

Transcript of Interview with Adam Smith of Sensible Markets

Interview by Aaron Edelheit

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*Lightly edited for readability

Aaron: Adam, thank you so much for agreeing to our conversation. I appreciate it.

Adam: No problem. It's great to have a chance to talk to you.

Aaron: So, for people who are not up to date on cannabis laws in this country. Why is interstate commerce, which is the shipment of cannabis across state lines, why is it not allowed?

Adam: So, that's a great question on multiple levels. So, the reason we're not doing it is because when states legalized, right, we started with California in 1996 legalizing medical under Prop 215. Right. We moved on to Oregon, legalized medical, and then Washington and Colorado legalized adult use. All of that was done by ballot initiative. Right. So, you were talking about states that were not working with the strong support of legislatures or their governors, particularly. Right. You are also talking about a time in which the Department of Justice was seen as hostile to legalize cannabis. And so, all of these states, part of what they did was they legalized it, but they were very clear that none of this was going to leave the state. This only impacts us. And it was a way to kind of say to the DOJ, Hey, leave us alone. This is just us. We voted on it. It's not hurting anyone. But the truth is that even those states and so as we've gone on, states have continued to legalize under the same idea that we that this is all going to be state siloed, that we are making laws for our state and our state alone. But what's important to understand is that everything that every legal and medical state is doing right now is interstate commerce under federal law. It's already interstate commerce under 80 years of Supreme Court precedents, from a case called, I'm going to screw up the name, *Wilburn v Fillmore*? But it was about wheat and it was about a guy growing wheat during a time when under the war, there were real restrictions on movement of products. And he was growing wheat for use on his own farm. And the court decided that was interstate commerce because it impacted interstate commerce. And so that was 80 years ago. And there's a line of cases going up through *Gonzales V Raich* in the cannabis context, which was a question of a medical caretaker giving cannabis, not

even selling cannabis, to a patient. Right. And the federal court decided that that in itself was interstate commerce, and therefore, the federal government had the right to come in and shut it down. Right. It fell under federal jurisdiction. So, everything we are doing now is already interstate commerce. And the Department of Justice has decided first under the Cole memo. Now that's been rescinded now just under the verbal assurances of Merrick Garland that where the states are regulating, they are not going to spend money, they're not going to get involved, they're not going to interfere. So, the Department of Justice already said that we are going to allow interstate commerce. And but it's hard for people to get their heads around the fact that there's nothing magic that happens when the cannabis leaves California and goes to New Jersey. Right?

Aaron: It's already going there.

Adam: Right. Number one. It's already going there. Right. 100%. And but number two, sending it from Humboldt down to Oakland is the same exact thing under federal law, sending it from Humboldt to New Jersey. Right. But what we haven't done is we haven't had governors yet who have decided, A, we want to facilitate movement from our system into a different state system. Right. And B has gone and basically told DOJ, we intend to do this and gotten some guidance from DOJ saying they're not going to arrest everyone. Right. So, there's been an effort since 2019. And I know this because I've been doing it. In 2019 we wrote and passed a bill in Oregon to allow Oregon to enter into agreements with other states to regulate commerce in cannabis. And in the Oregon bill, there's a trigger. And it's either or. It says Oregon can execute these agreements when the either Congress allows it via statute, and don't hold your breath. Right. Or the Department of Justice indicates tolerance through a memo or policy statement, which is exactly how everything else happens. Right. The feds could right now come in and try to shut down the California industry, right. They decided they're not going to do that. And that's their discretion. And so, Oregon passed this law, and then we went into California and started working with.

Aaron: Well, let's pause for just a second, because I want to make sure we give you credit. You and your organization helped write that bill in Oregon, right?

Adam: Yes, we wrote. Yes, we did.

Aaron: Can you tell me just a little bit about your organization and what you do?

