



Programmatic Advertising: A Close Look at Cannabis

An educational guide to applying the principles of automated ad buying to the nuances of the cannabis product category

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Introduction

Cannabis is a complex category and new to most ad tech buyers and sellers. It shares the challenges of product categories such as alcohol, tobacco and prescription medicine, but adds on evolving state-by-state legislation, unclear advertising guidelines, brand safety and brand suitability concerns, and a general consumer bias, making it a particularly tricky category.

With a projected revenue of \$30 billion by 2025¹ the following considerations are paramount to the success and growth of the U.S. cannabis industry: what the cannabis regulatory landscape entails, how the standard regulatory bodies weigh in, the ongoing challenges this creates for programmatic advertising, and how this should be approached by media professionals within the programmatic ecosystem.

In 2020, the IAB Data Center of Excellence recruited a working group of ad tech experts, brands, and publishers to educate the online media community on the application of programmatic ad buying to the nuances of the cannabis category. It is important to note, companies should always rely on the direction of their internal legal and policy teams to determine their own guidelines for the acceptance of advertising for the cannabis vertical. This white paper is designed as an educational resource to level set the advertising community on this growing ad category, with a focus on audience targeting, legal restrictions, and the creative and brand safety challenges within this complicated category.

[Although we have made efforts to ensure the accuracy of the material in this guide, it should not be treated as (and does not constitute) legal advice, nor should it be used as the basis for formulating legal or business decisions without individualized professional advice. We make no representations or warranties, express or implied, as to the completeness, correctness, or utility of the information contained in this guide, and IAB assumes no liability of any kind resulting from the use or reliance upon its contents.]

¹ Forbes.com - New Cannabis Report Predicts Legal Sales to Reach Nearly \$30 Billion by 2025 (September, 2019)

Definitions

Using common terms will help clarify discussions with partners around the planning, strategy, and execution of media in a compliant fashion.

Cannabis is the overarching scientific term used to describe hemp, marijuana plants and associated products. Consider this term to be the vertical, much like finance, CPG or automotive. Cannabinoids are compounds or ingredients found in cannabis plants. The two most commonly referred to cannabinoids are CBD (cannabidiol) and THC (tetrahydrocannabinol). CBD does not have a psychoactive effect on users, but THC products do. This effect is commonly referred to as “getting high.”

While hemp-derived CBD is legal at a federal level, marijuana-derived CBD is not legal federally. Both marijuana² and hemp are members of the cannabis family, making them similar in many ways, but the government considers hemp to be an “agricultural product” as long as the THC concentration is less than 0.3%³.

Hemp CBD: Ingestibles, Topicals – Federally legal (Farm Bill 2018), Must comply with all other applicable laws, including the FD&C Act

THC Infused CBD: Ingestibles, Topicals – Less than 0.3% THC, No longer under controlled substances under federal law; state regulated

Products/Services: Dispensaries/Accessories – Location & age regulation, state/municipality level

THC: Medical & Recreational – Federally illegal, state regulated

² Historically the term marijuana could infer racist and illegal stereotypes. Although some federal and state laws are written using this term, cannabis is the more accurate and acceptable term in a general market environment. A Schedule 1 drug is defined as a substance or chemical with no currently accepted medical use and a high potential for abuse.

³ National Conference of State Legislatures (NCSL) - State Industrial Hemp Statutes (February, 2020)





Cannabis is sold in a variety of formulations and product types. Product types are generally categorized to reflect the way a consumer would use the product.

- **Topical:** products such as lotions, bath soaks and face creams
- **Inhalation:** products that are smoked or vaporized, including vape pens or pre-rolls.
- **Ingestible:** products that are eaten, including tinctures, drops, and gummies

There are also ancillary products, services, and business types within the cannabis category. Multi-State Operators (MSOs) are licensed production and retail companies operating within different states across the U.S. MSOs cultivate, manufacture, distribute and sell their cannabis through their retail outlets or other independent dispensaries. These entities are usually structured as holding companies with separate state subsidiaries that hold state licenses for these activities. Other ancillary businesses may include dispensaries, delivery services, vaping and smoking accessories, or pet products.

When you start to cross the different types of plants, cannabinoids, product types and services, the category can rapidly become complex. Even within CBD, the wide variety of products can be overwhelming for those new to the category.

