

ONE HUNDRED TWELFTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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August 27, 2012

The Honorable Margaret A. Hamburg
Commissioner
U.S. Food and Drug Administration
10903 New Hampshire Avenue
Silver Spring, MD 20993

Dear Commissioner Hamburg:

Earlier this month, the Centers for Disease Control and Prevention (CDC) released a study showing that in recent years the decline in the consumption of cigarettes has been largely offset by a huge increase in the consumption of cigars and pipe tobacco. And today, another report from CDC described an alarming new trend: young smokers are smoking candy- and fruit-flavored cigars at high rates.

These developments are not accidental. Internal tobacco company documents obtained by the Committee on Energy and Commerce reveal that tobacco companies have been deliberately promoting cigars and pipe tobacco to take advantage of tax and regulatory loopholes. Tobacco companies have a long history of evading regulation to addict smokers, especially children, to their lethal products. When the Federal Trade Commission banned cigarette companies from making fraudulent health claims in the 1950s, they responded by developing new lines of "light" and "mild" products that they implied were safer. Now they are at it again.

The internal company documents show that tobacco manufacturers are manipulating existing products and introducing new products to avoid Food and Drug Administration (FDA) regulation and higher federal tax rates. These actions are endangering youth and undermining the goals of the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) and the Children's Health Insurance Program Reauthorization Act (CHIPRA), both of which Congress passed in 2009.

Some of the documents provided to the Committee show that manufacturers are relabeling and introducing new versions of “roll-your-own (RYO) tobacco” so it can be sold as “pipe tobacco” and “small cigars” so they can be sold as “large cigars.” Pipe tobacco is taxed at a significantly lower rate than RYO tobacco. Large cigars, which can be virtually indistinguishable in appearance from both cigarettes and small cigars, are similarly taxed at significantly lower rates than cigarettes and small cigars. Neither pipe tobacco nor cigars are subject to FDA’s ban on flavorings, while both cigarettes and RYO tobacco are regulated by the agency.

For example, documents from Commonwealth Brands show the company changed the specification of existing RYO products to evade new taxes imposed by CHIPRA, which paid for an expansion of the State Children’s Health Insurance Program (SCHIP) by raising tax rates on select tobacco products, primarily cigarettes, RYO tobacco, and small cigars. An internal report discussed rebranding Bali Shag, a Commonwealth RYO product, explaining: “Commonwealth has decided to take action to combat this tax increase by changing Bali Shag to pipe tobacco to allow it to operate in the lower-taxed category of pipe tobacco.”

Documents from this same time period from Prime Time International Company reveal that two of the “action items” taken by the company in response to the new tobacco taxes passed in 2009 were to “promote sales of large cigars” and to “Introduce [a] new line of Rillos imported cigars,” a product taxed at lower rates.

Documents provided by Swisher International, a manufacturer of cigars, show similar efforts. When a retailer asked whether the company would “bring on a couple brands of large cigars that look like small cigars,” Swisher responded: “Our annual sales meeting was this past week and the reworking of our Little cigar line and Schip were discussed. We are reworking our Santa Fe Little Cigars...” The Swisher representative later wrote, “They will [sic] not be subject to the little cigar tax.”

Other documents reveal an effort to introduce new flavored cigar products, which are not subject to the FDA ban on flavorings. A memorandum from National Tobacco, for example, describes adding “six explosive fruit flavors,” including “Apple Blitz” and “Purple Thunder,” to Zig-Zag cigar wraps.

These efforts to evade regulation appear to be succeeding. In 2000, cigars and pipe tobacco constituted just 2% of the market for combustible tobacco products. According to the latest data from CDC, cigars and pipe tobacco now represent over 9% of the tobacco smoked by Americans. This is an enormous increase from just ten years ago. As today’s release by CDC indicates, tobacco companies are succeeding in developing a new market by selling flavored cigars to young smokers.

I urge you to act without delay to stop these abusive practices. The Tobacco Control Act, which Congress enacted in 2009, gives you authority to regulate tobacco products that are used as substitutes for cigarettes. Prompt action by FDA can stop tobacco companies from exploiting loopholes and continuing to addict youth.

