



**Prepared Statement of  
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Before the U.S. Senate Committee on Commerce, Science, and Transportation  
Hearing on  
“Aggressive E-Cigarette Marketing and Potential Consequences for Youth”  
Wednesday, June 18, 2014, 2:30 pm  
Russell Senate Office Building 253**

Members of the Committee.

My name is Craig Weiss, and I am the President and CEO of NJOY. NJOY is an independent electronic cigarette company with no affiliation with the tobacco industry. We are proud to state that our corporate mission is to obsolete the tobacco cigarette – and the death and disease that it has left in its wake. We want to see the combustion cigarette go the way of the rotary telephone and the horse-drawn carriage and we believe that technology and innovation are making this possible.

In my testimony today, I would like to focus on what I believe unites our company with the members of this Committee, the FDA’s Center for Tobacco Products, and with dedicated women and men in the tobacco control movement and public health throughout the country.

We look forward to a day when combustion cigarettes are no longer part of the American landscape. We are appalled at the toll that the tobacco epidemic has taken and continues to take each year on this country – including 480,000 adult Americans dying prematurely each year from tobacco-related illness – or almost one adult each minute of every day. As Acting Surgeon General Lushniak stated during the presentation of the most recent Surgeon General’s Report on smoking – “Enough is enough.”

While the adult smoking rate has fallen from a high of over 40 percent to just under 20 percent and the teen smoking rate to a record low of 15.7 percent – the death toll from combustion cigarettes shows no signs of abating in this country or worldwide. The World Health Organization predicts one billion premature deaths from smoking in this century, and almost one American every minute has their life cut short because of combustion cigarettes.

The evidence clearly indicates that new approaches will be required to obsolete the combustion cigarette. Electronic nicotine delivery systems (“ENDS”), developed by entrepreneurs willing to take risks and break new ground, hold the potential to play a critical role. ENDS give smokers who either cannot or will not quit a positive alternative to combustion smoking. They provide smokers with the nicotine that they are addicted to and crave without the combustion of tobacco. As stated by the 2014 Surgeon General’s Report: “The burden of death and disease from tobacco use in the United States is overwhelmingly caused by cigarettes and other combusted tobacco products; rapid elimination of their use will dramatically reduce this burden.”

Since at least 1995, influential members of the public health community have widely discussed a strategy of tobacco harm minimization, based on the availability of nicotine-containing,

non-combustion products, to play a critical role in ending the tobacco epidemic. ENDS represent a potentially transformative, disruptive technology that threatens large and privileged incumbents.

We understand the grave suspicion caused by the 2012 entry to the marketplace of the first of the three major American cigarette companies. However, it is wrong to believe that ENDS are part of a grand plan by Big Tobacco to lure new smokers. While major tobacco companies have now entered the category as cigarette sales fall, they did not create this industry and most companies in this industry do not sell combustion products. Companies such as NJOY – which was established more than five years before the first major American tobacco company purchased an electronic cigarette company – are independent of the tobacco industry and have absolutely no incentive to promote combustion cigarette use, among adults, or youth.

ENDS are increasingly displacing cigarettes and their use is overwhelmingly by adult smokers. Reports from a CDC survey that experimentation of e-cigarettes among youth has risen should be taken seriously, yet seen in full context. Early fears that electronic cigarettes would entice young people to initiate with these products and then migrate to combustion products appear unsupported by the data to this point, with the rise in electronic cigarette popularity coinciding with a continued and indeed historic decline in teen smoking.

To be clear – no minor should be using a nicotine-containing product of any kind. The maximum public health benefit will be achieved by mitigating risks to youth without constraining the ability for e-cigarettes to effectively compete with combustion cigarettes among adult smokers. Bans on sales to minors, which we were among the first to support, are essential. As I will discuss in a moment, cigarette-style restrictions on advertising could inflict an enormous toll by obstructing the migration of current smokers to ENDS products.

We have long supported FDA regulation of this category, having first proposed the legal theory under which these products could be regulated under the *Family Smoking Prevention and Tobacco Control Act of 2009*, and we believe that FDA's issuance of proposed regulations is a critical milestone. Cigarette-style advertising restrictions were not part of FDA's proposed regulations nor should they have been. Subjecting electronic cigarettes to combustion cigarette-style advertising restrictions would only erect unnecessary barriers to effective promotion of these products to adult smokers. Smokers are not going to purchase a smoking alternative that they are not aware of, and advertising is needed to educate adult smokers of this alternative. It is important to realize that in the event that ENDS face the same advertising restrictions as combustion cigarettes, the big winner will be Big Tobacco, who get to maintain their stranglehold on the more than 40 million Americans who smoke.

Still, even responsible television and other advertising should be delivered in a manner that is consistent with the assertion that it is intended for adult smokers rather than for kids. NJOY's television campaign – "Friends Don't Let Friends Smoke" – is a clear illustration of this principle, and we need more rather than less of this kind of advertising. Analyzing information collected for its May 2014 report on e-cigarette advertising, the American Legacy Foundation noted, "This data suggests that the marketing strategy of NJOY is more focused on reaching an adult audience."

Paradoxically, children could be the biggest losers from an effort – in their name – to restrict e-cigarette advertising. According to the Surgeon General, nearly six million of today's children will adopt smoking, grow up, and die prematurely from cigarette-caused disease if present trends

continue. The best thing we can do for the health of all of our children – and I am the proud father of two beautiful young kids below the age of 10 – is to ensure that they grow up in a world in which neither their parents nor any of their other adult role models are smoking combustion cigarettes.

The balance will not always be a simple one and please be assured that, as a responsible company, we are committed to doing everything in our power to try to get it right. Providing smokers who cannot or will not quit with a positive alternative may be the long-sought solution to an intractable public health problem that has cost millions of lives – and more and more members of public health here and abroad are beginning to make their voices heard in support of this technology. We need to approach regulation of this category with our eye on the prize and in a manner that is guided by science rather than emotion or suspicion. There is too much at stake to do it any other way. NJOY looks forward to working with the Committee to achieve the goal of obsoleting combustion cigarettes.