A sampling of CBD product types:

Beauty 	Health 	Pet 	Wellness 
<ul style="list-style-type: none">• Moisturizers• Shampoos• Cosmetics	<ul style="list-style-type: none">• Transdermal Patches• Suppositories	<ul style="list-style-type: none">• Capsules• Tinctures• Treats	<ul style="list-style-type: none">• Hemp Oils & Extracts• Lotions• Muscle Rubs

Regulatory Overview

In the United States, the federal, state, and municipal governments all play a role in regulating the use of cannabis products.

Federal Law

In 1970, the Controlled Substances Act (CSA) classified marijuana as a Schedule 1 drug and prohibited its use. The CSA defines marijuana broadly to include “all parts of the plant *Cannabis sativa* L. . .” Following the enactment of the CSA, numerous states relaxed state laws relating to marijuana and began regulating its production, distribution, possession, and use. In 2013, the U.S. Department of Justice announced an update to its federal marijuana enforcement policy in response to these state initiatives, stating that it was “deferring its right to challenge [Washington and Colorado] legalization laws at this time.”

In 2018, the Agriculture Improvement Act, most commonly known as the Farm Bill, was signed into law. It removed hemp, defined as *Cannabis sativa* L. and derivatives of cannabis with extremely low concentrations of the psychoactive compound delta-9-tetrahydrocannabinol (THC) (no more than 0.3 percent THC on a dry weight basis) from the definition of marijuana in the CSA.

State and Municipal Law

Over the past few decades, states have deviated from federal government policy on cannabis and related products by allowing varying degrees of decriminalization and legalization for medical and recreational use. These state policies reflect the increasing support for legalization by the U.S. public.

State laws on the use of cannabis vary greatly. In general, these laws can be summarized by the following categories:

- **Decriminalization** – Occurs when states relax or cease criminal penalties related to the personal use of cannabis products. While laws vary on a state-by-state basis, decriminalization generally means that the possession of small amounts of THC may not carry jail or prison time but may carry a fine. Possession of larger amounts, repeat offenses, and sales or trafficking can still result in harsher sentences.
- **Legalization** - Allows individual marijuana possession, but in most cases, it also permits the legal production and sale. There are two types of marijuana legalization: the legalization of medical cannabis and the legalization of recreational marijuana.
- **Medical legalization** – Occurs in various states allowing legal use of cannabis, most often CBD only, to treat medical conditions. Exceptions for minors with approved medical conditions such as cancer or epilepsy are allowed in most states.

The following chart provides several examples of how regulatory requirements impact three key categories of programmatic participants.

1. **Platforms and Technologies:** vendors such as DSPs, SSPs, social or other buying platforms, and location data providers.
2. **Brand Suitability and Contextual Relevance:** media owners, publishers, brand safety and contextual targeting solution providers.
3. **Workflow Implications:** agencies and managed Service Providers.

Regulations	Business Considerations
Targeting - Geo & Data	
Federal: Product Category Hemp-derived CBD is legal at a federal level. THC infused CBD with under 0.3% THC is legal in 47 states. (Federal Farm Bill 2018). THC Medical is legal in 23 states. Recreational cannabis for adult-use is legal in 11 states and Washington DC. Cannabis is Illegal in 11 States (7 of these states allow Low-THC, Medicinal CBD to authorized patients).	Platforms and Technologies: Geo-location targeting. Brand Suitability and Contextual Relevance: What product types are approved for my business? Workflow Implications: Increased campaign set up complexity, deal ID negotiations. Decreased scale dependent on geo-targeting.
Federal & States: Age of Audience Digital advertising audience requirements: <ul style="list-style-type: none"> • Must run on media that is Legal Drinking Age (LDA) compliant, 21+ targeting for cannabis programs and 18+ targeting for CBD. Note: Audience age requirements vary by state.	Platforms and Technologies: Age gating ability, audience composition measurement, data targeting. Brand Suitability and Contextual Relevance: Ability to determine audience composition. Workflow Implications: Targeting, data segments, etc.
Creative - Products, Assets & Approvals	
FDA: Product Labels, Fair Balance Language FDA recommended label, product descriptions or advertisements. <ul style="list-style-type: none"> • No false health claims to cure or alleviate ailments. • No false claims on product label. • No labeling a CBD product as a dietary supplement. 	Platforms and Technologies: Contextual solutions. Brand Suitability and Contextual Relevance: Creative quality reviews. Workflow Implications: Creative reviews, a nontraditional step in the standard programmatic workflow, adding launch time to campaigns.
States, Municipalities: Local States may require hemp products to be produced in-state only; may block certain product categories (ingestibles, food additives) at the municipality level. States may have restrictions for out-of-home advertising locations (proximity to schools, federal buildings, etc.)	Platforms and Technologies: Restrictions by geography; geo-location targeting. Brand Suitability and Contextual Relevance: n/a Workflow Implications: Geo-targeting or exclusion targeting needs at a granular level based on product.
States: Some states may require the cannabis brand's licensing verification and creative assets to be submitted for approval by regulatory bodies such as the Department of Health or the State Board of Pharmacy.	Platforms and Technologies: Low impact. Brand Suitability and Contextual Relevance: Low impact. Workflow Implications: Media assets should be submitted well before the campaign launch, turnaround time for approval can be lengthy. Those submitting will need contacts at the individual state departments.