Background on Taxation and Regulation of Tobacco Products

In February 2009, Congress passed CHIPRA, which increased federal excise taxes on cigarettes, RYO tobacco, pipe tobacco, cigars, and smokeless tobacco. The legislation did not increase taxes on all of these products equally. As a result, RYO tobacco is taxed at a rate of \$24.78 per pound, while pipe tobacco is taxed at a rate of only \$2.83 per pound.¹ Taxes on cigarettes and small cigars were raised to \$1.01 per pack, while the tax on large cigars was raised to a maximum of 40 cents.² This gives large cigar products a significant price advantage over cigarettes and small cigars: a pack of “large cigars” can sell for \$1.40 a pack, while in most states cigarettes sell for between \$4 or \$5 per pack and “small cigars” for \$3 per pack.³

Although they are taxed at different rates, the distinctions among these products can be small. Pipe tobacco and RYO tobacco are both loose forms of tobacco; pipe tobacco is typically characterized by higher moisture content, but there is no definitive test to differentiate the two products. Similarly, the differences between cigarettes, small cigars, and large cigars can be slight. To be classified as a small cigar, a product must weigh three pounds or less per thousand units; any heavier cigars are classified as large cigars.⁴ In many cases, “large” cigars, although

¹ Children’s Health Insurance Program Reauthorization Act of 2009, Section 701, Pub. L. No. 111-3. RYO tobacco is defined as “any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes or cigars, or for use as wrappers thereof” (26 U.S.C. Sec. 5702(o)). Pipe tobacco is defined “any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco to be smoked in a pipe” (26 U.S.C. Sec. 5702(n)).

² U.S. Government Accountability Office, *Large Disparities in Rates for Smoking Products Trigger Significant Market Shifts to Avoid Higher Taxes* (Apr. 18, 2012) (GAO-12-475); CSP Magazine, *Little Cigars, Big Questions* (Sept. 2011) (online at www.cspnet.com/sites/default/files/magazine/article/pdf/F11_CSP_0911.pdf).

³ USA Today, *Tobacco companies profit from loophole, market small cigars* (Aug. 2, 2012) (online at www.usatoday.com/news/health/story/2012-08-02/tobacco-cigarettes-cigars/56702480/1); Prime Time, *Primetime Cigars in Packs* (online at primetimecigars.com/primetime_cigar_cartons.php).

⁴ *Supra* notes 1 and 2.

they weigh slightly more, may be quite similar in size to “small” cigars or cigarettes.⁵ Cigarettes, unlike cigars, must generally be wrapped in a substance that does not contain tobacco. In contrast, cigars are wrapped in leaf tobacco or in a substance containing tobacco.⁶

Several months after passage of CHIPRA, Congress passed the landmark Tobacco Control Act, which directed FDA to regulate cigarettes, RYO tobacco, and smokeless tobacco.⁷ Using this authority, FDA can require manufacturers to register with the FDA, submit certain health information, disclose the ingredients in their products, follow generally accepted manufacturing practices, and justify claims that their products are safer than others on the market.⁸ In the case of cigarettes and smokeless tobacco, there are additional provisions to restrict the sale and distribution of tobacco products to children.⁹ For example, FDA currently prohibits free samples of cigarettes and the offering of gifts in exchange for buying cigarettes.¹⁰ The Tobacco Control Act also banned the use of flavors in cigarettes.¹¹ And it directed FDA to issue regulations updating existing warnings on cigarette packages and in advertisements to include graphic images depicting the negative health consequences of smoking.¹²

The Tobacco Control Act did not direct FDA to regulate cigars and pipe tobacco, but it gave FDA the authority to do so if necessary to protect public health. As a result, these products are currently exempt from many important public health provisions, including those designed to protect youth from tobacco products that encourage smoking. As the CDC recently reported, these unregulated products “can be produced with flavoring, can be labeled with misleading descriptors such as ‘light’ or ‘low tar,’ and can be marketed and sold with fewer restrictions than apply to cigarettes.”¹³

⁵ *Supra* note 2; Centers for Disease Control and Prevention, *Consumption of Cigarettes and Combustible Tobacco – United States, 2000-2011* (Aug. 3, 2012) (online at www.cdc.gov/mmwr/preview/mmwrhtml/mm6130a1.htm?s_cid=mm6130a1_w).

⁶ 26 U.S.C. Sec. 5702(a) and (b); *Supra* note 2

⁷ Federal Food, Drug, and Cosmetic Act (FFDCA) Section 901(b), as added by the Family Smoking Prevention and Tobacco Control Act, Section 101(b), Pub. L. No. 111-31.

