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## Goza & Honnold Newsletter

### JUUL Set Sights on Youth Through Product Development, Advertising

In the June 2019 edition of our Newsletter, we delve into JUUL vaping devices and the company's youth-oriented advertising. Our attorneys are investigating cases related to nicotine addiction and other injuries from JUUL e-cigarettes, including stroke, seizures, heart attack, lung damage, and asthma exacerbation, in teenagers and young adults. While JUUL and tobacco company Altria claim a shared desire to prevent kids from using their products, the companies' actions tell a different story.

*If you have or your child has become addicted to nicotine or developed another injury because of a JUUL device, please feel free to contact our office to discuss a potential case. We are also happy to investigate potential referral cases regarding JUUL injuries.*

#### JUUL's Purposeful Youth Appeal

JUUL is unquestionably the most popular brand of e-cigarettes on the market. The company is based in San Francisco and enjoys a 72 percent share of the e-cigarette market. Since its introduction in 2015, the company has [claimed](#) its vaping device is a healthier alternative to traditional, combustible cigarettes and a way to potentially quit smoking altogether. However, its early marketing of the device was noticeably lacking in photos of adult cigarette smokers, as well as any messaging that aligned with its purported mission.

After a slow initial start, JUUL launched an aggressive ad campaign that capitalized on the reaches of social media. The ads were vibrant, colorful and featured attractive, carefree young people holding vape pens that looked like flash drives. JUUL's vaping pods came in several colors and flavors, like "cool cucumber" and "crème brûlée." A JUUL "starter kit" ran about \$50 and

included the pen, a pen USB charger, and four flavored pods. As part of its social media conquest, JUUL commissioned numerous social media influencers with large followings to promote the product.

At the same time, JUUL ran magazine ads and billboard ads and started passing out free vape pens at movies and concerts. None of the advertising indicated the JUUL pens were designed for adult cigarette smokers who wanted to quit smoking. None of the ads featured real adult smokers or obviously adult models. In fact, many of JUUL's ads actually had an uncanny resemblance to the old ads for cigarettes that played a pivotal role in teen cigarette smoking.

Researchers with Stanford Research Into the Impact of Tobacco Advertising recently [published](#) their findings from a study of JUUL's advertising during 2015 to late 2018. By analyzing nearly countless social media posts and ads, the team found that JUUL's advertising strategies were "patently youth-oriented."



### **Effective Advertising Creates Teenage Vaping Boom**

The surge of JUUL's youth-oriented ad campaigns was unbelievably effective. From 2017 to 2018, e-cigarette use among high school students increased by an astounding 78 percent, according to the [CDC](#). In addition, the CDC indicates that e-cigarette use among middle school students increased by 48 percent from 2017 to 2018.

Teens' use of JUUL pens is not isolated, either. Teens are not simply trying JUUL one or two times; They're becoming addicted. One JUUL pod contains [as much nicotine](#) as 20 standard cigarettes. JUUL pods are also more potent than other e-cigarettes, delivering a stronger hit of nicotine in every puff. The company itself has touted that its pens are 2.7 times faster than competitors at delivering nicotine to the bloodstream.

Many young vapers (63 percent between the ages of 15 and 24) do not know that they are ingesting nicotine every time they use a JUUL pen. And not only can kids become addicted to nicotine through regular use of JUUL pens, they can also develop other injuries, like [seizures](#) and [lung damage](#). Some of these injuries could be related to the flavored pods and ingestible nicotine in JUUL's vape pens — injuries that are unique to the pens.

While JUUL has endeavored to create the perception of distance between itself and Big Tobacco, Altria, the parent company of Philip Morris and Marlboro, now owns a 35 percent stake in JUUL. Altria's purchase of JUUL shares drew [significant ire](#) from then-FDA Commissioner Scott Gottlieb, who strongly advocated against youth tobacco use before leaving his post in April.

It is important to note that the FDA has never approved JUUL's vaping devices as cessation



products for combustible cigarettes, and JUUL has never applied for the same. Alternatively, the FDA has proposed legislation to place firm restrictions on e-cigarette and tobacco companies, and Gottlieb even threatened to ban pod-based nicotine devices due to their apparent link to youth nicotine use and addiction.

It is the threat of this kind of legislation, combined with their current success in reaching teen consumers, that has Altria and JUUL lobbying for [legislation](#) to increase the legal age to buy tobacco products to 21 years and

churning out [tobacco use prevention programs](#).

