what structure you like the most. Think about whether you want advertising to be available to children or advertising to be available at all. Big and small firms are going to try to advertise to children if left unchecked. So do something about the advertising. And that's the most important takeaway, I think, from our paper--at least, the takeaway that we want the most is that there are legitimate concerns, legitimate questions about what this industry is going to do to consumers, to society, to public health, to public safety. And so, that's the place that regulators can show their best, is to think those issues through, think best about how to avoid them, and to achieve the outcomes that you want. Thanks.

MR. RAUCH: Terrific. Thank you, John. If I could supplement another takeaway from our papers that--read it and see what you think, but we think that both the industry structure and the regulatory structure's more likely to wind up looking like alcohol than tobacco for a whole lot of reasons and that alcohol is a pretty successful market and regulatory model, which isn't to say that it doesn't have flaws, as everything does. Why don't we--shall we go down--Andrew, are you ready to be T'd up? What's your experience in Colorado with big marijuana, the profit motive, and so forth?

MR. FREEDMAN: Brookings has given me a lot of homework for today. One of the things I forgot to do was come up with two introductions on how to do back-to-back panels, but --

MR. RAUCH: Do you want to go last?

MR. FREEDMAN: No, I'm T'd up. I'm good.

(Laughter)

MR. FREEDMAN: So, I don't want to--I don't think I'm being hyperbolic, in this moment, to say I think this is going to be one of the most important papers for the next two years of marijuana debate, and so I congratulate the authors on it because it is both provocative, and I am sure there are a lot of groups that would wholeheartedly disagree with it, but it's very well put together, so I urge everybody to go and read this. And, secondly, I hope you're right because I think there is an inevitability to big marijuana in Colorado already seeing the consolidation.

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Marijuana is a commodity crop, and scale matters, and we're starting to see barriers to entry and the ability to be efficient over scale. I think the ways in which we would have to step on that are pretty dramatic in order to stop consolidation, and frankly, I'm not sure government is equipped to stop it. And so, everything that we would try, and really everything we kind of have tried until now, you watch how quickly those with good lawyers can get around what you put up and you end up with things that actually get in the way of your regulators doing the job they're supposed to do in order to try to research complicated financial structures. And so, my biggest hope for the paper is that you nailed it and that these structures will not--or that we can focus on other things other than how big the structures can be.

To the point of whether or not we just ignore it all together and we kind of stay neutral on structure. I'm not sure we can do that because a lot of these questions, they hit on regulatory authority, they hit on political problems that are going to come our way anyway. So, I'll give a couple of examples. The first is vertical integration, which is something we dealt with when we started with marijuana grows on the recreational side because obviously we have them on medical side. You have to have a patient's recommendations in order to dispense that plant for that patient.

But on the recreational side, we didn't know whether or not we needed it and a lot of people argued that you should allow the free market, you should be able to just grow or you should be able to just sell. And people argued that if you had vertical integration, only the big guys would succeed. But we started with vertical integration for the very simple fact that we wanted fewer players at the beginning when we rolled out marijuana and we couldn't overwhelm our systems with background checks. And so, it's one of those places where, yeah, it had an impact on barriers to entry.

For the first eight months, we only allowed vertical integration, and then we got to smash our vertical integration, which was one of my favorite terms that we've come up with so far. But that wasn't a choice on our part about what we wanted the economic structure to look like. That was a choice on what we thought our regulatory system could handle.

A question that's coming up now is whether or not we need to bring distributorship back into--much like alcohol. Well, in a lot of ways, that is a question about public health, public safety. Would it be better to have a redundant check on a lot of these things, have one more person along the pipeline that has to be responsible for that stuff? But in a lot of ways, that's a question about economic structure

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and how big or small a single company can get.

And then out-of-state investment is the exact same thing. And that one is more of, can we ignore the politics of everybody pounding on our door saying either, "We want" or "We don't want out-of-state investment, and where do you guys stand on this?" And it also implicates the Cole Memo of allowing for--to what extent there's interaction with people out of the state. And so, all those things mean I'm not sure we have the ability to stay neutral on these things, which is something I would love to dive deeper into.

I worry about a lot of the same things. I worry about marketing with big marijuana. I do worry, not that I don't think, you know, marijuana has the same 20-80 problem, as pointed out in the paper, that roughly 20 percent of the users use 80 percent of the product. You worry that people are going to move towards getting people addicted, and people getting people addicted younger. And you worry that those who have access to capital know how to do that in a much better way than those that don't have access to capital. That keeps me up at night. But on the other side, I've seen the dangers of having small grows.