⁸ FFDCA Sections 905, 904(b) 904(a)(1), 906(e), and 911(d), as added by the Family Smoking Prevention and Tobacco Control Act, Section 101(b), Pub. L. No. 111-31.

⁹ Family Smoking Prevention and Tobacco Control Act, Section 102, Pub. L. No. 111-31.

¹⁰ 75 C.F.R. Part 1140 (2010).

¹¹ FFDCA Section 907(a)(1)(A), as added by the Family Smoking Prevention and Tobacco Control Act, Section 101(b), Pub. L. No. 111-31.

¹² Family Smoking Prevention and Tobacco Control Act, Section 201, Pub. L. No. 111-31.

¹³ Centers for Disease Control and Prevention, *Consumption of Cigarettes and Combustible Tobacco – United States, 2000-2011* (Aug. 3, 2012) (online at www.cdc.gov/mmwr/preview/mmwrhtml/mm6130a1.htm?s_cid=mm6130a1_w).

To regulate these unregulated products, FDA must “deem” them to be regulated “tobacco products” under the Tobacco Control Act and subject to the Act’s authorities.¹⁴ In May, the FDA announced its intention to issue a deeming regulation sometime this summer.¹⁵

New CDC Studies on Cigars and Pipe Tobacco

An analysis released earlier this month by CDC found that in recent years consumption of cigarettes has declined, but consumption of cigars and pipe tobacco has significantly increased. Strikingly, CDC found that cigars and pipe tobacco now account for 9.5% of total combustible tobacco consumption, a dramatic increase from just 2.0% in 2000. CDC reported that between 2008 and 2011, cigarette consumption declined by 15% and the use of RYO tobacco declined by 76%.¹⁶ But much of this decline has been offset by increases in the consumption of loose pipe tobacco, which has increased by 573%.¹⁷ In the cigar market, consumption of small cigars has declined by 86%, but this decline has been more than offset by an increase of 126% in large cigar consumption.¹⁸

CDC raised concerns in the report that manufacturers were manipulating their products to increase sales of lower-taxed products. According to CDC, it appears that manufacturers “were relabel[ing] roll-your-own tobacco as pipe tobacco and then market[ing] this relabeled tobacco for roll-your own use. In addition, manufacturers were able to increase the per-unit weight of certain small cigars to take advantage of a tax benefit when classified as large cigars.”¹⁹

Data released by CDC earlier this month showed that 15.7% of high school boys are smoking cigars.²⁰ Today, CDC has released alarming new data that explains why this occurring. The new CDC data about tobacco use by young adults ages 18 to 24 reveals a high level of use of flavored cigars. Among these young adults, 15.9% smoke cigars.²¹ According to the new

¹⁴ *Supra* note 7.

¹⁵ National Association of Tobacco Outlets, *FDA Announces Intent to Issue Regulations on Other Tobacco Products* (May 10, 2012) (online at www.natocentral.org/?p=1588).

¹⁶ *Supra* note 13.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Centers for Disease Control and Prevention, *Current Tobacco Use Among Middle High School Students – United States 2011* (Aug. 10, 2012) (online at http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6131a1.htm?s_cid=mm6131a1_w).

²¹ Dr. Brian A. King, Dr. Shanta R. Dube, Michael A. Tynan, *Flavored Cigar Smoking Among U.S. Adults: Findings From the 2009-2010 National Adult Tobacco Survey*, Nicotine & Tobacco Research (Aug. 27, 2012).

CDC data, nearly 60% of these young cigar smokers are smoking cigars with candy, fruit, and other flavors.²²

This is an exceptionally high prevalence of cigar smoking. Nearly half of all young adults who smoke are smoking cigars.²³ In comparison, only 5.3% of adults over age 24 smoke cigars.²⁴ Young adults are smoking cigars at three times the rate of older adults.

The Surgeon General and other public health officials have expressed concern about these trends. In March, the Surgeon General reported on the increase in flavored cigars, noting that “flavored cigarettes are reemerging as flavored cigars” due to the fact that they are not presently covered under the Tobacco Control Act flavoring ban.²⁵ And the Massachusetts Department of Health and Human Services found that “for the first time, high school students in the Commonwealth used tobacco products other than cigarettes at a higher rate than cigarettes.”²⁶ These findings are in line with today’s report from the CDC and underscore the need for immediate action.

