

December 14, 2016

The Honorable Mike Pence
Vice President-Elect
Presidential Transition Office
1800 F Street, NW
Washington, DC 20006

Dear Vice President-Elect Pence:

The R Street Institute, a free-market think tank based in Washington, D.C., endorses the prompt roll back of the August 2016 U.S. Food and Drug Administration (FDA) regulations for e-cigarettes and related vapor products (e-cigs). We share many of the concerns with the FDA “deeming” regulations expressed to you by Sen. Ron Johnson (R-Wis.) and Rep. Duncan Hunter (R-Calif.) in their Dec. 12 letter.

As your administration considers ways to improve the regulatory framework for e-cigarettes and vapor products, we encourage you to look at the issue from a broad perspective that includes due consideration of the public health impact.

These regulations, as hitherto promulgated, are harmful public policy for several reasons. A thriving e-cig industry will be wiped out by the million-dollar-plus cost of application for FDA approval. As Sen. Johnson and Rep. Hunter explain, the FDA’s deeming regulations will force small businesses to close shop, resulting in thousands of lost jobs.

There are also compelling public health reasons to roll back the FDA regulations. Since the creation of the e-cigarette, we have seen explosive growth of e-cigarette sales *concurrent* with record reductions in both adult and teen smoking. These reductions occurred without an increase in the total number of Americans using tobacco-related products. This finding, well documented in two sets of federal surveys, is strong evidence that e-cigs are attracting traditional smokers to make the switch without increasing the numbers of non-smokers attracted to nicotine products. We now have documented evidence to fear that elimination of most, if not all e-cig products from the marketplace, even temporarily, will reverse the dramatic recent reductions we have seen in both adult and teen smoking.

The deeming regulations, underlying tobacco laws and last week’s Surgeon General report purposely ignore the possibility that a low-risk non-pharmaceutical nicotine delivery product, like the e-cigarette, offers both personal and public health benefits unachievable by other means.

Prompt roll back of these destructive regulations will allow the current e-cig industry to remain in business while Congress, in collaboration with the public health community, considers amendment of the Tobacco Control Act. Legislation must hew closely to scientific discovery and good moral sense if we are to do the best possible job of eliminating tobacco-related addiction, illness and death from American society.

We urge your administration to act quickly to roll back these regulations and work towards a better regulatory paradigm allowing the e-cigarette and vapor product industry to compete in the American marketplace, while recognizing e-cigarettes’ immense potential as a harm-reducing tool.

Sincerely,

R Street Institute