When we implemented pesticide regulation, I had a woman come into my office crying because her kids were no longer going to be able to go to law school because we caught pesticides on her marijuana, and my heart broke for her because we literally took every dime of her savings away from her, but also, you can't have pesticides on your marijuana. You can't have off-label pesticides on your marijuana. And so, that's something that is much easier if you have somebody with the capital to get over new regulatory challenges that won't go out of business every time the wind shifts, and so--both heartbreaking, but also a lesson of how hard it is to be a highly regulated business owner when you're dealing with not very much capital.

And then the final thing I'll say is, there's a lot of talk about lobbying power of the big guys. I will tell you, I've seen lobbying of the medium and small guys, and it's pretty strong, too. And so these guys know how to join industry groups and their problems are a lot different than the big guys'. One of the things one of my regulators told me--who also regulates casinos--is, the big guys don't play small ball, but the small guy--but the medium guys do, and so you're much more likely to get through some of these bumps in the road with, say, again, pesticide regulation with the big guys who will just say,

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"Fine. We'll figure it out and we'll get there." Then you're out with the small guys who say, "No, no. This is going to put me out of business." And so, they also know how to lobby, and they also know how to put money behind lobbying, and they go down with a fight. So, that's what I got from your paper, so thank you.

MR. RAUCH: That's fantastic. Life sure is interestingly complicated when you actually have to implement these decisions, isn't it? Michael Correia, you must spend 24/7 dealing with issues around big marijuana. What's your perspective on our paper and the whole question?

MR. CORREIA: Well, I have to apologize to the audience that I didn't bring samples, and so --

(Laughter)

MR. CORREIA: --we don't have that. Maybe next time we can sponsor.

(Laughter)

MR. CORREIA: I wanted to thank Brookings and both Jonathan and John for doing this paper. It's a wonderful paper. And, like Andrew had mentioned about his mother, now, I can say I have spoken at Brookings and she is going to be very proud of me.

I thought the paper was great. My feelings can be summed up on page 2 where it says, "Intelligently regulated, managed, big marijuana can be part of the solution." And I think that's very important. My view has always been, if you create a proper regulatory structure, you're going to get a good result. Our opponents will say, "If you legalize marijuana, people will start consuming marijuana." News flash, we're already consuming marijuana. I think, half the population--marijuana has been illegal for half a century, and half the population has consumed marijuana, and I think 20 million, almost 20 million have consumed it in the past two months. And so, just as alcohol consumption didn't drop with prohibition, marijuana consumption didn't drop during the war on drugs. And so, it has always been supplied by a black market, and I think the only sensible approach right now is to bring it forward, tax it, and regulate it behind a legal counter, and that's very important.

Every fear we have about marijuana can't be addressed in a black market, but you can't control the black market, but you can control a regulated market. Andrew talks about what he's working on in Colorado, but he has that power. In a black market, he doesn't have that power. The drug cartels

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don't care. They don't care, they don't care about pesticides, they don't care about rules, they don't care about regulations. And that's the world we've lived in for half a century.

Some of the highlights of the paper that I just wanted to point out. In our view, any conversation about marijuana policies should not begin with a debate over firm size or corporate structure. Instead, the discussion should focus on types of behaviors, outcomes, situations, and costs that should be encouraged or avoided, and best to generate the incentives to achieve each. That's going to be--that's the most important thing policy-makers should be dealing with, is--this is consumer-driven. The big marijuana is not out there pulling strings, forcing people to consume cannabis or smoke marijuana; they're already doing it. What the industry is doing is providing a product that the consumer is already demanding and that's really important.

So, I wanted to thank Brookings for at least having this discussion. We need a serious discussion about this to talk about the role industry plays, the role in regulation, the role in taxing. And what I think--what I find frustrating about Project SAM is, they're not solution-oriented. You look at their website; they say they're focused on stopping marijuana legalization. Not controlling corporate America or big bad, stopping marijuana legalization. And they said it--"Because it has placed corporate profits and addictions ahead of public health."

Colorado legalized two-and-a-half years ago. Where is this big corporate model that's been out there forcing people to take a choice, and, we're going to have you smoke marijuana versus public health? And that's sort of a false premise that they've put out there and I think they've been demonizing the industry like we've been around, like we are big tobacco, and it's just not been the case.

