

Sales Estimation and Challenges in Monitoring of E-Cigarettes with Marketing Granted Orders

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	Tobacco Industry	Non-Pharma Nicotine Product Industry	Pharma Industry
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Background

To legally market a new tobacco product in the United States, a manufacturer must first receive a marketing granted order (MGO) from the U.S. Food and Drug Administration (FDA).¹

Currently, there are 39 e-cigarette products with MGO.² While illegal e-cigarette sales are widely discussed, the distribution of market share between authorized and unauthorized products is unclear. Our research aims to assess current market presence of unauthorized products.

Methodology

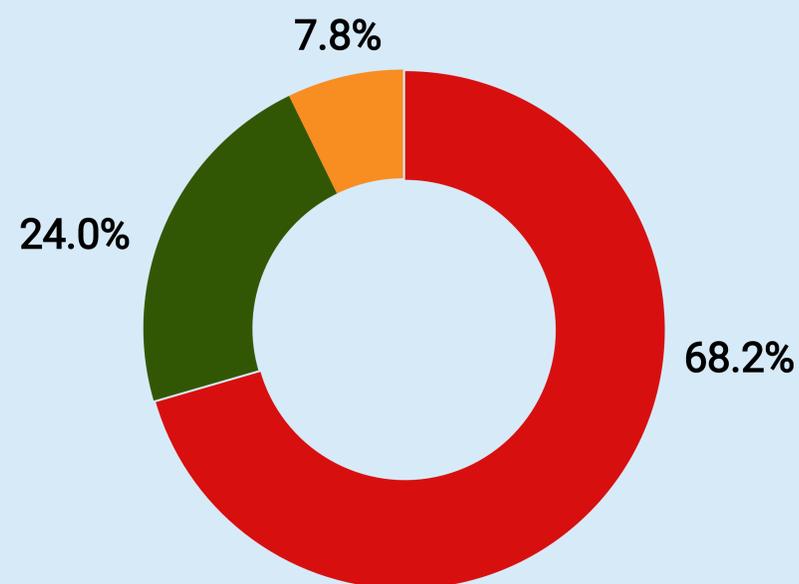
Retail sales data are based on custom research by the CDC Foundation using Circana retail POS scanner data (Multi-Outlet and Convenience), which includes brick-and-mortar stores and excludes online retailers and vape shops.

We aligned product attributes in the FDA's MGO database based on brand, sub-brand, flavor, nicotine level and volume information with the corresponding information available in the scanner data.³ We identified products in scanner data matching all attributes exactly, and products with exact match for nicotine level and volume attributes but similar flavors or sub-brands.

We estimated the market share as the percentage of total dollar sales for each category during the 4-week period ending August 10, 2025.

An estimated nearly 70% of e-cigarette sales in tracked brick-and-mortar channels are **not authorized** by the FDA.

National Market Share of FDA-Authorized Products in Dollar Sales



- **Exact match** products held **24.0%** market share
- **Partial match** products held **7.8%** market share
- **Unauthorized** products held **68.2%** market share

Results

Two categories were identified: exact and probable matches. Products within the scanner data with an exact match to all selected attributes accounted for 24.0% of the market share.

Probable match category was assessed to account for potential labeling changes to authorized products as determined in Philip Morris USA Inc. v. U.S. Food & Drug Admin. (2016).⁴ Products with a probable match accounted for 7.8% of the market share.

Remaining products not identified as exact or probable matches were deemed as "unauthorized" products, which accounted for 68.2% of the market share.

Conclusion

The majority of products on the market remain unauthorized.

Overall, calculations likely overestimate legally marketed sales because scanner data do not account for tobacco specialty shops or online sales. However, probable sales may be underestimated due to the lack of access to manufacturers' filings to FDA.

Insufficient publicly available data on which tobacco products are marketed legally presents compliance challenges for retailers and complicates analysis and research. More robust reporting requirements for manufacturers, such as all applicable UPCs and public reporting of product relabeling, would foster transparent monitoring of legal sales.

References

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