

Marijuana Update: Allard Decision and the MMAR's

✘ The Federal Court of Canada today released its long-awaited *Allard* decision. Making a complicated story simple, the question was, will the 45,000 medical marijuana users who had been licenced to grow and consume their own strains of marijuana be allowed to continue, or will they be forced into the new MMPR system to buy from third parties. (More detailed background articles [here](#) and [here](#).)

The short answer is, keep growing your own.

The decision from Justice Phelan is [here](#).

He found in a 100-plus page decision that the new MMPR regulations infringed upon the old MMAR holders' section 7 rights under the *Charter of Rights*, and could not be saved by s.1 of the *Charter*. As a result, the MMPR regulations are invalid.

Found under the Heading "Legal Rights", section 7 of the *Charter* reads, "Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice."

What's fascinating is the remedy imposed by the court. From paragraphs 296 and 297 of the decision:

The appropriate resolution ... is to suspend the operation of the declaration of invalidity [of the new MMPR system] to permit Canada to enact a new or parallel medical marijuana regime. ... The declaration [of invalidity] will be suspended for six (6) months to allow the government to respond to the declaration of invalidity.

That means the federal government has 6 months to figure out a better system. This is very similar to what the Supreme Court of Canada did with the issue of prostitution. It also creates a great deal of confusion.

As a practical matter, this means the existing MMPR's lost a substantial portion of their target markets, which will have a downward impact on their values. It also means there is a great deal more risk associated with the MMPR's, since we have no idea what the Trudeau government will do about this in the next six months. The system can be overhauled or the government can tinker with it. Will the MMPR's keep their licences? In what form? What kind of licence will the MMAR's get?

At one point on the day *Allard* was released, Canopy (TSXV:CGC), the largest MMPR and bell-weather for the group, was off about 9%. It closed down 6% on the day on over 5 million shares being traded.

Health Canada must be thrilled. Regardless of what the Federal Court would have decided, while this case was pending Health Canada was blocked from fulfilling its simple mandate of, "helping Canadians maintain and improve their health". With this guidance from the court, the government can get going in some direction, any direction...

This decision is in keeping with the philosophies expressed by the Supreme Court of Canada in *Smith*. **While it is a delicate balancing act, the rights of the patient take priority over the interests of the government.**