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Electronic Cigarettes: Paperwork Comment, FTC File No. P144504  
Federal Trade Commission  
Office of the Secretary  
600 Pennsylvania Avenue NW., Suite CC-5610 (Annex J)  
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To Whom It May Concern:

We are writing in support of the Federal Trade Commission's proposed information requests that marketers of electronic cigarettes publish industry reports, similar to those of the cigarette and smokeless tobacco manufacturers. Given the increased prevalence of e-cigarette use in the U.S., it is important for tobacco control practitioners and researchers to have access to reliable data on the e-cigarette industry. Tobacco use remains the number one cause of preventable death in the U.S., with over 480,000 deaths annually.<sup>1</sup> E-cigarettes represent a potential threat to the last 50-plus years of tobacco control efforts, with more American youth now using e-cigarettes than any other tobacco product.<sup>2</sup> The Federal Trade Commission should report industry information from e-cigarette manufacturers in order to inform tobacco control efforts and prevent tobacco use among vulnerable populations, such as youth.

While e-cigarettes might present methods of cessation or harm reduction for current smokers, these claims have not been FDA-approved, and e-cigarettes could also lead to tobacco use among nonsmokers – namely youth.<sup>3</sup> Given the deadly consequences of tobacco use, and the largely unknown health effects of e-cigarettes, tobacco control professionals need to understand who the e-cigarette industry is targeting with their advertising and marketing. In the past, the tobacco industry has targeted vulnerable populations with advertising, price promotions, and sponsorship in order to entice new smokers and tobacco users, as well as to sustain current users.<sup>4,5</sup>

Therefore, the FTC should record advertising and marketing data from e-cigarette manufacturers. It is important to understand how e-cigarette products are being marketed because tobacco advertising has been linked to smoking uptake among adolescents.<sup>6</sup> In particular, it would be helpful for tobacco control researchers and practitioners to know where the majority of e-cigarette advertising dollars are being spent. Currently, researchers have to pay for access to this kind of data (via commercial sources), but the FTC could make advertising expenditure data public knowledge through industry reports. By making e-cigarette advertising and marketing data more accessible, public health professionals could better understand how youth are being targeted and develop specific interventions or policy solutions.

In addition to marketing and advertising expenditures, the Federal Trade Commission should collect data on the types of e-cigarette products sold and given away in order to track changes in popularity and use. Current FTC reports provide sales volume for cigarettes, which has been helpful for tobacco control efforts. Differentiation by product type, nicotine strength, and flavor is helpful for determining the definition of "e-cigarette"

for use in research studies and public policy. Data on the nicotine level of e-cigarette products is valuable for determining their equivalence to conventional cigarettes, in terms of nicotine content, as well as for the consideration of long-term health effects. Youth are particularly vulnerable to the addictive effects of nicotine, and adults who started smoking at younger ages are more likely to become severely addicted.<sup>7</sup>

It is also important to track the flavor availability of e-cigarette products because youth may be especially drawn to e-cigarettes due to their characterizing flavors (e.g., pineapple, gummy bear, blue raspberry).<sup>8</sup> The majority of youth who are using tobacco products are using flavored tobacco products. The 2014 National Youth Tobacco Survey found that of all American youth using tobacco products, 70 percent (3.26 million) were using at least one kind of flavored non-cigarette tobacco product, with 1.58 million using flavored e-cigarettes.<sup>9</sup> Potential flavor categories could include: tobacco, menthol/mint, fruit (e.g. blueberry, coconut, black cherry), dessert/candy (e.g. banana pudding, cotton candy, cheesecake), alcohol/drink (e.g. piña colada, strawberry daiquiri, and mojito), and other.<sup>10</sup>