Adam: So, I come out of the movement side of this, not the industry side. And I'll give you a really quick background, this all make some sense. So, in 1992, I went away to law school and I was really interested in the drug war from a human rights from a young person who grew up in New York City in the eighties. And, you know, and I got introduced to a guy named David Borden, who had started an email discussion list for activists to talk about drug policy reform. And this is 1992. So, like 1% of the country had email, right? And I get on this discussion list. I literally didn't have email for a week when I got on this list. And on there was like three or four people who were doing needle exchange out of vans and running from the police in the middle of the night. And several cannabis activists and a couple of Latin American activists and some prison reformers. And it was the first place anywhere that people fighting against different aspects of the drug war had come together to strategize. And I was just my mind was blown and I was entirely sucked in. And so, I spent most of law school working on drug policy reform. Right. More so than attending Fed Tax. But I managed to graduate and pass the bar, but I went immediately to D.C. to become part of what this thing, which was now an organization, it was called DRCNet, and it really became the internet center of drug policy reform. And the first thing I did was I started writing a news magazine, although in those days you couldn't even send photos over the web, over email. So, it was really a newsletter covering the national/international drug policy and nothing like that existed. Right. And still, the Internet in 1996 was not widely, everybody didn't have it. But very quickly, if you were involved in drug policy reform, whether on the government side or the academic side or the activist side, you became part of our list. And so then in 1998, Bill Clinton signed something called the Higher Education Act, which eliminated federal financial aid eligibility for any drug conviction. Right. So, if you had been 15 and got busted with a dime bag, you are now lifetime ineligible for federal financial aid. And to me, this was like the most insane, counterproductive thing you could possibly do. We're going to show you how bad weed is by destroying your life. If you decide to smoke it and we catch it. Right. So, at that point, we had a list of, I don't know, 30,000 people. And out of that, like 1500 of them, how did EDU addresses so we wrote up a resolution saying this is the dumbest thing we've ever heard and we send it to all the EDU addresses. And we said, take this to administrations, take this to your student governments, get folks to sign on. And that campaign called the Higher Education Act Reform Campaign, first of all, became the first campaign ever to roll back

federal drug legislation in the country. But also out of that organizing effort, we launched an organization called Students for Sensible Drug Policy. Right, which is now in 30 countries. Right. It is a UN recognized NGO. So, I will skip ahead. I kind of got out of drug policy reform in by 9/11, 2001. I went on to do other progressive political work, ended up out in Oregon. And in 2016, Oregon was legalizing cannabis. Right and I had connection to, my wife actually was at the health authority she was helping roll out first the medical and then she went to adult use and we were legalizing this industry and everyone was talking to me about, oh, this is Oregon's next great craft industry. And I kind of looked around at what was going on. You know, I'm not an economist, but when your name is Adam Smith, you think about economics a lot. Right? And I looked around and I said, actually, what it looks like is it's going to be six Canadian agribusinesses and a bunch of tenant farmers. Right, because you guys are already starting to get wiped out. And so, I organized something called the Craft Cannabis Alliance. And the idea was that if you were a local company, 50% locally owned, and you could stand behind a shared set of values which were ethical business and employment practices, positive community engagement, environmental sustainability and ending the drug war. Then we wanted to organize you and we wanted to let folks in Oregon know that there was a difference between buying cannabis grown by an Oregon farmer and buying cannabis grown by a Toronto bank account, even if it was in Oregon. Right. But what became clear to me very quickly, we ended up with a huge product glut in Oregon. Right. Because when we legalized in Oregon, we did something, I think very wise, which is we tried to legalize the industry we had. We recognized that, you know, that cannabis had been a huge economic driver in parts of the state that did not have a lot of economic opportunity. And so, we made licenses cheap and unlimited and urged people, whether they were registered medical or totally unregulated, to come into the legal market. And a lot of people did. But what we didn't really think through is when we legalized the industry we had here, the industry we had was an export industry and had always been an export industry. 95% of the cannabis had always left the state, right. The joke has always been, you know, we grow cannabis here so we can sell it to New York so we can all smoke free, right. And so suddenly all of that world class cannabis was stuck in a very small market, and by 2017, prices began to tank and prices, outdoor prices went from 1800 pounds to like 300 a pound in 15 months. And suddenly everyone's going out of business, right? And so looking around, it became clear to me that until we could access the markets that this region and that includes Northern California, really. But the markets that we had traditionally accessed, you know, we were going to see this

disaster like a politically created economic disaster, but that if we could access those markets, we would need every ounce of cannabis we could grow under current licensure. And so, we wrote this bill in Oregon to start the ball rolling to see if we could get markets open without waiting for federal legalization. Right. I like to say waiting for Congress to fix cannabis has never been a winning strategy.