Respecting Consumers' Privacy

Companies considering cannabis advertising should be sensitive to consumer privacy preferences. Consumer concerns may include what data is collected (PII), how it is collected (often as a requirement of purchase) and who it is shared with (retailers, regulators, etc.). These concerns are not unique to advertising but are exacerbated and elevated by the potential for data collection and targeting at scale, particularly those that may not want to receive retargeting in specific environments, for example, at work or in situations where minors are nearby.

In addition to industry standard data and tracking practices and compliance with all legal requirements, advertising to this segment should clearly indicate what data is being used and why. In addition, many standard tracking practices are already subject to state restrictions that may limit certain types of targeting for the execution of cannabis advertising campaigns. There is no strict standard yet across this myriad of regulations. While advertising landing pages typically contain privacy policies, users should understand what is being tracked, plus data retention policies and planned usage. Plain, clear language is preferable during information collection.

Use of information for retargeting should, even as a result of clear and transparent data protection, add tangible value to the user without being obtrusive. Advertisers should consider developing a set of reasonable privacy guidelines, including how first-party data is used, when and how third-party data is utilized, as well as who internal and external to the organization has access to said information and why. Whenever possible data should avoid identifying the individual directly unless absolutely needed or required by relevant regulations or equivalent.

Understanding Creative Challenges

Programmatic buying has been making great strides in addressing challenges in transparency across the ad tech chain. Even with these advancements, publishers are still often faced with the difficult task of tracing inappropriate creative work served on their website back to the source. This is true even in the most innocuous categories or standard buys, as buyers can remain obfuscated to the supply side of the business. Sensitive categories are more regulated when it comes to images and the copy used, and cannabis is no exception.

At a federal level, the Federal Drug Administration (FDA) has raised concerns about a series of practices where companies make unsubstantiated claims to the inclusion and health benefits of CBD within product labels and online marketing assets—similar to product labeling requirements for vitamins and dietary supplements. In 2019, the FDA issued a total of 15 warning letters (cease-and-desist) to discontinue these practices. Selling unapproved products with unsubstantiated therapeutic claims—such as claims that CBD products can treat or cure serious diseases and conditions—can put patients and consumers at risk by leading them to put off important medical care. These kinds of practices perpetuate the negative connotation of the advertising community.

A few states have crafted regulations specific to advertising creative. These regulations vary widely by state, and while some address individual channels like mobile or digital out-of-home directly, others overlook many of the channels where programmatic ads are shown. Audience composition requirements vary by geography, age and various thresholds of a publisher's audience.

In addition to these standards and regulations publishers, media companies and ad tech platforms have created their own particular rules based on individual interpretation of the law and contextual relevance, or brand suitability estimations, creating an even more complex environment. For example, a DSP, SSP, and publisher could all have differing policies, leaving a buyer with three sets of considerations beyond the established legal requirements.

Regulatory Creative Restrictions

The following list is an example of common regulations on advertising creative. Individual state policies will vary.

- No depiction of smoking or consumption of any kind.
- Copy text must not include the terms “weed,” “cannabis” or “marijuana.”
- No curative health claims (i.e., curing a disease, pain relief, hangover cure, etc.)
- No cartoons, images or styles that could be construed as marketing to children.
- Assets must be consistent with the labels of products.
- Six states currently require prior individual approval of creative assets prior to a campaign launch (FL, OH, CT, NV, NY, PA). For example, some states require verification that a person identified in an advertisement as a spokesperson must be an actual patient or health care practitioner, and not a model or actor.

