Battles in contested markets: The processes of legitimation in the 'legal high' market

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Abstract

This thesis explores the processes of legitimation in contested markets. Seminal to institutional theory within organisation studies, legitimacy is “a generalised perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs and definitions” (Suchman, 1995, p. 574). Marketing and consumer researchers have recently become interested in the shifts in regulative, normative and cultural-cognitive legitimacy that occur in markets. This research has uncovered what shifts in legitimacy may occur (e.g. Humphreys, 2010a, 2010b; Humphreys, Chaney, & Slimane, 2017), and who may be involved in the collective actions driving the shifts (e.g. Dolbec & Fischer, 2015; Scaraboto & Fischer, 2013). However, recent calls have been made for more multi-level understandings of institutional theory concepts, to build a deeper understanding of the multiple actions by actors at the field-level (labelled the ‘exchange-level’ in this thesis) and societal-level (Baker, Storbacka, & Brodie, 2019). Responding to these calls, this thesis explores how shifts in legitimacy occur through the actions of multi-level actors during the legitimation process. Therefore, the research question guiding this inquiry is: how are the processes of legitimation shaped in contested markets?

Process research is concerned with how and why things emerge, develop, evolve or terminate over time (Langley, Smallman, Tsoukas, & Van de Ven, 2009), and a longitudinal case study design is recommended for producing rich processual insights (Langley, 1999). Additionally, qualitative marketing scholars have recommended the collection of larger richer multi-level data sets that allow the context to be conceptualised in terms of the historical, cultural and social situatedness (Figueiredo, Gopaldas, & Fischer, 2016). The Australian ‘legal high’ market between 2009 (market emergence) and 2013 (market dissipation), and the multi-level actors therein, was selected as a compelling case through which to explore the research question. ‘Legal highs’ were psychoactive substances designed to mimic the effects of mainstream illicit drugs but had chemical structures different enough for them to be ‘legal’ (Wiecko, Thompson, & Parham, 2016). The products were labelled ‘not for human consumption’ and sold as bath salts, research chemicals, plant food, potpourri and more, but branded to suggest their consumption purpose. Comprehensive legislative changes in 2013 drove the market out of the legal recreation space. As such, the market was purposively chosen as a research setting as the market had explicit emergence and dissipation points, allowing for the full process of legitimation to be explored, and the market was in a constant state of flux, allowing the processes to be transparently observable (Eisenhardt, 1989; Pettigrew, 2008). The data collected from this setting include news media publications, policy and legislative documents, forum threads, producer websites, and interviews with actors at the exchange and societal-levels.
The processes of legitimation occur over three distinct phases in markets: the transactional legitimation and market opportunism phase, the harm-minimising legitimation and market-fracturing phase, and the moral (de)legitimation and market dissipation phase. During the first phase, legitimacy is based on transactions and consumers and producers regulate the market by willingly engaging in transactional exchanges until one or more actor groups perceive their needs are no longer met by the market. This triggers legitimation battles between these exchange-level actors whereby they engage in micro-level actions over the transactions. The interplay between these actions, and the accumulation and configuration of those that prevail in the battles, shifts the basis of legitimacy to harm. During the second phase, the consumers and producers engage in transactional exchanges, regulated by the exchange and societal-level actors, until consumers or other market actors are harmed. This triggers legitimation battles between and within the societal and exchange-level actors whereby the engage in micro and macro-level actions over harm minimisation. The interplay between these actions shifts the basis of legitimacy to morality. During the third phase, the exchange and societal-level actors regulate the market until the societal-level actors deem the harm caused by the market to be unmanageable. This triggers legitimation battles at the societal-level whereby the actors engage in macro-level actions over the morality of the market. The interplay between these actions drives the market dissipation.

These findings make three main contributions to extant literature. First, this research contributes to the study of legitimation in markets by adopting a strong process perspective to the exploration of market shaping, and the interplay of micro and macro actions by multi-level market actors in driving shifts in the legitimacy of markets. Second, this research contributes to market theorisation by moving beyond the consumer subject to explore the role of exchange and societal-level actors in shaping markets. Furthermore, this thesis adopts a performative perspective of regulation in markets, showing that multiple actors at the exchange and societal-level can regulate markets through their micro and macro-level actions. Finally, this research contributes to the process-based understanding of markets by following depth processual methods in the market exploration.
Declaration by author

This thesis is composed of my original work, and contains no material previously published or written by another person except where due reference has been made in the text. I have clearly stated the contribution by others to jointly-authored works that I have included in my thesis.

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Publications included in this thesis
No publications included.

Submitted manuscripts included in this thesis
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Contributions by others to the thesis
Significant and substantial inputs were provided in a supervisory capacity by:
Associate Professor April Wright, Dr Josephine Previte and Dr Alastair Tombs.

No contributions by others.

Statement of parts of the thesis submitted to qualify for the award of another degree
No works submitted towards another degree have been included in this thesis.
Research Involving Human or Animal Subjects

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This material is based (partially or wholly) on datasets obtained from Bluelight.org. Bluelight.org is a non-profit online community dedicated to reducing drug-related harm. This work was conducted with authorization from Bluelight.org. The content is solely the responsibility of the authors and does not necessarily represent the official views of Bluelight.org.

Data used in this thesis were also obtained from Drugs-Forums.com, a harm reduction information hub and peer-to-peer addiction support community. Data collection was conducted with the authorization of Drugs-Forums.com. The content does not necessarily represent the official views of Drugs-Forums.com.

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“All was well” — Harry Potter and the Deathly Hallows
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Legitimacy as process, legitimation, institutional work, consumer culture theory, legal highs

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ANZSRC code: 150310, Organisation and Management Theory, 10%

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FoR code: 1505, Marketing, 70%
FoR code: 2002, Cultural Studies, 20%
FoR code: 1503, Business and Management, 10%
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<table>
<thead>
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<th>Abbrev.</th>
<th>Description</th>
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<tbody>
<tr>
<td>6-APB</td>
<td>6-(2-aminopropyl)benzofuran. An empathogenic psychoactive compound commonly referred to as Benzo Fury in news reports. [An abbreviation used in forum threads].</td>
</tr>
<tr>
<td>BZP</td>
<td>Benzylpiperazine. A synthetic drug causing similar effects to those produced by amphetamine. [An abbreviation used in forum threads].</td>
</tr>
<tr>
<td>CCT</td>
<td>Consumer Culture Theory. A Marketing research community focused on the cultural aspects of consumption. [An abbreviation used in the literature review, methods, and discussion chapters].</td>
</tr>
<tr>
<td>DMAA</td>
<td>1,3-dimethylamylamine. A dietary supplement, which could be consumed for a psychoactive effect. [An abbreviation used in forum threads].</td>
</tr>
<tr>
<td>GBL</td>
<td>Gamma-butyrolactone. A common solvent, which could be ingested for intoxication. [An abbreviation used in forum threads].</td>
</tr>
<tr>
<td>HR</td>
<td>Harm reduction. [An abbreviation used in forum threads].</td>
</tr>
<tr>
<td>JWH</td>
<td>A group of synthetic cannabinoids synthesised for research and named after John W. Huffman. [An abbreviation used in forum threads].</td>
</tr>
<tr>
<td>K2</td>
<td>A popular synthetic cannabis brand. [An abbreviation used in threads].</td>
</tr>
<tr>
<td>MDMA</td>
<td>3,4-Methylenedioxymethamphetamine. A recreational drug commonly in ecstasy. [An abbreviation used in forum threads].</td>
</tr>
<tr>
<td>MDPV</td>
<td>Methylenedioxypyrovalerone. A synthetic cathinone. [An abbreviation used in forum threads].</td>
</tr>
<tr>
<td>NPS</td>
<td>New Psychoactive Substance. [An abbreviation used in government and police reports and interviews].</td>
</tr>
<tr>
<td>RC</td>
<td>Research chemical. [An abbreviation used in forum threads].</td>
</tr>
<tr>
<td>SWIM</td>
<td>Someone who isn’t me. [An abbreviation used in forum threads].</td>
</tr>
<tr>
<td>TGA</td>
<td>Therapeutic Goods Administration. Australia’s regulatory authority for therapeutic goods. [An abbreviation used in news media, and forum threads].</td>
</tr>
<tr>
<td>THC</td>
<td>Tetrahydrocannabinol. One of the cannabinoids in cannabis. [An abbreviation used in forum threads].</td>
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<tr>
<td>Term</td>
<td>Definition</td>
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<tr>
<td><strong>Actors</strong></td>
<td>Individuals within a market setting, or other social arena, who act and/or interact (Fligstein &amp; Dauter, 2007).</td>
</tr>
<tr>
<td><strong>Adult store</strong></td>
<td>A store that sells products for adult entertainment including sex toys, lingerie, clothing, pornography, stimulants, mood enhancers, and other related products. Also known as <em>sex shop</em> (Merriam-Webster, 2019b).</td>
</tr>
<tr>
<td><strong>Contested markets</strong></td>
<td>Market spaces of multiple and sometimes conflicting or contradictory meanings and values (Marcoux &amp; Legoux, 2005). In this thesis, contested markets are market spaces in which actors with divergent interests are in conflict as they struggle over meaning of some element of the market, or the market itself, and engage in actions to challenge, disrupt or destabilise the legitimacy of the element or market.</td>
</tr>
<tr>
<td><strong>Exchange-level actors</strong></td>
<td>In this thesis, actors who are involved in transactional exchanges within a market setting (e.g. consumers and producers).</td>
</tr>
<tr>
<td><strong>Entity</strong></td>
<td>A broad generalised term referring to actors, products, elements, processes, practices, or the market (Humphreys, 2010a; Suchman, 1995).</td>
</tr>
<tr>
<td><strong>Head shop</strong></td>
<td>A store that sells paraphernalia used for the consumption of cannabis and tobacco, and items related to cannabis and related cultures (Merriam-Webster, 2019a).</td>
</tr>
<tr>
<td><strong>Institutional work</strong></td>
<td>Purposive actions aimed at creating, maintaining and disrupting institutions in society (Lawrence &amp; Suddaby, 2006).</td>
</tr>
<tr>
<td><strong>Legal highs</strong></td>
<td>Psychoactive recreational substances that were designed to mimic the effects of mainstream illicit substances with chemicals different enough for them to be technically legal (Wiecko et al., 2016). Also known as <em>synthetic drugs, novel psychoactive substance, new psychoactive substances, emergent psychoactive substances, social tonics</em> (New South Wales Parliament Legislative Assembly, 2013). Many of the early synthetic substances were synthesised for use in research, and named after either 1) the scientist who first synthesised them or 2) the institution from which they originated (e.g. Coppola &amp; Mondola, 2012; Gibbons &amp; Zloh, 2010; Gilani, 2016).</td>
</tr>
<tr>
<td><strong>Legitimacy</strong></td>
<td>A generalised perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs and definitions (Suchman, 1995).</td>
</tr>
<tr>
<td><strong>Legitimation</strong></td>
<td>A complex social process of making a practice or entity congruent with the values, norms and institutions within society, therefore institutionalising the practice or entity (Johnson, Dowd, &amp; Ridgeway, 2006; Suchman, 1995).</td>
</tr>
<tr>
<td><strong>Societal-level actors</strong></td>
<td>Actors who have an indirect role in influencing or shaping the market (e.g. the government, news media, health professionals and community members) (Thornton, Ocasio, &amp; Lounsbury, 2012).</td>
</tr>
<tr>
<td><strong>Tobacconist</strong></td>
<td>A store that sells products relating to tobacco and smoking including pipes, lighters, matches, pipe cleaners, pipe tampers, and other related products (Merriam-Webster, 2019c).</td>
</tr>
</tbody>
</table>
CHAPTER ONE: INTRODUCTION

The research contributions have no-doubt been invaluable in drawing attention to market creation from social processes. However, there has been little attention paid to the interdependent interplay between multiple heterogeneous market actors and different institutional levels when markets are created or disrupted. This requires a theoretical framework, with a multilevel perspective, that enables exploration of the process of (de)institutionalising...


1.1 Background

This thesis explores the processes of legitimation in contested markets, and the battles between actors that shape the dynamics therein. Legitimacy refers to “a generalised perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs and definitions” (Suchman, 1995, p. 574). There is growing interest within the Consumer Culture Theory (CCT) tradition in the concept and its role in different types of markets and industries (e.g. Dolbec & Fischer, 2015; Humphreys, 2010a, 2010b; Humphreys & Latour, 2013; Scaraboto & Fischer, 2013). In this research, legitimacy refers to an actor, product, idea, market or industry being commonly accepted (Humphreys & Latour, 2013) based on regulative, normative and/or cultural-cognitive institutions in society (Humphreys, 2010a). Phenomena of interest in these studies relate to how brands attain legitimacy (Kates, 2004), how new markets are created and sustain their legitimacy (Humphreys, 2010a), how some consumption practices and markets become legitimate while others remain stigmatised (Humphreys, 2010b), how contested markets become legitimate (Giesler, 2012), why and how marginalised consumers seek legitimacy in markets (Scaraboto & Fischer, 2013), how the actions of content interconnected consumers lead to legitimate institutional change in markets (Dolbec & Fischer, 2015), and how the media affects consumer perceptions of legitimacy of markets (Humphreys & Latour, 2013).

1.2 Research Motivation and Positioning within the Literature

This extant research has focused mainly on examining the property of legitimacy as the outcome of a legitimation process. This research tends towards a property perspective as the generalised perception of whether the market is legitimate or illegitimate at points in time are of interest (e.g. Dolbec & Fischer, 2015; Humphreys, 2010b, 2010a; Humphreys & Latour, 2013; Scaraboto & Fischer, 2013). When a legitimacy as property perspective is adopted, scholars position legitimacy as an asset or a resource that can be possessed in measurable quantities by some legitimacy object – e.g. a market or industry, in relation to others (Suddaby, Bitektine, & Haack, 2017, p. 453).
Attention has focused on different attributes of legitimacy associated with regulative, normative and cultural-cognitive acceptance which are gained or lost as the outcome of a process (Dolbec & Fischer, 2015; Humphreys, 2010b, 2010a; Humphreys & Latour, 2013; Scaraboto & Fischer, 2013). In the context of markets, this means market actors must consider the exchange as appropriate for the market or industry to be seen as having attained legitimacy at that point in time (Kjellberg & Olson, 2017). Therefore, markets and industries can gain or lose legitimacy over time through a complex process made up of cultural representations and individual responses to these (Humphreys & Latour, 2013).

This research has laid the foundations for exploring legitimacy in markets by uncovering what shifts in legitimacy occur (Humphreys, 2010a; Humphreys et al., 2017), and who is involved in driving the shifts (Dolbec & Fischer, 2015; Humphreys, 2010b; Humphreys & Latour, 2013; Scaraboto & Fischer, 2013). Previously research has also begun to uncover the triggers for the shifts (Dolbec & Fischer, 2015; Scaraboto & Fischer, 2013). However, recent calls have been made to adopt a stronger process perspective to the exploration of institutional theory concepts in markets (Baker et al., 2019). As the dominant perspectives in marketing and organisational research tend towards the view of legitimacy as a property rather than strongly focusing on legitimacy as a process (Suddaby et al., 2017), furthering the theorisation requires multi-level perspectives on the legitimation and institutionalisation processes. This stronger process perspective requires a greater focus on the interdependent interactions between multiple heterogeneous market actors at different institutional levels throughout the process of market creation or disruption (Baker et al., 2019). Additionally, recent calls have been made for more scholarly work on legitimacy to strengthen the construct clarity (Ashforth, 2019; Hampel & Tracey, 2019; Helms et al., 2019). The research in this thesis aims to address these calls. Therefore, the research question guiding this exploration is: how are the processes of legitimation shaped in contested markets? Shaped in this sense refers to the actions of multi-level actors that act as mechanism and trigger changes in the legitimation process.

Contested markets have provided rich contextual settings for prior research interested in marketing, markets, market actors and consumption (Giesler, 2008, 2012; Marcoux & Legoux, 2005). Contested markets are market spaces in which actors are in conflict (Giesler, 2008). This conflict typically occurs between groups of actors with divergent and/or contradictory interests (Giesler, 2012) as they struggle over the meaning of aspects of, or elements within, the market – or the market itself (Marcoux & Legoux, 2005). These spaces become contested when opposing actors explicitly engage in actions to challenge, disrupt or destabilise market, or some component of the market (Humphreys et al., 2017; Luedicke & Giesler, 2008). Examples from prior research of contested markets include the market for Ground Zero – the tourist attraction located at the site of
the 9/11 terrorist attacks (Marcoux & Legoux, 2005), the market for Botox cosmetics (Giesler, 2012), and the market for downloaded music (Giesler, 2008). Despite the use of contested markets as contextual settings, and the identification of these spaces as contested due to conflict between some groups of opposing actors, there is no consensus in the literature of the definition of contested markets. Drawing together insights from prior research, in this thesis contested markets are defined as *market spaces in which actors with divergent interests are in conflict as they struggle over meaning of some element of the market, or the market itself, and engage in actions to challenge, disrupt or destabilise the legitimacy of the element or market*. Markets can have varying levels of contestation depending on the contested element, amount of conflict, and number of actors and/or groups involved in the struggle. This thesis adopts contested markets as a context through which to explore the processes of legitimation.

When adopting this process-perspective, the term legitimation is often used rather than or in addition to legitimacy (e.g. Barron, 1998; Johnson, Dowd, & Ridgeway, 2006; Rao, 1994; Sine, David, & Mitsuhashi, 2007). Legitimation is made up of a structured set or sets of formal or emergent activities that describe how an actor acquires affiliation with an existing social order or category (Suddaby et al., 2017). It is a complex social process of making an entity (where entity is a generalised term for actors, products, elements, processes, practices, or the market itself) congruent with the values, norms and institutions within society (Johnson et al., 2006; Suchman, 1995). As such, legitimation is a collective cognitive social process in which stakeholders participate in the meaning making (Nielsen & Rao, 1987), and through which entities may become embedded in the taken for granted assumptions (Suddaby & Greenwood, 2005). Furthermore, it is an ongoing process of social negotiation involving multiple participants, which is continually in a state of flux, rather than the outcome of institutional pressures. Therefore, legitimacy is not assumed to be a stable condition but one that is actively and continually negotiated (Suddaby et al., 2017).

Adopting a process perspective means shifting from viewing entities as having specific properties to viewing them as being involved in processes of becoming (Sandberg, Loacker, & Alvesson, 2015), focusing on change and how strategy, plans, and decisions are produced and reproduced within the ongoing flux of reality (Jarzabkowski, Jane & Spee, 2016). Within marketing, the theorisation of change in markets has focused on exploring how and why markets, actors, institutions and meanings emerge, evolve or terminate, focusing predominantly on the consumer (e.g. Dolbec & Fischer, 2015; Ertimur & Coskuner-Balli, 2015; Giesler, 2008; Humphreys, 2010a, 2010b; Karababa & Ger, 2011; Martin & Schouten, 2014; Parmentier & Fischer, 2015; Sandikci & Ger, 2010; Scaraboto & Fischer, 2013). Similar to process studies in the organisation studies, marketing research on change has recognised the importance of time.
However, the studies of change in markets are not exclusively longitudinal (Giesler & Fischer, 2017). The central focus of this research is on explaining patterns in events and how these lead to an outcome (Giesler & Thompson, 2016). Building on the theoretical methodological foundations lain by these CCT scholars, this thesis explores the processes of legitimation in markets overtime in a longitudinal study. Deviating from this extant work, the research in this thesis moves beyond the focal consumer subject to advance a multi-level theorisation of market shaping through legitimation processes.

1.3 Research Design
A processual research design is needed to explore the processes of legitimation in contested markets. Qualitative process research is concerned with asking questions of how and why things emerge, develop, grow, evolve or terminate over time (Langley, Smallman, Tsoukas, & Van de Ven, 2009), focusing on the relations among events (Giesler & Fischer, 2017). As such, a longitudinal case study design is recommended for producing rich processual insights into the phenomenon (Langley, 1999). A compelling case study in one setting should be purposively chosen for the presence of the phenomenon of interest. The selection of one compelling case is more desirable than multiple randomly chosen cases as it allows for deeper, more specific exploration of the phenomenon (Siggelkow, 2007). Aligned with this, a contested market was purposively chosen as a context through which to explore market shaping through legitimation. As contested markets are spaces of multiple meanings and values, which are sometimes contradictory or in conflict (Marcoux & Legoux, 2005), and in these spaces, market actors often openly engage in a range of behaviours aimed at challenging the legitimacy of other actors’ consumption choices, behaviours and ideologies within these spaces (Luedicke & Giesler, 2008), they provide research settings with transparently observable actions and triggers of shifts in the market during the open legitimation processes.

1.3.1 Research Setting
The thesis investigates the research question using a single empirical case study of the ‘legal high’ market in Australia. ‘Legal highs’, also known as New Psychoactive Substances and Synthetic Drugs, were designed to mimic the effects of mainstream illicit drugs such as amphetamines and marijuana by using chemicals that were structurally similar but different enough for them to be technically legal (New South Wales Parliament Legislative Assembly, 2013; Wiecko et al., 2016). This market offers a rich case study of the processes of legitimation in contested markets over a five-year period from the beginning of 2009 to the end of 2013. During this time, multi-level battles for legitimation occurred openly, and visibly as the market was contested and in a state of flux but not illegal or underground. Furthermore, the market had an explicit start and end date, allowing for
the full processes of legitimation to be explored within specific temporal brackets. Therefore, the contested ‘legal high’ market provides an appropriate contextual research setting in which to explore the processes of legitimation.

1.3.2 Qualitative Research Methods
Following an interpretivist approach to the case study research within the CCT paradigm, qualitative methods of data collection and analysis were adopted. Since the research question is processual in nature, collection of process data from the setting, which explores events, activities, and choices ordered over time is needed. This should involve a longitudinal study design to produce rich processual insights into the phenomenon of interest (Langley, 1999; Langley, Smallman, Tsoukas, & Van de Ven, 2013; Langley & Stensaker, 2012). Given that legitimation is conceptualised as a multi-level collective process involving multiple actors (Nielsen & Rao, 1987; Suddaby et al., 2017), data collection involved actors at the exchange and the societal-levels within the case setting. Aligned with this, case study research typically involves the collection of data from a variety of sources to create rich empirical descriptions of the instance of the phenomenon in the chosen setting (Yin, 1994). Furthermore, there has been a recent move to larger richer data sets within qualitative projects, whereby different types of data (e.g. interviews, images, downloads and web pages) are often combined in one project to allow the context to be conceptualised in terms of the historical, cultural and social situatedness (Figueiredo et al., 2016).

First, multi-level data was collected with the purpose of mapping the overarching triggers and processes over the period within the ‘legal high’ market, and identifying actors at the exchange and societal-levels who played a key role in the setting. This included news media publications, and forum threads from online communities that were popular during the period. Second, data was collected at the societal-level with the aim of exploring the actions and interactions of key societal actors in shaping legitimacy processes. Interviews with actors from the societal-level were conducted with actors from five key areas; government, media, academia, health and community. Online data, including institutional profiles, legislation, and reports were also collected to further explore and add detail to the actions and interactions of societal actors. Third, the actions and interactions of exchange-level actors that shaped legitimacy in the setting were explored with the collection of market-level data. This included interviews with consumers and producers, published interviews with actors, and archived seller websites from the period of interest. The forum data also provided exchange-level insights.

1.3.3 Data Analysis
The analysis of the multi-level data began with chronological data coding (Langley & Stensaker, 2012), whereby the actions and triggers of shifts in the market within the setting were are mapped.
out on a timeline (Dolbec & Fischer, 2015). As such, the events were compiled so they could be traced over time, covering multiple different constructs and data sources, and allowing for rich and insightful understandings to be gained (Yin, 2009). This chronological mapping of the data followed similar procedures to Dolbec and Fischer (2015) whereby the archival data at both the exchange and societal-levels was drawn upon to map events over time. To further make sense of the data and plot events along the timeline, temporal bracketing (Giesler & Thompson, 2016; Langley, 1999) was used, which involves the isolation or decomposition of the collected data into time periods by ‘bracketing’ the period off from the larger period that is of interest. This is helpful in identifying and exploring phases or stages in longitudinal case studies (Langley, 1999; Langley et al., 2013). The phases do not necessarily refer to a predictable sequential process, but rather provide a way of structuring the description of events (Langley, 1999).

Once the data was chronologically ordered, the analysis followed the processes of Corley and Gioia (2004), and Gioia, Corley and Hamilton (2013). This included identifying first-order concepts from the raw data, comparing the concepts for similarities and differences to determine second-order themes, and compiling similar themes into aggregate dimensions. Therefore, the analysis began by identifying initial first-order concepts to create categories from the data. The categories became second-order themes that began to be able to describe and explain the phenomenon of the processes of legitimation in contested markets. Finally, overarching aggregate dimensions that made up the basis of the emergent theorisation were developed. Data structure tables that provide a graphic representation of this progression from raw data to concepts, themes and dimensions were created to demonstrate rigour in qualitative research

1.4 Findings and Contributions
The processes of legitimation were found to be shaped by a series of multi-level battles over three distinct phases. Phase one of the legitimation process is one of transactional legitimation and market opportunism, in which the legitimacy of the market is determined based on transactions between willing consumers and producers. During this phase, three legitimation battles unfold and develop. First, the initial purist producers and the new entrepreneurial producers that enter the market battle over what constitutes proper scientific processes. Second, the pleasure-seeking consumers and entrepreneurial producers battle over what constitutes appropriate product and marketing standards. Finally, the societal-level actors begin to be involved in the market as the exchange and societal-level actors battle over when societal-level actors have a normative obligation to claim a stake in the market. The actions undertaken during these battles begin to stretch the transactional legitimacy of the market, and trigger phase two of the process.
Phase two of the legitimation process is one of harm-minimising legitimation and market fracturing, in which the legitimacy of the market is determined based on market elements that cause minimal harm. The differing definitions of harm by actors triggered four legitimation battles. First, the risk-taking consumers and the news media battle over who has the right to determine what is harmful consumption. Second, the government and the entrepreneurial producers battle over what is acceptable harm in a legitimate market. Third, the risk-taking consumers and entrepreneurial producers battle over the appropriate standards for safe product and marketing practices. Finally, the health professionals and government battle over the proper way for health professionals to be involved in a market. These battles cause fracturing between consumers at both the exchange and societal-levels, triggering the third phase of the process.

Phase three of the legitimation process is one of moral (de)legitimation and market dissipation, in which the legitimacy of the market is determined based on morality. The fracturing in the market during the second phase triggered three legitimation battles. First, the community battles the market over the proper way to judge vulnerability. Second, the competent and novice risk-taking consumers battle over who has the right to participate in the market. Finally, the government and producers battle over when the government has a moral obligation to restore social order. These battles delegitimise the market, causing it to dissipate and move underground.

The findings from the three phases were used to generalise the processes of legitimation to markets, leading to the advancement of propositions in the discussion. Additionally, the abstraction of these findings to a generalised process model of legitimation in markets provides three main contributions. First, a theoretical contribution is made to the exploration of legitimacy and legitimation in markets. The in-depth exploration of how the processes of legitimation are shaped in contested markets supports and extends previous research by advancing how the shifts occur. This focus responds to the recent calls for more multi-level perspectives to institutional theory concepts (Baker et al., 2019) and the further development of construct clarity in legitimacy research (Ashforth, 2019; Hampel & Tracey, 2019; Helms et al., 2019).

Second, a theoretical contribution is made to market theorisations. Extending previous research on market evolution and change (e.g. Dolbec & Fischer, 2015; Giesler & Veresiu, 2014; Martin & Schouten, 2014; Scaraboto & Fischer, 2013), this research moves beyond the focal consumer subject to a multi-level perspective of markets and change, providing a deeper understanding of the actions and interactions of multi-level actors in driving shifts in markets. The exploration of these shifts in contested markets, and the advancement of a definition, further extends prior marketing research (e.g. Giesler, 2008; Luedicke & Giesler, 2008; Marcoux & Legoux, 2005). Additionally, the findings demonstrate a performative perspective of regulation in
markets, challenging the prevailing theorisations of regulation as societal-level structures by
advancing micro and macro regulatory actions that shape the market, extending prior marketing
research (e.g. Dao Truong, Dang, & Michael Hall, 2016; Goulding, Shankar, Elliott, & Canniford,
2009).

Finally, process-based methodological contributions are made to explorations of market
shaping. The research in this thesis adopts longitudinal qualitative methods conventional to
organisation studies interested in deep explorations of process (e.g. Fan & Zietsma, 2017; Howard-
Building on the depth qualitative marketing inquiries that are typically grounded in ethnography
(e.g. Figueiredo & Scaraboto, 2016; Gebhardt, Carpenter, & Sherry, 2006; Martin & Schouten,
2014), this research proposes longitudinal process research methods as a further method for market
explorations.

1.5 Thesis Structure
The remainder of this thesis is structured as follows: Chapter Two reviews the literature on
legitimacy from organisation studies and marketing, providing an overview of the legitimacy as
property and legitimacy as process perspectives, followed by a discussion of the process approaches
to organisations and markets. Chapter Three outlines the interpretivist qualitative methods adopted
in this thesis, detailing the longitudinal processual case study approach to data collection, and the
methods of coding and analysis. Details of issues of ethics, ethical clearance and trustworthiness are
also discussed in the chapter. Chapter Four, Five and Six present the findings of the three phases of
legitimation consecutively. In Chapter Four, the ‘legal high’ market was mapped from T0 to T1
through the discussion of three legitimation battles. In Chapter Five, the ‘legal high’ market was
mapped from T1 to T2 through the discussion of four legitimation battles. In Chapter Six, the ‘legal
high’ market was mapped from T2 to T3 through the discussion of three legitimation battles. The
thesis concludes in Chapter Seven with a discussion of the contribution of the phases of legitimation
to the wider study of markets and marketing, and the presentation of a generalised process model.
CHAPTER TWO: LITERATURE REVIEW

Legitimacy has emerged as a pivotal but often confusing construct in management theory... [and] has been the subject of extensive research in organisation studies. Indeed, the popularity of the concept and its widespread application to so many theoretical and empirical contexts has layered the construct with considerable surplus meaning and has allowed it to be used, and misused, in many ways.

- From *Legitimacy* by Roy Suddaby, Alex Bitektine and Patrick Haack (2017, p. 451)

2.1 Introduction

This chapter provides a review of streams of literature that guide the exploration of the processes of legitimation in contested markets. First, an overview of relevant insights about marketing and markets are introduced. These include discussions of market dynamics and the sociological approaches to markets. Next, a comprehensive review of legitimacy and legitimation in organisation studies and marketing is presented. This includes a review of the two predominant perspectives of legitimacy: legitimacy as property and legitimacy as process. Recently, marketing and consumer researchers have found legitimacy to play a key role in market evolution and change (Dolbec & Fischer, 2015; Humphreys, 2010a, 2010b; Kjellberg & Olson, 2017; Scaraboto & Fischer, 2013). However, despite the identification of legitimacy as important and vital for market creation, maintenance and disruption, the theorisation within this stream of research is in its infancy. Extant marketing research has provided foundational theoretical grounding understanding legitimacy in markets, however, the primary focus has been on the outcome of legitimacy as a property from the process at points in time in the market (Humphreys, 2010b, 2010a; Humphreys & Latour, 2013; Scaraboto & Fischer, 2013). It has been argued that legitimacy is a fluctuating process, where perceptions of legitimacy are fluid over time, rather than a property that is gained or lost. Therefore, a stronger focus on legitimacy as process should be taken in order to advance the theorisation and develop deeper more nuanced understandings of the concept (Baker et al., 2019; Suddaby et al., 2017). Adopting a process view to legitimacy in markets involves shifting from the view of entities and their properties to entities as involved in processes of change and becoming (Sandberg et al., 2015). As such, a review of process in organisation studies and marketing is presented with the aim of framing the insights of legitimation. The chapter concludes with a review of institutional work in organisation studies and marketing. Institutional work is introduced as an additional concept that helps explain the processes of legitimation in contested markets.
2.2 Perspectives of Marketing and Markets

In the last decade, markets have been proposed to be made up of systems of individuals, groups, and/or other elements that are linked (directly or indirectly) in their participation in economic exchanges (Chandler & Vargo, 2011; Layton, 2007). Rather than simply being, markets ‘become’ through human effort (Nenonen et al., 2014, p. 270). Therefore, marketing is proposed to play a vital role in matching goods with needs, and in organising institutions and processes to serve this ultimate matching purpose (Alderson, 1964). Intricate organisation is needed to “inform potential buyers and sellers, to bring them together in the actual negotiation of a transaction, and to make it possible for them to carry out all transactions negotiated” (Alderson & Cox, 1948, p. 142).

However, these transactions or exchanges are the base of marketing rather than its entirety. The explanation behind the exchange, which are made up of experiences, feelings and meanings, also explain why and how markets form and operate (Bagozzi, 1975). It is this premise that underlies the contemporary understanding of marketing and markets, with the schools of thought emerging and evolving over time from the functionalist paradigm to the marketing management paradigm to the exchange paradigm (Achrol & Kotler, 2012).

The functionalist paradigm emerged with the premise that marketing can be understood as human behaviour within an operating system (Alderson, 1964) studied as a whole (Ashby, 1958). Broadly, this functionalist approach to systems worked to describe the institutions of marketing and their functions (Achrol & Kotler, 2012). Within this view, systems were proposed to be “bounded regions in space-time, involving energy interchange among their parts…and with their environments” (Miller, 1955, p. 514). However, despite its appreciation of the total system, this approach was limited in the central focus given to the study of small systems, such as the firm, rather than a system where the firm is merely one level of interest (Dixon & Wilkinson, 1984). The emergence of the marketing management paradigm was centred on the firm-view of marketing processes (Achrol & Kotler, 2012). This brought about a shift in focus to sales management, advertising, promotional skills, distribution management, pricing, new product campaigns and other skills newly viewed as critical to success (Layton, 2012) rather than merely focusing on sales and advertising (Achrol & Kotler, 2012). The emergence of the exchange paradigm recognised that marketing exchanges are often indirect, can involve multiple parties, and can be made up of intangible and symbolic aspects. Prior to this, marketers recognised the importance of exchange in marketing but viewed them as primarily concerned with direct exchange of tangible entities between two parties (Bagozzi, 1975). Recently, the argument has been raised that while most contemporary scholars consider the study of marketing to be concerned with exchange, there is still disagreement surrounding the fundamentals of this perspective (Chandler & Vargo, 2011).
2.2.1 Market Dynamics

Furthermore, much criticism has been directed at the discipline and its disconnect with the study of markets (e.g. Araujo, Kjellberg, & Spencer, 2008; Buzzell, 1999; Ellis, Jack, Hopkinson, & O’Reilly, 2010; Vargo, 2007). Despite its name, the discussion of marketing had until the last ten years paid little attention to the understanding of markets and market dynamics (Storbacka & Nenonen, 2011a). In light of these criticisms, scholars have made attempts to bridge this gap by defining markets in terms of the contemporary perspective of exchange. That is, “a market exists whenever someone can dream up a set of needs that can be profitably served through production and trade” (Geroski, 1996, p. 692). Aligned with this, markets have been defined as “ongoing socio-material enactments that organise economised exchanges” (Nenonen et al., 2014, p. 271).

Additionally, they are comprised of systems of exchange (Chandler & Vargo, 2011; Layton, 2007) configuring five interrelated aspects; exchange object, actors, institutions, practices and structure (Nenonen et al., 2014). While the exchange is focal, markets are created and maintained through ongoing enactments, interactions and interconnecting practices between materially heterogeneous actors at multiple levels (Nenonen et al., 2014). Therefore, markets are not fixed in time but are in constant development and evolution through the practices by those actors operating within them (Baker et al., 2019). They are spaces that connect many actors and objects – market goods and services (Finch & Geiger, 2010), and are shaped through the configurations and collective actions of actors therein (Baker et al., 2019; Hietanen & Rokka, 2015). While traditional marketing scholarship has typically focused almost exclusively on those actors involved in the exchange; consumers and producers, there has been recent identification of a broader set of actors, including journalists, policy makers, scientists, etc., that play an important role in shaping markets (Giesler & Fischer, 2017). As markets are socially constructed, complex systems of relational processes (Baker et al., 2019), they come about “because actors in the context seek to get access to new resources that they can integrate with their other socio-cultural resources in order to create value” (Storbacka & Nenonen, 2011b, p. 256). As such, a market can only be recognised as such if some form of economised exchanges take place (Nenonen et al., 2014), and the exchange and product offerings should not be ignored when exploring changing market dynamics.

Complicating the evolved understanding of markets is the idea that they are made up of conflicting practices and interests. Actors within marketplaces can be seen to perpetually engage in conflicts about not only the elements of the exchange; such as terms, price, quality and quantity, but also the organisation of the market itself (Blanchet & Depeyre, 2016). Market actors create and shape markets, and the legitimacy of those market spaces, through both exploiting existing opportunities for exchange and exploring new ones (Storbacka & Nenonen, 2011a). In this way, a
market is shaped through the active participation in the development of product offerings, as well as through the uses to which product offerings are put (Harrison & Kjellberg, 2016). Primarily, this process of market exchange involves consumers and producers. Collectively, these actors shape the legitimacy of a market through their willingness and capacity to engage in market exchanges. This is because, as discussed previously, a market can only be a market if some form of economic exchanges take place (Nenonen et al., 2014). By engaging in these market exchanges, consumers and producers can shape the market through qualifying the product offerings, fashioning modes of exchange, configuring actors, establishing market norms and generating market representations (Harrison & Kjellberg, 2016). In this way, markets can be said to be reflexive in that actors question the market organisation and try to establish new rules and dynamics therein. As markets change, the institutions that overlap and interact with the market change and filter back down to the market. This is because markets are spaces of interdependent interplay between heterogeneous market actors at different institutional levels (Baker et al., 2019). Therefore, in order to understand markets and market changes, the actions by those at the societal-level also require exploration; acknowledging the multiple actors, over and above consumers and producers, who play market shaping roles (Giesler & Fischer, 2017). In light of this, consumer culture theorists have begun to pave the way for scholarly understanding of changing market dynamics and collective action (e.g. Giesler, 2008; Goulding & Saren, 2007; Hietanen & Rokka, 2015; Kozinets, 2002; Sandikci & Ger, 2010; Scaraboto & Fischer, 2013; Thompson & Coskuner-Balli, 2007; Weijo, Martin, & Arnould, 2018). To further develop the contemporary understandings of markets, more research needs to follow these examples in exploring the complexities of markets and the dynamics therein.

2.2.2 Sociological Approaches to Markets

Fligstein and Dauter (2007) propose three distinct but overlapping sociological approaches that can be used to make sense of markets and marketplace dynamics; markets as networks, markets as performances, and markets as institutions. All three approaches view markets as social arenas where actors interact and the connectedness of the different actors affects their behaviour within the market, but differ on the focal aspects of markets. First, the network view of markets has a central focus on the relational ties between actors as the fabric of social structure; exploring the social structures in relational data not the underlying relationships and the mechanisms they represent. A notable example of the use of the network view to markets is Martin and Schouten’s (2014) discussion of the process of consumption-driven market emergence. Within consumption-driven market emergence, consumers drive the emergence of a new market that works in harmony with existing market offerings “on the edges of the industry to develop products, practices and infrastructures that, while mirroring the mainstream, existed separately” (p.856). This was explored
in the context of the mini moto market that emerged parallel to the mainstream dirt bike market. The consumers drove the emergence of the new parallel market through their common desire for dirt bike racing that was safe, affordable, accessible and fun. These consumers had unmet needs in the traditional dirt bike market due to an inability or unwillingness to race full sized motorbikes. The new market emergence was brought about by the assemblage of human and nonhuman actors to establish new products, practices and infrastructure (Martin & Schouten, 2014).

Second, the performative approach views calculative processes of specific technologies and artefacts employed by actors as central to markets. This approach overlaps with the network approach in the importance of the actor-network, and the embedded objects and artefacts (Fligstein & Dauter, 2007). For example, Giesler (2008) adopts the performative approach to markets in the exploration of market evolution in the face of resistance in the context of music downloading. The market evolution in this case is presented as a ‘warlike’ process; the ‘war’ between groups of consumers and producers resulted in the emergence of new market infrastructures. This market evolution was positioned as a process of drama and performed conflict between opposing groups of actors; the consumers who were frustrated by the control record companies possessed over music and the producers who were dissatisfied with the consumption customs (e.g. downloading and sharing of music). Through this performed process, new products may emerge while traditional ones disappear and the market structures evolve. In the case of downloading music, this evolution involved the transformation of the economic and competitive aspects of the market structures with emergence of new products, music consumption modes, and pricing and distribution models. In this way, the performative approach to markets sees individuals and parties as similar to stage actors in that they adopt different social roles across different contests to reach their goals. Material goods, objects or artefacts, take the form of stage props as they aide in enhancing credibility of their performance (Thompson & Ustuner, 2015).

Third, the institutional approach to markets is grounded in the influence of market rules, power and norms on actor cognition and action. This approach overlaps with the performative approach as the focal interest is on how and why products are transactionally exchanged, and how the cultures within the field form the institutionalisation of markets in which these products are exchanged (Fligstein & Dauter, 2007). For instance, Scaraboto and Fischer (2013) align with the institutional view of markets in their analysis of stigmatised plus-sized fashion consumers whose needs were unmet by the market offerings available. Plus-sized consumers have often been subject to narrower selections, higher prices and separated departments (with some stores selling plus-sized options exclusively online). This has been suggested to be due to plus-sized bodies typically being those that society often deems as unattractive and thus illegitimate. These views are echoed in the
logics that were present in the aesthetically oriented fashion field with plus-sized women not
demed to be appealing fashion targets. Despite this stigmatisation, these consumers would happily
engage in the market if only there were more options available to them. In this case, the ‘frustrated
fatshionistas’ desire changes in the market through amended institutional practices so they can gain
greater legitimacy in the field rather than the rejection of existing logics that deem them to be
undesirable consumers. This institutional approach to markets has recently provided a foundation
on which consumer culture theorists have evolved the scholarly thought surrounding market
dynamics. Legitimacy, a central concept within institutional theory, in particular has provided a
useful framework through which to understand markets (e.g. Dolbec & Fischer, 2015; Humphreys,

It is essential for legitimacy in markets to be understood as the actions of and interactions
between multiple stakeholders in their bids to create, maintain or disrupt the legitimacy of an entity
– be it a product, actor category, consumption practice or market, can determine whether that entity
succeeds or fails (Humphreys, 2010a). In this way, legitimacy is formed subjectively by different
stakeholders and is shaped by the acceptance or rejection of opinions, schemas or beliefs by key
actors in the setting (Thyroff, Siemens, & Murray, 2018). The market creation process, and the
sustainability of the market within a setting, is made up of a sequence of contestations among these
different stakeholders whereby their divergent interests are aligned, and accepted structures and
processes for exchange are established (Giesler, 2012). The market, and products, actors and
practices therein, then becomes embedded in socially constructed cognitive and cultural schemas
and eventually taken for granted (Humphreys, 2010a, 2010b). However, those entities that do not
align with what is seen as appropriate by these key actors continue to be contested and may
ultimately become stigmatised (Scaraboto & Fischer, 2013) or be driven out of the marketplace
(Giesler, 2008; Humphreys et al., 2017). Thus, legitimacy is crucial for survival in the creation and
emergence of new fields (Suddaby & Greenwood, 2005) as for a field to thrive and survive it
requires social acceptance (Scott, 2014). This is because entities need to at least appear to be
legitimate to access resources and avoid sanctions (Lefsrud, Graves, & Phillips, 2019). However,
legitimacy also provides major challenges for entities as the evaluation of the appropriateness of
the entity is fluid, can change over time, and can be assessed differently by different audiences
(Ashforth, 2019; Hampel & Tracey, 2019).

2.3 Legitimacy
Legitimacy as a theoretical concept is seminal to institutional theory in organisation studies and
sociology, and dates back to the origin of organisational theory. However, early research into the
concept used the term without properly defining it and, as such, research in the area was fragmented
and slow to develop (Deephouse & Suchman, 2008). This dilemma prompted the seminal paper from which the now accepted definition, in both organisation studies and marketing, is derived; “legitimacy is a generalised perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs and definitions” (Suchman, 1995, p. 574). In line with this definition, if actions and practices, or other entities and elements, within a field are deemed to be in accordance with the prevailing institutions, that field may be seen as desirable, proper or appropriate (Suddaby & Greenwood, 2005). In the seminal paper outlining these principles, Suchman (1995) proposed three domains of legitimacy; pragmatic (based on the self-interest of the immediate audience of the field), moral (based on a positive normative evaluation of the field and the activities therein) and cognitive legitimacy (based on cognition rather than interest or evaluation). These domains are separated into two dimensions; focus (separating dynamics into actions and essence) and temporal texture (separating dynamics into episodic and continual) of legitimation. Within the focus of legitimation, the actions refer to the organisation operating in a desirable, proper and appropriate manner. Essence refers to the organisation itself being desirable, proper and appropriate. Within the temporal texture of legitimation, episodic refers to those dynamics that operate on a temporary or transitory basis while continual refers to those dynamics that are long lasting. These dynamics are presented in Figure 1 below.

Figure 1 - A typology of legitimacy (Suchman, 1995, p. 584)
Pragmatic legitimacy is made up of exchange (support for a field based on the expected value to the stakeholders), influence (support for a field if it is seen to be responsive to larger interests), and disposition (support for a personified field that shares dispositional attributes). The disposition is further broken into interest and character. Moral legitimacy is comprised of consequential (support for a field if they accomplish socially valuable consequences), procedural (support for a field that embraces socially accepted procedures), structural (support for a field that is seen to have the capacity to perform specific types of work), and personal (support for a field that has charismatic leaders). Cognitive legitimacy entails comprehensibility and taken for grantedness.

Comprehensibility (support for a field that has culturally plausible explanations for its existence and endeavours) is separated into predictability (the comprehensibility of actions) and plausibility (the comprehensibility of essences). Taken for grantedness (support for a field which not only renders disorder manageable, but also transforms it into ‘givens’) is separated into inevitability (the taken for grantedness of actions), and permanence (the taken for grantedness of essences) (Suchman, 1995).

While Suchman (1995) is credited with the development of the foundational definition accepted today, most organisational scholars credit Weber (1978) with the introduction of legitimacy into sociological theory (e.g. Bitektine & Haack, 2015; Deephouse & Suchman, 2008; Johnson et al., 2006; Suchman, 1995; Suddaby et al., 2017). Weber (1978) argued that even though individuals may not hold the same norms, values and beliefs, their behaviour becomes oriented to a social order that aligns with rules and beliefs that are accepted by most others. Therefore, a social order is legitimate if the “action is approximately or on the average oriented to certain determinate ‘maxims’ or rules” (p. 31). This formulation of legitimacy has permeated through the evolution of organisational scholarship, and is therefore foundational to how legitimacy is conceptualised.

Today, organisational scholars (and marketing scholars – discussed from page 23) define an entity as legitimate, in part, if its existence and prevalence are taken for granted (e.g. Hannan & Carrol, 1992; Johnson et al., 2006). However, since the emergence of legitimacy as a stream of research, and the publication of Weber (1978) and Suchman’s (1995) seminal works, there have been scholarly debates about whether the continued scholarship should be from a property or process perspective (Bitektine & Haack, 2015; Johnson et al., 2006; Suddaby et al., 2017). Within the property view, legitimacy is regarded as a ‘thing’. That is, legitimacy is a property, resource or capacity of an entity that can be gained or lost. Within the process perspective of legitimacy, it is viewed as an interactive process involving multiple actors. Whether legitimacy is gained or lost is not the main focus within this perspective but rather the processes of legitimation and the interactions that lead to the emergence of legitimacy (Suddaby et al., 2017). The distinctions
between the different perspectives of legitimacy are summarised in Table 1 below. The subsequent sections discuss these perspectives and their distinctions in more depth.

Table 1 - Streams of legitimacy research (Adapted from Suddaby, Bitektine & Haack, 2017, p.453)

<table>
<thead>
<tr>
<th>Property</th>
<th>Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>What is legitimacy?</td>
<td>A property</td>
</tr>
<tr>
<td></td>
<td>A resource</td>
</tr>
<tr>
<td></td>
<td>An asset</td>
</tr>
<tr>
<td></td>
<td>A capacity</td>
</tr>
<tr>
<td></td>
<td>A thing</td>
</tr>
<tr>
<td>Where does legitimacy occur?</td>
<td>Between legitimacy object (e.g. an organisation) and its external environment</td>
</tr>
<tr>
<td></td>
<td>Mostly at the organisation and field levels</td>
</tr>
<tr>
<td>How does legitimacy occur?</td>
<td>Contingency view: Through “fit” between attributes of an organisation and external audiences’ expectations</td>
</tr>
<tr>
<td></td>
<td>Mostly at the field level, also at the organisation (group) levels</td>
</tr>
</tbody>
</table>

2.3.1 Legitimacy as Property

Research within the legitimacy as property view, which is the dominant perspective taken in organisation studies, aims to describe the physical properties of the concept, to determine how it might be measured, and to elaborate on how it changes under different conditions (Suddaby et al., 2017). This perspective centres on the notion that legitimacy is an asset, property or resource that can be possessed in a measurable quantity by the subject of legitimacy in relation to others (Deephouse & Suchman, 2008; Suddaby et al., 2017). The subject of legitimacy relates to the social entities, structures, and ideas whose legitimacy is being assessed. Based on the assessments by the sources of legitimacy, legitimacy can be acquired (George, Chattopadhyay, Sitkin, & Barden, 2006), accumulated (D’Aunno, Sutton, & Price, 1991), lost (Ahlstrom & Biuton, 2001; Chen, Griffith, & Hu, 2006), spread (Certo, 2003; Dobrev, Ozdemir, & Teo, 2006; Zelner, Witold, & Holburn, 2009), or restored (Pfarrer, Smith, & Taylor, 2008). The sources of legitimacy can be constituted by internal and external audiences. If the actions of the subject of legitimacy aligns with social order, then the sources of legitimacy deem the actions and the field in which they occur appropriate and thus legitimate (Deephouse & Suchman, 2008). Legitimacy and illegitimacy can be
seen as a continuum with an entity being so legitimate that it is taken for granted on one end (Hannan & Freeman, 1984) and being so illegitimate that it is stigmatised on the other (Elsbach & Sutton, 1992; Hudson, 2008). Despite its positioning as a property or asset that can be gained or lost, it must be noted that within this literature legitimacy is not proposed to be a commodity that can be bought, sold or exchanged. It is a condition reflecting the compliance with rules and laws, normative values, or cultural-cognitive frameworks (Deephouse & Suchman, 2008; Ruef & Scott, 1998; Scott, 2014; Zimmerman & Zeitz, 2002).

2.3.1.1 Legitimacy and the Pillars of Institutions
Scott (2014) linked legitimacy to the three pillars of institutions; regulative, normative, and cultural cognitive pillars. The regulative pillar refers to rule setting, monitoring and sanctioning activities and the capacity to establish rules, inspect conformity to those rules, and offer rewards or punishments to influence behaviour. The regulatory systems are those that exhibit high obligation (the extent to which actors are bound to obey due to scrutiny by external parties); precision (the extent to which the rules specify unambiguously the conduct that is required), and delegation (the extent to which the authority to apply rules and resolve disputes has been granted to third parties). Within the coercive mechanisms associated with this pillar, if the rules are violated punishment is enacted. The normative systems on the other hand, are made up of norms (the legitimate way of pursuing valued ends) and values (the preferred and desirable). As such, this pillar both defines goals and objectives but also the appropriate ways in which these goals can be pursued. While some norms and values apply to the collective actors in a field, others only apply to certain actors. This pillar exhibits low values for obligation, precision and delegation. However, similar to the regulatory pillar, the normative pillar may impose constraints on social behaviour but also empower or enable actors. Finally, the cultural-cognitive pillar refers to the shared concepts that make up the nature of social reality and the properties of actors therein. This provides a frame, based on shared understandings, professional ideologies, cognitive beliefs, or a set of collective meanings with which actors can make sense of reality. However, cultural elements vary in their degree of institutionalisation as cultural conceptions often vary from actor to actor, and actors in the same situation can perceive reality differently.

Each of these three pillars of institutions can give rise to the condition of legitimacy for organisations if the organisations reflect cultural alignment, normative support and/or consonance with rules and sanctions within the larger social system in which they exist (Dowling & Pfeffer, 1975; Ruef & Scott, 1998). Therefore, legitimacy denotes the relationship between the activities and practices of organisations, and those that are contained within, accepted and enforced by the social system (Zimmerman & Zeitz, 2002). Organisations can also be evaluated as being legitimate in
terms of only one or two of these pillars. For example, a firm may be accredited by a professional agency and accepted in society but may not be operating under the regulatory rules imposed by the government (Ruef & Scott, 1998). As organisations need resources from their environment for their survival, the belief within all pillars that the organisation is competent, efficient, effective, worthy, appropriate and/or needed is key for gaining resources (Zimmerman & Zeitz, 2002). This is best when organisations, including their operations, structures and routines are considered to form part of the ‘natural order’ within society (Golant & Sillince, 2007). This evaluation involves all stakeholders, however, they have varying degrees of knowledge and influence over the organisation and the resource allocation (Ruef & Scott, 1998). Organisations can be seen as part of the natural order in the social system when they are seen by the stakeholders (or sources of legitimacy) as being predictable, coherent and objective within the accepted institutions (Golant & Sillince, 2007). Gaining legitimacy and becoming part of the natural order is particularly important for emerging organisations as it provides a means to overcome liability of newness (Zimmerman & Zeitz, 2002). Liability of newness relates to the higher propensity of new organisations to fail than established organisations. This arises as the new organisations have to learn new roles as social actors within the societal environment (Singh, Tucker, & House, 1986). Thus, legitimacy has been argued to be a resource that is as important as capital, technology personnel, customer good will, networks and other resources for new ventures to succeed (Zimmerman & Zeitz, 2002).