### **Feigned Discouragement of Youth Nicotine Use**

It might seem counterintuitive that a Big Tobacco company like Altria would be sponsoring bills aimed at increasing tobacco age restrictions or that an e-cigarette company like JUUL would try to drive away potential customers. A further look at the methods behind the bills and programs suggests the real motivations of the companies.

In April, four bills cropped up in Congress that would ultimately prevent people under the age of 21 from buying tobacco products. Three of those bills can be traced back to Altria, including the bill from Senate Majority Leader Mitch McConnell and the bill co-sponsored by Sen. Mitt Romney. With its newly acquired percentage of JUUL, a company widely associated with teen nicotine use, Altria doesn't seem focused on reducing youth access.

In the former days of Philip Morris, leaked internal documents showed that the company was striving to redirect the conversation around tobacco advertising as a means of combatting the efforts of anti-tobacco groups. At that time, the company [shifted the focus](#) from advertising restrictions to combatting youth smoking. Philip Morris had no problem turning its product into something taboo for teenagers and turning attention away from potentially damaging legislation in the meantime.



Altria is likely taking a page from the old playbook with today's Tobacco to 21 bills. It knows if the bills extend to vape pens, teens will still be able to acquire them and might even want them more if they can't legally buy them. And in the meantime, Scott Gottlieb's ideas for harsher restrictions and bans won't get through.

JUUL is falling in line by [launching educational programs](#) it claims are designed to prevent kids from using vaping devices, after strong backlash from Capitol Hill, U.S. schools, and the media. But much of the material the company uses in these programs is ripped from the [Tobacco Prevention Toolkit](#) by Stanford Medicine without permission or consultation from the creators of the Toolkit.

JUUL also includes in its program a self-evaluation section with questions that seem to reveal its true angle. Teens and kids taking the course are prompted to say why they are drawn to e-cigarettes and why they think students use e-cigarettes. Educators and school officials contacted by JUUL about these programs have called them “[preposterous](#)” and “deceptive,” saying that the company making the most profits from teen vaping can’t be trusted to turn kids away from the practice.

### **JUUL’s Continued Mitigation Efforts and Pending Litigation**

Since the issue of rampant teen vaping started to come to light, JUUL has engaged in numerous efforts aimed at mitigating its damage, refocusing its advertising, and rebranding its image. The company has dramatically overhauled its website, replacing its colorful banners with the black-and-white testimonials of adult smokers who switched to JUUL. JUUL has also worked to remove its old posts from social media and discontinued retail sale of all its pod flavors except three: mint, menthol, and tobacco.



The effects of its initial advertising and business strategies live on, however. The majority of JUUL’s followers on Twitter are [still kids](#). “Juuling” is a recognized verb among teens. Schools are increasingly struggling to control a booming population of students addicted to nicotine who tell their teachers, despite detentions and grade docks and looming suspension, “[I can’t stop](#).”

The FDA states that [90 percent](#) of adults in the United States who currently smoke were already smokers by age 18. Altria and JUUL have an extreme interest in keeping it that way, and the public shouldn’t be fooled by actions seemingly to the contrary. Youth addiction is good for business. Lawyers have to be in the business of stopping it.

Lawsuits are already currently pending against JUUL, Altria, and Philip Morris, alleging that the companies targeted teenagers and engaged in deceptive marketing as to the strength and addictiveness of the JUUL vape pens. The lawsuits are based in theories of design defect, failure to warn, fraud, negligence, unjust enrichment, and unfair and deceptive trade practices. Many of these suits have been filed by parents on behalf of their teenagers who became addicted to nicotine through JUUL’s pens.

In addition, the attorney general of North Carolina has filed a lawsuit against JUUL for its advertising in the state, alleging that the company hid the dangerousness of its product and sought to attract users under the legal age for smoking.

Our firm is currently evaluating cases for teens and young adults who have become addicted to nicotine or suffered other injuries through use of the JUUL e-cigarette device. We want to work with you on these cases. Please contact our office to discuss potential referrals or co-counsel relationships. If your child is addicted to nicotine from JUUL use, we welcome the opportunity to speak with you.

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***The attorneys at Goza & Honnold are happy to review your case,  
and we thank you for the trust you place in our firm.***

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