

**House Committee on Energy & Commerce
Subcommittee on Oversight & Investigations
“Vaping in America: E-Cigarette Companies’ Impact on Public Health”
Testimony of Ryan Nivakoff, CEO of NJOY, LLC
February 5, 2020**

Good morning, Chair DeGette, Ranking Member Guthrie, and distinguished members of the Subcommittee.

My name is Ryan Nivakoff and I am CEO of NJOY. Thank you for the opportunity to testify today to discuss with you the important public health dynamics associated with electronic cigarettes. I am humbled to be here today to provide NJOY’s insights into this complex and vitally important conversation.

By way of background, I joined NJOY for deeply personal reasons. As I am sure is the case with many of the people in this room, my family has been victimized by one of the most deadly articles of commerce ever created: the combustible cigarette. As a boy, I watched as my Grandmother perished well before her time and as my once virile Grandfather, a veteran of the Army and Marine Corps and a police officer for over 38 years, spent the last 6 years of his life attached feebly to an oxygen tank, unable to even sit up without losing his breath. It is with these horrifying memories in mind that I joined NJOY and wrote our mission statement to “Make Smoking History” by helping adults find an alternative to combustible cigarettes.

From Day 1 it was clear to me that neither we at NJOY nor other pioneers in harm-reduction would be able to advance that mission if the public health benefits of electronic cigarettes were overshadowed by a surge of youth use. To that end, NJOY has pursued its mission with the goal of ensuring that our products do not fall into the hands of America's youth. Though hollow as it may sound, this industry has the greatest incentive, both moral and economic, to ensure that youth use is eliminated. If that goal is not accomplished, this life-changing technology may rightfully and ironically be relegated to the ash tray of history. We see today's hearing as an opportunity for productive dialogue to move forward together collectively to protect the public health.

There are approximately 34 million Americans who still smoke combustible cigarettes, and over a billion people worldwide. These smokers face a greater than 50% chance of premature death if they continue to smoke—and each year nearly 500,000 Americans die prematurely from smoking-related disease. Switching adult smokers from combustible cigarettes to electronic cigarettes has the potential to save millions of lives and trillions of dollars in preventable healthcare expenses. These assertions are not mere industry taglines designed to obfuscate otherwise nefarious or profit-driven motives. Former FDA Commissioner Scott Gottlieb has stated: “If you can fully switch every currently addicted adult smoker who is using combustible tobacco products onto e-cigarettes, you will have a

profound impact on public health.” The National Academies of Sciences, Engineering, and Medicine has said: “complete switching from combustible tobacco cigarettes to e-cigarettes would be expected to reduce tobacco related health risk.”

With this in mind, NJOY has recognized from inception that, contrary to popular opinion, addicting a new generation of nicotine users would not further our moral or financial bottom lines, but rather be our undoing. We’ve built our business in accordance with that ethos and the data prove that it is working. According to the National Youth Tobacco Survey, in 2019 only 1.2 percent of high school students who used ENDS within the prior 30 days reported using an NJOY product. Indeed, in the most recent National Youth Tobacco Survey, NJOY’s use rate for high schoolers, despite being one of the top 3 national brands, is over 9 times lower than the combined use of two brands that were not even part of the survey, but were written in by students who used those brands.

Further, the FDA’s yearly retail inspection violation data consistently shows that NJOY products are involved in the fewest number of violations of the top four e-cigarette brands. For example, in the fiscal year beginning October 2017, FDA recorded more than 3,300 violations involving electronic cigarettes, of which only 20 involved NJOY products, which is less than 1%. The following fiscal year FDA recorded over 5,250 violations, only 28 of which involved NJOY products, barely ½ of 1%. And in the present fiscal year, NJOY

products were involved in only 8 violations of the 839 recorded by FDA thus far. While NJOY will strive to continue to reduce this number even farther, NJOY is proud of its track record of success thus far.

To be clear, however, my goal is not to aggrandize NJOY's track record, nor to draw comparisons against my competition. Rather, I provide this data merely to demonstrate that with proper regulation and vigilant self-policing, there is a path forward for this life changing technology—a path that can provide an off-ramp for adults without creating an on-ramp for youth—and I'm confident that everyone on this panel shares that very same dedication to eliminating underage vaping.

I welcome the opportunity to share with the Subcommittee more detail about the policies and procedures by which NJOY has been able to service its mission to adult smokers while minimizing access to youth. I look forward to answering your questions and thank you again for the opportunity to speak here today.