2.3.2 Legitimacy as Process
The legitimacy as property view advances legitimacy as a dichotomous entity, a resource that an organisation possesses or does not possess (Deephouse & Suchman, 2008). However, it has been argued that a process perspective offers a more generative, interactive and dynamic lens through which to explore legitimacy (Suddaby et al., 2017). When adopting the legitimacy as process perspective, the term legitimation is often used rather than, or in addition to, legitimacy (e.g. Barron, 1998; Johnson et al., 2006; Rao, 1994; Sine et al., 2007). Legitimation is understood to be a structured set or sets of formal or emergent activities that describe how an actor acquires affiliation with an existing social order or category (Suddaby et al., 2017). It is a complex social process of making a practice or entity congruent with the values, norms and institutions within society, therefore institutionalising the practice or entity (Johnson et al., 2006; Suchman, 1995). Unlike the dichotomous view of legitimacy on a continuum ranging from stigmatisation (Elsbach & Sutton, 1992; Hudson, 2008) to highly taken for granted (Hannan & Freeman, 1984), process theorists view legitimacy as growing through complex social processes from a point of no legitimacy to a tipping point at which legitimacy emerges (Suddaby et al., 2017). That is, legitimacy is a cognitive social process through which entities may become embedded in the taken for granted assumptions.
(Suddaby & Greenwood, 2005). Although specific actions and practices can be considered illegitimate or inappropriate, non-legitimate organisations are not defined in terms of inappropriateness or illegitimacy. Instead, organisations are perceived as being legitimate when demonstrating appropriateness and non-legitimate when they are not perceived as demonstrating appropriateness (Devers, Dewett, Mishina, & Belsito, 2009). Legitimacy is not assumed to be a stable condition but is actively and continually negotiated (Suddaby et al., 2017). Organisations must repeatedly create, recreate and conquer legitimacy (Hallström & Boström, 2010). Therefore, legitimacy is an ongoing process of social negotiation involving multiple participants which is continually in a state of flux, rather than the outcome of institutional pressures (Suddaby et al., 2017). It is a collective process in which stakeholders participate in meaning making (Nielsen & Rao, 1987). These processes can take the form of persuasion/translation/narration, theorisation and identification/categorisation (Suddaby et al., 2017).

2.3.2.1 Legitimation through Persuasion, Translation and Narration

First, persuasion/translation/narration refers to influence that is grounded in language (Nielsen & Rao, 1987), whereby legitimation is the process of collective meaning making through language and communication (Suddaby, 2010a; Zilber, 2006). While the assumption that meaning is actively negotiated is shared among organisational researchers adopting this process perspective, they differ substantially on the degree of agency and awareness held by the actors participating in the meaning negotiation (Suddaby et al., 2017). On the one hand, scholars draw from the concept of discourse in their discussion of discursive legitimation. Within this perspective, legitimacy is seen as being shaped through linguistic resources whereby textual strategies are used in the social construction of legitimation (Luyckx & Janssens, 2016). That is, legitimation is shaped through the actions of individuals in producing, distributing and consuming texts (Maguire & Hardy, 2009). Discourses provide actors with ‘frames’ through which to make sense of issues and practices, and create a sense of legitimacy (Vaara & Tienari, 2008). However, actors are seen as having agency at the micro-level but the processes of legitimation are beyond their control at the collective-level of the organisational field (Lawrence & Phillips, 2004; Maguire & Hardy, 2009; Vaara & Tienari, 2008). On the other hand, some scholars within the persuasion/translation/narration perspective use the term rhetoric instead of discourse. Rhetoric is defined as the art of persuasion (Harmon, Green, & Goodnight, 2015; Suddaby & Greenwood, 2005). Within this view, the process of meaning making is positioned as a strategic one in that actors have agency to purposively construct legitimacy through rhetorical language strategies (Suddaby et al., 2017). Actors use rhetoric to justify their actions, construct legitimacy and institutionalise certain practices (Harmon et al., 2015). This is based on the idea that language does not merely represent social reality, but it also constitutes it.
Language, whether it is written or spoken, reflects but also shapes the social reality (i.e. values, norms attitudes, etc.) within an institutional environment (Harmon et al., 2015).

2.3.2.2 Legitimation through Theorisation

Second, theorisation refers to “the process by which existing norms and practices are abstracted into generalised specifications or categories” (Suddaby et al., 2017, p. 461). Actors theorise the social change they wish to enact by identifying broad categories of comparable situations. These new arrangements are then motivated as effective and replicable in the institutional environment (David, Sine, & Haveman, 2013). In this way, theorisation is a process whereby deviations from the prevailing conventions are abstracted and become simplified to allow for adoption (Greenwood, Suddaby, & Hinings, 2002). This process of abstraction allows organisational practices, structures and characteristics to diffuse widely and over time become taken for granted (Strang & Meyer, 1993). Theorisation is made up of two tasks: the specification of a failing for which a local innovation can be a solution, and a justification for that innovation (Tolbert & Zucker, 1996). The process drives change within a field by problematising (or delegitimising) a current practice and simultaneously offering (or legitimising) a new solution (Greenwood et al., 2002). Actors specify problems and justify particular solutions to these problems (Strang & Meyer, 1993) by identifying the shortcomings of the practice, and thereby justifying new norms (Greenwood et al., 2002). These new practices are diffused widely if they are compellingly presented to be more appropriate than the existing ones (Tolbert & Zucker, 1996). However, as these problems and solutions are socially constructed, the solutions proposed during the process of theorisation may not be the most efficient in addressing the problem. Instead, they are congruent with the existing structures and practices in society (David et al., 2013). Theorisation is proposed to be one stage in a process model of institutionalism (Suddaby et al., 2017).

2.3.2.3 Legitimation through Identification and Categorisation

Finally, legitimation can take the form of identification/categorisation. This centres on the paradox of organisations needing to be simultaneously different with their own unique identity but also isomorphic (Suddaby et al., 2017). When an organisation resembles other organisations in its environment, it is seen as isomorphic (Deephouse, 1996; DiMaggio & Powell, 1983). This paradox is labelled the ‘uniqueness paradox’ (Martin, Feldman, Hatch, & Sitkin, 1983). It is further complicated as the need to be different and the need to be isomorphic are both driven and achieved by the process of legitimation. Differentiation and identity both play a role in whether the organisation’s actions are assessed as appropriate by social stakeholders (Suddaby et al., 2017). Therefore, organisations adopt processes that allow them to be similar enough to an established
organisation to be seen as legitimate, while also differentiating themselves from their competitors by having a unique identity (King & Whetten, 2008). However, when organisations exist in an institutional environment that is characterised by strong norms, rules and belief systems, their survival and legitimacy depend more on conforming to these widely held expectations than on efficiency (D’Aunno et al., 1991; DiMaggio & Powell, 1983). In this way, the roles in the institutional environment are largely scripted in that the structures and practices are institutionalised and taken for granted (Pedersen & Dobbin, 2006). If an organisation seeks to differentiate itself through new products or by creating a new market, it must comply with the norms and standards within the institutional environment in which it exists (Fligstein, 1997; Kennedy, 2008). Therefore, considerable legitimacy work is needed for a new product or market to succeed (Suddaby et al., 2017).

2.3.3 Problems with Legitimacy

In addition to the debate of legitimacy as property or legitimacy as process, extant scholarly exploration of legitimacy has brought about four further problems. First, the study of legitimacy (or legitimation) from the process perspective lacks construct clarity around the processes themselves. This problem arises as prior studies adopt distinct and differing assumptions about legitimation by focusing on different elements of a complex and multi-level phenomenon, prioritising the ‘strength’ of legitimacy over the clarity of the construct (Suddaby et al., 2017). As such, calls have been made for the enhancement of construct clarity in theory (Suddaby, 2010b, 2014). Second, the construct is understood as a universal or generalised judgement (Suchman, 1995). This has recently been argued to be problematic as legitimation is the judgement of appropriateness by specific audiences while other audiences simultaneously hold radically different views (Hampel & Tracey, 2019). Third, there is some conceptual confusion in extant literature between stigma and legitimacy (Ashforth, 2019). On one hand, it has been argued that while the constructs have similar roots in social evaluation, they diverge in important ways and should be studied as separate constructs (Helms et al., 2019). However, on the other hand, it has been argued that stigma and legitimacy should be positioned on a single continuum from profound approval to profound disapproval (Hampel & Tracey, 2019). Regardless of the position taken regarding legitimacy and stigma, extant research tends to view legitimacy and stigma as binary judgments whereby an entity is either stigmatised/illegitimate or non-stigmatised/legitimate. This has been argued to diminish the complex, dynamic and equivocal world, and ignore the notion that different actors may invoke different sets of values, norms and beliefs or, even if actors agree on the common set of values, norms and beliefs, may differ in terms of compliance with the resultant prescriptions (Ashforth, 2019). Fourth, the study of legitimacy has been argued to lack conceptualisation of the negative side
of legitimacy as extant research fails to distinguish between lack of support and social disapproval. This has led to “conceptual fuzziness” and the lack of a consistent definition of legitimacy (Hampel & Tracey, 2019, p. 13). As such, although legitimacy has been subject to extensive research (Suddaby et al., 2017), further research is needed to develop construct clarity and advance theoretical understandings.

2.3.4 Legitimacy in Marketing

Within marketing research, the discussion of legitimacy has primarily focused on an outcome-based perspective. That is, legitimacy is presented as a property that can be gained or lost, with a focus on attaining legitimacy (e.g. Dolbec & Fischer, 2015; Humphreys, 2010b, 2010a; Humphreys & Latour, 2013; Kjellberg & Olson, 2017; Scaraboto & Fischer, 2013). While this scholarship does, to some extent, explore the processes of legitimation, the focus has been on examining the static state (or property) of legitimacy that is gained or lost at certain time points in markets. When a legitimacy as property perspective is adopted, legitimacy is focal as an asset or a resource that can be possessed in measurable quantities by an entity (Suddaby et al., 2017) – such as a product, market, idea or industry, in relation to others (Humphreys & Latour, 2013). Aligned with this view, scholars have focused their attention on different attributes of legitimacy associated with regulative, normative and cultural-cognitive acceptance which are gained or lost as the outcome of a process (Dolbec & Fischer, 2015; Humphreys, 2010b, 2010a; Humphreys & Latour, 2013; Scaraboto & Fischer, 2013; Yang, Su, & Fam, 2012). In the context of markets, this means the relevant institutional actors, be they producers, consumers, authorities, etc., must consider the market exchange an appropriate way of coordinating production and consumption for the market or industry to be seen as having attained legitimacy (Kjellberg & Olson, 2017). Furthermore, markets and industries can gain or lose legitimacy over time through a complex process made up of cultural representations and individual responses to these (Humphreys & Latour, 2013).

To understand the processes that result in legitimacy being attained, marketing and consumer researchers have used institutional theory as a theoretical lens (e.g. Dolbec & Fischer, 2015; Humphreys, 2010b, 2010a; Humphreys & Latour, 2013; Kjellberg & Olson, 2017; Scaraboto & Fischer, 2013). Drawing specifically on the discussion of the regulative, normative and cultural cognitive pillars of institutions (Scott, 2014), it is proposed that any institution, for example a church, school, market, industry, the rites of marriage etc., is supported by these three pillars through the specific sociological or psychological function of the pillars. Institutions are legitimate to the degree to which they are supported by these pillars (Humphreys, 2010a). That is, an institution, entity or action is characterised as legitimate if it possesses cultural alignment, normative support or conformity to relevant rules or norms (Dolbec & Fischer, 2015). This occurs
within the institutional environment in which the institution, entity, or action is embedded (Kates, 2004). Institutional environments are made up of the greater social, cultural and symbolic meaning systems that define the associated social reality (Ertimur & Coskuner-Balli, 2015). These include the cultural meanings, ideals and accepted social norms associated within the greater society or community in which the institution, action or entity is embedded (Kates, 2004). In the context of markets and industries, the process involved in attaining legitimacy is made up largely of the institutionalisation of certain shared norms, understandings and practices of exchange (Humphreys, 2010a). Therefore, these norms and understandings can serve as implicit guidelines, rather than explicit regulations, to which markets and industries must adhere in order to maintain a fit with what is seen as appropriate within the pillars by key stakeholders such as consumers, professionals and regulators. When this fit is achieved, a market or industry is considered institutionalised and legitimate (Kates, 2004).

2.3.4.1 Regulative, Normative and Cultural-Cognitive Legitimacy

The institutionalisation or legitimation of markets and industries has been proposed to be an historical social process whereby legitimacy is gained or lost through changes in normative, cognitive and regulatory structures over time (Humphreys, 2010b). While legitimation is a term most often associated with the process perspective to legitimacy, the study of the legitimation processes in markets has predominantly focused on the outcome of whether the property of legitimacy has been gained or lost rather than the process itself (e.g. Humphreys, 2010a, 2010b; Humphreys & Latour, 2013). A change in regulative, normative, and/or cultural-cognitive meaning, through the negotiation of multiple stakeholders drives legitimation or delegitimation of the market, industry or exchange practice (Humphreys, 2010b). Therefore, legitimacy has been categorised within this literature as regulative, normative and cultural-cognitive legitimacy. Regulative legitimacy refers to the degree to which a market, industry or entity, etc. adheres to the explicit regulative rules and regulations within society (Humphreys, 2010a). These rules and regulations are set forth by a superseding organisation, usually the government or regulatory agencies (Humphreys, 2010b). As these regulative rules often determine what can be seen as legal in society, there has been debate about the difference between legal and legitimate and whether illegal practices can be legitimate (e.g. Kjellberg & Olson, 2017). For example, Humphreys and Latour (2013) illustrate that “marijuana seems illegitimate when grouped with so-called “hard drugs” like heroin in public service announcements, yet it begins to seem legitimate when associated with medical treatments in news coverage” (p. 773). Furthermore, when a large social group shares a perception of an illegal activity as appropriate despite the rules and laws in society, the activity can still be legitimate (Klein, 2017). However, the general consensus within marketing literature is that legalisation and
regulative legitimacy can often be seen as synonymous (Humphreys, 2010a, 2010b; Scaraboto & Fischer, 2013).

Normative legitimacy refers to the adherence to social norms and values (Humphreys, 2010a). These norms and values are associated with or implied by actors and the general perception of what is acceptable in the larger social system or institutional environment (Scaraboto & Fischer, 2013). Unlike the regulative legitimacy, these are perceptions of what is acceptable in society irrespective of legal status (Humphreys, 2010b). Therefore, some practices can be illegal but still normatively legitimate (Humphreys, 2010a). Cultural-cognitive legitimacy occurs when a practice within the market or industry becomes taken for granted (Humphreys, 2010b; Kates, 2004). It is the degree of fit of the market or industry within existing cognitive and cultural schemas (Humphreys, 2010a). This can be achieved over time through the restructuring of public discourse in order for the practices to become taken for granted (Scaraboto & Fischer, 2013). While normative and cultural-cognitive legitimacy have been discussed as two distinct types, the literature notes that the distinction between them can often become blurred. Humphreys and Latour (2013) note that “an order of effects can occur such that some level of cognitive legitimacy is required for normative legitimacy, which in turn enables complete cognitive and normative legitimacy being taken for granted” (p. 775). All three types of legitimacy can reinforce one another or they can be in conflict. Thus, full legitimacy is said to be attained when a market or industry has complete regulatory compliance, normative acceptance and eventual taken for grantedness. Varying degrees of legitimacy, from illegitimacy to full legitimacy, can also be gained depending on which of the types of legitimacy are attained (Humphreys, 2010a). This legitimation or delegitimation can occur explicitly through consumer reward or punishment of an entity in response to their actions, less explicitly through entities appropriating the consumer attitudes, or implicitly through gaining cultural-cognitive legitimacy by placing products and brands within acceptable daily life (Humphreys & Latour, 2013).

2.3.4.2 Territorial, Moral and Cultural Legitimacy
In addition to these three main types of legitimacy, marketing scholars have discussed territorial legitimacy (Humphreys, 2010b), moral legitimacy (Kates, 2004) and cultural legitimacy (Humphreys, 2010b). Territorial legitimacy is gained as a result of being “physically instantiated in some form” (Humphreys, 2010b, p. 503). That is, an entity, be it a firm, market or industry, takes on legitimacy because it exists in a physical form. Thus, territorial legitimacy plays a secondary role in establishing normative legitimacy (Humphreys, 2010b). Moral legitimacy occurs through the questioning by actors of whether the entity truly benefits the community. A market or industry can gain moral legitimacy if they are assessed to “pursue behaviourally consistent and prosocial
actions” (Kates, 2004, p. 456). It has been argued that moral legitimacy and normative legitimacy, despite the different labels, refer to the same concept (Humphreys, 2010b). Finally, cultural legitimacy can be possessed by an entity when they are “a symbolically integrated part of established cultural practices and institutions” (Humphreys, 2010b, p. 502). Cultural legitimacy works by changing the discourses and allows an entity to be destigmatised and appeal to those who would not otherwise consider it legitimate (Humphreys, 2010b). With the exception of the discussion of moral legitimacy (Kates, 2004), these additional discussions of legitimacy have positioned them as secondary types of sub-categories that work to enable or disrupt the main types of legitimacy (Humphreys, 2010b). Therefore, the scholarly discussions of legitimacy centre largely on the three main types: regulative, normative and cultural-cognitive legitimacy (Humphreys, 2010b, 2010a; Humphreys & Latour, 2013; Scaraboto & Fischer, 2013).

2.3.4.3 Legitimacy and Market Dynamics
Marketing and consumer researchers have recently found these three types of legitimacy to be useful in framing their understanding of market dynamics (e.g. Humphreys, 2010b, 2010a; Humphreys & Latour, 2013; Scaraboto & Fischer, 2013). Theorisation of legitimacy and legitimation in markets has centred on how new markets are created and legitimised (Humphreys, 2010a); how adjacent markets influence legitimate market (re)formulation (Kjellberg & Olson, 2017); why some consumption practices become legitimate while others remain stigmatised (Humphreys, 2010b); how stigmatised consumers can gain legitimacy in mainstream markets (Scaraboto & Fischer, 2013); how media framing affects judgements of legitimacy (Humphreys & Latour, 2013); how perceptions of illegitimacy of the legal governance institutions influence market systems (Klein, 2017); and how interconnected consumers and their interactions influence legitimacy and market dynamics (Dolbec & Fischer, 2015). Through the explorations of the outcome of legitimacy (or illegitimacy), previous research has uncovered the actors (e.g. consumers, producers, government, news media) that play a dominant role in the legitimation or delegitimation of a market (e.g. Dolbec & Fischer, 2015; Humphreys, 2010b, 2010a; Humphreys & Latour, 2013; Scaraboto & Fischer, 2013), and the shifts in the types of legitimacy that occur as a result of the actions and interactions of actors (e.g. Humphreys, 2010a; Humphreys et al., 2017). One such discussion resulted in a model of the interactions between the types during over time – seen in Figure 2 below. This model includes the framing strategies and managerial actions that can be used by an entity, the gambling industry in this case, to attain the types of legitimacy leading to ‘full legitimacy’ (Humphreys, 2010a). Additionally, prior research has begun to uncover the triggers of shifts in legitimacy and the collective action of consumers that constitute these triggers.
However, the main focus of this research is on the property of legitimacy that is gained from this collective action.

In addition to the theorisation of legitimacy, the focal interest in the property outcome of the process of legitimation is evident in some marketing and consumer research through their research design. Content analytic techniques in general are the most common techniques for operationalising and measuring legitimacy from the property perspective (Deephouse, 1996; Deephouse & Carter, 2005; Ruef & Scott, 1998). In particular, the technique of measuring the frequency of conversations surrounding the subject of legitimacy within media accounts is a popular method within the property perspective (Suddaby et al., 2017). Empirical studies in marketing have tended to concentrate on a single category or level of actor, or a single source of data regarding multiple actors rather than exploring legitimacy as a process shaped by the interactions of multiple exchange and societal-level actors. Specifically, the typical focus is on consumer subjects (Kates, 2004; Scaraboto & Fischer, 2013), actors portrayed in the media (Humphreys, 2010b, 2010a; Humphreys & Latour, 2013), and firms (Humphreys, 2010a; Rao, Chandy, & Prabhu, 2008; Yang et al., 2012). Alternatively, “the process perspective is, necessarily, multilevel because social construction
assumes interactions and reciprocal influences between the individual and collective levels of analysis” (Suddaby et al., 2017, p. 462). Therefore, since legitimation is conceptualised as a multi-level collective process in which leaders, followers and stakeholders all participate in making meaning (Nielsen & Rao, 1987; Suddaby et al., 2017), more investigation of legitimation from a multi-level and multi-actor perspective is needed.

2.4 Contested Markets
Contested markets provide an ideal setting through which to take a multi-level multi-actor perspective of legitimation. In this thesis, contested markets are defined as *market spaces in which actors with divergent interests are in conflict as they struggle over meaning of some element of the market, or the market itself, and engage in actions to challenge, disrupt or destabilise the legitimacy of the element or market.* When exploring legitimacy in markets, extant researchers have tended to investigate markets where the processes are hidden and not openly contested. The constructs have been examined empirically in the context of either purely legitimate markets (e.g. Dolbec & Fischer, 2015) or non-legitimate markets (e.g. Humphreys, 2010a, 2010b; Humphreys & Latour, 2013). As these markets are accepted as legitimate or not in society, the various processes of legitimation are often hidden or taken for granted. The exceptions to this are Giesler’s (2012) work on market creation and legitimisation in the contested context of Botox cosmetics, and Scaraboto and Fischer’s (2013) work on stigmatised plus-sized ‘fatshionistas’. Botox cosmetics are ‘legitimate’ technological innovations accepted in society but became contested due to the narratives of “deadly poison, frozen faces, mutilation and addiction” (Giesler, 2012, p. 1). Additionally, plus-sized fashion consumers are seen as undesirable and contested/stigmatised in the broader fashion market. Therefore, the processes surrounding the market creation and legitimation are likely to be more visible and observable in contested markets, such as the Botox cosmetics or plus-sized fashion markets, because they are in a constant state of flux. This is because when markets are contested, and key actors are attacked or threatened by the work of other actors, they engage in work to preserve their interests (Humphreys et al., 2017). Therefore, in order to understand the processes of legitimacy and legitimation in markets, a contested market where the processes are visible is needed for the research setting.

In marketing literature, contested markets have been proposed to be spaces of multiple and sometimes conflicting or contradictory meanings and values (Marcoux & Legoux, 2005). Within these spaces, actors engage in a range of disruptive and maintenance behaviours aimed at challenging or sustaining the legitimacy of other actors’ consumption choices, behaviours and ideologies (Luedicke & Giesler, 2008). Contested markets are those whose consumption practices, and the supporting regulative, normative and cognitive pillars, are questioned and/or challenged
(Humphreys et al., 2017). Aligned with these definitions, prior studies have been predominantly interested in contested markets as contextual settings in which to explore phenomena regarding marketing, markets, market actors and consumption (e.g. Belk, Østergaard, & Groves, 1998; Goulding et al., 2009; Humphreys et al., 2017; Marcoux & Legoux, 2005). Furthermore, while some studies provide a brief outline of what contested markets and consumption are in relation to their chosen contexts (Luedicke & Giesler, 2008; Marcoux & Legoux, 2005) there is little comprehensive investigation of the nature of contested markets and the dynamics and processes that feed into contestation, disruption and resolution.

There has been some discussion of markets as sites of conflicting practices and interests through the lens of controversy (Blanchet & Depeyre, 2016). Controversies are situations in which actors disagree (Venturini, 2010). They are dispute processes whereby actors make sense of situations by confronting their interests, beliefs, values and opinions, and comparing them with those of others. Controversies shape market transformations by instituting or challenging them (Blanchet & Depeyre, 2016), and therefore refer more to the processes within the markets than to the nature of the markets themselves. At the market-level, conflict in markets has been explored through counter-cultural markets; whereby markets emerge that counter the mainstream markets in terms of their ideas, styles, myths and/or symbols. The market dynamics therein, despite often appearing stable, are continuously negotiated, stabilised and destabilised (Hietanen & Rokka, 2015). Similarly, dark (Brown, McDonagh, & Shultz, 2012; Coomber, 2014; O’Sullivan, 2016) and stigmatised markets (Sandikci & Ger, 2010; Scaraboto & Fischer, 2013) have also provided frames through which to explore conflict in markets. However, within markets that are stigmatised or viewed to be ‘dark’, the processes of legitimation (and in these cases driving legitimacy down to the point of non-legitimate) are generally accepted in society and taken for granted. Contested markets, on the other hand, provide the ideal spaces through which to explore the processes of legitimation over time. In shifting to a process perspective of market dynamics and legitimation, it has been argued that the world and social order should be conceptualised as in flux rather than being seen as stable entities that change from time to time (Jarzabkowski et al., 2016). Therefore, as they are constantly in a state of flux but not accepted generally as lacking appropriateness, the processes of legitimation are more visible in contested markets. As such, in order to better understand the process of legitimation and market dynamics, it is essential to examine in a single study the different types of multi-level actors who play a role in shaping legitimacy using a process lens (Baker et al., 2019). Therefore, this thesis is guided by the research question: how are the processes of legitimation shaped in contested markets?
2.5 A Process Perspective of Markets

Within the process perspective, there is a shift from viewing entities as having specific properties to viewing entities as being involved in processes of becoming (Sandberg et al., 2015). Instead of conceptualising the world as made up of stable entities, which at times undergo changes, social order should be seen as in a constant state of flux surrounding creation, emergence, and becoming (Jarzabkowski et al., 2016; Sandberg et al., 2015). In this way, entities are temporary instantiations of ongoing processes, in a continuous state of becoming (Tsoukas & Chia, 2002). Taking this becoming perspective “assumes an ontological reversal from a focus on the stability of organisation and ‘things’ to a study of the processes of organising through which such things are constituted” (Jarzabkowski et al., 2016, p. 3). Thus, viewing the world through a process lens is concerned with change (Mesle, 2008). Furthermore, within this perspective, change is not a ‘thing’ that happens to entities, but rather is the way in which reality is constructed (Langley et al., 2013). Therefore, the world is constituted by processes through which events, activities, and decisions, etc. coalesce into assemblages that create change. Process is dynamic, ongoing and evolving (Sandberg et al., 2015). This perspective, while argued by some to be the way the world should be viewed (e.g. Mesle, 2008), is not always adopted as “the world feels so solid that we assume unconsciously that its solidity must be temporal as well as spatial” (Mesle & Dibben, 2016, p. 7). However, even those activities and events that may seem as though they are the same, are never in actual fact the same due to the micro mechanisms through which the broader change is observed (Jarzabkowski et al., 2016). Therefore, an entity is a bundle of qualities; some of which persist more than others but none of which endure without change (Langley et al., 2013). Thus, a process perspective focuses on how strategy, plans, and decisions, etc. are produced and reproduced within the ongoing flux of reality (Jarzabkowski et al., 2016).

Within marketing, CCT scholars have theorised change in markets by exploring how and why markets, actors, institutions and meanings emerge, evolve or terminate (Giesler & Fischer, 2017). Markets are positioned as emerging, evolving or terminating through the discursive negotiations, and actions and interactions of multiple actors (e.g. Dolbec & Fischer, 2015; Ertimur & Coskuner-Balli, 2015; Giesler, 2008; Humphreys, 2010a, 2010b; Karababa & Ger, 2011; Martin & Schouten, 2014; Parmentier & Fischer, 2015; Sandikci & Ger, 2010; Scaraboto & Fischer, 2013). Giesler and Thompson (2016) summarised this process theorisation within consumer research as focusing largely on the ways in which change and consumers are positioned. Change has been identified as being transformative, topological or disruptive, whereby transformative change refers to coherent narrative of development over time, topological change refers to shifts in patterns of power relationships, and disruptive change refers to ruptures in consumer or marketplace worlds.
Furthermore, consumers have been proposed to be agents of change, subjects of change or recursive subjects, whereby the market can be subject to consumer-driven, institutional or recursive transformation, reconfiguration or disruption (Giesler & Thompson, 2016). These ideas are summarised in Table 2 below. While the importance of time is recognised in marketing when studying process, the exploration often (but not exclusively) includes longitudinal exploration (Giesler & Fischer, 2017). Furthermore, the focus within process marketing research is on explaining “patterns in events and how sequences of events lead to an outcome” (Giesler & Thompson, 2016, p. 502).

Table 2 - Genres of process-oriented consumer research (Adapted from Giesler & Thompson, 2016, p. 500)

<table>
<thead>
<tr>
<th>Change as</th>
<th>Consumer as</th>
<th>Agent of change</th>
<th>Subject of change</th>
<th>Recursive subject</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transformative</td>
<td>Consumer-driven transformation</td>
<td>Institutional transformation</td>
<td>Recursive</td>
<td></td>
</tr>
<tr>
<td>Topological</td>
<td>Consumer-driven reconfiguration</td>
<td>Institutional reconfiguration</td>
<td>Recursive</td>
<td></td>
</tr>
<tr>
<td>Disruptive</td>
<td>Consumer-driven disruption</td>
<td>Institutional disruption</td>
<td>Recursive</td>
<td></td>
</tr>
</tbody>
</table>

Building on, but at times deviating from, the foundation laid by extant consumer research interested in market change, this thesis explores legitimation as a multi-level process that drives marketplace shifts over time. Adopting a deeper longitudinal process approach conventional to organisational research interested in change (e.g. Fan & Zietsma, 2017; Howard-Grenville et al., 2013; Purdy & Gray, 2009; Toubiana & Zietsma, 2016; Wright & Zammuto, 2013), this research addresses calls for more scholarly work on legitimacy (Ashforth, 2019; Hampel & Tracey, 2019; Helms et al., 2019) from a multi-level process perspective (Baker et al., 2019; Suddaby et al., 2017) to develop construct clarity. Extending the prior exploration of who is involved in the process in markets (Dolbec & Fischer, 2015; Scaraboto & Fischer, 2013) and what shifts can occur (Humphreys, 2010a; Humphreys et al., 2017), this research focuses on the actions and interactions of multi-level actors within the legitimation process that trigger shifts in the legitimacy of a market.

2.6 Institutional Work

There are further institutional concepts that can provide a deeper understanding of the processes of legitimation, and the actions and triggers of shifts in the market. This includes institutional work. In this context, institutions can be seen as enduring elements of social life that impact the beliefs and behaviour of individual and collective actors by prescribing appropriate action, cognition, and emotion, and assigning a cost for nonconformity (Lawrence, Suddaby, & Leca, 2011; Scott, 2014). Individual and collective actors are firmly embedded in institutional environments whereby there are institutionalised rules located within the cultural foundations of society (Willmott, 2011).
Institutional work refers to purposive actions aimed at creating, maintaining and disrupting these institutions in society (Lawrence & Suddaby, 2006). Therefore, institutions are constructed and maintained through the actions, or work, of actors in society (Hampel, Lawrence, & Tracey, 2017). That is, work done by actors maintain everyday routines, habitualised actions and institutions, or subverts or disrupts them (Lawrence et al., 2011). However, the idea of work by actors brings about the ‘paradox of embedded agency’ (Seo & Creed, 2002, p. 223) whereby human agency is perceived to be embedded within institutions that control conduct, but institutions can become established and change through human action, or work (Willmott, 2011). This raises the question of how actors, who are constrained by institutions, can work to affect those institutions (Zietsma & Lawrence, 2010). Institutional arrangements can cause inconsistencies and tensions within and between actors, institutions and social systems in society. These contradictions provide mechanisms to transform the embedded actors into change agents who engage in work to attempt to enable and foster change processes (Seo & Creed, 2002). Within legitimation processes, this work is referred to as legitimacy work, a form of work focused on creating, maintaining or disrupting legitimacy (Gawer & Phillips, 2013) thereby building (or undermining) the cultural alignment, normative support and compliance with relevant rules or laws of the legitimacy object (Lefsrud et al., 2019; Scott, 2014). Legitimacy work can be used to attack or support the legitimacy of entities (Lefsrud et al., 2019). There are three broad categories of work (Lawrence & Suddaby, 2006), discussed in the following sections.

2.6.1 Creating Institutions
The first category of work focuses on the actions that actors engage in to create institutions (Lawrence & Suddaby, 2006). Extant research on the creation of institutions has focused largely on institutional entrepreneurship (Lawrence, Leca, & Zilber, 2013) whereby actors with reflexivity act to further their interests and influence institutional arrangements by, for example, creating new markets or market segments, or legitimating previously marginalised practices (Dansou & Langley, 2012). The predominant actions that are undertaken to create institutions can be broken into nine distinct practices within three broader categories. First, actors can engage in political work whereby they construct rules, rights and boundaries that define access to resources. Within this category, actors can engage in vesting, defining, and advocacy. Vesting involves the creation of rule structures that determine property rights. Defining involves the creation of rule structures that determine status, identity and boundaries of membership. Advocacy involves the mobilisation of political and regulatory support through techniques of social suasion. Second, actors can engage in work to reconfigure belief systems. This is done through constructing identities, changing norms and constructing networks. Constructing identities involves the definition of the relationship
between the actor and the field in which they exist. Changing norms involves reforming connections between practices and their moral and cultural foundations. Constructing networks refers to the construction of connections through which practices become normatively sanctioned. Finally, actors can engage in practices that alter the boundaries of meaning systems though altering abstract categorisations. Actors can do this through mimicry, theorising and educating. Mimicry involves the association of new practices with taken for granted ones. Theorising refers to the development and specification of abstract categories, whereby new practices are named so they may become part of the institutional norms. Educating involves providing actors with the skills and knowledge needed to support the new institution (Lawrence & Suddaby, 2006).

2.6.2 Maintaining Institutions
The second category of work involves the actions actors engage in to support, repair, or recreate the social mechanisms within the field that ensure compliance with the taken for granted institutions (Trank & Washington, 2009). Within the research on maintaining institutions, these actions have been theorised as making up a cognitive and affective process whereby actors invest effort in maintaining an institution when they have high cognitive and emotional investment in that institution (Creed, Hudson, Okhuysen, & Smith-Crowe, 2014; Voronov & Weber, 2016; Wright, Zammuto, & Liesch, 2017). The predominant actions that are undertaken to maintain institutions can be broken into six distinct practices within two broader categories. First, actors engage in work whereby they ensure adherence to the rule systems within the institution. This category involves enabling, policing and deterring. Enabling involves the creation of rules that facilitate, supplement and support the institutions. Deterring refers to the establishment of coercive barriers to change. Policing involves enforcement, auditing and monitoring to ensure compliance. Second, actors engage in work that reproduces existing norms and belief systems. Within this category, actors can engage in valourising/demonising, mythologising and embedding and routinising. Valourising/demonising involves illustrations of the normative foundations of the institution through the provision of positive and negative examples. Mythologising refers to the preservation of institutions through the creation of myths surrounding its history. Embedding and routinising involves the active infusion of the foundations of the institution into actors’ day-to-day routines and practices (Lawrence & Suddaby, 2006).

2.6.3 Disrupting Institutions
The final category of work involves disrupting institutions. While the processes of deinstitutionalisation have been established as an importance area for research (Oliver, 1992), the work done to disrupt institutions has received less attention in the literature than the work done to
create and maintain institutions (Hwang & Colyvas, 2011; Lawrence & Suddaby, 2006). Three types of work have been identified that disrupt institutions. First, actors can engage in disconnecting sanctions whereby the rewards and sanctions are disconnected from a set or practices or rules. Second, disassociating moral foundations refers to the practice or rule being disassociated from its moral foundation. Finally, actors can engage in undermining assumptions and beliefs whereby they undermine the core assumptions and beliefs thereby decreasing the perceived risks of innovation and differentiation (Lawrence & Suddaby, 2006). The forms of institutional work discussed in the previous sections are presented in Table 3 below.

Table 3 - Forms of institutional work (adapted from Lawrence & Suddaby, 2006, p. 223; 234; 240-241)

<table>
<thead>
<tr>
<th>Category</th>
<th>Form</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Institutional work aimed at creating institutions</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Construct rules, rights, boundaries</td>
<td>Advocacy</td>
<td>The mobilisation of political and regulatory support through direct and deliberate techniques of social suasion.</td>
</tr>
<tr>
<td></td>
<td>Defining</td>
<td>The construction of rule systems that confer status or identity, define boundaries of membership or create status hierarchies within a field.</td>
</tr>
<tr>
<td></td>
<td>Vesting</td>
<td>The creation of rule structures that confer property rights.</td>
</tr>
<tr>
<td>Reconfigure belief systems</td>
<td>Constructing identities</td>
<td>Defining the relationship between an actor and the field in which the actor operates.</td>
</tr>
<tr>
<td></td>
<td>Changing normative association</td>
<td>Re-making the connections between sets of practices and the moral and cultural foundations of those practices.</td>
</tr>
<tr>
<td></td>
<td>Constructing normative networks</td>
<td>Constructing of interorganisational connections through which practices become normatively sanctioned and which form the relevant peer group with respect to compliance, monitoring and evaluation.</td>
</tr>
<tr>
<td>Alter boundaries of meaning systems</td>
<td>Mimicry</td>
<td>Associating new practices with existing sets of taken for granted practices, technologies and rules in order to ease adoption.</td>
</tr>
<tr>
<td></td>
<td>Theorising</td>
<td>The development and specification of abstract categories and elaboration of chains of cause and effect.</td>
</tr>
<tr>
<td></td>
<td>Educating</td>
<td>The educating of actors in skills and knowledge necessary to support the new institution.</td>
</tr>
<tr>
<td><strong>Institutional work aimed at maintaining institutions</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ensure adherence to rules</td>
<td>Enabling</td>
<td>The creation of rules that facilitate, supplement and support institutions, such as the creation of authorising agents or diverting resources.</td>
</tr>
<tr>
<td></td>
<td>Policing</td>
<td>Ensuring compliance through enforcement, auditing and monitoring.</td>
</tr>
<tr>
<td></td>
<td>Deterring</td>
<td>Establishing coercive barriers to institutional change.</td>
</tr>
<tr>
<td>Reproduce existing norms and beliefs</td>
<td>Valourising and demonising</td>
<td>Providing for public consumption positive and negative examples that illustrate the normative foundations of an institution.</td>
</tr>
<tr>
<td></td>
<td>Mythologising</td>
<td>Preserving the normative underpinning of an institution by creating and sustaining myths regarding its history.</td>
</tr>
<tr>
<td></td>
<td>Enabling and routinising</td>
<td>Actively infusing the normative foundations of an institution into participants’ day-to-day routines and organisational practices.</td>
</tr>
</tbody>
</table>
Category | Form | Definition
--- | --- | ---
**Institutional work aimed at disrupting institutions**
Disrupt institutions | Disconnecting sanctions | Working through state apparatus to disconnect rewards and sanctions from some set of practices, technologies or rules.
Disassociating moral foundations | Disassociating the practice, rule or technology from its moral foundation as appropriate within a specific context.
Undermining assumptions and beliefs | Decreasing the perceived risks of innovation and differentiation by undermining core assumptions and beliefs.

2.6.4 Institutional Work in Marketing

Recently, marketing and consumers researchers have found the concept of institutional work to be fruitful in exploring legitimacy in markets (e.g. Baker et al., 2019; Dolbec & Fischer, 2015; Humphreys et al., 2017) – focusing on how markets change through the institutional work of multiple market actors (Ghaffari, Jafari, & Sandikci, 2019). These studies draw the definition of the concept from organisation studies, positioning institutional work as actions aimed at creating, maintaining or disrupting practices, understandings, and rules within a field, in this case, markets or industries (Dolbec & Fischer, 2015). Furthermore, institutional work refers to the activities that are enacted by individual or collective market actors to sustain and reproduce institutionalised practices and meanings, or transform and translate them (Baker et al., 2019). When consumers, or other market actors, believe they are not sufficiently represented by market offerings, do not have equal access to them, or are dissatisfied with what is available, they may engage in individual or collective action to resist or disrupt the institutional structures that shape their consumption (Gollnhofer & Kuruoğlu, 2018), or to create new structures (Dolbec & Fischer, 2015; Sandikci & Ger, 2010). However, the ability of actors to integrate resources and engage in institutional work are shaped by wider societal factors such as social norms, values and structures (Go Jefferies, Bishop, & Hibbert, 2019; Scaraboto & Fischer, 2013). Therefore, engaging in institutional work to shape markets implies intentional or purposive action to create, maintain or disrupt aspects of the market within the accepted societal institutions and social structures (Baker et al., 2019). As such, successful institutional work can either support or resist the embedded and routinised institutions, thereby determining the legitimacy of the market or field (Scaraboto & Fischer, 2013).

2.7 Conclusion

This chapter provided a review of the scholarly literature on markets, legitimacy, process and institutional work as the theoretical base of the research presented in this thesis. Legitimacy has been explored in organisational research from two different perspectives: legitimacy-as-property and legitimacy-as-process (Suddaby et al., 2017). Within the property view, legitimacy has been
linked to the three pillars of institutions: regulative, normative and cultural cognitive (Scott, 2014). The focus of research within this stream is on whether the property of legitimacy has been gained (Deephouse & Suchman, 2008). Within the process view, legitimation refers to the processes that shape legitimacy. These processes can take three forms: persuasion/translation/narration (Nielsen & Rao, 1987), theorisation (Strang & Meyer, 1993), and identification/categorisation (Deephouse, 1996). In marketing, legitimacy has been explored using a predominantly property view. This research centres on the outcome of the processes of legitimation, either legitimacy or illegitimacy (Dolbec & Fischer, 2015; Humphreys, 2010b, 2010a; Humphreys & Latour, 2013; Scaraboto & Fischer, 2013), rather than deeply exploring the processes themselves. It has been argued that a stronger focus on legitimacy as process should be taken in order to develop deeper more nuanced understandings of the concept (Baker et al., 2019; Suddaby et al., 2017), and further construct clarity is needed (Ashforth, 2019; Hampel & Tracey, 2019; Helms et al., 2019). Therefore, this thesis extends the foundational marketing research by taking a process view in exploring the research question: how are the processes of legitimation shaped in contested markets? The concept of institutional work is drawn upon to complement the legitimation framework that frames this exploration. The following chapter provides details of the methods adopted in this research.
CHAPTER THREE: METHODS

By all means do consider that many consumption phenomena these days have some internet presence whether in the form of online word of mouth, online rating services, online purchase or access, or other online manifestations. In fact, a number of researchers have noted that it is increasingly impossible to fully understand particular cultural and social groups and phenomena without moving to an examination, connection and analysis of their online communication and social behaviours... But we should not make the mistake of looking only at these manifestations when there is still a real world manifestation of these phenomena... To do so would be to ignore the importance of context, anticipated audiences, and other day-to-day influences...

- From Qualitative Consumer & Marketing Research by Russell Belk, Eileen Fischer and Robert V. Kozinets (2013, pp. 202–203)

3.1 Introduction

This chapter presents the methods used to explore the processes of legitimation in contested markets. The research within this thesis adopts an interpretivist approach to the exploration of legitimation in contested markets using qualitative process research methods for the collection and analysis of the data. This approach is consistent with a legitimacy as process perspective (Giesler & Thompson, 2016; Suddaby et al., 2017), and has been useful in generating insights into markets and actors in previous studies of legitimacy in marketing and consumer research (e.g. Dolbec & Fischer, 2015; Humphreys, 2010b, 2010a; Humphreys & Latour, 2013; Scaraboto & Fischer, 2013). This chapter provides details of and justifications for the research method and design elements adopted in this thesis. First, a discussion of the qualitative process research method is presented, including the case study design used to explore the ‘legal high’ market research setting. Next, the data collection processes are discussed, including collection at the multi-level through news media and forum threads, at the societal-level through semi-structured depth interviews and online archival data, and at the exchange-level through forum threads, unstructured depth interviews, published interviews and archived producer websites. This is followed by a discussion of the process-based data analysis that included chronological mapping and temporal bracketing to organise the data, and initial descriptive coding and open coding to analyse the processes of legitimation in the setting. This chapter concludes with a discussion of issues of trustworthiness and ethics.

3.2 Qualitative Process Research

The research question guiding this thesis is concerned with the processed of legitimation over time in a contested market, and is thus processual in nature. Process research involves the exploration of relations among events over time (Giesler & Fischer, 2017). It is concerned with questions of how
and why things emerge, develop, grow, evolve or terminate over time (Langley et al., 2009). Furthermore, process research “consist[s] largely of stories about what happened and who did what when – that is, events, activities, and choices ordered over time” (Langley, 1999, p. 692). As such, a longitudinal study design is recommended for producing rich processual insights into the phenomenon (Langley, 1999). While many studies of processes do not pay due attention to temporal evolution, the purpose of longitudinal research is to understand how phenomena evolve over time. Therefore, it very important to consider temporality (Langley et al., 2013; Langley & Stensaker, 2012). ‘Over time’ within longitudinal process research can refer to a few hours, days, months or years that are narratively linked together (Giesler & Thompson, 2016). In marketing, particularly within CCT scholarship, market dynamics have increasingly been explored through processes over time (e.g. Dolbec & Fischer, 2015; Giesler, 2008, 2012, Humphreys, 2010b, 2010a; Martin & Schouten, 2014; Parmentier & Fischer, 2015; Scaraboto & Fischer, 2013). This thesis uses extant CCT research as a point of departure for the exploration of legitimation in markets.

### 3.2.1 Consumer Culture Theory

In addition to studying processes in marketing, CCT has been a valuable aid for many consumer researchers for positioning consumption studies. This is particularly true for those researchers with ‘cool’ contexts who wish to communicate their contributions to the larger study of marketing. For example, researchers interested in psychoactive pleasure (e.g. the clubbing experience) found the CCT tradition a useful scholarship to explore ‘clubbing’ as a marketplace culture (Goulding et al., 2009). CCT provides a space for these researchers to explore the experiential, social and cultural dimensions of clubbing, and a field in which the research choices could be justified. CCT researchers have also begun to adopt perspectives to investigate market dynamics. This includes projects on how markets and industries gain or lose legitimacy (Humphreys, 2010b, 2010a), and how consumers collectively mobilise to gain greater social legitimacy and access to new identity resources (Scaraboto & Fischer, 2013). The discussion of the processes of legitimation in markets presented within this thesis builds on these previous CCT projects using qualitative methods of inquiry. CCT is a “conceptually dynamic field of inquiry that encompasses a multiplicity of theoretical approaches, methodological orientations, representational practices, and which speaks to a range of stakeholders” (Arnould & Thompson, 2015, p. 5). As researchers within this tradition are interested in the sociocultural and experiential aspects of consumption, qualitative methods are usually chosen over experiments, surveys and database modelling. The submergence in the context through qualitative methods that are traditionally employed in research inquiries by consumer culture theorists allows a deeper understanding of reality and the consumer’s reality (Arnould & Thompson, 2005, 2007).
3.3 Case Study Design
A case study design involves the understanding of dynamics within one single setting (Eisenhardt, 1989). This design provides researchers with the ability to more closely examine and explore the theoretical constructs. This ability is particularly important in the context of longitudinal process research whereby the dynamics of the phenomenon over time are of interest (Siggelkow, 2007). While there have been arguments that more than one case is needed to develop theory (Eisenhardt, 1989), one case study from a single setting done well can provide rich descriptions of the social scene of interest and reveal the “deep structure of social behaviour” (Dyer & Wilkins, 1991, p. 615). Therefore, the sample size of interest is not the number of cases but rather the number of temporal observations (Langley et al., 2013). Furthermore, a compelling case study in one setting, that is purposively chosen for the presence of the phenomenon of interest, is more desirable than multiple randomly chosen cases because it allows for specific insights into the phenomenon that another case setting might not be able to provide (Siggelkow, 2007). The one compelling case should be one where the process of interest is “transparently observable” (Eisenhardt, 1989, p. 537; Pettigrew, 2008, p. 275) and, as such, can illuminate and extend relationships among constructs (Eisenhardt & Graebner, 2007). To ensure the credibility of the study of a phenomenon through one case (Baxter & Jack, 2008), case study research typically involves the collection of data from a variety of sources to create rich empirical descriptions of the instance of the phenomenon in the chosen setting (Yin, 1994). Despite the lasting seminal perspective of case studies as being confined to quantitative methods, case study designs can take the form of either qualitative or quantitative methods (Yin, 1981); involving a combination of data collection methods such as archives, interviews, questionnaires, observations (Eisenhardt, 1989), fieldwork or any combination of these (Yin, 1981). In line with the case study and process research designs, the data in this study was collected using qualitative inductive methods involving the collection of different types of data from the different levels of actors within one case setting.

3.3.1 The ‘Legal High’ Market Research Setting
The context chosen for the case setting is important as it “gives theoretical stories veracity and texture” (Arnould, Price, & Moisio, 2006, p. 107). The processes of legitimation in contested markets is explored in this thesis using the single empirical case study in the context of the ‘legal high’ market in Australia. ‘Legal highs’, also known as novel psychoactive substances, new psychoactive substances, emerging psychoactive substances, and synthetic drugs, were designed to mimic the effects of mainstream illicit drugs such as amphetamines and marijuana by using chemicals that were structurally similar but different enough for them to be technically legal (Drug Info, 2015; New South Wales Parliament Legislative Assembly, 2013; Wiecko et al., 2016). This
market emerged on the boundary of the legal (e.g. alcohol and tobacco) and illegal (e.g. ecstasy and marijuana) recreation markets (Vardakou, Pistros, & Spiliopoulou, 2011) in Australia in 2009 by providing consumers with ‘legal’ product offerings that created drug-like effects when consumed (Bright, 2013). The emergence of this market followed the research chemical scene at the beginning of the twenty-first century whereby a range of chemicals could be ordered online and shipped to anywhere in the world. These wholesale research chemicals had similar effects to LSD and certain amphetamines when consumed but were not covered by international drug legislation as they were not intended for consumption (Power, 2013). The use of research chemicals for consumption began gaining popularity after an underground chemist posted extensive details about how to make the compound known as mephedrone (which has the pharmacology between ecstasy and cocaine) online. The ‘legal high’ market emerged in 2009 on the base of the research chemical scene following the global MDMA shortage in 2008 (Brunt, Poortman, Niesink, & Van Den Brink, 2011; Power, 2013).

The ‘legal high’ market initially involved the transactional exchange of pure chemicals for consumption (Bright, 2013), some of which were newly synthesised to mimic psychoactive plants or existing drugs (Davidson, 2018; Musselman & Hampton, 2014), while others were synthesised as research chemicals as early as the 1920s (Gilani, 2016); legitimate pharmaceutical products or rejected pharmaceutical research and development projects (Perrone, 2016). Additionally, some of the products were pure chemicals from the continuum developed by Alexander Shulgin, a Californian biochemist (Jay, 2010; Perrone, 2016; Power, 2013) while others contained plant materials that have been altered with either psychoactive plant extracts or with synthetic chemicals (Gibbons & Zloh, 2010).

Soon after the emergence of the market, the products began to be manufactured to fit into loopholes in the law (Power, 2013), and many more synthetic cathinones that were previously synthesised but not covered by legislation resurfaced and gained popularity as ‘designer drugs’ (Coppola & Mondola, 2012). Despite attempts at prohibition, new blends emerged within days of newly implemented bans (Bright, Bishop, Kane, Marsh, & Barratt, 2013). This was because the producers skirted the law by tweaking chemicals and renaming product brands after they had been banned (Bright, 2013; Winstock & Ramsey, 2010), as well as labelling the products as ‘not for human consumption’ and selling them as bath salts, potpourri, research chemicals, plant food, incense, etc. (New South Wales Parliament Legislative Assembly, 2013). Countering the labelling, the products were marketed for consumption using professional packaging (Bright, 2013) and creative brand
names (Bright et al., 2013). Over time, the product offerings became easily accessible at music festivals (Measham, Moore, Newcombe, & Welch, 2010) and sold in adult stores, tobacconists and online (Wiecko et al., 2016). State and federal legislative changes in most Australian states in 2013 closed many of the loopholes in the law and halted the transactional exchanges of the products, driving their market out of the legal recreation market space and underground.

The ‘legal high’ market between 2009 and 2013 was purposively chosen as a compelling case (Siggelkow, 2007) through which to explore the processes of legitimation in contested markets for three reasons. First, the market had clear emergence and dissipation points. During this time, the market moved from legitimate, whereby producers and consumers legally and openly engaged in transactional exchanges, to non-legitimate, whereby the market no longer existed in the legal recreation market space. This allowed for the full cycle of legitimation to be explored. Second, the actors, actions and triggers that shifted the market were visible and transparent in the market during the period, allowing for deep explorations of the processes of legitimation. The similarities between the ‘legal highs’ and the illicit drugs they were intended to mimic meant that the emergence and existence of the market was contested. Since illegal drugs were not culturally sanctioned by those with power in society, the emergence of a new market with similar products could not remain uncontested as ‘acceptable’ in society (Bright et al., 2013). As such, the battles for (de)legitimation were transparently observable (Eisenhardt, 1989; Pettigrew, 2008), occurring openly and visibly through the media, legislative and regulatory actions, marketing actions, and transactional exchanges. The purposive selection of the contested ‘legal high’ market made up of a “sequence of social dramas longitudinally” provided transparency in “growth, evolution, transformation, and conceivable decay of an organisation over time” (Pettigrew, 2008, p. 275). This transparency allowed for the processes of legitimation to be explored in depth. Third, the market provided an extreme context. Extreme contexts have been argued to “provide a unique platform for the study of hard-to-get-at organisational phenomena… [and] are more generous with information than … ordinary cases” (Hällgren, Rouleau, & De Rond, 2018, p. 112), allowing for insights into those ‘socially disapproved’ actions that are intertwined with the more positive legitimated ones (MacLean, Anteby, Hudson, & Rudolph, 2006).