Aaron: For sure. And so, your organization helped write the bill in Oregon? Yeah, that got passed. And then you just wrote the bill that just got passed in California as well. Or you helped.

Adam: I helped write that - there were other people. Right. The Rural Counties Association sort of saw what we were doing in Oregon and we met during that time. And they got very interested in doing a bill in California. And so, we helped write one for the 2020 session. But between COVID and some other things, it didn't ever run until this year when our RCRC said, okay, we're looking at a real disaster here. We're going to run the interstate bill and they ran it and RCRC sponsored it and the Distribution Association co-sponsored it and they did a great job and the bill was just passed and signed by governor Newsom.

Aaron: But it's slightly different than the Oregon bill because there's a third stipulation, right?

Adam: Right, right. So, here's the interesting thing. So, in the Oregon bill, there was what we called a federal trigger. So, Oregon can enter these agreements when Congress says yes or DOJ says, we won't stop you. In the California bill, they're both there. But California can also enter these agreements without either of those things happening, if the California attorney general issues an opinion, saying that to do so would not put the state into greater legal jeopardy than they are in now. Which goes back to what I said earlier, which is there is no difference under federal law between what we're doing now and sending stuff across states. It's all interstate commerce. So, Attorney General Rob Bonta, who has long been a supporter of legal cannabis and the industry is very likely, if asked by Governor Newsom, we expect that he will ask Attorney General Bonta is very likely to be able to legal to say that that doing so will not change the status and will not put California in any more legal jeopardy than it is now. It may be a different political question, and we can talk about why we think that that will be

okay anyway. But legally, it's the same thing. And so, we think that California, as soon as that happens, will be ready to go as soon as they find a client state.

Aaron: Okay. So let's let me just walk through the step by step process to make sure that I understand.

Adam: Sorry I gave you a lot all at once.

Aaron: No, no, it's so great. Also, I tip my hat for you, for all the drug reform work that you've done to date, it's amazing. I mean, I had no idea some of that stuff was going on at that time. But I want to go through the step by step. So. You expect at some point in the near future, whatever. Or when would you expect Governor Newsom to ask, will it be a public knowledge that he will come out and say, I've asked the attorney general to give me a legal opinion or will it be more bang, bang? I asked the attorney general and here's the opinion he gave me, or how do you think that might work?

Adam: It's a good question. And it's going to come down to how Governor Newsom sees this vis a vis the election. Right. Is it something that he wants? You know, to me and in my conversations over the last several years with his representatives, and I've never spoken to the governor directly about this. And so, my pitch to them has always been this is a tremendous political opportunity for Governor Newsom. Right. For anyone who has an eye on a political future, for example, in the Democratic Party, being in favor of cannabis legalization is not a differentiator, but maybe being the guy who brought Emerald Triangle cannabis to New York, you know, it may very well be a political opportunity and a differentiator. And so, my hope and I my calculus in thinking about politics is that Governor Newsom will see this or sees this as an opportunity. I think that the reason that the third option of sending it to the California attorney general is there, is in the bill, is because there were forces that wanted to make it easier to actually make this happen and move it forward. Right. And so I would expect Governor Newsom to send this to the attorney general relatively soon. I mean, I think at latest he would wait till after the election. But my sense is he would want to do before the election. And I kind of think he would announce it, although, you know.

Aaron: Oh, so this may be an announcement we get in the next four or six weeks or whatever

Adam: Could be.

Aaron: Or it could be right after because you want the balls, the wheels to be moving. Right. And then the attorney general then takes some amount of time to

Adam: Probably not that long.

Aaron: Probably not that long because it seems pretty set. So, then that happens. Then let's go to the because you're going to have producer states and consumer states and hybrid states and stuff like that. California and Oregon are very clearly producer states. So, I saw in the news and it seems wild right at the end of their session that the president of the New Jersey Senate announced, hey, New Jersey is going to enter into an interstate. He announced a bill to allow New Jersey to enter a negotiation. Were you involved in that at all?

Adam: No, I was not. But the interesting thing is. So, the president, Nick Scutari, Senator Nick Scutari, is the is the Senate president of New Jersey. He was the guy who introduced and championed their adult use law. And so, it's not some backbencher looking for attention. Right. He is kind of the guy in New Jersey. And what he introduced the bill, he originally introduced the bill by cutting and pasting the California bill word for word. He introduced the California bill in New Jersey. And they have since taken the text down. The bill is still there, but they have taken the text out. My understanding is they are sort of rewriting it in a New Jersey accent. And you will appreciate that being from New Jersey, right?

