JUUL: beaten-down innovator or vicious bully?

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One could almost feel sorry for Juul.

After seeing a Juul co-founder sweat through a US Congressional hearing at which youth testified about JUUL addiction and reported a JUUL company representative's reassurance at a school assembly that the product was 'totally safe'[1]; after the US Food and Drug Administration (FDA) accused JUUL of illegally marketing its thumb drive-type high-nicotine chemsticks as reduced harm without providing any scientific evidence to back up those claims[2]; after multiple lawsuits accused the company of marketing to teens 'just like cigarette companies did in the past'[3 4] and after federal prosecutors in California initiated a criminal probe into the company,[5] the embattled company almost began to look like an underdog.

But not quite.

With a 35% stake held by tobacco giant Altria Group, parent of Philip Morris, and a 75% share of the e-cigarette market, JUUL is revealing itself to be more vicious bully than beaten-down innovator. In response to a San Francisco city ordinance banning sale of vaping products until the products are reviewed by FDA, JUUL spent more than $11 million to put Proposition C on the November ballot,[6 7] unctuously claiming the measure will 'stop youth vaping' by 'comprehensively' regulating e-cigarettes. That 'comprehensively' means, according to legal analysts, that the measure would toss out San Francisco's earlier ban on sales of flavoured tobacco products as well as the more recent vape product sales ban. "Let's create the strictest regulations in the nation," its deceptively slick political mailers urge. While as of this writing, JUUL announced it was ending support for its own measure, likely anticipating defeat, it remains unclear whether San Francisco voters will be fooled into letting JUUL write its own regulations.

In response to the numerous lawsuits, JUUL has also made the astonishingly mendacious claim that the company has 'never marketed to youth and do[es] not want non-nicotine users, especially youth, to ever try our product.'[3] Even for observers long accustomed to the smarmy lies of Big Tobacco, this is a whopper. A simple Google search locates numerous ads featuring and transparently targeted at youth, positioning JUUL as a cool, fun thing to do, despite the company's latter-day efforts to scrub early marketing from its website.[8]

JUUL may have accomplished the near-impossible feat of uniting pro-vape 'harm reductionists' and those concerned about e-cigarettes' impact on public health: both now hate JUUL but for different reasons. Tobacco harm reductionists are angry that JUUL has caused crackdowns on vaping as a whole, including the small businesses that had learned how to guide customers to use e-liquids to quit smoking altogether. New policies aimed at JUUL are now potentially putting the whole e-cigarette harm reduction enterprise in jeopardy.

Those who are concerned that e-cigarettes may cause as-yet unrecognised harms to health or result in a new nicotine-addicted generation more likely to move on to smoking cigarettes think that JUUL has created a monster—a high nicotine product so unobtrusive it can be used in junior high classes. JUUL imitators and other vapour product offshoots have piled on rapidly, resulting in an enormous proliferation of completely unregulated, easily concealed nicotine products resembling pens, remote controls, car fobs, sweatshirt drawstrings and inhalers.[9]

As if this were not enough bad news, public health officials reported a number of vaping-related deaths.[10] Several US states have issued emergency warnings about vaping and the Commonwealth of Massachusetts ordered a 4-month ban on sales of all vaping products. Several other states have instituted bans on sales of flavoured vaping products.[11] India banned production, manufacture, import, export, transport, sale, distribution, advertisement and storage of e-cigarettes; Thailand, Brazil, Singapore, Mexico and Cambodia already had sales ban policies.[12] In China, mere days after JUUL began online sales in September, sales were halted without explanation.[13]

In August, as the reports of lung ailments multiplied, JUUL chief executive officer Kevin Burns urged non-smokers, "don't vape. Don't use JUUL" and acknowledged that the long-term effects of vaping are unknown.[14] He was replaced less than 30 days later with an executive from Altria, cementing Big Tobacco's dominance.[15]

What's a 'disruptor' to do?

Faced with a corporate credibility crisis, expect JUUL to rapidly deploy a suite of 'social responsibility' initiatives, lobby extensively at the federal level to seek preemption of tough sales ban laws and continue to express sombre concerns about the youth vaping craze it single-handedly created, while chuckling all the way to the bank. Expect mea culpas galore, 'partnerships' with concerned citizen–school–parent groups willing to take JUUL's money and support of minority health organisations like the recent US$7.5 million donation to Meharry Medical College, a historically black institution in Tennessee, for studying 'public health issues that affect African-Americans'.[16] All these tactics are straight out of the Big Tobacco playbook. Will they work? Time will tell.

But no one should expect JUUL to act any differently than the cigarette company whose former executive is now firmly in control.

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