The research undertaken in this thesis is interested only in the period when battles for legitimation occurred in a contested market in a state of flux rather than an illegal market. During this time period, legitimation battles occurred between two broad categories of actors: first, the consumers and producers who were directly involved in the transactional exchanges, termed exchange-level actors in this thesis. Second, the government, news media, health professionals and community, who were not directly involved in the transactional exchange but played a role in
shaping the market, termed societal-level actors. Consistent with studies of institutions and logics (e.g. Ertimur & Coskuner-Balli, 2015; Thornton et al., 2012; Zilber, 2008), this latter group of actors represents the broader societal environment. The actors who were involved in the transactional exchanges (i.e. consumers and producers) were deliberately labelled exchange-level actors rather than included in the societal-level group of actors to recognise their more direct role in the market. While the societal-level actors have a role in (indirectly) influencing or shaping the market, the producers and consumers directly determine whether the market exists through their engagement in transactional exchanges. For noting, it is acknowledged that the market was made up of many types and generations of products and brands, however, for the purpose of this research, all products, actors and dynamics within the broader ‘legal’ drug markets, whereby products were specifically designed to mimic illicit drugs but skirt the laws, will be labelled the ‘legal high’ market. The products themselves differed greatly in terms of their consumption (e.g. snorting, smoking, swallowing, etc.) and effects (e.g. hallucinogen, stimulants, depressants, etc.). However, the actions and interactions by the multi-level actors surrounding the products were similar. Similarly, within this market, the actors responsible for the selling and distribution of the products are not easily separated from one another as, for example, manufacturers also sold products (Power, 2013) and some retailers manufactured products (Perrone, 2016). Adapting terminology from Geisler and Fischer (2017), the actors responsible for the selling and distribution of the products (e.g. chemists, manufacturers, retailers, etc.) are termed producers in this thesis.

3.4 Data Collection Processes
Traditionally, it has been custom in consumer research to select theoretically purposive data and become intimately familiar with it, with data collected until theoretical saturation occurs (Figueiredo et al., 2016). In particular, interviews with human participants have been argued to be valuable sources of data in answering research questions (Alvesson & Ashcraft, 2012). Depth interviews, with observations, have traditionally made up the core activities in qualitative research (Belk et al., 2013). However, there has been a recent move to larger richer data sets within qualitative projects. Within this trend, different types of data (e.g. interviews, images, downloads and pages) are often combined in one project. This follows the idea that it is difficult to use only one data source to conceptualise the context in terms of the historical, cultural and social situatedness (Figueiredo et al., 2016). This is particularly true for process research as rich, varied and multilayered datasets are needed to explore and theorise processes (Belk et al., 2013); which are often made up of multi-level collective actions of and interactions between a wide array of actors (Nielsen & Rao, 1987; Suddaby et al., 2017). As such, in addition to the typical micro-level consumer data, process research should include market-level data and macro-level data in order to
gain insights about the processes of interest (Giesler & Thompson, 2016). Therefore, data collected for strong processual analysis is often made up of audio and video recordings, transcripts, and/or observational notes, complemented with internal and external documents, interviews and informal discussions (Jarzabkowski et al., 2016). This collection of rich data from multiple sources at varying levels helps develop a clearer idea about the phenomenon of interest (Figueiredo et al., 2016). Furthermore, process data should include longitudinal data that is at least partially collected in real time “as the patterns to be observed as emergent and hence, cannot fully be known… they must be studied in detail as they are enacted” (Jarzabkowski et al., 2016, p. 3). Aligned with these ideas, given that legitimacy is conceptualised as a multi-level collective process involving multiple actors (Nielsen & Rao, 1987; Suddaby et al., 2017), data collection in this thesis involved multiple actors at the societal and exchange-levels. The following sections outline the processes of data collection used in this thesis. An overview of the data collected and its purpose in analysis is included in Table 4.

Table 4 - Details of data levels, data type and use in analysis

<table>
<thead>
<tr>
<th>Level</th>
<th>Type of Data</th>
<th>Brief Details</th>
<th>Examples of Actors</th>
<th>Purpose</th>
</tr>
</thead>
<tbody>
<tr>
<td>Multi-level</td>
<td>1. News media</td>
<td>News media stories; and forum posts and comments about ‘legal highs’.</td>
<td>Key actors from government, health, academia, community, news media and the market who are present in the news media or in forums.</td>
<td>1. Map the processes and triggers of change overtime. 2. Uncover start and end points for the phases. 3. Identify key actors. 4. Identify battles.</td>
</tr>
<tr>
<td></td>
<td>2. Forum threads</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Societal-level</td>
<td>1. Semi-structured depth interviews</td>
<td>Interviews with 20 key members and complementary online archival data including profiles, articles, reports, conferences, legislation, websites, lectures and presentations, meetings.</td>
<td>Key actors from government (e.g. politician, law enforcement), health (e.g. social worker, emergency department physician), academia (e.g. drug researcher), community (e.g. not-for-profit organisation member), and news media (e.g. reporter).</td>
<td>1. Identify legitimation elements. 2. Identify the key actions and triggers of societal actors in shaping legitimacy. 3. Verify and add detail to the insights.</td>
</tr>
<tr>
<td></td>
<td>2. Online archival data</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Exchange-level</td>
<td>1. Forum threads</td>
<td>Forum threads; interviews with consumers and producers; published interviews with market actors; and archived producer websites.</td>
<td>Key exchange actors including producers (e.g. chemists, manufacturers, sellers/retailers), and consumers.</td>
<td>1. Identify legitimation elements. 2. Identify the key actions and triggers of exchange actors in shaping legitimacy. 3. Verify and add detail to the insights.</td>
</tr>
<tr>
<td></td>
<td>2. Unstructured depth interviews</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Published interviews</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. Archived producer websites</td>
<td></td>
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</tr>
</tbody>
</table>
3.4.1 Multi-Level Data Collection

Multi-level data, which is concerned with both the exchange and societal-level actors and the general ‘legal high’ market environment, was collected. This data had the dual purpose of identifying actors at the exchange and societal-levels who played a key role in the ‘legal high’ market, and mapping the overarching actions and triggers of shifts in the market, and processes over the period within the setting. This included news media publications and forum threads. The news media from the period was chosen as key actors who played a role at the exchange and societal-levels were present in the articles. The actions of and interactions between key actors were also reported in the media. Furthermore, the media articles provide a timeline of these actions and interactions that, when mapped out, provided an understanding of the actions and triggers of shifts in the market. Similarly, the forum threads identified key actors, and their actions and interactions, at the exchange and societal-levels. The following sub-sections provide details of the data collection strategies for this multi-level data.

3.4.1.1 News Media

The collection of news media data involved automated data capturing. Automated data capturing uses software to download and organise files (Belk et al., 2013). All articles relating to ‘legal highs’ and other key words in all sources in Australia within the date range of 01/01/2009 and 31/12/2013 were downloaded using Factiva software. Factiva is a reputable global news database made up of nearly 33000 quality sources. These sources include licenced publications, and influential websites, blogs, images and videos (Dow Jones, 2016). Appendix One presents specific details about the data capturing strategy. The start and end dates were chosen based on the context; 2009 cued the start of the rise of the ‘legal highs’ and 2013 marked the move of the market underground with state and federal regulation. All news media, including publications, web news, blogs, pictures and multimedia, published during the time period were collected. The top sources that yielded results included Australian Associated Press, The Sydney Morning Herald, Daily Telegraph, Australian Broadcasting Commission, Canberra Times, The Courier Mail, The Conversation, Townsville Bulletin, and MX Brisbane. The downloaded articles were manually sorted and collated into one document. Following the processes of Humphreys (2010a), articles that were not related to ‘legal highs’ and articles that were exact duplicates were removed. Similar duplicates were included in the sample if they added more information about the ‘legal high’ market. The sorted data included 354 pages of single-spaced data made up of 261 news articles.

3.4.1.2 Forum Threads

The forum data was collected using manual data capturing, which involves the researcher downloading the files and organising them (Belk et al., 2013). When conducting a manual online
search, four forum sites appeared at the top of the search for all key words. These four sites yielded many forum threads in the context of ‘legal highs’ during the period. Additionally, posts within other forums often referred to these four forums as credible sources of information. Furthermore, government and academic research made reference to some of these sites. As such, it was decided that data collected from the four forums would be sufficient in gaining insights about the setting. These data sources had a large amount of data on the context between them, and the sources were deemed to be sufficient in providing rich complementary data about the exchange and societal-levels. All the forum threads that were posted between the date of 01/01/2009 and 31/12/2013 that mentioned ‘legal highs’ or similar terms were manually downloaded. These were read to ensure the key word(s) was mentioned, the post was made during the time period, and the post was about the Australian ‘legal high’ market. As the “success of many research projects hinges around obtaining and maintaining access… [and] depend[s] on our ability to identify and deal with the political machinations we may encounter” (Cunliffe & Alcadipani, 2016, p. 555), permission was obtained from the forums to become immersed in the setting and use discussions as data in analysis. The downloaded data was collated in 2877 pages of pictures and text. Specific details about the search and collection strategy are included in Appendix One.

3.4.2 Societal-Level Data Collection
Data was then collected at the societal-level with the aim of exploring in more depth the actions and interactions of key societal actors in shaping the legitimacy process. The societal-level data was collected through semi-structured depth interviews with key actors, and through online archival data relating to the actors. The interviews aimed to gain an understanding of the actions through which key societal-level actors in the context drove or disrupted change. The key informants included participants from five groups: news media, government, academia, health, and community. The online data was collected with the purpose of adding insights to the actions and interactions of the societal-level actors, as well as understanding the societal-level changes in the market and the actions and triggers through which the process of legitimation was shaped. The following sections provide specific details about the societal-level data, including discussion of the data capturing strategies.

3.4.2.1 Semi-Structured Depth Interviews
First, 20 semi-structured depth interviews lasting between 30 and 60 minutes were conducted with participants who played a key role in the ‘legal high’ market at the societal-level. The time of each interview varied depending on the knowledge of the participants and their willingness to disclose their experiences. Semi-structured depth interviews are used based on the idea that knowledge is (re)constructed through the dialogue and interaction between the interviewer and participant rather
than merely excavated; knowledge is situated and contextual (Mason, 2002). Semi-structured interviews are argued to be useful in research that involves knowledge development (Sofaer, 1999) because people have different meanings and assumptions. These meanings and assumptions can be expressed and understood deeply through open-ended discussions rather than by closely adhering to a predetermined script (Flick, 2009). When interviews are semi-structured, an interview protocol with predetermined questions is used but each interview may follow a different (yet related) course based on the responses given by participants. That is, the interviews may all have emphasis placed on different areas of interest based on where the knowledge is, and are guided by the interview participants’ willingness to disclose facts and personal accounts of their experiences (Mason, 2002). This method of data collection is one of the accepted methods of seeking knowledge about a phenomenon of interest in research conducted in western societies (Alvesson & Ashcraft, 2012).

The interview protocol used to collect data from the societal-level interview participants is included in Appendix Two. A set of questions was designed based on the themes of interest for the research inquiry. Probes for each question were also developed as a guide for follow up questions that may produce data relevant to the inquiry. The interview protocol was developed using the literature review, and an analysis of news media and forum data. The themes and questions were designed to uncover the role of different professionals and community members in society regarding the drug markets, and their actions and interactions with other actors. The questions were made to be more general and open-ended to not guide the participant in their response; and so the protocol could be used to collect data from a number of different types of professionals and community members who may have vastly different roles in society. The themes related to the participants’ understandings of the market (including the products, customers, producers and manufacturers), and of the roles of key societal groups and actors. The first few interviews were conducted using the specific questions and probes in the set ordering while the later interviews focused on the themes of the questions and probes in an order determined by the interview. It is acceptable to use varying degrees of structure and depth in interviews; the conversations would be guided by clear themes and questions but may also proceed quite freely (Alvesson & Ashcraft, 2012).

Gaining access to the societal-level actors followed Pettica-Harris, deGama and Elias’s (2016) dynamic hopscotch process model of gaining access, including considering academic institutional issues, identifying potential informants, contacting informants and interacting with informants. The initial sampling strategy used to collect data included a purposive design. This involved the selection of information-rich informants that can provide in depth insights and understandings rather than empirical generalisations (Patton, 2002). As the purpose of including these participants
was to gain a general understanding of their actions and interactions with other actors, it was essential that only those who have the ability to provide detailed data that is relevant to the research question were included (Jupp, 2006). This strategy involved determining which members of society could provide detailed and relevant data through the preliminary analysis of the news media data and the forum data, and a complementary online search using key words such as ‘legal highs’ and other key words within Australia. The results from this search concluded that there are five groups that play a role in society: media, government, health, academia and community. The multi-level archival data and complementary search also identified some key individuals within these groups. These key individuals were contacted in person, on social media, or via email to participate. Once the consenting participants were interviewed, snowball sampling was used to recruit the remaining participants. Snowball sampling involves the identification of information-rich informants through asking participants who else may be of interest in the study (Patton, 2002). A target of two or more participants from each key area was set, however, all participants who were contacted and were willing to participate were interviewed. Within both sampling strategies, all participants who met the following criteria were included in the sample: first, those participants who are over the age of 18; and second, those participants who had a key societal role in the ‘legal high’ context. The data collected included 20 interviews and 281 pages of text. The details of each societal-level participant are included in Appendix Three.

3.4.2.2 Online Archival Data
Second, online data relating to actors at the societal-level in the ‘legal high’ market, including profiles, bills and legislation, reports, media releases, blog posts, presentations and more, was collected to further explore and add detail to the actions and interactions of societal-level actors. As the complementary online data takes many forms, the data collection strategies for this varied. The specific details of each search strategy are included in Appendix One. The Government documents, including bills, policies, legislation and media releases were collected using four databases and search engines. First, Lawlex (2016), a database containing legislation alerts and research was used to search for data using specific key words such as ‘legal highs’ and other key words, and date range of 01/01/2009-31/12/2013. Second, the Parliament of Australia (2016) database was used to search for bills and legislation using the specific key words and date range. These databases were found using a search of the University of Queensland (2016a) library website. Third, a manual Google (2016) search was conducted using the specified key words and date range. This search yielded important government and non-government data. Fourth, the Queensland Police (2016) search engine was used with the specified key words and date range to search for relevant data. The online data relating to the academic actors was collected by manually searching the website of the
institution in which they are employed. This yielded information about their relevant publications and other outputs. Similarly, the online data relating to media (in addition to what was deduced from the news media data), health and community was downloaded from a manual search of the websites associated with the participants. All publications, outputs, and information relating to the Australian ‘legal high’ market during the period were downloaded. The online archival data for the societal-level included 2667 pages of text.

3.4.3 Exchange-Level Data Collection

Finally, the actions and interactions of exchange-level actors that shaped legitimacy in the setting were explored with the collection of exchange-level data. The actors of interest included consumers who purchased ‘legal highs’ and producers who worked in organisations that manufactured and/or distributed ‘legal highs’ during the period. The dataset for the exchange-level included forum threads, depth interviews with past consumers and producers, published interviews with producers of the products, and archived producer websites from the period. In addition to providing multi-level background information about the ‘legal high’ market during the period, the forum threads provided rich discussions by those involved at the exchange-level within the market; particularly consumers. This data made up the primary information used to understand the actions and interactions of the actors involved in the transactional exchanges.

3.4.3.1 Unstructured Depth Interviews

To add clarification and further detail to the information captured in the forum threads, additional interviews were conducted with participants who engaged in the transactional exchange of ‘legal high’ products during the period. Consumer and producer participants were recruited through advertisements placed on The University of Queensland (2016b) volunteer page – the site often posts details of studies requiring participants. Furthermore, a purposive sampling technique (Jupp, 2006; Patton, 2002) was used to recruit participants who were involved in the production, manufacture and distribution of the products during the period. This involved the participants being contacted by the researcher and asked to participate. The stores that sold the substances were contacted in person or via email, informed about the project and asked if they are willing to participate in the study. Those targeted were chosen based on the news media and forum data. Snowball sampling was also used to attract further consumer and producer participants – following the processes of previous researchers interested in controversial topics such as tobacco and illicit drugs (Etter, 2000; Morgan, 2008; Rezaei, Nedjat, Golestan, & Majdzadeh, 2011). This involved asking recruited participants whom they recommend as a valuable informant in the study (Patton, 2002). The snowballing sampling technique has been useful in overcoming issues of access in contexts which may be perceived as ‘tainted’ or ‘socially disapproved’ (MacLean et al., 2006).
there are no set guidelines for the number of participants qualitative researchers should aim for to reach to gain theoretical saturation, it has been suggested that theoretical saturation has been reached when the sample provides enough data to provide rich insights and understandings related to the research inquiry (Mason, 2002; Saunders, 2012). Aligned with this, all participants who met the following selection criteria were allowed to participate: first, those participants who are over the age of 18; and second, those participants who engaged in the transactional exchange of legal highs between 2009 and 2013, until theoretical saturation occurred. All participants were offered a monetary voucher as reimbursement for their time (EDRS, 2016). The details of each consumer participant are included in Appendix Three. The data collected included 85 pages of single-spaced text.

Unlike the interviews with the societal-level actors, which were semi-structured depth interviews, the interviews with the exchange-level participants were unstructured. While there were topics that were of interest in the interview discussions, there was no predetermined ordering of questions and each interview focused on different areas based on the participants’ levels of knowledge about different aspects of the market. As the interviews provided information to complement the archival data, the focus was on the information the participants could provide (Belk et al., 2013). Additionally, to facilitate the discussions, projective techniques were used in some of the interviews. Projective techniques are useful in studies where participants recall back to a time, find it difficult to articulate their thoughts, feelings or experiences (Belk et al., 2013; Donoghue, 2010), or are discussing sensitive or controversial topics (Porr, Mayan, Graffigna, Wall, & Vieira, 2010). Usually presented as visual stimuli or imagery, projective methods are often used to access subconscious feelings or emotions as they can probe deeper into the participant’s mind beyond the relational surface data (Keegan, 2009). The participants may not be aware of their subconscious thoughts, feelings and motivation (Doherty & Nelson, 2010; Haire, 1950) and the use of projective techniques can allow researchers to explore the participants’ private thoughts, feelings and experiences without the participants feeling threatened by the direct line of questioning (Steinman, 2009). Additionally, the use of projective techniques can help to reduce the power distance between participants and the researcher (Ray & Smith, 2012). The projective techniques used during the interviews with exchange-level participants are included in Appendix Five.

3.4.3.2 Published Interviews
In order to gain insights into the actions and experiences of the producers within the market, online articles published by journalists that included interviews with the actors were collected. The published interviews were found through an analysis of the news media and forum data, from the discussions with societal actors, and through an online search using key words. Five interviews
were collected which consisted of 18 pages of text. These interviews were posted in the following publications: *The Guardian*, *Drug Reporter*, *New Scientist*, *Serendipity*, and *The Vice*. These sites were manually searched for when they were mentioned in news media, forum data, or interviews with exchange and societal-level actors. The online search using key words yielded many results of publications including interviews with producers, however only those that appeared to come from a reputable source were included. These published interviews, once deemed appropriate, were downloaded and sorted into the word document. Appropriateness was judged based on the publication in which the interview had appeared, and the relevance of the content of the interview to provide insights into the ‘legal high’ market. All published interviews that met these requirements were included in this research. Details of the search strategy used to collect published interviews are included in Appendix One.

3.4.3.3 Archived Producer Websites

Finally, archived websites distributing the products during the period were collected. The producer websites were chosen based on an analysis of the collected news media, interviews with exchange and societal-level actors, and forum threads. Two physical stores, one adult store, and one online alternative lifestyle store were identified as the most common stores for purchase. The websites from these four stores were searched for using the Internet Archive (2016), a database that captures publically available websites at certain time periods. The captured webpages can be navigated similarly to a ‘normal’ webpage with working links and menus to view the website as it was on the selected date. This was done in order to download the websites at the time that the substances were openly and ‘legally’ sold. The Internet Archive has been a viable source of archived data for previous consumer researchers (Parmentier, 2015). The identified websites were all manually captured from the Internet Archive at different time points between 2009 and 2013 using NVivo NCapture (2016). This allowed for the capture of both text and imagery – as what the producers sold as well as how they sold them is of interest, both of these were valuable for the research inquiry. Visual images of the screen are valuable forms of data when the design and visual elements are of importance to the research inquiry (Belk et al., 2013). This inclusion of visual elements allowed for the changes in the production to be traced and compared overtime (Ray & Smith, 2012). At least one capture per site per year during the period was downloaded to map the changes over time. Where products were not featured on the home page, captures of the shop page were also included. Data collected from the four sites included 43 captures of website text and imagery. Details of the search strategy used to collect archived producer websites are included in Appendix One.
3.5 Data Analysis

The collection of rich data is not by itself sufficient in producing quality process research. That is, rather than quality process research being a direct reflection of specific characteristics of a dataset, the quality of the research is also grounded in the analytic logic that is used to make sense of the data (Giesler & Thompson, 2016). The process of data analysis includes organisation of the data, and analysis, interpretation and theory building. In this step, the focus shifts from first identifying patterns and themes in the data to then finding meaning in the patterns and themes (Belk et al., 2013). Organisation, analysis and interpretation of the data involves generating some fixed points of reference that involve the actors, and the way in which they engage in their activities. This aligns with the ideas that “to truly understand process, it is necessary to go inside the constant flux of those moments of doing within which the unfolding patterns of becoming are constructed” (Jarzabkowski et al., 2016, p. 3). This can be done through the use of coding. Coding, which is a common approach to preparing qualitative data for analysis, is defined as the process of “reducing data into its meaningful segments and assigning names for the segments” (Cresswell, 2007, p. 148). The codes can vary in their concreteness or abstractness, and can be emic or etic in nature. Emic codes involve the use of language used in the cases being studied. Etic coding involves using language and concepts that seem appropriate within the field of study but are not necessarily from the cases in the study (Belk et al., 2013).

3.5.1 Chronological Mapping

When conducting processual research, the data coding should begin by reviewing the data for the earliest event and then moving forward until the end point. This is called chronological data coding (Langley & Stensaker, 2012). In this way, the events (e.g. actions and triggers) within the industry are mapped out on a timeline of the period (e.g. Dolbec & Fischer, 2015). This approach is consistent with the time-series analysis of case studies using chronologies, which involve compiling events so they can be traced over time. As the chronology is likely to cover multiple different constructs and data sources, rich and insightful understandings can be gained (Yin, 2009). When including interviews in the dataset for the case study, the narratives of each participant should be plotted against the chronological timeline and the events therein (Langley & Stensaker, 2012). The etic codes used to plot the data on the timeline are drawn from an enabling theory while the emic codes are drawn from the data itself (Belk et al., 2013). Making sense of the events and narrative requires an enabling theory as it allows the sequence of events and the outcome of these events to be understood and theorised (Giesler & Thompson, 2016). This is often done using a visual mapping strategy to process data whereby dimensions of the case are simultaneously represented visually in order to demonstrate precedence, parallel process and the passage of time.
Following the chronological approach to case and process data (Langley & Stensaker, 2012; Yin, 2009), the preliminary analysis of the data in this thesis began with the creation of a timeline of the ‘legal high’ market from 2009 to 2013. This followed similar procedures to Dolbec and Fischer (2015) whereby the archival data at both the exchange and societal-levels were drawn upon to map events over time. To aid in the organisation and analysis of the multi-level data, each data source was given a distinct numeric identifying key to help with analysis – following the data coding procedures of Wright et al (2013). The numeric data keys are presented in the data reference list. The data were then individually read and plotted against the timeline based on the date of occurrence – illustrated in Figure 3. However, while the visual mapping approach allows detection of patterns, the strategy is not necessarily ideal by itself in detecting process elements. Therefore, this approach can be used in conjunction with a temporal bracketing strategy in order to explore the process of legitimation within the setting (Langley, 1999).

3.5.2 Temporal Bracketing
Bracketing techniques are often adopted by process researchers to assist in making sense of the data (Langley, 1999; Langley, 2013). Bracketing translates events into “a more systematic interplay of meaningful analytical categories, by grouping event data - interpretive lenses through which the complexity in the data can be more meaningfully understood” (Giesler & Thompson, 2016, p. 502). While there are multiple types of bracketing (Langley & Stensaker, 2012), temporal bracketing is useful when plotting events along a timeline (Langley, 1999). Temporal bracketing involves the isolation or decomposition of the collected data into time periods by ‘bracketing’ the period off from the larger period that is of interest in order to identify and explore phases or stages in the longitudinal case study (Langley, 1999; Langley et al., 2013). The phases do not necessarily refer to a predictable sequential process, but rather provide a way of structuring the description of events (Langley, 1999). The brackets are constructed as progressions of events which are “separated by identifiable discontinuities in the temporal flow” (Langley et al., 2013, p. 7). The events within the timeline are “embedded in narratives or stories that help shape their temporal and symbolic contours” (Giesler & Thompson, 2016, p. 499). The analysis of the data is discussed in more depth in the following sections.
**Exchange-Level Data:**
Forum Threads; Producer Websites; Interviews

2009:
- 14 forum threads on brands, effects and experiences.
- 1 producer website.

2010:
- 90 forum threads on news articles, regulatory status/legality, and specific brands and chemicals.
- 1 producer website.

2011:
- 39 forum threads on specific brands and chemicals, warnings and regulatory shifts.
- 4 producer websites.

2012:
- 53 forum threads on health warnings, calls for information, specific brands and chemicals, and regulation.
- 2 producers websites.

2013:
- 28 forum threads on law changes, and the disruption to the market.
- 2 producer websites.

2013 - 2018:
Interviews with 5 consumers, 2 producers, and 2 regulating body members.

**Societal-Level Data:**
News Media; Legislation and Regulation; Interviews

2009:
- 5 news media articles on the emergence of natural products.

2009/2010:
- Specific ‘legal high’ legislation and regulation not yet introduced.

2010:
- 25 news media articles on the booming ‘legal high market, need for regulation, and side effects.

2011:
- 38 news media articles on designer/fake drugs, miners avoiding detection, and regulation.
- 6 documents.

2012:
- National: Banned 8 synthetic cannabinoids. The Australian Therapeutic Goods Agency (TGA, 2011); Standard for the Uniform Scheduling of Medicines and Poisons (SUSMP) or Poisons Standard
- QLD: Banned Kronic and 22 cannabinoid agonists. Criminal & Other Legislation Amendment Bill, 2011, Queensland; Drugs Misuse Amendment Regulation (No. 1) 2011, Queensland; Drugs Misuse Amendment Regulation (No. 2) 2011, Queensland.
- NSW: Banned 7 chemicals
  - Drug Misuse & Trafficking Act, 1985, New South Wales.
- VIC: Banned Kronic and other cannabinoid agonists
  - Drugs, Poisons and Controlled Substances Amendment (Drugs of Dependence) Act 2011 (Vic)

2012:
- 64 news articles on doctors (expert) warnings, the ‘war’ on ‘legal highs’, calls for data, ‘legal highs as a deadly threat.
- 4 documents.

2013:
- 129 news articles on tragic deaths, national regulations.
- 5 documents.

2013 - 2018:
Interviews with 5 government officials, 5 health professionals, 4 academics, 2 news media actors, and 3 community organisations.

**Figure 3 - The 'legal high' market timeline**
3.5.3 Initial Descriptive Coding of the Phases of Legitimation

The first stage of the coding began with a descriptive exploration of the news media data, followed by the forum threads, and the documents and interviews. The data from each year was read separately and coded based on the following interrogative questions relating to the actors and their actions within the market: who [which actors were present?], what [what actions did they undertake?], when [when were the actions undertaken?], why [why were the actions undertaken?], and how [how were the actions undertaken?]. In addition to these questions, the data was considered for the presence of marketing elements: products, positioning, branding, packaging, and distribution. Further elements of the market, such as regulation, were added to the coding tables as they became apparent in the data. Coding tables with evidence of these elements were developed for each of the five years, and included all the data sources. Next, the coding tables outlining the positioning of different elements and actors within the market for the five periods were read, compared and contrasted to pinpoint the times at which shifts in the market legitimacy occurred. From these coding tables, three distinct phases of shifting legitimacy in the ‘legal high’ market were identified. The end temporal bracket for each phase (and beginning point of each new phase) was the point at which the basis for legitimacy began to shift. Phase one occurred between early 2009 and early 2010 with a focus on transactional exchanges, phase two occurred between early 2010 and mid-2012 with a focus on harm minimisation, and phase three occurred between mid-2012 and late 2013 with a focus on (im)morality. Following the procedures of Santos and Eisenhardt (2009) and Wright et al. (2013), an analytic case was developed for each of the phases, describing the elements and actors within the market, the actions and interactions surrounding them, and how these impacted the legitimacy of the market.

3.5.4 Open Coding of the Processes of Legitimation

Across the three phase cases, contestations or battles (Giesler, 2012) between actors and legitimacy actions within the battles became prominent. Working iteratively between the literature and data, it became apparent that the critical events in the data aligned with previous research that noted that an entity can have its legitimacy questioned or challenged, and in extreme cases be judged as non-legitimate, if its actions or structures do not meet societal expectations (Deephouse & Carter, 2005). This can lead to dynamic processes of change and field transformation through collective action (Van Wijk, Stam, Elfring, Zietsma, & Den Hond, 2013). In this thesis, these processes take the form of battles within and between different groups of actors at the societal and exchange-levels. Following the processes adopted in similar longitudinal process studies (e.g. Fan & Zietsma, 2017; Howard-Grenville et al., 2013; Wright & Zammuto, 2013), the prominence of battles and actions in the data led the analysis to focus on capturing these.
3.5.5.1 Coding for Legitimation Elements

Beginning the second stage of analysis, the *who* from the initial descriptive stage became the market actors involved in the battles (e.g. Wright & Zammuto, 2013). By moving between the data, the coding tables and the cases of the phases, and focusing on the actors, emergent contestations between actors were identified. This process generated many contestations, which were later condensed to those that constituted legitimation battles that shaped the legitimacy of the market. Inconsequential *conflicts* were separated out from *legitimation battles* in refining the coding by focusing on those contestations that involved repeated actions that had the potential to create, maintain or disrupt the legitimacy of the market (e.g. Howard-Grenville et al., 2013). Suddaby et al. (2017) defined the process of legitimation as “a structured set or sets of formal or emergent activities that describe how an actor acquires affiliation with an existing social order or category” (p. 462). This process is largely implicit as shared beliefs in society create strong expectations for what occurs in a local situation (Johnson et al., 2006), in this case, the market. Legitimation centres on the desirability, properness, appropriateness (Suchman, 1995), acceptability or acceptance, taken for grantedness, reasonableness, and/or congruence (Deephouse & Carter, 2005) of the legitimacy object or entity within the expectations of society and social order. Aligned with this, the legitimation elements (that is, the element of the market that the actors battled over) were identified and organised with a focus on these terms. Where these terms did not adequately describe the battles and legitimation elements, new similar terms were drawn from the data or context and added to the list. Representative coding examples and illustrative quotes are presented in Table 5.

*Phase One.* Three legitimation battles emerged in the data from the first phase of the process. These three battles focused predominantly on the transactional exchange of the products. Thus, the basis of legitimacy for this phase was identified as: *markets are legitimate when consumers and producers willingly engage in transactional exchanges.* The first emergent battle during this phase was identified between two types of producers: *purists* (identified as such due to their focus on purity of products) and *entrepreneurs* (identified as such due to their focus on profit-maximisation). The legitimation element was *proper* scientific production processes. During this battle, the two types of producers battled over their differing scientific production processes. The creation of a new product, market, or other entity must comply with the established standards of legitimacy (Fligstein, 1997; Kennedy, 2008), which meant the production processes had to align with established production process standards and structures in recreation markets to be uncontested and accepted as proper (Kjellberg & Olson, 2017). The second emergent battle was identified between the *pleasure-seeking consumers* (identified as such due to their seeking out of natural recreation products that provided pleasurable effects) and the *entrepreneurial producers.* The
legitimation element was appropriate product and marketing practices. During this battle, the consumers battled the producers over their product and marketing practices, which the consumers did not believe aligned with established marketing standards for recreation products. The third emergent battle during this phase was identified between the exchange-level actors and the societal-level actors. The legitimation element was when societal-level actors have a normative obligation to claim a stake in the market. A central element of legitimacy is that the subject of legitimacy or (legitimacy object), in this case transactional exchanges, meet and adhere to the expectations of the norms, values, rules, and meanings of society (Deephouse & Carter, 2005). The expectation of markets held by society is that their mechanisms work to ensure the market is acceptably functioning (Harrison & Kjellberg, 2016) through the configurations and collective actions of exchange-level actors (Baker et al., 2019; Hietanen & Rokka, 2015). When market mechanisms fail to function in this manner, societal-level normative obligations to claim a stake in the market are activated. The third battle was a latent one in which the activation of the normative obligation of one societal-level actor activated (or failed to activate) subsequent actors’ normative obligations.

Phase Two. Four legitimation battles emerged in the data from the second phase of the process. These four battles focused predominantly on harm minimisation in the market. Thus, the basis of legitimacy for this phase was identified as: markets are legitimate when they cause minimal harm. The first emergent battle during this phase was identified between the news media and the risk-taking consumers (identified as such due to their seeking out of the product offerings, despite the new risks of harm, if they believed the risks were manageable). The legitimation element was the right to determine what is harmful consumption. The predominant role of media is to provide an authoritative source of information for members of society in controversial or little understood contexts (Lancaster, Hughes, Spicer, Matthew-Simmons, & Dillon, 2011). The news media actors believed they had the right to inform society and mobilise societal-level actors (Christie, 1998) when they perceive entities as harmful and in need of regulatory action (Bright et al., 2013; Norman, Grace, & Lloyd, 2014) based on their knowledge, skills, or competence (Deephouse & Carter, 2005; Lawrence, 1998). However, this conflicted with the consumers’ belief that the individuals being harmed should have the right to determine what is harmful consumption. The second emergent battle was identified between the government and entrepreneurial producers. The legitimation element was acceptable harm in a legitimate market. The predominant role of the government in markets is to determine what is acceptable, and legal, within the regulatory institutions of society (Humphreys, 2010a), regulating markets through formal rules and structures (Kjellberg & Olson, 2017; Klein, 2017). Within the recreation markets, the governmental response has been a paternalistic one (Bright, Marsh, Smith, & Bishop, 2008), focusing on physical harm as
inappropriate in society. However, the producers had differing and conflicting definitions of harm, believing that disguising and concealing products and marketing elements minimises the legal harm in markets. The third emergent battle was identified between the **risk-taking consumers** and the **entrepreneurial producers**. The legitimation element was the **appropriate** standards for safe product and marketing practices. The actions by the producers to disguise and conceal the products and marketing elements during the previous battles meant the consumers did not believe they complied appropriately with the established standards (Fligstein, 1997; Kennedy, 2008; Kjellberg & Olson, 2017) of transparency. The fourth emergent battle was identified between the **health professionals** and the **government**. The legitimation element was the **proper** way for health professionals to be involved in markets. This was because the enactment of their values in caring for patients by the health professionals (Wright et al., 2017) conflicted with the expectations of the government, who determined their proper role in the market was to co-operate with the government in policing the market.

**Phase Three.** Three legitimation battles emerged in the data from the third phase of the process. These three battles focused predominantly on morality. Thus, the basis of legitimacy for this phase was identified as: **markets are (il)legitimate when they are (im)moral.** The first emergent battle was identified between the **community** (who were represented in the media by families) and the **market**. The legitimation element was the **proper** way to judge vulnerability. Vulnerability is a “state of powerlessness that arises from an imbalance in marketplace interactions or from the consumption of marketing messages and products…[that] occurs when control is not in an individual’s hands” (Baker, Gentry, & Rittenburg, 2005, p. 134). The community, represented by families, initiated the battle based on their view of the consumers as powerless to the market as they were being harmed by dangerous products that had no place in a moral society. The second emergent battle was identified between the **competent risk-taking consumers** (identified as such due to their skill and ability to navigate the market dynamics based on experience) and the **novice risk-taking consumers** (identified as such due to their lack of skill and inability to navigate the market dynamics based on no/little previous experience). The legitimation element was the **right** to participate in the market. The competent consumers believed only those who have the knowledge, skills, or competence (Deephouse & Carter, 2005) to navigate the market should have a right to participate. This was in conflict with the view of the novice consumers that anyone should have the right to participate if they have needs that can be profitably served through transactional exchanges (Geroski, 1996). The third emergent battle was identified between the **government** and the **producers**. The legitimation element was when the government has a **moral obligation** to restore social order in a market. As the government determines what is acceptable and legal in society, their
role in markets is to determine what is acceptable through regulation (Humphreys, 2010a) and prohibition (Bright et al., 2008), restoring social order in this case is prohibiting a market when vulnerable actors are harmed. The first and second battles activated the moral obligation of the government to restore social order, conflicting with the producer belief that morality should not be the basis on which regulatory decisions are made. As such, a third latent battle erupted.

Table 5 - Representative examples of legitimation elements

<table>
<thead>
<tr>
<th>Actors</th>
<th>Element</th>
<th>Illustrative Quotes</th>
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<tbody>
<tr>
<td>Purist Entrepreneurs</td>
<td>Proper scientific production processes</td>
<td>Purity in production</td>
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<td></td>
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<td>“My drive comes from the will to create something new, better, legal and safe” [D7]</td>
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<td>“Our mission is to promote herbs… that’s what started me off but nobody, including me knew about herbs. And most people think that herbs don’t work. They forget cannabis is a herb and it works. Opium is a herb, it works” [I1]</td>
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<td>“Everyone gets the impression that they are made in a kitchen somewhere and sold out of a garage, but we’re a fully established industry” [N1]</td>
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<td>Money-driven production</td>
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<td>“It was driven by, I guess, the manufacturers and suppliers targeting certain audiences. They certainly targeted party pills. It sort of evolved to other drug types” [I7]</td>
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<td>“There’s a lack of consistency in how they’re manufactured and that adds to the lethal threat” [I19]</td>
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<td>“The adulterated and poor quality pills continue to flood the market as there is money to be made” [F3]</td>
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<td>Pleasure-Seekers Entrepreneurs</td>
<td>Appropriate product and marketing practices</td>
<td>Transparency</td>
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<td>“I agree that the regulations are poor on listing actual ingredients” [F5]</td>
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<td>“A major issue is ingredients. With street drugs you have a rough idea about what’s in them if you are careful. This legal shit could contain literally anything. Why aren’t they forced to list exact ingredients and dosages?” [F5]</td>
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<td>“I don’t think the reason there are so many shitty pills around is due to the war on drugs winning. It’s more due to the fact that BZP, 4MMC, etc. are easier to obtain and the profit margin is bigger” [F13.3].</td>
</tr>
<tr>
<td>Societal Actors Exchange Actors</td>
<td>When do the societal-level actors have a normative obligation to claim a stake in the market</td>
<td>Exchange-level: Failing market mechanisms</td>
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<td></td>
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<td>“The government [should] focus on aggressive education, legislation and regulation of drugs in a similar way to alcohol. And perhaps some stricter controls on some of the more addictive and dangerous substances” [F13.4]</td>
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<td>“Some of these legal highs are more dangerous than some illegal drugs, the government needs to sort out its priorities” [F6]</td>
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<td>Health professionals: Clinical evidence of harm</td>
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<td>“A bad batch of liquid ecstasy may have killed one person…and be responsible for the hospitalisation of four others” [N9]</td>
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<td>“A teenager died in hospital three days after consuming what is believed to have been liquid ecstasy at an Albury party. The woman, 19, was one of four people to be admitted to Albury hospital on Wednesday after reacting to a bad batch of the drug” [N11]</td>
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<td>Actors</td>
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<td>Illustrative Quotes</td>
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<tr>
<td>Societal Actors</td>
<td>Exchange Actors</td>
<td>When do the societal-level actors have a normative obligation to claim a stake in the market</td>
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<tr>
<td>News Media Risk-Takers</td>
<td>The right to determine what is harmful consumption</td>
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<tr>
<td>Government Entrepreneurs</td>
<td>Acceptable harm in a legitimate market</td>
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### News media: Newsworthy events

- “In different forms it’s been sold as plant food, but little is known about a new recreational drug hitting Australian streets, other than it prompts acts of horrendous self-mutilation by some users” [N9]
- “The drug in question is 4-methylmethcathinone or mephedrone - but more commonly known as 4-MMC, MMCAT, bubbles, megatron, bath salt or miaow miaow. As a derivative of methandienone, the drug is a prohibited substance in Australia” [N12]
- “Government: Need to restore social order
  “The CCC has been monitoring the NPS market since 2009, observing growth in the range and availability of these substances” [D5]
  “If they are sold across state borders and make therapeutic claims, then the TGA has jurisdiction to investigate and to take regulatory action’’ [N2]

### Media needs to inform society

- “Two journalists from The Sunday Times tried a Hummer tablet. Here’s what they thought…” [N15]
- “A new legal high nicknamed ‘woof woof’ is being sold online… It is claimed the drug is four times stronger than its deadly predecessor, mephedrone, the drug known as ‘meow meow’” [N22]
- “Also known a ‘miaow miaow’ and ‘plant food’, the drug is available by mail order… under the names such as Giggle, Avionic, Comet and Dream… It sells substances as ‘herbal’ designed to replicate ecstasy, marijuana and LSD. A man was reportedly hospitalised in Brisbane last year after taking Giggle. Social researcher Dr Chris Wilkins, of Massey University’s Auckland camps, said the drugs were synthetic, not herbal” [N28].

### Media is misinformed

- “For any of you journalists who get it wrong, and you often do, go away and do your research” [F53].
- “Really nothing factual whatsoever. Just some retarded dramatisations and some guy who over did it and had a bit of a psychotic episode, if you could call it that” [F52.3]
- “Why is it they are called ‘designer drugs’ in the media and by less informed people? It pisses me off because it makes them sound better” [F125]

### Supply reduction of harmful products

- “Drug dealers are cashing in on the party season by peddling potentially lethal legal highs in Christmas stockings. Festive parcels of the drugs, which mimic the effects of cocaine, ecstasy and magic mushrooms, are being pushed” [N26]
- “They were not yet sure what kind of drugs were involved. ‘We do have possession of some of these capsules that some of these victims had and they will have to be checked out by our forensic section and analysed’”[N22]
- “The Queensland government has expanded a ban on drugs that mimic the effect of cannabis ahead of schoolies week celebrations. Attorney-General Paul Lucas said a further 19 cannabinoids, which are used to make fake illicit drugs such as the synthetic cannabis Kronic, have been outlawed” [N96]
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<th>Actors</th>
<th>Element</th>
<th>Illustrative Quotes</th>
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<tbody>
<tr>
<td>Government Entrepreneurs</td>
<td>Acceptable harm in a legitimate market</td>
<td>&quot;The law makers need to pull their heads out of their asses and face the fact that people will get high on anything that’s available, no matter what they try to impose. Shouldn’t they be providing the safest possible drugs? Prohibition doesn’t work&quot; [F48]</td>
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<td>“This is getting ridiculous. The government should have no right to ban any plant material. You can’t prohibit nature. It’s absurd” [F138]</td>
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<td>“In an ideal world, anyone who wanted cocaine or ecstasy would visit a doctor and get a prescription” [N64]</td>
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<td>“It is ‘unconstitutional’ and ‘irresponsible’ of the Government to ban a product without thoroughly researching the harms. There is simply no proof that these substances cause people any more harm than light drinking, and alcohol is legal” [N67].</td>
</tr>
<tr>
<td>Risk-Takers Entrepreneurs</td>
<td>Appropriate standards for safe product and marketing practices</td>
<td><em>Informative and transparent</em></td>
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<td>“The (marketing) term ‘benzo fury’ is a misleading one and quite honestly should not be used at all. The name was ‘coined’ due to 6-APB containing a Benzofuran ring in its chemical structure IIRC?” [F142]</td>
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<td>“It’s disgusting that they’re allowed to sell this shit without so much as listing the ingredients on the packet” [F131]</td>
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<td>“You don't get a list of ingredients with these products” [N65]</td>
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<td>“To say ‘I’m launching a brand new product I’ve created, that mimics ecstasy, but you can’t know what’s in it, and you have to pay for the drugs to participate in the ‘trial study’. It was all very dodgy” [F137]</td>
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<td>Health Government</td>
<td>The proper way for health professionals to be involved in markets</td>
<td><em>Ambiguous</em></td>
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<td>“The people behind the website would be aware they are being investigated” [F34]</td>
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<td>“As ‘I Can't Believe It's Not Butter’ is to butter, so ‘Cok-N’ is to cocaine… Private chemists were becoming increasingly adept at creating recreational drugs that existed in the ‘grey’ zone of legality” [N23]</td>
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<td>“Miss Bailey said Kronic, which had a secret formula but included an ingredient similar in effect to the active ingredient in marijuana, was popular with customers for pain relief and mood calming” [N60]</td>
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<td><em>Separation of roles</em></td>
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<td>“So if you had one or two tablets in a plastic bag, we wouldn’t report that. If you had a hundred tablets in a plastic bag, absolutely we would report that” [I16]</td>
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<td>“Law enforcement will even make health claims about the harms of substances… We’ve only recently got a new director… formally from the Department of Premiers and she is finally asserting health’s role in this space and delineating where health’s voice is and where law enforcements voice is going to star” [I2].</td>
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<td><em>Co-operation</em></td>
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<td>“I would advocate that we look at everything that is available to us, including suspension of welfare payments, including the way in which we fund existing programs both in terms of the health portfolio and enforcement as well’. He is ‘absolutely confident’ his view… ‘aligns with the majority of Australians’” [N82]</td>
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<td>“There is no clear evidence to guide policy making… We do know that the emergence of newer synthetic drugs is a complex challenge that requires consideration of all available options” [N104]</td>
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<tr>
<td>Actors</td>
<td>Element</td>
<td>Illustrative Quotes</td>
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<tr>
<td>Community</td>
<td>The proper way to judge vulnerability</td>
<td>Consumer vulnerability: Immoral market</td>
</tr>
<tr>
<td>The Market</td>
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<td>“Drugs destroy lives. And despite the misguided views of many, there is no such thing as a ‘safe’ alternative to those substances bought illegally from a suburban drug den” [N163]</td>
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<td>“But current and former users say fake weed does not discriminate. ‘I have seen people in suits, council workers, tradies, defence guys, lining up to buy it from shops in Townsville…It starts off as a bit of fun but then it gets you. It is evil stuff’” [N170].</td>
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<td>[N167]</td>
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<td>Competent Risk-Takers</td>
<td>The right to participate in the market</td>
<td>Only competent consumers</td>
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<tr>
<td>Novice Risk-Takers</td>
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<td>“I’ve always been aware of the risks of drug addiction and have never wanted to get myself in that position. Knowing this at the start of my drug use has been very positive for me” [F208]</td>
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<td>“Some people are irresponsible and just don’t know their own bodies and… would just take a bunch of stuff and not care about what’s going to happen… Some people just don’t use them correctly” [I28]</td>
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<td>All consumers</td>
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<td>“I’m not connected too well these days and legal is the only guaranteed way to get things when I want them” [F182]</td>
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<td>“I just want to know how dangerous it is… Any advice at all? Particularly from experienced users” [F187]</td>
</tr>
<tr>
<td>Government Producers</td>
<td>When does the government have a moral obligation to restore social order in a market</td>
<td>Restoration of order in society</td>
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<tr>
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<td>“The tough new laws come in the wake of a number of synthetic-related deaths across NSW, including the death of one man in Gunnedah, and a close call of another in Boggabri” [N240]</td>
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<tr>
<td></td>
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<td>“Prohibition… is working and a tough, zero-tolerance message, backed by proper rehabilitation programs, is needed to send a serious message, particularly to young people, they shouldn’t go near this stuff” [N197]</td>
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<tr>
<td></td>
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<td>“The state government will crack down on synthetic drug sales this week after “legal highs” were banned following the death of a Sydney schoolboy… [imposing] interim bans on 42 synthetic drugs effective from today… The ban has been adjusted to close loopholes” [N175]</td>
</tr>
<tr>
<td></td>
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<td>Producer responsibility: Self-regulation</td>
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<tr>
<td></td>
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<td>“Now that it's been identified as unsafe and illegal, I want nothing to do with it” [N164]</td>
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<td></td>
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<td>“Ray Thorpe said he had been sent many samples of the products but refused to sell them, especially after testing a synthetic cannabinoid” [N180]</td>
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<td></td>
<td></td>
<td>“Sellers were willing to foot the bill for scientific testing - about $2 million per drug” [N169]</td>
</tr>
</tbody>
</table>
3.5.5.2 Coding for Legitimacy Actions

The *what* from the initial descriptive stage became the actions (or legitimacy work) that the actors adopted during the battles (e.g. Wright & Zammuto, 2013). These actions, and the accumulation and configuration of these during the legitimation battles, became the mechanisms that transformed the actors into change agents (Seo & Creed, 2002). Adopting the processes of Corley and Gioia (2004), and Gioia, Corley and Hamilton (2013), the coding began by identifying the initial first-order concepts from the data within each phase and grouping them into categories (see Figure 4-6). This was followed by reducing the concepts to category labels or phrasal descriptors based on the similarities, differences and relationships among and between the first-order concepts. These categories became second-order themes that began to describe and explain the phenomenon of interest. Finally, iterating with the literature, similar themes were gathered into overarching aggregate dimensions that made up the basis of the emergent theorisation. These aggregate dimensions reflected the actions that constituted the legitimacy work and were “reflected in the inherent dynamism of verbs or, more accurately, gerunds, which are verbs that are so descriptive of a dynamic phenomenon that they function as nouns” (Suddaby et al., 2017, p. 460). The process moved between the data, concepts, themes, dimensions and literature (e.g. Fan & Zietsma, 2017).

**Phase One.** During the first battle of the first phase, the first-order concepts that constituted the actions by the **purists** were coded as “prioritising purity in production” and “seeking out pure alternatives”. These second-order themes were clustered under the aggregate dimension of **purification recovering actions**. The first-order concepts that constituted the actions by the **entrepreneurs** during this battle were coded as “prioritising cheap and easy production” and “using and adapting cheap alternatives”. These second-order themes were clustered under the aggregate dimension of **cost-efficient improvising actions**. Both the purist and entrepreneurial producers shaped the market through active participation in the development of product offerings (Harrison & Kjellberg, 2016), however, they were in conflict about the elements of exchange (Blanchet & Depeyre, 2016), in this case, quality due to production processes (e.g. Giesler, 2012). The data from the purists point to a careful focus on purity in production, and attempts to recover this purity in the product offering in circulation in response to the actions of the entrepreneurs. Therefore, it was determined that the purists were engaging in purification recovery, or purification recovering actions. The entrepreneurs focused on profit-maximisation in their processes, ensuring that the costs were minimised in production. Therefore, it was determined that the entrepreneurs were improvising cost-efficient production processes, or adopting cost-efficient improvising actions.

During the second battle of the first phase, the first-order concepts that constituted the actions by the **entrepreneurs** were coded as “mimicking purists” and “purposeful reduction of
transparency”. These second-order themes were clustered under the aggregate dimension of **business appropriating actions**. Actors can gain advantage in markets by exploiting existing opportunities and exploring new ones (Storbacka & Nenonen, 2011a), and the entrepreneurs exploited opportunities for profit-maximisation by mimicking the actions of the dominant purist producers without concern for appropriate processes. This focus on profit-maximisation meant they were appropriating the successful business practices of the purists without adopting the appropriate standards. Therefore, it was determined that the entrepreneurs were engaging in business appropriating actions. The first-order concepts that constituted the actions by the **pleasure-seeking consumers** were coded as “constructing collective information sharing networks”, “rewarding and punishing producers through transactions”, and “improvising resources from purist producers”. These second-order themes were clustered under the aggregate dimension of **market disciplining actions**. Markets only exist as such if exchanges occur whereby consumers and producers both willingly engage in transactions (Nenonen et al., 2014), but markets are also often spaces of battles between opposing consumers and producers (Giesler, 2012). The actions by consumers to ensure exchanges only occurred between select producers worked to discipline the market by qualifying legitimate product offerings (Harrison & Kjellberg, 2016; Scaraboto & Fischer, 2013).