Aaron: Gotcha. Yes!

Adam: And so, I expect that they will have a bill that's more, that isn't exactly the California bill, but it is meaningful that it was introduced there and by whom. And it also is meaningful because having a real conversation in a place like New Jersey about the structure of their industry moving forward necessarily brings in the surrounding states, including New York. Right. If New Jersey is going to have a chance of filling shelves with the world's best cannabis at competitive prices next year. Right. It gets very hard for a state like New York to say, wait, hold on two and a half years, we'll get stuff grown

in a garage in Albany to you as soon as we can, at whatever price. Right. So, but so New Jersey is a possibility. So, the next step is definitely who are the consumer states that we can have this conversation with and.

Aaron: That's right. Yeah, that's right.

Adam: And so, you know, but also there are states, you know, there's a state like Minnesota that has a medical program and two medical producers. And so, you have you have patients there who have almost no selection of overpriced and mediocre medicines, where there are medicines that will help them at better prices sitting on shelves in other states. The minute we're really talking about moving product around the country, it gets very difficult to tell patients, no, no, you can't get the best medicine for you at the best price that's legally available in another state. You have to wait around for whoever we hand selected for you. Right. And so the key to this is opening the conversation up. The thing I have run into over the last several years, having this conversation in consumer states is, is exactly what you would run into, which is, you know, you get to a certain point in the conversation and they say, well, this is a terrific idea. And certainly, you know, interstate commerce is the future, but they'll never let us do it. And we're really busy building our siloed industry. And so, we don't have time to rethink the entire structure of what we're doing. Right. But once you have, you know, a Governor Newsom. Right, you have Oregon has a law, Governor Newsom sends it to his attorney general, says, okay, and now we're talking about New Jersey as a bill. Now, it gets very hard to say this isn't real. And suddenly those conversations open up in these new consumer adult use states or medical states. And it really is a matter of pushing those conversations forward. And the more attention they get, the more momentum they get. Because the whole idea of siloed markets in many parts of the country is economically absurd, is environmentally insane.

Aaron: Yeah, well, that's one of the things is I mean, the most remarkable is seeing these blue states so called protect their industries. But it's an environmental nightmare.

Adam: In some places.

Aaron: In some places. What they're doing in some places. And so, I want to say so I understand you're going to have California, it sounds like going to say, hey, move this

ball running. And then do you think conversations are already happening on an informal basis with some states, or do you think the conversations really start after. Because the bills already passed, right.

Adam: I think that there has been conversations in CANNRA, which is the Association of Cannabis Regulators. Right. That is most of the regulators, most of the legal and medical states are part of this organization. Right. They had a panel on interstate commerce recently. I know that they understand that ultimately this is all moving toward one market. Right. And so those conversations have been happening. Whether any of those conversations have been specifically around, well, what if California created and Oregon with, you know, Nevada and New Jersey and Minnesota created a multilateral agreement? What would that look like? I don't know that it's gotten to that point. But the agreements that need to come together are actually not that complicated. Right. The states don't have to line up their regulations, for example. Right. New York. I mean, I'm from New York. I'll use New York. New York or New Jersey can say, here are our labeling standards. Here are our testing standards. Anything coming into our state needs to meet these standards. And as I'm sure you know, you realize, if that was the case in a month, every lab in California would offer testing to the New York or New Jersey Standard because there'd be a demand for it, right. And every packaged goods producer in Oregon or California would be happy to put on their label whatever New Jersey decided was required. Right.

Aaron: What does the consumer state get? I guess one of the things that, some of the pushback I get is, well, they just handed out licenses. They're charging for these licenses for these people. And then you're going to bring in and won't they get heat for that? Why would they do that? Why would any of these consumer states sign up for this? Right. And then they say, and then I get crazy pushback that somehow the testing and packaging, they'll put up these enormous barriers that will be cost prohibitive. And then I'll be like, well, what about the shipping costs? And the shipping costs are so minuscule compared to the pricing differential. But I'm just curious, like, why would a consuming state, why would like a Nevada or a New Jersey actually go through this when they're charging and taxing some of their producers?

