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June 21, 2019

VIA HAND DELIVERY AND ELECTRONIC MAIL

The Honorable Raja Krishnamoorthi
Chairman
Committee on Oversight and Reform
Subcommittee on Economic and Consumer Policy
United States House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515

Re: First Response to June 7, 2019 Letter to Kevin Burns

Dear Chairman Krishnamoorthi:

We represent JUUL Labs, Inc. (“JLI” or the “Company”) and are writing in response to your letter, dated June 7, 2019 (“Letter”), requesting the production of certain documents and information in connection with the House Committee on Oversight and Reform’s Subcommittee on Economics and Consumer Policy’s (the “Subcommittee”) inquiry into youth e-cigarette usage.

JLI was founded with one objective: to eliminate the use of combustible cigarettes among adult smokers. The Company also recognizes that youth vaping has emerged as a serious problem it is committed to addressing together with policy makers and other interested parties. JLI has made clear in both word and deed that it is completely committed to combating illegal youth vaping, both because it is the right thing to do and because it is essential to preserving the Company’s opportunity to serve its true market of adult smokers.

Cigarette smoking remains the leading cause of preventable death worldwide, accounting for more than 8 million deaths each year from both direct use and indirect exposure to secondhand smoke.¹ In the United States alone, more than 480,000 people die annually from smoking-related diseases.² This is largely because cigarette smoke contains over 7,000 chemicals, at least 250 of which are known to be harmful and at least 69 of which

¹ See World Health Organization, *Tobacco: Key Facts*, May 29, 2019, <https://www.who.int/news-room/fact-sheets/detail/tobacco>.

² See Center for Disease Control and Prevention, *Fast Facts: Diseases and Death*, https://www.cdc.gov/tobacco/data_statistics/fact_sheets/fast_facts/index.htm.

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can cause cancer.³ Many of these chemicals also contribute to heart and lung disease, including in those exposed to second-hand smoke. Consequently, cigarettes remain the only consumer product that, when used as intended, will kill half of all long-term users. It is critical that we find and support alternatives to combustible cigarettes for the world's 1.1 billion adult smokers and those around them.⁴

While the Company's current products are not intended for tobacco or nicotine cessation, the data demonstrates that JUUL products have been successful in moving adult smokers down the continuum of risk associated with tobacco use.

To begin with, studies show that our products help smokers switch off of combustible cigarettes.⁵ A behavioral study of adult smokers who began using JUUL products found that 47.1% of the 9,272 survey participants who completed the 3-month follow-up assessment had completely abstained from smoking for at least the prior 30 days.⁶ At 6-month, 9-month, and 12-month follow-up assessments, this rate of abstinence has consistently improved.⁷

And once smokers switch to JUUL products, the data also demonstrates that they have moved down the risk continuum. For example, a recent clinical study of adult smokers, which assessed biomarkers of exposure ("BOEs") linked to tobacco-related cancers and heart and lung disease, found equivalent reductions between JUUL product users and smoking abstainers. Those who used JUUL products and not cigarettes saw an 85% aggregate reduction of BOEs, while those who abstained from both cigarettes and JUUL products saw a 85.3% reduction.⁸ This represented a 99.6% relative reduction in aggregate BOEs for the

³ *Harms of Cigarette Smoking and Health Benefits of Quitting*, National Cancer Institute, <https://www.cancer.gov/about-cancer/causes-prevention/risk/tobacco/cessation-fact-sheet>.

⁴ See World Health Organization, *Tobacco: Key Facts*, May 29, 2019, <https://www.who.int/news-room/fact-sheets/detail/tobacco>.

⁵ See, e.g., Hajek, Peter, et al., *A Randomized Trial of E-Cigarettes versus Nicotine Replacement Therapy*, 380 NEW ENG. J. OF MED. 629, Feb. 14, 2019, <https://www.nejm.org/doi/full/10.1056/NEJMoa1808779>; see also Jackson, Sarah, et al., *Moderators of real-world effectiveness of smoking cessation aids: a population study*, ADDICTION, May 22, 2019, <https://www.ncbi.nlm.nih.gov/pubmed/31117151>; Zhu, Shu-Hong, et al., *E-cigarette use and associated changes in population smoking cessation: evidence from US current population surveys*, BMJ, July 26, 2017, <https://www.bmj.com/content/358/bmj.j3262>.