In addition, the methods of e-cigarette sales (i.e.: via the Internet, via wholesalers/distributors) should be tracked so that enforcement can be tailored appropriately. For example, if the majority of e-cigarettes are being purchased online, specialized enforcement mechanisms are necessary to ensure that minors cannot access e-cigarette products via online purchases. As seen in a study from North Carolina, minors attempted to purchase electronic cigarettes from 98 different vendors and researchers found that none of the vendors complied with North Carolina's e-cigarette age verification law.<sup>11</sup> The vendors' lack of age verification mechanisms led to a youth buy rate of 93.7 percent, with minors successfully receiving e-cigarettes delivered through the mail in 76.5 percent of purchase attempts. Therefore, there is a great need to monitor the methods of e-cigarette sales so that law enforcement officials and policymakers can create effective mechanisms for youth tobacco prevention.

In addition, it is important that the FTC e-cigarette report distinguishes between product sales and product giveaways, in order to evaluate which products are most commonly purchased. Lastly, the FTC should provide state-by-state sales data for e-cigarette products so that tobacco control professionals can understand which states and regions have the highest number of e-cigarette sales. Then, tobacco prevention and control efforts can be targeted accordingly.

Overall, it is critical that the Federal Trade Commission seek out industry data from e-cigarette manufacturers and marketers in order to create reports that produce a public benefit – well-informed research, programming, and policy to reduce the deadly impact of tobacco. In generating these reports, the FTC should consider sales data related to product type, nicotine strength, and flavorings, as well as expenditures on marketing and advertising. As e-cigarettes are now the most commonly used tobacco product among youth in the U.S., access to comprehensive industry data is necessary for tobacco prevention and control efforts.

Sincerely,



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<sup>1</sup> U.S. Department of Health and Human Services. The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health; 2014.

<sup>2</sup> Arrazola RA, Neff LJ, Kennedy SM, Holder-Hayes E, Jones CD, Centers for Disease Control and Prevention (CDC). Tobacco use among middle and high school students--United States, 2013. *MMWR Morb Mortal Wkly Rep* 2014 Nov 14;63(45):1021-1026.

<sup>3</sup> Dutra LM, Glantz SA. Electronic cigarettes and conventional cigarette use among U.S. adolescents: a cross-sectional study. *JAMA Pediatr* 2014 Jul;168(7):610-617.

<sup>4</sup> US Department of Health and Human Services. Tobacco Use Among U.S. Racial/Ethnic Minority Groups—African Americans, American Indians and Alaska Natives, Asian Americans and Pacific Islanders, and Hispanics. A Report of the Surgeon General. Atlanta, GA: US Dept of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health; 1998.

<sup>5</sup> U.S. Department of Health and Human Services. Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health; 2012.

<sup>6</sup> National Cancer Institute. The Role of the Media in Promoting and Reducing Tobacco Use. Tobacco Control Monograph No. 19. Bethesda, MD: U.S. Department of Health and Human Services, National Institutes of Health, National Cancer Institute. NIH Pub. No. 07-6242, June 2008.

<sup>7</sup> U.S. Department of Health and Human Services. Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General. Atlanta (GA): U.S. Department of Health and Human Services, Centers for Disease Control and Prevention,

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National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health; 2012.

<sup>8</sup> Lee YO, Hebert CJ, Nonnemaker JM, Kim AE. Youth tobacco product use in the United States. *Pediatrics* 2015 Mar;135(3):409-415.

<sup>9</sup> Corey CG, Ambrose BK, Apelberg BJ, King BA. Flavored Tobacco Product Use Among Middle and High School Students - United States, 2014. *MMWR Morb Mortal Wkly Rep* 2015 Oct 2;64(38):1066-1070.

<sup>10</sup> Zhu SH, Sun JY, Bonnevie E, Cummins SE, Gamst A, Yin L, et al. Four hundred and sixty brands of e-cigarettes and counting: implications for product regulation. *Tob Control* 2014 Jul;23 Suppl 3:iii3-9.

<sup>11</sup> Williams RS, Derrick J, Ribisl KM. Electronic cigarette sales to minors via the internet. *JAMA Pediatr* 2015 Mar;169(3):e1563.