



## IS REYNOLDS AMERICAN A GOOD CORPORATE CITIZEN? HISTORY AND RECENT ACTIONS SAY NO

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*“Lying is as natural to tobacco executives as breathing once was to their customers.”*

*Newsday Editorial, 2006<sup>1</sup>*

In its public statements and company descriptions, Reynolds American, Inc. (RAI) touts that it wants to be a “total tobacco company” with a goal of “transforming tobacco.”<sup>2</sup> However, the company’s recent actions show that it is still far from being a good corporate citizen and in the past, RAI’s desire for profits has repeatedly overtaken any sense of corporate responsibility.

In the U.S. Department of Justice’s lawsuit against the major cigarette companies, the findings of fact stated, “The courts have found that RJR [R.J. Reynolds] is a serial violator of the MSA” (the Master Settlement Agreement between 46 states and the cigarette companies that resolved the states’ lawsuits against RJR and the other major cigarette companies).<sup>3</sup> In August 2006, U.S. District Court Judge Gladys Kessler issued her final ruling in the lawsuit, finding that RJR and other tobacco companies intentionally researched, manipulated information, lied, and conspired “to bring new, young, and hopefully long-lived smokers into the market in order to replace those who die (largely from tobacco-caused illnesses) or quit.”<sup>4</sup> She further stated, “As Defendants’ senior executives took the witness stand at trial, one after another, it became exceedingly clear that these Defendants have not, as they claim, ceased their wrongdoing or, as they argued throughout the trial, undertaken fundamental or permanent institutional change.”<sup>5</sup>

Despite what Reynolds claims in its broader public statements about “transforming tobacco,” the company remains entrenched in its combustible cigarette business – continuing to invest in cigarette marketing and expansion and actively opposing evidence-based policies that would help smokers quit. In February 2023, the CEO of Reynolds’ parent company British American Tobacco (BAT), Jack Bowles, stated, “Combustible business is extremely important in the U.S., yes. Even if you don’t like it pays your bills every day.”<sup>6</sup> This statement echoes a sentiment expressed 11 years earlier. In November 2012, Reynolds’ then-President and CEO Daniel Delen stated:

*We have a little mantra inside of the company that we use, which we call the 80-90-90... We spend about 80 percent of our resources in the combustible space. The combustible space is still 80 percent, 80-plus percent of our operating income. We spend the majority of our resources still in the combustible space. 90 percent of the organizational focus, the human resources inside the company, are actually focused on the combustible space. And despite a lot of these new innovations that you see coming out, 90 percent of our R&D budgets are actually directed at the combustible category.... That is the category that’s still going to deliver a lot of growth into the future...<sup>7</sup>*

It is clear, then, that Reynolds’ real goal is to ensure the cigarette market stays as big as possible for as long as possible to generate more profits. Their claims that they need the profits from combustible cigarette sales to invest in product innovation simply means that they want to keep smokers smoking. And in order to do so, just as the company has done for decades, Reynolds must entice millions of kids into becoming addicted to their deadly products and keep adults smoking. Therefore, it continues to:

- release new products that appeal to youth;

- market its products in ways that attract youth;
- interfere with policies and regulations meant to protect public health; and
- promote ineffective youth prevention programs.

## **Recent Product Releases**

RAI has introduced a variety of new products to appeal to as wide of an audience as possible. In addition to introducing new cigarettes, the company has marketed smokeless tobacco products to use in places where people cannot smoke, essentially promoting dual use and increasing health risks. Here are some of the products that RAI has released in the last five years. (Please see Appendix A for products releases prior to 2018.)

- In response to California’s new law prohibiting the sale of flavored tobacco products, including menthol cigarettes and other products that impart a non-tobacco odor or taste, Reynolds introduced “new” products in late 2022 that claim to be non-menthol, but look almost indistinguishable from their menthol version predecessors: Camel Crisp and Newport EXP.<sup>8</sup> These menthol-like flavored cigarettes products were launched with plenty of direct marketing mailers to California smokers with statements including “California, we’ve got you covered” and offering “a crisp new experience” with “a taste that satisfies the senses”. Despite claims to transition smokers away from cigarettes, Reynolds continues to market new cigarettes to keep smokers smoking rather than encouraging them to quit. Website content accessed in California showed a similar strategy implemented for Camel Snus.<sup>9</sup> “To give California SNUS consumers more choice,” the company introduced “California-friendly styles” (“Max” and “Smooth”) described as “fresh tastes and familiar favorites.”
- In late 2020 and early 2021, Reynolds released a variety of new capsule products: Newport Boost Menthol, Newport Boost Gold, Pall Mall Activate in “Blue” and “Green,” and Lucky Strike Activate in “Blue” and “Green.” Although Pall Mall Activate is no longer on the market, Newport Boosts and Lucky Strike Activates are marketed with slogans like “menthol pleasure your way,” “you control the menthol,” and “own your moment,” emphasizing smokers’ “choice.”<sup>10</sup>
- RAI created R.J. Reynolds Vapor Company to produce its own electronic cigarette, Vuse.<sup>11</sup> The initial test-marketing in 2013 in Colorado was accompanied by an elaborate marketing plan that included print, television, and direct mail ads. While TV ads for cigarettes are prohibited by federal law, there is currently no regulation on e-cigarette marketing. In early 2014, the test market expanded into Utah, Wisconsin, and Indiana, with national expansion in the summer of 2014.<sup>12</sup> Several additional varieties of Vuse have been introduced or announced. In April 2016, RAI CEO Susan Cameron stated that Vuse “has just been ranked at the top of 2015’s most successful new products in convenience stores.”<sup>13</sup> In RAI’s 2016 third quarter earnings call, President and Chief Operating Officer of R.J. Reynolds Tobacco Company, Debra Crew, reported on Vuse’s continued strength – it “lead[s] the category with market share more than three times its closest competitor in traditional retail channels.”<sup>14</sup> In 2022, Vuse was the second most popular e-cigarette brand among youth e-cigarette users (23.6%), following the lead of Puff Bar (29.7%).<sup>15</sup>