⁶ Christopher Russell, et al., *Factors Associated with Past 30-day Abstinence from Cigarette Smoking in a Non-Probabilistic Sample of 15,456 Adult Established Current Smokers in the United States Who Used JUUL Vapor Products for Three Months*, HARM REDUCTION JOURNAL (2019). This and other studies are available for scientific review and assessment at <https://jiliscience.com>.

⁷ These data are included in manuscripts presently under peer-review in scientific journals.

⁸ See Jay, Joanna, et al., *Changes in Biomarkers of Exposure Associated with Switching for 5 Days from Combusted Cigarettes to Nicotine Salt Pod System*; Poster Presented at the 2019 Society for Research on Nicotine and Tobacco Annual Conference, Feb. 23, 2019.

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JUUL product group. The group that continued to smoke cigarettes, in stark contrast, saw these same BOEs increase by 14.4%.⁹

Just last week, moreover, JLI presented data from a clinical trial at the 6th Global Forum on Nicotine in Poland that found an approximately 99% reduction of formaldehyde and carbon monoxide particles in secondhand (exhaled breath) vapor associated with the use of the JUUL system compared to the use of combustible cigarettes.¹⁰ The aggregate measurements of formaldehyde and carbon monoxide particles were not statistically different from the background levels measured without product use.¹¹

These findings are consistent with the evaluations of public-health authorities around the world. For example, New Zealand's Ministry of Health recently stated that "[v]aping . . . is much less harmful than smoking,"¹² and Health Canada has observed that "vaping products . . . present a less harmful alternative for adults who smoke."¹³ Similarly, Public Health England released a consensus report stating that e-cigarettes are approximately 95% safer than combustible cigarettes.¹⁴ And France's High Council on Public Health concluded that "[t]he advantage of e-liquids over tobacco and its most popular consumption method (burning) is that they cancel or significantly reduce the risks of serious diseases developing – primarily cancer."¹⁵

Thus, while JLI has not marketed JUUL products as harm reduction products, a growing body of research tells the same story: switching off of combustible cigarettes and to JUUL products improves smokers' lives. To be clear, JLI recognizes that the healthiest choice any person can make is to not use any nicotine product at all. The Company does not want non-smokers or anyone underage to ever use JUUL products.

⁹ *Id.*

¹⁰ See PR Newswire, *Study Data Find Significant Differences In Exhaled Toxicants And Particles In Vapor Products Compared To Combustible Cigarettes*, June 14, 2019, <https://www.prnewswire.com/news-releases/study-data-find-significant-differences-in-exhaled-toxicants-and-particles-in-vapor-products-compared-to-combustible-cigarettes-300867679.html>.

¹¹ *Id.*

¹² New Zealand Ministry of Health, *Website to give Kiwis the facts on vaping*, June 9, 2019, <https://www.health.govt.nz/news-media/news-items/website-give-kiwis-facts-vaping>.

¹³ Health Canada, *Reducing Youth Access and Appeal of Vaping Products: Consultation on Potential Regulatory Measures*, Apr. 2019, [https://www.canada.ca/content/dam/hc-sc/documents/programs/consultation-reducing-youth-access-appeal-vaping-products-potential-regulatory-measures-eng.pdf](https://www.canada.ca/content/dam/hc-sc/documents/programs/consultation-reducing-youth-access-appeal-vaping-products-potential-regulatory-measures/consultation-reducing-youth-access-appeal-vaping-products-potential-regulatory-measures-eng.pdf).

¹⁴ See Brose, McNeil, et al., *E-cigarettes: an evidence update, A report commissioned by Public Health England*, August 2015, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/733022/E-cigarettes_an_evidence_update_A_report_commissioned_by_Public_Health_England_FINAL.pdf.

¹⁵ *Opinion Concerning The Risks and Benefits in the Use of Electronic Cigarettes by the General Population*, High Council for Public Health, February 2016.