Adam: So, there's a couple of things. First thing we have to keep in mind is that as soon as federal legalization happens. All those walls come down. Right. The Commerce

Clause exists essentially in large measure to keep states from having trade wars with each other. States are not allowed to discriminate against legal products from other states. Right. You can be Idaho and not have a legal market. Right. But if you are Nevada and you have a legal market, you have to treat product from California equally with product grown, produced, in your own state. Right. So that is going to be the reality as soon as federal legalization happens. Now, we have to take a step back and think, especially for states that are now becoming legal or looking to expand from medical into, you know, how many of those states want to misincentivize, you know, very capital-intensive mass production, right. In places where the minute federal legalization happens, they're going to have to compete against markets where it just grows cheaper. Right. And better. And so, while you look at a state like Illinois or Florida, where you have you have a limited number of large licensees that are sort of politically baked in. Right. And they'll probably hold on to their silos until federal legalization tears them open. Right. But if you look at states that are now going legal, number one, in a state like New Jersey, those licenses have just begun to be given out to. None of the small producers have begun to really invest yet. It's probably smart for all producers in a state like New Jersey to understand that legalization could happen in two years. Right. And so, you're really walking into a headwind where at some point you're going to be competitive if you think you can, that's great. Right. And also that we should definitely be supporting and states should even maybe be incentivizing small local craft production. Right. But the question is, do we want to incentivize mass production in a place that it's just never going to be competitive? And so, and because this is a state opt in, like I said, states that have already gotten there can keep their doors closed. But states that are going to be forward thinking and say, you know, like I grew up in New York, right? You grew up in New Jersey. New York has had a flourishing cannabis industry for 80 years at least. Right. And it employs tens of thousands of people and feeds thousands of families. It's an import industry. It's always been an import industry. Right. The cannabis is always come from elsewhere. The sustainable parts of the market of the industry in New York are in retail, distribution, delivery, product development, small manufacturing, wellness, hospitality. Those are all things that need a supply of cannabis. And those are all things that will be able to function now and through the end of prohibition and it's legalization. Right. And a state like New York.

Aaron: But aren't you depending on that state regulators and the lawmakers to realize this? I mean, it was a surprise to see the president, the New Jersey president of the

state Senate issue that bill. It was the first yeah, that was the first time I saw anyone recognize like, hey, what are we doing?

Adam: Right. It's not well, it's not that difficult because you know what you can do if you're looking if you're in New Jersey, right. And you're looking at the numbers, the sheer numbers of licenses you're likely to have. Right. And you look at, again, retail, distribution, delivery, product development, manufacturing, wellness, hospitality. And you understand that you can stand all of that up full on in a year. Or you can have people waiting around for 2 to 3 years or more for a steady supply of cannabis that may never be competitive with the illicit market. Right. And so, you know on the other side.

Aaron: And you could get the tax revenue.

Adam: And you can tax it at the register. Right. Pick your number. You want 18% tax. You don't need it to grow there. In fact, the states that won't get the taxes are California because you're really not going to be taxing product that leaves the state. Right. Or Oregon. Oregon, you take they take their taxes at the register. There's no cultivation tax and never has been. That cannabis is just going to leave the state, it's going to get taxed somewhere else, right? It's the consumer states. If they take their tax at the register, can name their number. They don't need it to grow there. And so, if you just look at it economically, you know, saving a few, you know, a few small theoretical growers while protecting a dozen boardrooms that want to grow a million square feet in a warehouse somewhere. Right. Is a poor economic choice versus getting all of these other businesses up and running competitively now. And so.

Aaron: I understand the rationality on this. And we only need.

Adam: And we only need one state, right? The minute there's a hole in that wall, the minute there's cannabis moving between states, the whole thing begins. The whole thing begins to crumble. And especially in medical states.

Aaron: Ok, so if you if you had to guess. What state is most likely to go first to sign an agreement with California or Oregon?