Vuse was previously available in a total of eight flavors: original, berry, chai, crema, menthol, mint, and nectar and melon.<sup>16</sup> Research shows that flavored products – no matter what the tobacco product – appeal to youth and young adults.<sup>17</sup>

- In August 2012, RAI announced that it would be test-marketing Zonnix, a nicotine replacement therapy (NRT) gum made by Nicotivum, in Iowa. The product has been placed on the counter or near cigarettes and is priced equal to cigarettes. Rather than being interested in cessation, in its November 2012 Investor Day presentation the CEO admitted, “of course, this accusation [*sic*] really sort of allowed us and put ourselves on the map and really showed the word [*sic*] that we're quite serious about harm -- our harm reduction strategy.”<sup>18</sup> However, in 2019, RAI quietly removed Zonnix from the U.S. marketplace, but continues to sell NRT products under the Zonnix brand in other countries.<sup>19</sup>

## Irresponsible Marketing Practices

The 2014 Surgeon General’s report, *The Health Consequences of Smoking—50 Years of Progress*, concluded “that advertising and promotional activities by the tobacco companies cause the onset and continuation of smoking among adolescents and young adults.”<sup>20</sup> RAI’s marketing strategy and actions continue to promote tobacco use in ways that circumvent tobacco control laws, regulations, and make the products more attractive to kids. (Please see Appendix B for industry marketing practices prior to 2014.)

- In collaboration with *Rolling Stone* magazine, Reynolds American’s Vuse sponsored the “Rooftop Sessions” concert series to “bring music back to the boroughs” of New York City.<sup>21</sup> On November 20, 2020, the series streamed rooftop concerts from building tops in Manhattan, Brooklyn, and Queens, featuring musical artists like Cold War Kids, Elle King, and Oddisee. The concert series also included philanthropic partnerships with Sweet Relief Musicians Fund and Musicians Foundation. Vuse is no stranger to not only music collaborations, but other creative outlets too. Prior to the “Rooftop Sessions,” the brand shared their “Routes of Inspiration,” a virtual series that explores how inspiration comes to professionals within the creative world. Videos show interviews with a variety of artists, from musicians to tattoo artists to graphic designers.
- Newport is the leading menthol cigarette brand in the U.S., and the second most popular cigarette brand overall.<sup>22</sup> RAI acquired the Newport brand in its 2015 merger with Lorillard, and in September 2016 ran an ad for the brand in a magazine with a large youth and young adult readership, *People* magazine. The ad featured three friends smiling and laughing with packs of Newport cigarettes in the foreground and promoted a website linking Newport cigarettes with “pleasure,” as Lorillard had done for many years.<sup>23</sup> It also ran ads in other magazines with appeal to young people like *ESPN Magazine*, *Rolling Stone*, *Sports Illustrated*, and *Essence*.<sup>24</sup> In 2016, RAI sponsored Newport Pleasure Lounges – mobile, air-conditioned spaces – at musical festivals, and employed people to hand out coupons at concerts, bars, and convenience stores.<sup>25</sup>
- In August 2015, the Food and Drug Administration (FDA) warned RAI subsidiary Santa Fe Natural Tobacco Company (SFNTC) that marketing its Natural American Spirit cigarettes with health-related claims, including “additive-free” and “natural,” was in violation of the FDA law. These terms target consumers, including young people, who aspire to healthy lifestyles and environmental awareness. A January 2017 agreement between the FDA and SFNTC requires the company to remove the words “natural” and “additive” from product labels, advertising and promotional materials, but allows the retention of the brand name.<sup>26</sup> In 2001, a settlement with the U.S. Federal Trade Commission required the company to include disclaimers on its products that “No additives in our tobacco does

NOT mean a safer cigarette,” and “Organic tobacco does NOT mean a safer cigarette.” Yet, the company persists in framing its cigarettes as part of a natural, sustainable vision.

Throughout 2016, RAI placed advertisements for Natural American Spirit in magazines read by millions of teenagers, including *ESPN Magazine*, *Sports Illustrated*, *Rolling Stone*, *Vogue*, and *Glamour*. The ads portrayed packs of Natural American Spirit cigarettes outdoors, with a field behind them and the language, “100% Additive-Free, Natural Tobacco.” The ad provided a toll-free number to call to obtain a coupon to “try” a pack for only \$2.<sup>27</sup>

In the company’s November 2012 Investor Day presentation, the EVP of consumer marketing described SFNTC as a “a real values-driven set company, real values-driven set of people who are completely committed to the utmost product quality around their natural products, to the Earth, sustainability to the community they live in.”<sup>28</sup> SFNTC’s cigarette packs carry a logo of leaves in a circle, with the phrase, “Respect for the Earth.”<sup>29</sup> SFNTC has also advertised its campaigns to recycle cigarette butts and its environmentally-friendly company policies to appeal to environmentalists and to promote the company as earth-conscious. However, cigarette butts remain the number one source of litter. The company and Wall Street analysts touted the increasing growth and sales of this brand.<sup>30</sup>

- In 2013 and 2014, RJR ran a “Taste It All” campaign that ostensibly encouraged people to explore new adventures, but in fact was meant to drive consumers to try all of its variety of tobacco products. At its 2014 second quarter earnings call, then-CEO Susan Cameron stated, “As you know, the Camel brand offers a range of experiences and bold innovations, and adult tobacco consumers are taking up the invitation in the Taste It All marketing campaign currently underway. From authentic Camel Blues to Camel Crush with its capsule technology and the smoke-free convenience of Camel SNUS.”<sup>31</sup>

## **Political Interference**

RAI continues to use its lobbying power and significant monetary contributions to oppose evidence-based tobacco control policies that would benefit public health. Their strategies include (1) proposing less effective or ineffective policies to draw attention away from strong policies; (2) recruiting grassroots support (mostly smokers and retailers) to make the opposition side seem stronger than it is; (3) pouring millions of dollars into campaigns to oppose ballot initiatives; and (4) filing or threatening to file lawsuits to delay and prevent implementation of effective policies.

