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Industry tactics in anticipation of strengthened regulation: BIDI Vapor unveils non-characterising BIDI Stick flavours on digital media platforms

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In January 2020, the US Food and Drug Administration (FDA) issued guidance for the electronic cigarette industry, which resulted in a limited prohibition of flavoured cartridge or 'pod'-based e-cigarette products but allowed for the sale of other flavoured e-cigarette products.¹⁻³ Flavoured disposable products remain on the market, many of which include characterising flavours such as fruit, mint and candy. Currently, flavoured products (excluding menthol and tobacco) constitute 75% of all disposable e-cigarette sales.^{4,5} Flavoured tobacco products appeal to youth, and flavours may facilitate initiation and continued use by reducing tobacco harshness and other unpleasant sensory characteristics.⁶⁻¹³ Public health advocates deem the current federal guidance to be insufficient to address flavoured e-cigarette use among youth. Calls are mounting on federal, state and local officials to expand these restrictions to all flavoured e-cigarette devices as well as other tobacco products.¹⁴⁻¹⁸

BIDI Vapor, a Florida-based electronic cigarette company, produces the disposable e-cigarette brand BIDI Stick. Since the company's founding in 2019, BIDI Sticks have been sold in 11 flavours including Mint Freeze, Fruity Mango, Icy Mango and Berry Blast.¹⁹ The company's market share has expanded rapidly since its introduction. As of 8 December 2020, the company comprises 24.2% of the disposable e-cigarette market in the USA, only surpassed by Puff Bar, which is the leader in this category.^{20,21}

In August 2020, the company launched a campaign on Instagram, Facebook and its official website to unveil new 'non-characterising' flavour names. BIDI Stick promotional materials provide a crosswalk dictionary on its website (figure 1)²² and prominently feature direct translations between previous and new flavour names on the web page where visitors can purchase products.¹⁹ The ads state that the new product names are part of the company's 'efforts to stand against underage selling of vape products' and "ensure that the products aren't appealing to the youth" (figure 2). This is a product with the new flavour names and the new packaging available starting on 1 November 2020. This approach is not unique to BIDI's e-cigarettes as BIDI Vapor has also recently launched 'non-tobacco derived nicotine' pouches introduced in

six 'one-word' non-characterising flavours (arctic, haze, winter, solar, regal and summer). The flavour translations are provided on the company website, and characterising flavour names are currently included in smaller font on the product packaging.²³

In addition to promoting its products, the company website features counter-tobacco control advocacy posts or blogs such as '5 Reasons Why Flavor Bans May Miss the Mark on Youth Vaping' and describes research studies on the role of flavours in youth uptake and consumption funded by the company.^{24,25}

Importantly, BIDI Sticks were introduced after the Deeming Rule went into effect and may technically not be authorised for sale in the USA as the product is still undergoing premarket review.^{26,27} However, the concept flavour naming that the company is using appears to be an increasingly widespread tactic used across tobacco and nicotine product categories to maintain flavoured product sales and evade regulation. These strategies align with historic tactics modifying product characteristics, labelling or packaging to subvert flavour restrictions and maintain sales.²⁸⁻³⁰ The recent actions by BIDI Vapor demonstrate the potential for e-cigarette manufacturers to leverage

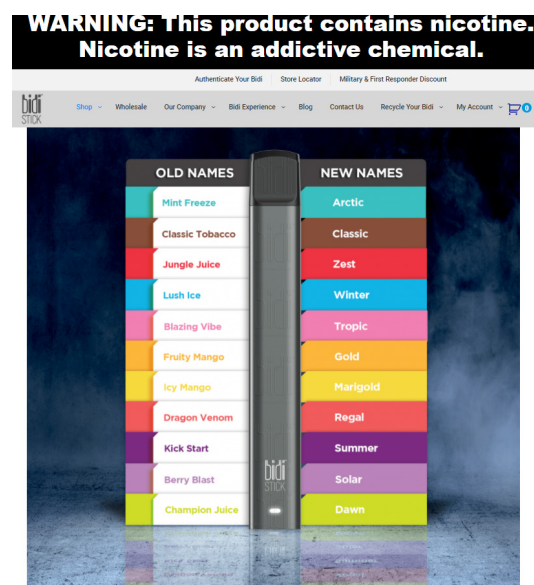


Figure 1 BIDI Stick non-characterising flavour promotion on the BIDI Vapor official website available from <https://wholesale.bidivapor.com/new-flavor-names-same-premium-vaping-experience/>.



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Figure 2 BIDI Stick non-characterising flavour promotion on the BIDI Vapor Instagram account.

these strategies to skirt more stringent restrictions on flavoured products that impact disposable and other e-cigarette device types. BIDI Vapor's marketing appears aimed at educating consumers to recognise these 'non-characterising' variant names as being directly comparable with the previous versions, which were more descriptive of the flavour. Shifting to non-characterising flavour names while retaining identical formulations is a literal interpretation of the regulation that flouts the spirit of its intended purpose—to prevent youth initiation by restricting product designs (ie, flavours) that appeal to youth. There is no evidence that merely changing the name of a flavoured product sufficiently shields youth from discovering and experimenting with these products. In fact, concept names may potentially enhance product appeal. Although the appeal of flavours primarily relies on taste, references to certain themes, colours or imagery in flavour names can play an important role in attracting new users and establishing use expectancies. For example, the literature on food marketing indicates that extrinsic marketing cues (ie, naming) can alter perceptions of a product's taste.³¹ The current FDA definition of tobacco product 'flavour' does not take into consideration the potential problems associated with use of concept flavours.³² The FDA should expand the current guideline against the characterising flavours in pod-based e-cigarettes to also include any non-characterising references to flavours such as those in this recent launch and promotion of BIDI Sticks or fully restrict flavours to tobacco or nicotine only.

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