



Federal Law Should not Conflict with State Law by Retaining an Absolute Ban on Broadcasters Advertising Legal Cannabis Products in New York

Cannabis advertising helps New York achieve its public policy goals. New York State has approved both the use of medical and recreational marijuana. An important component of this new policy is to introduce consumers to licensed marijuana outlets in and away from illegal sales. Permitting cannabis advertising:

- Facilitates public health because there is strict quality control over cannabis distributed by licensed vendors as opposed to illegal vendors
- Increases revenue through taxes as opposed to the illegal market.
- Funds important public service projects, especially in communities where there has been discriminatory enforcement of cannabis laws.

Federal licensing effectively prohibits all cannabis advertising on local broadcasting. Because local broadcasters operate under a federal license from the FCC, they are prohibited from accepting any advertising from legally licensed cannabis operators, because cannabis remains illegal under federal law. Such a policy undermines the public policy objectives of state law.

State regulations on cannabis advertising protect minors and consumers. We are not asking that federal law preempt state cannabis advertising laws. To the contrary, state laws and regulations would remain in effect. For example, New York Law **prohibits advertising:**

- That is false, misleading, promotes over consumption or depicts consumption by children or minors
- That is designed in any way to appeal to children or other minors
- That makes medical claims or promotes it for wellness
- Marketing strategies that appeal to persons under 21 years of age
- Placed where the audience is reasonably expected to be under 21 years of age as shown by up to date audience data

Current Scenario is Discriminatory – Because they are not licensed by the FCC other media such as print, magazines, bill-boards, social media and cable networks may run cannabis advertising without fear of losing a license. Only local broadcasters, who are under a legal obligation to serve the public interest, are prevented from running cannabis advertisements.

Local broadcasting needs advertising revenue to fund journalism. Business declines associated with COVID 19 have reduced advertising revenues dramatically. Funding local journalism has been an increasing challenge, especially when competing against large tech companies for local advertising. Because they are not licensed by the FCC, these competing video and audio systems are not subject to the same restrictions. Allowing stations to obtain advertising revenue from legal cannabis outlets will help preserve local broadcast journalism.

Local broadcasters are in the same position as banks and insurance companies. They are also prevented from conducting business with legitimate cannabis operators because of federal law. These issues may be addressed in the Safe Banking Act and other bills addressing problems in the insurance industry such as the *Clarifying Law Around Insurance Marijuana (CLAIM Act)*.

The “SAFE Advertising Act” approach - Broadcast stations should be allowed to advertise cannabis products consistent with the law of the state in which they are licensed. If a state does not authorize the use of medical or recreational use of cannabis, then stations would not be allowed to advertise these products. Moreover, cannabis advertising would remain subject to regulations established by the Federal Trade Commission or the Food and Drug Administration. The SAFE Advertising Act is a responsible approach that removes the FCC’s absolute ban on accepting these advertisements because they may violate federal criminal law.

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