And the other thing I wanted to point out was that the previous panel, everything they discussed whether it was pro or con still pointed back to the fact that we need a regulated market. Everything has to come back to a regulated market. And so, I'd like to be able to answer a lot of questions. I want to keep this brief. And so, those are my thoughts on that. So, thank you.

MR. RAUCH: Okay, Jeff, you're up. You got tee'd up there a little bit there by your predecessor, but we're saving the best for last, so Jeff Zinsmeister of Project SAM.

MR. ZINSMEISTER: Well, that's all right. We'll have some words for Michael here towards the end of this.

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(Laughter)

MR. ZINSMEISTER: Don't worry, we won't leave you out.

MR. RAUCH: This is why they come in such numbers.

MR. ZINSMEISTER: That's right. No, we promise entertainment here.

MR. RAUCH: It's an entertaining match.

(Laughter)

MR. ZINSMEISTER: Well, first of all, again, I wanted to echo what everybody's said here, and thank you for the opportunity to be here. It really is a distinguished panel, and two distinguished authors here. I actually going to take the bulk of my time, actually, not sort of going, you know, sort of back and forth with Michael, but I do want to comment on the paper itself, too, because--well, I think it's an admirable effort. I do think because the paper doesn't really engage in some meaningful comparative market analysis here, it kind of misses the central point here and some very important facts.

You know, I look at this from this perspective too because before getting involved with Smart Approaches to Marijuana, I worked for Bain & Company's as a management consultant, so this is something that is very familiar to me. And what I would say just briefly is, if you look at the way that these various industries, tobacco and alcohol and marijuana, are set up and what the cost structure is and how they operate, what you see is two things. I mean, number one is that a very highly concentrated marijuana market is inevitable if it's legalized, and that's really just because of two reasons.

It's because it's a very capital-intensive industry. Instead of being very labor-intensive, it requires a lot of upfront capital, and that makes it very scalable, which basically means that the bigger you are, the more competitive you are, and the lower your costs are going to be since you divide those big capital costs over a larger and larger amount of product. And that's particularly true with tobacco, which has a very similar production process to marijuana.

You know, it's cultivation. You cure the product. It's rolled into joints or it's put into other products, and then it's sent in distribution channels for retail sale. And alcohol, honestly, it works just the same way. I mean, beer and spirits are very highly concentrated, just like tobacco because they have a very capital cost, relatively speaking, and they also have--they share brand loyalty, is a very important

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dynamic, as well. And so big companies tend to be better at creating brands and making brands stick. Wine, as you notice in the paper, is much less concentrated than those other two segments of the alcohol industry because it is much more labor-intensive. And so, bigger producers have less of an advantage when it comes to competition.

So, it's just simple market dynamics. I don't think--you know, when you look at the initial studies that have been done, and there aren't too many of them out there, but the initial studies that had been done about scaling in the marijuana business, as Andrew said, you have huge, huge advantages the bigger you get. The production of marijuana cultivation is a commodity product. The more of it you buy, the better deals you're going to get, and distribution--working with distributors is the same way. The bigger you are, the better deals you're going to get. And that's where, I think, also the comparison with this--sort of this--the argument that a three-tier regulation model like you see with alcohol is going to somehow break this. It just becomes counterfactual for two reasons. I mean, number one, it didn't break the consolidation of the beer industry. In fact, the beer industry consolidated steadily from prohibition--the end of prohibition until the '80s, and it's only recently have you have seen a resurgence of smaller breweries as the three-tier model has started to break down in certain states, and they've allowed direct sales to consumers precisely because those--that--those distribution channels and those contracts favor large companies that can negotiate better deals and drop costs.

So again, if you legalize marijuana, you are going to see the same business dynamics that will force the industry towards consolidation like tobacco. I don't think it really matters how you regulate it unless, as Andrew mentioned, you have very, very heavy government regulation that effectively just breaks up large companies.

The second point with some of my remaining time is, I think it's also very difficult to break the market forces that inevitably lead big marijuana to act like big tobacco. Both businesses, the majority--as it's been mentioned several times here, the vast majority of revenues come from a very small percentage of heavy users, and more--the younger you are, the more likely you are to develop that type of heavy-use pattern that boosts revenues. So, there's always going to be that profit motive pushing companies to sell as young as possible and to sell to heavy users.

