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# RANKING MEMBERS WARN OF DANGERS OF E-CIGARETTE ADVERTISING

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## Reps. Waxman, DeGette, and Pallone Renew Call for FDA Regulation of E-Cigarettes

Nov 4, 2013



<http://democrats.energycommerce.house.gov/index.php?q=page/e-cigarette-flashbacks>

Today Ranking Member Henry A. Waxman, Oversight and Investigations Subcommittee Ranking Member Diana DeGette, and Health Subcommittee Ranking Member Frank Pallone, Jr., sent a [letter](#) (<http://democrats.energycommerce.house.gov/sites/default/files/documents/Hamburg-E-Cigarette-Presentation-2013-11-4.pdf>) to Food and Drug Administration Commissioner Margaret A. Hamburg warning that electronic cigarette companies are targeting young smokers with the same advertising and marketing practices that major cigarette companies used for decades to hook teen smokers. The members also released an [online presentation](#) (<http://democrats.energycommerce.house.gov/index.php?q=page/e-cigarette-flashbacks>) that shows how the television advertisements, magazine advertisements, sport and event sponsorships, and cartoon characters once used by the cigarette companies to attract young smokers are now being used by the e-cigarette companies. The online presentation is available [here](http://democrats.energycommerce.house.gov/index.php?q=page/e-cigarette-flashbacks) (<http://democrats.energycommerce.house.gov/index.php?q=page/e-cigarette-flashbacks>).

Earlier this year, the members [called on FDA](#) (<http://democrats.energycommerce.house.gov/sites/default/files/documents/Hamburg-Adolescent-Use-of-E-Cigarette-2013-9-16.pdf>) to regulate e-cigarettes, highlighting findings from a Centers for Disease Control and Prevention report that the percentage of adolescents using e-cigarettes is growing rapidly. The CDC report suggested that e-cigarettes could serve as a gateway product to nicotine addiction.

The full text of today's letter is available below and online [here](#) (<http://democrats.energycommerce.house.gov/sites/default/files/documents/Hamburg-E-Cigarette-Presentation-2013-11-4.pdf>). The September 16, 2013, letter to Commissioner Hamburg is available online [here](#) (<http://democrats.energycommerce.house.gov/sites/default/files/documents/Hamburg-Adolescent-Use-of-E-Cigarette-2013-9-16.pdf>).

November 4, 2013

The Honorable Margaret A. Hamburg, M.D.  
Commissioner of Food and Drugs  
U.S. Food and Drug Administration  
10903 New Hampshire Avenue  
Silver Spring, MD 20993

Dear Commissioner Hamburg:

We wrote to you in September to urge you to take action to regulate electronic cigarettes, also known as "e-cigarettes," citing our concern that use of e-cigarettes among adolescents has increased rapidly. We are now writing to bring to your attention one reason for this disturbing increase of e-cigarette use by youth: there is growing evidence that e-cigarette manufacturers are taking advantage of the absence of regulation to market their products to young smokers. In fact, e-cigarette manufacturers appear to be using exactly the same advertising and promotional techniques that were used for decades by cigarette manufacturers to hook teenagers on their products.

To illustrate what is happening, we have compiled a side-by-side presentation of cigarette and e-cigarette marketing practices at [democrats.energycommerce.house.gov](http://democrats.energycommerce.house.gov).

### Television Advertisements

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(<http://democrats.energycommerce.house.gov/index.php?q=news/democratic-staff-release-updated-memorandum-comparing-affordable-care-act-and-medicare-part-d>) 03/27/2014

Unlike traditional cigarettes, e-cigarettes are not subject to the federal ban on television advertising. Several e-cigarette manufacturers have taken advantage of this loophole to air advertisements during events with heavy teen and young adult viewership. NJOY, an e-cigarette manufacturer, has advertised during the Super Bowl, the Academy Awards, and on ESPN, reaching a general audience of "at least 10 million viewers," many of them children, teens, or young adults. The NJOY ads have also "been accepted by cable channels owned by Discovery Communications and Viacom ... as well as local broadcast stations in markets like Chicago, Dallas, Los Angeles, New York, San Francisco, and Seattle." Television ads for Blu e-cigarettes have aired nationally on Comedy Central, whose target audience is young males, including on Comedy Central's *Workaholics*, a top-rated show among 18 to 24 year olds.