During the third battle of the first phase, the first-order concepts that constituted the criteria for the activation of obligations by the exchange and societal-level actors were coded as “ineffective market mechanisms”, “clinical evidence of harm to individuals”, “newsworthy events”, and “need for restoration of order in society”. These second-order themes were clustered under the aggregate dimension of **activation of normative obligation**. The changes in the market brought about by the actions within the first and second battles filtered from the exchange-level to the societal-level (Baker et al., 2019). This drove the complex social process whereby multiple actors at different levels worked to ensure an entity is congruent with the dominant values, norms and institutions in society (Johnson et al., 2006; Suchman, 1995). From the data, it was apparent that the different actors worked to ensure the congruence of the actions in the market with societal norms. The norms of the exchange-level actors centred on functioning market mechanisms. The norms of the health professionals centred on clinical evidence of harm. The failure of the market mechanisms and the resulting harm to consumers activated their normative obligations. The norms of the news media actors centred on newsworthy events being held to public account. The presentation of consumers who had been harmed to health professionals activated their normative obligations. The norms of the government centre on social order. Their obligations were not activated as the products and exchanges did not fall outside the existing legal structures (Kjellberg & Olson, 2017).
"Owner was… quick to distinguish such legal, herbal highs from what he calls the ‘dangerous’ chemical stimulants sold in party pills” [N4]
“What we were really promoting was the alternatives to chemical drugs… with natural products” [I1]

"This compound is legal. It’s pure" [D7]
“The pills are mostly a herbal concoction” [N2]

“Not produced in truly safe, hygienic, regulated and monitored circumstances” [N1]
“The industry moved from a player who did a good job of manufacturing to those who didn’t” [I6]

“Cheap variations and inconsistencies in the ingredients” [N3]
“Obscure analogues of illicit substances, such as methylmethcathinone or dimethyltryptamine are found in the product” [N4]

“They tried to copy what we were doing and they were doing it wrongly. I got really worried” [I29]
“They came in so aggressively into the market” [I6]
“They liked the concept … so he started looking for other legal highs and he went the chemical way” [I21]

“They’re understandably playing their cards close to their chest” [F2.5]
“All smoke and mirrors are far as I’m concerned” [F2.1]

“I consider being informed about substances a form of HR. You have greater respect for a substance if you have knowledge about it” [F12]
“Although mephtasy is a LAME term, it is easily recognisable and informative” [F4]

“It is like bad coke… I would not be running out to try it again… 5/10” [F4]
“Really enjoyed this. I bought 500mg Ivory Wave (Blue Packet)” [F4]

“Follow the recommendations on the packaging and don’t be greedy, we have sampled them and know what we are talking about!” [W1]
“I work at a shop that sells K2…” [F7]

“Dr Allsop warned also that the effect of the drugs had not been properly researched… Just because they are supposed to be organic doesn’t mean they are completely safe” [N3].

“19-year-old man had been rushed to hospital” [N4]
“We also had another critical case that night, so it really did put severe strain on our department” [N10]

“A teenager died in hospital three days after taking what is believed to have been liquid ecstasy” [N11]
“Reports one user tried to castrate himself while under the influence of the drug” [N13]

“Tests by the TGA last week revealed Giggle contained no illegal substances” [N4].
“My role has been to identify new drugs… investigate them from the criminal perspective” [I1]

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**First Order Concepts**

<table>
<thead>
<tr>
<th>Second Order Themes</th>
<th>Aggregate Dimensions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prioritising purity in production</td>
<td>Purification recovering actions</td>
</tr>
<tr>
<td>Seeking out pure alternatives</td>
<td>Cost-efficient improvising actions</td>
</tr>
<tr>
<td>Prioritising cheap and easy production</td>
<td>Business appropriating actions</td>
</tr>
<tr>
<td>Using and adapting cheap alternatives</td>
<td>Purposeful reduction of transparency</td>
</tr>
<tr>
<td>Mimicking purists (establishing dominance)</td>
<td>Constructing collective information sharing networks</td>
</tr>
<tr>
<td>Rewarding and punishing producers</td>
<td>Market disciplining actions</td>
</tr>
<tr>
<td>Improvising resources</td>
<td>Ineffective market mechanisms</td>
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<tr>
<td></td>
<td>Clinical evidence of harm to individuals</td>
</tr>
<tr>
<td></td>
<td>Newsworthy events</td>
</tr>
<tr>
<td></td>
<td>No need for restoration of order in society</td>
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</tbody>
</table>

Figure 4 - Data structure [phase one]
**Phase Two.** During the first battle of the second phase, the first-order concepts that constituted the actions by the **news media** were coded as “emphasising clinical evidence of harm” and “focusing on negative publication”. These second-order themes were clustered under the aggregate dimension of **community mobilising actions**. Markets systematically evolve through the actions of protagonist actors as they frame societal narratives that organise cultural debates (Giesler, 2008). The data shows the media acted as a protagonist during this battle (e.g. Humphreys & Latour, 2013), using negative stories to frame the narrative and mobilise other societal-level actors (or the community) to adopt a more dominant role in the market. Therefore, it was determined that the news media was engaging in community mobilising actions. The first-order concepts that constituted the actions by the **risk-taking consumers** during this battle were coded as “identifying inconsistencies in the media’s values”, “encouraging the dispersion of more accurate portrayals”, “building distrust in media sources” and “rejecting media portrayals”. These second-order themes were clustered under the aggregate dimension of **individual protecting actions**. In controversial or stigmatised market settings, consumers seek out comforting stability and boundaries by actively becoming part of a consumption community within that setting (Sandikci & Ger, 2010). These community networks create shared symbols and collective meaning for how the consumers view themselves and the world (Coskuner-Balli, 2013). If the community network becomes powerful enough, the consumption practice can be transformed into ‘ordinary’ consumption practices (Sandikci & Ger, 2010). The data showed that consumers built online forum communities to protect themselves as individuals from the mobilising actions of the media thereby creating a space in which the consumption practices could become ordinary. Therefore, it was determined the consumers were engaging in individual protecting actions.

During the second battle of the second phase, the first-order concepts that constituted the actions by the **government** were coded as “revising legislation to better capture products that cause harm”, “proposing tougher laws” and “conducting research to prohibit those products causing harm”. These second-order themes were clustered under the aggregate dimension of **selective prohibiting actions**. When markets are new, government and regulatory bodies play a dominant role in determining and overseeing the market structure (Humphreys, 2010a), prohibiting those products they deem to be dangerous, harmful (Kjellberg & Olson, 2017; Klein, 2017), or undesirable (Humphreys, 2010a). In the data, the government actors were shown to selectively prohibit those products they determined were harmful so were identified as engaging in selective prohibiting actions. The first-order concepts that constituted the actions by the **entrepreneurs** were coded as “tweaking the ingredients when they were banned”, “rebranding banned brands”. These second-order themes were clustered under the aggregate dimension of **regulation skirting actions**.
Klein (2017) demonstrates how actors engage in alternative (or illegal) activities when their view of what constitutes a legitimate activity differs from the views held by those responsible for developing and upholding the regulatory structures. This presents “unique economic opportunities because it allows those willing to operate outside of formal legal boundaries to identify economic opportunities unavailable to those who treat legal boundaries as legitimate… The entrepreneur disobeys a law that seems irrelevant or unnecessarily restrictive” (p. 2). Aligned with this, the producers engaged in actions that allowed them to skirt the regulation and operate adjacent to the formal legal boundaries. Therefore, it was determined that the producers were engaging in regulation skirting actions.

During the third battle of the second phase, the first-order concepts that constituted the actions by the entrepreneurs were coded as “providing minimal information” and “providing misrepresented information”. These second-order themes became the aggregate dimension of deliberate misleading actions. When operating in contested market spaces, actors assemble elements in soft structures through informal coordination, avoidance of detection, and less visible performance of activities (Ertimur & Coskuner-Balli, 2015). To continue avoiding detection, the producers falsely labelled the products, misrepresented what they contain, or provided obscure instructions (Bright et al., 2013). As such, it was determined that they were engaging in deliberate misleading actions. The first-order concepts that constituted the actions by the risk-taking consumers during this battle were coded as “placing the blame for harm on producers”, “collating information to reduce harm”, “sharing recommendations”, “collective accepting and rejecting brands and products”, “recognising and sharing limitations of experience” and “sharing bad experiences”. These second-order themes were clustered under the aggregate dimension of responsible participating actions. Consumers are faced with vast landscapes of choices, prescriptions, regimes, recommendations and prohibitions that need to be navigated when operating in markets (Giesler & Veresiu, 2014). When the market fails to offer resources that allow them to navigate the landscapes, they may take on roles to create their own resources (Coskuner-Balli, 2013; Sandikci & Ger, 2010; Scaraboto & Fischer, 2013). In this setting, this allowed for the creation of the responsible consumer (Giesler & Veresiu, 2014). As such, it was determined that the consumers were engaging in responsible participating actions.

During the fourth battle of the second phase, the first-order concepts that constituted the actions by the government were coded as “gathering information from professionals (recruiting to cause)”. This second-order theme became the aggregate dimension of collective policing actions. Some market settings, such as the drug markets, create spaces in which governments may lack the capacity to effectively police (Klein, 2017). Within these markets, often societal-level actors are
afforded the position of experts based on their professional positions in society, and their expert opinions are drawn upon to shape the market (Bright et al., 2013). The data shows the government actors positioned the health professionals as experts, making attempts to enlist their cooperation in policing the market. As such, it was determined that the government actors were engaging in collective policing actions. The first-order concepts that constituted the actions by the health professionals were coded as “enacting professional values (caring for patients)”, “collaborating with other professionals and collating resources”. These second-order themes were clustered under the aggregate dimension of co-optation resisting actions. Health professionals act in markets through their enactment of professional values whereby they act in the best interest of the patient or client (Wright et al., 2017). This involves providing care to individuals within the expectations of the community and professional standards (Mansfield et al., 2011). These goals to reduce harm at the individual patient-level can be in conflict with the goal to reduce harm at the societal-level (Bull, Denham, Trevaskes, & Coomber, 2016; Coomber, Moyle, & Mahoney, 2019). Aligned with this, the data shows that the health professionals determined that their role in the market of caring for individual patients would be compromised if they engaged in collective policing. As such, they resisted the attempts by the government to co-opt their roles by continuing to enact their professional values, and therefore were determined to engage in co-optation resisting actions.
“It is a dangerous drug, no question about it, and there have been dangerous deaths linked to miaow, Australian Federal Police Assistant Commissioner Kevin Zuccato said” [N17]

“Adelaide's pre-eminent drug expert Dr Robert Ali has warned tens of thousands of ordinary Australians are risking death or serious illness by buying ‘legal highs’ on the internet, falsely thinking they were safe” [N117]

“I’ve never seen a more poorly written or misquoted article about drugs in my life. Congratulate your local newspaper for me” [F13]

“What a load of shit. It is very obvious they are simply trying to rile up the public… as per usual” [F33]

“Another day another mephedrone article…” [F41.1]

“Killer drug? The next article will talk about ‘killer weed’ hahaha” [F41.2]

“Argh…The media needs to stop coining terms” [F18]

“Wow. I learned through the media what street drugs to get and what online sites to use… If this is news to me and others here, it’s got to be a massive sourcing tool for the general public” [F126]

“Are now beginning to monitor the internet to track what new synthetic drugs are being bought and sold” [N41.2]

“Any decision by governments to introduce new controls will depend on the chemical content of the product and be based on an assessment of the associated harms” [N28]

“While legal highs are marketed as legal substances, concerns about their safety have led to a number of controls being placed upon them” [N66]

“Criteria such as the purpose of use, potential for abuse, safety in use and the need for the substance” [D14]

“The Federal Government will write to the National Drugs and Poisons Schedule Committee in a bid to have Kronic's ingredients listed as poisons to help authorities” [N39]

“It has been sold in Australia under various brand names, with a range of chemical compositions” [N90]

“Suppliers have got around the law by reformulating brands with chemicals that have a similar effect but are not on the banned list” [N75]

“Even if they were lab tested, you may not have an accurate result as to what’s in the other bags of ‘Barely Legal’. They change their formulas all the time” [F134]

“By the time they got around to banning it, they were already producing non-BZP party pills through the same websites. In a lot of instances they had the same product names” [N23]

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Figure 5 - Data structure [phase two]
<table>
<thead>
<tr>
<th>First Order Concepts</th>
<th>Second Order Themes</th>
<th>Aggregate Dimensions</th>
</tr>
</thead>
<tbody>
<tr>
<td>“Neons don’t have ingredients… but are labelled from the same manufacturers as energy, empathy and entropy” [F68]</td>
<td>Providing minimal information</td>
<td>Deliberate misleading actions</td>
</tr>
<tr>
<td>“The packaging really only listed the tableting and lubrication agents” [F63]</td>
<td>Providing misrepresented information</td>
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<tr>
<td>“Makeshift ingredients listed on the side” [F69]</td>
<td>Placing the blame for harm on producers</td>
<td></td>
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<tr>
<td>“The ingredients listed have a high likelihood of not being totally accurate” [F63]</td>
<td>Collating information to reduce harm</td>
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<tr>
<td>“He cries harm reduction and that he believes firmly in having listed ingredients yet his smoking blends list none. He’s not interested in harm reduction. He is interested in money hidden behind the guise of harm reduction” [F137]</td>
<td>Sharing recommendations</td>
<td>Responsible participating actions</td>
</tr>
<tr>
<td>“Here’s a thread I found on Black Mamba, which expresses some safety concerns” [F165]</td>
<td>Collective accepting and rejecting brands and products</td>
<td></td>
</tr>
<tr>
<td>“Mark up the dosage so people in the forum can get a better idea of where to start” [F4]</td>
<td>Recognising and sharing limitations of experience</td>
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<tr>
<td>“I had the most profound religious experience of my life at high dose (80mg) of this” [F70]. “I definitely encourage people who try them to stick to the recommended one only” [F162]</td>
<td>Sharing bad experiences</td>
<td></td>
</tr>
<tr>
<td>“It’s like the real thing in many ways but is a lot more psychedelic. He’d recommend trying it” [F64]. There are a lot better options (and cheaper) than this utter rubbish” [F163]</td>
<td>Gathering information from professionals (recruiting)</td>
<td>Collective policing actions</td>
</tr>
<tr>
<td>“It’s not that we couldn’t sit here and guess at it. It would be pointless and irresponsible” [F157]. “No one knows what’s in it. It’s too expensive to tests and ‘companies’ change their products all the time” [F148]</td>
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<tr>
<td>“I tried some of the XXX Black Label herbal incense and had some horrible side effects that need to be reported [F170] “Came with all sorts of horrible side effects” [F22]</td>
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<tr>
<td>“What they really need is medical support” [N6] “Tapping into certain groups for information” [I7]</td>
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<tr>
<td>“If someone is in need of urgent medical attention the legal implications are irrelevant… They are not interested in policing” [F153]</td>
<td>Enacting professional values (caring for patients)</td>
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<tr>
<td>“We have a great relationship with our drug and alcohol service, we ring them for advice” [I16] “Dovetail basically supply us with all our information around new and emerging substances, psychoactive substances and the current other illicit drugs that are around” [I5]</td>
<td>Collaborating with other professionals and collating resources</td>
<td>Co-optation resisting actions</td>
</tr>
</tbody>
</table>

Figure 5 - Data structure [phase two] (continued)
Phase Three. During the first battle of the third phase, the first-order concepts that constituted the actions by the community were coded as “challenging community assumptions of users”, “discursively positioning consumers as needing protection”, “triggering societal-level pressure”, and “driving moral outrage”. These second-order themes were clustered under the aggregate dimension of vulnerability ascribing actions. Previous research has highlighted the need to explore shifts in discourse when understanding the process of legitimation as discourse becomes a tool through which opponents and proponents of the market enact their agendas (Bright et al., 2013; Humphreys, 2010b). The community became an opponent of the market (Rychert, Wilkins, & Witten, 2017) as they perceived the consumers to be vulnerable to harmful products that imitated those they held as illicit. Perceived vulnerability occurs when others believe an entity is vulnerable, even if the entity does not believe themselves to be (Baker et al., 2005). By framing the consumers as vulnerable children, family and friends of the community members, the community acted through the media to drive discursive shifts in the market. The media reports drew on the ‘drug scare’ narrative that constructed the new drugs as dangerous and the need for urgent action (Bright et al., 2013), which worked to ascribe vulnerability to the consumers. As such, it was determined that the community actors were engaging in vulnerability ascribing actions.

During the second battle of the third phase, the first-order concepts that constituted the actions by the competent risk-taking consumers were coded as “prescribing vulnerability to novices”, “distancing themselves”, and “demonstrating their competence”. These second-order themes were clustered under the aggregate dimension of ascription rejecting actions. The data shows that the competent consumers rejected the community actors’ perceptions of their vulnerability as they believed they had the skills, knowledge and competence to exercise control over their transactional and consumption practices (Baker et al., 2005). Within alternative or countervailing market settings, this control can translate into learning alternative technologies or methods to experiment with producing their own products, and adopting other practices that legitimise their portrayals of competence, skill and knowledge (Coskuner-Balli, 2013; Coskuner-Balli & Thompson, 2013). As such, it was determined that the competent consumers were engaging in ascription rejecting actions.

The first-order concepts that constituted the actions by the novice risk-taking consumers were coded as “requesting assistance and advice”. This second-order theme became the aggregate dimension of co-operation enlisting actions. In instances when consumers are devoid of the resources necessary to navigate a market, they may take ‘gambles’ that can lead to serious injury and death. In these instances, consumers often seek out and share consumption-oriented information that can help them navigate the market through online communities (O’Sullivan, 2015). The data shows the novice consumers were devoid of the skill, knowledge and competence to engage with
the market with the same level of control as the competent consumers and therefore sought out help in online communities. As such, it was determined the novice consumers were engaging in co-operation enlisting actions.

During the third battle of the third phase, the first-order concepts that constituted the criteria for the activation of obligations by the **producers** and **government** were coded as “attempting to re-establish legitimacy”, and “enacting comprehensive prohibition”. These second-order themes were clustered under the aggregate dimension of **activation of moral obligation**. The data shows the discursive shifts, driven by the moral panic in the media (Bright et al., 2013) positioned the market as morally questionable (Kjellberg & Olson, 2017). This led to government perceptions of the market as undesirable (Humphreys, 2010a) within the existing social order. As such, it was determined that the moral obligations of the government to restore social order were activated, and comprehensive prohibitions were enacted. However, prohibition in markets has been shown to create contradictions that magnify the sense of injustice experienced by entrepreneurial producers within the markets. As such, the producers move to reform the market to restore rational and moral order (Klein, 2017). Aligned with this, the data shows the producers rejected the moral obligation of the government, determining there should be no moral argument in rational decisions, and made attempts instead to once again legitimise themselves as producers.

**Presentation of Findings.** The coding of the legitimation elements that constituted the battles were aggregated to theorise the processes of legitimation in the ‘legal high’ market over the three phases, focusing on the actions and triggers that shifted the basis of legitimacy of the market. While it is typical for marketing research to draw on literature references when presenting findings of legitimacy and legitimation in markets (e.g. Dolbec & Fischer, 2015; Giesler, 2008, 2012, Humphreys, 2010b, 2010a; Humphreys & Latour, 2013; Scaraboto & Fischer, 2013), this thesis follows the procedures of longitudinal process research from organisation studies in presenting the findings (e.g. Fan & Zietsma, 2017; Howard-Grenville et al., 2013; Purdy & Gray, 2009; Toubiana & Zietsma, 2016; Wright & Zammuto, 2013). That is, the literature was drawn upon to create the codes during the analysis stage but the findings sections draw only on the data, coded based on the literature, to develop the arguments. The writing process followed conventions for quality (e.g. Easterby-Smith, Golden-Biddle, & Locke, 2008) and persuasiveness (e.g. Jonsen, Fendt, & Point, 2018), including organising the findings with figures, telling a story with the data and modelling the style of the organisation process studies outlined previously (Pratt, 2009). Additionally, the presentation of findings includes a few instances of uncensored profanity (p. 58, 60, 68, 88, 90, 104, 117). The decision to retain the profanity where it appeared in the data was based on the idea that “such editing and silencing… does a grave injustice to the people studied” (Hudson, 2019, p. 487).
<table>
<thead>
<tr>
<th>First Order Concepts</th>
<th>Second Order Themes</th>
<th>Aggregate Dimensions</th>
</tr>
</thead>
<tbody>
<tr>
<td>“Nick’s parents Matthew and Sharon were yesterday struggling with the shock of</td>
<td>Challenging assumptions of users</td>
<td>Vulnerability ascribing actions</td>
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<tr>
<td>their son’s tragic death and how the popular teen came to be in possession of</td>
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<td>such a deadly substance” [N123]</td>
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<tr>
<td>“Zombie: Karl Laventure ran around a Georgia golf course in underwear swinging a</td>
<td>Discursively positioning consumers as needing</td>
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<td>club and yelled at police ‘don't make me eat you’... The driving range owner</td>
<td>protection</td>
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<tr>
<td>described him as a ‘wild animal’” [N112]</td>
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<tr>
<td>“We call on parents to be vigilant in where kids are and what access they have</td>
<td>Triggering societal-level pressure</td>
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<td>to drugs” [N165]</td>
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<tr>
<td>“The death of this young boy, who had so much potential, so much future ahead of</td>
<td>Driving moral outrage</td>
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<tr>
<td>him, certainly… increased my determination to take these off the shelves” [N193]</td>
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<tr>
<td>“They will draw on the ‘drug scare’ narrative…[and] the need for urgent action.</td>
<td>Prescribing vulnerability to novices</td>
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<tr>
<td>In turn, a media campaign against the drug develops that recruits politicians,</td>
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<td>researchers and the morally righteous” [D6]</td>
<td></td>
<td></td>
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<tr>
<td>“Compound/blend known as ‘Stoopid’? … the brand name’ [is] descriptive, referring</td>
<td>Distancing themselves</td>
<td>Ascription rejecting actions</td>
</tr>
<tr>
<td>to their consumers as this?” [F211.4]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>“A mass community of incredibly stupid … people” [F214]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>“I feel sorry for the people that have lost children to drugs. Really I do but</td>
<td>Demonstrating their competence</td>
<td>Co-operation enlisting actions</td>
</tr>
<tr>
<td>there is no need to wish harsh penalties on people that choose to do them” [F196]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>“Some people just don’t use them correctly” [I23]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>“Healthy. Smoke only on weekends, fit decent diet” [F202]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>“I’ve been smoking synthetic cannabinoids since 2010 and I make my own herbal/</td>
<td>Requesting assistance and advice</td>
<td>Activation of moral obligation</td>
</tr>
<tr>
<td>synthetic…blends” [F207]</td>
<td></td>
<td></td>
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<tr>
<td>“is cheaper, you know what’s in it, you know how much of what is in it… make</td>
<td>Attempting to re-establish legitimacy (producers)</td>
<td></td>
</tr>
<tr>
<td>you do your own research. Don’t go mixing random stuff around” [F211.4]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>“People should have access to information. Like real legit true information… so</td>
<td>Enacting comprehensive prohibition</td>
<td></td>
</tr>
<tr>
<td>they have the knowledge to at least know whether or not they’re going to be</td>
<td></td>
<td></td>
</tr>
<tr>
<td>doing it safely” [I24]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>“Offered to foot a $200 million bill to test the legality of their products in</td>
<td></td>
<td></td>
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<tr>
<td>a bid to keep selling them to Australians” [N109]</td>
<td></td>
<td></td>
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<tr>
<td>“Stickers will be issued once the process is complete” [D30]</td>
<td></td>
<td></td>
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<tr>
<td>“Would banning their sale have prevented the tragic death of Henry Kwan?” [N193]</td>
<td></td>
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<tr>
<td>“Anyone caught possessing the synthetic drug faces up to one year in jail under</td>
<td></td>
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<tr>
<td>laws unveiled by the government [N259]</td>
<td></td>
<td></td>
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<tr>
<td>“This legislation will save lives and prevent harm” [N231]</td>
<td></td>
<td></td>
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<tr>
<td>“Legal highs have to be proved safe before they can be sold” [N133].</td>
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</tr>
</tbody>
</table>

Figure 6 - Data structure [phase three]
3.6 Trustworthiness in Qualitative Research

Qualitative research can be deemed trustworthy if it stays true to the participants’ lived experiences, is conducted in a transparent and rigorous manner, and if the researchers are aware of their own predispositions and subjective realities. Aligned with this, credible qualitative research is predominantly discussed in terms of its trustworthiness rather than the typical positivist measures of reliability and validity. Lincoln and Guba (1985) proposed four criteria for assessing the trustworthiness of qualitative research that still form the accepted criteria. These include credibility, transferability, dependability, and confirmability. Credibility refers to the inclusion of adequate and believable representations of what is being studied. Transferability is the extent to which the hypotheses employed can be applied to similar contexts. Dependability encompasses the extent to which interpretation was constructed in a way that the only instability is that inherent of the social phenomenon. Confirmability is the ability for the interpretation to be traced using the data and other records kept. These qualitative trustworthiness measures parallel the criteria for reliability and validity in quantitative research, including internal validity, generalisability, reliability and objectivity (Lincoln & Guba, 1985; Symon & Cassell, 2012). Wallendorf and Belk (1989) extended these criteria to include the criterion of integrity. Integrity refers to the extent to which the interpretation was free from lies, evasions, misinformation, or misrepresentations by informants. The authors also propose specific techniques that can be used by researchers to ensure these criteria are met (Lincoln & Guba, 1985; Wallendorf & Belk, 1989). The strategies used in this thesis to ensure these criteria have been considered are presented in Table 6 below.

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Suggested Actions</th>
<th>Use in Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>Credibility</td>
<td>Prolonged engagement</td>
<td>Establishing credibility in qualitative research involves prolonged engagement with and persistent observation of the context. This project is an extension of a previous study done in the context in 2013. It was started immediately after the conclusion of the previous project and is the product of years of engagement and observation.</td>
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<td></td>
<td>Persistent observation</td>
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<td></td>
<td>Triangulation across sources and methods</td>
<td>Triangulation across sources and methods was ensured using several sources of multi-level data.</td>
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<td></td>
<td>Triangulation across researchers</td>
<td>The research team included the principal investigator and the members of the supervisory team. Regular full-team meetings were held for the purpose of discussing the analysis and theorisation, thereby ensuring triangulation across researchers could be achieved.</td>
</tr>
<tr>
<td>Criteria</td>
<td>Suggested Actions</td>
<td>Use in Project</td>
</tr>
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<td>---------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td><strong>Debriefings by peers</strong></td>
<td>Use in Project: Debriefing by peers occurred on a number of occasions through presentations at national and international conferences, as well as institutional seminars.</td>
<td></td>
</tr>
<tr>
<td><strong>Member checks</strong></td>
<td>Use in Project: Small-scale member checks, involving the interpretation given to members of the sample for comment, were conducted with some key members of society who were well-informed about the market during informal discussions post their interviews.</td>
<td></td>
</tr>
<tr>
<td><strong>Transferability</strong></td>
<td>Use in Project: Triangulation across sites occurred using multiple types of multi-level data.</td>
<td>The project involves a number of different types of data sources which allowed for limiting exceptions to be sought out – limiting exceptions here refer to insights from the data that are unexpected/do not fit with the other data.</td>
</tr>
<tr>
<td><strong>Emergent design</strong></td>
<td>Use in Project: Emergent design involves the continuous evolution and refinement of the components of the project. This has occurred at numerous stages throughout the project; including formally through the doctoral milestone processes.</td>
<td></td>
</tr>
<tr>
<td><strong>Dependability</strong></td>
<td>Use in Project: Extended observation occurred through the longitudinal engagement with the market from multiple multi-level data sources.</td>
<td></td>
</tr>
<tr>
<td><strong>Confirmability</strong></td>
<td>Use in Project: Triangulation for confirmability occurred in the early stages of data collection as multiple members of the research team conducted interviews. The full team meetings also regularly included discussion of data collection methods.</td>
<td></td>
</tr>
<tr>
<td><strong>Reflexive journals</strong></td>
<td>Use in Project: This project is accompanied by personal research journals. These worked as a reflexive tools.</td>
<td></td>
</tr>
<tr>
<td><strong>Confirmability audit</strong></td>
<td>Use in Project: Complete records of the research design decisions and of how the data was selected, collected and managed were kept and updated in line with the confirmability audit.</td>
<td></td>
</tr>
<tr>
<td><strong>Integrity</strong></td>
<td>Use in Project: All data included in this project was collected with integrity and to the best of the researchers’ abilities (e.g. permission sought to use data; rapport was built with interview participants by being non-judgmental)</td>
<td>All data is stored and used in a de-identified format.</td>
</tr>
<tr>
<td><strong>Safeguarding informant identity</strong></td>
<td>Use in Project: All data is stored and used in a de-identified format.</td>
<td>Through the reflexive personal research journals, the researcher frequently conducted self-analysis and introspection.</td>
</tr>
</tbody>
</table>
3.7 Ethical Considerations

Due to the controversial nature of the context of interest in this research, there are three main ethical issues that were considered. First, some of the participants recruited may be classified by the National Statement on Ethical Conduct in Human Research (2007c) as vulnerable as they may be involved in illicit activities. Second, the discussion of recreational intoxicants, despite being legal at the time of purchase and sale, may cause distress to the participants or the researchers. Third, the use of online data in this project involved the collection of information that was not published for research purposes. These three issues are discussed in depth in the next sections, including the strategies that were used to mitigate and minimise the risks associated with the issues. The details of the ethical clearance for this project are then presented.

3.7.1 Issues One: Participants Who May Be Involved in Illicit Activities

One of the main risks involved in this study relates to links to illicit activities, and the additional “guilt by association” (MacLean et al., 2006, p. 64). In some instances it is possible for research to discover illegal activities inadvertently and unexpectedly. Where research discovers illegal activity, researchers and institutions may become subject to orders to disclose the information to the government and court (National Statement on Ethical Conduct in Human Research, 2007c). This may leave the participants and/or researcher in a vulnerable position. This issue is relevant primarily for the exchange-level participants as the societal-level participants were those who made or upheld the law. The purpose of the research in this thesis was not to expose, discover, or discuss illicit activities. The participants were not asked to give details of their illicit activities to minimise the risk of adverse effects – questions were only asked about the activities relating to ‘legal highs’ between 2009 and 2013 when they were legally bought and sold. If participants volunteered information about illicit activities, the investigator did not probe further. Additionally, the investigator steered the conversation back to the ‘legal high’ discussion. Orders to disclose any information to the government and court would be responded to in line with the “principles set out in this National Statement and to scholarly values of academic freedom and inquiry” (National Statement on Ethical Conduct in Human Research, 2007b, p. 61). Following these guidelines, no information or participants needed to be reported. Furthermore, following the guidelines provided in the National Statement, all data was de-identified. The demographic information collected from the participants was collected and stored on a range (e.g. age range rather than age in years) or at a very broad level (e.g. store type rather than store name) in order for the participant information to be unidentifiable.
3.7.2 Issue Two: The Controversial and Sensitive Nature of the Project

Another risk involved in this study relates to the potential for emotional or psychological harm for the participants or the researchers due to the controversial and sensitive nature of this topic. This is a common risk in qualitative research that explores sensitive topics in depth (National Statement on Ethical Conduct in Human Research, 2007a). The discussion of recreational drugs may be a ‘trigger’ for some participants or may arouse discomfort if the participant has had adverse effects due to their consumption of the substances. Similarly, the researcher may have feelings of discomfort in hearing about these experiences during the interview, or reading about them during analysis and interpretation. To minimise the potential negative effects of this, participants were not obliged to answer questions that made them feel (or appear to feel) uncomfortable. The Participant Information Sheet also provided details of multiple counselling services available. If distress appeared to occur (in the participant or investigator), the interview would have ceased and the subject of the stress would be advised to seek help using these services (or others available to them). This aligns with the guidelines within the National Statement on protocols for dealing with distress (National Statement on Ethical Conduct in Human Research, 2007a). None of the participants or researchers showed signs of distressed during the project.

3.7.3 Issue Three: The Use of Online Data Not Published for Research Purposes

As the data was collected from sites (years after the text/post was published), the third ethical issue within this project relates to gaining informed consent before using online data. There is a debate surrounding the use of online data regarding whether posts online are “public data or private people” (Kozinets, 2015 p. 135). The main risks lie in the data collected from forums, blogs and online posts as these can be searched for and found online. This means that the data is re-identifiable (National Statement on Ethical Conduct in Human Research, 2007b). These risks are minimised as the chosen forums allow/require people who post on the site to choose a pseudonym upon joining the site. These sites also predominantly have no user profiles; ensuring that no identifying information is available. To not “damage, despoil or disrespect” (Kozinets, 2015 p. 149) the people who have written these posts (or the posts themselves) attempts were made to understand and respect the post made by a certain person at a particular time in the analysis and interpretation. Only true findings were reported. While the quotes from the forums were not recorded entirely verbatim due to the data use agreement held with the forums, the posts were not, to the best of the researcher’s knowledge, misrepresented. While the use of verbatim quotes has been argued to be problematic in that they are traceable with a public search engine, Kozinets (2015) suggests that edited quotes can also be just as easily traced. As such, it is important to not change the quotes greatly to ensure the context of what was said is not lost. The data was also collected in compliance with the conditions of the websites. This aligns with the guidelines provided by the National
Statement (National Statement on Ethical Conduct in Human Research, 2007b). All forums included in the study were contacted for permission to use threads for research purposes.

### 3.8 Ethical Clearance

The ethical clearance for this project occurred in stages as the research ideas and questions evolved. This project holds three approvals covering all the levels of data collection (see Appendix Six for approval letters). First, The Behavioural & Social Sciences Ethical Review Committee (BSSERC) approved ethical clearance for the online archival and forum data about ‘legal highs’ and the market in which they exist on 07/04/2015. This ethical clearance encompassed the news media and forum threads that made up the multi-level data as well as the online data relating to the societal and exchange-level actors. Second, the University of Queensland Business School Ethical Review Committee approved expedited ethical clearance for interviews with professionals and other community actors who make, uphold and abide by the law (e.g. government, health professionals, not-for-profit community organisations) on 21/06/2016. This ethical clearance covered the interviews with participants at the societal-level. Finally, the ethical clearance application for interviews with participants at the exchange-level (producers and consumers) was approved by the University of Queensland’s Human Research Ethics Committee B on 04/08/2017.

### 3.9 Conclusion

This chapter provided an overview of the research design aspects of this thesis. Processual qualitative case study research within the CCT tradition was conducted with the aim of answering the research question: **how are the processes of legitimation shaped in contested markets?** Data at multiple levels (i.e. multi-level, societal-level and exchange-level) within the ‘legal high’ market between 2009 and 2013 were collected from multiple types of sources (i.e. online archival data and interviews) to provide a rich case study through which to explore these processes. The data analysis included chronological mapping and temporal bracketing as approaches to organise the data. Once general insights into the processes within the market over time were gained, higher-level abstraction was obtained initial descriptive coding and final open coding for processes. Trustworthiness in all processes of data collection and analysis was ensured using standard approaches (Lincoln & Guba, 1985; Wallendorf & Belk, 1989). Ethical clearance for the project was obtained at both the UQ and UQ Business School levels. Due to the contested nature of the market, ethical issues were considered and minimised at all stages of the project. The next chapter presents the findings from the first phase of the legitimation process.
CHAPTER FOUR: FINDINGS [PHASE ONE]

The market creation process is a progressive sequence of... contestations among opposing groups of stakeholders through which their divergent interests are aligned and concrete exchange structures between producers and consumers are established.

- From How Doppelgänger Brand Images Influence the Market Creation Process by Markus Giesler (2012, p. 56)

4.1 Introduction

This chapter presents the findings from the first phase of the legitimation process with the aim of beginning the exploration of the research question how are the processes of legitimation shaped in contested markets? While the three phases (phase two and phase three presented in chapter five and six respectively) overlapped in practice, they are kept analytically distinct in this thesis for the purpose of presentation and theorisation. The findings presented in this chapter focus on the actions of multi-level market actors that shape the legitimacy of the ‘legal high’ market between early 2009 and early 2010. In this phase, the exchange-level actors are dominant and changes in the legitimacy of the market occur through the accumulation of predominantly micro-level actions. These actions accumulate in three legitimation battles, and shift the market from a basis of legitimacy focused on transactions to one focused on harm. The chapter tracks this shift through the following structure: First, the key market entities and elements at T0 are identified and discussed. Next, the three legitimation battles that shape the legitimacy of the market are presented and discussed. A model that summarises phase one of the legitimation process, and the three battles therein, is included to guide the discussion. Finally, the shift in the key market entities and elements at T1 are presented and discussed.

4.2 The ‘Legal High’ Market T0

The ‘legal high’ market emerged in early 2009 (hereafter Time Zero T0) on the boundary of legal and illegal recreation markets, defined as those markets in which consumers engage for some form of intoxicating or psychoactive effect or experience. Legal recreation markets are sanctioned by society as legitimate experiences, are subject to government regulation – particularly age restricted access, that ensures appropriate consumer engagement, and include product offerings such as alcohol and tobacco. Illegal recreation markets lack legitimacy and are stigmatised in society, are governed through criminalisation to reduce demand and constrain supply, and include product offerings such as mainstream illicit drugs (including ecstasy and marijuana). ‘Legal highs’ emerged at the grey area between these two markets as a response to a global ecstasy drought in 2008, which reduced consumers’ access and created demand for alternatives with similar effects. The ‘legal
high’ market “basically evolved during the drought, so there was demand for certain drug types, and [legal highs] simply filled that demand” [I7]. The data shows that the market at T0 was distinguished by five key elements as outlined below.

First, the ‘legal high’ market at T0 was characterised by **purist producers**. A few small producers with an understanding of chemistry identified a market opportunity created by the under-supply of ecstasy and produced ecstasy substitutes by compounding herbs with binding agents. Producers tended to have “a chemistry background and they would be producing products that would … provide the effect the customer was looking for but would not negatively impact the customer” [I13]. However, “no truly herbal supplement can produce [drug] like effects at a strength considered better or even close to as good as [pure ecstasy]” [F2.1]. Thus, when the market first emerged, producers paid careful attention to the purity of their herbal ingredients and binding agents when using their scientific knowledge to compound pills, which they hoped would create substitute psychoactive experiences that consumers would be willing to pay a comparative price for. A legal high product that was “similar to cocaine in experience [was] typically cheaper because it’s not cocaine” [I4] but was also more expensive than the cheap and impure “drugs one purchases on the street, when you take purity into consideration” [I5].

Second, the ‘legal high’ market at T0 was characterised by **pleasure-seeking consumers**. These consumers included ecstasy-users searching for a comparable recreational experience from a substitute product as well as new users who were motivated to experiment. These latter consumers typically “preferred not to engage with the black market and [wanted] to be able to engage with something that felt more legitimate… they weren’t at the time breaking the law” [I15]. Although similar to illicit drugs in effects, ‘legal high’ products offered consumers recreational experiences comparable in legality to drinking alcohol or smoking tobacco. Consumers perceived “if you can get a legal high that has the same effect as cocaine … [and] I can go into a shop and buy it like I can go into a shop and buy beer, then I can’t get in trouble” [I4].

Third, the ‘legal high’ market emerged at T0 as uncomplicated transactional exchanges between these small purist producers and pleasure-seeking consumers for **natural and unregulated product offerings**. Positioned as a natural and herbal alternative to mainstream illicit drugs, “the pills are mostly an herbal concoction mixed with binding agents – all legal ingredients” [N2]. Products were offered as a “natural, legal substitute for ecstasy” [F2.2] at comparative prices [I4] and featured product names like “Cherry Pop and Barleys that were alternatives to ecstasy” [I21]. Because “the product is not listed as a Class 1 medicine or approved for sale” [N2], a product in the ‘legal high’ market was “unregulated” [I15] rather than government sanctioned. Products were not
required to comply with normal regulations for therapeutic goods, such as ensuring the ingredients were safe for human consumption or providing specific information about the ingredients and effects.

Fourth, the legal high market at T0 was characterised by **credible branding and packaging** which mimicked products in the legal recreation markets. Compared to illicit drug products sold on the street in unmarked plastic bags, ‘legal high’ products “were better packaged and marketed in a more obvious way, with names and slogans” [I5] and bearing “a label with your company name on it, [which] gave people some credibility” [I21]. Products were “packaged up with colours and logos and … pretend warning labels, and all the rest of it” [I5]. To avoid breeching laws for therapeutic goods, labels presented limited information about uses for the herbal products: “you can’t really put advice because then it becomes therapeutic goods” [I21]. Instead products “claim[ed] that the buzz is from the synephrine and caffeine and the warm feeling from the chocolate” [F2.3.]. Overall, the branding and packaging **mimicked techniques** adopted by products in the legal recreational market to actively construct credibility: “If they’re packaged up in a public space, there’s probably a perception [among consumers] that there is regulation that’s gone on so the thing that you’re getting is harmless other than the experience you are out to experience” [I4].

Fifth, the legal high market at T0 was characterised by **exclusive distribution channels**. Small purist producers initially distributed ‘legal high’ products to pleasure-seeking consumers at music and dance festivals and parties [D4]. One consumer said after experimenting at the Future Music Festival, “I have taken four pills – two legal and two illegal – and I feel great” [N2]. Because dance parties and festivals were regulated spaces of intoxication, “tablets marketed as ‘herbal ecstasy’ [were] sold at Sydney dance parties as a legal alternative to users worried about the heightened presence of police and sniffer dogs” [N2]. **Exclusive distribution** then spread from dance parties to alternative lifestyle and adult recreation stores, such as headshops [N1], where only adults could access the products.

Overall, the market for ‘legal highs’ at T0 was a “very small” and “niche market” [I19]. Legitimacy was constructed through a process of simple transactional exchanges between willing producers and consumers. Few purist producers transacted with pleasure-seeking consumers for natural and unregulated products, which were credibly branded and packaged, and sold through exclusive distribution channels. Since these transactional exchanges involved “a legal drug that’s not causing any harm” [I1] and willing consumers and producers, the transactional legitimacy of the emerging market for ‘legal highs’ at T0 was unchallenged by government, media or other societal-level actors.
4.3 Phase One: Transactional Legitimation and Market Opportunism

The first phase of the legitimation process in the ‘legal high’ market is characterised as an opportunistic market in which the legitimacy of the market is constructed through transactions between willing producers and consumers. In this phase, a market is legitimate when consumers and producers willingly engage in transactional exchanges. The growing ‘legal high’ market provided the opportunity for new actors to enter the market and engage in the exchanges. The actions of the initial and new actors activated legitimation battles over contested aspects of the market. In this phase, three battles unfold to shape the transactional legitimacy of the market, and transition the market from $T_0$ to $T_1$. First, a battle began between the purist producers and new entrepreneurial producers over proper production processes, leading to less pure product offerings. During this battle, the purists engaged in purification recovering actions while the entrepreneurs engaged in cost-efficient improvising actions. Second, a battle emerged between pleasure-seeking consumers and the entrepreneurial producers over the appropriate product and marketing practices, as consumers began to seek out and share more information about the product offerings thereby disciplining the market. During this battle, the pleasure-seeking consumers engaged in market discipline actions while the entrepreneurs engaged in business appropriating actions. Third, a battle between the exchange-level and societal-level actors began over when it is acceptable for the societal-level actors to claim a stake in the market shaping. This latent battle activated the normative obligations of societal-level actors and triggered a shift in the legitimacy of the market, transitioning it from $T_0$ to $T_1$. Figure 7 illustrates phase one of the process, and the shift from $T_0$ to $T_1$. 
Figure 7 - Phase one of the legitimation process
4.3.1 Battle One: Initial Purists and New Entrepreneurial Producers

The first battle began unfolding between initial purists and new entrepreneurial producers who entered the market. The market was initially constituted by the purist producers present at T₀ who continued to use their “chemistry background” [I₁₃] to develop products with high “purity” [I₅]. The market had transactional legitimacy as “a high percentage of people just want a safe and legal alternative to alcohol and drugs” [N₄], and the purist producers were able to provide them with these alternatives. The small range of natural and unregulated product offerings were “flying off their shelves...[and] selling really, really well” [N₁]. The initial purists “had a very good product...[and] people were very happy with it” [I₂₁]. However, the growing popularity of the pure product offerings meant “a level of demand existed, and this encouraged the suppliers to diversify and more people to get into the market” [I₇]. Among those encouraged to enter the market were the new entrepreneurial producers who “exploited the drugs’ legality” [N₁] in the “the grey economy” [I₇]. The entrepreneurial producers differed from the initial purists as the former’s “end game is to make money” [I₇]. The emergence of more producers meant the market continued to grow in “accessibility” [I₄] and the product offerings were “gaining enormous popularity on the social scene” [N₃]. However, there began to be “huge differences in terms of the way the products are presented, and the claims associated with them” [I₅]. Thus, a battle for legitimation began to unfold between the purist producers and new entrepreneurial producers.

The battle between the initial purists and the new entrepreneurs developed over what constitutes proper scientific production processes. The purist and entrepreneurial producers both adopted scientific production processes whereby they developed product offerings that were “guaranteed to ‘add extra kick to your partying’” [N₄] by providing psychoactive effects. However, the criteria on which the types of producers judged the properness of the processes surrounding the production of the products differed. The purist producers privileged product quality and purity in their production [I₅; I₁₃] while the entrepreneurial producers privileged cost-efficiency and maximising profits [I₇]. The purists focused on carefully synthesising pure products as they were “keen to reinvent [themselves] as professional, reputable business[es], far removed from the images of shady, backyard drug makers” [N₄]. The entrepreneurial producers focused on selling “low grade” [F₃] products that were “easier to obtain and the profit-margin is bigger” [F₁₃.₃]. This was because “it doesn’t really matter what commodity [they] sell” [I₇] if it is cost-efficient and makes them profit. The products were “originally being manufactured in quite a sophisticated and sterile environment” but began also being produced by a range of entrepreneurial producers “in less than ideal manufacturing environments” [I₆]. The initial purists had products that “people were very happy with” but “the [new producers] came in with their stronger form...[and] messed up the
The privileging of purity by the purists and cost-efficiency by the entrepreneurs were in conflict as “there’s a lack of consistency in how they’re manufactured and that adds to the lethal threat” [I19]. Therefore, a battle began to unfold between the initial purists and the new entrepreneurs over the proper scientific production processes of the product offerings.

The new entrepreneurial producers shaped the legitimacy of the market by engaging in **cost-efficient improvising actions**. These actions involved adopting scientific processes of production that privileged cost-efficiency and profit-maximisation over product quality and purity. The proper scientific process of production for the entrepreneurs was one that allowed for the minimisation of costs and maximisation of profits as “that’s how the businesses think” [I15]. Therefore, the entrepreneurs focused their efforts on the easy and cheap production [F13] as it “made good business sense” [I7]. The producers had not been “issued with a commercial license by the Therapeutic Goods Administration (TGA), the federal body that regulates medicinal products” [N2], which meant there were no specific production standards that needed to be met during the synthesis of the product. Furthermore, the market was “entirely unregulated and there was no guarantee of any testing whatsoever” [I15] and the producers could adopt production processes that were cost-efficient. However, the improvising of cost-efficient processes meant that the product offerings were “not produced in truly safe, hygienic, regulated and monitored circumstances and the quality of the content is uncertain” [N4]. To further minimise costs, the entrepreneurs did not take steps to ensure “the effects of the drugs had been properly researched” [N3] or “tested” [I15]. These cost-efficient improvising actions of the entrepreneurs meant that the ‘legal high’ market soon began to be constituted by the circulation of some “strange or dodgy substance[s]” [I15] and products.

The purists responded by engaging in **purification recovering actions**. These actions involved adopting the scientific processes of production that privileged product purity to reinforce the quality of circulated product offerings. The purist producers who engaged in the transactional exchanges at the time “remember looking at [the products in circulation] and just going aghhh!” and “shudder[ing] at all those products” [I21] due to their low-quality and purity. Therefore, they began focusing their efforts on producing more pure products for circulation in the market that ensured consumers were “not putting poison into [their] body” [N3]. These purer products became “very popular when [they] came available on the open market” [I14] as “everything that is in them has been cleared and comes under the supplement list” [N3]. The proper scientific production processes for the purist remained those that ensured a pure and high-quality product. As such, through this reinforcement of purity in the scientific production, the purists were “doing quite a good job of manufacturing the products” [I6]. Therefore, the quality of the product offerings available on the market began to improve once more as the purists engaged in purification recovering actions.
The entrepreneurial producers began to fight back against the **purification recovering actions** of the purists to re-establish their dominance as producers. This was done by continuing to engage in **cost-efficient improvising actions** by expanding the cheap ingredients that could be used in production. That is, the entrepreneurial producers “realised that they could go through the old catalogues of discovered chemicals that had been documented and then put to the side” [I15], and could use the cheapest of the chemicals in the production of cost-efficient product offerings. The entrepreneurs “admired the concept” in expanding their range, “so started looking for other legal highs but went the chemical way” [I21]. However, these producers deviated from the concept of the purists in their prioritisation of cost-efficiency over product purity. This meant the pure ‘legal high’ product offerings were beginning to be “superseded by dangerous version[s]” [F8], some of which were “more dangerous than some illegal drugs” [F6]. This was because the entrepreneurs paid little attention to the purity or quality of the chemical ingredients and continued to produce the products “in poor manufacturing environments” [I6]. Furthermore, the producers were reducing further production costs by engaging in fast production that often compromised the product quality. For example: “the manufacturers had not completely removed the solvent from the product… The acetone [was] not being properly extracted or evaporated off the product before it quickly went out to market” [I6]. The product offerings were becoming “risky” [N4] as the cost-efficient improvising actions of the entrepreneurs meant buying the product offerings was “not like going to the supermarket” [N4].

The purist producers in turn responded to the actions of entrepreneurs by engaging in further **purification recovering actions**. This was done by again prioritising purity and seeking out safer chemicals that were analogues of illicit drug products, so they were not driven out of the market by the expanding range of the entrepreneurs, and could continue to provide legitimate product offerings to consumers. These new product offerings included pure chemicals such as the JWH-series which were “analogue chemicals from the aminoalkylindole family [that acted] as a cannabinoid agonist at both the CB1 and CB2. But [were] structurally different from THC and not covered by the analogue laws” [F11]. The purist producers also ensured that the analogues chemicals they used as ingredients had been “widely tested…as analgesic…[affected] the cannabinoid receptors… and was a benign substance” [I14]. Many of these benign analogue chemicals had been “reseached a bit” but “weren’t patented or controlled” [I15] which meant the purists could use them as ingredients within ‘legal high’ product offerings. The purity of the product offerings meant that the purist producers often had “people that come back regularly who don’t seem to have substance use problems but enjoy those particular products” [I15]. The purist producers were “not upset about the commercial aspect. [They] just believe there are real alternatives, legal highs as such, to illicit
drugs or drugs of addiction” [I20]. Therefore, the purists recovered the purity of the product offerings by prioritising the purity in their production processes using tested analogue chemicals.

This battle between the initial purists and the new entrepreneurs over what constituted the proper production processes impacted the transactional legitimacy of the ‘legal high’ market. The product offerings available in the market were becoming ambiguous as there was inconsistency around what the products were and what they contained [I5; I21]. It was also “becoming harder to obtain the precursor chemicals” [F13] to continue engaging in the transactional exchanges of pure products, and the purists “tried everyone, out of all the hundreds of products we’ve got… If they didn’t work, I didn’t sell them” [I21]. This resulted in many of the initial purists exiting the market as “over time, they realised that it was less lucrative to remain in the market because… they’d have to throw out products and create new products” [I6], and they were often unable to provide new products that aligned with their purist scientific values [F13]. Thus, the ‘legal high’ market began to be characterised by less purists and more entrepreneurial producers, and ambiguous product offerings. The unregulated production processes of these entrepreneurial producers meant it was becoming difficult to determine which products had been produced in a proper manner by prioritising purity. Therefore, the ambiguity surrounding the products began to reduce the transactional legitimacy in the market. For example: “with a dose of 50-100mg in contrast to the 250-400mg dose other blends have, this blend (Magic Silver Incense) is dosed very high. Which worries me about the possible side effects and likely overdoses” [F1]. Therefore, the initial purist producers and the new entrepreneurial producers began to shape the legitimacy of the ‘legal high’ markets in their attempts to engage in the unregulated marketspace and determine the proper production process.

4.3.2 Battle Two: Pleasure-Seeking Consumers and Entrepreneurial Producers
The second battle began unfolding between the pleasure-seeking consumers and the entrepreneurial producers. After the first battle, the ‘legal high’ market was dominated by the entrepreneurial producers who exploited the grey economy to make money [N1; I7] in the first battle, and the pleasure-seeking consumers who were seeking out products that “felt more legitimate” [I3], “had credibility” and had been “packaged up in a public space” [I4]. These consumers were those who preferred to “not engage with a black market” [I15] and wanted a safe and legal alternative to illicit drugs. This was because “health concerns over [illicit drugs] pushed people towards party pills, on the assumption that because they are legal they are safe” [N4]. The market initially had transactional legitimacy as the entrepreneurs and the pleasure-seekers were both willingly engaged in the market-mediated exchange of ‘legal high’ products and these exchange actors were united in “seeking out alternative highs… that stretch the boundaries of the ‘altered states’ to a new level” [F13.1].
However, the legitimacy began to be called into question as the producers were positioned by the consumers as shifting “from modern day chemist to dealer… no longer [having] the rebellious and enlightened counter-culture. [Their] hippie ideals are long dead” [F13.2]. Thus, a battle for legitimation began to unfold between the pleasure-seeking consumers and the entrepreneurial producers.

The battle between the pleasure-seeking consumers and the entrepreneurial producers developed over what constitutes appropriate product and marketing practices. This battle began to unfold as the criteria on which the actors judged the appropriateness of the product and marketing practices surrounding the exchange of product offerings differed. The consumers privileged safety and transparency in the practices surrounding the product offerings they sought out from “courageous and enlightened individuals, with the knowledge and ability to create magic” [F13.2].