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JLI knows that while it never intended for youth to use its products, intent is not what matters. What matters is data, and the data shows that far too many underage Americans are using vapor products. To help address this serious issue, JLI has taken the most aggressive actions of anyone in the industry. JLI stopped the sale of non-tobacco and non-menthol based flavored JUULpods to its traditional retail-store partners, enhanced its online age-verification process, strengthened its retailer compliance program with over 2,000 secret shopper visits per month, and shut down its Facebook and Instagram accounts. JLI works constantly to remove inappropriate social media content generated by others on those platforms. JLI strongly advocates for T21 legislation and supports banning flavors and packaging that are directly targeted at a younger audience such as those that mimic youth-appelling candies and desserts. Finally, JLI continues to develop technologies to further restrict underage access.

Looking ahead, JLI is committed to seeking new ways to further restrict youth access to and usage of its products and to advocating for category-wide actions that will reduce youth vaping across the board.

* * *

We are pleased to take this opportunity to provide you with an initial production of information and documents on our client's business and approach to eliminating the use of combustible cigarettes among adult smokers. As discussed with your staff, we are providing information as well as responsive, non-privileged documents on a rolling basis to the Subcommittee. In this, our first response, please find information responsive to certain of the Requests in your Letter ("Requests").

The accompanying documents and exhibits to this letter contain some of the Company's confidential, trade secret, and/or proprietary information. We have marked the attachments to this letter "Confidential" and request that they not be disclosed beyond the Subcommittee or made public. We ask that you treat the accompanying documents as confidential committee records, afford them the maximum protection available to information provided to the Subcommittee, and that you inform us of any proposed use by the Subcommittee of the information contained therein and provide JLI with an opportunity to be heard prior to any such proposed use.

The information contained in this response is based on JLI's best efforts undertaken within the timeframe provided and based on its understanding of the terms of the Letter. The representations made in this response are based on information reasonably available to the

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Company and may not reflect all existing relevant information. JLI reserves the opportunity to supplement information in this response and will do so as warranted by the identification of additional information. In providing information and materials responsive to the Letter, JLI does not waive any rights or legal options relating to the Subcommittee's inquiry.

* * *

Request 2:

A list identifying:

- a. all of JUUL's advertising buys, including the dates the advertisements were active;**
- b. every celebrity, influencer, and marketing agency that was engaged by JUUL, as well as the dates of the engagement and the amounts spent by JUUL; and**
- c. every celebrity, influencer, and marketing agency JUUL solicited to promote its products that did not engage;**

Response:

All of JLI's advertisements are intended to encourage adult cigarette smokers to make the switch to its products. The Company has never marketed to anyone underage. JLI fully recognizes that while some of its earliest marketing did not accurately convey its goal (the often cited 2015 campaign that ran for approximately five months and did not meaningfully impact sales), the Company's current marketing leaves no doubt about what JLI was founded to do: improve the lives of the world's one billion adult smokers and eliminate combustible cigarettes.

To that end, JLI has taken numerous steps to ensure its advertisements reach their intended audience of adult smokers. First and foremost, the Company's current advertising features testimonials from former adult smokers who made the switch off of combustible tobacco with the JUUL device, and this campaign is targeted at adult smokers age 35 and up. JLI also runs its advertisements in media with very low youth exposure. On radio, for example, the Company advertises on stations with at least 85% listenership over 21, the strictest available standard. Similarly, some of JLI's early television advertisements were run during late-night reruns of *The Golden Girls* or on other programs with more mature audiences.

A list of JLI's radio advertisements is available in Appendix A. The appendix includes, where available, the dates the advertising was active, the market in which it ran, and the estimated circulation.

JLI does not have a traditional celebrity or influencer program. JLI has never paid celebrities to endorse its products, nor have any celebrities or other high-profile individuals received product discounts in exchange for posting images of JUUL products on social media. Only one celebrity, an actress named Nora Lum who was an existing JLI ecommerce customer, has appeared in a user testimonial on the Company's website.