Now, you can say that ethics--well, you know, we don't think like tobacco executives

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anymore, but I would challenge people who make that argument to actually go sit on and watch shareholder meetings, or to meet with large--with executives at large public companies. It's very, very hard to resist equity holders' pressure not to boost profits as high as possible. Because if they don't like you--if they don't like one management team, they'll just replace you with people who will do what they want. So, what we see here is just--I mean, it's just sort of an inevitable trend, and that's true with tobacco, and that's actually also true with alcohol to a great degree.

I think we see alcohol a little bit differently because it's more socially acceptable. And you can just see that in, you know, doing dating websites. I mean, people will say, "Well, I won't date a smoker." But you rarely see people say that about drinking. I mean, we just see it in a different way. But there is--you know, the alcohol industry consistently refuses to institute moratoriums on advertising. They do target children with their ads. There's plenty of evidence out there to show that that happens.

So, you know, again, I just think that you inevitably--these business dynamics inevitably push marijuana, just like tobacco, into a model that is constantly going to be pushing the limits when it comes to targeting children and to targeting heavy users. And if you--you don't have to believe me, and this is sort of my final point on the paper, is that you don't have to believe me. I mean, all you need to do is look at the internal tobacco industry documents that show that they've been studying this market since the late 1960s, and in fact, have already acquired intellectual property around cannabis. You know, in some ways, all of this discussion is moot if--you know, when--assuming that marijuana is legalized at the national level, that the tobacco industry simply jumps in and consolidates the industry under its existing brands. And then it is, literally is big tobacco.

And finally, you know, I find that sort of--I mean, I guess I expected from--to be honest, Michael, I expected from a lobbyist the sort of talking points about how we're part of a problem and we're part of the solution, and I take that in the context of, you know, they're paying you to say that, and I get it. You know, you--this is, you're a lobbyist and you're a paid lobbyist and that's what you do. But I will say this, you know, we--you know, there's a reason why both Congressman Patrick--former Congressman Patrick Kennedy and David Frum agree on this issue and, you know, two people from very--you know, very different sides of the political spectrum, and are concerned about the way that this debate is going, and frankly, are very concerned about how the industry that you're representing is putting--is framing the--

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these ballot initiatives that certain states are going to be voted on.

And I will just close with one, sort of, observation on the--on a number of the ballot initiatives that are up for grabs this year. A number of them, when they constitute their, they set up these State regulatory panels, they mandate by law that the industry will have seats on them. And in fact, in certain cases like Arizona, it's three out of seven, in Massachusetts, it's effectively, you know, de facto nine out of fifteen, so--you know, speaking of the fox in the henhouse, it--I mean, that's exactly what we're talking about, and that's before this industry has even had a chance to pick up steam.

I mean, the only reason, really, that the industry is still in its sort of fragmented state as it is today is, it's new, and you don't have access to all of those levers of institutional capital, like legitimate, you know, legal businesses at the federal level do. If you did, then industry would consolidate very rapidly. Institutional capital would have an even greater role, and we would see a large consolidated national market like we do with alcohol and tobacco.

So, with those comments, I just want to say thank you, again. I appreciate the chance to engage in constructive dialogue on this.

MR. RAUCH: Thank you.

MR. CORREIA: Can I --

MR. RAUCH: Thank you, all --

MR. CORREIA: Can I have some fun with that?

MR. RAUCH: Yeah, we'll come back around, but I wanted to thank everyone for some good civil disagreement. We'll give you all a quick second shot for whoever wants it, but we needed to get to the audience soon and I wanted to offer John the opportunity to just make any return comments.

MR. HUDAK: Sure. Sure. I'll respond really briefly to two points. The first is Andrew's about not being able to avoid thinking about structure, and I think that's an unfortunate political reality that exists particularly as these initiatives or what will almost certainly soon be legislative actions that legalize marijuana at the State level. Those political negotiations naturally jump towards adjusting market structure, and that's fine and I completely understand. But what I would argue is, just think first, as I said before, about outcomes, and then think about how you can manipulate market structures to achieve those outcomes.

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So it's not that necessarily state should let markets form themselves as they may, but think about how you can create the, sort of, avenues to make sure that those structures achieve what you want them to achieve. My--I guess she's not technically my colleague, but I consider her one--Sarah Trumble from Third Way, she argues that--at the federal level, when the federal government eventually addresses this, they should put in guardrails--and Mark Kleiman makes this argument, too--not to hem in the States in a very specific way, but to give them a little bit of latitude, recognizing that each State is going to have its own unique issues or problems or whatever when it comes to this. And I think with industry structure, that's one way of doing it, too, making sure that you're not necessarily defining exactly what a structure is because that's the structure you want, but rather to put in this sort of guidance system to make sure that some of these bad actions--and Jeff certainly highlighted a lot of them--are avoided.