### ***Proposing Ineffective Policies***

- In early February 2023, Reynolds American submitted a citizen petition to the FDA, calling on the agency to crack down on enforcement against disposable e-cigarettes.<sup>32</sup> The company recommended increasing retail inspections and seizing disposable products at the U.S. border in order to eliminate their competition – Puff Bar and Elf Bar, two companies specifically mentioned by Reynolds’ letter. Of note, Reynolds’ parent company, BAT, sells disposable products (Vuse Go) in various fruit and mint flavors in 24 countries outside of the U.S., with plans for geographic expansion in 2023.<sup>33</sup>
- In Missouri, RAI spent more than \$13 million to support a 2016 ballot initiative to increase the state’s small cigarette tax – currently lowest in the nation at 17 cents per pack – by a mere 15 cents

a year over four years.<sup>34</sup> Small tax increases have minimal, if any, impact on consumption, as the tobacco industry's price promotions can easily nullify those negligible amounts. Supporting a tax increase can improve the company image and provide cover for the fact that it spent nearly \$26 million opposing much more effective (and significantly larger) tax increases on ballots in California and North Dakota.<sup>35</sup>

- In 2012-2013, RAI was at the forefront of pushing “harm reduction” strategies in states. The company pushed states to divert resources from the health department or state tobacco prevention programs to study or use smokeless tobacco as a strategy to reduce tobacco use, despite a lack of evidence for the approach in the U.S. Further, it urged states to set tobacco tax systems in accordance with their harm reduction strategies, which could make smokeless tobacco products more accessible to youth, promote dual use of cigarette and smokeless products, and deter smokers from quitting. During this period, RAI lobbied in at least six states: Indiana, Oklahoma, South Carolina, Nebraska, Kentucky, and North Dakota. RAI has also given money to individuals and organizations that have spoken in favor of these proposals.
- For many years, RJR has set up “dialogues” with health and community organizations to discuss corporate responsibility, harm reduction, and youth tobacco prevention. These meetings are usually set up by Martin Rutte, a consultant who has worked with the company for nearly 10 years. As recently as 2014, Rutte conducted focus groups in several southern states. In Kentucky, the company used these “dialogues” to distract people from the efforts to pass a strong state smoke-free law, by instead talking about legislation to make school grounds tobacco-free, address youth access, harm reduction/e-cigarettes, and how to get Right Decisions Right Now into schools. RJR has provided model legislative language on these policies.<sup>36</sup>
- In July 2011, RJR filed a Citizen’s Petition with the FDA to change the warning labels on smokeless tobacco products to state that smokeless tobacco products pose lower health risks than cigarettes, even though the company acknowledges that the language on the existing warning label is correct. Such a change represents an effort by RJR to circumvent the federal regulatory requirements for making modified risk claims about its products.

### ***Generating Opposition to Effective Public Health Policies***

- RAI has funded efforts to oppose policies to prohibit the sale of menthol cigarettes that appear to be from community groups and leaders.
  - In 2022, R.J. Reynolds funded a \$40,000 lunch at the National Black Caucus of State Legislators. In a session at the conference, Reynolds invited Retired Deputy Policy Chief Warne Harris to provoke concerns about how prohibiting menthol cigarettes could increase policing in Black communities. Harris serves as chair of the board of LEAP, which also receives funding from R.J. Reynolds.<sup>37</sup>
  - Reynolds has provided funding to the National Action Network (NAN), a civil rights organization founded by Reverend Al Sharpton, for decades, most recently to support the organization’s community forums to build opposition to local action to restrict the sale of menthol cigarettes. According to a 2019 article from the New York Times, “Mr. Sharpton acknowledged that the cigarette maker had made contributions to his group for two decades, and he did not dispute that the company regularly buys tables for as much as \$15,000 at its events, where political leaders crowd to speak.”<sup>38</sup>

- Prominent civil rights attorney, Ben Crump, a vocal opponent of menthol bans, reports that he has accepted money from Reynolds.<sup>39</sup>
- Reverend Horace Sheffield, who declined Reynolds' offer of at least \$250,000 to oppose menthol bans, reported that other local leaders in Detroit had accepted similar compensation.<sup>40</sup>
- In 2016, Reynolds donated \$75,000 to the National Organization of Black Law Enforcement Executives (NOBLE), which is active in opposition to menthol bans, claiming the laws will harm police-community relations.<sup>41</sup> NOBLE continues to list Reynolds as a supporter on their website, although more recent financials are not available.<sup>42</sup>  
From 2016-2019, the Law Enforcement Action Partnership (LEAP) received funds from Reynolds and from 2018-2021 from Altria.<sup>43</sup> In 2019, LEAP reported a \$450,000 contribution from RAI Services (Reynolds), which represented a third of its funds that year.<sup>44</sup> LEAP has also been active in opposing menthol bans, claiming the laws will harm police-community relations.<sup>45</sup>
- Reynolds has been listed as a sponsor for the National Association of Black Law Enforcement Officers (NABLEO) and the National Association of Blacks in Criminal Justice (NABCJ), which have joined other Black law enforcement groups in opposing FDA proposed rulemaking of a menthol cigarette ban.<sup>46</sup>
- RAI supports national and state retailer groups that interfere with efforts to protect youth from tobacco industry targeting at convenience stores and other retailers. For example, a representative from RJR has served on the board of the National Association of Tobacco Outlets and was quoted as praising the group's work to block local regulation that would protect kids. Dave Riser, RJR's vice president of external relationships—trade marketing and a longtime member of the NATO board, said: "We have all these threats, restrictions, regulations that have really been some bad ones: licensing, redefinitions, banning of flavors, proposals to wipe out visibility – bad stuff. You have to have industry alignment on these threats."<sup>47</sup>
- In February 2013, RAI launched a website, previously transformtobacco.com, to replace its old anti-tax website, nocigtax.com. Like the old version, this new website encourages visitors to contact their legislators to oppose tax increases. However, in an effort to look like it cares about more than just opposing tobacco tax increases, it has added sections on "reducing harm" and "youth tobacco prevention." Both sections are thin on facts and always include a link to a "Take Action Tool Kit" with information on opposing tobacco tax increases.
- In 2016, former Speaker of the House, Republican John Boehner, joined RAI's board after his retirement from Congress. Boehner, who smokes Camel cigarettes, has publicly stated that he would not seek the White House because he would have to give up smoking cigarettes.<sup>48</sup> Yet, Boehner's spokesperson characterized his joining the board as part of the effort to "transform tobacco":  
  
[RAI] "is striving to transform the tobacco industry through innovative strategies that include speeding the decline in tobacco use among young people and reducing the harm caused by smoking. These are objectives Speaker Boehner supports and looks forward to helping RAI advance through his service on the board."<sup>49</sup>

Speaker Boehner's long history of accepting tobacco industry campaign donations exposes RAI's true agenda in partnering with him – protecting the interests of the tobacco industry above all else.

