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ONE HUNDRED SIXTEENTH CONGRESS

JIM JORDAN, OHIO
RANKING MINORITY MEMBER

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM
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June 7, 2019

Mr. Kevin Burns
Chief Executive Officer
JUUL Labs, Inc.
560 20th Street
San Francisco, CA 94107

Dear Mr. Burns:

The Subcommittee on Economic and Consumer Policy is investigating the youth e-cigarette epidemic. JUUL accounts for 75% of the U.S. e-cigarette market.[1] The U.S. Surgeon General, the former U.S. Food and Drug Administration Commissioner, the Director of the Centers for Disease Control and Prevention, and the Secretary of the Department of Health and Human Services have declared that e-cigarette use among teenagers is an epidemic.[2] All squarely pointed to JUUL as a primary cause of that epidemic.[3]

The Centers for Disease Control and Prevention found that tobacco use among high school students has increased nearly 40% in the past year—an increase fueled by e-cigarette use.[4] In 2018, over 20% of teenagers reported e-cigarette use—a 78% increase from 2017 figures.[5] In addition, in 2018, nearly 5% of middle schoolers reported e-cigarette use—a 48%

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[1] *Juul Explores Opening Its Own E-Cigarette Store*, Wall Street Journal (May 30, 2019) (online at www.wsj.com/articles/juul-explores-opening-its-own-e-cigarette-stores-in-u-s-11559235262).

[2] Food and Drug Administration, *Statement from FDA Commissioner Scott Gottlieb, M.D., on New Steps to Address Epidemic of Youth E-cigarette Use* (Sept. 12, 2018) (online at www.fda.gov/news-events/press-announcements/statement-fda-commissioner-scott-gottlieb-md-new-steps-address-epidemic-youth-e-cigarette-use); Department of Health and Human Services, *Surgeon General Releases Advisory on E-cigarette Epidemic Among Youth* (Dec. 18, 2018) (online at www.hhs.gov/about/news/2018/12/18/surgeon-general-releases-advisory-e-cigarette-epidemic-among-youth.html); Centers for Disease Control and Prevention, *Sales of JUUL E-cigarettes Skyrocket, Posing Danger to Youth* (Oct. 2, 2018) (online at www.cdc.gov/media/releases/2018/p1002-e-Cigarettes-sales-danger-youth.html); Centers for Disease Control and Prevention, *Progress Erased: Youth Tobacco Use Increased During 2017-2018* (Feb. 11, 2019) (online at www.cdc.gov/media/releases/2019/p0211-youth-tobacco-use-increased.html); *The Future of E-cigarettes Depends on the Industry's Willingness to Protect Teens*, Washington Post (Mar. 20, 2019) (online at www.washingtonpost.com/opinions/2019/03/19/future-e-cigarettes-depends-industrys-willingness-protect-teens/?noredirect=on&utm_term=.907f5dc750cb).

[3] *Id.; Scott Gottlieb's Last Word as FDA Chief: Juul Drove a Youth Addiction Crisis*, Vox (Apr. 5, 2019) (online at www.vox.com/science-and-health/2019/4/5/18287073/vaping-juul-fda-scott-gottlieb).

[4] *CDC Blames Spike in Teen Tobacco Use on Vaping, Popularity of Juul*, CNBC (Feb. 11, 2019) (online at www.cnbc.com/2019/02/11/e-cigarettes-single-handedly-drives-spike-in-teen-tobacco-use-cdc.html).

[5] Food and Drug Administration, *2018 NYTS Data: A Startling Rise in Youth E-cigarette Use* (Feb 2,

surge since 2017.[6]

The safety and well-being of America's youth is not for sale. I am extremely concerned about reports that JUUL's high nicotine content is fueling addiction and that frequent JUUL use is sending kids across the country into rehab, some as young as 15.[7] At 5% nicotine weight content, your products have nearly three times the nicotine by weight allowed in the European Union.[8]

Stanford University researchers have concluded, in a report published earlier this year, that JUUL's marketing strategy from the company's 2015 debut to 2018 was "patently youth oriented."[9] If the Stanford researchers are correct, then JUUL intentionally sought to profit at the expense of the health of American children.

