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### **Statement for the Record**

#### **Committee on Energy and Commerce, Health Subcommittee Hearing on “Legislation to Reverse the Youth Tobacco Epidemic” October 16, 2019**

The American Cancer Society Cancer Action Network (ACS CAN) writes today in strong support of the “Reversing the Youth Tobacco Epidemic Act of 2019” (the Act) introduced by Chairman Frank Pallone, Jr. (D-NJ) and Rep. Donna E. Shalala (D-FL). Among its provisions, the Act would prohibit all flavors in all tobacco products with the exception of an e-cigarette that meets the public health standard under the law; raise the federal minimum age of sale of tobacco products to 21 and requires age verification; and prohibit all remote sales, including online sales, of all tobacco products.

ACS CAN is making cancer a top priority for public officials and candidates at the federal, state and local levels. ACS CAN empowers advocates across the country to make their voices heard and influence evidence-based public policy change as well as legislative and regulatory solutions that will reduce the cancer burden. As the American Cancer Society’s nonprofit, nonpartisan advocacy affiliate, ACS CAN is critical to the fight for a world without cancer.

Tobacco use remains the leading cause of preventable death in the U.S. More than 480,000 deaths each year are caused by cigarette smoking,<sup>i</sup> including 28.8 percent of all cancer deaths and 85.5 percent of lung cancer deaths.<sup>ii</sup> ACS CAN advocates for comprehensive public policies to effectively reduce tobacco use and exposure to secondhand smoke in the U.S. ACS CAN works to ensure no one, especially youth, start using any tobacco products, and that individuals who use tobacco have access to evidence-based cessation services, including FDA-approved medications and counseling. In fact, the national reductions in overall cancer mortality over the past few years can be partially attributed to our work in tobacco control to prevent youth from starting to use tobacco products and helping current users quit.<sup>iii1</sup>

This legislation comes at a time of unprecedented youth use of tobacco products. In 2018, nearly 5 million students (27.1 percent of high school students and 7.2 percent of middle school students) were current users of any tobacco product,<sup>iv</sup> with preliminary 2019 estimates showing an even higher use rate.<sup>v</sup> The most commonly used tobacco products among youth are e-cigarettes. In 2018, 20.8 percent of high school students and 4.9 percent of middle school students reported using an e-cigarette. These represent a 78 and 48 percent increase in e-cigarette use from 2017, respectively. Other tobacco use by youth also remains too high. In 2018, 8.1 percent of high schoolers smoked cigarettes and 7.6 percent smoked cigars. Among male high school students, 8.4 percent used smokeless tobacco. Also, in 2018, 1.8

percent of middle school students smoked cigarettes and 1.6 percent smoked cigars; 1.8 percent used smokeless tobacco.

Tobacco industry advertising and promotions cause initiation and progression of tobacco use among youth and young adults.<sup>vi</sup> The increased use of e-cigarettes and continued high rates of other tobacco products by youth is not by accident, but by industry design. To state that the increase in youth e-cigarette use was not foreseeable ignores the decades of tobacco industry targeting of youth and other vulnerable populations. The 2014 U.S. Surgeon General's report concluded that "the tobacco epidemic was initiated and has been sustained by the aggressive strategies of the tobacco industry, which has deliberately misled the public on the risks of smoking cigarettes" and that "advertising and promotional activities by the tobacco companies cause the onset and continuation of smoking among adolescents and young adults."<sup>vii</sup> Manufacturers of new tobacco products are using the same marketing strategies that the cigarette and smokeless tobacco manufacturers have long used to attract youth including advertising on television and radio, sponsoring music and sports events, celebrity endorsements, and images of their products as cool, sexy, and rebellious.<sup>viii</sup> In 2016, 78 percent, or more than 20 million, middle and high school students reported seeing e-cigarette advertisements in retail stores, on the internet, on television and in newspapers and magazines.<sup>ix</sup> The legislation's provisions to require new tobacco product manufacturers to adhere to the same advertising and sales restrictions as cigarette manufacturers is critical.

Candy, fruit, mint and menthol flavorings in tobacco products are a promotional tool to lure new, young users, and are aggressively marketed with creative campaigns by tobacco companies.<sup>x</sup> Products with flavors like cherry, grape, cotton candy, and gummy bear are clearly not aimed at established, adult tobacco users and years of tobacco industry documents confirm the intended use of flavors to target youth.<sup>xi</sup> Furthermore, youth report flavors a leading reason they use tobacco products and perceive flavored products as less harmful.<sup>xixiii</sup>

More than 80 percent of teens who had ever used a tobacco product started with a flavored product and more recent data shows that among those teens who had ever tried an e-cigarette, 96.1 percent used a flavor product for the first time.<sup>xiv,xv</sup> While candy and fruit flavoring are prohibited in cigarettes, menthol remains widely used. Among youth in 2014, menthol use was high overall (53.6 percent), and even higher for non-Hispanic black students (70.5 percent).<sup>xvi</sup> The FDA's preliminary scientific investigation on menthol cigarettes concluded that the weight of the evidence supports menthol cigarette smoking with increased initiation and progression to smoking, increased dependency, and reduced cessation success, particularly among African American smokers.<sup>xvii</sup> Eliminating all flavors in all products, as this legislation does, has to be a component to meaningfully impact the youth tobacco use epidemic.