### **Heavy Spending to Oppose Ballot Initiatives**

- RAI has contributed millions of dollars to block tax increases that will reduce youth smoking. For example, in the 2016 election cycle, RAI contributed almost \$26 million to defeat tax ballot initiatives in California and North Dakota.<sup>50</sup>
- In 2012, RAI, along with other tobacco companies, contributed a total of \$46.8 million to defeat California's Proposition 29, to increase the cigarette tax rate by \$1.00 per pack in 2012. RAI provided \$14 million, more than the entire amount raised by Prop 29 supporters (\$12.3 million).
- From September to October 2007, RJR pumped \$4.9 million into defeating Oregon's Measure 50, a proposal to increase the state's cigarette tax to fund healthcare for uninsured children. Philip Morris also contributed \$7 million, bringing the total tobacco company contribution to a record \$12 million – or more than three dollars per person in Oregon – to fight against the ballot initiative. Hiding behind the front group Oregonians Against the Blank Check, RJR bombarded the state with television and radio advertisements. Through a concerted effort to inject confusion into the ballot campaign, the tobacco industry defeated the measure to increase the tobacco tax and subsequently denied healthcare to 92,000 uninsured children.<sup>51</sup>
- In its second-quarter earnings results announcement on July 26, 2006, RJR revealed that it would be spending \$40 million to defeat state ballot initiatives to require smoke-free workplaces and increase cigarette taxes.<sup>52</sup> The tobacco companies have openly acknowledged that smoke-free laws reduce smoking and cigarette sales. RJR had been leading the fight to defeat ballot initiatives in Arizona and Ohio that would require smoke-free workplaces and public places, showing the company's willingness to fund political dirty tricks and deceive voters. In both states, RJR sought to defeat the smoke-free ballot initiatives by sponsoring alternative initiatives that claimed to restrict smoking when in fact they would allow smoking in many restaurants and other workplaces, roll back existing local smoke-free laws and prevent local governments from passing smoke-free laws in the future. These alternative initiatives were pitched to voters with blatantly deceptive names such as Arizona Non-Smoker Protection Act and Smoke Less Ohio.

RJR also joined other tobacco companies in fighting the initiatives in California and Missouri to increase cigarette taxes and utilize some of the revenue to fund tobacco prevention and cessation programs. In its earnings report, the company stated that one of the "risks and uncertainties" threatening its future performance and financial results was "the substantial and increasing regulation and taxation of tobacco products."<sup>53</sup> In discussing the company's earnings, RJR executives noted that California represented six percent of the U.S. cigarette market and that the California cigarette tax increase could wipe out 2007 profits on a nationwide basis.<sup>54</sup>

### **Lawsuits**

- In November 2022, California voters upheld Senate Bill (SB) 793, to prohibit the sale of flavored tobacco products, including menthol cigarettes. In response to the approval of California Proposition 31, Reynolds and other tobacco companies filed a request with the U.S. Supreme Court to block SB 793, arguing that the state law conflicted with federal law.<sup>55</sup> The following month, the Supreme Court rejected Reynolds' complaint, refusing to block the law.<sup>56</sup> The opposition to California's menthol restrictions persists with ongoing lawsuits and activities attempting to circumvent the ban.

Reynolds introduced “new” products that claim to be “non-menthol” (see **New Product Releases**). According to Attorney General Bonta’s “notice of determination,” the new menthol-like flavored cigarettes violate SB 793. Reynolds American has since filed a lawsuit against California state officials, including Attorney Bonta, to keep its new “non-menthol” tobacco products on the market.

- In addition to challenging measures that restrict sales of flavored tobacco products in at the state-level, R.J. Reynolds, along with its sister companies – American Snuff Company, LLC, and Santa Fe Natural Tobacco Company Inc. (et al.), have also challenged local efforts to enact flavored tobacco product sales restrictions, arguing that because the Tobacco Control Act (TCA) specifically allows menthol products, the ordinances create a conflict between federal and local legislations. In June 2020, R.J. Reynolds et al. filed lawsuits against Los Angeles County and the City of Edina (Minnesota) to block their respective flavored tobacco product ordinances, which made the sales of any flavored tobacco product or flavored component of a tobacco product or nicotine delivery device like an e-cigarette illegal.<sup>57</sup>
  - **LA County** – In March 2022, the District Court dismissed the case and agreed that the TCA does not preempt local authorities from passing tobacco products sales restrictions.<sup>58</sup> In October 2022, R.J. Reynolds filed a petition for a writ of certiorari asking the U.S. Supreme Court to review the Ninth Circuit’s decision, and on February 27, 2023, the Supreme Court denied cert.<sup>59</sup>
  - **City of Edina** – On February 27, 2023, the 8<sup>th</sup> Circuit Court of Appeals rejected R.J. Reynolds’ claims and ruled in favor of the City of Edina.<sup>60</sup>
- In early 2023, FDA issued marketing denial orders (MDOs)<sup>1</sup> for RJR Vapor Company’s Vuse Solo menthol e-cigarette replacement cartridges.<sup>61</sup> The U.S. Court of Appeals for the Fifth Circuit granted RJRV’s motions to stay the MDOs while the court considers the merits of RJRV’s legal challenge.<sup>62</sup>
- RAI and its subsidiaries have been involved in lawsuits to stop local ordinances in New York City (a ban on tobacco price discounts) in 2014, Providence, RI (a prohibition on the sale of flavored tobacco products and the redemption of coupons and other price discounts) in 2012, and Haverstraw, NY (a ban on retail tobacco displays) in 2012.
- RJ Reynolds, with other tobacco companies, has challenged virtually all aspects of the U.S. Food and Drug Administration’s authority to prevent the industry from targeting children and misleading the American public, including challenging the graphic warning labels, advertising provisions, product regulations, and the members of the Tobacco Products Scientific Advisory Committee.
- In 2006, U.S. District Court Judge Gladys Kessler issued a landmark judgement that RJR and other major tobacco companies violated civil racketeering laws and defrauded the American people by lying for decades about the health risks of smoking and their marketing to children for decades. Since then, the company has continued to oppose the corrective statements that they were ordered to publish. Despite losing numerous appeals of both Judge Kessler’s judgment and her corrective statements order, tobacco companies are still fighting to weaken and delay the corrective