Analysis of Internal Tobacco Company Documents

In order to determine if manufacturers are modifying products and introducing new products to avoid taxes and regulation, the Committee on Energy and Commerce in April 2010 sent letters to six tobacco companies: Commonwealth Brands (Commonwealth), North Atlantic Trading Company (National), Prime Time International Company (Prime Time), Republic Tobacco, Swisher International (Swisher), and U.S. Flue-Cured Tobacco Growers (Flue-Cured Tobacco). These companies received letters because they had been identified as previously selling RYO tobacco and then later selling pipe tobacco after the passage of CHIPRA. The letters requested documents relating to the marketing and sale of tobacco products to children and compliance with the Tobacco Control Act and CHIPRA. In response, the companies provided over 60,000 pages of documents.

²² *Id.*

²³ Centers for Disease Control and Prevention, 2009-2010 National Adult Tobacco Survey. Unpublished data (2012).

²⁴ Dr. Brian A. King, Dr. Shanta R. Dube, Michael A. Tynan, *Flavored Cigar Smoking Among U.S. Adults: Findings From the 2009-2010 National Adult Tobacco Survey*, Nicotine & Tobacco Research (Aug. 27, 2012).

²⁵ U.S. Department of Health and Human Services, Office of the Surgeon General, *Preventing Tobacco Use Among Youth and Young Adults* (Mar. 2012) (online at www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf).

²⁶ Massachusetts Department of Health and Human Services, *Massachusetts Youth Reject Packaging, Placement and Pricing of Tobacco Products on 'Kick Butts Day'* (Mar. 21, 2012) (online at <http://www.mass.gov/eohhs/gov/newsroom/press-releases/dph/youth-take-part-in-kick-butts-day.html>).

Committee staff reviewed these documents, which revealed deliberate efforts by tobacco manufacturers to avoid paying appropriate taxes and skirt regulation of their products.

Relabeling “RYO” Tobacco As Pipe Tobacco

The documents reveal that soon after passage of CHIPRA, manufacturers began exploiting loopholes in these new laws. For example, meeting minutes from a February 18, 2009, Swisher board meeting, two weeks after President Obama signed CHIPRA, show a board member leading a discussion about the “dramatic increase in excise taxes on the Corporation’s products.” The board member then “described certain product design changes that were being considered to reduce the impact some [sic] of the unusually adverse effects of the legislation on certain products.”²⁷

Similarly, a February 2009 Commonwealth “Product Introduction Process” report shows a deliberate effort to relabel its Bali Shag RYO tobacco as a pipe tobacco. This report describes the new taxes on RYO tobacco and explains that “Commonwealth has decided to take action to combat this tax increase by changing Bali Shag to pipe tobacco to allow it to operate in the lower taxed category of pipe tobacco.” It continues, describing Commonwealth’s “strategic intention” to “change the specification of Bali Shag tobacco to make it pipe tobacco which is taxed at \$2.83 per lb instead of \$24.78 per lb with RYO.”²⁸ According to the report, “Bali Shag will still be a pricier brand, but operating as a pipe tobacco will help with the cost to consumers. Consumers will still be able to purchase a quality tobacco, a recognized brand at an affordable price.”²⁹

Initially, the report noted only one “development required” in order to re-label the product as pipe tobacco instead of “roll-your-own” tobacco: “No longer include [rolling] papers in packaging.” Later, when Commonwealth officials learned that the Alcohol and Tobacco Tax and Trade Bureau (TTB) might require other changes in order to meet the definition of pipe tobacco, a company official wrote to Reemtsma, a German tobacco manufacturer that shares a parent company with Commonwealth, saying that “We will need your help to get the tobacco changed to fit the new definition of pipe tobacco...we need to have this tobacco changed to pipe tobacco.”³⁰

²⁷ Swisher International, Meeting of the Board of Directors (Feb. 18, 2009) (SW00000014).

²⁸ Commonwealth Brands, PIP - Product Introduction Process, Bali Shag USA – Pipe (Feb. 27, 2009) (CBI-E 020279).

²⁹ Commonwealth Brands, PIP - Product Introduction Process, Bali Shag USA – Pipe (Feb. 27, 2009) (CBI-E 020281).