The entrepreneurial producers were trying to “to copy what [the purists] were doing” [I29] with the product and marketing practices but “were doing it wrongly” [I29] as they privileged cost-efficiency. At T0, the purist producers had adopted product and marketing practices that were consistent with the criteria for appropriateness established by the consumers. This included ensuring there were clear “warnings on the back and recommended doses” and “a number of strict conditions that customers were expected to meet, including being 18” [N3] as the products were “only designed for healthy adults” [N4]. On the other hand, the entrepreneurial producers “labelled [the products] as plant food or novelty bath salts” [N7], “as not for human consumption, [and] did not list any ingredients” [F5.2.], which the initial purists “never did” [I21]. This led to contestation between the pleasure-seekers and the entrepreneurs as the consumers realised “the creed of our new enemy [is to] buy cheap and sell for a premium. Safety is always second to profit” [F13.2]. Therefore, a battle began to unfold between the entrepreneurs and the pleasure-seekers over the appropriate product and marketing practices.

The entrepreneurial producers shaped the legitimacy of the market by engaging in business appropriating actions. These actions involved mimicking the basic marketing practices of the purist producers, but privileging business and profit in their adopted practices. The entrepreneurs initially included some of the “very good product[s]” [I21] in their range to establish themselves as players in the market but also expanded the range of products available [I6; I14] and extended the distribution channels [F13; I15] to embed themselves as dominant producer actors within the market [I29]. This led to “a whole large and complex variety of other products coming out onto the market… about one new psychoactive substance introduced into the market every week” [I14]. As the entrepreneurs judged the appropriateness of product and marketing practices on their profit-maximising potential, they began to “aggressively market [these new products]… by using logos
and patterns drawn from popular culture” [D8]. This was done to drive sales of their poorly-produced products, maximise their profits and “make a little bit of money really quickly” [I15]. The entrepreneurs became “rogues in the market” by expanding the distribution to “petrol stations, convenience stores, places where not only would children enter those stores but children were working in those stores” [I14], thereby ensuring they had adequate product offerings in circulation in the market to increase their profit potential. The focus of this expansion was on building profit potential rather than providing consistent products to consumers as the entrepreneurs “don’t give a fuck about people getting high, but care about what will get them the most money with the least effort” [F13.3].

The entrepreneurial producers also engaged in product and marketing practices that reduced the transparency of the product offerings for consumers. The product offerings available at T0 had provided “some protection from TGA [as they were] marketed for human consumption [and had] loosely listed ingredients” [F5.2]. The entrepreneurs purposively “labelled [the products] as plant food or bath salts” [N7], and “as not for human consumption” [F5.3] to avoid the requirement of TGA endorsement. Those that did list ingredients did so by using “the term ‘free form amino acids’ very loosely and [using] the other ingredients to cover up some unspecified research chemical; playing very close to the edge of the law” [F2.5]. Additionally, the ingredients within the branded product offerings were inconsistent as, for example, the “Ivory Wave product was originally packaged in see-through baggies and was relatively mild in effect but it has since been superseded by this dangerous version shipped in a foil pouch” [F8.1]. Therefore, it was speculated that “it might be that the contents changed with the packaging, [which] may account for some of the variants in claimed effects” [F8.2]. This meant that marketing practices adopted by the entrepreneurs did not signal credibility and trust in the way branding and packaging does in traditional markets. Instead, the entrepreneurs were able to charge “a premium for potentially dangerous goods that may not even deliver the promised high” [N4] without providing information about the product offerings. Therefore, the business appropriating actions began to impact the transactional legitimacy of the market due to a lack of transparency.

The pleasure-seeking consumers responded by engaging in market disciplining actions. These actions involved constructing normative systems that conferred legitimacy to certain products and actors if they complied with acceptable marketing practices. The consumers contested the actions of the entrepreneurs as they had “a major issue [with] the ingredients. With street drugs you have a rough idea about what’s in them if you are careful. This legal shit could contain literally anything” [F5.1]. The appropriateness of product and marketing practices were judged by consumers on their transparency and propensity for safety. As the entrepreneurs were not “forced to list exact
ingredients and dosages” [F5.1] or provide consistent and transparent information, the consumers began to discipline the producers by not engaging in transactional exchanges with them. This worked to discipline the entrepreneurs as “consumers are quite powerful, because if they’re not buying it then that really affects the market” [I9]. Therefore, those producers whose product and marketing practices were judged by consumers to be appropriate were rewarded by being allowed to engage in transactional exchanges.

The consumers demonstrated agency in their market disciplining actions. Through online communities, consumers were able to actively seek out and develop a knowledge base around the products and what the inaccurate ingredients referred to. For example: “amino acids always usually mean Beta Ketones. Research Chemicals” [F2.6]. Those consumers who lacked the information they required to navigate the ‘legal high’ market setting drew on the experiences of other consumers within the market, as seen in the following forum post: “I have tried to find out more about what the active chemicals in this… are but haven’t been able to, can anyone help or post their opinion? They are called Urban Sharmans” [F2.7]. Forum threads were constructed to empower consumers with the specific information they required about the products and the producers who were involved in their exchange. For example:

Please list the many other novel candidates for active ingredients that you think might currently be used in the ‘bath salts’ and other RC containing legal high products. Would these be coming from custom “local” synths or imported from the more usual chemical sweatshops? [F10]

When new chemicals and ingredients were discovered, forum threads were created to collate information for those consumers who wished to engage with them. For example: “This drug is becoming more and more popular. Because it’s new there is not much research out there about it though. This thread’s purpose is to highlight the potential risks associated with it. Mephedrone, 4mmc, 4-Methylmethcathinone” [F4]. The consumers reinforced their agency in the market by building collective communities through which to seek out and share empowering information as “at the end of the day, forums like this have made me better informed of the decisions I make regarding drugs. I have a better understanding of the risks” [F12]. As the consumers collectively built the knowledge base required to actively navigate the market and discipline the producers, they were able to be less impacted by the misleading marketing techniques adopted by the entrepreneurial producers [F6], and were able to avoid those products and retailers that were not acting appropriately.
The purist producers supported the consumers in their disciplining actions by educating and sharing information. These supporting actions aligned with their “mission to promote herbs and educate people about herbs… [because] most people think that herbs don’t work. They forget cannabis is a herb and it works. Opium is a herb, it works” [I21]. Therefore, the purist producers helped to discipline the producers by providing information to consumers and educating them on available product offering. This information sharing included ensuring the store pages where products could be purchased were very transparent and informative – including a picture of the product and brand, the quantity of the product in the package, the usual duration in hours of the high experience, the recommended dosage, the adjusted dosage for lower weight or experience level, safety information, age restriction and price. For example:

![Product Images]

The producers also actively participated in the market to ensure the product offerings provided the desired effects, and so they could provide further information to their consumers. For example:

I work at a shop that sells K2. It’s great shit! All the blends are nice, although the Standard is much harsher than the rest. I first tried the Blonde, but have now tried all 4 blends, with my favourite being the Citron. I admit the Summit is stronger but the flavour and price of the Citron make it better to buy… I like the instantaneous effects of the K2 and the stuff cost a lot less than the other smoking blends I’ve seen. [F7]

This active participation in the market worked to demonstrate which product offerings were considered as a reasonable option within the recreation market setting, as well as establishing the purist producers as authority figures regarding ‘legal high’ products, thereby building their transactional legitimacy in the market. The purists aligned with the consumers as they believed “healthy balanced adults should be free to make up their own minds about how to alter their mental state, and that they should have access to whatever they would like to experiment with – as long as they don’t harm others” [D6].

The consumers used the information from the consumer communities and the purist producers to impact the legitimacy of the market, and products and actors therein. This was done by
collectively reinforcing the transactional legitimacy of the ‘legal high’ market by advocating and promoting which product offerings involved manageable risks and which should be avoided. This involved sharing information about products they had consumed, the effects that they had experienced and their recommendation for the product’s transactional legitimacy. The following forum post illustrates the promotion of acceptance of a product offering: “SWIM consumed 100mg [of Ivory Wave] in small 25mg doses, bombed 400mg for an awesome high lasting about 12 hours with little come down effects” [F9]. When consumers did not believe a product offering met their standards, they would also share information about their experience and their recommendation for avoidance of the product. For example: “SWIM tried Hurricane Charlie… It is like bad coke… I would not be running out to try it again as it’s also a bit harsh on the nose. 5/10” [F10]. This advocating and promotion of the transactional legitimacy of certain product offerings worked to discipline the producers during this battle over the product standards as consumers made use of this information to make decisions about their willingness to engage in the transactional exchange [F12].

As a result of these actions, the consumers felt empowered to take risks if they were perceived to be manageable. This was because the empowerment of the consumers through collective information, and the disciplining of the producers whereby product offerings that were avoided could not be sold, meant that the consumers began to seek out manageable risks. These risks were manageable as consumers used the knowledge base they had built to ensure they engaged positively with the product offerings. For example: “I am very hesitant to use large dosages, and would never go for anything more than an average dose… I have a lot of respect for psychedelics and do not want to have a psychotic episode” [F12]. Furthermore, consumers began sharing their risk-management strategies with other consumers. For example: “SWIM recommends preparing some protein drinks/nourishment cans and drinking these every 3-4 hours. The body gets refreshed and this also increases/restarts the effects” [F9]. Therefore, the second battle that shaped the ‘legal high’ market was between the entrepreneurial producers and the consumers as the disciplining actions of consumers reduced the tension caused by the profit-maximising actions, and consumers were more willing to engage in the exchanges as they built their agency and felt empowered with information.

4.3.3 Battle Three: Societal-Level Actors and the Market
The first and second battles triggered the emergence of a third passive battle between the societal-level actors and the market. At this time, the market was constituted by consumers and producers who willingly engaged in transactional exchanges, and was disciplined at the exchange-level. Producers who did not engage in proper production processes or appropriate product and marketing practices were not transacted with by consumers [I9], who sought out and actively shared market information [F9; F10]. The exchange-level disciplining meant that “the market had created
product[s] that didn’t scare the horses, didn’t send people into panics, and it was moderate and it was moderated” [I14]. The market mechanisms continued to function effectively without the need for intervention from societal-level actors; government actors, media actors, and health professionals. As such, there was consensus between the multi-level actors that active participation by societal-level was unnecessary for much of the first phase. However, towards the end of the first phase, the interaction of the first and second battles triggered a third battle over when the societal-level actors have a normative obligation to claim a stake in the market. Over time, the market mechanisms began to fail which activated the normative obligation of subsequent societal-level actors, who began to determine that they had an obligation to play a role in the market.

The exchange-level actors evaluated that the societal-level actors have no stake in the market when market mechanisms are working. This was particularly true for government actors as it was based on the idea that “the population really relies on the government in every aspect of life” and harmful products such as “heroin should be controlled due to the high dangers involved” [F21]. Initially, the disciplining of the market by the consumers meant that “all of the people that were selling it and all of the people that were buying it understood the strength of it, understood their own personal reactions to it and there was really very few negative effects of it because everybody knew what it was and how it affected them” [I14]. Furthermore, the consumers were “not the typical drug user. Many can use more or less responsibly while still being a productive member of society” rather than the predominant “image of the drug user as helpless – useless people at the bottom of the scale” [F21]. As such, the market, and products therein, “wasn’t that big of a deal. One of the chemicals in the original, people would buy that and mix it with their own herbs and just smoke that and they know how much they put in, they know the ratios and that sort of thing” [I24]. Therefore, at the beginning of the phase, the ‘legal high’ market was positioned as not involving high risks and dangers and did not require societal-level intervention as the market mechanisms were working.

As a result of the actions and interactions of actors during the first and second battles, the market mechanisms began to be less effective. The entrepreneurial producers “entering the market, purchasing large quantities of NPS and on-selling for profit… for example, by spraying inert leaf material with psychoactive material” [D5] meant the market “moved from a player who was doing quite a good job of manufacturing the product to a range of players who are perhaps not doing such a great job of manufacturing” [I6], “looking for new products and will come up with new untested products” [I14]. The influx of entrepreneurial producers and impure and ambiguous product offerings during the first and second battles [F1; I6; F6; F8] led to adverse effects beginning to be more common by the end of the first phase. For example, the “new recreational drugs hitting Australian streets prompt[ed] acts of horrendous self-mutilation” [N9] whereby “one user tried to
castrate himself while under the influence of the drug. Another severed half a finger using a kitchen appliance and degloved his penis in an apparent circumcision attempt” [N15]. This meant the market mechanisms that were supported by the disciplining actions at the exchange-level were no longer effective in keeping the consumers safe from harm, which activated the normative obligation of societal-level actors to claim a stake in the market.

The health professionals judged their normative obligation to claim a stake in the market when there is clinical evidence of harm to patient/individual health and wellbeing. This was because health professionals perceived their role in markets “from a clinical experience point of view, [to be to] look after intoxicated patients… patients who overdose either recreationally, so an unintentional overdose, or intentionally with a view to self-harm” [I16]. Therefore, health professionals had a role to play “particularly in emergencies and critical situations with people using the substances” [I9]. In these emergencies and critical situations, the role of health professionals is to “look at what the actual health effects of a substance might be and then our then concern is around the negative health effects and what they might be and how we might reduce, treat and manage them better” [I1]. Therefore, the actions of health professionals were initially unnecessary in the ‘legal high’ market at the beginning of phase one whereby the market mechanisms were functioning effectively as there was little evidence of harm. The collective disciplining of the market by consumers [I9; F9; F10], and the actions by the initial purist producers to purify the market [N3; I6; F11; I14] meant the product offerings in circulation that were accepted in transactional exchanges by consumers did not initially cause serious adverse effects and harm.

As the market mechanisms began failing at the end of phase one, the health professionals realised that “just because [the products] are supposed to be organic doesn’t mean they are completely safe” [N3]. The ambiguous and impure product offerings in circulation at the end of phase one activated the normative obligation of the health professionals within their “rhetoric of evidence-based everything” [I1] as there began to be clinical evidence of harms to individuals. Evidence was found for many of the new product offerings to “affect the human cardio system… [causing] varying symptoms including palpitations, paranoia, anxiety, depression, insomnia, headaches and short-term memory loss” [N15]. Specific examples of the effects and harms included a consumer left experiencing “an amphetamine-like state… rocking, chewing his bottom lip like he was on speed and very hyped” after consuming a ‘legal high’ product that “people were touting as ‘legal ecstasy’” [N3]. Additional “fresh fears were raised… when a Queensland teenager reportedly collapsed with a heart rate of 166 beats a minute, double what is normal, after taking a party pill called Giggle” [N4]. The actions of the entrepreneurial producers during the first and second battles
increased the seriousness of the effects as consumers began “fighting for [their] life in the intensive care unit” [N10] following “overdoses [that] has been the worst case of its kind in the city for at least a year…” [putting] severe strain on the department” [N11]. Health professionals found the consumption of these products by individuals to be “‘worrying’ as people continued to consume the substance without knowing its effects or what’s used in its production” [N13]. They also “found [they] had to start doing some research and start collating data on what [they were] seeing, because they didn’t know how to manage it in the emergency department” [I6].

The criteria on which the media actors had a normative obligation to claim a stake in the market was when something is newsworthy in a democratic society and needs to be held to public account. The media “is very powerful… but their role…[is] to sell their product” [I16]. Drug products and consumption practices are “such exciting topic[s] for the public and that’s why the media are so into it all the time” [I1]. However, the disciplining of the market by consumers, thereby ensuring the spread of information and practicing harm reduction through engagement with the forum communities [F2; F4; I6; F9; F10; F12], meant there were few stories about the market that would be classed as newsworthy at the beginning of phase one. The news media actors like to position stories surrounding drug substances and consumption as “an extension of an ongoing war on drugs with the same rhetoric, and the same stories being rolled out over and over” [I15]. Positive news stories are “quite rare when it comes to drug substances. [They are usually] highly negative… You usually don’t get help[ful] information out of the media” [I4] as positive drug stories do not sell as well as negative drug stories within the societal drug rhetoric. For example: “Woman tries [drugs]. Has an amazing night. Develops a new appreciation for music. Lowers her emotional barriers and bonds with friends and strangers. It doesn’t do much to sell papers” [F5.3]. The positive stories at the beginning of the first phase did not trigger the normative obligation of the media as they were not newsworthy and were not required to be held to pubic account.

By the end of the first and second battles, the clinical evidence of adverse effects on consumers activated the normative obligation of the news media to claim a stake in the market. This was based on the idea that “the media has a right and certainly sometimes an obligation to inform the public that a particular substance is killing people” [I17]. The actions of the entrepreneurs during the first and second battles, and the clinical evidence of harm produced by the health professionals [N3; N4; N10; N11], triggered the obligation of the media to inform the public of the product offerings and their effects. Although the media began using the “same rhetoric” [I15] as used in the illicit drug markets, the public, particularly consumers of the ambiguous products, believe the rhetoric was justified within the normative obligation of the media. For example:
In the media they’re really bad which I tend to actually agree with. They’re portrayed the way most drugs are portrayed but I actually think it’s more accurate when they portray these drugs that way… Being really unregulated, no quality control, not very much information. Not much is known about most of them. [I25]

As such, the news media actors had an obligation to inform the general public of the negative aspects of the products as it was “fairly true…[that] this is dangerous, people think it’s safe and it’s not” [I24]. Many of the products had become “more dangerous than some illegal drugs” [F6].

The government actors judged their normative obligation to claim a stake in the market as when there is community demand for government intervention to restore order and protect citizens and society from risk of harm. At the beginning of phase one, the government actors largely ignored the presence of the ‘legal high’ product offerings. This was because it was assumed that if the market was characterised by natural product offerings, they would not need to “investigate and to take regulatory action” [N2] and if they were drug substances they would be captured and “covered by the [established] analogue laws” [F11]. The government actors held the position that “effectively if it’s a legal drug that’s not causing any harm, then it might be monitored [and not controlled]… if ‘legal highs’ are causing harms then we would be interested in knowing about them and preventing, treating and reducing harms” [I1]. As the clinical evidence of harm increased, the news media actors made attempts to mobilise the government as “the media and the mums and dads expect law enforcement and those controlling our borders to demonstrate they are cracking down” [F51]. However, the government found no clear evidence for the activation of their normative obligation to restore social order at the time as the circulation of ‘legal high’ product offerings did not fall outside of the established laws. It was only if it was “established that a person [was] supplying herbal ecstasy and, [if] it [was] found to contain illicit substances, then appropriate action [would] be taken” [N2]. This triggered a call to action for the “government to sort out its priorities” [F6].

4.4 The ‘Legal High’ Market T1
The ‘legal high’ market dynamics were shifting by early 2010 (hereafter Time One T1) as the battles between the actors during phase one began to call into question the transactional legitimacy of the market. At the time, the market was becoming a “fully established industry” that was still “largely unregulated” and “selling pills [that] claimed to mimic the thrills of illicit drugs” [N4]. For much of phase one, the market mechanisms supported effective functioning of the market at the exchange-level without the inclusion of societal-level actors in the shaping of the market. This was because the products were initially “very much like a pharmaceutical. You go into a shop and buy an antihistamine because you’ve got hay fever… The shop sells it. Everyone’s happy. The same thing occurs here” [I19]. However, the actions of the entrepreneurial producers during the first and second
battle began to stretch the limits of the transactional legitimacy of the market as “a series of less and less benign products were coming onto the market” [I14]. As such, the willingness of the consumers to engage with the producers began to falter, and the societal-level actors began to see their involvement in the market shaping as obligated. The data shows that the market at T1 was distinguished by five key elements as outlined below.

First, the ‘legal high’ market at T1 was characterised by predominantly entrepreneurial producers. The entrepreneurial producers emerged during phase one and continued to engage in the transactional exchanges of ‘legal high’ product offerings at T1. Some of these entrepreneurs were “decent herb vendors” [F34] and “retail outlets that specialise in paraphernalia” [N7] who saw a market opportunity to expand their range from herbal supplements and paraphernalia to ‘legal high’ product offerings. Others were seen as “money-driven dealers” [F18] and “motorcycle, and South East Asian gangs” [N10] who saw “the grey economy” [I7] as a profitable business opportunity. Those producers engaging in the transactional exchanges of the ‘legal high’ product offerings therefore saw them as “business ventures” [I19].

Second, the ‘legal high’ market at T1 was characterised by risk-taking consumers. These consumers included “high-intensity drug users who regularly use various types of illicit substances and like to experiment widely with substances” [D7]. The ‘legal high’ products provided experiences that were “similar to, but not as extreme as” illicit drugs, and so became “popular among young professionals who like to party at the weekend before having to return to work” [N15]. In addition to these “recreational users substituting ‘legal highs’ for [illicit drugs]” [N8], the consumers also included “experimental users who [did] not necessarily have a history of drug use but are attracted by the ‘research chemical’ and ‘legal high’ branding” [D7]. Consumers were risk-takers as they sought out products that mimicked “the effects of illegal drugs” [N7] if they provided them with risks they deemed to be manageable.

Third, the market at T1 was characterised by ambiguous product offerings. The ‘legal high’ products were “synthesised in laboratories to mimic the effects of illegal drugs such as cocaine and amphetamines” [N7]. However, they were ambiguous product offerings as the listed “ingredients are caffeine and other herbal extracts and vitamins” [N8] but the actual ingredients were either known to contain, for example, unlisted “drugs called flephedrone mephedrone, street name mcat, or methylone” [N8], or it was unclear “what the actual chemical is or what exactly is in it” [F16]. As such, some consumers at the time felt, until the product offerings were regulated, “they’re almost better off the market” [F22]. However, others were attracted to the ambiguous product offerings
because of their “relative cheapness” [N10] and because they knew the chemicals contained within were “not illegal here at the moment” even if they had “no idea what it is” [F16].

Fourth, the ‘legal high’ market at T1 was characterised by misleading branding and packaging. The ‘legal high’ product offerings were “branded and heavily promoted” [F53] and encouraged consumption through “user-friendly names” [N5] such as “Snowblow, Charge or White ice” [N7; N8]. Additionally, the product offerings were “professionally packaged and marketed… by the industry” [D2]. Through these marketing techniques, the product offerings were positioned as alternatives for consumers seeking out drug-like effects. The packaging was often “labelled as ‘not for human consumption’” [N7], but through advertising and promotion the product offerings as “synthetic cocaine” [F16] or “BZP-free Columbian powder substitute” [N8], for example, the producers were able to signal to the consumers that they could consume the products as drugs. At this time, there were “online advertisements for various forms of [‘legal highs’] available from $170 for 100mg” [N10], making the branded and packaged product offerings misleading to consumers.

Fifth, the ‘legal high’ market at T1 was characterised by selective distribution channels. The majority of the distribution was through physical venues as “alternative lifestyle shops around the country have been selling out of the legal drugs” [N7]. Consumers were able to access the product offerings more easily and “sales of the substances have skyrocketed in recent months, sometimes even selling out on busy weekends” [N8]. Additionally, the online distribution began to emerge and grow but was characterised by low volume “importations via the mail system” [N19] at the time. Therefore, the availability of the ‘legal high’ product offerings for consumers was growing through selective distribution channels.

Overall, the market for ‘legal highs’ at T1 was becoming “a popular market” [I13] among those who were “opportunistic” [I19]. Risk-taking consumers transacted with the dominant entrepreneurial producers for ‘legal high’ product offerings, which began to be ambiguous and misleading in their branding and packaging, and sold through selective distribution channels. The “competitiveness” in the market led to producers entering the market who “didn’t have any idea” and were “harming people… hurting people” [I21]. As such, the transactional exchanges between consumers and producers began to be challenged by other societal-level actors as they deemed it acceptable for them to claim stakes in the market shaping.

4.5 Summary of Phase One of the Process
This section presents a summary of the findings from the first phase of the legitimation process. The ‘legal high’ market at T0 was constituted by purist producers, pleasure-seeking consumers, natural and unregulated products, credible branding and packaging, and exclusive distribution. At this time,
the legitimacy of the market was based on transactional exchanges between willing producers and consumers. The emergence of a second group of producers, the entrepreneurs, triggered the unfolding of the first phase of the legitimation process in which three battles shaped the legitimacy of the market. First, the initial purist producers and the new entrepreneurial producers battled over what constitutes proper scientific production processes. Next, the pleasure-seeking consumers and the entrepreneurial producers battled over what constitutes appropriate product and marketing practices. Finally, the exchange-level and societal-level actors engaged in a latent battle over when the societal-level actors have a normative obligation to claim a stake in the market.

Actions were adopted by different actors as they engaged in battles for legitimation during phase one. These were predominantly micro-level actions that shifted the basis of legitimacy of the market. First, the purists engaged in purification recovering actions and the entrepreneurs engaged in cost-efficient improvising actions at the exchange-level when battling over the proper scientific production processes. Simultaneously, the consumers engaged in market disciplining actions and the entrepreneurial producers engaged in business appropriating actions at the exchange-level when battling over the appropriate product and marketing practices. During this battle, the purist producers provided support to the consumers by sharing information with them in the forum communities. Finally, clinical evidence of harm to consumers activated the normative obligations of the health professionals to claim a stake in the market at the societal-level. This activated the normative obligations of the news media to report on events that are newsworthy and need to be held to public account. The third battle emerged as the news media actors made attempts through their reporting to activate the normative obligations of the government to restore order and protect citizens and society. However, these attempts were unsuccessful as the government found no clear evidence that the product offerings fell outside of the established laws that were designed to protect citizens and society.

The impact of the three battles was the transactional legitimacy of the market was stretched to its limits by the end of the first phase. By this time, the entrepreneurs had begun to supersede the purists as the predominant producers and the product offerings were becoming ambiguous and misleading. Many purists began exiting the market or adopting less active roles as they were unable to keep up with the cost-efficient improvising and business appropriating by the entrepreneurs to expand their range, or did not wish to participate in the transactional exchange of ambiguous and misleading product offerings. The expansion of their range by the entrepreneurs also meant the consumer access to the products was shifting from exclusive to selective. Furthermore, those pleasure-seeking consumers who chose to continue to engage in the transactional exchanges of ‘legal high’ product offerings were becoming risk-takers. This was because the consumers were no
longer exclusively seeking out pure and natural product offerings that provided pleasurable effects, but had begun actively seeking out ambiguous but legal product offerings that mimic the effects of illicit drug substances if they perceived the risks to be manageable. Therefore, the market at T1 was constituted by entrepreneurial producers, risk-taking consumers, ambiguous product offerings, misleading branding and packaging, and selective distribution. At this time, the basis of legitimacy began to shift to markets that cause minimal harm.

4.6 Conclusion

This chapter presented the findings from the first phase of the legitimation process with the aim of beginning the exploration of the research question: *how are the processes of legitimation shaped in contested markets?* First, the chapter presented an overview of the market at T0, showing the market was constituted by few purist producers, pleasure-seeking consumers, natural and unregulated product offerings, credible branding and packaging, and exclusive distribution. Next, the chapter presented findings from the transactional legitimation and market opportunism phase. These findings involved three legitimation battles that shaped the legitimacy of the market and shifted it from T0 to T1. Finally, the chapter presented an overview of the market at T1, showing the market was constituted by predominantly entrepreneurial producers, risk-taking consumers, ambiguous product offerings, misleading branding and packaging, and selective distribution. The chapter concluded with a summary of phase one of the process. The next chapter presents the findings from the second phase of the legitimation process.
CHAPTER FIVE: FINDINGS [PHASE TWO]

The market can be disrupted and destabilised due to social turmoil, technological change, and deregulation, as a consequence of social activism or when institutional entrepreneurs change the rules of the game in ways that favour their interests.

- From Megamarketing in Contested Markets by Ashlee Humphreys, Damien Chaney and Karim Ben Slimane (2017, p. 613)

5.1 Introduction

This chapter presents the findings from the second phase of the legitimation process with the aim of continuing the exploration of the research question: how are the processes of legitimation shaped in contested markets? The findings presented in this chapter focus on the actions of multi-level market actors that shape the legitimacy of the ‘legal high’ market between early 2010 and mid-2012. In this phase, the societal-level and exchange-level actors are dominant, and changes in the legitimacy of the market occur through the accumulation of macro-level and micro-level actions. These actions accumulate in four legitimation battles, and shift the market from a basis of legitimacy focused on harm to one focused on (im)morality. The chapter tracks this shift through the following structure: First, the key market entities and elements at T1 are summarised. Next, the four legitimation battles that shape the legitimacy of the market are presented and discussed. A model that summarises phase two of the legitimation process, and the four battles therein, is included to guide the discussion. Finally, the shift to the key market entities and elements at T2 are presented and discussed.

5.2 Summary of the ‘Legal High’ Market T1

During phase one, the source of legitimacy of the market was based on transactional exchanges between willing consumers and producers. As new entrants emerged in the market, three battles developed and erupted between the initial and new entrepreneurial producers, the pleasure-seeking consumers and entrepreneurial producers, and the exchange and societal-level actors, which began to stretch the limits of the transactional legitimacy of the market. As such, the battles shifted the market from one in which few purist producers transacted with pleasure-seeking consumers for natural and unregulated products, which were credibly branded and packaged, and sold through exclusive distribution channels at T0, to risk-taking consumers transacting with the dominant entrepreneurial producers for ‘legal high’ product offerings, which were ambiguous and misleading in their branding and packaging, and sold through selective distribution channels at T1. The third battle of phase one, between actors at the exchange and societal-level activated the normative obligation of health professionals and news media actors, who triggered the second phase of legitimation by entering the market and enacting their obligations.
5.3 Phase Two: Harm-Minimising Legitimation and Market Fracturing

The second phase of the legitimation process is characterised by market fracturing in which multi-level actors battle each other, and the legitimacy of the market is determined on the basis of harm minimisation. In this phase, *a market is legitimate when it causes minimal harm*. The entrance of new actors in the ‘legal high’ market during the previous phase caused varying quality of production processes and product and marketing standards. This, and the persistence of the societal-level call to action by the news media, triggered the government playing a more active role in the market. Aligned with this, four battles developed and unfolded in shaping the legitimacy of the market, and transitioning the market from T₁ to T₂. First, a battle began between the news media and risk-taking consumers over the right to determine what is harmful consumption as the media activated a call to action for societal-level actors. During this battle, the consumers engaged in *individual protecting* actions and the media engaged in *community mobilising actions*. Second, a battle was triggered between the government and producers over the harm that is acceptable in legitimate markets, leading to inconsistency and lack of transparency in marketing elements. During this battle, the government engaged in *selective prohibiting actions* while the producers engaged in *regulation skirting actions*. Third, the consumers and producers battled over the appropriate product standards, leading to product ambiguity and fracturing between consumers. During this battle, the consumers engaged in *responsible participating actions* while the producers engaged in *deliberate misleading actions*. Finally, tensions arose between health professionals and the government over the proper way for health professionals to be involved in reducing harm, fracturing societal-level interactions. During this battle, the government engaged in *collecting policing actions* while the health professionals engaged in *co-optation resisting actions*. These four legitimation battles caused fracturing in the market as the legitimacy of marketing elements was constructed, maintained and disrupted based on determination of harm, transitioning the market from T₁ to T₂. Figure 8 illustrates phase two of the process, and the shift from T₁ to T₂.
Figure 8 - Phase two of the legitimation process
5.3.1 Battle One: Risk-Taking Consumers and News Media

The first battle emerged between the risk-taking consumers and the news media. During the first phase of the legitimation process, the normative obligation of the media to claim a stake in the market by reporting on the newsworthy events and holding the market and actors to public account was activated [F6; N9; N11; N15; I24]. The media has the potential for a “fantastic” [I4] “significant and positive role” [I17] in markets by providing a “really good platform to warn consumers and inform society” [I4]. Through this platform, the media can also enlighten “the public about particular drug threats… [of] substances that may be available at the time” [I17]. As such, “in its purest form, a newspaper consists of a collection of facts which, in controlled circumstances, can actively improve knowledge” [N32]. The consumers were risk-takers who sought out substances that provided effects similar to those of illicit recreational drugs if the risks were deemed manageable [D7; N7; N8; N15], and believed that “information spreading [though the media] is key” [F21.1] for “a safer Australia” [F19]. Furthermore, the media could disperse “the other side of the issue to the general public, which is important… It is important that the general public realise that … many can use more or less responsibly while still being a productive member of society” [F21.2], and for accurate “information to [make] its way into people’s homes” [F21.1]. This information dispersion to the general public could be “encouraging for all” [F21.3] but “of course, depends on how individual articles are written” [I17]. As the media continued to use the same drug harm rhetoric in their writing [I6; I15], a battle between the risk-taking consumers and the news media erupted.

The battle between the risk-taking consumers and the news media developed over who has the right to determine what is harmful consumption. The source of this battle was the differing criteria on which the actors judged who had the right. The risk-taking consumers evaluated the individuals being harmed as those who have the right to determine what is harmful consumption, and how to manage the harm. The consumers recognised the harm involved and acknowledged “there is physical aftermath if you take too much” [I28] as there are substances that if taken will cause “redose and blackout, and [you will] probably do something extremely stupid. I did. As has everyone who has reported using/abusing [it]” [F32]. However, the consumers privileged individual-level harm reduction by “inform[ing] people about the effects. Then they can make a choice about how much to take, or if to take at all… I’ll be responsible with it because I know this might happen” [I28]. The news media evaluated harm as a collective societal-level issue, and the news media, government and other societal-level actors have the right to determine what is harmful. Their evaluation focused on the need for societal-level monitoring and regulation as many of the substances have “never been trialled on humans before… so there is no toxicology data. Complex legal loopholes mean some substances such as MDPV – which is 100 times stronger than meow
meow – can be legally brought into Australia” [N26]. As such, the media privileged societal-level intervention for the “dangerous drug[s], no question about it, [as] there have been dangerous deaths linked to [them]” [N17]. Therefore, a battle erupted between the risk-taking consumers and the news media over who has the right to determine what is harmful consumption.

The news media actors triggered the battle by engaging in **community mobilising actions**. These actions involved narrating the harms of the product to wide audiences thereby shaping public opinions and developing support for collective societal-level responses to the market. The news media reported on “unknown, unregulated and potentially dangerous” [N40] ‘legal high’ products that they positioned as “synthetic, not herbal” [N28] drugs that had “ingredients closely matching street drugs” [N25], and focused largely on the negative health impacts associated with some of the products [e.g. N9; N15]. This was because they found the “use of the drug in Australia [to be] ‘worrying’ [as] people continued to consume the substance without knowing its effects or what’s used in its production” [N13]. In response to the consumers’ risky consumption, and the harm to individuals who consumed some of the products, the media began providing detailed accounts to persuade and mobilise key members in society [e.g. N9; N17; N20; N28]. For example, one consumer “noticed his fingers and knees turn a dark red to purple colour before he passed out. After about six months, including a short stint in hospital, the discolouration disappeared, but the symptoms returned after again trying a small amount” [N15]. Through “hysterical” [N52.1] reporting, the media attempted a call to action for societal-level actors, particularly the government, to collectively determine that the consumption of the products was harmful. By including “reports concerning the emergence of new drug[s]… in the mainstream press… [drawing] on the ‘drug scare’ narrative that constructs the new drug as dangerous” the media identified “the need for urgent action” [D6].

The consumers responded by engaging in **individual protecting actions**. These actions involved insulating their communities by undermining the media representation and distributing accurate information to individuals. The consumers evaluated the “the media [as having] an obligation not to muddy an issue and to present clearly and factually” [F172] but in the ‘legal high’ market the media’s “motto [is] ‘never let the truth get in the way of a good story’… All they want is the script to the next season of Underbelly” [F52]. As such, the consumers positioned the media within their forum communities as “mostly they’re a force of evil” [I8] because “unfortunately, facts are expensive, so to save costs and drive up sales, unscrupulous dealers often ‘cut’ the basic contents with cheaper material, such as wild opinion, bullshit, empty hysteria, reheated press releases [and] advertorial padding” [N52]. The “very biased” [F137] “sensationalised reports” [F52.2] regarding the ‘legal high’ market were recognised to use “the common template for these types of stories” of “DRUG MADNESS: SEE WHAT YOUR CHILD COULD BE POPPING AT 6:30”
The consumers contested these portrayals as “all this [reporting] creates bad social stigma for legitimate ‘apparently free’ human beings” [F108]. This is because people in society “will honestly believe ANYTHING about drugs that the media will tell them. It’s like people think…there is a drug that causes every single sort of negative health effect, erratic, strange or unethical behaviour imaginable” [F52.4.].

The consumers also began engaging in individual protecting actions aimed at disrupting inaccurate information sharing. This was initially done through attempts to engage with the media actors, but it was soon determined that they “may as well be talking to a group of robotic drones. I can’t say what I want to say, gagged by bureaucracy. And they aren’t interested anyway” [F52.5]. Therefore, instead of sharing information, the consumers evaluated that there was a lot of “misinformation out there because of the media” [F18]. This brought about the realisation that “there’s low potential for the media to be used to create awareness and ensure that people who are using these drugs aren’t so stigmatised that they feel like they can’t get help if they need it” [I13]. The result of this was that consumers no longer made attempts to engage with the media, and began to mistrust the information shared regardless of the underlying message. For example:

The impression that I got from reading [news articles] was more along the lines of the abstinence school of drug education, like don’t do these drugs because they’re bad…which is true…[but] I don’t think I really trust them because it seemed like they’re [still] coming from the drugs are bad, black and white type background. [I24]

The media was identified by consumers as “cripple[ing] the country’s ability to conduct a sensible debate about the ‘war on drugs’” [N52.1]. The consumers would “get angry at the media a lot” [I26] and emphasised in their posts that “the current screaming festival over ‘meow meow’ or ‘M-Cat’ or whatever else the actual users aren’t calling it, is a textbook example” [N52.1] of the “media spin” [F18]. Therefore, they made attempts to discredit the media and disrupt the flow of incorrect information to other consumers.

Additionally, the consumers acted to re-assert their agency in the market by encouraging the sharing of more accurate information. Forum threads were made specifically so “people can post articles and information from the media about drugs that are not true and scare-mongering. Also anything relevant about drugs that is factual to help younger/less experienced drug users know more about what they consume” [F67]. Through these threads, attempts were made to reduce the stigma and re-establish the agency of consumers by identifying that “amongst popular professions [of drug takers were] nurses, doctors; police (prior to mandatory drug tests) and teachers. Even had two very successful university lecturers on my books who were model clients. Drugs don’t discriminate” [F52.5]. Consumers also often used satire to insulate themselves from the information shared in the...
media, and disperse accurate information that identified the harms involved without stigmatising consumers [F18; F43]. For example:

More appropriate journalism would go something like this: ‘DMT, which is almost ubiquitous in nature and can bring about the most profound spiritual experiences. It should be avoided by those who are not mentally prepared to enter a completely alien, yet somehow entirely natural, psychological reality. Now here’s Tom with the weather’. [F136]

Through their information sharing and satire, the consumers worked to create distance between themselves and the media, thereby insulating themselves from those outside their community. This created further distance between the consumers and the media. For example: “when reading through I had no idea what it was about at first. They should have just said synthetic drugs… That’s a bit exaggerated when it says killer chemicals” [I26].

The consumers made further attempts to distance the media by identifying the inconsistencies in the behaviour of the media and their harm-minimising aim. This was based on the idea that the narrating by the media worked to “encourage drug use by inadvertently promoting the availability of substances” [I3]. The aim of their reporting was to provide the same drug rhetoric as used in the illicit drug markets [I15] and deter consumption through public mobilisation [D6; I6; I13]. However, this was largely ineffective in the ‘legal high market as “they’re trying to warn people about these drugs but they’re kind of selling it to them without fully realising” [I9] by providing “a ‘how-to-guide’ for people who would not normally have access to drugs [and] had no idea [they] existed” [F126]. Furthermore, instead of deterring consumption, “the word ‘legal high’ in…the media…[is] suggesting that it’s legal and that’s saying it’s ok to use” [I9];“makes them sound better” [F125] and is “generating a lot of attention…and [driving] the hype” [I14]. Furthermore, the narrating by the media “only serve[s] to attract more unwanted attention to research drugs… which we know very little about” and will lead to “the uneducated masses flocking to drug[s] of unknown toxicity because of a cool name they heard in a media story” [F53]. The emergence and increase of vulnerable consumers driven by media reporting would be problematic for consumers who were seeking manageable risk as “the reality is that it will likely just get unwanted government attention” [F103], and the legitimacy of all consumers would be disrupted.

The news media continued their attempts at mobilising the societal-level actors through their community mobilising actions. These efforts focused their narratives on emphasising the clinical evidence of harm from the health professionals, and the ability for some “extremely dangerous” [N37] products to “circumvent drug controls” [N25]. Through these narratives, the news media acted to problematise the market for the government as it “can exploit social networks while remaining
substantially insulated from law enforcement detection at the retail level” [N21] with some products that are up to “four times stronger than [their] deadly predecessor[s]” [N22]. Newer ‘legal high’ products were positioned as “more addictive, [cause] more mental health problems and [are] more likely to be injected and smoked” [N37] than illegal drugs, “with the overwhelming majority being variants of ‘legal highs’ similar to mephedrone” [N27]. The media accompanied these stories of harm and circumvention of the laws with illustrations of the popular products available on the market, in attempts to mobilise societal-actors against them [N20; N26]. For example:

As such, “a media campaign against the drug[s] develop[ed]” with the aim to “recruit politicians, researchers” [D6] and the public, and mobilise collective societal action.

5.3.2 Battle Two: Government and Entrepreneurial Producers
The second battle began unfolding between the government and the producers. During the first battle, the media began to problematise the ‘legal high’ market for societal-level actors and triggered a call to action as “strong public opinion and concern can drive government policy. When the community’s concerned about something, government needs to act on it” [I7]. As such, the media reporting “concerning synthetic [drugs] created a panic that contributed to a legislative reaction” [D6] by policy makers. These government actors viewed their role in the ‘legal high’ market as “to create laws, to monitor the regulation and existing legislation which prohibits certain substances to determine if those controls are effective” [I17]. Due to the actions within the first phase of the legitimation process, many of the product offerings available began to be “marketed as ‘bath salts’ or ‘plant food’ and labelled ‘not for human consumption’ to pre-emptively circumvent the legislation on drugs of abuse” [D11]. The producers at the time were the entrepreneurs that emerged during phase one to “make some money over a short period of time… within a window where it’s possible to say they’re legal ” [N37], and few purists who made attempts to remain in the market to “create something new, better, legal and safe… to help people have a good time without breaking the law” [D7]. This aim by the both dominant entrepreneurs and the few original purists created “concern about the grey area… the most fundamental of questions from a law enforcement
and regulatory agency, is it legal, is it not?” [I17]. Thus, a battle began to unfold between the government and the producers.

The battle between the government and the producers developed over what is acceptable harm in a legitimate market. This battle began to unfold as the criteria on which the actors judged acceptable harm differed. The government privileged supply reduction when judging acceptable harm, believing that products that are visibly causing harm to the health of consumers are not acceptable and thus should be prohibited [I2; I7; I17]. This aligned with their goal of “preserving and improving the health of [consumers]. If something is causing danger to the population… acting to ensure that they’re captured within the illicit drug group so [we can] prevent people using” [I11]. The producers judged acceptable harm as that which does not break the law, which included selling “legal blends such as Kronic and Northern Lights, that no longer contain banned chemicals” [N75]. This was based on the idea that their customers included “a lot of police officers and miners and people who get drug tested regularly at work… people who can’t afford to be caught with illegal drugs” [N75]. These producers agreed that “legal highs such as ‘Kronic’, ‘Spice’ and ‘Meow Meow’ could be dangerous” but recognised that “it’s the same with most man-made drugs” [N64]; “it’s just like alcohol, it’s only for adults, and it’s just about having a sense of self responsibility” [N98]. However, the government judged the product offerings as problematic within their harm reduction aim as “for some people, the fact that they’re not necessarily illegal and are marketed as natural and organic is attractive… Saying it’s natural or organic does not mean it’s a low risk product” [N31]. Therefore, a battle developed between the government and producers over what is acceptable harm.

Triggered by the media’s call to action, the government began engaging in selective prohibiting actions. These involved developing and enacting policy and legislation to ban products that were causing visible harm. Government concern for the popular product offerings began to grow as they recognised that “too little is known about legal highs to consider them safe… We don’t know what the effective ingredients are or the risk profile with those ingredients” [N31]. Therefore, the selective prohibiting began by “doing active individual research… looking at reports overseas, looking at medical reports and outcomes associated with use overseas… and [trying to] actively warn against use when they’re clearly going to cause harm” [I11]. During this time, the government was selective in prohibiting those products that were visibly causing harm and “any decision by governments to introduce new controls depends on the chemical content of the product and… an assessment of the associated harms” [N28]. This created complexity as products “are not scheduled on the basis of a universal scale of toxicity… Schedul[ing] also takes into account many other criteria such as the purpose of use, potential for abuse, safety in use and the need for the substance” [D14]. Therefore, as “media interest swiftly grew” and they “began reporting on the use
of Kronic” and other popular ‘legal high’ brands, the government focused on banning specific brands and their chemical molecules at the state-levels [D6; D10; D14]. They did this by “outlawing a range of synthetic substances going by street names such as ‘Kronic, ‘Northern Lights’, ‘Voodoo’, ‘Kaos’ and ‘Mango Kush’” [N43], and “research chemicals such as mephedrone [became] classified as controlled substances and [were] added to schedule 4 of the Customs (prohibited imports) Regulations 1956, meaning that they can only be imported into Australia with a valid licence and permit” [N66].

The entrepreneurial producers responded to the actions of the government by engaging in regulation skirting actions. These involved using marketing elements to anticipate and react to government regulatory actions. Through these actions, the producers were able to use branding “to respond quickly to changes in the legal status of recreational drugs, offering for sale new legal alternatives” [D11]. As such, they were able to produce more products that could be legally sold as “within days [of legislative changes], new synthetic cannabis blends appeared that claimed to contain new unscheduled synthetic cannabinoid agonists. For example, Kronic released its ‘Black Label’ blend specifically for its WA customers” [D6] after bans were implemented in Western Australia. Therefore, the producers engaged in regulation skirting actions by “rebranding or [the] development of an unsanctioned alternative” [D10], “renaming [brands or chemicals] to avoid recent legislation” [F197]. This allowed the producers to legally sell products that skirted the laws as “many of these drugs enjoy a window of relative invisibility while [government] plays catch-up” [D10] as they were produced specifically to fit into loopholes in the law [D13]. These included further analogues and research chemicals that gained popularity as newly branded “designer drugs” [D11].

In response to the regulation skirting actions, the government engaged in further selective prohibiting actions. They did this by doubling their efforts “to prohibit the manufacture, supply, possession and use of certain drugs” [D16], which included “19 new chemicals listed in the Drug Misuse Regulation 1987, [and] banning products marketed as legal alternatives to cannabis” [N65]. These actions followed criticisms that the government was taking a “‘band-aid solution’ to synthetic drugs, saying it continued to play catch-up with drug manufacturers… [as] new, legal versions are constantly being developed” [N100]. Therefore, the government’s attempts to more successfully prohibit those select ‘legal high’ products that did not demonstrate acceptable harm included proposing “changes to the definition of ‘dangerous drug’… [to] effectively prohibit the sale and use of… products in addition to the substance commonly known as ‘Kronic’ and others that were recently added to the list of scheduled dangerous drugs” [D13]. Within this new broader definition:
The thing is proved to be a dangerous drug if there is evidence that: 1) the accused person actually intended that the thing have a substantially similar pharmacological effect; or b) an ordinary person would reasonably consider, in the circumstance of the case, that the accused intended that the thing have a substantially similar pharmacological effect. \[D_{22}\]

This new definition allowed more ‘legal high’ products to “be banned after government tests showed their effects are similar to those of existing illegal drugs” \[N_{43}\], which the government believed did not demonstrate acceptable harm \[I_{2}\].

The producers engaged in further **regulation skirting actions** by tweaking the molecular structure of the products when their chemicals were banned. They soon began to realise that the “current Australian laws for the regulation of consumer and medicinal products are unlikely to offer much control over new and emerging drugs” as they only apply “to those chemicals already scheduled as medicines within the Poisons Standard” \[D_{6}\]. Therefore, it was becoming “difficult for the Government to anticipate and to keep up adding new substances to the regulation… [as] it is possible for the formula for any of those substances to be changed, even slightly, to avoid falling under [the] Schedule” \[D_{15}\]. This meant that when a product or substance was prohibited “many manufacturers [could] simply subtly change the chemical composition” \[N_{39}\], and “as one new drug gets discovered and banned, another one emerges purporting to be ‘legal’” \[D_{6}\]. For example:

![Chemical structures](image)

Additionally, the producers continued to sell the newly synthesised ‘legal high’ products as household products with ‘not for human consumption’ labels despite the regulatory attempts by government as “prosecution under consumer law would be difficult as it would require that the
product be demonstrated to fail to work for the purposes advertised (e.g. plant fertilisers, bath salts)” [D6]. This meant producers were able to continue to skirt the regulation attempts and sell ‘legal high’ product offerings as “names and ingredients of drugs sold online change weekly, making them difficult to detect and ban” [N25]. Furthermore, even those products that contained illegal chemicals were able to be sold while producers renewed their stock after legislative changes as they “cannot be detected by sniffer dogs trained to detect” [N26] other drug substances.

This triggered further **selective prohibiting actions** by the government. In response to the actions by producers, the policy makers began to propose “tough new laws” [N91] as they believed “a common action to ban the synthetic [drugs] would be necessary to prevent the continual replacement of the molecules in the recreational products” [D11]. These included “placing them… in the same league as other illicit drugs, [and giving] police the power to act against new generation dealers [and] anyone using, carrying or trafficking drugs sold as ‘legal highs’” [N91]. Prior to the new legislation, “the onus [was] on the authorities to prove that these new formulations have a similar effect to the banned substances” [N67], but this was “reversed so makers and suppliers would be forced to prove the substance was safe rather than authorities proving it was unsafe” [N49]. Therefore, those producers who were found to be selling products would be required “to provide evidence of the safety of their products” [D10]. The new legislation also meant that “as soon as a new substance is developed, the Minister can then ban it temporarily to enable consideration of a permanent ban by the Parliament” which they believed was “’future proofing’ for regulating synthetic drugs” [D15]. Despite criticisms that the tough new laws were “‘unconstitutional’ and ‘irresponsible’” [N67] “moronic legislation” [F138], and “banning each chemical as it emerges is like a dog chasing its own tail” [D6], the government continued to position themselves as “‘not in favour of decriminalisation of any of our drug laws’… The challenge in ‘stopping’ illicit drugs did not mean deregulation and legalisation would be the right solution” [N82]. Additionally, to provide quicker regulatory responses to new brands and chemicals, the government began “monitoring forums to quickly make the compounds illegal” [F40].

The market response to these tougher actions was predominantly negative. Further criticisms were made that the Government was banning “a product without thoroughly researching the harms. There is simply no proof that these substances cause people any more harm than light drinking, and alcohol is legal” [N67]. This led to views that “it isn’t the drugs harming society, it’s the government’s bans on drugs” [F135]. This was because the legislation was capturing those products that were causing less harm to consumers [e.g. F122; F135; F137], and punishing those producers who were trying to create safe products [F34]. For example:
Before the bans on JWH-018, the owner of the headshop I go to, who is a really knowledgeable person, likely browses forums like this, told him that the Black Mamba contained 018. He may be wrong, but swim values his opinion. Now I’ve seen this blend disappear along with K2 and all the other popular ones because of the JWH-018 ban. [F64]

The government was also criticised for the incongruence in their approaches to recreational products as “they ban everything except tobacco and alcohol which is harming more people every year than all of the illicit drugs combined” [F170]. Additionally, it was suggested that “the law makers need to pull their heads out of their asses… Shouldn’t they be providing the safest possible drugs? Prohibition doesn’t work” [F48]. These realisations “sparked debate between drug reformists and policy analysts and reignited the campaign for drug regulation rather than prohibition as a solution” [N67]. Therefore, it began to be suggested that acceptable harm could be reached in the ‘legal high’ market by restricting “distribution [and] availability… though licensing of vendors, the establishment of legal requirements of sale… and restricted advertising. Accurate information about product composition, standardisation, quality control, dose recommendations and contraindications could be enforced… Products could be taxed accordingly” [D10]. However, the government continued to support the development and enactment of “the toughest drug laws in the world” [F182].

5.3.3 Battle Three: Risk-Taking Consumers and Producers

The third battle for legitimation developed between the risk-taking consumers and the entrepreneurial producers. During the second battle, the producers began skirting “around the law by reformulating brands with chemicals that have a similar effect but are not on the banned list” [N75]. This meant that the market contained “some molecules [that] are still not controlled [which] makes them enticing for people who want to use stimulants but are afraid of the legal consequences” [D11]. At the time, the consumers were those who engaged in the marketplace exchange “because it was legal, they want to try something different, they don’t know a dealer” [F128.1], they were “too scared to try the real thing,…were interested in what they were like compared to MDMA” [F22], and those who were subject to “drug screening. There is a very decent population of miners who are randomly tested and therefore cannot smoke cannabis” [F128.2]. However, the regulation skirting actions of the producers during the second battle meant “the active ingredient is not known… so users of the substance are no different to those buying the real thing from a drug dealer on the street — they have no idea what it is they are putting into their bodies” [N78]. This was becoming problematic for consumers who were seeking manageable risks as many of the trustworthy “store[s] got shut down… It’s a shame that these products ended up getting an otherwise decent herb vendor shut down” [F34]. Many of the product offerings in circulation had
“been tested [by consumers] so many times and shockingly, most of the time there is a new result. So it seems most vendors ship out whatever is about to expire or mix random chemicals until a buyer says it’s ok” [F105].