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<sup>1</sup> Previously, FDA also issued MDOs for RJRV’s Vuse Vibe menthol e-cigarette replacement tank and Vuse Ciro menthol cartridge; however, RJRV did not seek a stay of the MDO. <https://www.fda.gov/news-events/press-announcements/fda-denies-marketing-two-vuse-menthol-e-cigarette-products-following-determination-they-do-not-meet>

statements. Judge Kessler in February called the companies’ tactics “ridiculous – a waste of precious time, energy, and money for all concerned – and a loss of information for the public.”<sup>63</sup>

### Ineffective Youth Prevention Programs

Despite the fact that the U.S. Surgeon General, National Cancer Institute and a federal court have not found any evidence that the tobacco industry’s tobacco prevention programs reduce or prevent tobacco use,<sup>64</sup> RJR continues to market its Right Decisions Right Now (RDRN) curriculum. RJR tries to partner with organizations in order to use their names to lend legitimacy to its program. RDRN has not received independent peer-reviewed evaluation of its effectiveness.

- In October 2014, RJR announced that it was partnering with the National School Boards Association (NSBA) to promote RDRN.<sup>65</sup> In its press release, it touted its partnership with the Boy Scouts and endorsement from the National Foundation for Women Legislators. The partnership was quickly dropped in response to public pressure.<sup>66</sup>
- In December 2012, RAI announced that it received endorsement of its Right Decisions Right Now curriculum at the National Foundation for Women Legislators’ (NFWL) annual conference after presenting at that conference.<sup>67</sup> The company recently launched a digital, interactive format of this program and in its press release, it praised the NFWL for its commitment to evidence-based tobacco prevention programs, RAI’s senior manager of public affairs stated, “It was encouraging to hear that some of the legislators were even interested in personally teaching the RDRN curriculum in their schools.” RAI has taken advantage of its partnership with the NFWL Leadership Circle – it has made donations to the group in the past – to access women legislators to promote its ineffective youth prevention program.
- In summer 2012, RJR launched a five-year partnership with the Boy Scouts to use its RDRN with the scouts. In the first year, although RJR touted the success of the program, only half of the participants in the training session vowed not to use tobacco.
- In March 2007, the police department in Dover, New Hampshire, uninvited Miss New Hampshire from presenting in Dover schools after it was discovered she received money from RJR to help educate youth. Dana Mitchell, the police department’s prevention coordinator, explained to Miss New Hampshire in an email that was distributed to the media, “I find it a little ironic that you are speaking to kids on making good decisions in tough situations, while you have made this choice to work for the tobacco industry.” Miss New Hampshire was one of many Miss America state pageant titleholders who took funding from RJR to speak in schools through a partnership between RJR and the National Association of Miss America State Pageants.

### Brief Company Background and History

RAI is the parent company of several subsidiaries:

Subsidiary	Products	Leading Brands
<b>R.J. Reynolds Tobacco Company (RJR)</b>	Cigarettes Smokeless tobacco products	Camel Newport Pall Mall Camel Snus

<b>American Snuff Company (formerly Conwood Company)</b>	Smokeless tobacco products	Grizzly Kodiak
<b>Santa Fe Natural Tobacco Company</b>	Cigarettes	Natural American Spirit
<b>R.J. Reynolds Vapor Company (RJR)</b>	Electronic cigarettes	Vuse
<b>Modoral Brands, Inc (Modoral)</b>	Non-tobacco smokeless tobacco products	Velo
<b>Niconovum USA, Niconovum AB</b>	FDA-approved nicotine replacement therapy	Zonnic*

\*As of 2019, Zonnic is no longer available on the US market.

- In 2002, RJR acquired Santa Fe Natural Tobacco Company.
- In 2004, British American Tobacco (BAT), owner of Brown & Williamson (B&W), merged with RJR to form the Reynolds American tobacco company. RJR is the division of RAI that oversees all of the cigarette brands of both RJR and B&W.
- In 2006, RAI acquired then-Conwood Company (now American Snuff Company) to break into the smokeless tobacco market.<sup>68</sup>
- In 2009, RAI acquired Niconovum AB, a Swedish-based company making nicotine replacement therapy.<sup>69</sup>
- The subsidiary RJ Reynolds Vapor Company (RJR) was created in 2012<sup>70</sup> and in January 2016, RAI created a subsidiary focused on vapor and nicotine product innovation, RAI Innovations Company, as the parent company of RJR and Niconovum USA.<sup>71</sup>
- In June 2015, RAI merged with Lorillard Tobacco Company and acquired Lorillard’s Newport brand of menthol cigarettes, the second most popular cigarette brand among 12-17 year old youth.<sup>72</sup> RAI CEO Susan Cameron stated that the merger deal was a return to the “old days” for the tobacco industry and that it would provide “increased scale in cigarette volume,” showing that the company remains focused on selling more cigarettes, despite claiming a commitment to reducing the harms of tobacco.<sup>73</sup>
- In 2017, BAT fully acquired Reynolds American as a subsidiary.

