

Scaling Cannabis Brands Nationally – the Highs (and Lows)

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by Sarah Robertson



Late last month, Dorsey led a panel at the inaugural Investing in Women Cannabis Pioneers – The Brand Builders investor conference put on by Roth. The panel was made up of female business leaders at Bhang, Leafly, Insa, Tilray and Hollister Biosciences discussing the topic of scaling cannabis brands nationally across state lines despite current legal and regulatory hurdles.

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As more and more states legalize cannabis (with New York now on the list), establishing a national cannabis brand has never been more important. But cannabis companies still face significant obstacles to doing so. Since cannabis in many forms remains federally illegal, cannabis companies are generally barred from selling product across state lines. Being forced to rely on cannabis grown within different states creates quality control issues, which makes giving consumers across the country the same product experience more difficult. Cannabis companies are also subject to state and/or local packaging and distribution requirements that differ from jurisdiction to jurisdiction and packaging

regulations can be subject to change on a moment's notice.

On the advertising side, many outlets available to traditional consumer packaged goods are off limits. Use of social media platforms is severely restricted and other online tools such as advertising keywords are unavailable. Television, radio, billboard and print ads are generally prohibited unless at least 85% of the audience is reasonably expected to be 21 years of age or older.

To overcome these hurdles, and to scale nationally, the panelists discussed the importance of creating a strong brand story that resonates with consumers and transcends state differences. The panel also discussed the importance of building brand awareness at the grassroots level, for example, by investing heavily in education at the dispensary or "budtender" level. Content creation through written editorial and educational materials for consumers was also very important.

Because federal trademark registration generally remains unavailable for anything "plant touching," the panelists reaffirmed existing trademark protection strategies of seeking federal registration for informational services, merchandising items and other non-plant goods and services. State trademark registration, which has gained importance for cannabis companies, even though the legal presumptions and other benefits conferred are arguably limited, was also mentioned, along with common law protection.

The panelists generally remarked at the creativity and additional investment that was required to build successful brands, and how hard it is for cannabis companies to build trust with consumers.

Finally, the panelists weighed in on the opportunities presented by recent adult use legalization in New York. 20,000 new jobs were anticipated to be created within the first 18 months of legalization and the projected market size is \$4 billion, likely surpassing Canada and becoming the world's second-largest legal market after California. One panelist described the New York market as being the largest illicit cannabis market in the world, with most product supplied currently coming from California. Legalization was viewed as eventually suffocating the black market that currently exists.