For Jeff, I couldn't agree more that there is a march toward consolidation. We make the point several times in the paper, Andrew makes the point. I think looking at it, it's, as you said, certainly a natural process because marijuana is so capital-intensive, but I also think it's true because of who's getting into--who licensees--there are a lot of licensees who are jumping into this who have no business trying to open a marijuana business. And so, in part of the failure is the capital-intensive nature of it, and they're just not funded well enough to do it, but also it's--in some cases, just a total lack of business acumen.

So rather than them closing their doors, they save what they can and agree to be bought out. And so those types of behaviors, I think, are adding to what Jeff is absolutely spot-on with about the capital-intensive nature of it.

What I will say is, the idea that we're moving toward big tobacco-style bad behaviors, there will certainly be people with those motives. There will certainly be motives in general that drive those interests, but I do think that people are very skeptical of those behaviors right now. We know what they look like. In the 1960s, we actually didn't. People weren't comprehending what tobacco companies were doing. People know that now, they're weary of it, and for an industry that people--even supporters of legalization--are highly skeptical of already, I think that skepticism combined with an understanding of what those behaviors look like, what they might look like in public, what they might look like in private, is--would make reforming those institutions, the industry, the businesses themselves, the regulations,

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reforming them a much easier sell to the community at large, to the State--to States itself or to federal legislators because of the weariness that has existed now for a few decades around tobacco, and the weariness, I think, that exists about the marijuana industry itself.

MR. RAUCH: Let's ask the other three for a lightning round. You'll get 45 seconds each to answer any big outstanding questions, but I'm sure we've got a lot of activity in the audience and only 15 minutes. So, just going down the table, Andrew, anything to add?

MR. FREEDMAN: I've had my opportunity.

MR. RAUCH: Michael, anything to add?

MR. CORREIA: Yeah, I just wanted to add, in your comments, you're indicting capitalism; you're indicting the corporate structure. From a starting point, no one wants kids smoking marijuana, just like we don't want kids drinking alcohol, we don't want kids smoking cigarettes, we don't want kids firing guns, watching porn, hell, even eating junk food. But what do they have in common? They're all legal, and so you control that by education and that's how you get it down.

And so, if you apply that standard, we wouldn't have any industry. And you talk about corporation or a corporate structure like it's bad, but that's how our entire economy is built. And so, I just--that was just my comment.

MR. RAUCH: That was exactly 45 seconds.

(Laughter)

MR. RAUCH: How did you do that? Jeff.

MR. ZINSMEISTER: Sure. My only response to that is, the difference between this industry and almost every other economic sector in the world is that this is an addictive industry and it sells a product that's addictive. And so it plays by slightly different rules, and we have to look at it a little bit differently. So, you know--yeah, I mean, there's sort of facetious criticisms that sometimes will bring up, as well. "You want to ban sugar, or what about coffee?" et cetera. We're talking about marijuana here; we're not talking about those other things. I'm not here to debate those other things, and frankly, that's not--and I'm not interested in debating those things because that's not what we do. We're just focused on whether creating a commercialized market for marijuana is a good idea or not, and I would posit that the dynamics of addictive products, when you marry that with industrialization and Madison

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Avenue-type marketing, you get negative results. That's all.

MR. RAUCH: That was 47 seconds. How do you people--you've done a lot of panels over there, haven't you? (Laughs)

MR. ZINSMEISTER: Right, I even bring my little stopwatch, to be honest.
(Laughter)

MR. RAUCH: Amazing. Well, let's go to the audience. Before we do, I'll use moderator's prerogative just to say, when you read these papers, you'll see a couple points that haven't come out in the panel which I just make in passing or at least alert you to. Our paper doesn't dispute that consolidation will happen in the now extremely fragmented marijuana industry. The question is whether that's a bad thing, and we point out that there are very significant benefits as well as cost to consolidation.

Another point we make which we think is often lost in this shuffle is that big industry and big regulation are friends, not enemies. So, the tobacco industry now is extremely heavily regulated. All the behaviors which you think of as bad, those are basically illegal now. The FDA doesn't allow them. Entry is also very difficult, and size is immense in this industry. If you want big industry, the quickest road to get there is big regulation for the reasons we've been discussing. That's not an argument for or against big; it's just to say this doesn't necessarily cut the way people sometimes assume.