Contextual & Category Relevance

There are two primary considerations related to brand safety. First, understanding the capabilities of your brand safety partners. The sophistication of these third-party partners should create a deeper understanding of context and increase the brand-safe environment by weighing various risk factors. Secondly, understanding how cannabis-related topics are classified within category structures.

Innovative solutions, such as Integral Ad Science's (IAS) cognitive semantic technology, can discern the nuances of context, semantics, and sentiment of an article. This level of sophistication provides a more precise evaluation, including references to cannabis within the context of a business event and neutral sentiment. IAS also recognizes the city and state where the advertising event is located. This is helpful given state-level differences in regulations. These types of tools will become even more valuable as this industry establishes unique, category and product-specific guidelines.

Ongoing IAB taxonomy enhancements are helping to improve brand safety for advertisers by evaluating cannabis from its perspective as either an illegal or a controlled/regulated substance. Distinctions between CBD products and other hemp-based products that do not have the mental/physical side effects associated with cannabis may no longer be categorized at the same risk threshold as they previously were. Examples of brand-safe products include hemp-derived goods such as rope, clothing, and textiles, since they are not considered to be illegal or controlled substances.

Moreover, cannabis is currently covered by the IAS brand safety drug category. IAS' brand safety categories allow advertisers to assign risk thresholds (high/moderate/low) per category. For the drug category, considerations include endorsement, recipes for planting/growing, medical use, informational/educational, etc. These topics fall under different risk thresholds within drug category classifications, allowing for a deeper level of customization and control.

In light of the global coronavirus pandemic, attention to brand safety and brand suitability has intensified as news and service coverages have dominated online editorial content. This phenomenon has forced advertisers to reevaluate their ad placement strategies related to crisis content. Potentially, this fresh look at the use of sentiment and context could positively impact cannabis as publisher content evolves, with more emphasis on health and wellness stories.

Ad Examples

Social CBD

Product Type:

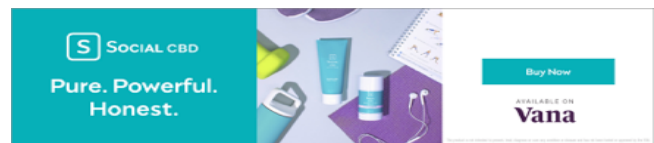
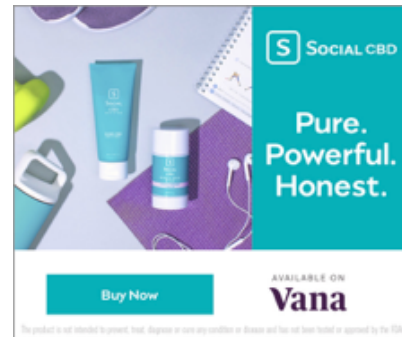
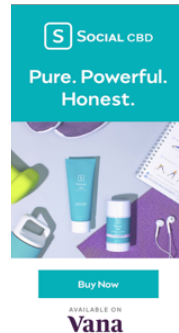
- Topical
- Muscle Rub

Ad Type:

- Online display ad
- Various sizes

Ad Details:

- Brand logo
- Marketing tagline
- Product image
- CBD in brand name
- Call to action (Buy Now)
- Disclaimer regarding FDA status



Bhang

Product Type:

- Ingestible
- Snack, Candy

Ad Type:

- Online display ad

Ad Details:

- Product image
- Marketing tagline
- CBD in image
- Call to action via web address



Solutions & Next Steps

Education - This whitepaper is just the start. IAB will continue to deep dive into this complex and rapidly changing category with additional communications. Feel free to reach out to the members of this working group, who are all experts in the space.

Targeting - In addition to various local, regional, state and federal requirements, advertisers should be mindful of avoiding all advertising and marketing that may be directly or indirectly perceived to be attractive to minors, even in an LDA-compliant environment.

Areas of sensitivity include:

- Site selection
- Sections of specific media
- Other programmatic selections that could lead online readers to posit that children are being targeted.

Even though CBD has fewer restrictions than cannabis (typically 18+ targeting) this segment should also be approached with caution.

Established vendors, new tools - Innovative brand safety tools can understand more detailed variables associated with an article, providing for a more precise evaluation, including references to cannabis within the context of a business event and neutral sentiment. These services act as an aid in programmatic decision making by providing a clearer portrait of the intent of publishing content.