Adam: You know, I've been talking to people in Minnesota, so Minnesota is on my mind, right? They started with three medical companies. One bought another one. And now there's two. Right. And so, if you're a legal patient in Minnesota, you have a choice between what's being put out by two companies in a place that it's really expensive to grow weed. Right. I look at Nevada that just did social consumption and their demand is going to continue to go up and up. And they have no water. Right. I mean, I look at Texas is looking at medical. Right. I mean, I think that, you know, a forward-looking governor that is looking at or starting to open, you know, adult use like New Jersey is likely. But I think almost any medical state. Right. I've dealt with activists in Delaware. Right. Which they've been legal for years and they're still in the illicit markets because what they have is crappy and Delaware's never going to have a fully fleshed out production industry. Never. Right. And so, these patients, because of that, can't get medicine that's legally available to patients elsewhere and they're stuck in unregulated markets. It gets very difficult to defend on the basis of, oh, no, we have five licensees that, you know, that invested in this. And the truth is the major investments that have been made have been made by a subset of the MSOs. Right. Whose business model depends on state protected, limited license production. Right. In Illinois, there's like six companies that produce 70% of the product. Right. And those companies would never be competitive. They would never own 70% of the product if they were actually competing. Right. And so, you know, what we're protecting is we're protecting a bunch of companies that, you know, for the most part, were able to raise 50 million to a quarter of \$1,000,000,000. Right. Went into an industry trying to dominate limited license states, an industry that they knew or should have known was going to be entirely dependent on political and policy transitions going forward. Right. They went into it. They put all this money in. Right. They took that risk with all the lawyers and all the access to expertise that they had and if they guessed wrong, that's business, you know, and to say everyone else, thousands of producers, long term producers on the West Coast and thousands of potential retail distribution delivery in their own state have to wait around and not be able to function because those six companies decided to put \$100 million into building. You know, my violin is playing for them. You know, that's business. I am much concerned with the small farmers.

Aaron: No, no, I get it. So, okay. So, let's try to think about when. This is the other thing that when I talk to cannabis insiders and I talk to other investors, they tell me, oh, it might happen ten years, maybe 20, if ever this won't happen.

Adam: 2023.

Aaron: Having what is going to happen in 2023?

Adam: We are going to be having conversations at the gubernatorial level around putting together a regulatory framework next year.

Aaron: So, you think that different governors from a producer and consumer state are going to be having public discussions or acknowledged discussions around a framework for interstate cannabis next year?

Adam: Yes.

Aaron: And if you had to guess when interstate commerce the first shipment of I don't even want to call it legal, but state legal.

Adam: Right. Right. State legal.

Aaron: One state to another. State regulated commerce. When would it be?

Adam: 2024. Early. Early first half, first half of 2024.

Aaron: And do you think that California is going to do that? Oregon?

Adam: I think California and Oregon and at least one consumer medical state.

Aaron: Do you think they'll do it all together or it'll just that's be one state to another and then another.

Adam: My guess is that they will put together a multilateral agreement. I think that's the easiest way. Having said that, politics is strange, right? And so, it's not impossible that you have multiple bilateral agreements. But I think that there's a real interest in not just by the states themselves, but for the whole industry and for the trajectory moving forward to get a multilateral agreement that states can then buy into. Right. You don't

have to go and start negotiating something new again and something new again and something new again. You put together an agreement that states can opt into. Right. And it also gives us a running head start toward a regulatory framework that when the feds do get around to legalizing, will be something that is already operating on the ground. And they can start to adopt more of that than starting the feds regulating from zero. And I think that for the industry, that's a really that's a really big deal. I think it's really scary to say the feds are going to come in, we're not sure what they're going to do and since there's nothing out there, it's just going to be whatever they come up with. And I think getting the states to take the lead on this is going to be much smarter and make a transition much more rational for the industry.

Aaron: I know Merrick Garland came out earlier this summer and said, hey, we're going to issue an update on cannabis. And it's in a matter of days, like, who knows, it's probably after the election, I would guess that something like this is going to come out. Do you think would you expect there to be any updated guidance on interstate or any mention of interstate commerce?

Adam: Well, we're working on making that happen.

Aaron: So what does that mean exactly?

