

United States Senate

Washington, DC 20510-1504

October 28, 2019

The Honorable Joseph J. Simons
Chairman
Federal Trade Commission
600 Pennsylvania Avenue NW
Washington, DC 20580

Dear Chairman Simons:

In the midst of a youth e-cigarette epidemic and a spate of vaping-related respiratory illnesses and deaths, we write to draw the Federal Trade Commission's (FTC) attention to unsubstantiated claims made in an e-cigarette advertisement being run by the Vapor Technology Association. We urge the FTC to closely examine the appropriateness of the claims and message being presented to American viewers.

On October 16, 2019, the Vapor Technology Association began airing a commercial that claims, "Vaping is at least 95 percent safer than smoking." This and other similar claims are not supported by any credible medical evidence, which is why the Food and Drug Administration (FDA) recently issued a warning letter to the e-cigarette company JUUL for claiming that its vaping product was "99% safer than cigarettes." The FDA determined that JUUL's unproven statement was an illegal and unauthorized modified risk claim and ordered the company to stop. The FTC should take similar action to prevent the Vaping Technology Association from making unproven health claims to the American public.

The Vapor Technology Association's misleading advertisement attributes the "95 percent safer than smoking" claim to the Royal College of Physicians in the United Kingdom. However, a review of medical literature reveals that this claim has significant limitations and is based upon seemingly circular logic. This statistic is based solely upon a 2015 estimate by twelve individuals who ranked their opinion of e-cigarettes on a scale of 0 to 100. It is not reliant upon any clinical trials, scientific risk analysis, or medical evidence. It is essentially a polling question result. In fact, The Lancet, the leading medical journal in the United Kingdom, called this estimate "an extraordinarily flimsy foundation."

In response to this British statistic, the FDA has stated, "FDA does not find the beliefs reported ... to be sufficiently conclusive on the relative risks." And with regards to the overall public health challenge posed by e-cigarettes, the FDA has stated, "e-cigarettes still pose a number of significant health and safety risks." The Centers for Disease Control and Prevention (CDC) has similarly stated that e-cigarette aerosol "can contain harmful and potentially harmful substances, including nicotine, heavy metals like lead, volatile organic compounds, and cancer-causing agents."

Further, our nation's largest physician groups remain concerned about the health dangers associated with e-cigarettes, both for adults and children. The American Medical Association has stated, "the AMA urges the public to avoid the use of e-cigarette products," and "the AMA also calls on physicians to make sure their patients are aware of the dangers of e-cigarettes, including toxins and carcinogens." The American Academy of Pediatrics recently testified before Congress that, "all e-cigarette products present a major risk to children's health."

We should listen to our own leading medical experts and public health officials. Further, we should ensure that any health claims being made to the American public are backed up by solid clinical evidence and studies. Given the sensational and unsubstantiated claims made in the Vapor Technology Association's advertisements—which diverge significantly from the available medical evidence and are at odds with what our leading public health agencies believe to be true—we urge the FTC to closely scrutinize whether this advertisement may be unfair or deceptive to American consumers, and to take appropriate enforcement action.

Sincerely,



Richard J. Durbin
United States Senator