

Can consumer demand for hemp CBD overcome government agencies?

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March 26,
2020



Crazy competition and insane regulatory headwinds are keeping hemp CBD from fulfilling its promise.

[Todd Runestad](#) | Mar 26, 2020

It's difficult to underestimate the twin headwinds of wildly increased competition and federal regulatory pushback on the state of today's hemp CBD market.

The bloom, one might say, is off the bud.

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Hemp CBD sales have been a fantastic state of affairs for many natural food stores across the country. Similar to the Atkins craze from the early 2000s, some exclusive stores have even opened that sell only CBD products.

But when the smoke cleared from the boomtown December 2018 signing of the farm bill, the federal regulatory bodies FDA and USDA issued proclamations and rules in 2019 designed to put the brakes on the hemp train.

In the Nov. 2019 statement, [the FDA said](#), among other things, that CBD has the potential for harm, including unseen side effects, and an uncertain scientific reckoning.

Investor reckoning

FDA is putting forward an “exceptionally cautious stance on CBD,” according to a market overview

by stock advisor service The Motley Fool. The service said the less-than-thrilling report from market leader Charlotte’s Web in 2019 was “the direct result of concerns surrounding the FDA’s statements on CBD.”

That, in turn, has created a chill in the investment community. Coupled with a natural oversaturation of the market—one recent estimate put the number of brands of hemp CBD on the market at an astonishing 3,500—and the hemp fortunes seem to be in for a bumpy ride.

“Hemp farmers are taking a beating and have distressed the category,” said John Grubb, managing partner at Summit Venture Management, based in Boulder, Colo. “The first bankruptcies out of Kentucky were last month. Brand leaders are struggling. Forecasts and revenues are not matching. Investors are definitely wary and until there’s clarification. These are all signs the marketplace is uncertain.”

Market-leading Charlotte’s Web reported on Tuesday, Mar. 24, that its revenues are only half of expectations a year ago.

Still, revenue for 2019 was \$94.6 million, a surge of 36% over 2018’s fortunes, with the company now in more than 10,000 retail stores.

Yet since the FDA’s Nov. 2019 statement, the value of Charlotte’s Web stock has dropped by about 50%.

The day before its 2019 earnings call, on Monday, Mar. 23, Charlotte’s Web announced a \$69 million merger with Abacus Health Products, which is the leader in topical OTC products blended with hemp extract.

The combined company will command a share of 34.7% of the food/drug/mass market channel—twice that of its next competitor.

“Because most of Abacus’ products are positioned in adjacent categories, our combined distribution reach has limited shelf overlap,” said Deanie Elsner, CEO of Charlotte’s Web. “Together we are the most developed CBD company across every channel and segment and positioned to accelerate our growth and extend our market share.”

Abacus shareholders received a 38% premium on their shares, and now make up 15% of total Charlotte's Web shares.

Even with this good news, it's notable that the next day, Charlotte's Web reported a fourth quarter net loss of \$18.8 million, versus a net income of \$3.2 million in the prior-year period.

And in all of 2019, the value of Charlotte's Web shares fell an incredible 80%. Peak pot stock was in June or July 2019, with all publicly traded marijuana companies experiencing similar catastrophic declines.

Meanwhile, another leading hemp CBD company, CV Sciences, which markets the PlusCBD Oil brand, announced its returns on Mar. 16. The company is now in 5,500 stores—a 148% increase in a year, with revenues for 2019 at 53.7 million, an 11% growth.

The company reported an operating loss in 2019 of \$17.2 million, compared to an operating gain of \$10.2 million in 2018. A chunk of that loss, \$11.2 million, came from the company's founders cashing out at the end of 2019.

Regulatory uncertainty

The regulatory environment looks to continue to contribute to uncertainty all up and down the value chain. The USDA's Interim Final Rule pleases no one and, though it was supposed to stand through the end of the 2021 growing season, the USDA has heard the music already. The agency has already gotten rid of one proposed proviso, that all testing labs be certified via the Drug Enforcement Agency.

The 2018 farm bill explicitly removed the DEA from the hemp business, and no farmers want to grow crops contingent on the say-so of the DEA, and also that DEA labs tend to be in urban areas, where they serve the medical and recreational marijuana business, while hemp farmers tend to be in rural areas.

And at the same time the FDA has recently blown through a Congressionally mandated deadline to report on the state of its hemp CBD enforcement policies, the United Kingdom's Standards Agency has gone ahead and announced plans to establish a legal pathway for CBD in food and dietary supplements. The U.K.'s regulatory body also recommends an upper limit of 70 mg per day of CBD for healthy adults.

Will we overcome?

Hemp CBD now enjoys a rarified status as an ingredient found in products that are being sold in a greater diversity of sales channels than any other product in the history of human commerce. Online sales are the way to market for most start-up brands, and health-food stores have been the first point of contact for many consumers. But then there are the

standalone CBD shops, and physician's offices, and marijuana dispensaries, and it has now proliferated to such diverse sales outlets as boutiques, salons, spas, bookstores, ice cream shops, roadside stands, and more.

A holistic view of the overall U.S. market Zeitgeist, from market watcher Hartman Group, finds that hemp CBD is contributing to Americans' emotional wellness.

CBD "taps into other important aspects of wellness like notions of indulgence, exploration and play," according to the Hartman report, "giving CBD a lot of upside potential and unique marketing opportunities."

Emerging market segments, according to Hartman, include younger consumers looking for ways to relax, destress and get to sleep; older consumers looking for an alternative to pharmaceutical pain relievers, sleep aids and anti-inflammatories; athletes also looking for alternatives to OTC inflammation relievers; and pet owners looking to help their companion animals cope with anxiety and behavior issues.

All in all, it seems improbable that either the market or regulators will entirely put the kabash on the hemp market. Left unseen is whether consumer demand for hemp CBD supplements and topicals (not to mention the larger suite of hemp products with the potential to disrupt everything from oil to plastic) can overcome government agencies with at least one foot still stuck in the era of reefer madness.

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