



Letter

What Drives Tobacco Control Policy?

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This is a follow-up to the presentation by Dr David Ashley of the FDA's Center for Tobacco Products (CTP) at the March 2016 meeting of the Society for Research on Nicotine and Tobacco (SRNT). He shared serious doubts about whether Swedish Match should be granted Modified Risk Tobacco Product (MRTP) status for eight snus products.¹

As published in *Nicotine and Tobacco Research* (NTR),² and re-emphasized at the SRNT meeting, the FDA claims to be committed to a science-based regulatory agenda, rather than one based on political or special-interest concerns.

Some question this FDA claim.

It makes little sense to impose little or no regulatory burden on cigarettes currently on the market while attempting to remove far-lower-risk and less-addictive e-cigarettes and related vapor devices (e-cigs) from the market, and hesitating to grant Swedish Match's snus products MRTP status. It makes even less sense to deal with pharmaceutical nicotine products (patches, gums, etc.) as if they have no nicotine.

A major problem with the FDA Tobacco Law relates to the requirement that the manufacturer of a new or reduced risk product document that it will not harm nonusers of the product (ie, will not recruit nonusers to nicotine addiction). Unfortunately, FDA's interpretation of this wording imposes a cost burden so substantial that, if unchanged, it will eliminate all of the smaller companies and all of the customizable products from the e-cig marketplace.³

One might expect that advertising a product as lower-risk than cigarettes might recruit nonsmoking teens to nicotine addiction. Recent experience with e-cigs in both the United Kingdom and the United States provides convincing evidence that such advertising, while it may recruit some to product experimentation, will recruit very few to continuing use, while attracting large numbers of teen smokers away from cigarettes.⁴⁻⁶ Allowing e-cig manufacturers to reference this class-of-product experience to satisfy the harm-to-nonusers provision of the law would eliminate a currently proposed unbearable cost burden.

If FDA determines it does not have the administrative flexibility to re-interpret this provision of the law, public health authorities could urge congressional action to amend it.

The cigarette is the most addictive and hazardous tobacco product, and the dominant nicotine-delivery product in the United States. All of the commonly quoted American data on tobacco-related illness and death relate to this one product.⁷ Despite public statements to the

contrary, snus and the other smokeless products that have been widely available on the American market for a very long time show no measurable increase in risk of any potentially fatal tobacco-attributable illness.^{8,9}

Thus, a good case can be made for serious consideration of adding a tobacco harm reduction (THR) component to current tobacco-control programming. Such an initiative would publicly compare the risks of e-cigs and other smokeless products to cigarettes. This would encourage smokers who are unable or unwilling to quit to switch to a lower-risk product. As seen by this author, THR would likely yield reductions in tobacco-related illness and death not otherwise achievable, and do so while continuing to reduce teen recruitment to nicotine addiction.

Beliefs that underlie the FDA's refusal to consider THR appear to include the following:

1. Non-pharmaceutical nicotine products are considered to have harms, but no benefits. Thus, evidence that self-administered nicotine offers cognitive/behavioral benefits for persons with schizophrenia, depression and bipolar disorder has not been considered. With no consideration of potential benefits, endorsement of low-risk products as substitutes for cigarettes is not on the tobacco-policy table for discussion.
2. Tobacco use is considered a disease, not a behavior. Study designs appropriate to address long-term behavioral change are not considered. This, too, rules out consideration of low-risk products as substitutes for cigarettes.
3. The primary determinant of risk is considered to be the chemical composition of the product. This belief contradicts the fact that it is the class of tobacco product, whether combusted or smoke-free, that determines both its addictiveness and its risk of potentially fatal tobacco-attributable illness. This belief imposes requirements for unnecessarily detailed product-specific chemical analyses and population studies if a manufacturer is to seek approval for a new product or request MRTP status. These are regulatory burdens not placed on the major cigarette brands.
4. Pharmaceutical nicotine-delivery products (patches, gums, etc.) are treated by the FDA as if they have no nicotine. These are the nicotine products most accessible to minors. They are sold on open shelves in a variety of candy and fruit flavors without

enforcement of age restrictions. They are approved for unlimited use as to dose and duration, for simultaneous use of multiple products and for use by those who continue to smoke. They are advertised on television. Tobacco-related surveillance systems do not track use of these products.

Despite the absence of combustion and tar, the low concentration of the other toxins in cigarette smoke, and e-cigs' failure to recruit nonsmoking teens to continuing nicotine use, proposed deeming regulations address e-cigs as if they are as hazardous and addictive as tobacco cigarettes. Despite evidence to the contrary,^{4,11} public-health authorities continue to allege that these products increase teen cigarette use.⁶

A science-based regulatory agenda would not remove low-risk products from the market by imposing unbearable regulatory costs. It would seriously consider and fund research into possible benefits of low risk products, consider feasible approaches to THR, and refrain from misleading public statements.

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Declaration of Interests

I serve, as a tobacco policy consultant to the R. Street Institute, a libertarian Washington, DC think tank. R. Street may receive some of its revenue from tobacco-related companies.

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