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CANNABIS POTENTIAL OUTLOOK FOR GERMANY: OPPORTUNITIES AND CHALLENGES

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GERMAN CANNABIS
CHRONICLES
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FOREWORD

To Our Esteemed Readers,

In recent years, Germany has witnessed a significant transformation in its cannabis policies, marking substantial progress in both recreational and medical cannabis legislation. This whitepaper provides at the beginning some basic information to clarify the markets and then an insightful overview of these developments, examining their implications for consumers, medical professionals, and industry stakeholders.

Medical Market: With streamlined prescription processes and regulatory reforms introduced by the CanG and MedCanG, the medical cannabis sector is poised for substantial growth. This positions it as a significant player in the industry, offering opportunities for businesses to thrive.

Association Market: Cannabis associations provide a community-based approach to cultivation. However, they face notable challenges, including funding, efficiency, and quality control, which may limit their ability to compete against the black market.

Home Grow Market: Often underestimated, the home grow market allows individuals to cultivate up to three plants at home. This sector bridges the gap between medical and recreational cannabis, offering consumers an accessible and straightforward option.

Conclusion: Germany's cannabis industry presents a complex landscape, balancing medical, association, and home grow markets. Understanding and navigating these sectors' challenges and opportunities is crucial for sustainable industry growth. This whitepaper explores these developments, providing insights into the future of the cannabis industry and the potential for innovative business models across these sectors.

Let us embark on this exploration together, examining the nuances and complexities that will shape the cannabis industry's future in Germany.

With warmest regards,
Falk Altenhöfer and Peter Homberg



CONSUMPTION AND CULTIVATION RULES

In a historic move, Germany has legalized recreational cannabis, marking a significant shift in its drug policy. The landmark legislation, known as the CanG, removes cannabis from the list of prohibited substances in the German Narcotics Act (Betäubungsmittelgesetz, BtMG), introducing new rules for consumption and cultivation.

Personal Cultivation: Adults are now allowed to cultivate cannabis for personal use. Households can grow up to three plants per adult, providing an accessible means of obtaining cannabis directly.

Possession Limits: For adults, possession of up to 50 grams of cannabis is permitted for personal consumption in private spaces. In public spaces, however, this limit is capped at 25 grams. This distinction aims to balance the legality of personal use with concerns around public safety and consumption.

Seed Purchase: To facilitate cultivation, individuals can purchase cannabis seeds via the internet or through distance selling from EU member states, broadening access and simplifying the process of starting a personal or communal cannabis garden.

Cannabis Associations: Non-commercial cannabis cultivation associations, also known as Cannabis Clubs, play a pivotal role in this new framework. They can legally dispense up to 50 grams of cannabis per month per member for personal consumption. Their activities are set to begin on 1 July 2024.

Club Membership: Cannabis clubs are restricted to members aged 18 and above, with a maximum of 500 members per club, all of whom must reside in Germany. Membership in multiple clubs is prohibited, and members under 21 have a stricter monthly allowance of 30 grams, with a THC content not exceeding 10%.

Operational Restrictions: Clubs must prioritize youth protection and addiction prevention, appointing officers to oversee these areas. They are prohibited from advertising and must maintain a minimum distance of 100 meters from schools, youth facilities, and playgrounds. This aims to ensure that cannabis consumption remains a regulated activity, minimizing its impact on younger demographics.

Consumption in Clubs: While cannabis associations are a new feature of the cannabis landscape, consumption within these clubs is prohibited, emphasizing that their role is cultivation and distribution, not consumption.

MEDICAL CANNABIS

Germany has been at the forefront of embracing medical cannabis, making it legal since 2017 under the "Cannabis-as-Medicine-Act." This legislation allowed patients to access cannabis for medical purposes, though the regulatory framework was initially intertwined with the German Narcotics Act (BtMG). The new Medical Cannabis Act (Medizinal-Cannabisgesetz, MedCanG), introduced as part of the broader CanG initiative, aims to streamline and enhance the regulatory structure for medical cannabis.

Separate Regulatory Body: The MedCanG creates a dedicated body for overseeing medical cannabis, distinct from the BtMG. This shift reflects the growing recognition of cannabis as a legitimate therapeutic option, distinct from recreational use.

Simplified Prescription Requirements: A significant change introduced by the MedCanG is the move from a BtMG-specific prescription to a standard prescription process similar to other prescription drugs. This change simplifies access for patients, reducing administrative hurdles and making it easier for doctors to prescribe cannabis where medically appropriate.

Reduced Bureaucratic Burden: The MedCanG also eliminates cumbersome bureaucratic requirements, including the dispensing voucher procedure, thereby relieving the burden on pharmacies and simplifying the distribution process. This streamlining is expected to improve the overall efficiency of the medical cannabis industry.

Impact on Medical Cannabis Companies: The MedCanG brings notable innovations for companies cultivating medical cannabis in Germany. Previously, cultivation was reserved exclusively for companies selected by the Cannabis Agency of the Federal Office for Drugs and Medical Devices (BfArM) through a Europe-wide tender procedure. The new legislation introduces a licensing procedure, creating more flexible market conditions based on actual demand.

Leveling the Playing Field: The new licensing procedure aims to eliminate the disadvantage faced by German producers compared to import companies, fostering a more competitive domestic market. This move is expected to encourage new production capacities within Germany, supporting local businesses and potentially leading to a more robust and responsive medical cannabis sector.