So, let's go to all of you guys. Okay, no shortage of hands. I'm going to start at the very, very back, in the--again, the gentleman in the yellow shirt. Again, we've got 15--less than 15 minutes and lots of people, so please keep it short and make it a question.

MR. VALDERRAMA: Thanks. Rodrigo Valderrama, Plantation International, and I'm with you on the fact that you shouldn't advertise to kids or all that. Simple question is, what's the deal on the banking? When is that going to be allowed, and--they're--you're basically creating another industry of guards, just--not being able to use the banking industry.

MR. RAUCH: I'll certainly let Andrew speak on this, but from my perspective, what's interesting about banking, it's really a challenge for the industry which all of you who have paid any attention to this knows, from talking to people on Capitol Hill or talking to lobbyists, for instance, this is the one issue that Congress actually sees in a sort of clear-headed way as a major issue. And so, I think for a lot of people, whether you're a legalization opponent or supporter, you look at this and recognize it's a

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pretty serious public safety issue driving wads of cash around in cars.

And so, I think for a lot of people, even opponents of marijuana legalization, they look at it and say, "Listen. If we're going to have this in our state, this is something we can't have." I mean, it's only a matter of time until there's a very serious armed robbery. That's just a reality. But what I will say is, because I've been paying so completely to the panel, just as we sat down I saw on Twitter, the Senate Appropriations Committee actually passed an amendment to a funding bill this afternoon that would grant access to banking in States that have legal marijuana operations.

Now, that's just one Senate Committee passing that provision, but it goes to show, the Senate's actually a lot harder than the House to move things on this--at least, historically, that's been the case. And so I think it shows that moving in that direction is going to be the easier sell because it's not really about marijuana, it's about the safety and security of individuals working in the industry.

MR. FREEDMAN: Ah, sorry.

MR. RAUCH: Oh.

MR. FREEDMAN: Two seconds on that one.

MR. RAUCH: Yeah, sure. Please.

MR. FREEDMAN: I'll start with the little good news and then why it's still a problem. The good news is, I think we've found some pretty good short-term solutions, and they've generally focused on forgiveness rather than permission from the federal government. We tried permission a couple of times, we tried to pass a brand new financial institution structure called Cannabis Co-op. We then tried to charter the first cannabis-only credit union called Fourth Corner. Both of those were rejected by the Federal Reserve.

But there are now, you know, six to a dozen to maybe even a few more community banks and credit unions that are filling out suspicious activity reports and openly banking marijuana, and I think that's actually been helpful, and we've seen a market uptick in the number of people.

Now, I think--now, instead of having a banking problem, we still have a Visa, MasterCard problem because even though they have banking relationships, they're still doing everything in cash because there are policies at both--at the credit card companies that they don't allow for these transfers. And so that's actually probably the most important one, to get online. And the last thing I'll say is,

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banking--until you get to 100 percent banking you still have a big problem, which is that you can claim to be this 15 percent who simply cannot find a banking relationship and then be a money-laundering institution and hide in those shadows. And so, an 85 percent fix is a good fix for public safety, but the other reason you want 100 percent banking is to have legitimate financial oversight, and until you get to 100 percent you're not there.

MR. RAUCH: And that is my main focus. At the federal level, it's educating policy-makers about the need to address this issue. I think it's a safety issue, a law enforcement issue, and people shouldn't be carrying around suitcases filled with cash.

MR. ZINSMEISTER: I mean, we just see it as, it's not a major focus, but we do see it as a real indicator of the ability to scale, I think, is access to banking and financial markets, so, I--you know. For those in the industry, if you're looking at--if you're interested in sort of knowing when the big competitors are going to really start sprouting up, I think that's going to be a big factor.

I mean, we don't support it; obviously, we don't because, you know, we're opposed to legalization and commercialization generally, but it's obviously not something that we, you know, have made a center-piece of what we talk about.

MR. RAUCH: Good. Thank you. The banks are filling out suspicious activity reports, filing those, and the federal government is choosing not to enforce. Is that how it works?

MR. FREEDMAN: Well, the guidance that came out, they're called the Valentine Dating Memos--because they came out on Valentine's Day--said that there's basically three levels of suspicious activity reports you should fill out if you're banking marijuana. One is, this is happening within the regulated industry of that state, and see--things seem to be going as per the Cole Memo. The second being, "Hey, I think we're seeing something wrong," and the third being a termination memo. They've then said, "And if you do that, it might be okay." And so, everybody sees this as a giant blinking yellow light, but people are now going forward with that.

