

Congress of the United States
Washington, DC 20510

December 12, 2016

The Honorable Mike Pence
Vice President-Elect
Presidential Transition Office
1800 F Street, NW
Washington, DC 20006

Dear Vice President-Elect Pence:

Congratulations to President-Elect Trump and you on your election. Your shared commitment to regulatory reform is an important step in unwinding years of regulatory overreach that expanded the size, scope, and cost of government. On November 8, the American people voiced their disapproval of the type of government that ignores the input of small business owners, consumers, and job creators. We are hopeful that through both executive and legislative action, burdensome regulations imposed by the Obama Administration will be re-examined and undone.

The U.S. Food and Drug Administration's (FDA) deeming regulation of e-cigarettes is an example of a burdensome rule that could eliminate an entire emerging industry. The FDA's rule threatens to crush the e-cigarette industry and potentially hurt the public's health by making it harder for consumers to access products that serve as an alternative to smoking. The FDA's regulation, which went into effect in August, requires e-cigarette manufacturers to complete costly and time-consuming applications in order to get federal approval to sell e-cigarette products. These applications could cost e-cigarette manufacturers—most of which are small businesses—more than \$1 million per product, according to some estimates.¹ Many e-cigarette manufacturers cannot afford this expensive application process, and it is likely that this regulation will force most of them to shut down.

The FDA's regulation will have a negative effect on an industry that has been innovating and putting thousands of people to work for the past decade. Christian Berkey, the Chief Executive Officer of an e-liquid company located in Hartland, Wisconsin, is one of many innovators and job-creators whose business will be affected by this burdensome regulation. Mr. Berkey has told the Committee that the effect of this rule on the e-cigarette industry would be "catastrophic."² If the FDA's overreach goes unchecked, then thousands of jobs and small businesses will disappear.

¹ Sabrina Tavernise, *F.D.A. Imposes Rules for E-Cigarettes in a Landmark Move*, NY TIMES, May 5, 2016, http://www.nytimes.com/2016/05/06/science/fda-rules-electronic-cigarettes.html?_r=0.


² Telephone Call by Chairman Johnson's Staff, S. Comm. on Homeland Sec. & Governmental Affairs, with Christian Berkey, CEO, Johnson Creek Vapor Co. (May 16, 2016).

The Honorable Mike Pence
December 12, 2016
Page 2

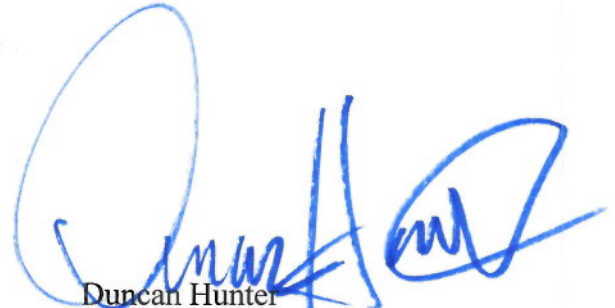
To reign in the regulatory overreach of the Obama Administration, it necessary to consider all appropriate executive and legislative options to ease the burdens on job creators and innovators. As we continue to pursue legislative options that will protect the thousands of small businesses that rely on producing and selling e-cigarettes, we respectfully urge the new Administration to consider repealing or suspending the FDA's burdensome deeming regulation over e-cigarettes. With the President-Elect's leadership, we are hopeful that we can protect thousands of small-business owners, employees, and consumers from the FDA's overreach.

Thank you for your attention to this important matter.

Sincerely,



Ron Johnson
Chairman
Committee on Homeland Security
and Governmental Affairs



Duncan Hunter
Member of Congress

cc: The Honorable Thomas R. Carper
Ranking Member
Committee on Homeland Security
and Governmental Affairs