By this time, the ‘legal high’ products were “available in some Australian adult stores and tobacconists, in addition to being sold from overseas and local websites” [D6]. The market was made up of very few initial purist producers [e.g. N7; D7; F34] who were “like family” [F133] to their consumers, and the predominant entrepreneurial producers [e.g. D7; N37]. As a result of the actions by producers during the second battle to skirt the regulations and exploit loopholes in the law [e.g. D9; D15; N39; F197], more producers were drawn to the market. The products were becoming “widely available online… sold at many web-based stores” [N77] and “the number of websites selling ‘legal highs’ has doubled to 690 in the year” [N81]. The growth in the online marketplace meant many “copycat products were available online and in shops touting their ‘new legal formulation’, created by slightly altering the chemical structure of the compounds” [N67]. However, it was becoming a “big risk ordering online” [F117] as “some vendors seem to be more reliable than others” [F165]. The entrepreneurial producers continued to engage in the transactional exchanges because the market provided the opportunity for profitable business ventures [I7; I19]. However, the entrepreneurs began to diverge into those “reputable vendors… who actually sell what they advertise” [F117], were “really knowledgeable” [F64] and could inform consumers “straight up what chemicals it has in it” [F133], and those exploitative producers who “are just cashing in on people’s desire to get high but not break any laws” [F139] by “pushing inventory” [F159] and selling products that were “very dangerous” [N25]. As such, the consumers were finding it “hard to find good information” [F139] and it was becoming “impossible to know for sure” [N25] which producers and products could be trusted. This difficulty in navigating the market was amplified as often consumers could find store “pages online but can’t find contact details” [F107]. Furthermore, when contact information was available, consumers “emailed the business asking if they would share the ingredients, since I’m a paying customer. I got no reply lol” [F80]. Therefore, a legitimation battle developed between the risk-taking consumers and the producers.

The battle between the consumers and the producers developed over the appropriate product standards for manageable harm. This battle developed as the criteria on which the actors judged appropriate standards differed. The consumers were active participants in the market, identifying that “I take them because I enjoy them. I understand the associated risks, I accept that the risk is manageable, and I’ll do everything in my power to minimise the risk” [F108]. Aligned with this, they privileged quality, transparency and consistency in the product standards so they could manage the risks of harm [F48; F120; F122; F135]. As such, they questioned: “how hard is it to get some basic
quality assurance systems in place? Customer service, product consistency, refund policies, customer satisfaction survey. A little attention to this is needed in the industry” [F129]. However, the producers privileged ambiguity as “with Australian laws, nothing can really be sold as what it is” [F131]. This meant the producers had “to be careful how we word things” [I29]. Even those who did not wish to exploit the market at the cost of safety “had to do that because otherwise it’s a therapeutic good… [and] to sell it we’d have to prove its safety etc., etc., etc. … which costs millions” [I29]. This created tensions as the legal status of the product was less important to consumers as consistent and transparent information because the “classification of drugs as ‘illegal’ and ‘legal’ is as arbitrary and useless as the government’s classification. Which specific legal highs are rubbish, make people feel horrible and are not good for you?” [F34]. Furthermore, the ambiguity surrounding the product standards meant “no one knows what’s in it. It’s too expensive to run tests and these ‘companies’ change their products all the time” [F148].

In response to the actions by the producers in the second battle, the consumers began engaging in responsible participating actions. These involved using their market experience to collectively construct credible information and minimise the harms associated with their consumption practices. This began by making attempts to reposition “the typical drug user” as those who “can use more or less responsibly while still being a productive member of society” [F21], and placing the blame for the harms associated with the consumption of ‘legal highs’ on the producers. Consumers were unable to use traditional marketing elements as signals of quality and consistency as “the labels obviously aren’t 100% accurate” [F31.1], and “people in this forum have asked companies for their ingredients before and they have been shown to be misleading, incomplete or WRONG” [F31.2]. This meant producers were recognised to be “as reliable as a dealer can be” [F60.1] as they could make use of the ambiguity to sell “completely worthless herbs” [F125]. Furthermore, if products were found to be lacking in quality and consumers made attempts to engage with the producers, “all the emails sent to the company were ignored… I asked for a refund or working replacement, but he laughed and said his lawyers have him covered” [F125]. As such, the consumers began to construct their credibility as actors able to navigate the market, and collectively determine which risks of harm are manageable based on their market experience and competence [e.g. F52; F108; F211]. For example:

I’m a professional who uses MDxx, etc. occasionally around 6-8 times per year (although not so much now because of the bad quality) … If you are not buying regularly or in the scene, it is unlikely that you are going to find someone who is honest or who can be trusted. [F79]

This involved establishing that responsible participating began with the realisation that consumers cannot “trust anyone, dealer or no dealer, when it comes to drugs. We all learn these things the hard
way. Do not let it make an example out of you. Use a reagent test” [F60.2]. Due to the regulation skirting by producers during the second battle, trusting producers was the “biggest mistake” [F83].

The consumers engaged in further **responsible participating actions** by collating information to collectively minimise harm. A consequence of the work by consumers to establish their credibility in the market was that some consumers made attempts to position themselves as more responsible than those who were harmed [e.g. F53; F84; F112]. This included suggesting consumers who want to participate in the market should “make educated decisions, know your limit and do not consume it in a place that could mean you jeopardise it for others” [F92], and “know your source and if it doesn’t seem to be active at the right dose or smell right, it probably isn’t” [F105]. However, this advice was largely seen within online communities as unhelpful in collectively minimising harm [F67; F79]. For example:

The comment “know your source” is often thrown about, but let’s not be arrogant and say ‘if you’re in the scene enough you will get contacts’ or ‘it’s all about who you know’. If people are irregular users, let’s get the HR points across. [F79.1]

Aligned with this, there was recognition that “this forum is not just about people who consume regularly and know their source but is also for irregular users” [F79.2]. Therefore, many competent forum community members began making efforts to offer “advice for an irregular user” to minimise harm such as “buy well in advance of consuming so you can test and investigate your purchase. Try to find as many reports as possible to try to know what you’re consuming” [F79.3]. This worked to minimise harm as “there are enough people in this online community with experience with drugs, and if a legal high was considered worthwhile it would be paraded around” [F114]. Aligned with this, it was advised that a novice consumer should not “rely on information from just one person, because it could be an ordered spammer, going through multiple discussion boards and changing the posts a bit” [F75]. Therefore, it was determined that “in this climate, if you are an irregular buyer then there is no safe way to purchase. But with a tester kit, there can be a safer way to consume” [F79.3].

During this phase, online communities became a space where competent consumers continued to share “anything relevant about drugs that is factual to help younger/less experienced drug users know more about what they consume” [F67]. This included information about which producers consumers should “not do business with” [F125], and the effects of product offerings at varying dose levels. For example:

Here’s a dose chart: 2mg: strong body high, clear headed; 4mg: Very strong high, slight mental intoxication; 6mg: Verging on breach of cannabis comparison. Does not compare; 8mg: Exceeds achievable cannabis high; 10mg: Spiritual; 12mg: For most, panic attacks. For others, visuals and massive mental intoxication; 15mg: + Throws
you into hyperspace, massive mental intoxication, vibrations, tingling, eye burning sensation, loss of balance, disconnection from the world, fear of death and loss, paranoia. [F99]

Furthermore, information was shared about “a good way to check for purity” such as putting “it in the fridge overnight. If it is pure, it will turn completely solid. Otherwise, if you have a decent amount it becomes less viscous when diluted” [F92]. When consumers became “aware of the substitution policy” [F88] of producers they were buying their products from, they shared this information with their recommendation of whether the reformulated product could be safely consumed. For example: “Their Benzo Fury is no longer 6-APB but still rocks” [F88]. However, their responsible participating also included recognising when harm reduction required not sharing information. For example:

I was going to write a trip report about 6-APB but I think I will give it a miss now. I don’t want people seeing it and ordering from vendors that could be selling fake chemicals. In the interest of harm reduction, I will give updates about how I’m doing over the next few days. [F105]

Therefore, consumers collectively minimised harm through purposeful sharing and not sharing of market information.

Triggered by the actions of the government during the second battle, the producers engaged in deliberate misleading actions. These involved providing minimal or deceptive information surrounding product standards and offerings to keep them in a grey legal area. During the first phase, the producers made attempts to ensure transparent information was available to consumers, including a picture of the product and brand, the quantity of the product in the package, the usual duration in hours of the high experience, the recommended dosage, the adjusted dosage for lower weight or experience level, safety information, age restriction and price [e.g. W1]. However, after the legislative changes, “the contents were not listed” or “where contents are listed the actual ingredients can vary greatly” [F165] “to do less-than-grey-market trades” [F197]. The online store websites also began providing minimal information [e.g. W3; W4; W6]. For example:
This meant there was “absolutely no telling what is in these blends other than the makeshift ingredients listed on the side” [F64]. Many of the producers began using “weird ass naming conventions to avoid the issue of legality” whereby ingredients would be listed as “as a means to ‘cover up’ chemicals” thereby “giving professional sounding names without naming it what it is” [F197]. Others listed ingredients such as “energy, empathy, entropy” which were recognised to be “two particular ‘qualities’ [that] are not available in any kind of ‘solid’ supply” [F68]. While these products were identifiable as ‘legal high’ products, some products had no indication other than brand name that they were for consumption “in an attempt to conceal the product’s intended use” [D6]. For example:

These products included unhelpful instructions such as “best suited for tropical plants. Use one per square meter around garden beds. For potted plants less than one metre in height, half to a quarter should be sufficient” [D6]. As such, it was becoming “hard to find out the active ingredients… it’s impossible to know what’s in them” [F139].

The consumers responded to the deliberate misleading actions of the producers by collectively accepting and rejecting certain renamed brands and reformulated chemicals as manageable risks. This meant if consumers were satisfied with a ‘legal high’ product and deemed the risks to be manageable, they would openly share this with others [e.g. F114; N119; F141]. For example: “Bonzai is a great blend. Almost too strong for some people. I think nothing will ever replace the first gen blends. But trust SWIM, Bonzai is damn good” [F75]. However, more often consumers would make recommendations of which products to “steer clear of” [F31]. For example: “Be warned. I would say that 99% of vendors have been selling fake 6-APB. There are more bad reports than good. Be VERY careful” [F105]; and “This is 100% bullshit. After doing some research I’ve found that most of these ‘party pills’ contain DMAA. Don’t waste your money on these” [F125].

Many of these recommendations were made on the basis that branding could no longer be used as a
signal of consistency [e.g. F31; F68; F165; F197], making the risks associated with the consumption of some products unmanageable. For example:

No analytic test will ever identify a substance as ‘Benzo Fury’ because this is the brand name, not a chemical. ‘Benzo fury’ could be 6-APB, 6-APDB, or something else entirely, depending on who is making and marketing. It may be a mixture of multiple substances, active or otherwise. [F83]

Furthermore, consumers began to realise that “there is no guarantee that the trip reports that are trickling out are legitimate. Or that the samples the labrats were provided were the same substance or quality that will be sold” [F63].

Due to these changes in the market, the responsible participating actions by consumers began to involve recognising and sharing the limitations of their experience and information [e.g. F32; F61]. This involved openly sharing accounts of where past experiences with ‘legal high’ products had not worked to minimise harm [e.g. F32; F61]. For example:

I made the biggest mistake for trusting my vendor in a product that I had bought multiple times. I put my life in danger by flying blindly… I bought a batch of 6-APB and a few days later bought another. The second batch was much lighter in colour but tasted the same… I ended up overdosing on some chemical from a reliable vendor labelled as 6-APB Benzo Fury. [F83]

Many competent consumers began cautioning other consumers to “be warned… you will redose and blackout, and probably do something extremely stupid. I did. As has everyone who has reported using/abusing this product” [F32]. This cautioning also involved sharing the harmful experiences of others, demonstrating the risks of harm may no longer be manageable [e.g. F34; F68; F114]. For example:

My friend died of a GBL overdose… He had been using it for 7 or 8 years, just wanted to say be careful. Just took too much and died. He was careless. He was 38, generous, successful, left behind a lot of gutted people, including his partner. Don’t forget the people you leave behind when you use drugs recklessly. [F61]

Furthermore, many consumers began to be less confident in sharing information regarding ‘legal high’ products and their ingredients as “the best we can do is guess. It is impossible to identify a powder over the internet without any sort of reagent testing kit” [F60]. As such, “community members don’t speculate on what a mystery substance might be. It could be any substance of any purity with any unreacted precursors, any mixture of chemicals, any cutting agents, just generally anything” [F157.1]. This also meant more competent consumers could no longer “ID drugs based on effect descriptions. No one can give a reasonable answer. May as well tape a bunch of letters and numbers to a dart board and identify it that way” [F148]. Therefore, sharing information about ingredients of different products began to be seen as “pointless and irresponsible” [F157.2].
Consequently, consumers began advising other consumers to “submit the substance for laboratory analysis. That’s about the only thing you could do to identify an unknown substance” [F147].

The impact of these consumer and producer actions on the market was that many exchanges began taking place between consumers and “a vendor who actually doesn’t even know what substance they are selling” [F146] or simply wished to exploit regulatory loopholes to “chas[e] fast money at the expense of their customers” [F124]. Those producers who were knowledgeable about their products experienced tensions as “all of our best products were taken away and people would come in looking to get high… and we’re not allowed anymore to say… ‘Oh this will get you happy or high or whatever’” [I29]. The ambiguity surrounding the product offerings and their ingredients meant “researching what you’re taking [was] almost impossible” [F68]. Consumers began to find that “having read through every bit of packaging from these pills, I sure as hell couldn’t find anything that would give the effects I was seeing” [F131], determining that “legal highs should be banned if they’re not able to list the active ingredients” [F131]. However, this legal discussion began to cause fracturing between consumers, with some believing “if you are only interested in taking something because it is ‘legal’, but chasing the effects of a real drug, you shouldn’t be taking it” [F114]. These consumers maintained they were able to navigate the ‘legal high’ marketplace while other consumers were “children [who] have no idea about anything. It’s pretty rare to encounter someone who has even typed the name of the drug here or into Google” [F112], reflecting that other consumers should “stop being a crackhead and trying to smoke everything” [F169]. Competent consumers also ceased sharing information in “an obvious thread” as this would bring “these substances under the radar at this time… We are now likely to see these compounds confiscated as they enter the country” [F40.1] as “the government is actually monitoring these forums to quickly make the compounds illegal” [F40.2].

5.3.4 Battle Four: Health Professionals and Government
Simultaneous to the third battle, tensions began to arise between health professionals and the government in a fourth battle. The health professionals were “primarily concerned with [individual] harms associated with substance use” and recognised that “there are a range of substances, including alcohol, that can be used potentially at low risk. Tobacco is one where there’s no safe level of use… With drugs… it’s about reducing harm and the health impacts” [I2] to the individual consumers. The government was made up of those actors involved in policy making and those in law enforcement who worked “to make sure we have a safe community, and healthy community and the impact of drugs is negative on that” [I7] at the collective-level. This meant “identifying [products] as being potentially harmful is part of our role… policing is certainly the Police and Justice side of things, which is also, of course, a government department. So, we identify and warn,
the Police prosecute and Justice determines outcomes” [I11]. These societal-level actors focused on reducing harm [e.g. I1; I2; I7; I6; I16] but there was “not a lot of collaborative work happening” [I9] to collectively work towards the common goal. This was because “we’re all in these silos… health is over there doing its own thing, education is quite separate, and the police and the legislative bodies are all quite separate as well” [I9]. Thus, tensions arose between the health professionals and government.

The tensions between the health professionals and the government developed over the proper way for health professionals to be involved in reducing harm. The criteria for proper involvement by health professionals was judged differently by the actors, which triggered the fourth battle. The health professionals evaluated their proper involvement based on the enactment of their professional work of caring and harm minimisation at the individual patient-level. They believed the main way to reduce harm was for “health to know that information” [I8] about “what happens to the person, and how they treat those acute symptoms, whether it be levels of psychosis or what have you… What’s the best way to ensure these people get the right advice and make informed decisions about what they do?” [I10]. The government agreed that the role of health was to “provide some sort of treatment options, and direct strategies which are designed to minimise harms” [I7], but evaluated the proper involvement of health professionals as part of the collective policing at the societal-level. This was based on the idea that the government, “through law enforcement agencies, through justice agencies and through health agencies, have a duty to… do as much as they can to educate the public and prevent them from taking substances which may cause some harm” [I17]. As health professionals “are connected with people associated with music festivals and things like that… working together under the banner of public health related issues”, they are in a good position to assist the government in reducing demand as “some groups don’t want to talk to the government and police… We arrest people” [I7]. Therefore, tensions arose between the health professionals and government over the proper way for health professionals to be involved in reducing harm in the ‘legal high’ market.

Health professionals typically worked well with the government in the traditional illicit drug markets. This was because much of the “drug and alcohol funding [came] from federal government and from state government” [I10]. As “the main kind of health response is just education, and not really prevention”, health professionals also “provide the public and the government with information around the negative presentations and side effects of the substances” [I8]. The policy makers in government had “some appreciation of the style of work that we want to do with people, like having the capacity to work with people longer term, for people to be able to move in and out of the service as they need to” [I10], so the actors worked well together. Health professionals also
initially “work[ed] well with the police” as they could provide “some collateral history around… seizure of a particular drug… They’ll often be able to give us that other information” [I16] that is needed to treat individuals. This relationship was reciprocal as the law enforcement actors in government often work with “health to develop and provide just the facts to the community, then people can make informed decisions… about illicit drugs… Facts around the harms, facts around prevalence and use, avenues of support for not only users but family members, community” [I7]. These relationships were based on the “understanding that people’s drug and alcohol issues don’t exist in isolation, but it’s part of the continuum of their life” [I10]. Therefore, the government and health professionals worked well together to reduce harm in the traditional illicit drug markets.

Following the policy changes in battle two, the government began engaging in collective policing actions. These involved gathering information from societal-level actors surrounding consumption of substances to collectively reduce the demand and supply. This was based on the idea that other societal-level actors “have a role in, as far as the market’s concerned, in keeping abreast of what’s happening” as they are “connected with the people” [I7] who consume the substances. Collective policing was deemed necessary as the substances were “causing danger to the population – so these substances can kill and have killed… We are acting to ensure that they’re captured within the illicit drug group so they can… prevent people using them” [I11]. The government needed this information to reduce the supply and demand as “ultimately the substance is only made illegal by legislation. That legislation is certainly based on health and law enforcement advice but the legislation still is the responsibility of the parliaments of the states and territories in the Commonwealth” [I17]. Therefore, the government used the information from other societal-level actors to continue their selective prohibiting.

The actions of the government began to cause tensions for the health professionals. This was because the collective policing “can produce an enormous amount of stigma and discrimination against people who consume these drugs, and therefore reduce the likelihood that they’ll call an ambulance or go to their GP and to talk about what’s going on for them” [I5]. Therefore, the government and health professionals began to diverge from their aligned goal of harm reduction as “we have different outcomes in health to what maybe law enforcement would have… So we end up clashing around some of that” [I1]. The health professionals believed that the government actors “obviously have a very important role to play in keeping the community safe” [I9]. However, they disagreed with the collective policing as the “laws are not based on harm at all. There’s no reference to harm. The only reference is to the fact that a substance might have a psychoactive effect for a person” [I7]. As such, “they’ve inadvertently created this bubble of a legal market. Whereas if they were going about the law enforcement job in a different way… they maybe wouldn’t have had this
kind of issue that’s coming out now with the new novel psychoactive” [I9]. Some health professionals, such as Dr Alex Wodak, Director of the alcohol and drug service at St Vincent’s Hospital, felt strongly that “this is just another illustration of the futility of drug prohibition... and if criminalising drugs hasn’t worked, what you need to do is treat drugs as a health and social phenomenon” [N25]. Aligned with this, “the philosophical debate becomes around would we be happy with less harm if we had more rates of use in the population… are we happy with that if the trade-off is we have less harm? …That’s actually what we would expect would happen” [I1]. Therefore, the collective policing actions of the government caused tensions for the health professionals.

The health professionals began engaging in co-optation resisting actions. These actions involved resisting the collective policing by focusing on their professional work of caring for patients at the individual-level. This meant the health professionals focused on “what the actual health effects of a substance might be and then our then concern is around the negative health effects… and how we might reduce them… and manage them better” [I1], and the “treatment of those patients with… presentations that involve those drugs” [I16]. For example:

We might be expecting to see a syndrome associated with ingestion of a particular agent, but we’re not and so then we’re trying to think what else could they have had. And often these agents can be cut with various other substances as well, so you’re trying to consider other presentations and other toxins that might have been included, intentionally or unintentionally, with those substances. [I16]

The focus of the health professionals was on the treatment of patients regardless of the legal status of the substance they consumed, and the reduction of harms through educating individual patients. For example: “not many other people get to pass on information, even though young people find it really useful, and they like to know how much water they should drink, or not drink, and things like that… Whenever we get the opportunity to talk [about] legal highs, that’s something that we really reinforce” [I9]. Therefore, the health professionals engaged in co-optation resisting actions.

Further tensions began to develop for the health professionals due to the collective policing by the government. The health professionals did not have “adequate resources” [I1] to reduce harm at the individual-level as “a lot of the resourcing is going to the supply reduction part… our national drug strategy has three pillars of demand reduction, harm reduction, supply production – a huge proportion of the resourcing is going to supply reduction” [I9]. They also believed that “health has very little influence in any of it…, alcohol and drugs is considered a less important thing… in the broader policy environment” [I1]. This was problematic as it meant the health professionals did not have the resourcing available to treat patients. Therefore, if “30 and 35 people affected by the drugs… presented to the hospital” [N25], the health professionals would often “never have seen
anything like it in 20 years” [N23] because “there’s just so many products, that you can’t track what people are taking” [I8]. Through further resourcing, the government could provide support to the health professionals as “we’ve never treated patients who’ve used [legal highs] before, so our ability to treat those patients would be based on the police reports and various other things that are available in the general media, and then getting specific advice from toxicologists” [I16]. As such, it was believed that “a lot of the funding that the government puts into fighting drug use and crime could easily be funnelled back into education, rehabilitation and healthcare. It’s about time the government wisened up” [F21]. Therefore, the health professionals began to experience further tensions in their professional roles of caring for patients.

To reduce these tensions, the health professionals collaborated with each other within their co-optation resisting actions. For example, the emergency physicians established relationships with alcohol and drug clinicians as the clinicians are “often much more experienced in getting a history from patients” [I16] than the emergency physicians. As such, the physicians would “ring them for advice” [I16] in dealing with patients affected by ‘legal high’ products because “there’s a lot of street lingo that goes with this territory and if you don’t know the lingo and you’re trying to use words that aren’t right, the patient just looks at you as if you’re crazy” [I16]. As part of the collaborative efforts to treat patients at the individual-level, health organisations began to be established to “provide clinical advice and professional support to workers, services and communities who engage with young people affected by alcohol and other drug use” [D24]. Dovetail was one such organisation that was “founded in 2010 as a response to increased [drug] use” [D24] with the aim of building evidence-based resources for those working in the alcohol and drug sector. This information included “a whole range of research, like obviously they are in touch with the researchers, do a lot of networking and looking at what the latest information is around illicit drugs” [I8]. The information provided by these organisations was used in conjunction with information from “some of those famous internet forums” so the health professionals could “keep abreast of stuff there” [I10] and continue to treat individual patients, in lieu of the resources from the government.

Through these collaborative efforts in caring for individual patients, health professionals did not need to rely on the government to make decisions regarding their patients, treatment or harm reduction. They believed that they “don’t tell [the government] how to taser someone” and did not need the government to “tell [them] what the health effects of drugs are” [I1]. The collation of resources meant the health professionals began to have access to the information they required to reduce harm at the individual patient-level. During the times when the co-optation resisting actions meant that the health professionals had to determine whether to give preference to the
wellbeing of the individual being treated or the collective social order, they often preference the individual. For example: “If we find drugs on a patient, we won’t always call police… If it’s a small amount that is obvious it’s just for single use, then we won’t” [I16]. However, these evidence-based decisions also involved the recognition of when it was essential for the government actors to be involved to reduce harm. For example: “if you had a hundred tablets in a plastic bag, absolutely we would report that. And likewise [with] marijuana – there’s a bit of a judgement call there” [I16]. Therefore, the health professionals were able to use their judgement about whether to involve the government actors in their enactment of their professional work.

5.4 The ‘Legal High’ Market T2

By mid-2012 (hereafter Time Two T2) the ‘legal high’ market dynamics began to shift due to the harms associated with the product offerings. Societal-level actors were actively contesting the transactional exchanges of product offerings that caused harm as consumers “of these ‘legal highs’ have no way of knowing exactly what they are taking, what bulking agents have been used and what quantity they are taking” [N77]. Through the introduction of new lesser-known chemicals, the market was able to persist despite the selective prohibiting by the government as they would “never be able to ban them all. New pre-cursors can always be used” [F160.1.]. Therefore, the exchange-level actors continued to engage in transactional exchanges of product offerings, which “create[d] an interesting set of problems for law enforcement, which is the beauty of the whole thing – anarchic, yet brilliantly concealed” [F167]. When products were banned, the producers “just use new ones… that are not tested for” [F160.2.] to ensure the market continued to exist despite the societal-level contestation. The data shows that the market at T2 was distinguished by five key elements as outlined below.

First, the predominant producers in the ‘legal high’ market at T2 were shifting from those that were entrepreneurial to those that were exploitative. These producers made no attempts at “testing procedures” [N87], engaging instead in “highly questionable” [N78] and “sketchy practices of the research chemical trade” [F159]. That is, the predominant producers were made up of “backyard tobacconists who worked out they could make [the products] themselves” [I1], could “simply change one molecule and get around the legislation” [N73], and “simply discontinue the product” [I7] if they were discovered to be selling them. The producers were positioned as exploitative as they worked to find “a window of opportunity for throwing a particular chemical out there… make their dollars… and then…discontinue... the dangerous drug” [I7].

Second, the ‘legal high’ market at T2 was still characterised by risk-taking consumers. Many of these consumers were engaging with the ‘legal high’ products because intoxication is “socially
ingrained in our culture” [F171.1.] but they required legal drug products “because they get drug tested for work… they might think it’s safer to use this from a law enforcement point of view” [F178]. However, these risk-taking consumers had varying levels of ability to navigate the risks, with some novice consumers “guinea pigging crap” [F158] as “they have no idea what it is they are putting into their bodies” [N78], and were unskilled in gathering the information and expertise required to navigate the market. This put these consumers at risk as “many of these substances were known to trigger psychosis, depression, anxiety and cardiac problems” [N87]. Furthermore, some of these consumers were “very fearful of going and seeking help and really don’t know where to turn” [N88].

Third, the market at T2 was characterised by predominantly harmful product offerings. The ingredients of many of the ‘legal high’ products were tweaked by “replac[ing] the active in any number of products” [F159] to keep them in the grey legal area. This meant that many of “these new blends are strong and seriously unpredictable” as opposed to the “old blends [that] were amazing; better than [illicit drugs]” [F168]. As such, the ingredients of the ‘legal high’ product offerings “could be new, even lesser understood [chemicals], or it could be another class of unknown chemicals altogether” [F160.1.]. As the products “don’t have to maintain standards as far as what [is] in the package” [F159], there “might [be] three or four different substances in the product over its lifetime” [I15]. As such, the market was made up of predominantly harmful product offerings.

Fourth, the ‘legal high’ market at T2 was characterised by deceptive branding and packaging. This was because the marketing elements worked to conceal the ingredients of the ‘legal high’ product offering as the producers “almost never release their [actual] ingredients” [F174]. The ingredients listed on the packaging were often disguised as herbal ingredients, such as “geranium extract” [F162.1], that were used to cover up “the recreational stimulant” [F162.2]. The branding and packaging was purposively deceptive by mislabelling “lesser known chemicals, or [ones] that aren’t being tested for yet” [F160.2] “allowing them to be marketed as legal” [N74]. Therefore, the branding and packaging of the product offerings was deceptive.

Fifth, the ‘legal high’ market at T2 was characterised by accessible distribution channels. This was because the internet “emerged as an important drugs market place, with the number of websites promoting ‘legal highs’ doubling last year to about 700” [N82]. The access to the ‘legal high’ product offerings was less restricted at this time as “the web is becoming a major retailer for… legal highs” [N89] “now that the technology and infrastructure is there” [F167]. In addition to the online distribution, the ‘legal high’ product offerings were still available through physical venues, such as “tobacconists” [F179], amplifying the accessible distribution.
Overall, the market for ‘legal highs’ at T2 was characterised by “the rise of synthetic imitations of illicit drugs… marketed as ‘legal’ highs” [N88]. During this time, the dominant producers became exploitative, transacting with risk-taking consumers with harmful products, which were deceptively branded and packaged, and sold through accessible distribution channels. Fracturing was occurring between actors at both the societal and exchange-levels, and community actors were beginning to play dominant role in the “witch hunt that’s going on” [F158] as there was concern “for families… that these products, that can have the effects of prohibited substances, can be so easily accessed” [N73]. As such, societal-level actors began to call into question the appropriateness of the market, and challenge the basis of legitimacy.

5.5 Summary of Phase Two of the Process
This section presents a summary of the findings from the second phase of the legitimation process. The ‘legal high’ market at T1 was constituted by entrepreneurial producers, risk-taking consumers, ambiguous products, misleading branding and packaging, and selective distribution. At this time, legitimacy was based on markets that cause minimal harm. The persistence of the news media in their call to action triggered the unfolding of the second phase of the legitimation process in which four battles shaped the legitimacy of the market. First, the risk-taking consumers and the news media battled over who has the right to determine what is harmful consumption. Second, the government and the entrepreneurial producers battled over what is acceptable harm in a legitimate market. Third, the risk-taking consumers and the entrepreneurial producers battled over the appropriate product standards for manageable harm. Finally, the health professional and government battled over the proper way for health professionals to be involved.

Actions were adopted by different actors as they engaged in battles for legitimation during phase two. These were micro and macro-level actions that shifted the basis of legitimacy of the market. First, the consumers engaged in individual protecting actions and the media engaged in community mobilising actions when battling over the right to determine what is harmful consumption. Second, the government actors engaged in selective prohibiting actions and the producers engaged in regulation skirting actions when battling over acceptable harm. This battle was triggered by the news media’s continued efforts to activate the normative obligation of the government to claim a stake in the market through their community mobilising actions. Simultaneously, the consumers engaged in responsible participating actions and the producers engaged in deliberate misleading actions when battling over appropriate product standards. Finally, the government actors engaged in collective policing actions and the health professionals engaged in co-optation resisting actions when battling over the proper way for health professionals to be involved.
The impact of the four battles was the legitimacy of the market was challenged as more consumers began being harmed by their engagement in the transactional exchanges. By this time, very few purist producers were still present in the market, and the predominant producers had diverged into those who remained entrepreneurs and those who were exploitative producers. The entrepreneurial and exploitative producers engaged in the transactional exchanges for the profit potential, however, the entrepreneurs attempted to skirt the regulations by transacting with ambiguous and misleading products that allowed for manageable risks for consumers, while the exploitative producers exploited the legal loopholes by transacting with harmful and deceptive products with little concern for consumers. The increase in producers, drawn to the market by the legal loopholes, meant the products offering had become widely and easily accessible to consumers online. The consumers continued to take risks by engaging with the market, and were constituted by few initial pleasure-seeking consumers who sought out pure and natural products, and those risk-takers who actively sought out legal product offerings that mimic the effects of illicit drug substances. However, the risk-taking consumers were beginning to diverge into those who were competent and those who were novice at managing the risks. Therefore, the market at T2 was constituted by predominantly exploitative producers, risk-taking consumers, harmful product offerings, deceptive branding and packaging, and accessible distribution. At this time, the basis of (il)legitimacy began to shift to markets that are (im)moral.

5.6 Conclusion

This chapter presented the findings from the second phase of the legitimation process with the aim of continuing the exploration of the research question: how are the processes of legitimation shaped in contested markets? First, the chapter presented an overview of the market at T1, showing the market was constituted by predominantly entrepreneurial producers, risk-taking consumers, ambiguous product offerings, misleading branding and packaging, and selective distribution. Next, the chapter presented findings from the harm-minimising legitimation and market fracturing phase. These findings involved four legitimation battles that shaped the legitimacy of the market and shifted it from T1 to T2. Finally, the chapter presented an overview of the market at T2, showing the market was constituted by predominantly exploitative producers, (novice and competent) risk-taking consumers, harmful product offerings, deceptive branding and packaging, and accessible distribution. The chapter concluded with a summary of phase two of the process. The next chapter presents the findings from the third phase of the legitimation process.
CHAPTER SIX: FINDINGS [PHASE THREE]

Models of economic organisation rely on particular understandings of the basis of moral order... that, in turn, shape (and constrain) what consumers can and cannot do.

- From Creating the Responsible Consumer by Markus Giesler and Ela Veresiu (2014, p.840)

6.1 Introduction

This chapter presents the findings from the third phase of the legitimation process with the aim of concluding the exploration of the research question: how are the processes of legitimation shaped in contested markets? The findings presented in this chapter focus on the actions of multi-level market actors that shape the legitimacy of the ‘legal high’ market between mid-2012 and late 2013. In this phase, the societal-level actors are dominant and changes in the legitimacy of the market occur through the accumulation of predominantly macro-level actions. These actions accumulate in three legitimation battles, and shift the market from a basis of legitimacy focused on (im)morality to one focused on (il)legality. The chapter tracks this shift through the following structure: First, the key market entities and elements at T2 are summarised. Next, the three legitimation battles that shape the legitimacy of the market are presented and discussed. A model that summarises phase three of the legitimation process, and the three battles therein, is included to guide the discussion. Finally, the shift to the key market entities and elements at T3 are presented and discussed. The chapter concludes with a process model of the legitimation in the ‘legal high’ market over time.

6.2 Summary of the ‘Legal High’ Market T2

During phase two, the source of legitimacy of the market was based on market elements that cause minimal harm. As the actions undertaken within the battles of phase one led to some consumers being harmed, four battles developed between the risk-taking consumers and news media, the government and entrepreneurial producers, the risk-taking consumers and entrepreneurial producers, and the health professionals and government during phase two, which caused the market to fracture. The battles shifted the market from one in which risk-taking consumers were transacting with the dominant entrepreneurial producers for ‘legal high’ product offerings, which were ambiguous and misleading in their branding and packaging, and sold through selective distribution channels at T1 to exploitative producers transacting with competent and novice risk-taking consumers using harmful products with deceptive branding and packaging, and sold through accessible distribution channels at T2. The multi-level fracturing within the market during the four battles triggered the third phase of legitimation.
6.3 Phase Three: Moral Legitimation and Market Dissipation

The third phase of the legitimation process is characterised by market dissipation as the legitimacy of the market is determined on the basis of morality. In this phase, a market is (il)legitimate when it is (im)moral. The different definitions of harm for actors during phase two triggered legitimation battles over the morality of the market during phase three. In this phase, three battles develop and unfold in shaping the moral legitimacy of the market, and transitioning the market from T2 to T3.

First, a battle developed between the community and the market over the proper way to judge vulnerability as key community members mobilised against the market. During this battle, families who represented the community in the media engaged in vulnerability ascribing actions. Second, a battle unfolded between the experienced consumers and the vulnerable consumers over who has the right to participate in the market as the experienced consumers made attempts to distance themselves and establish their superiority. During this battle, the competent risk-taking consumers engaged in ascription rejection actions while the novice risk-taking consumers engaged in cooperation enlisting actions. Finally, a battle was triggered between the government and producers as they determined when the government has a moral obligation to restore social order in the market. This battle triggered the activation of the moral obligation of the government to restore order by prohibiting the market. These three legitimation battles shaped the market and ultimately caused the market to become illegal and dissipate at T3. Figure 9 illustrates phase three of the process, and the shift from T2 to T3.
Figure 9 - Phase three of the legitimation process
6.3.1 Battle One: Community and the Market
The first battle began as the market caused tensions in the community. During the second phase of the legitimation process, the producers began skirting regulation [e.g. D6; D11; N39; F197] and deliberately misleading market actors in their product and marketing practices [e.g. D6; F139; F165; F197]. The consumers continued to engage in the market, and the selective prohibiting [e.g. D15; D16; N43; N82] and collective policing by the government were not deterring transactional exchanges [e.g. I29; F150; F153; F164]. During this time, some consumers were experiencing harm from their engagement in the exchanges [e.g. F32; F53; F61] – challenging the basis for legitimacy of the market. Prior to this, there had been “innocence in the community, and a lack of knowledge of how dangerous [the products] are” [N161], but more consumers began to be harmed, often engaging in “very irrational behavior… leading to violent incidents where they cause significant destruction…[to] themselves” [N105] and leaving their families “torn apart and helpless” [N160]. As such, families represented the community with the belief that “drugs destroy lives” [N163], positioning ‘legal high’ products as “the new heroin” [N160]. By shaping the public discourse through the media, “family members spearheaded the charge” [N240] against the market that “posed a new threat” [N154] to society, shifting the basis of legitimacy from a market which causes minimal harm to one grounded in morality.

The tensions for the community developed over the proper basis on which to judge vulnerability. The criteria for which the dominant community actors evaluated vulnerability was harm, deviating from the judgement from the second phase that minimal and manageable harm was acceptable. The community actors deemed harm to be immoral as consumer’s lives were being “cut so tragically short” [N124] by their engagement with the market because they had “no clue to the dramas ahead when they bought the synthetic [drugs]” [N237]. The community evaluation of vulnerability was grounded in morality as those who were being harmed did not fit the image of the ‘typical drug’ user, but were “talented” [N181], “smart and popular” [N124] with “so much potential, so much future ahead of [them]” [N193]. Through media representations, these consumers were discursively established as victims to the “insidious or elusive… constantly changing synthetic drugs that go by myriad names, such as the glamorous Snow Leopard or, more truthfully, Skunk” [N231]. This representation spurred moral outrage that people so “smart, young and talented could be taken away” [N124]. Furthermore, there were a “growing number of families who have been devastated by the effects of ‘legal highs’ on their loved ones” [N158], and “had never been so affected” [N160] by the consumption practices of their loved ones. As the “family and friends are always left there to pick up the pieces” [N120], they believed their basis for judging vulnerability was the proper one. Thus, the community actors began shaping the societal discourse to focus on
morality, using two key instances in which consumers were vulnerable to the market as mechanisms for the change. These two high profile seminal instances reported by the media demonstrated the immorality of the market by evoking discourses that challenged the community assumptions of the consumers as ‘users’ or ‘others’.

Henry’s story. Henry Kwan became the public face of the immorality of the market when at “just 17 years of age, [he] jumped to his death” [N203] after consuming a ‘legal high’ product that led him to “believe he could fly” [N197]. The “talented 17-year-old” [N181] “was top in four of his five subjects” but began feeling “tremendous pressure” [N183] “to get the marks for university… He’d been feeling ill and was worried he might be falling behind in his studies” [N197]. Henry became the latest victim’ [N165] when he “jumped off a third-floor balcony” [N169] and “plunged to his death in a drug-induced psychosis after taking synthetic LSD” [N181], leaving his family “distraught” [N202]. His “tragic death” [N193] began the discursive shifts as he was a “smart” [N202] boy with a “dream of studying law or medicine” [N183] but was “willing to try something unconventional to relieve pressure” [N183]. Although “teenagers and young adults have always experimented with drugs” [N202], the ‘legal high’ products began to be positioned as “evil stuff” [N170] “out there waiting to entice someone who is young and bored” [F199], “those who might not ordinarily have touched the stuff” [N202]. This was problematic for a moral society as “even the smartest 17-year-olds can make dumb decisions” [N197] and the products were easily accessible, “arriving in an envelope from China for less than the cost of a stubby of VB, about $1.50” [N197]. Images of his “distraught family” were prominent “on the cover of magazine[s]” [N202], emphasising Henry as the public face of a new war on synthetic drugs” [N193]. As such, his death, and its impact on the “family and friends of [the] teenager” [N181], was used to “highlight the dangers of legal synthetic drugs” [N176] to society.

Glenn’s story. Glenn Punch became the second public face of the immorality of the market when, at “44, [he] had a two-day psychosis… stripped off his clothes, jumped a barbed wire fence in an industrial area and attacked a security guard” [N112] after consuming “the same drug as Henry” [N176]. The “truck driver” [N99; N159; N176], who “went into cardiac arrest and later died” [N112], became the second face of the problem, further shifting the community discourse to a moralising one. This second incident became a mechanism for shifting discourse as “the biggest users of synthetic drugs appear to be not teenagers like Henry Kwan, but adult males, many of whom are employees of the mining industry” [N193] or those industries “where drug tests happen frequently” [N136]. Glenn was positioned as a “hard-working [person] who… turned to synthetic drugs” [N170], “seeking what he thought would be some harmless fun” [N159]. As such, his death became a mechanism for the discursive shift as “people such as Glenn Punch are being deceived
into thinking there is a safe and healthy way to take drugs” [N159]. The ‘legal high’ products were positioned as responsible for causing behaviour that “was not like the person at all… the behavioural changes [are] drastic” [N203] and, prior to his death, Glenn “had to be restrained after biting a security guard” [N98]. The construction of Glenn’s story also focused on the narrative of family, with his wife reflecting that “Glenn and I would be still together and married now” [N157] had it not been for the ‘legal high’ market. Therefore, his death was used to shift public discourse with the aim of “empowering people with information” [N159] of the immorality of “synthetic drugs like those linked to the death of a 44-year-old truck driver… remain[ing] readily available at tobacconists and other retailers, …and online” [N98].

The community actors advanced these narratives by engaging in vulnerability ascribing actions. These involved discursively positioning actors as needing protection from the market, and shaping public discourse around this through the media. Consumers were ascribed vulnerability because of their “misguided views… [that] there is… such thing as a ‘safe’ alternative to those substances bought illegally from a suburban drug den” [N163]. This was based on the idea that many consumers believed that the products were “OK because it’s legal. They’re out there as herbal drugs, herbal things that won’t harm you” [N161]. As such, ascribing vulnerability involved framing the products as “unnatural” [N160] and “not acceptable” [N168] for human consumption in society. Community actors claimed these were “zombie drugs being sold as legal highs despite their deadly contents” [N112], mimicking products that were illicit in society, “from practically harmless pot to the manic evils of ice… There’s mock cocaine… and fake ecstasy” [N134]. The consumers were framed as vulnerable to these products as there was “nothing natural about taking it. It is like spraying fly spray on your food every day as it contains that many unknown chemicals” [N160], and there “are no specific health studies into these drugs… which are not meant for human consumption” [N160]. The framing worked to position consumers as needing protection from the unnatural and inappropriate product offerings that threatened social order, and the ineffectiveness of the market mechanisms in creating protections was framed as the moral decay of society. This point was emphasised through “horror stories of people apparently high on synthetic drugs doing things such as chewing the face off a homeless man” [N160] in addition to Henry and Glenn’s stories. As such, the public discourse was shaped around the need to protect consumers from the “endless imitations you can find online, that slip through the legal loopholes or simply slip through letterboxes unnoticed” [N134].

The community actors engaged in these vulnerability ascribing actions to protect consumers, and trigger societal-level changes. This began by first using discursive framing to “trigger a warning to parents… to be ‘ever vigilant’” [N165] of their loved ones’ marketplace
transactions as participation in the ‘legal high’ market involves consumers “buy[ing] something that you don’t know what it is from someone you don’t know, which comes from a country you’re not even sure [of]…” [N88]. By involving more families as community actors, they began shifting public opinion and putting pressure on societal-level actors to have the “drugs taken off the streets” [N240] in order to “reduce the likelihood that our children will suffer from these insidious substances” [N202]. Through positioning consumers as vulnerable, community actors highlighted the morality of ensuring “our future generation is bright, alert and able to face the world without being drugged” [N237], and the need for societal-level involvement in disrupting the market. By ascribing vulnerability to consumers, and calling for their protection, the community actors began encouraging “more… to be done to restrict the sale of such substances online” [N163]. The vulnerable consumers could be protected by this restriction as “young brains, while the same size as adult brains, are connected and linked somewhat differently. If you have to go to a great effort to get something you’re less likely to do it on impulse” [N237]. Therefore, by turning the problem of “‘legal highs’… into a nightmare” [N230], the community actors aimed to encourage (and pressure) societal-level actors to be “given the resources they need to continue the war against drugs” [N160].

The impact of these discursive actions was to trigger moral outrage and activate the normative obligations of societal-level actors to protect members of society and restore order. As such, this battle shifted the basis of legitimacy to morality thereby launching the third phase of the legitimation process. However, the vulnerability ascribing actions also worked to facilitate the entrance of new consumers into the market. Prior to the beginning of the third phase, societal “awareness [was] almost non-existent” [N161] as many people had “never heard of synthetic drugs” [N158] and “the average person [didn’t] even know RC’s exist for the most part” [F196]. As such, the community engagement with the media worked to “encourage drug use by inadvertently promoting the availability of substances” [I3], thereby acting as a mechanisms to “drive other people towards” [N172] the products. Furthermore, these actions worked to increase the stigmatisation of consumers that had begun in the second phase [e.g. I5; F116]. Consequently, the fracturing between consumers initiated in the second phase [e.g. F112; F114; F169] intensified as consumers began losing agency in the market, triggering the second battle of phase three.

6.3.2 Battle Two: Competent and Novice Risk-Taking Consumers

Triggered by the first battle, the second battle began to unfold between the consumers in the market. The market had become one in which the products were “so cheap and plentiful and easy to source/obtain” [F216]. However, it was also “a very risky customer market due to the unscrupulous nature” [F211.1] of these cheap and easily accessible products. Therefore, those consumers who continued to engage in transactional exchanges were taking risks due to the increased potential for
harm brought about by the actions within the second phase [e.g. F34; F68; F114]. At this time, the market was constituted by two types of risk-taking consumers – those who were competent at managing the risks and those who were novice at managing the risks. The competent risk-taking consumers were “part of a boutique market for informed users… who order specific drugs for a specific effect” [N197] and “know enough about them [to] take a calculated risk” [I27]. The novice risk-taking consumers formed part of “user groups [who] may be particularly susceptible to the harms associated with these substances as they are less likely to have experience consuming traditional illicit substances” [D5]. Many of these novice risk-taking consumers were driven to the market by the discussion of the market and product availability during the first battle of phase three [I5; N172]. As such, these consumers were new to the market and “still don’t know what it is [they’re] getting into” [I24]. The vulnerability ascribing actions by the community actors during the first battle did not distinguish between the competent and novice risk-takers but positioned all consumers as vulnerable, triggering a battle between the consumers.

The battle between the consumers developed over who has the right to participate in the market. This battle developed as the criteria on which the actors judged who has the right differed. The competent risk-takers believed that “the user has to take responsibility” [F184] for the risks, and novice consumers should not be allowed to engage in the market if they “don’t know what [they are] doing” [N197]. To the competent risk-takers, the novice risk-takers form part of “a mass community of incredibly stupid… people” [F214], “are irresponsible and just don’t know their own bodies” [I28]. Therefore, the competent risk-takers determined they alone were capable and knowledgeable enough to have the right to participate in the market [F184; N197], and the novice risk-takers should have no right to participate as engaging in the market when you are not competent to do so is “a death wish waiting for someone” [F189]. This was based on the belief that novice risk-takers destabilise the market for the competent risk-takers as they “don’t know how dangerous these compounds are” [F211.2], and reduce the accessibility of product offerings by “mindlessly smoking them and then bans occur” [F211.2]. However, the novice risk-taking consumers judged that anyone should be able to participate in the market or they would “never [get] to experiment… and [may] regret it a bit” [I26]. Therefore, they determined “the best thing we can do is give people the freedom to choose rather than take it away” [N237]. As such, the novice risk-takers believed all consumers who want to participate “should have access” [I24], and “more experienced people” [F201] should “help them” [F211.3] manage the risks. Therefore, a battle developed between the consumers over who has the right to participate in the market.

The competent risk-taking consumers engaged in ascription rejecting actions. These involved rejecting the vulnerability ascribed to them by the community actors. This was initially
done by prescribing the vulnerability to the consumers who were novice at managing risks through discursive actions within forum communities [e.g. F196; N197; F211; F212; F221]. Rather than challenging the assumption of the market as harmful [e.g. N112; N160; N163; N231] and the consumers as vulnerable [e.g. N124; N161; N163; N237] entirely, the competent risk takers identified that novice consumers were vulnerable and can get “into all kinds of trouble these days” [F190] by engaging with the risky products. This was based on the idea that “there’s a whole market of synthetic, mystery chemical cocktails out there waiting to entice someone who is young and bored” [F199], and the novice risk-takers “wouldn’t necessarily know the difference between synthetic substances” [F221] that can be consumed with manageable risks and those that cannot. The competent risk-takers believed that “it was really unfortunate, horrible, what happened to [Henry] - but he didn’t know what he was doing” [N197]. As such, the competent risk-takers began to make attempts to reframe the discourse of the vulnerable consumer to those who were novice by determining that “tens of thousands of people took drugs that weekend with no problems, but one idiot throws himself off a balcony” [F212.1]. They ascribed the vulnerability to these novice consumers by positioning them as unable to manage the risks, such as “tak[ing] that kind of thing, especially for the first time, in the right setting. You never take it on the beach and you never take it in an apartment” [I25]. This repositioning was aimed at shifting the ascription onto the novice risk-takers be identifying that “this person clearly died and clearly that was a result of him doing drugs and …that’s a good argument for why he shouldn’t be allowed to acquire those drugs” [I27].

The competent risk-taking consumers engaged in further ascription rejecting actions aimed at distancing themselves from the consumers who were framed as vulnerable. Through their engagement in forum communities [e.g. F211; F212; F124; F218] and the news media [e.g. N197; N237], the competent risk-takers made further attempts to reframe the discourse around the vulnerability of select consumers and reject the ascription for themselves. This involved continuing to highlight the incompetence of the novice risk-taking consumers and differentiate themselves from these consumers [e.g. I25; I28; N197; F207]. Additionally, they made attempts to position the novice consumers as stupid as well as incompetent [e.g. F211; F212; F214; F218; N197] by identifying that they choose to consume “compound/blend[s] known by names like ‘Stoopid’” [F211.4]. Therefore, the competent risk-takers determined that it can “be reasonable to suggest that… the brand name’ [is] descriptive, referring to their consumers as this” [F211.4] – “hav[ing] earned the label ‘stoopid’” [F211.5]. As such, attempts were made to drive the discursive shifts with the determination that novice consumers were not competent in managing risks [e.g. I25; N197] matched with the identification of novice consumers as stupid [e.g. F211], and the determination of themselves as competent in assessing and managing risks [e.g. F207; F218]. For example:
Additionally, the competent risk-takers determined that “when I take drugs I’m not irresponsible…
I know what my body could handle” [I28] and “I don’t know many other Australians who have more experience with it than me” [F207]. Therefore, the competent risk-taking consumers made attempts to reposition the novice risk-takers as incompetent, irresponsible and stupid, and themselves as responsible, educated, experienced and able to assess and manage risks.

The competent risk-taking consumers engaged in further ascription rejecting actions by demonstrating their competence in assessing and managing the risks. These consumers established their competence by indicating their responsible transactional exchanges with “the same reputable companies that supply universities with chemicals and compounds for scientific research. They are not contaminated, like if you bought it off the street” [N197]. They positioned themselves as being “more responsible” [I28] in their consumption of the products by “carefully gaug[ing] the potency of blends by consuming only very small amounts of them at first” [F218], “follow[ing] a strict code… slowly build[ing] up to taking more” [N197]. Furthermore, if the competent consumers were unable to engage in transactional exchanges with manageable risks, they made their “own herbal/synthetic cannabinoids blends” [F207]. Due to their experience, the competent risk-takers found “it is not difficult to make a herbal blend at all” and it “is cheaper, you know what’s in it, you know how much of what is in it” [F211.4]. As such, they made attempts to reestablish their agency as competent consumers by determining that “the death of Henry Kwan… will have no effect” and they will “continue to consume synthetic drugs” [N197] because they are more capable of managing risks. This was emphasised through the evaluation that they had “tried at least 15 different types of synthetic drugs… [without] suffer[ing] any adverse effects… and had an amazing time” [N197].

The novice risk-taking consumers engaged in co-operation enlisting actions. These involved attempting to enlist the help of competent consumers in assessing and managing the risks of harm.
During the first and second phases, the forum communities had worked as an online space in which consumers shared their experiences to help other consumers navigate the market [e.g. F4; F9; F10; F12], and to foster risk assessment and management [e.g. F67; F75; F79; F114]. However, as fracturing was occurring between the consumers [e.g. F112; F114; F169], and the competent risk-takers were making attempts to distance themselves from the novice risk-takers, the novice consumers were finding it challenging to “find a clear answer” [F156] or “any advice at all” regarding “how dangerous” [F187] certain products were. Furthermore, the more competent consumers were no longer sharing as many of their experiences [e.g. F147; F148; F157], and believed those who were not competent in navigating the market should not have access to the products [e.g. I25; I27; I28] or information about the products [e.g. F191; F194; F198; F222]. Therefore, the co-operation enlisting actions of the novice risk-takers initially focused on attempting to establish their right to engage in transactional exchanges in the ‘legal high’ market [e.g. I24; I26; F211; N237]. This involved emphasising the “legality” [F202] and the importance of having access to legal alternatives “after workplace drug testing started at mine sites around Australia” [N164]. For these consumers, “legal is the only guaranteed way to get things” [F182]. This was because they did not wish to engage with the illicit drug markets as “the reason people use these drugs is because they’re legal… someone can go to the store and buy them” [I24]. However, managing the legality risks brought about other risk challenges for these consumers as they often did not know “where to get the pure chemicals…or make them… reality is that it’s much much easier to find pre-made blends” [F211.2].

