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April 27, 2020

VIA EDIS

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

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

Dear Secretary Barton:

On Thursday, April 23, 2020, Latham and Watkins LLP (“Latham”) filed timely comments to Complainants’ Public Interest Statement in the above-referenced matter on behalf of the American Vaping Association (“AVA”). Latham had full permission to do so and submitted the filing as a courtesy to AVA.

On Friday, April 24, 2020, the ITC’s docketing team rejected the filing because a law firm may not file a document on behalf of a person or entity that it does not formally represent. Neither Latham nor AVA received notice of this issue in time to address the concern.

The undersigned represents AVA for purposes of perfecting the filing of its public interest comments. AVA respectfully submits that there is good cause for the Commission to accept and consider its public interest filing out of time. The filing, in fact, was made

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in a timely fashion but was rejected based on a technical imperfection in the manner of its filing. Moreover, given the statutory provisions and Commission rules governing consideration of the public interest, it is important that the Commission consider to the greatest extent possible all such submissions. Finally, neither the Commission Staff nor Complainants will be prejudiced by acceptance of the filing at this time, given that it was served on the Commission Staff and Complainants on the day it was originally filed.

For the foregoing reasons, AVA respectfully requests that the Commission accept and consider its public interest submission out of time.

Sincerely,

/s/ Benjamin Levi

Benjamin Levi

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**UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, DC**

In the Matter of

**CERTAIN TOBACCO HEATING
ARTICLES AND COMPONENTS
THEREOF**

Investigation No. 337-TA-3447

PUBLIC INTEREST COMMENTS OF THE AMERICAN VAPING ASSOCIATION

The American Vaping Association (AVA) files these comments to the Public Interest Statement submitted by Complainants in the above-referenced matter on April 9, 2020. AVA is not interested in weighing in related to the merits of the case, which we leave for ITC and other bodies to decide. We do, however, want to highlight the potential adverse impact the requested exclusion of IQOS might cause, including harming the public health and welfare of U.S. consumers and stifling incentives to innovate to move consumers away from traditional cigarettes.

Background

The American Vaping Association is a nonprofit advocacy group that champions the use of vaping products and electronic cigarettes to help smokers quit. We advocate for fair and sensible regulation of vaping products with the goal of maximizing the number of adult smokers who use these products to quit smoking. We are dedicated to educating the public and government officials about the public health benefits offered by vapor products. AVA is not a trade association and does not speak for any particular businesses. As we are an important voice in the vaping community, which includes users of heated tobacco products such as IQOS, we believe we are well positioned to comment in the above reference matter.

IQOS Provides Promise to U.S. Consumers

Despite years of public health campaigns and harsh regulatory edicts, 34 million American adults still smoke combustible cigarettes, with the majority reporting that they want to quit. Unfortunately, studies continue to show that while many smokers do make quit attempts, the majority of those who attempt to quit smoking will not succeed long-term. Fortunately for public health, over the last three decades there has been volumes of research published showing that while smokers smoke for the nicotine, they actually suffer diseases and die because of the

smoke, not the nicotine.

This science has formed the basis for the concept of tobacco harm reduction (THR). Since smoking cigarettes is undoubtedly the worst way to consume nicotine, THR proponents advocate for providing smokers with access to products that give adults the nicotine they want without the smoke and sky-high levels of toxic chemicals produced by combustible cigarettes. The fact that smokers smoke for the nicotine but die from the chemical compounds in tobacco smoke has been endorsed by well-respected organizations across the globe, including the U.S. Food & Drug Administration and the United Kingdom's Royal College of Physicians.

We have learned over time that no product is perfect, with many smokers finding it difficult to switch to traditional nicotine replacement therapy products or new technologies such as electronic cigarettes. Even among those who successfully switch to products like electronic cigarettes, consumers often must use multiple flavors and/or devices before finding something that works for them.¹ As a result, AVA believes it is important to have a variety of alternatives to cigarettes for consumers so that we can continue to bring down the number of smokers in the U.S. today. This includes heated tobacco products like IQOS.

As we noted in our press release when IQOS was approved, IQOS is not a traditional vaping product. Whereas electronic cigarettes heat a liquid solution in order to produce a vapor, IQOS heats real tobacco to temperatures much lower than a traditional cigarette. The products are radically different in taste and user experience, but they align in the most important factors for public health -- nothing actually burns when using either products, which results in users being exposed to far fewer chemicals as compared to traditional cigarettes.

¹ See e.g., Jones DM, Ashley DL, Weaver SR, et. al. Flavored ENDS Use among Adults Who Have Used Cigarettes and ENDS, 2016-2017. *Tob Regul Sci.* 2019;5(6):518–531. doi:10.18001/TRS.5.6.4 (finding that adults who report use of multiple flavors in electronic cigarettes were more likely to have quit smoking)

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