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Don’t Get Vaporized: A Regulatory Lesson From The Vaping Ban

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Leadership Strategy

I write about risk and resilience both personal and professional.

The proposed vaping ban will have big implications for a fast-growing industry and its legions of customers. (AP Photo/Frank Franklin II, File) ASSOCIATED PRESS

Last month the Trump Administration announced a ban on flavored e-cigarettes and nicotine pods in the United States. The decision was made in response to six deaths and 1,300 illnesses that are suspected to be linked to vaping as well as to a huge increase in teen use. According to the Food and Drug Administration (F.D.A.), e-cigarette use increased 78 percent among high school students (11.7% to 20.8%) from 2017 to 2018, so there is mounting pressure for action. The industry is worried about their gains goin up in smoke as the ban will hit the market hard. Whether merited or not, it is a classic example of regulatory risk and the lessons can be applied to many other industries.

Increased regulatory oversight of the booming e-cigarette industry should have been visible through the e-mist. Any business involved in the manufacture and sale of these products could have predicted it and used that knowledge to come up with a plan to address it. For the big players, that could mean regulatory engagement, marketing shif or product changes, all of which we are seeing now. For smaller players like the vendor product diversification is an important strategy so that all sales are not dependent on a single class of products. Clearly, small businesses are more vulnerable to these risks since they have fewer resources to address them and less control over the product.

To oversee this process, a common strategy is to bring in a leader with experience navigating regulatory challenges sometimes from an adjacent industry. This reshufflin may be necessary if the current leader is seen as not having taken sufficient action or n having enough experience in crisis management. Juul Labs announced that its new CE K.C. Crosthwaite has a big tobacco background from his time at tobacco giant Altria an will certainly apply the lessons learned from their regulatory playbook.

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Flavored vaping solutions in a window display at a vape and smoke shop in New York. (AP Photo/Bebeto Matthews File) ASSOCIATED PRESS

Many companies rely on products that require regulatory approval and need to monito any changes to the relevant regulations closely. Any company regulated by the F.D.A. must understand what kinds of changes could be coming and work to align their products accordingly. Other products have been affected recently by F.D.A. action including a proposal to ensure the safety of sunblock and a ban on the antibacterial ingredient triclosan, which was commonly used in many products from hand sanitizers to toothpaste. Other industries facing public scrutiny should also be observing the vaping ban for applications to their own regulatory run-ins including: oil companies (before they sail into the sunset with a push from Greta Thunberg), cryptocurrency providers (Facebook’s Libra announcement felt off-balance and many partners are dropping them already) and of course, vaping’s cousin industry, cannabis, should take note (the forecast is hazy for Pax Labs).

Regulatory change is a complex process that comes in a variety of flavors. In addition t the changes at the federal level, states have taken steps of their own to combat the perceived vaping crisis including in Michigan, New York, New Jersey, Massachusetts, and California. Complying with a patchwork of state regulations in addition to federal mandates further complicates things for companies. Juul Labs may be pivoting to focu on growth in international markets like China and Portugal, which could work for a while, but it’s likely that other countries will also eventually introduce new regulation. Consumers in other markets can follow the e-cigarette ban story in the United States with just a few clicks and may soon make demands on their own governments. In our hyper-connected world, it’s nearly impossible to maintain multiple crisis strategies for different markets since everyone everywhere can hear you. Just ask the NBA or Apple how they are faring right now as they get squeezed between the Chinese government ar activists over the situation in Hong Kong. Regulatory risk is one thing, but political risk is also a huge and growing threat for businesses and one that will certainly increase in 2020.

In general, companies make big changes for two reasons: because their customers ask for it or because their regulators demand it. Usually it ends up being a combination of the two. The best companies predict these requests and take steps to get out ahead of them. What regulatory risks or changes in consumer preferences are looming in your industry? Get ahead of them or you could end up vaporized.

E-Cigarette pods are displayed for sale at Good Guys Vape Shop, in Biddeford, Maine. (AP Photo/Robert F. Bukaty) ASSOCIATED PRESS

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