Taxonomy - IAB is reviewing taxonomy enhancements to improve the communication and control for advertisers and brands. This will allow for all brands, platforms, media owners and agencies to “speak the same language” in the cannabis vertical and communicate customized product allowance needs in a formalized structure.

Consumer privacy: Advertisers should develop privacy guidelines related to the use of their first-party data and how they engage with third-party data providers.

Checklist for Starting a Programmatic Conversation

The IAB Working Group's goal is to provide best practice guidance and education across the entire marketing ecosystem to promote the application of automated digital advertising. Below are a series of questions for brands, publishers and ad technology practitioners to consider. Categorically, these questions can be modified for any new ad category where legal restrictions, audience make-up, and/or brand safety issues exist.

☐ **Legal Comprehension**

- ☐ Have you spoken with your legal department and confirmed that your publication/platform accepts payment from "plant-touching" companies that manufacture and sell THC cannabis products?
- ☐ Does your company accept advertising for cannabis brands and products throughout all of your properties and channels? What types of brands and products are approved?
- ☐ How are you staying current and compliant with the ever-evolving, highly regulated cannabis advertising rules and state regulations?
- ☐ Have you advertised other cannabis or adult use recreational brands, or healthcare/wellness/pharmaceutical brands and/or products?

☐ **Direct to Publisher/Platform**

- ☐ Which properties and/or channels allow for cannabis advertising?
- ☐ Are these private marketplace or open exchange?

☐ **DSP/SSP**

- ☐ What is your media footprint/site list of inventory that accepts cannabis advertising and do you have exclusive cannabis inventory?
- ☐ Are there channel limitations: access or scalability concerns on desktop or mobile due to cannabis category restrictions?

☐ **Targeting**

- ☐ What are your targeting capabilities, and the scalability of these capabilities?
- ☐ Are audience segments HIPAA compliant?
- ☐ Are you able to support geo-targeting, age gating or other contextual targeting?

☐ **Creative Guidelines**

- ☐ What are your creative specifications and accepted ad formats?
- ☐ Will you allow for the word "cannabis" to be included in ad copy? Will you allow plant imagery?
- ☐ What is your creative approval process? Can you execute without a case by case creative review?
- ☐ Do you have specific brand safety and suitability policies for cannabis advertising?
- ☐ Do you have additional restrictions on the inclusion of individuals in creative based on state laws, that require the individuals pictured to be actual patients or health care practitioners?
 - ☐ Some states regulate against depicting people of a particular lifestyle (i.e., celebrity sponsors) or products providing a particular lifestyle.

Appendix & Additional Resources

- [Nielsen Forecast for the U.S. Hemp-CBD and CPG Industries](#)
- [Cannabis and CDB Ecosystem Diagram by CANNAscape](#)
- State- by-State Guide to Cannabis Advertising by Vana (biz.govana.com)
- The Farm Bill H.R.2 - Agriculture Improvement Act of 2018 [congress.gov/bill/115th-congress/house-bill/2](https://www.congress.gov/bills/115/congress/house-bills/2)
- [The Bureau of Cannabis Control \(BCC\)](#)
- [International Cannabis Bar Association \(INCBA\)](#)
- [Marijuana Business Conference \(MJBiz Con\)](#)

About IAB



The Interactive Advertising Bureau (IAB) empowers the media and marketing industries to thrive in the digital economy. Its membership is comprised of more than 650 leading media and technology companies that are responsible for selling, delivering, and optimizing digital advertising or marketing campaigns. The trade group fields critical research on interactive advertising, while also educating brands, agencies, and the wider business community on the importance of digital marketing. In affiliation with the IAB Tech Lab, it develops technical standards and best practices. IAB and the IAB Education Foundation are committed to professional development and elevating the knowledge, skills, expertise, and diversity of the workforce across the industry. Through the work of its public policy office in Washington, D.C., IAB advocates for its members and promotes the value of the interactive advertising industry to legislators and policymakers. Founded in 1996, the IAB is headquartered in New York City, and has an office in San Francisco.

About the IAB Data Center of Excellence



The IAB Data Center of Excellence is an independently funded and staffed unit within IAB. Founded to enhance existing IAB resources and to drive the 'data agenda' for the digital media, marketing, and advertising industry, the Data Center's mission is to define boundaries, reduce friction, and increase value along the data chain for consumers, marketers, and the ecosystem that supports them.