

Advertising Health Claims Can Get You Burned

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Today, *Ad Age* [spotlighted](#) e-cigarette brand NJoy's new advertising campaign and noted that it comes close to making prohibited health claims. The tagline for the [new campaign](#) is "friends don't let friends smoke" and, as the article points out, NJoy "toes that line very closely by offering e-cigs as an alternative to regular cigarettes without specifically saying why friends don't let friends smoke." If the implication is that reason is health-related, NJoy may find themselves getting burned.

The *Ad Age* article notes that FDA restrictions on e-cig marketing are forthcoming. According to Mitchell Zeller, Director of the Center for Tobacco Products for the FDA, the FDA is indeed monitoring the expanding market for electronic cigarettes and intends to bring it under its regulatory purview soon. Additionally, on December 18 several U.S. Senators sent a letter to FTC Chairwoman Edith Ramirez urging the FTC to investigate the marketing practices of e-cigarette manufacturers.

As we've noted before [here](#) and [here](#), health-related claims can be subject to higher standards than other types of claims, and companies can face significant consequences if they fail to meet those standards. Regardless of whether you are marketing an e-cigarette or something more low-tech, work with your counsel to ensure you've got adequate legal support.