The e-cigarette companies have also used celebrities to promote their products. Lorillard, which makes Blu e-cigarettes, has run TV ads featuring Jenny McCarthy and Stephen Dorff over 8,000 times.

These television ads used by e-cigarette manufacturers are eerily similar to television advertisements from cigarette manufacturers from the 1950s and 1960s. At our website, [democrats.energycommerce.house.gov](http://democrats.energycommerce.house.gov), you can compare these ads side-by-side. The e-cigarette ads from today and the cigarette ads from decades ago both send the same unmistakable message: smoking is cool and sexy. Over 50 years ago, R.J. Reynolds ran a TV ad featuring Lee Marvin, the actor who once portrayed action heroes and hardboiled detectives. In the advertisement, Mr. Marvin works out with a punching bag before extolling the virtues of Pall Mall cigarettes. Last year, Lorillard ran an ad with actor Stephen Dorff, who is described as "oozing machismo" and "inhaling with swagger." In the ad, Mr. Dorff asserts, "It's time we take our freedom back."

In the 1950s, R.J. Reynolds ran a TV ad with actress Eva Gabor endorsing Camel cigarettes. Ms. Gabor stares at the camera and says in a sultry voice, "Let's go somewhere where we can be comfortable, and I tell you why – I smoke Camels." Earlier this year, Lorillard ran an ad with Jenny McCarthy, the former *Playboy* model, in which she also seductively stares at the camera and says "I love being single" before explaining how with Blu e-cigarettes she doesn't have to "worry about scaring that special someone away."

#### **Print Advertisements**

E-cigarette magazine advertisements feature celebrities and utilize sex appeal and images of nightlife environments – clubs, parties, and bars – as well as messages designed to appeal to adolescents. These are the same techniques used by tobacco companies decades ago. The Campaign for Tobacco Free Kids has noted that these ads "feature today's equivalents of the Marlboro Man and the Virginia Slims woman, depicting e-cigarette use as masculine, sexy or glamorous."

These e-cigarette advertisements are not restricted to magazines with adult readerships. For example, *Fin* and Blu e-cigarette ads have both appeared in *Rolling Stone*, which was once "a mainstay of tobacco advertising" due to high youth readership.

At our website, [democrats.energycommerce.house.gov](http://democrats.energycommerce.house.gov), you can compare these ads side-by-side. One suggestive Blu e-cigarette ad published in magazines last year is the spitting image of a 1933 Lucky Strike ad, with both ads showing women leaning back into the embrace of fashionable men. One Lucky Strike ad from 1930, which bears a striking resemblance to a Blu ad from last year, claimed that Luckies remove "irritants that cause throat irritation and coughing." The Blu ad touts that e-cigarettes produce "no tobacco smoke and no ash ... making it the ... smarter alternative to regular cigarettes." A 1959 Pall Mall ad and a 2013 XEO ad – with the tagline "What's Your Taste" – both use images of fresh, healthy fruits to sell tobacco and e-cigarettes. Other ad pairing examples on our website share similar themes, showing cigarette smokers from decades ago or e-cigarette users today enjoying themselves in airplanes, automobiles, and boats.

#### **Cartoon Imagery**

Traditional cigarette manufacturers used cartoon characters to promote their products before they were banned under the Tobacco Master Settlement Agreement. R.J. Reynolds's long-time use of Joe Camel is one prominent example. E-cigarette manufacturers are now using the same techniques. For example, [eJuiceMonkeys.com](http://eJuiceMonkeys.com) and Magic Puff City E-cigarettes both use cartoon monkeys to sell e-cigarettes. Blu's website has featured a cartoon character "Mr. Cool." Blu also produced a web video featuring the same cartoon character in a cartoon storyboard visual format. Our website displays the similarities.

#### **Sports Sponsorships**

E-cigarette manufacturers are sponsoring numerous sporting events and athletes. These e-cigarette manufacturer sponsorships are similar to those of cigarette manufacturers who sponsored numerous sporting events before they were banned from name brand sponsorship of certain events under the Tobacco Master Settlement Agreement and later by the Family Smoking Prevention and Tobacco Control Act.