Adam: You know, we're working with members of Congress, right? Getting together, you know, getting together some communication that can go to the Department of Justice to say, please recognize when you come out with the guidance that's expected, this law in Oregon, this law in California, this bill in New Jersey, please recognize that there is no difference under federal law between, you know, that this is all already interstate commerce. And please recognize that if states want to do this, that you will be tolerant of this, you know, like you are tolerant of the current state systems and because there is no legal difference. Right. So, think about it from the political side. You have President Biden who has said repeatedly that, I trust the states to make decisions on legal cannabis, the states can regulate it. Right. I mean, he's no fan, he's not looking to sign federal legalization. You know, whether he would or not is a different question. But he's been very clear that he's going to let the states make decisions on legal cannabis. Merrick Garland in testimony has said where the states are regulating, we don't see an interest in the Department of Justice of getting involved. Right. The Cole memo doesn't

exist, but essentially it's, you know, an even more enlightened sort of version of the Cole memo. We're not going to get involved whether states are regulating. There is no political upside for either the Biden administration or even the DOJ to get into a standoff with largely Democratic governors around regulating cannabis. Right. Biden may not want to sign, you know, federal legalization, but he's heading into 24, presumably may run again. He doesn't want to stop this. He's been very clear he doesn't want to stop the governors. Right. They said we're concerned with diversion and kids. Right. And so, and because there is every legal reason to treat movement from California to New Jersey, Oregon to New Jersey, the same as the feds are treating intrastate trade, because it's all the same under federal law. They have every reason to say, we have said this, where the states are regulating, right, we are going to back away. It is the easiest and the smartest thing for them to do politically. And there is no real reason for them to start getting into a fight with cannabis.

Aaron: So, when I think about, by the way, just transporting across the country, let's say the government was like, oh, we're not going to interfere with if you have a bilateral, unilateral agreement and I think about it coming you wouldn't send it via truck because

Adam: You can't drive it.

Aaron: It would have to be either air, could it go by train?

Adam: By rail or air, both are federally regulated. So, this is why you need the Department of Justice to give some clear guidance. Right. And if you have the Department of Justice saying we're not going to interfere, and you have multiple governors who've put together a regulatory framework. The FAA is not going to play cowboy and stand up to DOJ and the governors, right? Yeah. It'll go by plane or by train until we can drive it.

Aaron: And it's probably much easier just Nevada, because you're not going through anyone.

Adam: Yes, that's right. You don't have to go through Idaho.

Aaron: But if it was New Jersey, you'd probably need some guidance, right, from the governor. Okay, that's helpful. Now, one of the other things that I'm paying attention to, I was very excited to see that First Circuit Court case where even though it was about residency, the whole document was the court analyzing from multiple angles what is cannabis? And I know it was just about medical, but they were like, this is an interstate commerce market. Are there any other cases that you're watching or court cases where you think you'll see more the federal courts jumping in because Congress isn't basically doing its job or?

Adam: There aren't cases that I'm following. But I am watching the first circuit to see if someone brings a case specific to commerce. Right. That case was about an interstate investment. And so, I'm very interested to see if someone brings a case in that circuit, specific to moving product between states and, you know, there's a danger there because if a court tears down the walls, right, it can be it can be regulatory chaos. There's nothing that that necessarily fills that vacuum, A. B, it doesn't give states an opportunity themselves to figure out a framework that they want to do this under that protects their own equity regulations, right. And so, there's a there's a reason to do this in a way that is thoughtful. And it's not clear that doing it by tearing down walls through a court case is going to end up with a thoughtful outcome.

Aaron: No, no, I'm not saying that that's optimal. I'm just saying that my thesis has been that the longer Congress doesn't do its job of regulating commerce, the more the courts are going to step in and basically fill the vacuum.

Adam: I agree. No, I agree. And that's one of the reasons I mean, that's one of the reasons why we like the approach we're taking is to create a state option and get the states who want to think about how to do this well, to sit at a table and make that happen. And we think that that's you know, that really protects a lot of different interests. And even though there are some people who will complain about it, we think it's the rational way to do it. And I'm a little afraid, like I said, of just waiting to see what comes out of, you know, federal regulation, federal legalization, when that happens.

Aaron: I want to go even further than interstate, because I know this may sound ridiculous, but what about global trade? So, I know Germany is about to start on a medical cannabis market or legalize cannabis. You have California and Oregon. I heard

a crazy, it's unsubstantiated or whatever, I haven't been able to find direct sources to confirm this, but that like Germany was just touring California like a week or two ago. And I heard rumors that there were initial discussions of like, hey, could California send it to import/export to Germany? Have you thought about this or are you involved in any, like, global, what's to stop California from sending cannabis to Germany?