³⁰ E-mail from Amy Parsly, Commonwealth Brands, to Jared Weiner, Reemtsma (Feb. 20, 2009) (CBI-E 020436).

Introduction of New Products As “Pipe Tobacco”

Documents also reveal that soon after passage of CHIPRA and the Tobacco Control Act, tobacco companies introduced numerous new pipe tobacco products in order to evade taxes and regulations.

National Tobacco, a subsidiary of North Atlantic Trading Company, distributed a memo to their customers on March 26, 2009, titled “New Products for Growth & Emergent Categories.” The memo described the introduction of new products as a response to the new legislation: “Given the recent passage of the S-CHIP Bill, National Tobacco is pleased to introduce three exciting new products which should help meet adult tobacco consumers’ product needs in this trying economic and legislative environment.” These new products included a new pipe tobacco product, Red Cap Pipe Tobacco.³¹

Commonwealth introduced a separate new pipe tobacco product, Bull Durham Pipe Tobacco–USA, in June 2009. Company documents describe the motivation for this introduction: “Post SCHIP, several companies have introduced new pipe tobaccos to take advantage of the savings on taxes. ... In order to remain competitive, CBI must launch a pipe tobacco brand into the market.”³²

Around the same time, Flue-Cured Tobacco was also introducing new pipe tobacco products. In an e-mail dated July 31, 2009, a Flue-Cured Tobacco employee wrote: “The marketplace is in demand for Pipe Tobacco, and not only in 6 oz. bags, but in 16 oz. bags also. Let’s move forward with implementing steps to get the 16 oz. bags of 1839 Pipe Tobacco in place.”³³ Documents from this same time period indicate that the company’s promotional efforts shifted away from RYO products to the newly-introduced pipe tobacco. In response to an e-mail that said “We need to discuss website addition for pipe tobacco,” a company consultant wrote back “we should break roll-your-own off of the products page and replace it, on the products page, with pipe tobacco.”³⁴ This modification to the company website remains in effect today.³⁵

³¹ National Tobacco, New Products for Growth & Emergent Categories (Mar. 26, 2009) (CEC050710-1100).

³² Commonwealth Brands, PIP – Product Introduction Process, Bull Durham Pipe Tobacco - USA (CBI-E 019651).

³³ E-mail from Sheila Barefoot, U.S. Flue-Cured Tobacco Growers, to Steve Daniel, John Taylor, Donnie Hubbard, U.S. Flue-Cured Tobacco Growers (July 31, 2009) (USFC 00158).

³⁴ E-Mail from Dave Grinnell, Signal Inc., to Sheila Barefoot, U.S. Flue Cured Tobacco Growers (July 16, 2009) (USFC-00126).

³⁵ U.S. Flue-Cured Tobacco Growers, Inc website (online at www.go1839.com/pages/products/index.html).

A December 7, 2009, shareholder letter from another tobacco company, Prime Time, describes the launch of a new pipe tobacco brand: “For 2010, we are excited about the launch [sic] two new product lines during the first quarter of 2010. Our 1st launch will be a 6oz and 16oz bag of Pipe Tobacco, under the brand name Sparrow.” And board meeting minutes dated October 19, 2009, from the same company note that a board member “reviewed efforts to develop a pipe tobacco product.”³⁶

Relabeling and Introducing Cigar Products

The CDC data reveal that consumption of “large cigars” has increased rapidly since 2009, while consumption of “small cigars” has dropped. These changes in consumption patterns appear to be a direct result of manufacturer decisions in response to passage of CHIPRA, which increased excise taxes for small cigars and cigarettes significantly above the rate for large cigars. Minor weight modifications can transform small cigars into large cigars for tax purposes, even though the products may be sold as “little cigars” or “cigarillos.”