MR. RAUCH: Interesting. Gentleman in the back with the blue blazer.

MR. CAPECCHI: Hi. Robert Capecchi, Marijuana Policy Project. I got a question for Andrew. Jeff brought up the fact that a couple of the ballot measures have regulatory bodies that automatically seat individuals from the marijuana industry on them. I'm curious what Colorado's

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Regulatory Board structure was like, and if you had individuals with industry experience, whether that was helpful or whether you found them to be obtrusive towards regulating for public health measures.

MR. FREEDMAN: So, we don't have a Regulatory Board for--on the Department of Revenue. We have our State Licensing Authority, which is Barb Brohl, which--I think that's pretty cool, she just is the authority. What we had was an advisory group that was very, very influential, and that was our Amendment 64 Task Force that really did--it had everybody on it and that was incredibly important and it was incredibly transparent. It was probably one of the top three smartest things we did while implementing legalization. I will tell you that there has been a couple of efforts by members of industry to create a board for regulatory oversight that would seat people from the industry on it.

We were, frankly, pretty appalled by the first board structures that we saw. This would have--it was a legislative push by some members, and something that we saw as bad marijuana. And so, we think it's far too early for the roosters to guard the henhouse.

MR. RAUCH: Or the foxes, as it were.

MR. FREEDMAN: Oh, yeah.

(Laughter)

MR. RAUCH: The roosters probably do guard the henhouse.

(Laughter)

MR. FREEDMAN: Thanks. I think I've said that wrong for, now, three years, so.

MR. RAUCH: We have a hand up here, fourth row back.

MS. LANZO: Hi, Fernando Lanzo from the O'Neill Institute for National and Global Health. While I am a big advocate for legalization, I am slightly concerned that you think that big tobacco is something that's improved in recent years, and I think the fact that you have other industries such as the soda industry, which is an industry that no one really talks about, shows that, yeah, they don't do these bad practices that they used to before, but they still make the rules in the game. Like, FDA can now regulate things, but the tobacco industry has put enormous pressure so that they haven't been able to pass taxes or any advertisement regulation since 2009.

So my concern--and this is more for John, I guess--is, you kind of talk about, "Well, we should think, 'Is advertising to minors something we want to focus on?' or 'Is this the measure that we

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want the outcome to be?" But if it's the industry that ends up making the rules, how are you making sure that these outcomes are actually going to be put in place?

MR. HUDAK: Well, I think I pretty straightforwardly addressed that regulatory capture is a problem and it's something that should be avoided. One of the challenges, of course, is when you try to regulate an industry that's already existing based on errors that it is committing. Now, one of the opportunities that exists, at least right now in a lot of spaces, is that marijuana is still illegal.

And so as it comes online, and particularly as states learn from other states, they are able to design regulations in ways that are much more effective rather than having to go and re-regulate a tremendous industry with giant corporate players. And so, even now, with big marijuana not really in existence in the way that we think of tobacco or pharma, it is going to be easier to do re-regulation, now, of the marijuana industry as we see these issues pop up rather than what's going on in tobacco, I mean.

But to your first point, I think we make no reference anywhere in the paper that there are not problems in these peer-vice industries. But I think anyone who thinks that tobacco is behaving as badly now as it was in the 1960s probably has a pretty rough understanding of what big tobacco was like in the 1960s. They're not angels, by any means, but they were a hell of a lot worse 50 years ago, and that's the point we make throughout the paper.

MR. RAUCH: Yeah, I would disagree with your characterization of tobacco regulation. Tobacco is, as far as I know, far and away the most heavily regulated consumer substance, and those industries are very tightly regulated in terms of marketing. I mean, the Marlboro Man, all that stuff, this is long-gone introduction to new products and so on, so you and I could have a discussion after, but I'd argue that they--it's--you know, maybe there's stuff left to be done there, but this is not the buccaneering big tobacco of your... At least, that would be my view. Let's see, who else?

MR. ZINSMEISTER: Okay. Can I add on, just one quick comment, or do we...? Yeah, I would just say--yeah, I agree with that, largely speaking, but I think that there's still--there are still areas where we should be careful. I think the e-cigarette industry, which is rapidly developing--and actually is an entry point for the tobacco industry into the marijuana markets, and so some of these vaporizing devices have dual uses--I think could be another area where we may see some issues down the road, with tobacco, and --

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MR. RAUCH: Yeah. Yeah, maybe.