JLI has paid a total of \$8,500 for four individuals to post content related to JLI on Instagram and blogs, as follows: (1) JLI paid a total of \$3,500 for two blog posts and four Instagram photographs featuring JUUL from fashion blogger Laura Ellner in November 2017 (<http://ontheracks.com>; Instagram: @ontheracks); (2) JLI paid a total of \$2,500 for one blog post and one Instagram photograph from lifestyle and travel blogger Joe Miragliotta in November 2017 (<https://joesdaily.com>; Instagram: @joesdaily); (3) JLI paid \$1,000 for one blog post and one Instagram photograph from lifestyle influencer Christina Zayas in November 2017 (<http://lecitykitty.com>; Instagram: @christinazayas); and (4) JLI paid \$1,500 for one Instagram photograph from lifestyle blogger Christian Bendek (Instagram: @CaribbeanKing) in October 2017. In February 2018, JLI paid an additional \$1,000 for Mr. Bendek to share a 2015 Wired Magazine article about JLI in a link with a photograph on his Facebook page (which appears under his name). These payments represent the only direct compensation paid by the Company to any individuals to post their own JLI-related content on social media or elsewhere to date.

Additionally, two professional photographers were offered product discounts in exchange for providing the Company with photographs that it could use on its own social media accounts and posting one JUUL-related photograph to Instagram. The Company provided these individuals with a two-page document describing its content guidelines, including the requirement that any individuals appearing in a photograph with a JUUL device must be over 30 years old. The individuals also were informed that all content was required to comply with the Company's guidelines, and that all content had to be reviewed and approved by the Company before posting. One photographer, Moe Eldawi, thereafter posted three images of JUUL products on his Instagram account, "nikon_photo," (although only one had been requested by the Company). The other photographer, Jacob Fischer, did not ultimately post JUUL-related content on his Instagram account, but provided the Company with 10 photographs of JUUL devices for it to use in exchange for two codes to purchase JUUL Starter Kits for \$1.00 each, and five codes to purchase up to 10 four-pack JUULpods for \$1.00 each.

The Company has engaged the following marketing agencies or consultants:

- Cult Collective
- Grit Creative Group
- Havas Formula
- Obviously Social LLC
- Greenhouse Agency, Inc.
- PUSH Agency
- Evolution Bureau
- Scott Kabat
- Mark Irace
- Steven Baillie
- Tina Brunkhorst
- BeCore
- Lumanu, Inc.
- MediaSmith
- Veritone One, Inc.
- Commission Junction
- Impact Radius
- Aaron Schildkrout

Request 5:

State how many individuals on JUUL's email lists do not currently have their ages verified;

Response:

JLI only sends marketing emails to individuals who have passed the Company's exacting age-verification process, which requires the following:

- *Public records match:* The consumer has to input name, date of birth, address, and the last four digits of his or her social security number. JLI's social-security-number requirement creates a barrier to youth access that is unusual in this industry and makes it significantly more difficult for someone underage to use an adult's address and credit card information to complete a purchase. The consumer can opt out of the social-security-number requirement but is then required to upload a government-issued identification for verification. The consumer's personal information is verified

by a qualified third party and referenced across publicly-available records to confirm that the consumer is at least 21 years of age.

- *Two-Factor authentication:* Each potential consumer has to provide his or her phone number for two-factor authentication to verify identity and as an additional data point cross-referenced during the public records check. As part of this process, the consumer's phone number receives a code that requires input on JUUL.com to verify the account before proceeding to purchase.
- *Manual upload of government-issued identification:* If the public records search fails, or the consumer opts out of entering his or her social security number, the consumer has to upload a government-issued identification. JLI has incorporated facial recognition technology for uploaded IDs to prevent fraud. A consumer subject to the manual upload process is required to upload a "selfie" that is analyzed by a third party to verify that the photograph matches the consumer's government-issued identification. This technology utilizes programmed algorithms to identify potential fake identification, but an employee of the third party company also physically inspects each ID.
- *Personal information locks and additional fraud checks:* During the checkout process, the system locks the consumer's age-verified name, so the consumer cannot use a different name in either the credit card, billing address, or shipping address sections. In addition, every order placed on the JUUL.com system is filtered through a third-party fraud detection platform, which checks transaction details (e.g., billing and shipping address, credit card information, device identification) against a known and expanding blacklist, as well as an evolving set of fraud-protection rules that automatically block suspicious transactions.

