Opening Statement of Republican leader Brett Guthrie
Subcommittee on Oversight and Investigations
"Vaping in America: E-Cigarette Manufacturers' Impact on Public Health"
February 5, 2020

As Prepared for Delivery

Chair DeGette, thank you for holding this important hearing. I share your concern about youth vaping trends that have emerged in the United States in recent years. The U.S. Surgeon General has called e-cigarette usage by youth an "epidemic," and warned that it threatens decades of progress toward ensuring that fewer young people use tobacco.

The most recent data from the National Youth Tobacco Survey showed that 27.5 percent of youths reported using e-cigarettes, compared with 20.8 percent in 2018. The marketing of e-cigarette products to children must stop, and youth access to e-cigarette products must be prevented. This will require an all hands-on deck approach from all parties, including the federal government, manufacturers, and retail stores.

We have already made strides to curb youth access to tobacco since we last held a hearing on this topic in September. In December, Congress passed and President Trump signed into law legislation to raise the legal age to purchase tobacco products, including e-cigarettes, from 18 to 21. On January 2, 2020, FDA

issued guidance finalizing its enforcement policy regarding unauthorized flavored cartridge-based e-cigarettes that appeal to children, including fruit and mint.

Under this policy, as of February 6, 2020—tomorrow—companies must cease manufacturing, distribution, and sale of unauthorized flavored cartridge-based e-cigarettes, other than tobacco or menthol, or risk FDA enforcement actions. This guidance also gives the FDA the ability to pivot its enforcement priorities as needed. I hope to hear from our witnesses today whether this enforcement guidance will effectively target youth access, or if there are other or more effective steps that the FDA should take, either alone or in conjunction with industry.

Further, according to the FDA's new guidelines, manufacturers, like the ones before us today, must submit premarket tobacco product applications (PMTA) to FDA by May 12, 2020, for deemed tobacco products, including e-cigarette products, that were on the market as of August 8, 2016. Through their applications, manufacturers or importers must demonstrate to FDA, among other things, that marketing of the new tobacco product(s) would be appropriate for the protection of the public health. As part of this determination, FDA must consider the risks and benefits of the product to the population as a whole, including users and non-users of tobacco products. If manufacturers do not submit their premarket

applications by May 12, any products for which an application is not submitted must be pulled from the market.

These legal and regulatory developments will drastically change the e-cigarette landscape in the coming months and year. While these actions are aimed at reducing the attraction of e-cigarettes to youth and protecting broader public health, wide bans and the narrowing of what is legally available in the legitimate marketplace will almost certainly shift product use for existing users to other products that are still available. We must be vigilant in responding to this potential shift in utilization, which may result in an increased black market or counterfeit demand for e-cigarette products. We must ensure that our efforts to protect our youth, and the broader public health, do not inadvertently create a bigger and more complicated problem.

Though not directly relevant to today's hearing, I continue to be concerned about the lung injury outbreak associated with vaping and e-cigarette use. These illnesses have been closely associated with black market products and THC use. While the number of cases appear to have peaked when this Subcommittee held its first e-cigarette hearing in September, we have since learned that according to the Centers for Disease Control and Prevention (CDC) the illness outbreak was strongly linked to Vitamin E acetate, an additive in THC e-cigarettes. We need to more clearly understand the causes of these illnesses.

It is my understanding that the e-cigarette manufacturers have taken and are continuing to take their own actions to prevent youth access to their products. This hearing can serve as a constructive discussion for us to learn more about what these manufacturers are doing to prevent youth utilization of e-cigarettes.

Before I conclude, I would like to quickly recognize a subsidiary of Reynolds that is located in my district, Kentucky BioProcessing (KBP). KBP was very helpful with the development of the Ebola vaccine and is now working to address the coronavirus. I am glad that KBP is located in Owensboro, Kentucky, and doing great things for America's public health.

I thank our witnesses for being here today and being part of this important discussion.