### **Campaign for Tobacco-Free Kids, May 24, 2023**

<sup>1</sup> Editorial, “Drug Pushers: Tobacco Products Should Be Regulated,” *Newsday*, September 1, 2006.

<sup>2</sup> Reynolds American’s CEO Hosts Investor Day (Transcript), November 12, 2012, <http://seekingalpha.com/article/1001691-reynolds-americans-ceo-hosts-investor-day-transcript>.

<sup>3</sup> USDOJ-Findings of Fact Volume V pg.2251, V.A.(3)(a) Para. 59.

<sup>4</sup> *U.S. V. Philip Morris USA, Inc., et al.*, No. 99-CV-02496GK (U.S. Dist. Ct., D.C.), Final Opinion, August 17, 2006, pg.1207 Para. 3298, [http://www.tobaccofreekids.org/content/what\\_we\\_do/industry\\_watch/doj/FinalOpinion.pdf](http://www.tobaccofreekids.org/content/what_we_do/industry_watch/doj/FinalOpinion.pdf).

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## Appendix A

### *Product Releases Throughout the Years (Pre-2018)*

- In 2011, RJR introduced Camel Crush Bold, a brand extension of its regular-to-menthol cigarette, Camel Crush. In September 2015, FDA issued its first “not substantially equivalent” (NSE) order to end the sale and distribution of these products from the market because the company failed “to demonstrate that increased yields of harmful or potentially harmful constituents, higher levels of menthol, and/or the addition of new ingredients in the currently marketed products – when compared to the predicate products – do not raise different questions of public health” and failed “to demonstrate that the addition of a menthol capsule in the filter did not affect consumer perception and use.” At the same time, FDA issued NSE orders for three additional RJR products, Pall Mall Deep Set Recessed Filter, Pall Mall Deep Set Recessed Filter Menthol, and Vantage Tech 13 cigarettes.<sup>1</sup>
- In early 2009, RJR first introduced Camel Dissolvables (strips, sticks, and orbs) in two flavors (“Fresh” and “Mellow”) into three test markets: Columbus, OH, Portland, OR, and Indianapolis, IN. In December 2010, RJR pulled its Camel Dissolvables products from their original test-market cities, only to re-launch the products in early 2011 with new (easier to open) packaging and in two new test-market cities: Charlotte, NC, and Denver, CO. In 2012, after a review of products and research, the Tobacco Products Scientific Advisory Committee of the U.S. Federal Drug Administration released a report and “concluded that the available evidence, while limited, leads to a qualitative judgment that availability of DTPs [dissolvable tobacco products] could increase the number of users of tobacco products.”<sup>2</sup> In July 2013, RJR announced that it would reduce its marketing of these products after sales “struggled” during its four and a half years in test-markets.<sup>3</sup> By end of that year, the products were removed from the marketplace.<sup>4</sup>
- In spring 2008, RJR released a Camel extension, Camel Crush, a cigarette that allowed smokers to crush a small pellet tucked in the filter to convert a non-menthol cigarette into a menthol cigarette. After first being test-marketed in Pennsylvania, the product became available nationally later that year. It is clear that RJR also put a lot of thought into the packaging of the product. The Camel Crush website stated, “The product influences the look of the packaging. A product this unique needs a sleek, modern-looking pack design.... The Camel Crush pack even glows under UV light.” Not surprisingly, nightclubs, which are frequented mostly by younger people, often use black light, also known as UV light.

Further, the inclusion of a crushable capsule addresses a strategy to attract youth smokers that was suggested in a 1973 memo titled, *Some Thoughts about New Brands of Cigarettes for the Youth Market*: “Some visible novelty or difference in product or package to set apart from conventional cigarettes, ideally in direction of greater manipulative convenience for beginning smoker.”<sup>5</sup>

- In May 2007, RJR circumvented the settlement signed in October 2006 with 39 state attorneys general to stop marketing candy, fruit and alcohol-flavored cigarettes by launching its new flavored product line: Camel Signature Blends. The new flavors came in Robust, Mellow, Frost and Infused flavors. RJR’s web site described Robust as “similar to notes found on cocoa and espresso”; Mellow as “accented with toasted honey”; Frost as “Fine Asian Mint... while the creamy finish delivers a smooth, buttery aftertaste”; and Infused as offering “notes of Citrus” and “a sweet apple-like

flavor.” While RJR’s website may be age-restricted, its ads in magazine and stores promoting a “distinctive flavor” were not.

Studies have shown that flavored cigarettes have the greatest appeal to new, young smokers. A national survey released in 2005 by the Roswell Park Cancer Institute found that 20 percent of smokers aged 17 to 19 said they had used flavored cigarettes in the past 30 days, while just six percent of smokers over the age of 25 had.<sup>6</sup> A November 2005 study by the Harvard School of Public Health concluded, “Flavored cigarettes can promote youth initiation and help young occasional smokers to become daily smokers by masking the natural harshness and taste of tobacco smoke and increasing the acceptability of a toxic product.”<sup>7</sup> RJR continued marketing these flavored cigarettes until the passage of the 2009 Family Smoking Prevention and Tobacco Control Act, which bans cigarettes with characterizing flavors.

