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and ALTRIA ENTERPRISES LLC

17  
18 **UNITED STATES DISTRICT COURT**  
19 **NORTHERN DISTRICT OF CALIFORNIA**  
20 **SAN FRANCISCO DIVISION**

21  
22 IN RE: JUUL LABS, INC., MARKETING,  
SALES PRACTICES, AND PRODUCTS  
23 LIABILITY LITIGATION

24  
25 This Document Relates to:  
26 ALL GOVERNMENT ENTITY ACTIONS

Case No.: 19-MD-02913-WHO

**REPLY MEMORANDUM IN SUPPORT OF  
THE ALTRIA DEFENDANTS' MOTION  
TO DISMISS THE ALTRIA DEFENDANTS'  
FROM SEVEN GOVERNMENT ENTITY  
COMPLAINTS**

Judge: Hon. William H. Orrick  
Date: September 21, 2020  
Time: 9:00 a.m.  
Ctrm: 2

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## INTRODUCTION

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The Entities (six school districts and one county) allege that Defendants targeted minors when designing and marketing JUUL products, which in turn caused an increase in underage vapor use that forced the Entities to incur certain expenses. But this theory does not work against the Altria Defendants.<sup>1</sup> The Altria Defendants are not alleged to have designed JUUL products or to have marketed those products to minors. Indeed, the Entities’ response removes any possible claim that actions purportedly taken by the Altria Defendants facilitated the alleged youth marketing in any plausible way.

The Entities focus largely upon the Altria Defendants’ involvement in providing “Make the Switch” advertisements to existing adult smokers beginning in January 2019. They concede, however, that the campaign did not market JUUL products to minors but instead did the exact opposite: “its goal was to convince the public” that JUUL products were intended for “adult smokers.” Plaintiffs’ Opposition to Defendant JUUL Labs, Inc.’s and the Altria Defendants’ Motions to Dismiss (ECF 817), at 9, 39 (“Opp.”).

The Entities cannot turn this plainly adult-focused campaign into allegations of youth marketing by claiming it was a “cover-up” scheme. Opp. at 9, 28. As an initial matter, all of the youth marketing that the Entities allege in their Complaints had already ceased by then: all of the Entities’ “youth marketing” allegations, which do not describe any marketing by the Altria Defendants at all, end *before* January 2019, and the Entities concede that JLI had “ceased all promotional postings” by November 2018. *E.g.*, Tucson Amended Complaint (“TAC”) ¶ 555. Beyond that, by the time the Make the Switch campaign ran, JLI’s prior marketing practices were already well known: the FDA had already sent letters to JLI, Altria, and others in the industry investigating underage vapor use; the FDA had already seized documents from JLI concerning JLI’s marketing practices, TAC ¶¶ 452-53; and certain counsel in this MDL had already filed actions against JLI making the same youth marketing allegations raised here.

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<sup>1</sup> As used in this motion, “the Altria Defendants” refers to the Altria-affiliated entities named as defendants in the Entities’ complaints: Altria Group, Inc. (“Altria”), Altria Client Services LLC, Altria Group Distribution Company, and Altria Enterprises LLC.

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