To assist the Subcommittee, I request that you produce, by June 21, 2019, the following documents and information for the period of January 1, 2013 to the present:

1. All documents, including memoranda and communications, referring or relating to:

    a. the impact of JUUL's marketing strategy on individuals under the age of 18 (minors);
    b. JUUL's earliest indication that minors comprised a substantial share of its social media followers;
    c. JUUL's research and/or reference to past tobacco advertising, including but not limited to its use of the University of California, San Francisco's Truth Tobacco Industry Documents Library;
    d. the involvement of behavioral science in your digital advertising, including identifying all behavioral scientists involved;
    e. JUUL's actions and or strategy to publicly associate and/or equate and/or compare nicotine and caffeine;
    f. JUUL's Vaporized campaign and the use of the hashtag #vaporized; and
    g. deleted social media content and any audience analytics information related to the social media content;

2019) (online at www.fda.gov/tobacco-products/youth-and-tobacco/2018-nyts-data-startling-rise-youth-e-cigarette-use).

[6] *Id.*

[7] *Vaping Sent This Teenager Into Rehab. His Parents Blame Juul's Heavy Nicotine Dose*, NBC News (Jan. 8, 2019) (online at www.nbcnews.com/health/health-news/vaping-sent-teenager-rehab-his-parents-blame-JUUL-s-heavy-n956356).

[8] *Juul: The Rise of a $38bn E-cigarette Phenomenon*, BBC News (Jan. 6, 2019) (online at www.bbc.com/news/business-46654063).

[9] Robert K Jackler, et al., *JUUL Advertising Over its First Three Years on the Market* (Jan. 31, 2019) (online at http://tobacco.stanford.edu/tobacco_main/publications/JUUL_Marketing_Stanford.pdf).

2. A list identifying:

   a. all of JUUL's advertising buys, including the dates the advertisements were active;
   b. every celebrity, influencer, and marketing agency that was engaged by JUUL, as well as the dates of the engagement and the amounts spent by JUUL; and
   c. every celebrity, influencer, and marketing agency JUUL solicited to promote its products that did not engage;

3. All documents, including memoranda and communications, referring or relating to the impact on minors and/or new nicotine users of your product's physical design, ease of use, and/or ease of concealment, including but not limited to all focus groups (whether or not specific to minors or new nicotine users);

4. All documents, including memoranda and communications, referring or relating to JUUL's process for:

   a. identifying and blocking Twitter followers who are minors, including identifying the individuals and/or third-party vendors responsible for doing so, and the number of accounts blocked; and
   b. identifying and removing minors from JUUL's email lists;

5. State how many individuals on JUUL's email lists do not currently have their ages verified;

6. A list of all clinical trials in the United States relating to whether JUUL helps smokers quit smoking combustible cigarettes, including all documents reflecting the findings of those trials;

7. All documents, including memoranda and communications, referring or relating to:

   a. existing combustible cigarette smokers' preference/desire for a "throat hit" in a product; and
   b. people who use JUUL in addition to smoking combustible cigarettes;

8. All documents, including memoranda and communications, referring or relating to a link between JUUL and any negative health effects, including but not limited to seizures, respiratory issues, impaired attention, impaired memory, depression, anxiety, and effects on the brain development of minors;

9. All documents, including memoranda and communications, referring or relating to:

a. JUUL's decisions to label its product 5% strength and to use a measurement by weight instead of by volume;
b. how and why JUUL decided to market products in the United States at the 5% nicotine level in the United States rather than other, lower nicotine levels;
c. research and studies regarding the link between JUUL's nicotine formulation and Cmax and/or Tmax measurements; and
d. JUUL's cigarette equivalency statements and disclosures, including whether JUUL considered how much of the nicotine in a combustible cigarette stays in a cigarette after smoking to make its equivalency determination;