- In January 2007, RJR launched Camel No. 9 cigarettes aimed directly at women. The company claimed that women smokers “didn’t feel that Camel had a brand for them.” Eager to fill that void, RJR created Camel No. 9, complete with sleek packaging, flowery ads, a pink camel on every cigarette, and the slogan, “light and luscious.” According to Cressida Lozano, vice president for marketing of the Camel brand, the introduction of Camel No. 9 was part of plans to “focus on products that are ‘wow,’” and “that add fun and excitement to the category.” Camel No. 9 was launched in spring 2007 with a huge campaign that cost an estimated \$25 to \$50 million. Full-page ads ran in women’s magazines with high youth readership such as *Glamour*, *Cosmopolitan*, *Elle*, *Lucky*, *Marie Claire*, *InStyle*, and *Vogue*. Forty-one members of Congress were so concerned about the magazine advertising that in June 2007, they sent a letter to each of the 11 magazines carrying Camel No. 9 advertisements urging them to voluntarily stop. Point-of-sale marketing for Camel No. 9 was heavy and continued to saturate stores and bodegas in New York City and other cities around the country. Direct mail marketing was extravagant and included a free cigarette case offer and dollar-off coupons that were rolled into an empty pack to look like cigarettes. And Camel No. 9 parties – “ladies only” nights – were held in bars across the country, offering women facials, manicures, makeup and hair styling, and of course, a free pack of Camel No. 9’s. Party organizers even came up with a new drink to honor the new brand, the Divine Nine martini, and provided party-goers with goody bags full of treats like chocolates, coupons for drinks, and spa treatments. RJR’s Camel No. 9 campaign directly marketed cigarettes towards women at a time when lung cancer killed more women than any other type of cancer.<sup>8</sup>

In August 2007, RJR began marketing a new Camel No. 9 extension – Camel No. 9 Stiletto – to continue the fashion theme. Introduced in the “Fashion Rocks” supplement to magazines including *Glamour*, *Vanity Fair*, and *Lucky*, the two-sided ad showed the flowery pattern of the original Camel No. 9 on one side and featured a “Dressed to the 9’s” segment on the backside, showing a dress, fashion accessories, and tips on how to “style your vintage look with your own personal touch.” Once again, RJR directly targeted young women and girls by advertising in magazines with high youth readership.

A 2010 study found that in the year after the Camel No. 9 campaign began, 44 percent of teen girls reported having a favorite cigarette ad – up from 34 percent before the Camel No. 9 campaign began. Moreover, almost half of the teen girls who had specified Camel as their favorite cigarette ad had not indicated any favorite ad previously. Because it successfully led to brand identification and ultimately increased RJR’s market share, the Camel No. 9 campaign targeted adolescent girls just as

the Joe Camel campaign effectively targeted youth. This study also confirmed that having a favorite cigarette ad increases the risk of smoking initiation by 50 percent.<sup>9</sup>

- In early 2006, RJR announced that it would launch new smokeless tobacco products, Camel Snus, in test market cities Austin, TX and Portland, OR. In June 2007, RJR announced five further cities as test markets for Camel Snus beginning July 1, 2007 – Raleigh, NC; Columbus, OH; Indianapolis, IN; Kansas City, MO; and Orlando, FL. Since January 2009, the product has been available nationwide. Over the next few years, RJR began offering larger pouch sizes in different flavors. Camel Snus currently is available in five flavors: “frost,” “mellow,” robust,” “winterchill,” and mint. Camel Snus is appealing to youth because of its various flavors and discreet packaging. In fact, a high school student admitted using Camel Snus during class, saying, “It’s easy, it’s super-discreet...and none of the teachers will ever know what I’m doing.”<sup>10</sup> There is concern that RJR markets smokeless products as an alternative to quitting for those concerned about their health or living in a location with strong clean indoor air laws; and that it targets smokers who would otherwise have quit, encouraging them to switch to smokeless products as an alternative to quitting.
- In 2004, RJR kicked off the holiday season by introducing candy-flavored cigarettes, including “Warm Winter Toffee” and “Winter Mocha Mint.” Ads for these cigarettes appeared in magazines with significant youth readership such as *Rolling Stone*, *Glamour*, *Cosmopolitan* and *Elle*. RJR’s winter edition of candy-flavored cigarettes followed marketing the previous summer of other candy-flavored Camels, including the coconut and pineapple-flavored Kauai Kolada and the citrus-flavored Twista Lime. The marketing of candy-flavored cigarettes has been condemned by public health experts as being aimed at trying to get kids to experiment with smoking. In October 2006, RJR entered into a settlement with 39 state attorneys general in which the company agreed to stop marketing candy and alcohol flavored cigarettes. This settlement ended several years of irresponsible marketing by the company. However, this settlement affected only the marketing of flavored cigarettes and not the actual manufacture of them.

## Appendix B

### *Irresponsible Marketing Practices Pre-2014*

- When RAI first acquired American Snuff Company in 2006, the value brand Grizzly, was the third most popular smokeless tobacco brand among youth aged 12-17. A year later, Grizzly was the most popular brand among this age group – a rank it maintained until 2013, when it dropped to second.<sup>11</sup> Marketing for Grizzly carries messages telling teen boys they can't be real men without smokeless tobacco. For example, a Grizzly ad from the October 2015 issue of *Rolling Stone* magazine, which has a large teen readership, stated, "If your neck ain't sore, it ain't headbanging" as part of its "Tellin' it like it is" campaign.<sup>12</sup> An ad from the September 2016 issue stated, "Mint you wouldn't dare call 'sweetie.' A man among mint."<sup>13</sup>
- Despite a prohibition in the 1998 state tobacco settlement on the use of cartoons to market cigarettes, RJR ran a multi-page ad for its new "collaboration between Camel and independent artists and record labels," called The Farm, in the November 15, 2007 issue of *Rolling Stone* magazine, whose readers include more than 1.5 million youth (12-17 years old). Four pages of the fold-out ad featured numerous cartoon drawings of animals, monsters and images from outer space. The cartoon foldout is not the only aspect of the spread that clearly appeals to kids. Another page features an image of a spiral-bound notebook similar to those often carried by high school students with the title "Indie Rock Universe," doodles of a guitar, spaceships and other images a bored student might draw; and the phrase, "an alternate dimension where everyone wears Black Converse." Only after public health groups protested and eight state attorneys general sued the company did RJR remove the ad and suspend The Farm campaign. Shortly thereafter, RJR announced that it would stop advertising RJR-brand cigarettes in magazines starting in 2008, but continued to advertise other cigarette and tobacco product brands under the other Reynolds American subsidiaries, including RJR-brand smokeless product Camel Snus, American Spirit cigarettes, and Copenhagen smokeless tobacco. In fact, the September 1, 2008 issue of *Sports Illustrated* – with 2.8 million youth readership – contained a heavy cardstock advertisement for Camel Snus that included a coupon for a free tin of Camel Snus with the purchase of any Camel product.

