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## LATHAM & WATKINS<sup>LLP</sup>

April 23, 2020

### **BY EDIS**

The Honorable Lisa R. Barton  
Secretary to the Commission  
U.S. International Trade Commission  
500 E Street, S.W., Room 112  
Washington, DC 20436

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Re: *Certain Tobacco Heating Articles and Components Thereof,*  
*ITC Docket No. 337-TA-3447*

Dear Secretary Barton:

Enclosed please find as a courtesy filing the Public Interest Comments of the Progressive Policy Institute.

Respectfully submitted,

*/s/ Jamie D. Underwood*

Jamie D. Underwood  
of LATHAM & WATKINS LLP

Enclosure

cc: Service List

Philip Morris Products, S.A.

The Honorable Lisa R. Barton  
Secretary to the Commission  
U.S. International Trade Commission  
500 E Street, SW, Room 112  
Washington, DC 20436

Re: In the Matter of Certain Tobacco Heating Articles and Components Thereof  
**Investigation No. 337-TA-3447**

Dear Secretary Barton:

The Progressive Policy Institute has a long history supporting innovation across a wide range of areas, from tech to advanced manufacturing to biopharma to cross-border digital trade. One topic that we have followed closely is the development of innovative reduced-harm alternatives to conventional cigarettes. This is an especially important area given the health benefits of transitioning smokers to reduced harm alternatives.

That's why we were concerned and surprised when we saw that the IQOS system and related tobacco products might be excluded from the U.S. because of a patent complaint. We have no knowledge about the patent situation, but we do know that IQOS is unique as the only currently FDA authorized heated tobacco product that has been through FDA's premarket tobacco application (PMTA) review process. As the FDA announced last April, a "rigorous science-based review" found that authorizing these products was "appropriate for the protection of the public health."<sup>1</sup>

The key is that these heated tobacco products combine low toxins with nicotine delivery close to combustible cigarettes. To the FDA, that suggested "a likelihood that IQOS users may be able to completely transition away from combustible cigarettes and use IQOS exclusively."

In the short run, excluding IQOS from the U.S. market would hurt those people who are currently using the product to transition away from more harmful tobacco products, or could be using it in the near future. Removing seems like a particularly bad thing to do in the middle of pandemic-related stresses around the country, especially when we'd like to get people off cigarettes that might harm lungs.

But there's a larger point as well. It was a real breakthrough when the manufacturers of IQOS successfully completed the full FDA screening process for the product, because it signaled that the incentives for public health, innovation and good science were finally getting aligned. It seems a shame that this win-win situation should be undercut by the exclusion of the product from the U.S. market for unrelated reasons.

Sincerely,



Dr. Michael Mandel  
Chief Economic Strategist  
Progressive Policy Institute

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<sup>1</sup> <https://www.fda.gov/news-events/press-announcements/fda-permits-sale-iqos-tobacco-heating-system-through->

**CERTIFICATE OF SERVICE**

It is hereby certified that copies of **PUBLIC INTEREST COMMENTS** were served on April 23, 2020 as follows:

<p>The Honorable Lisa R. Barton Secretary to the Commission U.S. International Trade Commission 500 E Street, SW, Room 112 Washington, DC 20436</p>	<p>By EDIS</p>
<p>David M. Maiorana Ryan B. McCrum JONES DAY 901 Lakeside Avenue Cleveland, OH 44114</p> <p>Stephanie E. Parker JONES DAY 1420 Peachtree Street, N.E. Suite 800 Atlanta, GA 30309</p> <p>Anthony M. Insogna JONES DAY 4655 Executive Drive Suite 1500 San Diego, CA 92121</p> <p>John J. Normile JONES DAY 250 Vesey Street New York, NY 10281 Tel: (212) 326-3939</p> <p><i>On Behalf of Complainants RAI Strategic Holdings, Inc., R.J. Reynolds Vapor Company, and R.J. Reynolds Tobacco Company</i></p>	<p>By Email <a href="mailto:dmaiorana@jonesday.com">dmaiorana@jonesday.com</a> <a href="mailto:rhmccrum@jonesday.com">rhmccrum@jonesday.com</a> <a href="mailto:separker@jonesday.com">separker@jonesday.com</a> <a href="mailto:aminsogna@jonesday.com">aminsogna@jonesday.com</a> <a href="mailto:jjnormile@jonesday.com">jjnormile@jonesday.com</a></p>

/s/ Erika J. Weinstein

Erika J. Weinstein

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