Request 12:

A list, with a separate entry for each JUUL pod flavor, at each nicotine level, indicating:

- a. the date each JUUL pod flavor was placed on the market, in each nicotine level;**
- b. how each JUUL pod flavor was placed on the market, including where it was available online and the location of physical retail locations at which it was available;**
- c. the yearly online sales revenue for each JUUL pod flavor, at each nicotine level, for each year on the market; and**

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- d. **the yearly retail sales revenue for each JUUL pod flavor, at each nicotine level, for each year on the market;**

Response:

In June 2015, JLI launched the JUUL device and four JUULpod flavors at 5% nicotine strength—Virginia Tobacco, Cool Mint (now Mint), Fruit Medley (now Fruit), and Crème Brulee (now Crème). These products were actively marketed and sold through various sales and distribution channels, including traditional convenience stores and independent outlets. From December 2015 to January 2016, JLI expanded its JUULpod product portfolio to include additional e-liquid flavors and nicotine strengths (e.g., 0.5%, 1.7%, 3.0%, and 5.0%). These products were sold through a limited number of independent, specialty vape shops.

In August 2016, before the August 8, 2016 deeming date, JLI again expanded its JUULpod product portfolio to include additional e-liquid flavors and nicotine strengths. Similar to the December 2015 to January 2016 product expansion, these products were sold through a limited number of independent, specialty vape shops.

Request 16:

All documents, including memoranda and communications, referring or relating to proposals, plans, and/or intended partnerships or collaborations between JUUL and any cannabis-related companies, including but not limited to Cronos Group.

Response:

JLI is not, and never will be, in the cannabis market.

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Please feel free to have your staff contact me with any questions concerning this response.

Sincerely,



Michael D. Bopp

Appendix

cc: The Honorable Michael Cloud
Ranking Member
Committee on Oversight and Reform
Subcommittee on Economic and Consumer Policy

Appendix A: Radio Spots

Market	Approximate Date Range	Estimated Circulation
2015		
Baltimore, MD	09/07/15-10/04/15	3,000,000
Chicago, IL	09/07/15-10/04/15	7,800,000
Cleveland, OH	10/19/15-11/01/15, 12/07/15-01/03/16	2,150,000
Harrisburg, PA	10/05/15-11/01/15, 11/09/15-11/22/15	1,000,000
Jacksonville, FL	11/02/15-11/29/15, 12/14/15-12/27/15	1,475,000
Philadelphia, PA	09/07/15-10/04/15	3,000,000
Phoenix, AZ	09/07/15-10/04/15, 10/19/15-11/01/15	3,000,000
Raleigh-Durham, NC	09/07/15-11/01/15	2,000,000
2016		
Chicago, IL	January-February (4 continuous weeks)	3,000,000
Cleveland, OH	January-February (4 continuous weeks)	7,800,000
Phoenix, AZ	January-February (4 continuous weeks)	3,000,000
Nashville, TN	April-June (8 continuous weeks)	2,000,000
Oklahoma City, OK	Mid May-Mid June, July (8 weeks total)	2,150,000
Charlotte, NC	May, June (6 weeks total)	1,000,000
Portland, OR	June, July (6 weeks total)	1,475,000
San Francisco Bay Area, CA	August (4 continuous weeks)	3,000,000
Chicago, IL	02/08/16-02/09/16, 03/14/16-04/04/16	
Cleveland, OH	02/08/16-02/09/16, 03/14/16-04/04/16	
Hartford, CT	02/08/16-02/09/16, 03/14/16-04/04/16	
Phoenix, AZ	02/08/16-02/09/16, 03/14/16-04/04/16	
Providence, RI	02/08/16-02/09/16, 03/14/16-04/04/16	
2018		
Cincinnati, OH	7/02/18-7/15/18, 7/30/18-8/26/18	
Cleveland, OH	6/04/18-6/17/18, 7/02/18-8/26/18	
Colorado Springs, CO	7/02/18-7/15/18, 7/30/18-8/26/18	
Columbus, OH	6/04/18-6/17/18, 7/02/18-8/26/18	
Indianapolis, IN	7/02/18-7/15/18, 7/30/18-8/26/18	
Las Vegas, NV	7/02/18-7/15/18, 7/30/18-8/26/18	
Nashville, TN	7/02/18-7/15/18, 7/30/18-8/26/18	
Pittsburgh, PA	7/02/18-7/15/18, 7/30/18-8/26/18	
St. Louis, MO	6/04/18-6/17/18, 7/02/18-8/26/18	
Tampa, FL	7/02/18-7/15/18, 7/30/18-8/26/18	