

Testimony of Steven Callahan on Behalf of Nu Mark LLC

Connecticut Public Health Committee

March 11, 2015

Good morning Senator Gerratana, Representative Ritter and members of the Public Health Committee. Thank you for allowing me to share my perspective on e-cigarette regulation. My name is Steve Callahan and I am Director, Public Affairs for Altria Client Services on behalf of Nu Mark. Nu Mark, an Altria Group subsidiary, markets MarkTen and Green Smoke e-vapor products. Both products are closed systems, meaning the liquid nicotine comes in pre-filled cartridges which consumers cannot access and are discarded when finished.

We recognize that the recent growth of e-vapor products raises many public policy questions. We seek to be a constructive contributor to discussion around e-vapor products. Let me highlight two principles that guide how we think about this category:

First, these products are intended for adults. We strongly agree that kids should not use e-vapor products. Last year, we supported successful legislation here in Connecticut making it illegal for kids to buy e-cigarettes.

Second, this category should be regulated by the U.S. Food and Drug Administration.

Last April, FDA proposed comprehensive regulation of e-cigarettes. Once finalized, this regulation will include, among others, the following provisions:

- Mandatory health warnings;
- Provisions governing how and when new products can be brought to market;
- The ability to ban certain ingredients and flavors;
- Requirements that all manufacturers disclose their ingredients to FDA;
- The ability to determine any additional labeling requirements; and,
- The ability to establish marketing restrictions that meet First Amendment considerations.

FDA will, as Congress intended, establish national, uniform regulations to govern this category. These regulations will preempt many state efforts. While timing is uncertain, FDA says it will issue a Final Rule in June of this year.

One reason we support federal regulation of this category is because FDA will be empowered to determine, based on science and evidence, whether e-vapor products are potentially less harmful than conventional cigarettes. There is a growing consensus among leading public



health authorities that e-vapor products might present lower risk to individual consumers than smoking.¹

Although FDA will have to examine many questions before reaching any definitive conclusions, it has already noted this potential when it said in the proposed rule:

“Emerging technologies such as the e-cigarette may have the potential to reduce the death and disease toll from overall tobacco use depending upon who uses the products and how they are used.”²

We believe FDA should be given the time to make the appropriate determination, based on the science, about the potential public health benefit of e-vapor products. We also believe Connecticut should not pursue legislation which might impede a harm reduction strategy or lead to a patchwork of regulation across different states.

There are, however, important steps we believe states can and should consider such as:

- Registration and licensing requirements for e-vapor retailers. This creates a level playing field for all retailers and allows the State to know who is selling these products so they can assure compliance with underage access laws;
- Requiring child-resistant packaging standards for “open” e-liquid containers to prevent accidental exposure of minors to liquid nicotine. 16 states and the U.S. Congress are currently considering such legislation; and,
- Prohibiting use of e-vapor devices at schools and places designated for children such as day cares.

Thank you again for the opportunity to speak with you today on these important issues.

¹ See, e.g., Hatsukami, *supra* note 11, at S546–47 & fig.2 (showing the “spectrum” of risk across tobacco products); *supra* note 10.

² *Id.* at 143.