The novice risk-taking consumers engaged in further co-operation enlisting actions by making calls for more competent consumers to help them assess and manage the risks. This was based on the evaluation that “to use drugs responsibly you’ve got to have people around with you” [I26] to provide the “knowledge to at least know whether or not you’re going to be doing it safely” [I27]. Therefore, the novice risk-takers believed the competent risk-takers in the forum communities could aid in constructing “a safer environment” [I27] to “stop anyone new to a substance going in unprepared” [F145], and help them build “a decent understanding of risks” [F198]. The novice risk-takers identified that in this risky market, it “pays to be very careful” [F175] and do a “bit of research” [F198] before consuming the products. However, many were finding this challenging as they had been “researching a lot about it, like read a lot about it… there’s just so many different chemicals” [I24] and they had “searched but couldn’t find clear answers” [F156]. As such, the novice risk-takers identified that they “couldn’t even find out what was in their products if they wanted to” [I24] and needed the competent risk-takers to “help them” [F211.3]. Furthermore, the novice risk-taking consumers recognised that they could manage the risks if they could “learn to make my own blends… a much less potent blend” [F211.6] but identified that they could only achieve this if
“someone could help me” [F211.6]. Therefore, the novice risk-takers made calls for “any advice at all? Particularly from experienced users” [F187].

Some competent risk-taking consumers made attempts to respond to these calls, but were confined in the information they could share. This was because the forum community guidelines had a “focus on harm reduction… for the protection of forum users” [F96] that prohibited attempts to “solicit, obtain, sell or supply contraband substances or substances of a quasi-legal status or information on how to do so” [D31]. Therefore, the competent risk takers we unable “to discuss prices, sources, availability, etc.” which they believed “is a small and worthwhile price to pay to be a part of this community” [F96]. Furthermore, many of the competent risk-takers were “just not comfortable with the idea of [the novice risk-takers] asking so broadly ‘what drug should I take’” [F199], believing that they “are here to provide information, not to provide people with a whole list of drugs they were not previously aware of to go try” [F222]. As such, their attempts to help the novice risk-takers were confined to recommending that they “check out some of the threads in the forum. I think you’ll find a lot of useful information here” [F194.1], “rather than encouraging the use and purchase of drugs” [F194.2]. The competent risk-takers determined that the novice risk-takers would “find the threads above a useful place to start for general information” [F194.3] to help them assess and manage the risks. Based on this, the competent risk-taking consumers made recommendations that “if after conducting some research” the novice risk-takers had “some more specific questions” rather than questions relating to obtaining or making products, “asking in one of those threads, or creating a new one, would be appropriate” [F199].

6.3.3 Battle Three: Government and Producers
The first and second battles triggered the unfolding of a simultaneous third battle between the government and the producers. At this time, the market was constituted by consumers with varying levels of competence in navigating the market [e.g. I24; I28; F184; F201; F211], engaging in transactional exchanges for harmful and deceptive product offerings with producers who had shifted to being predominantly exploitative [e.g. I1; I7; N78; N87]. The actions by the community and consumers during the first and second battles created shifts in the basis of legitimacy, focusing on the need to “protect people from dangerous and potentially deadly synthetic drugs” [N162]. The selective prohibiting by the government from the second phase [e.g. D15; D16; N43; N82] was no longer sufficient in minimising harm as “new and different substances” [N163] that were “made specifically to be abused” [N208] were “regularly appear[ing]” [N163] on the market. Furthermore, it was becoming increasingly challenging for policy-makers “to draft legislation that can keep up with the large number of substances available” [N173], which shifted “the drug situation… in [to] a state of flux” [N154]. As such, many consumers were being harmed by their engagement with the market
as they were unable to draw on their collective communities to discipline the market at the exchange-level [e.g. F96; F199; F211; F222]. This meant the market mechanisms were failing to protect consumers from harm, calling into question the morality of the existence of the market in the legal marketspace [e.g. N160; N172; N240]. Therefore, towards the end of the third phase, the interaction of the first and second battles triggered a third battle over when the government has a moral obligation to restore social order, which in this case would involve prohibiting the market.

The producers were constituted by both those that were exploitative and those that were entrepreneurial. Similar to the second phase, the exploitative producers continued to participate in transactional exchanges in the market without actively engaging in legitimation battles. By this time, the booming ‘legal high’ market was “worth $500-700 million a year” [N118], and the exploitative “producers [continued] looking for more and more RC’s/variations on RC’s that sit outside whichever legislation” [F216]. “push[ing] out and experiment[ing] with sketchy synthetics” [F202] to make money, with little concern for the wellbeing of consumers. These producers were unconcerned with the actions of the government and other societal-level actors aimed at de-legitimising the market as, for example, if their stores were “shut down, there’d be a replacement up and running within a week” [F167]. Furthermore, many of the exploitative producers had “products marketed on various websites” [N106] that were “listed under false names and registered to dubious locations” [N175], allowing them to continue transacting while avoiding detection. However, in addition to these exploitative producers, “40 per cent of the market was run out of adult stores” [N118] by entrepreneurial producers. These producers were struggling “to compete with overseas websites” [N172] but actively made attempts to recover the market, ensuring they were acting within a strict “code of practice, code of ethics… conduct[ing] themselves in a professional and safe manner… [with] quality customer service and being knowledgeable about products and being able to communicate that to customers as well” [I23]. These producers continued to actively engage in the legitimation battles aimed at allowing the “sex-shops to sell” [N182] the products, believing “they would end up with safer RCs on the market” [F219] if this is where the market was “contained” [N118].

The entrepreneurial producers believed the government did not have a moral obligation to restore social order in the market. This was based on the belief that “whether something is moral or not is subjective” [F196.1] and “to almost entirely base really important policies that affect everybody in our society on how just one part of society feels morally about drug use is frustratingly unreasonable” [F196.2]. Aligned with this idea, the entrepreneurial producers determined that market discussions based on morality cause greater harm to consumers and society by “encourag[ing] illegal drugs and illegal drug use” [I21] and “banning them runs the risk of simply handing another
drug to the illegal murky black market” [N67]. These producers felt “sorry [for] the people that have lost children to drugs…. But there is no need to wish harsh penalties on people that choose to” [F196] engage in transactional exchanges. The moral approach to the market was deemed to cause greater harm as it made “criminals of citizens” [F158]. Therefore, the entrepreneurs believed “sensible government regulation” [N171] should be built on the foundation of harm minimisation rather than morality, and harm could be minimised through market mechanisms that use “a form of industry self-regulation” [N171]. These market mechanisms include ensuring the product offerings available for sale are “officially tested and labelled, and sold exclusively by licensed outlets…” [N177]. Shifting legitimacy discussions back to harm minimisation rather than morality would allow for the less harmful products to be “legalised, taxed, and produced under strict quality controls similar to the much more dangerous drugs of alcohol and cigarettes” [F216], and “these innocent people would not be dying” [F216]. Therefore, it was their belief that policy decisions determined on a base of morality meant “the blood of these kids’ death is on the hands of every idiot that believes in drug prohibition!” [F216].

Therefore, the entrepreneurial producers made attempts to recover the market and re-establish its transactional legitimacy. This began with their willingness to “take responsibility for the synthetic drugs they sell” [N221], pushing for the less harmful products to be governed by the market mechanisms by being “regulated, not illegalised” [N118]. As such, the entrepreneurs aimed to “follow the lead of New Zealand, where the onus of proof has been reversed and retailers can sell synthetic drugs if they have proven they are safe and contain legal compounds” [N171]. Aligned with this, the long-established regulatory body of the adult industry, EROS [D31] developed a “holographic sticker program” [I23] whereby those producers who wished to engage in transactional exchanges and minimise harm could apply for holographic stickers for products that had been tested by an “independent scientific” [N171] laboratory and found to be safe for consumption [I22; D30]. The following provides an example of the holographic stickers:

![Holographic Stickers Example](image)

This program aimed to provide signals to consumers of products that had been tested and could be safely consumed, but also allowed EROS to keep track of the available product offerings as
“stickers [were] issued in rolls … [with] a database that says, ‘Number 673 through 674 thousand are attached to that particular product’” [I22]. In addition to this program, the entrepreneurial producers “offered to foot a $200 million bill to test the legality of their products in a bid to keep selling them to Australians” [N169], believing that “the government needs to work with the people who are manufacturing and selling these things to make them safe” [N169].

Despite these efforts by producers, the government judged their moral obligation to restore order in a market to be activated when consumers are harmed. Triggered by the vulnerability ascribing actions of the community and the increase in novice consumers entering the market during the first and second battles of phase three, the government determined that “no commercial imperative justifies a situation where a boy like [Henry Kwan] can buy a deadly drug” [N182]. As such, “the death of this young boy, who had so much potential, so much future ahead of him” activated the moral obligation of the government and drove their “determination to take these off the shelves as quickly as we could” [N193]. The government determined their moral obligation to restore social order involved the prohibition of the product offerings and transactional exchanges as “you’ve got people who would otherwise never embark on a path of drug abuse doing so because they think that the drugs are safe” [N155]. As such, they “make no apologies for setting the bar high on public safety and putting in place a regime” [N96] that supports the disruption of “the cat-and-mouse game of constantly chasing down substances after they are on the market” [N96] as comprehensively prohibitive “legislation will save lives and prevent harm” [N231]. Furthermore, the government determined that “after so many incidents with synthetic drugs, it’s time to make them illegal and attempt to eliminate them from circulation” [N205], as “we as a government cannot have products being sold that we are unable to police and don’t know what’s in them” [N98], as this would go against their moral obligation to restore social order and protect consumers from harm. It was the belief of the government actors that “prohibition… is working and a tough, zero-tolerance message, backed by proper rehabilitation programs, is needed to send a serious message, particularly to young people, they shouldn’t go near this stuff” [N197].

Driven by the activation of their moral obligation to restore social order, the government enacted comprehensive legislation that prohibited the products and their transactional exchange. This was done by developing “an Act to prohibit the manufacture, supply, possession and use” of ‘legal highs’, which meant “a person who has [the] prohibited drug[s] in his or her possession is guilty of an offence” [D13], whether they were consumers or producers. Furthermore, new laws were developed to “expand the definition of illicit drugs to include drug analogues” [N244], and the government “set up a special committee solely to deal with this problem” [N136]. The new
“legislation involved banning the substances” [N136] and penalties “under the new regime” [N96] included:

Up to eight years in prison for importing, manufacturing, supplying or possession with intent to supply analogues of controlled drugs that come under the Misuse of Drugs Act, and up to two years for import, manufacture, supply or possession with intent to supply unapproved substances. Other key features of the new regime that have been approved by Cabinet include: Personal possession of an unapproved product will incur a $300 fine; There will be a minimum purchase age of 18; No advertising except at point of sale; Restrictions on outlets… [and] labelling and packaging requirements. [N96]

The government believed the tough new legislation aligned with their moral obligation as it would “quash the ridiculous notion that people can achieve ‘legal highs’ by using these untested substances when, in fact, they are putting their health and safety at risk of untold damage” [N244]. Furthermore, this comprehensive prohibition would also deter producers from engaging in the transactional exchanges as “retailers, including shop staff, also face stiff criminal penalties if they don’t know exactly what they are selling” [N259], with the laws positioning them as “no different to those peddling heroin or cocaine” [N237].

The entrepreneurial producers contested the comprehensive prohibition as “completely reactive. It is, ‘we need to ban this, and we need to throw policing efforts at it’” [I23], aligned with the belief that “when it comes to drugs the wealth of research out there on the social, health, financial and ethical consequences of drug use is deliberately ignored in favour of irrational arguments based on the morality of drug use” [F196]. As such, the entrepreneurs continued to support “the call to get everything tested before it’s put on the shelves… We don’t want… it [to] become illegal because the best thing we can do is give people the freedom to choose rather than take it away” [N237]. These producers believed that more rational harm reduction could be achieved if the government “look[s] at the outcome of any kind of attempts at controlling and suppressing people’s use of substances… Banning things, trying to stop people consuming things, trying to censor information related to drugs” [F214], questioning “would banning their sale have prevented the tragic death of Henry Kwan?” [N193]. However, the activation of the moral obligations of the government had created “a dead end” [I23] for producer engagement in transactional exchanges. This was because the market was “policed by law enforcement agencies, just like other illicit drugs, with appropriate criminal penalties” [D18]. As such, the producers were no longer able to engage in legitimate transactional exchanges in the ‘legal high’ market.

6.4 The ‘Legal High’ Market T3

By the end of 2013, (hereafter Time Three T3) the ‘legal high’ market had dissipated. The actions of multiple actors during the third phase meant that “synthetic and illegal drugs… have no place in a
humane society” [N219] as “a combination of a small number of cases of irresponsible use, coupled
with nosey neighbourhood crusaders and a scandal driven media eventually resulted in their ban”
[N250]. The “crap, all evil, bad, awful products” that had become available drove the government to
“panic and they brought in laws that stopped any legal highs” [I29]. The toughened regulatory and
governance structures meant the ‘legal high’ products could not exist in the legal marketplace as
“homologue, analogue, chemical derivative or substance substantially similar in chemical
structure which covers all the undiscovered drugs to be sold on the internet in future” [F218] were
made illegal. The data shows that the market at T3 had moved out of the legal marketspace.

At T3, most producers were compliant with the regulations and bans. Many producers exited
the market, and those who had sold them as part of their recreation range “ticked all the boxes [by
not] continuing to sell them over the counter” [N240]. Compliance was enforced as producers “found
selling or advertising them could be arrested and face criminal charges… [closing] a loophole
dealers were using” [N241]. Furthermore, producers were “officially on notice and risk up to two
years in prison, $2000 fines, or both, if caught distributing synthetic drugs” [N233]. The producers
who were selling them as part of their recreation range had “been really crippled” [I1] and “had to
get rid of all of our products that were alternatives. Now we are just stuck with herbal products”
[I29]. For this reason, most producers who continued in the market were compliant with the
governance structures.

The majority of the ‘legal high’ consumers had exited the market at T3. The consumers
began “avoiding the proliferation of new and untested drugs… choosing the drugs they know”
[N141] over ‘legal high’ products that left them “paralysed, paranoid and terrified” [N260]. These
consumers “realise[d] this is not a safer option or alternative to actual cannabis. It’s much worse
than the real thing. We could potentially have died” [N237] because of the “complete
unpredictability of the concentration of active ingredients in those blends. It is like a lottery and if
you overdose because of that, it means you won the prize?” [F218]. Further deterring the consumers,
“anyone caught possessing the synthetic drug faces up to one year in jail under laws unveiled by the
government” [N259]. Those consumers that left the market without moving to the illicit drug markets
reflected: “It felt like it shouldn’t be something I should be using. I haven’t used it since” [I24], “I
would never do it again. Never. Like ever” [I25]. Therefore, those who had transacted as consumers
exited the market at T3.

The ‘legal high’ products were illicit substances at T3. The regulations had made the products
illegal as they were seen as “poison, a drug of dependence and very dangerous” [N259]. This was
because the “highly toxic synthetics, or so-called legal highs, have led to numerous deaths and
illness around the world” [N255], with media reports of “one woman… ask[ing] if she could eat [another’s] face off. She then… walk[ed] out of the store and [ate] a dead animal off the road” [N242]. Therefore, the product offerings were “declared illegal” [N249] based on the idea that “if it quacks like a duck, it’s a duck and if it smokes like a drug, it’s a drug” [N239]. This legislation also covered future product offerings as “any new compounds based on recent RC psychs are already illegal” [F224]. Therefore, the ‘legal high’ product offerings were illicit substances at T3.

As such, ‘legal high’ market at T3 no longer existed in the legal marketspace and was driven underground. Consumers exited the market, either completely, [e.g. I24; I25] or switched to traditional illicit drug substances [e.g. D16]. Producers also exited the market or were compliant with bans and did not sell the products. Therefore, at T3 the ‘legal high’ market ceased to exist in the legal recreation marketspace.

6.5 Summary of Phase Three of the Process

This section presents a summary of the findings from the third phase of the legitimation process. The ‘legal high’ market at T2 was constituted by predominantly exploitative producers, risk-taking consumers, harmful product offerings, deceptive branding and packaging, and accessible distribution. At this time, the basis of (il)legitimacy began to shift to markets that are (im)moral. The harm to consumers as a result of the actions in the battles from phase two, coupled with the mobilisation of families representing the community, triggered the unfolding of the third phase of the legitimation process in which three battles shaped the legitimacy of the market. First, the community battled the market over the proper way to judge vulnerability. Second, the competent risk-taking consumers battled the novice risk-taking consumers over who has the right to participate in the market. Finally, the government battled the producers over when the government has a moral obligation to restore social order in the market.

Actions were adopted by different actors as they engaged in battles for legitimation during phase three. These were predominantly macro-level actions that shifted the basis of legitimacy of the market. First, families representing the community through the media engaged in vulnerability ascribing actions when battling over the proper way to judge vulnerability. Second, the competent risk-taking consumers engaged in ascription rejecting actions and the novice risk-taking consumers engaged in co-operation enlisting actions when battling over who has the right to participate in the market. This battle was triggered by the ascription of vulnerability to consumers by the community through the media during the first battle. Finally, the first and second battles activated the moral obligations of the government to restore social order and prohibit the market. The third battle emerged as the government enacted comprehensive prohibitions on the products and the
transactional exchanges. As a result, the entrepreneurial producers made attempts to re-establish their legitimacy and regulate the market at the exchange-level, believing the government does not have a moral obligation to restore social order. However, these attempts were unsuccessful as the government continued to ensure the prohibition of the products and their transactional exchange.

The impact of the three battles was the market was no longer seen as legitimate and ceased to exist in the legal recreational marketspace. By this time, the ‘legal high’ products had become illicit substances, positioned in alignment with their illegal counterparts. Those producers who had included products as part of their recreational offerings, removed the ‘legal highs’ from their range. Those producers who had emerged in the market to take advantage of the business opportunity exited the legal market space. Similarly, the risk-taking consumers either exited the ‘legal high’ market to the illicit drug markets, or exited the recreational drug markets altogether. Therefore, the market at T3 was constituted by compliant producers, consumers who had exited the market, and illicit product offerings. By this time, the basis of (il)legitimacy had shifted to markets that are (il)legal.

6.6 The Processes of Legitimation in the ‘Legal High’ Market

Bringing together the insights from the three findings chapters, the full process of legitimation in the ‘legal high’ market occurred over three distinct phases. Initially, the market underwent a transactional legitimation and market opportunism phase in which new exchange-level actors entered the market and the dynamics of the transactional exchanges were negotiated. This phase was constituted by legitimation battles in which predominantly micro-level actions were adopted. Next, the market underwent a harm-minimising legitimation and market fracturing phase in which societal-level and exchange-level actors negotiated the definitions of harm and harm minimisation. This phase was constituted by legitimation battles in which micro and macro-level actions were adopted. Finally, the market underwent a moral (de)legitimation and market dissipation phase in which societal-level actors negotiated the morality of the market. This phase was constituted by legitimation battles in which predominantly macro-level actions were adopted. The three phases traced the processes of legitimation in the ‘legal high’ market from the emergence of the market to its dissipation are illustrated in Figure 10.
Figure 10 - The processes of legitimation in the 'legal high' market
Specifically, the market emerged as one in which few purist producers and pleasure-seeking consumers transacted for natural and unregulated product offerings with credible branding and packaging and exclusive distribution. During this time, the legitimacy of the market was based on the willing engagement of producers and consumers in transactional exchanges. The opportunism of new market actors triggered the first phase and drove the unfolding and development of three legitimation battles. First, the purist producers and entrepreneurial producers battled over what constitutes proper scientific production processes, whereby the purists engaged in purification recovering actions and the entrepreneurs engaged in cost-efficient improvising actions. Second, the pleasure-seeking consumers and entrepreneurial producers battled over what constitutes appropriate product and marketing practices, whereby the pleasure-seekers engaged in market disciplining actions and the entrepreneurs engaged in business appropriating actions. Third, the interactions of these actions triggered a third latent battle over when the societal-level actors have a normative obligation to claim a stake in the market.

By the end of the first phase, the market had become one in which predominantly entrepreneurial producers transacted with risk-taking consumers for ambiguous product offerings with misleading branding and packaging and selective distribution. The accumulation of the activation of normative obligations during the first phase triggered the shift of the basis of legitimacy, and began the second phase. At this time, the legitimacy of the market was based on minimal harm. The shift drove the unfolding and development of four legitimation battles. First, the news media actors and risk-taking consumers battled over who has the right to determine what is harmful consumption, whereby the news media engaged in community mobilising action and the consumers engaged in individual protecting actions. Second, the government and entrepreneurial producers battled over what is acceptable harm in a legitimate market, whereby the government actors engaged in selective prohibiting actions and the producers engaged in regulation skirting actions. Third, the producers and consumers battled over the appropriate standards for safe product and marketing practices, whereby the producers engaged in deliberate misleading actions and the consumers engaged in responsible participating actions. Fourth, the government actors and health professionals battled over the proper way for health professionals to be involved in the market, whereby the government actors engaged in collective policing actions and the health professionals engaged in co-optation resisting actions.

By the end of the second phase, the market had become one in which predominantly exploitative producers transacted with competent and novice risk-taking consumers for harmful products with deceptive branding and packaging and accessible distribution. The accumulation of actions during the second phase triggered the shift of the basis of legitimacy, beginning the third
phase. At this time, the legitimacy of the market was based on (im)morality. The shift drove the unfolding and development of three legitimation battles. First, the community actors challenged the market in a battle over the proper way to judge vulnerability, whereby the actors ascribed vulnerability to the consumers in the media using vulnerability ascribing actions. This triggered a second battle between the competent and novice risk-taking consumers over who has the right to participate in the market, whereby the competent consumers engaged in ascription rejecting actions and the novice consumers engaged in co-operation enlisting actions. The accumulation of the three actions from the first and second battles triggered a third latent battle over when the government has a moral obligation to restore social order in the market. In this case, restoring social order meant prohibiting the market. As such, the market exploration ended with one in which compliant producers did not transact with consumers as the consumers had exited the market. The product offerings had become illicit substances and were not distributed in the legal recreation markets. At this time, the legitimacy of the market was based on (il)legality.

6.7 Conclusion
This chapter presented the findings from the third phase of the legitimation process with the aim of concluding the exploration of the research question: how are the processes of legitimation shaped in contested markets? First, the chapter presented an overview of the market at T2, showing the market was constituted by predominantly exploitative producers, (novice and competent) risk-taking consumers, harmful product offerings, deceptive branding and packaging, and accessible distribution. Next, the chapter presented findings from the moral (de)legitimation and market dissipation phase. These findings involved three legitimation battles that shaped the legitimacy of the market and shifted it from T2 to T3. Finally, the chapter presented an overview of the market at T3, showing the market was constituted by compliant producers, consumers who had exited the market, illicit product offerings, no branding and packaging, and no legal distribution. The chapter concluded with a summary of phase three of the process, a summary of the full three-phase process of legitimation in the ‘legal high’ market, and an illustrative process model. The next chapter will build on these findings to draw general conclusions about the processes of legitimation in markets.
CHAPTER SEVEN: DISCUSSION AND CONCLUSIONS

A theory is a set of propositions – discursive or algebraic – which, when seeking to explain why or how situations – processes, events or states of affairs – come to be the way they are, identifies what entities to look out for, ... and in what relationship those entities stand vis-a-vis one another...

- From *After Taste* by Alan Warde (2014, p. 280)

7.1 Introduction

The preceding three chapters traced the processes of legitimation in the ‘legal high’ market in three phases over a five-year period. During the first phase, the legitimacy of the market was based on transactions between willing producers and consumers. Three legitimation battles shifted the basis of legitimacy and triggered the second phase. During the second phase, the legitimacy of the market was based on minimal harm. Four legitimation battles shifted the basis of legitimacy and triggered the third phase. During the third phase, the legitimacy of the market was based on morality. Three legitimation battles shifted the basis of legitimacy and triggered the dissipation of the market. In this chapter, these findings are abstracted to provide a theoretical model of the processes of legitimation in markets. The chapter continues with discussions of the theoretical and methodological contributions, practical implications, limitations and future research directions, and conclusions.

7.2 A Process Model of Legitimation in Markets

Markets are comprised of multiple actors at the exchange and societal levels who act and interact (Baker et al., 2019; Giesler & Fischer, 2017). Oftentimes, these actors purposively, or unintentionally, engage in actions and interactions that create, maintain or disrupt the legitimacy of an entity, product, actor category, practice or market (Dolbec & Fischer, 2015; Humphreys, 2010a). Extending this notion, this thesis advances that the actions adopted during these interactions configure as mechanisms through which broader marketplace change is triggered and observed (Jarzabkowski et al., 2016). When accumulated in certain configurations, the actions trigger shifts in the basis of legitimacy of the market. It is the interplay of the actions, during battles within and between exchange and societal-level actors, that works to erode, disrupt or shift the basis of legitimacy. Depending on which actors prevail in the battle, the actions accumulate in different configurations, triggering additional battles and accumulating alternative combinations of actions, until the market reaches a tipping point and a shift in the basis of legitimacy of the market is triggered. This process continues on the new basis of legitimacy until the configuration of actions triggers the next shift in the basis of legitimacy of the market. The subsequent sections discuss these generalised insights (summarised in Table 7), their contribution to organisation studies and marketing scholarship, and their implications for practice.
<table>
<thead>
<tr>
<th>Basis of Legitimacy</th>
<th>Legitimation Element</th>
<th>Actions</th>
<th>Impact on the Market</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transactions</td>
<td>Proper scientific production processes</td>
<td>Cost-efficient improvising, Purification recovering, Business appropriating, Market disciplining, Activation of normative obligations</td>
<td>Accumulation of micro-level actions configure and trigger a shift in the basis of legitimacy from <strong>transactions</strong> to <strong>harm</strong></td>
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<td></td>
<td>Appropriate product and marketing practices</td>
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<td></td>
<td>When the societal-level actors have a normative obligation to claim a stake in the market</td>
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<tr>
<td>Harm</td>
<td>The right to determine what is harmful consumption</td>
<td>Community mobilising, Individual protecting, Selective prohibiting, Regulation skirting, Deliberate misleading, Responsible participating, Collective policing, Co-optation resisting</td>
<td>Accumulation of micro and macro-level actions configure and trigger a shift in the basis of legitimacy from <strong>harm</strong> to <strong>morality</strong></td>
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<tr>
<td></td>
<td>Acceptable harm in a legitimate market</td>
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<td></td>
<td>Appropriate standards for safe product and marketing practices</td>
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<td>The proper way for professionals to be involved in markets</td>
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<tr>
<td>Morality</td>
<td>The proper way to judge vulnerability</td>
<td>Vulnerability ascribing, Ascription rejecting, Co-operation enlisting, Activation of moral obligations</td>
<td>Accumulation of macro-level actions configure and trigger a shift in the basis of legitimacy from <strong>morality</strong> to <strong>legality</strong></td>
</tr>
<tr>
<td></td>
<td>The right to participate in the market</td>
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<td></td>
<td>When the government has a moral obligation to restore social order in the market</td>
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</table>
During the first phase, legitimacy is based on transactions and consumers and producers regulate the market by willingly engaging in transactional exchanges until one or more actor groups perceive their needs are no longer met by the market. The unmet need triggers legitimation battles between exchange-level actors whereby they engage in micro-level actions over the transactions. The legitimation elements that constitute these battles are proper scientific production processes, appropriate product and marketing practices, and when the societal-level actors have a normative obligation to claim a stake in the market. When battling over these elements, the legitimacy actions adopted include cost-efficient improvising, purification recovering, business appropriating, market disciplining, and the activation of normative obligations of societal-level actors. The interplay between these actions, and the accumulation and configuration of those that prevail in the battles, shifts the basis of legitimacy to harm.

During the second phase, the consumers and producers engage in transactional exchanges, regulated by the exchange and societal-level actors, until consumers or other market actors are harmed. This triggers legitimation battles between and within the societal and exchange-level actors whereby they engage in micro and macro-level actions over harm minimisation. The legitimation elements that constitute these battles are the right to determine what is harmful consumption, acceptable harm in a legitimate market, appropriate standards for safe product and marketing practices, and the proper way for professionals to be involved in markets. When battling over these elements, the legitimacy actions adopted include community mobilising, individual protecting, selective prohibiting, regulation skirting, deliberate misleading, responsible participating, collective policing and co-optation resisting. The interplay between these actions shifts the basis of legitimacy to morality.

During the third phase, the exchange and societal-level actors regulate the market until the societal-level actors deem the harm caused by the market to be unmanageable. This triggers legitimation battles (predominantly) at the societal-level whereby the actors engage in macro-level actions over the morality of the market. The legitimation elements that constitute these battles are the proper way to judge vulnerability, the right to participate in the market and when the government has a moral obligation to restore social order in the market. When battling over these elements, the legitimacy actions adopted include vulnerability ascribing, ascription rejecting, cooperation enlisting, and the activation of moral obligations of the government. The interplay between these actions drives the market dissipation. The configuration of the actions, through which broader change is triggered, are illustrated in Figure 11.
Figure 11 - A process model of legitimation in markets
7.3 Theoretical and Methodological Contributions

This thesis responds to recent calls by marketing and organisation studies scholars to adopt a deeper process perspective to studying legitimacy, with a stronger focus on the interdependent interplay between multi-level actors (Baker et al., 2019; Suddaby et al., 2017). In doing so, three contributions are made to extant literature. First, this research provides theoretical contributions to the study of legitimacy and legitimation in marketing (e.g. Dolbec & Fischer, 2015; Humphreys, 2010a, 2010b; Humphreys et al., 2017; Humphreys & Latour, 2013; Scaraboto & Fischer, 2013) and organisation studies (Ashforth, 2019; e.g. Bitektine & Haack, 2015; Devers et al., 2009; Hallström & Boström, 2010; Hampel & Tracey, 2019; Helms et al., 2019; Suddaby et al., 2017; Suddaby & Greenwood, 2005). Second, this research provides theoretical contributions to the study of markets and marketing (e.g. Baker et al., 2019; Fligstein, 2001; Fligstein & Dauter, 2007; Harrison & Kjellberg, 2016; Nenonen et al., 2014; Storbacka & Nenonen, 2011a, 2011b). Third, this research provides methodological contributions to process-based understandings of markets (e.g. Dolbec & Fischer, 2015; Ertimur & Coskuner-Balli, 2015; Giesler, 2008; Humphreys, 2010a, 2010b; Karababa & Ger, 2011; Martin & Schouten, 2014; Parmentier & Fischer, 2015; Sandikci & Ger, 2010; Scaraboto & Fischer, 2013). These three contributions are discussed in the following sections.

7.3.1 Contributions to Legitimation

The primary contribution of this thesis is to the study of legitimation in markets. Legitimacy is understood to be a “generalised perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs and definitions” (Suchman, 1995, p. 574). Within established markets, products, actors, consumption practices, and the market itself are embedded in socially constructed cognitive and cultural schemas and are therefore taken for granted (Humphreys, 2010a, 2010b). When new markets, elements or entities emerge, a sequence of contestations among different actors may arise whereby they act and interact to align their divergent interests. The outcome of these contestations shapes the accepted structures and rules for exchange (Giesler, 2012). If the market, element or entity is determined to misalign with what is seen as appropriate to dominant actors, they will continue to be contested and may ultimately become stigmatised (Scaraboto & Fischer, 2013) or de-legitimised, and be driven out of the marketplace (Giesler, 2008; Humphreys et al., 2017) during the legitimation process. Previous research has provided insights into who (e.g. consumers, producers, government, news media) is involved in the legitimation process (e.g. Dolbec & Fischer, 2015; Humphreys, 2010b, 2010a; Humphreys & Latour, 2013; Scaraboto & Fischer, 2013), and what shifts in legitimacy occur as a result of the actions and interactions of actors (e.g. Humphreys, 2010a; Humphreys et al.,
Extant research has also begun to shed light on how legitimisation occurs or fails by focusing on the collective action of consumers in successfully or unsuccessfully creating change (e.g. Dolbec & Fischer, 2015; Scaraboto & Fischer, 2013). This thesis supports and extends this work by deeply exploring how shifts in the legitimacy of markets occur by focusing on the explicit micro and macro-level actions that accumulate and trigger change, and exploring the role of both exchange and societal-level actors in driving the legitimisation process. The insights into the processes of legitimisation in markets, captured in Table 8, led to several theoretical propositions, which will be discussed in turn.

New and established markets can be disrupted or destabilised by new entrants who challenge the existing marketplace norms and practices, triggering institutional change (Humphreys et al., 2017). In product markets, market actors can destabilise the market and create contestation by changing their material bases for product development or reconceptualising the products function, thereby challenging the established marketplace norms and practices (Nenonen et al., 2014). Contestation in markets begins when there is perceived to be a breach of social norms by the changes caused by these challenging actors that become publicly visible as an infraction of ordinary routines (Giesler, 2008). As such, when a market enters the transactional legitimisation and market opportunism phase, the emergence of new exchange-level actors (e.g. Komarova & Velthuis, 2018), who take entrepreneurial advantage of the opportunism and disrupt the ordinary marketplace routines, will lead to contestation between the initial actors and new entrants over the transactional exchanges. This is because when established “meanings, practices, and material resources are confronted by disruptive events, various social actors… have a diverse but loosely coordinated constellation of institutional incentives to maintain the status quo, thus protecting valued sources of economic, social, or cultural capital” (Humphreys & Thompson, 2014, p. 880). As such, the entrepreneurial actions of the new actors will result in legitimisation battles in which exchange-level actors adopt micro-level actions through which to shape what is seen as proper and appropriate in the market in terms of transactional exchanges. During this phase, the initial producers in the market battle the new entrants by attempting to purify the market (Press & Arnould, 2011) to protect the status quo and maintain their advantages (Humphreys et al., 2017). The established consumers battle the entrepreneurs by making use of online communities (O’Sullivan, 2015) to “encourage individuals to realise their common identity and the potential power of collective action” (Ward & Ostrom, 2006, p. 221) in maintaining the established transactional norms, and restabilising the market. Aligned with these ideas, the following propositions were developed:
Proposition 1a: When producers in a market contest proper scientific production processes, entrepreneurial producers will engage in cost-efficient improvising actions and purist producers will engage in purification recovering actions.

Proposition 1b: When consumers and producers in a market contest appropriate product and marketing practices, entrepreneurial producers will engage in business appropriating actions and consumers will engage in market disciplining actions.

Markets are stabilised when the product being exchanged has legitimacy with the consumers, and the producers are able to reproduce the transactions within habitual patterns, or socially accepted rules, meanings and practices (Fligstein, 2001; Humphreys, 2010a; Kjellberg & Olson, 2017). These structures work to govern the market (Kjellberg & Olson, 2017), and act to resolve conflict and contention between actors and regulate transactions through rules of exchange (Fligstein, 2001). Particularly in settings of market-mediated pleasure and risk, the rules of exchange dictate that producers should provide consumers with commercially approved consumption spaces that “help manage perceived risks (social, financial, physical, etc.)” (O’Sullivan, 2016, p. 1034). When stabilised, these spaces have “strong mechanisms of social control” that regulate the transactional exchange and consumption practices (O’Sullivan, 2016, p. 1033), and consumers govern themselves and their consumption through knowledge and assumptions about risk (Montelius & Nygren, 2014). Product standardisation has also become an increasingly important component in the rules of exchange within the market (Fligstein, 2001; Nenonen et al., 2014). If the entrepreneurial actors prevail in the battles, whereby cost-efficiency and profit-maximisation is prioritised over purity, quality and transparency, and therefore standardisation, the market becomes destabilised and the market structures no longer function effectively to regulate the market. This is because the producers are seen to be “armed with the prodigiously powerful technologies of advertising, promotion, public relations, market research and all the rest” to take “unfair advantage of vanity, cupidity, stupidity, sloth and every other human weaknesses for its own profit-maximising purposes” (Brown et al., 2012, p. 199). Within these purposes, producers have acted outside of the accepted rules of exchange regarding product standardisation (Fligstein, 2001) and manageable risks (O’Sullivan, 2016). The resultant configuration of the producer and consumer actions adopted in the battles will trigger the activation of the normative obligations of societal-level market actors to claim a stake in the market. Thus, the following proposition was derived:

Proposition 2: The interactions of cost-efficient improvising actions with purification recovering actions, and business appropriating actions with market disciplining actions will accumulate to trigger the activation of the normative obligations of societal-level actors when the cost-efficient improvising actions and business appropriating actions prevail in the battles.

The dominance of entrepreneurial actions that constitutes a failure in market structures signal to the societal-level actors that they should play a more dominant role in the market. These societal actors
emerge to defend and preserve the interests of the established actors against the threat of deviance by new actors (Humphreys et al., 2017; Perfetto & Dholakia, 2010), and to assure society that the market is being held to acceptable standards (Humphreys, 2010a) within the rules of exchange (Fligstein, 2001). Additionally, when the practices of actors are deemed to be misaligned within acceptable standards, and the market structures are failing to function to govern the market, the resulting activation of societal-level normative obligations will trigger a shift in the basis of legitimacy of the market. Without the effective functioning of the market structures and mechanisms, and the protections that these provide, the marketspace begins to provide higher potential for harm to exchange-level actors. As such, the product offerings begin to be classified as harmful as the societal-level actors emerge to regulate the market by constructing medical boundaries around what is acceptable and unacceptable marketplace practice (Goulding et al., 2009). Therefore, harm becomes focal for the basis on which market decisions are made. This led to the following proposition:

**Proposition 3:** The accumulation of activated normative obligations of societal-level actors will shift the basis of legitimacy of the market from transactions to harm.

The shift in the basis of the legitimacy of the market from transactions to harm triggers the next phase of the legitimation process.

The shift in the basis of legitimacy from transactions to harm, and the resultant emergence of societal-level actors into dominant roles in the market, continues the construction of medical boundaries around the market and products therein at the societal-level. The establishment of medical boundaries drives the construction of legal boundaries to regulate the market and determine which marketplace practices are appropriate and inappropriate (Bright et al., 2008; Goulding et al., 2009). During this harm-minimising legitimation and market fracturing phase, the boundaries for appropriateness are determined based on minimal harm, and societal-level regulation is introduced to contain and control visible risk of harm (Moore & Measham, 2012). As such, the societal-level actors begin to determine that those consumption practices that cause unmanageable harm are inappropriate in society, differentiating them from those consumption practices that are constituted by manageable (or minimal) harm (Goulding et al., 2009). This adoption of more dominant marketplace roles by societal-level actors, and the regulation of the transactional exchanges within the market, will lead to contestation within and between the exchange and societal-level actors over harm minimisation, based on their differing definitions of harm. Consequently, the contestation will result in legitimation battles in which the exchange and societal-level actors will adopt micro and macro-level actions through which to shape what is seen as proper, appropriate and acceptable in
the market in terms of harm minimisation. Aligned with this, the following propositions were developed:

Proposition 4a: When societal-level and exchange-level actors in a market contest who has the right to determine what is harmful consumption, societal-level actors will engage in community mobilising actions and exchange-level actors will engage in individual protecting actions.

Proposition 4b: When societal-level and exchange-level actors in a market contest acceptable harm in a legitimate market, societal-level actors will engage in selective prohibiting actions and exchange-level actors will engage in regulation skirting actions.

Proposition 4c: When exchange-level actors in a market contest the appropriate standards for safe product and marketing practices, entrepreneurial producers will engage in deliberate misleading actions and risk-taking consumers will engage in responsible participating actions.

Proposition 4d: When societal-level actors in a market contest the proper way for professionals to be involved in markets, the government will engage in collective policing actions and professionals will engage in co-optation resisting actions.

When societal-level mechanisms are used to regulate the transactional exchanges, the exchange-level actors will adopt actions that allow them to thwart policy makers and circumvent laws and regulations (e.g. Karababa & Ger, 2011) to continue their engagement in the transactional exchanges. As such, the market becomes one in which exchange and societal-level actors get caught in a game of ‘cat and mouse’ over control of the market (Bright et al., 2013; Goulding et al., 2009; Moore & Measham, 2012). Consequently, fracturing begins to occur within and between exchange and societal-level actors as they make attempts to minimise harm. At the societal-level, the construction of both medical and legal boundaries for appropriateness (Bright et al., 2008; Goulding et al., 2009) can cause divergence in the goals of the actors as they act to minimise harm. The government actors adopt regulatory mechanisms to prohibit those products that cause visible harm (Moore & Measham, 2012), thereby enacting harm minimisation through selective prohibition. However, the actions adopted by exchange-level actors to circumvent laws and regulations can provide a space in which the government has reduced capacity to effectively enforce the prohibition (Klein, 2017). Devoid of the ability to enforce regulations to effectively reduce harm on their own, the government may recruit other dominant societal-level actors, such as health professionals (Bright et al., 2013) to collectively police the market and reduce harm. However, the collective policing at the societal-level can create tension for the professionals as they work to reduce harm at the individual-level (Bull et al., 2016; Coomber et al., 2019). Their professionals values to act in the best interest of the patient or client (Wright et al., 2017) by providing care to individuals (Mansfield et al., 2011) may not align with the regulatory aims of the government.
Additionally, when consumers and producers adopt differing, and often opposing, definitions of harm and appropriate practices from the societal-level actors, the exchange-level actors adopt actions that respond to the societal-level construction of medical and legal boundaries of control within the market (Bright et al., 2008; Goulding et al., 2009). For example, consumers may determine the harms associated with failing an occupational drug test outweigh the harms associated with little toxicology data surrounding the product offerings (Bright et al., 2013), and therefore determine minimal harm to be the responsible participation in the market to avoid detection. When these exchange-level actors have opposing definitions of what is appropriate in the market they may mobilise to create change (e.g. Scaraboto & Fischer, 2013) and adopt actions to resist the societal-level control mechanisms. However, if the actions adopted by the consumers and producers do not align with the actors’ respective values, fracturing may also occur at the exchange-level. That is, when legal and medical boundaries are constructed, consumers require information and knowledge in order to govern their behaviour and manage the risks of harm (Montelius & Nygren, 2014). Adversely, producers require the product offerings to be ‘pacified’, allowing for them to be packaged as discrete entities from the harmful products contested by the societal-level actors (Finch & Geiger, 2011). This may involve a deliberate reduction of information in order to position the products as distinct from those that have been prohibited. Consequently, “consumers, devoid of necessary information, may take considerable consumption “gambles,” which, in some instances, can lead to serious injury, or even death” (O’Sullivan, 2015, p. 285). These adverse effects can, in turn, develop discussions of morality (Bright et al., 2013), which consequently shifts the basis of legitimacy from harm to morality. Thus, the following proposition was derived:

**Proposition 5**: The interaction of community mobilising actions with individual protecting actions, selective prohibiting actions with regulation skirting actions, deliberate misleading actions with responsible participating actions, and collective policing actions with co-optation resisting actions will shift the basis of legitimacy of the market from harm to morality.

The shift in the basis of the legitimacy of the market from harm to morality triggers the next phase of the legitimation process.

The shift in the basis of legitimacy from harm to morality begins the moral (de)legitimation and market dissipation phase. Upon this legitimacy base, if the negative effects associated with transacting in the market amass, moral outrage or panic can ensue (Gollnhofer & Kuruoğlu, 2018). Moral panic involves the construction, through the media or other dominant vehicle, of an entity as a threat to society (Bright et al., 2013), focusing on ‘bad news’ and suppressing ‘good news’ on a topic (Brown et al., 2012). Through this discursive action, the consumer is constructed as vulnerable as the reduction of information through which to evaluate and manage risks (O’Sullivan, 2015) can
lead to levels of harm perceived as a threat to society. The accumulation of the discursive actions used as mechanisms to construct risk and vulnerability shift the market to one in which moralised language of filth, rot and decay becomes dominant (e.g. Humphreys, 2010b), and whereby the market becomes morally threatening to society (Sandikci & Ger, 2010). This shifts constructs new norms around what is appropriate and “forc[es] individuals into self-governance according to the norms of what it means to make the ‘right choice’” (Montelius & Nygren, 2014, p. 434), positioning those who do not comply with the norms as ‘undesirables’ and excluding them from legitimacy (Humphreys, 2010a). The development of new norms around the ‘right’ choice when confronted with risk, also “has the effect of dividing people into those who are thought of as being more risk-prone than others, and those who are not” (Montelius & Nygren, 2014, p. 434), and also those who are competent in navigating the risks and those who are not. The shift to morality and the consequent norms will result in legitimation battles in which the societal-level actors will adopt macro-level actions through which to shape what is seen as proper and right in terms of morality. Aligned with this, the following propositions were developed:

**Proposition 6**: When societal-level actors in a market contest the proper way to judge vulnerability, the actors will engage in vulnerability ascribing actions.

**Proposition 7a**: The ascription of vulnerability to consumer actors will trigger a battle over who has the right to participate in the market.

**Proposition 7b**: When consumers in a market contest who has the right to participate in the market, competent risk-taking consumers will engage in ascription rejecting actions and novice risk-taking consumers will engage in co-operation enlisting actions.

When markets are subject to the discursive shifts to morality and moral panic, the narrative may quickly dissipate (Humphreys & Thompson, 2014) or may have significant and lasting repercussions at the societal-level (Bright et al., 2013). In those instances where the shifts are lasting, and the market is constituted by “products, services or experiences that some consider dark, depraved or disgusting, it is for legislators… to draw the line” (Brown et al., 2012, p. 199). As such, the discursive shifts in the market, if lasting, will trigger the moral obligation of the government to restore social order. In the case of markets of harm, this is most commonly done through prohibition and criminalisation (Moore & Measham, 2012). This led to the following propositions:

**Proposition 8**: The accumulation of actions focused on morality will trigger the activation of moral obligations of the government to shut down the market.

**Proposition 9**: The activation of moral obligations of the government actors to prohibit the market will shift the basis of legitimacy of the market from morality to legality, and cause the market to dissipate.
Once a market has reached the point at which the government enacts a moral obligation to restore social order, there is no rational basis for decision-making, and the market must be prohibited. The enactment of prohibition and criminalisation by the government will shift the basis of legitimacy of the market from morality to legality, and the market will dissipate or shift underground.

By theorising the processes of legitimation in markets and advancing these propositions, this research extends current understandings of legitimacy and legitimation by exploring the actions and triggers that shape the processes of legitimation in markets. However, contrary to previous research, whereby the dominant property of the market legitimacy shifts between regulative, normative and cultural-cognitive (e.g. Dolbec & Fischer, 2015; Humphreys, 2010a, 2010b; Humphreys & Latour, 2013; Scaraboto & Fischer, 2013), this thesis proposes that it is the basis on which legitimacy judgements are determined by market actors that shifts. Depending on the basis of legitimacy of the market, prominence will be given to different market elements and their property of legitimacy as they are contested or challenged. Those elements that align with the basis of legitimacy will remain uncontested, and therefore the judgments of the property of legitimacy (i.e. regulative, normative, and/or cultural cognitive) of the element will be less visible than those that are challenged during the legitimation battles. As such, this research proposes that the processes of legitimation are constituted by battles within and between multi-level actors as they adopt actions to align different elements of the market with the basis for legitimacy. Additionally, extending the notion that shifts to a basis of morality can quickly dissipate (Humphreys & Thompson, 2014), insights from the findings demonstrate that lasting shifts in the legitimacy of the market require the full process to be followed – shifting the market from legitimacy based on transactions, to harm, to morality. Market actions that strive to shift the market directly from a base of transactional legitimacy to moral (il)legitimacy, thereby moralising the basis for marketplace decisions, will decrease the potential for lasting change.

Traditionally, legitimacy scholars in marketing have drawn on institutional work to explain the actions through which market actors attempt to create change in markets (e.g. Dolbec & Fischer, 2015; Humphreys et al., 2017). Insights from the seminal research in organisation studies show that actors may engage in work aimed at creating, maintaining or disrupting the legitimacy of a field (Gawer & Phillips, 2013), in this case a market. However, there are “a relatively infinite range of processes, events, or sets of activities, that adhere into different configurations of practices or processes through which legitimacy is created” (Suddaby et al., 2017, p. 462). Building on the forms of institutional work advanced in organisation studies by Lawrence and Suddaby (2006) and brought into market theorisations by Dolbec and Fischer (2015) and Humphreys, Chaney and Ben Slimane (2017), the insights from the findings in this thesis provide specific actions through which
multi-level actors work to create, maintain or disrupt the legitimacy of elements of a market. The theorisation of these generalisable multi-level actions extends previous research on legitimacy work by tying the actions to the basis of legitimacy of the market during the phase. This means that actors can simultaneously engage in actions aimed at creating, maintaining and/or disrupting the legitimacy of a market element, but provides boundaries around the sort of actions that may be engaged in depending on the basis of legitimacy of the market, or other organisational field. Additionally, the focused actions, depending on whether they prevail in the legitimation battles, allow actors to enable and foster the change process (Seo & Creed, 2002) thereby triggering a shift in the basis of legitimacy, or disrupt the change process and retain (or reverse) the shifts in legitimacy.

Extant research on legitimacy work has also focused predominantly on the discursive efforts by actors to create maintain or disrupt the legitimacy of an entity. This research has included the exploration of the words (e.g. Maguire & Hardy, 2009; Suddaby & Greenwood, 2005; Vaara & Tienari, 2008) and images (e.g. Lefsrud et al., 2019) actors produce in their persuasive efforts. However, prior research does not account for the non-discursive actions that constitute legitimacy work as actors work to shape the legitimacy of the entity or field. Additionally, less scholarly attention has been dedicated to the disruption of the legitimacy of an entity or field through purposive legitimacy work than the creation and maintenance of institutions (Hwang & Colyvas, 2011; Lawrence & Suddaby, 2006). Extending prior marketing research exploring the unintended disruption to legitimacy by the work of actors (Dolbec & Fischer, 2015), and the struggle between maintaining and disrupting institutions in contested markets (Humphreys et al., 2017), the research in this thesis explores the specific discursive and non-discursive efforts that multi-level market actors engage in to purposively or unintentionally shape the legitimacy of a market. These findings provide an extension to the contributions of prior research in the area by advancing specific propositions for this multi-level legitimacy work, and its impact on the legitimacy of a market.

In addition to contributions to marketing, the findings from this thesis provide contributions to the theorisation of legitimation in organisation studies. Legitimation research has positioned entities as continually engaging in negotiations to create, recreate and conquer legitimacy (Hallström & Boström, 2010), whereby entities or fields are perceived as legitimate through this process when demonstrating appropriateness, and non-legitimate when they are perceived as demonstrating inappropriateness (Devers et al., 2009). However, this research has also been argued to adopt distinct and differing assumptions about legitimation by focusing on different elements of a complex and multi-level phenomenon, and prioritising ‘strength’ of legitimacy, without providing strong construct clarity around the processes themselves (Suddaby et al., 2017). Responding to the
calls for the enhancement of construct clarity in theory (Suddaby, 2010b, 2014), this thesis deviates from the focus on the strength of legitimacy of the field, clearly theorising the actions and triggers within the legitimation process, the actions adopted during this process, and who gets to determine the legitimacy of the field. Extending the work of Bitektine and Haack (2015) on the multi-level micro and macro theory of the legitimacy process, the findings from this thesis advance specific actions at both the micro and macro-levels that can be adopted during the process. This extent work theorises the process as a multi-level one, whereby societal-level and individual-level actors play a role in the collective construction or disruption of legitimacy through individual and collective judgements. However, the types of actions themselves are not theorised, and the evaluations, expectations and judgements of actors regarding the legitimacy of the field are focal. As such, the generalised findings from this thesis contribute to extant research in organisation studies by proposing the types of specific legitimation elements and actions that are linked to the differing basis of legitimacy of the field. While these findings are most relevant to shifts in legitimacy in markets, and the processes surrounding these shifts, some of the legitimation elements and actions may also be applicable to organisations. Therefore, this research provides the foundation on which to explore the “relatively infinite range of processes, events, or sets of activities… through which legitimacy is created” (Suddaby et al., 2017, p. 462).