An e-mail exchange between Swisher and a buyer for 7-11, with the subject line “Re: big little cigars,” described the modifications of “small cigars” by Swisher in order to evade higher taxes. The 7-11 account manager wrote, “I am getting a lot of pressure to bring on a couple brands of large cigars that look like small cigars. ... I am hearing that Swisher may be coming out with something. Is this correct?”³⁷ Swisher's representative replied: “Our annual sales meeting was this past week and the reworking of our Little cigar line and Schip were discussed. We are reworking our Santa Fe Little Cigars.” He later wrote, “They will [sic] not be subject to the little cigar tax.”³⁸

The documents obtained by the Committee also reveal that other cigar manufacturers made similar modifications to products and marketing strategies in response to the higher taxes on cigarettes and small cigars. An April 29, 2009, document from Prime Time titled “SCHIP Impact on PTIC” described the new tax laws and the company's plans in response to the passage of the law. A list of “Action items taken at PTIC” in response to the new law included “Promote sales of large cigars” and “Introduce [a] new line of Rillos imported cigars.”³⁹ The reference to

³⁶ Prime Time International Company, Shareholder Letter (Dec. 7, 2009) (PT00033); Prime Time International Company, Board Meeting Minutes (Oct. 19, 2009) (PT00026).

³⁷ E-mail from Jim Barberio, Prime Marketing 7-Eleven, to Jeffrey Rossi, Swisher International (Mar. 7, 2009) (SW00004006).

³⁸ E-mail from Jeffrey Rossi, Swisher International, to Jim Barberio, Prime Marketing 7-Eleven (Mar. 7, 2009) (SW00004005).

³⁹ Prime Time International Company, SCHIP Impact on PTIC (Apr. 29, 2009) (PT00067).

“Rillos” likely refers to a new Prime Time cigarillo product introduced in May 2009.⁴⁰ Cigarillo products are generally taxed as large cigars, and therefore at lower rates.⁴¹

In addition to introducing new cigars and modifying existing cigar products to qualify as large cigars, the documents reveal an effort to transition from flavored cigarette to flavored cigar products. A March 2009 National Tobacco memorandum to tobacco buyers introduced new “Zig-Zag cigar wraps and tobacco.” The document states: “The No. 1 cigarette paper brand, now in cigar wraps! Six explosive fruit flavors are available. . . From Apple Blitz™ to Purple Thunder, Zig-Zag® wraps are boldly flavored to create a robust cigar experience.”⁴²

Conclusion

I have been leading the efforts in Congress to reduce tobacco use since I was first elected in 1974. When I was Chairman of the Health and Environment Subcommittee in the 1980s and 1990s, we held hearings to educate the public on the dangers of smoking and expose the harmful practices of the tobacco industry, including the 1994 hearing at which tobacco executives denied that cigarettes are addictive. During that time, I led successful efforts to update health warnings on cigarettes and banned smokeless tobacco advertising on television and radio. When I became Chairman of the Full Energy and Commerce Committee in 2009, one of my first priorities was to enact landmark legislation granting FDA regulatory authority over tobacco.

Throughout this time, one pattern has been consistent. Tobacco companies always seem to invent new ways to circumvent public health protections. The internal tobacco company documents reviewed by the Committee confirm this is happening once again.

The difference this time is that we anticipated tobacco companies would try to evade the law when Congress passed the Tobacco Control Act. That is why the law gives FDA the authority to regulate emerging public health threats like those posed by the substitution of cigarettes and RYO tobacco for cigars and pipe tobacco.

I am writing to urge you to exercise this authority by taking enforcement action and moving rapidly to issue deeming rules. Products that are being used as cigarette substitutes should be subject to the same regulations as cigarettes. Products that are mislabeled as pipe tobacco or large cigars should be considered misbranded. Tobacco companies should not be allowed to hook a new generation of smokers on flavored cigars and other new products.

⁴⁰ Prime Time, *PT Rillos 40-02 Freshpak Display* (May 21, 2009) (online at www.ptic.com/images/product_specsheets/pt_rillos/pt_rillos_40-02_dsply.pdf).

⁴¹ American Legacy Foundation, *Cigars, Cigarillos & Little Cigars Fact Sheet* (June 2009) (online at www.legacyforhealth.org/PDF/Cigars-Cigarillos-and-Little-Cigars_FactSheet.pdf).

⁴² National Tobacco, *New Products for Growth & Emergent Categories* (Mar. 26, 2009) (CEC050710-1101).

The Honorable Margaret A. Hamburg
August 27, 2012
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I hope you will act without delay. Forceful and timely intervention by FDA can stop the tobacco companies from exploiting loopholes and endangering our youth.

Sincerely,

A handwritten signature in blue ink that reads "Henry A. Waxman". The signature is written in a cursive, flowing style.

Henry A. Waxman
Ranking Member