Before the sponsorship ban, cigarettes had "long been a tradition at NASCAR," with R.J. Reynolds sponsoring the Winston Cup for over three decades and Philip Morris sponsoring the Marlboro Grand Prix, among other popular auto racing events. Motor sports once received "70% of all tobacco sports sponsorship," helping "tobacco brands become distinctly associated with the lifestyles" of racecar drivers. Today, in the absence of cigarette manufacturer sponsorship, e-cigarette makers have eagerly stepped in and begun to blanket racing events with free e-cigarette samples and racecar drivers with sponsorship deals.

E-Swisher and its "e-Swisher Racing Team" is the primary sponsor of NASCAR driver Reed Sorenson. Green Smoke has sponsored NASCAR driver T.J. Bell at the Sprint Cup Series and the Coca Cola 600 race. And Blu, as the primary sponsor of RLL Racing's No. 15 Indy Car, distributes e-cigarette samples at racing events like the Houston Grand Prix. On our website, you can compare the cigarette brand advertising once plastered on racecars to the similar e-cigarette advertisements covering racecars today.

#### **Event Promotions**

E-cigarettes are also promoting their products through sponsorship of youth-oriented events. Blu has sponsored numerous major music festivals, including South by Southwest, Bonnaroo, Sasquatch! Music Festival, Governors Ball, and HARD Summer L.A. At these festivals, Blu operates an "eCigs Vapor Lounge" where attendees can win VIP tickets, watch exclusive artist performances from "top performers in the indie, rock, and hip-hop genres," and sample e-cigarettes.

E-cigarette manufacturers have also held numerous widely attended promotional events and sponsored many other activities to market their products to youthful audiences. This summer, South Beach Smoke "stood with an estimated half a million people at

the Miami Heat's victory parade" distributing e-cigarette coupons. NJOY has distributed e-cigarettes at the New York and London Fashion Weeks. Fin has sponsored the "FoodaBluzza" food and blues festival, and e-Swisher has sponsored The World Series of Poker.

These promotional efforts are similar to those used by large cigarette manufacturers for decades. These manufacturers had "long used sponsorship of music concerts popular with young people to promote its products," with tobacco advertising prominent at events like the Essence Music Festival and Kool Jazz Festival. Tobacco brands like Marlboro, Camel, and Kool sponsored concerts and events. Over a decade ago, the New York Times reported that tobacco sponsorship of music and other events at bars in major cities had "become an increasingly entrenched feature of American night life." On our website, you can compare the music festival advertising and promotional material of cigarette and e-cigarette companies.

#### Conclusion

FDA's delay in regulating e-cigarettes is creating a loophole that manufacturers are exploiting to target young users. The e-cigarette manufacturers are using many of the exact same advertising and promotional techniques used for decades by cigarette manufacturers to hook teenagers on their products. These include TV advertisements, magazine advertisements, sport and event sponsorships, and even the use of cartoon characters.

We believe FDA action is essential to ensure that e-cigarette makers stop targeting the nation's youth. We recognize that there is a debate about the value of e-cigarettes as an alternative for addicted adults. But whatever the merits for adult smokers, these addictive products should not be used by teenagers. The companies' practices show that they are not capable of self-regulation. FDA must act now to protect children from their unscrupulous marketing campaigns.


Sincerely,

Henry A. Waxman  
Ranking Member

Diana DeGette  
Ranking Member  
Subcommittee on Oversight and Investigations

Frank Pallone, Jr.  
Ranking Member  
Subcommittee on Health

#### Related Documents:

 [Letter to Margaret A. Hamburg, M.D., Commissioner, U.S. Food and Drug Administration \(FDA\), from Ranking Members Henry A. Waxman, Diana DeGette, and Frank Pallone, Jr. \(November 4, 2013\). \(sites/default/files/documents/Hamburg-E-Cigarette-Presentation-2013-11-4.pdf\)](#)

 [Letter to Margaret A. Hamburg, M.D., Commissioner, U.S. Food and Drug Administration \(FDA\), from Reps. Waxman, DeGette, Pallone, and Dingell \(September 16, 2013\). \(sites/default/files/documents/Hamburg-Adolescent-Use-of-E-Cigarette-2013-9-16.pdf\)](#)