10. All documents, including memoranda and communications, referring or relating to consumer complaints, anecdotal evidence, and/or stakeholder input regarding:

a. health issues alleged to have been caused by JUUL;
b. addiction in minors alleged to have been caused by JUUL; and
c. minor and/or new user confusion and/or misunderstanding about the amount of nicotine contained in your product;

11. All documents, including memoranda and communications, referring or relating to presentations and/or sales and marketing analysis JUUL presented to, or prepared for, potential JUUL investors referring or relating to the product's use in smoking cessation, use in current smokers and non-smokers, and minor use, including but not limited to presentations to Altria, Japan Tobacco International, Tiger Capital, Fidelity Investments, British American Tobacco, Tao Capital, Capital Group, Goldman Sachs, Perella Weinberg Partners, Sivia Capital, and Sand Hill Angels, LLC;

12. A list, with a separate entry for each JUUL pod flavor, at each nicotine level, indicating:

a. the date each JUUL pod flavor was placed on the market, in each nicotine level;
b. how each JUUL pod flavor was placed on the market, including where it was available online and the location of physical retail locations at which it was available;
c. the yearly online sales revenue for each JUUL pod flavor, at each nicotine level, for each year on the market; and
d. the yearly retail sales revenue for each JUUL pod flavor, at each nicotine level, for each year on the market;

13. All documents, including memoranda and communications, that JUUL's Enterprise Markets Team provides and/or has provided to health insurers, employers, and/or health care providers;

14. All documents, including memoranda and communications, reflecting:

    a. JUUL's initial research, conducted before the product went to market, on smokers and on non-smokers; and
    b. research and/or studies reflecting that JUUL is more addictive than combustible cigarettes;

15. All forms of agreements, including non-disclosure agreements, that employees signed as a condition of receiving their bonuses from the $2 billion Altria special dividend;

16. All documents, including memoranda and communications, referring or relating to proposals, plans, and/or intended partnerships or collaborations between JUUL and any cannabis-related companies, including but not limited to Cronos Group;

17. All documents and presentation materials used by JUUL's Government Affairs Office in correspondence with federal and state regulators including, but not limited to, health claims, addictive properties, and effectiveness as a smoking cessation device; and

18. All documents that JUUL has produced to the Massachusetts Attorney General's Office, the North Carolina Attorney General's Office, and the Food and Drug Administration.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X. An attachment to this letter provides additional instructions for responding to the Committee's request. If you have any questions regarding this request, please contact Subcommittee staff at (202) 225-5051.

Sincerely,

Raja Krishnamoorthi
Chairman
Subcommittee on Economic and Consumer Policy

Enclosure

cc: The Honorable Michael Cloud, Ranking Member

Responding to Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.

2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committees.

3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.

4. The Committees' preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.

5. Documents produced in electronic format should be organized, identified, and indexed electronically.

6. Electronic document productions should be prepared according to the following standards:

    a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.

    b. Document numbers in the load file should match document Bates numbers and TIF file names.

    c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.

    d. All electronic documents produced to the Committees should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

    BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.

7. Documents produced to the Committees should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.

8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.

9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committees' letter to which the documents respond.

10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.

11. The pendency of or potential for litigation shall not be a basis to withhold any information.

12. In accordance with 5 U.S.C.§ 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.

13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.

14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.

15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.

16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.

17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.

19. All documents shall be Bates-stamped sequentially and produced sequentially.

20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee on Oversight and Reform, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building. When documents are produced to the Committee on Financial Services, production sets shall be delivered to the Majority Staff in Room 2129 of the Rayburn House Office Building and the Minority Staff in Room 4340 of the O'Neill House Office Building. When documents are produced to the Permanent Select Committee on Intelligence, production sets shall be delivered to Majority and Minority Staff in Room HVC-304 of the Capital Visitor Center.

21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a

part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.

4. The term "including" shall be construed broadly to mean "including, but not limited to."

5. The term "Company" means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.

6. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; (b) the individual's business or personal address and phone number; and (c) any and all known aliases.

7. The term "related to" or "referring or relating to," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.

8. The term "employee" means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.

9. The term "individual" means all natural persons and all persons or entities acting on their behalf.