Adam: Not a lot. I am not involved on the international side. My sense is that international is going to happen pretty soon after we get to interstate. I mean, I think there's been movement at the UN. So, it looks much more likely to happen in medical, right, initially because that's where the UN is really starting to make some progressive changes to the conventions. And I am no expert, I will say up front, I am not an expert in international law or international shipping. So please don't invest based on my sense of where that is.

Aaron: No, no, no, I'm not.

Adam: It's like my legal advice. Like I passed the bar, but I never practiced. So, my legal advice is worth exactly what you're paying for it right now. But I think that we will get international relatively quickly. I mean, I think that works both ways, right? I think that I think that ultimately, in the long run, most bulk cannabis and bulk distillate is going to be produced, probably not in the United States. And I think that's likely like flowers or produce mainly in Colombia and stuff like that. I think that my personal sense is that the future of the US market is at the mid to higher end and not the sort of value bulk you know.

Aaron: For sure for sure.

Adam: But I think it'll happen relative to let me say I think it'll happen a lot sooner than the ten years that people think it'll take us to move stuff from California to New Jersey.

Aaron: Wow. Okay. Is there anything else that when it comes to either interstate commerce or the work that you're doing that we haven't touched on, is there anything that you think either cannabis investors or insiders don't appreciate or anything we've missed in this conversation?

Adam: I would look, if you're an investor, I'd be looking, you know, very hard before I made an investment in a company who is depending upon production in protected, limited license states. I think that that is that's a time bomb, whether we end up opening up interstate commerce, pre-legalization, or whether legalization happens sooner than maybe expected that there's a real danger. Because if you can't be competitive right now with what's being grown in Santa Barbara, right, then you probably shouldn't be investing in it. Right. And that's number one. Number two, if you are looking at the fact that interstate commerce may open soon and that likely what direction that this goes is from Oregon and California, not just Oregon and California. Right. Washington's got some expensive production. Right. But if you're looking at it goes east. Right. Very few people in the industry see that coming. And so, there's tremendous opportunity in figuring out who is going to be moving that product east and who's going to be the beneficiary in the consumer state side. Right. It's probably not the folks who are spending a lot of money to grow giant indoor tracts of weed in New Jersey. Right. Or somewhere else. And the last thing is, if you are already invested or want to be invested in a play that looks at markets opening, right then there is a political side to this that we are trying to run through the Alliance for Sensible Markets, that you can really very inexpensively add a lot of punch to your investment by helping us move the political needle in the next 6 to 12 months. Because what it's going to take from here, now that we've helped get this California bill passed, what it's going to take from here is a presence in is figuring out which are the 6 to 12 states that are most likely to open their markets, getting the presence there, lobbying presence to open up the first or second or third of those as quickly as possible. It's possible to do it over the next year, but it's not possible without resources. And so, the investor class, honestly, at this point is one of the only groups that has any dry powder at all left, after everybody's taken a bath. So, it's easy to be a free rider. But if you want to make this happen and really be at the front edge of this, come join our effort. And I also promise you that you will be kept abreast of the earliest and most important intel on this as this happens.

Aaron: And so, people can find, if they wanted to support or wanted to find out more information, where can they find you?

Adam: sensiblemarkets.org Or you can email me at adam@sensiblemarkets.org and I'd be happy to have a conversation.

Aaron: This has been an awesome conversation. Thank you so much. I really appreciate it, I've learned a lot.

Adam: Aaron, it's a great pleasure. It's so great talking to somebody who's thought about this deeply and who we can go quickly through the things that you ask me.

Aaron: Well, I've already talked to Robert Mikos, and I've read all his stuff. And so, I'm like, Oh yeah, this makes sense. And then reading the First Circuit Court. And it's just so rare to meet somebody else who is like, Wait, wait, no, this isn't taking ten years. This is happening very quickly, is a very different thing than I think most people involved in the cannabis industry, you're saying something very unique.

Adam: Well, I appreciate that. I mean, but the fact that Governor Newsom, right, signed this bill, the fact that California is looking at this, the fact that the New Jersey Senate president is looking at this, you know, is a lot of evidence that it is also on point and that there is a huge opportunity because most people in the industry don't see this coming and when it comes, there's going to be a monumental economic shift. And being on the right side of that is going to be incredibly valuable.

Aaron: Great. Thanks. Thank you so much. I really appreciate it.

Adam: All right, man. It's a pleasure.