Five years later, RJR returned to magazines popular with youth in April 2013 to promote Camel Crush and Camel menthol cigarettes. Teen readership (12-17 years old) for just nine of the 23 magazines that carried these advertisements totaled 12.9 million.<sup>14</sup> Camel continues to be the third most popular brand of cigarettes among 12-17 year old youth.<sup>15</sup>

- RJR has taken advantage of the passage of tobacco control policies, such as smoke-free laws, to market its Camel Snus as products to use instead of smoking. When New York City's ordinance prohibiting smoking in public parks went into effect in May 2011, RJR launched several print ads for smokers to "rise above the ban" and "enjoy freedom without the flame" by switching to Camel Snus. In November 2011, RJR also released Camel Snus ads around New Year's ("2012 Smoke-Free Resolution") and The Great American Smoke Out ("Make Thursday Smoke-free"), to take advantage of two events when people are encouraged to quit smoking. In its November 2012 Investor Day presentation, the company showed that they were less interested in actually helping smokers quit entirely by stating, "We ran an ad campaign at the beginning of the year, the 2012 smoke-free

resolution, where we challenged smokers who weren't interested in quitting to consider Camel SNUS as an option to continue to smoke.”<sup>16</sup>

- In late 2010, RJR launched a “Break Free Adventure” campaign featuring specially designed packs of Camel cigarettes representing about a dozen cities across the U.S. State and city officials from cities represented on the packs protested the use of their landmarks and positive images on cigarettes and repeatedly asked the company to remove the packs. Several state attorneys general also requested that RJR suspend its campaign.

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<sup>1</sup> FDA, “FDA issues orders that will stop further U.S. sale and distribution of four R.J. Reynolds Tobacco Company cigarette products,” News release, September 15, 2016, <http://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm462407.htm>.

<sup>2</sup> U.S. Food and Drug Administration’s Tobacco Products Scientific Advisory Committee (TPSAC), *Summary: TPSAC Report on Dissolvable Tobacco Products*, March 1, 2012, <http://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/TobaccoProductsScientificAdvisoryCommittee/UCM295842.pdf>. See also, Deyton, L (Director of the FDA Center for Tobacco Products), “Letter to Industry on Dissolvable Smokeless Tobacco Products (R.J. Reynolds Tobacco Company)” and “Letter to Industry on Dissolvable Smokeless Tobacco Products (Star Scientific, Inc),” February 1, 2010.

<sup>3</sup> Craver, R, “R.J. Reynolds scales back marketing of dissolvable tobacco products,” *Winston-Salem Journal*, July 31, 2013, [http://www.journalnow.com/business/business\\_news/local/article\\_9d001b58-f9f2-11e2-8fad-0019bb30f31a.html](http://www.journalnow.com/business/business_news/local/article_9d001b58-f9f2-11e2-8fad-0019bb30f31a.html).

<sup>4</sup> Craver, R. “FDA orders removal of Camel dissolvable products. The products have been off store shelves since 2013, Reynolds says,” July 16, 2020. <https://journalnow.com/business/fda-orders-removal-of-camel-dissolvable-products-the-products-have-been-off-store-shelves-since-2013-3a78244e-f30c-5e7c-af42-cfa880fc5093.html>. Accessed 6 Jun 2023.

<sup>5</sup> Teague, CE, *Research Planning Memorandum on Some Thoughts about New Brands of Cigarettes for the Youth Market*, R.J. Reynolds, February 2, 1973, Bates No. 502987407/7418, <http://legacy.library.ucsf.edu/tid/ict68d00>.

<sup>6</sup> National Youth Smoking Cessation Survey, Roswell Park Cancer Institute.

<sup>7</sup> Carpenter, CM, et al, “New Cigarette Brands With Flavors That Appeal To Youth: Tobacco Marketing Strategies,” *Health Affairs*, 24(6):1601-1610 (2005).

<sup>8</sup> US Mortality Public Use Data Tapes 1960-2003, US Mortality Volumes 1930-1959, National Center for Health Statistics, Centers for Disease Control and Prevention, 2006. See also, TFK, *Women’s Report: Deadly in Pink*, [http://www.tobaccofreekids.org/what\\_we\\_do/industry\\_watch/womens\\_report/](http://www.tobaccofreekids.org/what_we_do/industry_watch/womens_report/).

<sup>9</sup> Pierce, JP, et al., “Camel No. 9 Cigarette-Marketing Campaign Targeted Young Teenage Girls,” *Pediatrics* 125(4):619-626, April 2010.

<sup>10</sup> Nelson, L, “If you think Snus is a safe alternative to smoking, think again,” *Kansas City Star*, October 31, 2007.

<sup>11</sup> United States Department of Health and Human Services (HHS). Substance Abuse and Mental Health Services Administration (SAMHSA). Center for Behavioral Health Statistics and Quality. National Survey on Drug Use and Health. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor]. Analysis of 2006-2014 data.

<sup>12</sup> *Rolling Stone*, October 8, 2015. Courtesy of Trinkets & Trash, <https://trinketsandtrash.org/detail.php?artifactid=10485&page=1>.

<sup>13</sup> *Rolling Stone*, September 22, 2016. Courtesy of Trinkets & Trash, <https://trinketsandtrash.org/detail.php?artifactid=11659&page=1>.

<sup>14</sup> GfK Mediamark Research & Intelligence, LLC, 2012 readership data for *Entertainment Weekly*, *ESPN The Magazine*, *Glamour*, *In Style*, *People*, *Rolling Stone*, *Sports Illustrated*, *US Weekly*, *Vogue*.

<sup>15</sup> HHS. SAMHSA. Center for Behavioral Health Statistics and Quality. National Survey on Drug Use and Health, 2014. ICPSR36361-v1. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor], 2016-03-22. <http://doi.org/10.3886/ICPSR36361.v1>.

<sup>16</sup> Reynolds American’s CEO Hosts Investor Day (Transcript), November 12, 2012, <http://seekingalpha.com/article/1001691-reynolds-americans-ceo-hosts-investor-day-transcript>.