LEGALIZATION OF RECREATIONAL CANNABIS IN GERMANY

Need for Change?

Less than four weeks after the CanG came into force, the German federal government is working on its first amendment bill. The aim is to implement the protocol declaration by Health Minister Karl Lauterbach, which was made shortly before the decisive Bundesrat meeting on March 22, 2024, to prevent appeals to the Mediation Committee (Vermittlungsausschuss).

Background:

The protocol declaration outlines concerns and requests for changes expressed by the federal states. Although not legally binding, it signals that specific aspects of the CanG are to be re-examined or tightened in the near future.

Amendment Details:

The draft law to amend the Consumer Cannabis Act (Konsumcannabisgesetz, KCanG) and the MedCanG was introduced on April 18. Key changes include preventing "large cultivation areas" (Section 12 para. 3 KCanG) by ensuring that cultivation associations do not operate at the same location or in the same building. This becomes a possible reason for refusal if cultivation areas or greenhouses:

1. Are structurally linked to those of other associations or housed in the same complex.
2. Are in the immediate vicinity of other associations' cultivation areas.

Objective: The amendment aims to prevent a concentration of cultivation activities by multiple cannabis associations in one place, leaving it to the licensing authority's discretion to decide on granting licenses to associations managing cultivation areas jointly.

Consequences: Joint management of multiple associations, previously permitted under the CanG, would no longer be possible.

Background:

Some federal states, particularly Hamburg and Mecklenburg-Western Pomerania, are concerned about organized crime infiltrating the legal cannabis market, potentially through large plantations that could control cultivation and the entire distribution chain. This concern is based on documents or plans found during raids in criminal circles.

Critique:

Restricting the ability to pool resources and expertise may hinder cannabis associations from financing projects, making cultivation inefficient, expensive, and of lower quality. This could counteract the CanG's goals of protecting youth and consumers while suppressing the black market, potentially preventing cannabis associations from establishing themselves effectively.

POTENTIAL (FUTURE) PROBLEMS IN THE GERMAN CANNABIS INDUSTRY

The legalization of cannabis in Germany has brought about significant changes in the industry, particularly in the areas of home cultivation and cannabis associations. However, several potential problems could arise as these new regulations are implemented:

- 1. Home Cultivation:** The CanG has made it possible for individuals to cultivate cannabis at home, but this could lead to practical issues:
 - **Technical Challenges:** Growing cannabis plants requires specialized equipment such as lighting, ventilation, and temperature control to avoid contamination and ensure a quality harvest. These technical requirements can be burdensome and costly, potentially leading to inconsistent or poor-quality products.
 - **THC Control:** Under unscientific conditions, it can be challenging to control the THC content of home-grown cannabis, potentially resulting in unexpected potencies. This inconsistency could lead to health risks for consumers or regulatory concerns.
- 2. Cultivation Associations:** Cannabis associations provide a community-based approach to cannabis cultivation, but they face several challenges:
 - **Financial Sustainability:** These associations are non-profit organizations, making it challenging to secure funding for necessary infrastructure, including equipment and facilities. This lack of resources could hinder their ability to function effectively.
 - **Self-Care of Plants:** The CanG stipulates that members should care for their plants themselves. This lack of professional supervision could increase the risk of contamination, resulting in lower-quality products or failed harvests.

While the CanG and subsequent amendments aim to balance regulation and market demand, these potential problems highlight the need for careful consideration and future adjustments. Addressing these issues will be crucial for ensuring the long-term success of Germany's cannabis industry.



FUTURE OF THE MEDICAL CANNABIS MARKET IN GERMANY: OPPORTUNITIES AND CHALLENGES

The legalization of cannabis in Germany has not only opened doors for recreational use but also reshaped the medical cannabis industry. This evolution presents both opportunities and challenges that require careful navigation.

Current State:

Despite partial legalization, access to cannabis remains limited. Cultivation associations cannot begin operations until July 2024, and home cultivation yields will take time to materialize. This leaves medical cannabis as the primary legal source of cannabis in the interim, contributing to a significant increase in private cannabis prescriptions.

Impact on Medical Cannabis:

The shift in prescription requirements has simplified the process for obtaining medical cannabis. Doctors can now issue a standard prescription, rather than a narcotic prescription, making it easier for patients to obtain cannabis for medical use.

- **Strengthened Industry:** The increased demand for medical cannabis, in part due to the limitations of the CanG, has bolstered the medical cannabis industry. Pharmacies have seen a surge in private prescriptions, as individuals seek legal avenues to obtain cannabis.

Challenges for the CanG: The growth of the medical cannabis industry highlights potential issues with the CanG's implementation:

- **Cultivation Concerns:** The CanG's stipulations for cultivation associations and home cultivation may prove insufficient, particularly when compared to the established medical cannabis sector. The limited opportunities for recreational cannabis cultivation may reinforce reliance on the medical industry, potentially limiting the development of a robust recreational market.
- **Future Amendments:** Further proposed amendments or laws may be necessary to optimize the CanG's cultivation conditions. This includes ensuring cultivation methods are effective and viable, reducing reliance on the medical cannabis industry.

Conclusion:

The medical cannabis industry plays a crucial role in the evolving cannabis landscape in Germany. The simplified prescription process has strengthened the industry, but challenges remain regarding cultivation options and the balance between medical and recreational cannabis markets. Addressing these issues will be essential to ensuring a balanced and sustainable cannabis industry for the future.