MR. ZINSMEISTER: Yeah, that's fine.

MR. RAUCH: We'll stay off tobacco --

MR. ZINSMEISTER: Good.

MR. RAUCH: --though, and we're down to a minute-and-a-half. So let's do the gentleman in the front row who's been very patient.

MR. KIMBLE: First of all, I thought--

MR. RAUCH: Oh, it's Rick. Sorry.

MR. KIMBLE: Sorry.

MR. RAUCH: Rick --

MR. KIMBLE: Rick Kimble. I'm on the Brookings board. I thought you guys have done an outstanding job with these couple of papers and the panelists have been outstanding, so thank you so much. So, I was interested in the dynamic over here with Michael and Jeff, and I heard some comments about how industry has not yet consolidated in terms of its lobbying efforts, three different organizations. It would seem to me that the industry would want to be really ahead of the curve in ensuring good regulation, and then, Jeff, what I heard was sort of, you know, "We're out of this whole thing. We're against all of this." Feels to me like it's coming, and how are you coming together with industry to make sure these regulations and the big marijuana or big actors are going to act responsibly?

MR. ZINSMEISTER: I think that's very important in that if you really care about this, you should have a seat at the table, and you should be discussing, "We know where this is going. We know where this is going to end up. A black market doesn't do anything." I think it was--I think I mentioned your website, but there was another quote where you say you are educating staff about the dangers of legalization. "We believe in an approach that neither legalizes nor demonizes marijuana."

What--where--what is that? And so, I would love it. I just want to say, I think you and I should go on a travelling road show, and show--we should go around the country and we could have some fun with that.

MR. RAUCH: Are you thinking something like dueling pianos or something like that?

(Laughter)

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MR. ZINSMEISTER: Wait, I've got to see where your skills are first, before we... I mean this is something that we hear a lot is, "Well, why don't you just sit down with the industry?" I mean, first of all, is--you know, with all due respect, we--and time will prove whether this is correct or not, that we don't see this as necessarily being a foregone conclusion--and it--particularly we don't see it being a foregone conclusion in the sense that the way that it's developed in the States and is sort of corporate free-for-all.

So, you know, with all due respect, we'll see. I mean, that's a decision we've made, but we--you know, we feel like that's the right thing to do and, you know, come ask me in eight months and, you know, maybe we'll see--or two years. And secondly, you know, in terms of just working with the industry, I mean, it kind of goes hand-in-hand, but we just don't--we don't think that--there--we are the point yet where we need to sit with what we consider to be the next Philip Morris or the next All Tree Group and start thinking about how we can best tailor things that they will--I mean, they would see as regulations that might best benefit them. So, you know, I understand--again, I understand what lobbyists are here to say, and I understand what they get paid to say and that's fine, but we disagree, and that's just--I think, well, you know, we'll see what happens in the ballot box.

MR. RAUCH: Last word to Andrew Freedman.

MR. FREEDMAN: I would just point out that that dynamic is actually a little bit frustrating for states that have legalized and are now looking for good governance models, mainly because I think we lack a reasonable anti-side that sits down and helps us craft the best policies going forward. Mainly, again, it's right at the point that we feel like we're upon a chessboard with a lot of these people, and so it is a dynamic I would love to figure out how to flip on its head and get a lot of these people at the table figuring out how to do advertising restrictions with us, and that's a future I'm looking forward to. So, thank you for the question.

MR. RAUCH: So that's our next project. Fantastic.

MR. CORREIA: Jonathan? Thirty seconds? I just want to say, Jeff calls me a lobbyist, and I am a lobbyist and I'm very proud of it. We're on the right side of history, and when Ken Burns does a documentary on this I'm going to be front and center, so thank you.

(Laughter)

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MR. RAUCH: All right. Well, with that last word from a lobbyist who is unashamed to admit it, thank you all very much for coming, and especially to both of our panels--

(Applause)

MR. RAUCH: --Kathleen and Alex, if you're still here.

(Applause)

* * * * *

MARIJUANA-2016/06/16

CERTIFICATE OF NOTARY PUBLIC

I, Carleton J. Anderson, III do hereby certify that the forgoing electronic file when originally transmitted was reduced to text at my direction; that said transcript is a true record of the proceedings therein referenced; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and, furthermore, that I am neither a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Carleton J. Anderson, III

(Signature and Seal on File)

Notary Public in and for the Commonwealth of Virginia

Commission No. 351998

Expires: November 30, 2016

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