Finally, this thesis contributes to the ongoing debate in organisation studies about stigma and (il)legitimacy by shedding new light on the process by which legitimacy is shaped (and lost) and the role of morality in the process. The findings from this research support Ashforth’s (2019) assertions that “moral overtones can too easily trigger pernicious effects that damage not only the actor, but the moral fabric of the system itself“ (p. 23), can lead to problematical moral emotions, and are contagious and can pressure other actors in the network to react. This was seen in the moral (de)legitimation and market dissipation phase of the legitimation process whereby vulnerability was ascribed to consumers, creating a moral overtone and triggering reactive change in the market. Additionally, these findings support the arguments that stigmatised (or (de)moralised) actors can be legitimate, and that contested entities can persist despite (or in spite of) being perceived negatively by some actors if other actors have a pragmatic interest in the entity (Helms et al., 2019). However, the findings also support the arguments that morality governs social interaction, and stigma is useful in exploring the negative side of legitimacy, as opposed to the lack of social support and legitimacy (Hampel & Tracey, 2019). As such, this thesis challenges the assertion that legitimacy should be completely uncoupled from stigma, but proposes that stigma and vulnerability are intertwined with moral (de)legitimation. However, stigma and vulnerability are not always coupled with legitimacy, as seen in the transactional and harm-minimising phases of the process.
<table>
<thead>
<tr>
<th>Phase</th>
<th>Transactional Legitimation and Market Opportunism</th>
<th>Harm-Minimising Legitimation and Market Fracturing</th>
<th>Moral (De)Legitimation and Market Dissipation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basis of market legitimacy [Property]</td>
<td>Markets are legitimate when consumers and producers willingly engage in transactional exchanges</td>
<td>Markets are legitimate when they cause minimal harm</td>
<td>Markets are (i)legitimate when they are (im)moral</td>
</tr>
<tr>
<td>Actors</td>
<td>Predominantly exchange-level</td>
<td>Societal and exchange-level</td>
<td>Predominantly societal-level</td>
</tr>
</tbody>
</table>
| Legitimation elements [Process] | Proper scientific production processes  
Appropriate product and marketing practices  
When the societal-level actors have a normative obligation to claim a stake in the market | The right to determine what is harmful consumption  
Acceptable harm in a legitimate market  
Appropriate standards for safe product and marketing practices  
The proper way for professionals to be involved in markets | The proper way to judge vulnerability  
The right to participate in the market  
When the government has a moral obligation to restore social order in the market |
| Multi-level actions [Process] | Cost-efficient improvising  
Purification recovering  
Business appropriating  
Market disciplining  
** Activation of normative obligations | Community mobilising  
Individual protecting  
Selective prohibiting  
Regulation skirting  
Deliberate misleading  
Responsible participating  
Collective policing  
Co-optation resisting | Vulnerability ascribing  
** Ascription rejecting  
* Co-operation enlisting  
** Activation of moral obligations |

* refers to the interaction between actions during a battle. ** refers to the triggering of an action as a result of previous actions.
7.3.2 Contributions to Market Theorisation

In addition to legitimation in markets, this thesis contributes more generally to the theorisation of markets and understandings of market dynamics in three ways. First, this research extends the theoretical insights into the study of markets (e.g. Dolbec & Fischer, 2015; Giesler & Veresiu, 2014; Martin & Schouten, 2014; Scaraboto & Fischer, 2013) by moving beyond the consumer subject and the shaping of markets through consumption. Second, theoretical insights are provided to the exploration of contested markets (e.g. Giesler, 2008; Luedicke & Giesler, 2008; Marcoux & Legoux, 2005) as contextual settings for understanding markets, providing a definition for contested markets. Finally, this thesis contributes to the extant understandings of regulation in markets (e.g. Dao Truong et al., 2016; Goulding et al., 2009), progressing towards a performative view of regulation and market shaping. These three insights are discussed in more detail in the following sections.

Markets are understood in terms of transactional exchanges (Finch & Geiger, 2011; Fligstein, 2001; Nenonen et al., 2014), in that they exist when there is a need that can be served through the reproduction of production, trade and exchange (Geroski, 1996). They are spaces of constituted by actors exchanging objects, goods, and services (Finch & Geiger, 2010). Aligned with this, consumer and producer actors have been given prominence in market theorisation as their willingness and capacity to engage in market exchanges shapes the market through their ongoing enactments of economised exchanges (Nenonen et al., 2014). More recently, markets have been shown to constantly change and evolve as a consequence of the actions therein (Baker et al., 2019), shaped through configurations and collective actions of multiple actors (Hietanen & Rokka, 2015). Aligned with this shift to multi-level market perspectives, there has been recent identification that a broader set of actors play an important role in shaping markets, including journalists, policy makers, and scientists (Giesler & Fischer, 2017). Vast theoretical understandings of market shaping have been already been advanced by researchers within the CCT scholarship (e.g. Dolbec & Fischer, 2015; Ghaffari et al., 2019; Giesler & Veresiu, 2014; Kozinets, 2002; Kuruoğlu & Ger, 2015; Martin & Schouten, 2014; Sandikei & Ger, 2010; Scaraboto & Fischer, 2013; Thompson & Coskuner-Balli, 2007). This thesis contributes to the theorisation of markets by supporting and extending these theorisations, and moving beyond the consumer subject to a multi-level perspective. Responding to recent calls to adopt multi-level perspectives (e.g. Baker et al., 2019), this research situates consumers and producers in the broader market environment, focusing on the actions of various institutional actors in shaping the markets, over and above consumption and transactional exchange.

Within marketing scholarship, contested markets have provided previous researchers with rich contextual settings in which to explore phenomena regarding marketing, markets, market actors and
consumption (e.g. Belk et al., 1998; Goulding et al., 2009; Humphreys et al., 2017; Marcoux & Legoux, 2005). This thesis supports and extends the work done in CCT by demonstrating the value of adopting a contested market setting for the exploration of processes, actions and triggers. The appropriateness of the exploration of market dynamics in contested markets is founded on the notion that these markets are spaces of multiple and conflicting or contradictory meanings and values (Marcoux & Legoux, 2005), whereby actors engage in a range of disruptive and maintenance behaviours (Luedicke & Giesler, 2008). Therefore, these market spaces provide contexts in which actors disagree (Venturini, 2010), and confront their interests, beliefs, values and opinions by comparing them with those of others, thereby shaping and transforming the market (Blanchet & Depeyre, 2016). As such, contested markets provide settings in constant state of flux, with evident processes of creation, emergence and becoming (Jarzabkowski et al., 2016; Sandberg et al., 2015). Aligned with these ideas, this thesis suggests that market settings that are devoid of conflict or contestation will not change. Therefore, understanding the processes of evolution, transformation and change in markets requires the exploration of marketing phenomena in contested settings.

Providing an anchor on which to build future market theorisations, this thesis advances a definition of contested markets: *market spaces in which actors with divergent interests are in conflict as they struggle over meaning of some element of the market, or the market itself, and engage in actions to challenge, disrupt or destabilise the legitimacy of the element or market.*

Markets have also been discussed in extant literature in terms of regulation (e.g. Dao Truong et al., 2016; Goulding et al., 2009; Humphreys, 2010a; Kjellberg & Olson, 2017; Klein, 2017). Within these market discussions, regulation is positioned as a tool through which markets are controlled and governed. That is, when markets are misaligned with the dominant assumptions of appropriateness in the field, they are framed as inappropriate through the construction of legal boundaries (Dao Truong et al., 2016; Goulding et al., 2009) and regulated out of the field by government and policy markets (Humphreys, 2010a; Humphreys et al., 2017). In this way, regulation and legal sanctions are used to govern and control the market and ensure compliance with the dominant institutions in society (Kjellberg & Olson, 2017). Departing from these assumptions, this thesis contributes to the understandings of regulation in markets by adopting a performative perspective. That is, in addition to the societal-level mechanism by which markets governed and controlled, and social order is ensured, regulation is performed by actors at the exchange and societal-levels. Regulation is evident in through the actions by which different actors regulate
themselves, other actors, and the broader market. Additionally, through the performance of regulation at the micro-level, consumers and producers are able to conceal a market that might otherwise be subject to legal governing and control at the societal-level (e.g. Kjellberg & Olson, 2017; Klein, 2017). This is contrary to the positioning of regulative legitimacy and legality as synonymous in extant literature (Humphreys, 2010a, 2010b; Scaraboto & Fischer, 2013). Instead, legality is one of the mechanisms through which the subject of legitimacy can obtain or lose regulative legitimacy.

7.3.3 Contributions to Process-Based Understandings

In addition to the theoretical contributions, this thesis offers methodological contributions to the examination of markets. The adoption of processual longitudinal methods to the exploration of market dynamics provides a foundation and point of departure for future research interested in changes in markets. The adoption of processual methods requires data that is rich, varied, and multilayered (Belk et al., 2013). As such, in addition to micro-level data (e.g. interviews, photographs, and social media posts), macro-level data (e.g. institutional and policy documents, commercials, print ads, leaflets, and other promotional materials) can also be included in the dataset to capture the multi-level nature of markets (Giesler & Thompson, 2016). Additionally, strong processual research data often includes audio and video recordings, transcripts, and/or observational notes, complemented with internal and external documents, interviews and informal discussions (Jarzabkowski et al., 2016). In order to analyse and examine the processes in this multi-level data, prolonged, deep and rigorous engagement is required (Langley et al., 2013). This often requires engagement at least partially in real time to uncover the emergent and enacted processes in the setting (Jarzabkowski et al., 2016). As such, previous researchers interested in processes in markets have found ethnography to be an appropriate method through which to explore their phenomena in real time (e.g. Figueiredo & Scaraboto, 2016; Gebhardt, Carpenter, & Sherry, 2006; Martin & Schouten, 2014). Extending this common methodological approach, this thesis advances an additional methodological approach to the exploration of processes in markets through deep engagement with archival data in addition to interviews and other data. Following the procedures of processual research in organisation studies (e.g. Fan & Zietsma, 2017; Howard-Grenville et al., 2013; Toubiana & Zietsma, 2016; Wright & Zammuto, 2013), this research demonstrates the depth of insight and understanding that can be gained through this method and the “extensive real-time record of actors, actions, interactions, and outcomes” (Fan & Zietsma, 2017, p. 2326) it provides. As such, a methodological contribution is made by providing a foundation on which depth processual research methods can be brought to the study of markets.
7.4 Practical Implications

The theorisation of the processes of legitimation in contested markets in this thesis makes two key practical implications, for social marketers and for public policy makers. Extant research has demonstrated that preventative and harm minimisation appeals have not been very successful in preventing or changing consumption behaviours in markets of harm (e.g. Duff, 2004). This may be in part due to attempts of social marketers, and other societal-level actors, to drive behaviour change in dark markets or markets of harm (Brown et al., 2012; Coomber, 2014) through a discursive shift from transactions to morality. The theorisation of the processes of legitimation in markets in this thesis demonstrates that in order to shift the basis of legitimacy of a market to one of morality, actions that determine the market is harmful first need to accumulate and be configured as mechanisms of change. That is, the process of constructing the market as harmful cannot be overlooked in creating a moral argument in markets. This may explain why some discursive shifts in markets are short-lived, despite the morality of the market being called into question (e.g. Humphreys & Thompson, 2014). Similarly, public policy makers should be aware of actions adopted by different market actors, and consider the consequences of societal-level intervention in markets. For example, similar processes of legitimation have been seen in the market for non-pasteurised milk, whereby producers engaged in deliberate misleading in response to government intervention by relabelling the milk as ‘bath milk’ and ‘not for human consumption’, and using branding and packaging to signal the consumption purposes to consumers. These micro-level actions prevailed in the battles and thus the societal-level actions did not trigger a lasting shift to morality (Joubert, 2018).

The development of societal-level interventions should also consider the consequence of a shift in the basis of legitimacy to morality (e.g. Ashforth, 2019). As seen with the current debates in the news on pill testing in Australia, for example, whereby arguments have been raised that harm minimisation would entail the empowerment of consumers through information on the contents of their illicit drug substances but are dismissed due to the ‘immorality’ of the drug markets, rational decisions are difficult to make in ‘immoral’ markets. The illicit drug market followed similar phases of (de)legitimation (see Appendix Seven for a brief history of, now illicit, drugs) as the market moved from transactional legitimacy to harm-minimising legitimacy to moral (il)legitimacy, over a longer period of time. The legislative changes and other regulatory structures that formed part of the actions undertaken by societal-level actors during the harm-minimising phase of the de-legitimation means that arguments for pill testing, even if it will reduce harm, cannot be reconciled by many societal-level actors. This conflict arises as the institutions in society, determined by the regulatory structures and mechanisms, have positioned drug use as inappropriate. As such, allowing testing
pills for consumers is seen by these societal-level actors as sanctioning their consumption of the products, which the dominant institutions determine is inappropriate. It can be argued that similar, but opposite, issues can be seen in the case of the American market for guns and the current moral debates surrounding the problem. This example contrasts the pill testing case as the discussion centres on the morality of removing the guns, and therefore violating the freedom of the consumers. In this instance, a shift to a basis of morality might enable the maintenance of the market rather than its dissipation.

7.5 Limitations and Future Research Directions

The aim of this thesis was to engage an in-depth exploration of the processes of legitimation in markets over time. As discussed in Chapter Three, the Australian ‘legal high’ market between 2009 and 2013 was purposively chosen as a compelling research setting (Siggelkow, 2007) through which to explore this phenomenon as it provided transparently observable (Eisenhardt, 1989; Pettigrew, 2008) actions and triggers throughout a full phase of legitimation (from legitimacy to lack of legitimacy). This setting provided access to rich data from multi-level actors that visibly demonstrated how the actions of different market actors shape the basis of the legitimacy of the market. However, the purposive choice of an extreme and transparent setting requires consideration of the context of the context and the limitations that may arise as a result. Askegaard and Linnet (2011) argue that “dependence on context is a kind of limited relativism, which can in the extreme lead to a particularism that makes subjects of study analytically incomparable, by encapsulating them within their respective unique and intricate connection to context” (p. 396). The ‘legal high’ market setting was a novel context constituted by multiple social, cultural and political actions, which may not be present in other markets. This context was also intertwined, and occasionally inseparable, from the illicit drug market context and the socio-historic narratives and agendas therein. This complex link in itself may have created contextual factors that were focal in the findings of the thesis but are not apparent in the processes of legitimation in other contested markets. Future research of the processes of legitimation should consider the selection of markets that do not have such strong links to illicit markets to determine whether the theoretical assertions that were abstracted from the ‘legal high’ market setting can be generalised to other markets and cultural fields.

Aligned with this, future research on the processes of legitimation in markets might consider how the basis of legitimacy is shaped through multi-level actions in other markets. The findings from this thesis showed that a number of battles shifted the basis of legitimacy from transactions, to harms, and to morality, and the accumulation of actions drove these changes. Exploring the processes of legitimation in other contested market settings may uncover further battles,
legitimation elements, and actions that drive change. For instance, a number of the battles, particularly during the first phase, centred on consumable products and their marketing and production. Future research might consider service or product market settings in which the products are not designed for human consumption. These alternative contested market settings may provide the potential to uncover additional elements and actions for driving change. Additionally, the processes of legitimation might be explored in future research in market settings constituted by power differences between actors. The actors within the ‘legal high’ market did not have vast power differences – that is, the actors had significant power to influence the market through their adoption of actions. Other market settings in which there are significant power differences (e.g. the energy or tobaccos industries, etc.) might provide additional elements and actions, and alternative or contrary shifts in legitimacy. Future research might also consider the role of different professionals in the process of legitimation in markets. The ‘legal high’ market provided a setting in which health professionals enacted their professional values due to the harms involved in consuming the products. Other contested market settings might not see health professionals playing a dominant role. Furthermore, these market settings might also uncover additional actions adopted by other professionals. Table 9 identifies potential questions to guide future research inquiries.

Table 9 - Future research directions

<table>
<thead>
<tr>
<th>Potential questions to guide future research inquiries</th>
</tr>
</thead>
<tbody>
<tr>
<td>• How are the processes of legitimation shaped in contested service markets?</td>
</tr>
<tr>
<td>• How are the processes of legitimation shaped in contested markets constituted by significant power differences?</td>
</tr>
<tr>
<td>• Do markets that shift to a moral basis for legitimacy always dissipate? How do the processes of legitimation shape market maintenance/dissipation?</td>
</tr>
<tr>
<td>• Which actions are most important in shaping markets and driving change?</td>
</tr>
<tr>
<td>• Under what circumstances might the shifts in the basis of legitimacy be reversed?</td>
</tr>
</tbody>
</table>

In addition to the contextual limitations, this thesis is subject to methodological limitations. The research conducted in this thesis occurred “after the fact” as the market was already in the third phase by the time the data collection began. While this provided the benefit of a clear end point for the analysis, future research may wish to consider the processes as they are unfolding. Immersion in the research setting at the time in which the processes develop and unfold will allow for interviews, and other data, to be collected at the time of the events rather than participants reflecting back to the time. This will allow for clarifications and depth to be obtained without the experiences and reflections of the participants being influenced or shaped by subsequent events that have occurred in the market. That is, in this thesis, interviews occurred after the market had already moved into the third phase and the basis of legitimacy was one of morality. As such, it is possible that the participants were influenced by this in the recall of their experience. Furthermore, engagement and involvement in the setting at the time of the occurrence of events “provides researchers not only
access to, but also an appreciation of, specialists’ views, activities, and interests” (Langley et al., 2013, p. 6). The data collected in this thesis included archival data from the time at which the processes were developing and unfolding, however, the analysis of this data after the processes have ceased may have neglected important views from the time. Identifying and exploring new markets as they emerge may provide future researchers with the opportunity to explore the processes of legitimation as they develop and unfold. However, it is important for careful consideration of the new market to occur to ensure it provides a novel or intriguing setting. These markets will be more likely to have the potential to trigger contestation or battles among different market actors, and begin the legitimation processes.

7.6 Conclusion
This chapter began with the discussion of a process model of legitimation in markets with the aim of answering the research question: how are the processes of legitimation shaped in contested markets? Next, the theoretical and methodological contributions were discussed in depth. First, the research in this thesis contributes to the study in legitimacy and legitimation in organisational studies and marketing. A set of propositions were advanced for how the processes of legitimation are shaped in markets. Next, the contributions to market theorisations were discussed, including the extension of market studies focused on the consumer-subject, the definition of contested markets, and the performative perspective of regulation in markets. Finally, the methodological contributions to processed-based understandings were discussed. Following the procedures of organisation studies research interested in process, this research provided a foundation for future marketing research interested in depth processes. The chapter proceeded with a discussion of the practical implications of the research for social marketers and public policy makers. The chapter concluded with identification and discussion of the limitations of the research, and proposed future research directions.

“…It matters not what someone is born, but what they grow to be!” – Albus Dumbledore, Harry Potter and the Goblet of Fire
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No ban on synthetic drugs, says Wightman. 16 September 2013. The Examiner Newspaper.


Fighting synthetic drug hydra. 17 September 2013. The Sydney Morning Herald.

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Legal high madness Synthetics drugs' deadly kick. 21 September 2013. Geelong Advertiser.

Kronic king gets the green light despite charges. 6 October 2013. Sunday Star-Times.

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Call to lay charges after drugs death. 12 October 2013. The Newcastle Herald.


Health fears for partying teens. 16 October 2013. The Cairns Post.

Synthetic drug ban to be widened in Vic. 16 October 2013. AAP Bulletins.


Main Head. 18 October 2013. Wimmera Mail Times.

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Solicitors who vouched for legal high face investigation. 30 October 2013. The Sydney Morning Herald.


Briefs Cop denies drugs charges A former Northland police detective sergeant who... 29 November 2013. The New Zealand Herald.

Marley drug to be banned in Vic. 7 December 2013. AAP Bulletins.

The state government is being out-paced by the manufacturers. 9 December 2013. The Warrnambool Standard.

‘Puff’ is a hit at Geelong shop. 10 December 2013. Geelong Advertiser.

F Forum posts and comments

F1 Forum thread on incense brand. March 2009.
F5 Forum thread on news article on health warnings. August 2009.
F8 Forum thread on high experiences. September 2009.
F10 Forum thread on bath salt brands. October 2009.
F14 Forum thread on news article on health warnings. December 2009.
F20 Forum thread on news article on law enforcement. January 2010.
F24 Forum thread on news article on trafficking. February 2010.
F28  Forum thread on policy. February 2010.
F29  Forum thread on news article on legal drugs. February 2010.
F31  Forum thread on effects. February 2010.
F33  Forum thread on law enforcement. February 2010.
F34  Forum thread on law enforcement. February 2010.
F35  Forum thread on new drug February 2010.
F36  Forum thread on law enforcement. February 2010.
F38  Forum thread on legality and importation. March 2010.
F41  Forum thread on side effects. March 2010.
F43  Forum thread on news article on death warnings. March 2010.
F44  Forum thread on news on specific substance. March 2010.
F45  Forum thread on synthesis and extraction. March 2010.
F47  Forum thread on experience with specific chemical. March 2010.
F51  Forum thread on specific chemicals. May 2010.
F54  Forum thread on specific substance. May 2010.
F55  Forum thread on legality and importation. May 2010.
F60  Forum thread on pill comparisons. May 2010.
F63  Forum thread on specific chemical. May 2010.
F64  Forum thread on specific brand. May 2010.
F70  Forum thread on experience with chemicals. July 2010
F75  Forum thread on changes in brand. July 2010.
F76  Forum thread on specific chemical. August 2010.
F77  Forum thread on importation. August 2010.
F78  Forum thread on specific chemical. August 2010.
F79  Forum thread on dealers. August 2010.
F81  Forum thread on news on law enforcement. August 2010.
F82  Forum thread on drug tests. August 2010.
F83  Forum thread on specific brand. August 2010.
F84  Forum thread on specific brand. August 2010.
F86  Forum thread on synthesis and extraction. September 2010.
F87  Forum thread on new brands. September 2010.
F88  Forum thread on experience with brand. September 2010.
F89  Forum thread on specific chemical. October 2010.
F90  Forum thread on specific substance. October 2010.
F91  Forum thread on specific chemical and dosage. October 2010.
F92  Forum thread on specific chemicals. October 2010.
F93  Forum thread on specific substance. October 2010.
F95  Forum thread on legality. November 2010.
F100 Forum thread on international issues. December 2010.
F105 Forum thread on specific brand warnings. January 2011.
F108 Forum thread on social issues and stigma. February 2011.
F109 Forum thread on specific brand. February 2011.
F110 Forum thread on specific chemical. February 2011.
F111 Forum thread on specific chemical. February 2011
F112 Forum thread on specific brand. March 2011.
F113 Forum thread on specific chemicals. April 2011.
F114 Forum thread on legal products. April 2011.
F115 Forum thread on specific brand. April 2011.
F116 Forum thread on products at events. April 2011.
F117 Forum thread on specific chemical. April 2011
F118 Forum thread on news on substances. April 2011
F119 Forum thread on laws and regulation. May 2011
F120 Forum thread on specific chemical. May 2011.
F121 Forum thread on legal products. May 2011.
F122 Forum thread on drug purity. May 2011
F130  Forum thread on specific chemical and regulation. August 2011.
F131  Forum thread on specific brands. August 2011.
F132  Forum thread on specific brand and ingredients. August 2011.
F133  Forum thread on specific brand. October 2011.
F134  Forum thread on specific chemical. October 2011.
F137  Forum thread on news on synthetic drugs. November 2011.
F142  Forum thread on drug tests. December 2011.
F143  Forum thread on drug warnings. December 2011.
F144  Forum thread on specific chemical. December 2011.
F146  Forum thread on effects of specific chemical. January 2012.
F147  Forum thread on ingredients of specific product. January 2012.
F150  Forum thread on legality of chemicals. January 2012.
F152  Forum thread on ingredients of specific product. February 2012.
F153  Forum thread on legal issues. February 2012.
F154  Forum thread on ingredients of specific product. February 2012.
F155  Forum thread on specific chemicals. February 2012.
F156  Forum thread on legality of specific chemical. February 2012.
F157  Forum thread on ingredients of substances. February 2012.
F161 Forum thread on specific product. April 2012.
F162 Forum thread on effects of specific brands. April 2012.
F163 Forum thread on legality of specific chemical. April 2012.
F164 Forum thread on legal issues and chemicals. April 2012.
F165 Forum thread on call for information. April 2012.
F166 Forum thread on community event. April 2012.
F167 Forum thread on news on online distribution. April 2012.
F169 Forum thread on specific chemical. May 2012.
F170 Forum thread on regulation. May 2012.
F172 Forum thread on news on health effects. May 2012.
F177 Forum thread on specific brand. June 2012.
F178 Forum thread on health warnings around specific product. June 2012.
F179 Forum thread on legal products. August 2012.
F181 Forum thread on specific chemicals. September 2012.
F182 Forum thread on specific chemical. September 2012.
F183 Forum thread on warnings. September 2012.
F185 Forum thread on legal issues. September 2012.
F187 Forum thread on specific chemical. September 2012.
F188 Forum thread on specific brand. October 2012.
F189 Forum thread on specific product. October 2012.
F192 Forum thread on specific brand. October 2012.
F194 Forum thread on online drugs. October 2012.
F197 Forum thread on specific chemicals. December 2012.
F201 Forum thread on chemical combinations. March 2013.
F202 Forum thread on adverse reactions. April 2013.
F203 Forum thread on festivals. April 2013.
F204 Forum thread on law changes. May 2013.
F205 Forum thread on seeking information. May 2013
F210 Forum thread on regulation. June 2013
F211 Forum thread on effects of specific product. June 2013.
F212 Forum thread on news on deaths. June 2013.
F218 Forum thread on adverse effects. August 2013.
F221 Forum thread on specific chemicals. September 2013.
F222 Forum thread on legal drugs. October 2013.
F225 Forum thread on research chemical. December 2013.
D  Documents


D3  Intergovernmental Committee on Drugs (IGCD), Framework for a national response to new psychoactive substances. July 2014.


D12  Police journal: Official publication of the Queensland Police Union – Crushing Synthetic Drugs. December 2011


D15  Banning Kronic and Other Synthetic Drugs: The Criminal and Other Legislation Amendment Bill 2011. 13 October 2011. (Queensland)


D17  Criminal and Other Legislation Amendment Bill 2011. (Queensland).

D18  Drug Misuse and Trafficking Regulation 2011 (New South Wales).

D30 EROS Holographic-Sticker Standards and Code of Practice for Retailers
D31 Forum community guidelines
D32 EROS. Retrieved from: https://www.eros.org.au

I Interviews
I1 Government - Professional
I2 Health - Social Worker
I3 Health - Professional
I4 Academia - Researcher
I5 Academia - Researcher
I6 Academia - Researcher
I7 Government - Law Enforcement
I8 Academia - Researcher
I9 Government - Forensic Scientist
I10 Heath - Social Worker
I11 Community - Not-for-profit organisation
I12 Health - Clinician
I13 Government - Politician
I14 Media - Reporter
I15 Community - Professional
I16  Health - Emergency Physician
I17  Government - Law Enforcement
I18  Community - Not-for-profit organisation
I19  Government - politician
I20  Media - Reporter
I21  Market - Physical Store Owner
I22  Market - Regulating Body
I23  Market - Regulating Body
I24  Market - Consumer
I25  Market - Consumer
I26  Market - Consumer
I27  Market - Consumer
I28  Market - Consumer
I29  Market - Physical Store Owner

W  Archived Producer Websites
W1  Tobacconist online store capture. 2009.
W2  Tobacconist online store captures. 2010.
W3  Adult store online captures. 2011.
W4  Herbal high store online captures. 2011.
W5  Online legal high store one captures. 2011.
W6  Tobacconist online store captures. 2011.
W7  Adult store online captures. 2012.
W8  Tobacconist online store captures. 2012.
W9  Online legal high store two captures. 2013.
W10 Tobacconist online store captures. 2013.
APPENDICES

Appendix One - Archival Data Collection Strategies

<table>
<thead>
<tr>
<th>Category</th>
<th>Details</th>
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</thead>
<tbody>
<tr>
<td>Database</td>
<td>Factiva</td>
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<tr>
<td>Key words</td>
<td>Legal Highs, Synthetic Drugs, Novel Psychoactive Substances</td>
</tr>
<tr>
<td>Source</td>
<td>All (Publications, Web News, Blogs, Pictures, Multimedia)</td>
</tr>
<tr>
<td>Region</td>
<td>Australia</td>
</tr>
<tr>
<td>Date Range</td>
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</tr>
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</tr>
<tr>
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<td>Similar duplicates were allowed if they added information.</td>
</tr>
<tr>
<td>Data</td>
<td>261 news articles with 354 pages of single-spaced text and 131 533 words.</td>
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**Forum Threads**

| Database       | Four forums – drug threads                                             |
| Key words      | Legal Highs, Synthetic Drugs, Novel Psychoactive Substances            |
| Source         | All                                                                    |
| Region         | Australia                                                              |
| Date Range     | 01/01/2009 - 31/12/2013                                                |
| Duplicates     | None                                                                   |
| Data           | 2877 pages of forum streams with comments.                             |

**Government Documents**

| Database       | Lawlex (found through UQ Library)                                      |
| Key words      | Legal Highs, Novel Psychoactive Substances - 0 results                |
|                | Synthetic Drugs -5 results                                             |
| Source         | All                                                                    |
| Region         | All Australian States                                                 |
| Date Range     | 01/01/2009 - 31/12/2013                                                |
| Duplicates     | Not Applicable                                                         |
| Data           | 5 Documents                                                            |

| Database       | www.aph.gov/au/bills (found through UQ Library)                        |
| Key words      | Legal Highs, Synthetic Drugs, Novel Psychoactive Substances – 0 results|
|                | Drugs - 7 results                                                       |
| Source         | Not applicable                                                         |
| Region         | All                                                                    |
| Date Range     | 01/01/2009 - 31/12/2013                                                |
| Duplicates     | Not applicable                                                         |
| Data           | 7 documents (bills and amendments)                                     |

<p>| Database       | Queensland Police                                                      |
| Key words      | Legal Highs, Synthetic Drugs, Novel Psychoactive Substances – same 4  |
| Source         | Not Applicable                                                         |
| Region         | Not Applicable                                                         |
| Date Range     | Not Applicable                                                         |
| Duplicates     | 4 duplicates (Key words yielded same result)                           |
|                | Identical duplicates removed.                                           |
| Data           | 4 documents (blog posts, lecture information and publication)          |</p>
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<th>Details</th>
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<tr>
<td>Database</td>
<td>University Institutional Profiles</td>
</tr>
<tr>
<td>Key words</td>
<td>Legal Highs, Synthetic Drugs, Novel Psychoactive Substances – same 4 results</td>
</tr>
<tr>
<td></td>
<td>Drugs - 5 results</td>
</tr>
<tr>
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<td>Not Applicable</td>
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<tr>
<td>Region</td>
<td>Australia</td>
</tr>
<tr>
<td>Date Range</td>
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</tr>
<tr>
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<td>9 documents (websites, research articles and conference information sheets)</td>
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<td><strong>Societal-Level Archival Data</strong></td>
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</tr>
<tr>
<td>Database</td>
<td>Google</td>
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<tr>
<td>Key words</td>
<td>1) Legal Highs (then matched with each of the following separately legislation, bills, government, policy, health, hospital, emergency room, reporter, community)</td>
</tr>
<tr>
<td></td>
<td>2) Repeated with: Synthetic Drugs; Novel Psychoactive Substances; Drugs</td>
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<td></td>
<td>3) Specific names of key individuals and organisations</td>
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<td></td>
<td>49 results</td>
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<td>Data</td>
<td>49 documents (documents, presentations, bills, legislation, policies, amendments, and organisational information)</td>
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<td><strong>Published Interviews</strong></td>
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<tr>
<td>Database</td>
<td>Google</td>
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<tr>
<td>Key words</td>
<td>Specific details provided in previous data</td>
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<tr>
<td>Source</td>
<td>All</td>
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<td>Australia</td>
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<tr>
<td>Date Range</td>
<td>01/01/2009 - 31/12/2013</td>
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<tr>
<td>Duplicates</td>
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<td>Data</td>
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<td><strong>Archived Producer Websites</strong></td>
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<tr>
<td>Database</td>
<td>The Way Back Machine</td>
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<td>Specific website names</td>
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<tr>
<td>Source</td>
<td>Not Applicable</td>
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<tr>
<td>Region</td>
<td>Australia</td>
</tr>
<tr>
<td>Date Range</td>
<td>01/01/2009 – 31/12/2013</td>
</tr>
<tr>
<td>Duplicates</td>
<td>None</td>
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<tr>
<td>Data</td>
<td>4 websites; 35 captures</td>
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</table>
Appendix Two - Interview Protocol for Societal-Level Actors

Battles at the boundaries of markets: The Processes of Legitimation in the ‘Legal High’ Market

**Process: face-to-face semi-structured interviews [45 – 90 minutes]**

Prior to the commencement of the interview, participants will be asked to complete a consent form and descriptive information form. The descriptive information form will ask for the following information: first name (or pseudonym), age, sex, educational qualification, occupation, organisation and years in the role. Participants will also be informed of the ethical issues – regarding participation, and confidentiality and privacy.

**A. Section one: background information**

[These questions aim to get background information on the participant and their experience relating to the ‘Legal High’ market]

Thank you for agreeing to participate in this interview. I would like to start by asking you about your general background and knowledge about ‘Legal Highs’.

**Question one:**

What is your understanding of what ‘Legal Highs’ are? How does your role relate to ‘Legal Highs’ and other substances?

- How does your current role in the organisation (community) relate to ‘Legal Highs’?
- Is your experience with ‘Legal Highs’ only from your current role?
- What other experiences have you had with ‘Legal Highs’?

**B. Section two: what is the ‘Legal High’ market?**

[The aim of these questions is to gather a general idea of the participants’ construction of the ‘Legal High’ market and the products therein]

I would now like to talk more about the ‘Legal High’ products and the general market in which they are available.

**Question two:**

What types of products and substances related to ‘Legal Highs’ have you come across/become aware of in your role?

**Question three:**

Why do you think these types of products became available?

- Why do you think this market emerged?
- What role did technology play?
Question four:
In marketing, we talk about products being bought and sold in markets. If we were to think of ‘Legal Highs’ as a market, how does this market compare to the market for drugs and other substances?

- How is it similar to the illicit drug market?
- How is it different from the illicit drug market?
- How is it similar to the alcohol market?
- How is it different from the alcohol market?

Can you give me a timeline/overview of key or important events, interactions or actions relating to the substances that you were aware of during 2009 and 2013?

E.g. police changes, legislation, seizures, testing, other advancements.

C. Section three: who else plays a role in the market?
[The aim of these questions is to get a general idea of the participants’ construction of the roles of actors in the ‘Legal High’ market]

I would now like to ask you about the different professionals and community members who play a role in the ‘Legal High’ market.

Question five:
In marketing, we talk about the participants in a market who buy or use products as ‘consumers’.
With regards to ‘Legal Highs’, what would you call these participants? {Their label – e.g. consumers, buyers, users, patients, victims, addicts, clients, etc.}

Who are the {consumers} of ‘Legal Highs’? Who are the typical consumers of ‘Legal Highs’? Are there different types of consumers? How do they shape/influence the market?

- What actions do {consumers} engage in? For example? [Probe for types of actions that might help create, maintain or disrupt the legitimacy of the market]
- How and when do {consumers} take these actions?
- Why do {consumers} take these actions?
- Do {consumers} influence demand or production/supply? How? For example?
- Do they make changes in the market? How? For example?

Question six:
Who do you think the producers, manufacturers and suppliers of ‘Legal high’ products and substances are? What roles do each of these play? How do you think their actions influence the market for Legal Highs?

- What actions do producers, manufacturers and suppliers engage in? For example? [Probe for types of actions that might help create, maintain or disrupt the legitimacy of the market]
- How and when do they take these actions?
- Why do they take these actions?
- Do they influence demand or production/supply? How? For example?
Do they make changes in the market? How? For example?

Question seven:
What role do you think the government has in this market? Where do policy makers, politicians and law enforcement fit in? How do their actions and interactions shape and influence the market for Legal Highs?

- What actions does the government engage in? For example? [Probe for types of actions that might help create, maintain or disrupt the legitimacy of the market]
- How and when do they take these actions?
- Why do they take these actions?
- Do they influence demand or production/supply? How? For example?
- Do they make changes in the market? How? For example?

Question eight:
What is the role of science and scientists in this market? For example, chemists, forensic chemists and scientists? How do their actions and interactions shape and influence the market for Legal Highs?

- What actions do scientists engage in? For example? [Probe for types of actions that might help create, maintain or disrupt the legitimacy of the market]
- How and when do they take these actions?
- Why do they take these actions?
- Do they influence demand or production/supply? How? For example?
- Do they make changes in the market? How? For example?

Question nine:
What is the role of health and medicine? What role do physicians, health experts, social workers, counsellors and emergency departments, for example, play in the market? How do their actions and interactions shape and influence the market for Legal Highs?

- What actions do they engage in? For example? [Probe for types of actions that might help create, maintain or disrupt the legitimacy of the market]
- How and when do they take these actions?
- Why do they take these actions?
- Do they influence demand or production/supply? How? For example?
- Do they make changes in the market? How? For example?

Question ten:
Is there a role for the community in the market? How does the community shape the market?

- What actions do community members engage in? For example? [Probe for types of actions that might help create, maintain or disrupt the legitimacy of the market]
- How and when do they take these actions?
- Why do they take these actions?
- Do they influence demand or production/supply? How? For example?
- Do they make changes in the market? How? For example?
Question eleven:
What role do the media have? How do the media shape/influence the market?

- What actions do the media engage in? For example?
- How and when do they take these actions?
- Why do they take these actions?
- Do they influence demand or production/supply? How? For example?
- Do they make changes in the market? How? For example?

Question twelve:
Do any of the people, professionals and other community members work well together? Any not so well?
Does anyone else play a role in this market? Is there anyone we haven’t covered?

Question thirteen:
Overall, who do you believe determines whether the ‘Legal High’ market is legitimate or illegitimate? Who has the most power in determining its legitimacy or illegitimacy?

D. Section four: final questions

Question fourteen:
What is your overall perception of and feelings about the ‘Legal High’ market?

Question fifteen:
What sources of information do you use to keep up-to-date with the market?

- What information have you gained from these sources?
- How does this information influence your perception of the market?

Question sixteen:
Are there any issues you would like to raise or comments you would like to make with respect to the ‘Legal High’ market?

Question seventeen:
Do you have any suggestions for people who would be interested in participating in this study? Would you be willing to forward on information about the project to these people? Participants will be thanked for their time.
### Appendix Three - Interview Participant Details

<table>
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<tr>
<th>#</th>
<th>Institutional Area</th>
<th>Role</th>
<th>Sex</th>
<th>Age</th>
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<td>45-54</td>
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<td>2</td>
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<td>Male</td>
<td>35-44</td>
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<td>Researcher</td>
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<td>35-44</td>
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<td>Researcher</td>
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<td>45-54</td>
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<td>35-44</td>
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<td>10</td>
<td>Heath</td>
<td>Social Worker</td>
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<td>25-34</td>
</tr>
<tr>
<td>23</td>
<td>Market</td>
<td>Regulating Body</td>
<td>Male</td>
<td>25-34</td>
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<td>Consumer</td>
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<td>18-25</td>
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<td>Market</td>
<td>Physical Store - Owner</td>
<td>Male</td>
<td>65-74</td>
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Appendix Four - Interview Protocol for Exchange-Level Participants

Theme one: First experience
Information about the first time participants bought or sold ‘Legal Highs’

❖ Store category
❖ Store’s sales approach
❖ Who initiated the sale
❖ Other types of products sold in the store

Theme Two: Marketing Approach

Product
Information about the ‘Legal High’s products

❖ Branding an packaging
❖ Ingredients and information
❖ Chemical structure
❖ Brands and products that were not sold

Customers
Information about the customers

Pricing
Information about the pricing

❖ Consistency of pricing across brands
❖ How pricing was determined

Promotion and Place
Information about the promotion and place

❖ Promotions
❖ Events
❖ Online sales

Manufacturers
Information about the promotion and place

Theme Three: Market Structures and Changes
Did anything happen between 2009 and 2013 that influenced you/the store’s sale of ‘Legal Highs’?

❖ Media
❖ Friends or Family
❖ Other information
❖ Government regulation and legislation

Theme Four: Regulation in 2013
In 2013, regulation was introduced in Australia at a state and federal level. Discussion of this.
Appendix Five - Projective Techniques
## Appendix Six - Ethical Clearance Approval Letters

### The University of Queensland

**Institutional Human Research Ethics Approval**

<table>
<thead>
<tr>
<th>Project Title:</th>
<th>Dark Markets Defined: An Examination of the Key Stakeholders in the Synthetic Drug Market</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chief Investigator:</td>
<td>Ms Alison Joubert</td>
</tr>
<tr>
<td>Supervisor:</td>
<td>Dr Josephine Previte, Dr Alastair Tombs</td>
</tr>
<tr>
<td>Co-Investigator(s):</td>
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</tr>
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<td>School(s):</td>
<td>Business</td>
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<td>Approval Number:</td>
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<td>PhD</td>
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<td>Duration:</td>
<td>30th April 2018</td>
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**Comments/Conditions:**

Expedited Review - Low Risk

*Note: If this approval is for amendments to an already approved protocol for which a UQ Clinical Trials Protocol/Insurance Form was originally submitted, then the researchers must directly notify the UQ Insurance Office of any changes to that Form and Participant Information Sheets & Consent Forms as a result of the amendments, before action.*

**Name of responsible Committee:**

Behavioural & Social Sciences Ethical Review Committee

This project complies with the provisions contained in the *National Statement on Ethical Conduct in Human Research* and complies with the regulations governing experimentation on humans.

**Name of Ethics Committee representative:**

Associate Professor John McLean

Chairperson

Behavioural & Social Sciences Ethical Review Committee

---

Signature[Signature]

Date 7/4/2015
THE UNIVERSITY OF QUEENSLAND

Institutional Human Research Ethics Approval

Project Title: Consumer Navigation of Illegitimate Markets - 23/09/2015 - AMENDMENT

Chief Investigator: Ms Alison Joubert

Supervisor: Dr Josephine Previte, Dr Alastair Tombs

Co-Investigator(s): None

School(s): Business

Approval Number: 2015000491

Granting Agency/Degree: PhD

Duration: 30th April 2018

Comments/Conditions:

Note: If this approval is for amendments to an already approved protocol for which a UQ Clinical Trials Protection/Insurance Form was originally submitted, then the researchers must directly notify the UQ Insurance Office of any changes to that Form and Participant Information Sheets & Consent Forms as a result of the amendments, before action.

Name of responsible Committee: Behavioural & Social Sciences Ethical Review Committee

This project complies with the provisions contained in the National Statement on Ethical Conduct in Human Research and complies with the regulations governing experimentation on humans.

Name of Ethics Committee representative: Associate Professor John McLean

Chairperson

Behavioural & Social Sciences Ethical Review Committee

Signature [Signature]

Date 08/07/2015
Date: 21/06/2016

To: Alison Joubert
From: Dr. Tyler G. Okimoto, Chair UQBS Ethical Review Committee

RE: Your application for ethical clearance:
“Battles at the boundaries of markets: Institutional dynamics in the ‘Legal High’ market”
(#143113)

Dear Alison:

The UQBS Ethical Review Committee has processed your expedited application for ethical clearance. You fulfil the requirements for expedited review, and I have closely examined your documentation. I am writing to inform you that the committee has determined that your application is approved.

Approval is subject to the conditions listed on the additional notes document (attached) – please retain both of these documents for your records. Although not yet a formal requirement of the UQBS ethics process, we strongly encourage you to review your data management plan with your supervisor (see attached checklist). If changes to the approved study protocol are required for any reason, please submit a written letter of ethical clearance amendment to the committee detailing all required changes and any implied ethical considerations (submit to Vivienne Balson, v.balson@business.uq.edu.au).

Regards,

Dr. Tyler G. Okimoto
Chair, UQBS Ethical Review Committee
### Project Title:
Battles at the boundaries of markets: Institutional dynamics in the 'Legal High' market

### Chief Investigator:
Ms Alison Joubert

### Supervisor:
Dr Josephine Previte, Dr Alistair Tombs, Assoc Prof April Wright

### Co-Investigator(s):
Dr Josephine Previte, Dr Alistair Tombs, Assoc Prof April Wright

### School(s):
School of Business

### Approval Number:
2017000871

### Granting Agency/Degree:
PhD

### Duration:
30th June 2020

### Comments/Conditions:
- HREA form, 27/07/2017
- Project Description_Protocol_Updated, 24/07/2017
- Attainment of Confirmation Milestone, 27/11/2015
- Interview guide_Consumers, 15/06/2017
- Interview Guide_Retailers, 16/06/2017
- Projective Techniques, 16/06/2017
- Participant Information Sheet_Consumers, 24/07/2017
- Participant Information Sheet_Retailers, 24/07/2017
- Participant Informed Consent_Consumers, 24/07/2017
- Participant Informed Consent_Retailers, 24/07/2017
- Sample Flyer_Consumers, 24/07/2017
- Sample Flyer_Retailers, 24/07/2017
- Sample Gate Keeper Form_Consumers, 24/07/2017
- Sample Gate Keeper Form_Retailers, 24/07/2017
- Supervisors Signatures, 16/06/2017
- 201500491 approval, 7/04/2015
- 201500491 approval, 28/09/2015
- JOUBERT Alison – Comments to HREC-A consideration 16/06/2017
- UQBSERC #143113 notification of approval 21.06.16
- JOUBERT, Alison - Attainment of Confirmation Milestone
- Response to ethical clearance queries_24072017
- JOUBERT, Alison - Sample Flyer_SEXPO Consumers and Retailers
- Gatekeeper approval from event organiser - SEXPO Consumers and Retailers
Note: If this approval is for amendments to an already approved protocol for which a UQ Clinical Trials Protection/Insurance Form was originally submitted, then the researchers must promptly notify the UQ Insurance Office of any changes to that form and Participant Information Sheets & Consent Forms as a result of the amendments, before action.

Name of responsible Committee:
University of Queensland Human Research Ethics Committee B
This project complies with the provisions contained in the National Statement on Ethical Conduct in Human Research and complies with the regulations governing experimentation on humans.

Name of Ethics Committee representative:
Dr. Frederick Khafagi
Chairperson
University of Queensland Human Research Ethics Committee
Registration: EC00457

Signature __________________________ Date __04-08-2017______
THE UNIVERSITY OF QUEENSLAND
Institutional Human Research Ethics Approval

Project Title: Battles at the boundaries of markets: Institutional dynamics in the 'Legal High' market - 10/11/2017 - AMENDMENT

Chief Investigator: Alison Joubert

Supervisor: None

Co-Investigator(s): Dr Josephine Previte, Dr Alastair Tombs, AProf April Wright

School(s): UQ Business School

Approval Number: 2017000871

Granting Agency/Degree: None

Duration: 30th June 2020

Comments/Conditions:
- UQ Amendment Form, 10/11/2017
- Cover Letter, 01/11/2017
- Disqualification Form
- Updated PhD Survey, 01/11/2017

Note: If this approval is for amendments to an already approved protocol for which a UQ Clinical Trials Protection/Insurance Form was originally submitted, then the researchers must directly notify the UQ Insurance Office of any changes to that Form and Participant Information Sheets & Consent Forms as a result of the amendments, before action.

Name of responsible Committee:
University of Queensland Human Research Ethics Committee A
This project complies with the provisions contained in the National Statement on Ethical Conduct in Human Research and complies with the regulations governing experimentation on humans.

Name of Ethics Committee representative:
Professor Emerita Gina Geffen
Chairperson
University of Queensland Human Research Ethics Committee A
Registration: EC00456

Signature: [Signature]
Date: 21/11/2017
Appendix Seven - A Brief Western History of Drugs

There is much evidence to suggest that humans have long used substances to alter their consciousness (Power, 2013). Humankind has almost universally involved the use of intoxicating substances of some kind (Coomber, 2006). Earlier psychoactive substance use was predominantly in native rituals and ceremonies but today almost no nations are without intoxicants and drugs. While drugs are present in nations around the global they are, and have long been, an acquired taste (Jay, 2010). New substances were not always met with open arms when they were discovered or introduced (Coomber, 2006). The spread of drugs through history has thus been socially divisive; eagerly adopted by some market actors and fiercely resisted by others (Jay, 2010). The reactions to particular substances have been argued to be dependent on how the substance was understood and what effects it was perceived to have on the user. This reaction could be framed by the substance being new or unseen, or by the various economic, social and political contexts the substance emerged into – including who was adopting the substance for consumption (Coomber, 2006). Some accounts of early drug use speak of users leaving their body and mind to get closer to their gods while others position drug use as getting in touch with the devil (Jay, 2010).

Today, there are two overlapping yet different understandings of the term ‘drug’. The first is a purely descriptive definition in pharmacology of a psychoactive substance (stimulant, sedative, psychedelic, hypnotic, deliriant or dissociative) ranging from what is contained in tea, cigarettes and Coca-Cola to cocaine and heroin. The second, and more popular, usage of ‘drug’ is of illegal psychoactive substances (or those that lack cultural sanction); making ‘drug’ a derogatory label to be avoided rather than a neutral description. Within this popular second usage, substances such as tea and coffee, despite their psychoactive effects, are barely recognised as drugs (Coober, 2006). This definition also situates cannabis, for example, a drug while alcohol is not despite both substances having intoxicating effects (Jay, 2010). Recreational drugs, as we know them today, are often classified as harmful and illegal as actors in society try “to regulate sources of pleasure by constructing medical and legal boundaries [around them], thereby delineating between socially acceptable and unacceptable practices” (Goulding p. 761). Carefully constructed boundaries of ‘medical’ and ‘recreational’, however, cannot be permanent as they are determined not only by chemistry but by society; “whether a drug is medicine or poison is a question of dosage” (Jay, 2010, p. 107). Interestingly, many of the drugs that are presently illicit and controlled were previously accepted as appropriate in society (Coomber, 2006; Jay, 2010). Opium, Heroin and Cocaine are chosen as illustrative examples due to their widely known nature:

By the 19th Century, opium was widely used in a range of ways; including to “quieten children, for sleeplessness, as a remedy for excessive drinking, and as treatment or relief for all
manner of pains and illnesses for which there were no other effective relief such as rheumatism, gout, coughs and colds, cholera, toothache and diarrhoea” (Coomber, 2006, p. 4). The drug was also sold freely and unrestricted in numerous forms in corner shops, backstreet grocers, wandering cart sellers, and wives of some factory worker. These forms included opium pills, opiate lozenges, powder of opium, opiate confection, opiate plaster, enema or liniment, or vinegar or wine of opium. Opium was so normalised in this period that it was often drunk in tea, used for energy and given to infants for teething (Coomber, 2006). This century also, however, saw an increase in self-experimentation conducted using psychoactive substances, which brought with it the beginning of the realisation of the negative effects of continuous drug use. Confessions of an English Opium Eater, published in 1822 by Thomas De Quincey, provided a notable account of these effects with the author recounting: “the pleasures of drugs, however voluptuous, were ultimately barren: they might be cheaply purchased, but their true cost was one that no man could afford to pay” (Jay, 2010, pp. 81–82). This account began the shift in perceptions towards opium in the UK coupled with the realisation that opium was commonly used for stimulation, enjoyment and non-therapeutic reasons (Coomber, 2006). Many high street pharmacies became stocked with different pills and potions, in addition to opium, making substances easily accessible to the greater population. Views of drug consumption at the time were divided; with some supporting their use and some appalled by it (Jay, 2010). This blur of medical and recreational lines began the conversation about proper (moral) and improper (immoral) use (Power, 2013).

This period also saw experiments on the substances and chemicals, often done in an attempt to isolate components. The German pharmacist’s apprentice Friedrich Sertürner, for example, began experimenting on opium concentrate in the early 1800s. Sertürner produced a number of isolated extracts (he named ‘vegetable alkali’, later known as alkaloids) which laid the foundation for pharmaceutical extract isolation. In 1817, Sertürner isolated a compound, morphine, which formed crystals that were soluble. In the next few years, caffeine was isolated from coffee, nicotine isolated from tobacco, and chocolate discovered to have the psychoactive drug theobromine by other experimenters. Similar to the previous century, however, new drugs were not only being synthesised by also still discovered. The Italian physician, Pablo Mantegazza, encountered Indians chewing coca leaves while practicing in Argentina in the mid-1850s. Mantegazza published a book, On the Hygienic and Medical Values of Coca, after finding the coca leaves to remove hunger and fatigue, and increase muscular action; also noting that high doses produced thrilling excitement and rapid-fire speech.
The chemist Alfred Niemann was intrigued by this account and produced a crystalline alkaloid from the leaf in 1860 which he called Cocaine (Jay, 2010).

Just over a decade later, the chemist Charles Romley Alder Wright synthesised diacetylmorphine (known today as heroin) in St Mary’s Hospital in London (Power, 2013). The German physician Theodore Aschenbrandt acquired a sample of this alkaloid and, after adding it to water, gave it to his Bavarian recruits increasing their stamina. At the same time, the Viennese neurologist Sigmund Freud found the work of Alfred Niemann and ordered a sample of cocaine from the Merck pharmaceutical company, where it was listed in their catalogue of research chemicals. The findings of his experience with cocaine were published in his book Über Coca, which was unfortunately later used to taint his reputation (Jay, 2010). The German psychologist, Aurther Heffter isolated the active chemical in mescaline (which was synthesised in the next century) from the peyote cactus in the same period (Power, 2013). A further decade later, the effects of this substance in its natural form was documented in the British physician Havlock Ellis’ essay Mescal: A New Artificial Paradise (Jay, 2010). At the end of the century, the German chemical giant Bayer produced and sold diacetylmorphine. It was marketed as a cough suppressant and cure for morphine addiction, complete with the brand name Heroin (Power, 2013).

However, today these drugs are largely seen as illicit and inappropriate in society. That is not to say that some consumers and producers, etc. do not find the market to be a ‘legitimate’ one. Furthermore, as seen previously, the views of the appropriateness of drugs depend largely on their framing in public discussions (Humphreys & Latour, 2013). However, with the exception of the medicalisation of the cannabis market (Kjellberg & Olson, 2017), which in itself is still largely contested, the drug markets are perceived by key segments of western society to lack legitimacy. This is evident through the logics and discourses that dominate the discussions of and actions taken within the contemporary drug markets. That is, within these markets, the logic of punishment, which is a field-level manifestation of the state logic whereby obedience, respect for authority, and adherence to rules and expectations to avoid criminal punishment is the most salient (Chiarello, 2015; McPherson & Sauder, 2013). Additionally, the market is governed by the logic of rehabilitation (McPherson & Sauder, 2013) and the logic of treatment (Chiarello, 2015), both of which are field-level manifestations of the logic of professions. Within these logics, the focus is on substance abuse, misuse and addiction, and the need for medical intervention (Chiarello, 2015; McPherson & Sauder, 2013). Finally, the logic of community accountability, which stems from the societal-level logic of community, focuses on the interest of the public and the welfare of community (McPherson & Sauder, 2013).