Finally, restricting youth and young adult access to tobacco products can be a critical component to a comprehensive strategy to reduce initiation and lifelong addiction. Laws intended to restrict youth commercial access to tobacco products are only effective when combined with interventions to educate retailers, mobilize the community, and actively enforce the laws.<sup>xviii</sup> In its March 2015 report, *Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products*, the National Academies of Sciences, Engineering, and Medicine (formerly the Institute of Medicine) used two models to predict the impact of raising the minimum age of sale to 19, 21, and 25 nationally.<sup>xix</sup> Specifically, the report models predict that smoking prevalence would decline by 12 percent if the national minimum age of sale was raised to 21,<sup>xx</sup> and would result in approximately 223,000 fewer premature deaths, 50,000 fewer deaths from lung cancer, and 4.2 million fewer years of life lost for those individuals born

between 2000 and 2019. Raising the minimum age of sale to 21 and prohibiting the online sales of tobacco products can curb youth access and youth of these products.

## ACS CAN supports the Reversing the Youth Tobacco Epidemic Act of 2019.

<sup>i</sup> US Department of Health and Human Services. The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General. Washington, DC: US Department of Health and Human Services, CDC; 2014. Available at <http://www.surgeongeneral.gov/library/reports/50-years-ofprogress/full-report.pdf>.

<sup>ii</sup> Islami F, Goding Sauer A, Miller KD, Siegel RL, Fedewa SA, Jacobs EJ, McCullough ML, Patel AV, Ma J, Soerjomataram I, Flanders WD. Proportion and Number of Cancer Cases and Deaths Attributable to Potentially Modifiable Risk Factors in the United States. *CA: A Cancer Journal for Clinicians*. 2018 Jan 1;68(1):31-54.

<sup>iii</sup> American Cancer Society. Cancer Facts & Figures 2019. Atlanta: American Cancer Society; 2019.

<sup>iv</sup> Centers for Disease Control and Prevention. Tobacco Use Among Middle and High School Students—United States, 2011–2018. *Morbidity and Mortality Weekly Report*, 2019;68(6):157–164.

<sup>v</sup> Food and Drug Administration News Release. September 11, 2019. <https://www.fda.gov/news-events/press-announcements/trump-administration-combating-epidemic-youth-e-cigarette-use-plan-clear-market-unauthorized-non>

<sup>vi</sup> US Department of Health and Human Services. The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General. Washington, DC: US Department of Health and Human Services, CDC; 2014. Available at <http://www.surgeongeneral.gov/library/reports/50-years-ofprogress/full-report.pdf>.

<sup>vii</sup> US Department of Health and Human Services. The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General. Washington, DC: US Department of Health and Human Services, CDC; 2014. Available at <http://www.surgeongeneral.gov/library/reports/50-years-ofprogress/full-report.pdf>.

<sup>viii</sup> A Gateway to Addiction? A survey of popular electronic cigarette manufacturers and targeted marketing to youth. April 2014. [http://www.durbin.senate.gov/public/index.cfm/files/serve/?File\\_id=81d14ff7-f2f6-4856-af9d-c20c0b138f8f](http://www.durbin.senate.gov/public/index.cfm/files/serve/?File_id=81d14ff7-f2f6-4856-af9d-c20c0b138f8f)

<sup>ix</sup> Marynak K, Gentzke A, Wang, TW, Neff L, King BA. Exposure to Electronic Cigarette Advertising Among Middle and High School Students – United States, 2014–2016. *MMWR Morb Mortal Wkly Rep* 2019; 67: 294–299.

<sup>x</sup> Delnevo, C, et al., “Preference for flavoured cigar brands among youth, young adults and adults in the USA,” *Tobacco Control*, epub ahead of print, April 10, 2014. King, BA, et al., “Flavored-Little-Cigar and Flavored-Cigarette Use Among U.S. Middle and High School Students,” *Journal of Adolescent Health* 54(1):40–6, January 2014.

<sup>xi</sup> Carpenter CM, Wayne GF, Pauly JL, Koh HK, Connolly GN. New cigarette brands with flavors that appeal to youth: tobacco marketing strategies. *Health Affairs*. 2005; 24(6): 1601–1610.

<sup>xii</sup> Ambrose et al. Flavored tobacco product use among U.S. youth aged 12–17 years, 2013–2014. *JAMA*, 2015; 314(17): 1871–3.

<sup>xiii</sup> Huang L-L, Baker HM, Meernik C, Ranney LM, Richardson A, Goldstein AO. Impact of non-menthol flavours in tobacco products on perceptions and use among youth, young adults and adults: a systematic review. *Tobacco Control* 2016.

<sup>xiv</sup> Ambrose et al. Flavored tobacco product use among U.S. youth aged 12–17 years, 2013–2014. *JAMA*, 2015; 314(17): 1871–3

<sup>xv</sup> FDA Draft Guidance for Industry, Modifications to Compliance Policy for Certain Deemed Tobacco Products. March 2019.

<sup>xvi</sup> Corey, CG, Ambrose BK, Apelberg BJ, King, BK. Flavored Tobacco Product Use Among Middle and High School Students – United States, 2014. *MMWR*, October 2, 2015; 64(38): 1066–1070.

<sup>xvii</sup> FDA. Preliminary Scientific Evaluation of the Possible Public Health Effects of Menthol versus Nonmenthol Cigarettes. <https://www.fda.gov/media/86497/download>

<sup>xviii</sup> Guide to Community Preventive Services. Community mobilization with additional interventions to restrict minors' access to tobacco products. [www.thecommunityguide.org/tobacco/communityinterventions.html](http://www.thecommunityguide.org/tobacco/communityinterventions.html). June 2001.

<sup>xix</sup> IOM (Institute of Medicine). 2015. Public health implications of raising the minimum age of legal access to tobacco products. Washington, DC: The National Academies Press.

<sup>xx</sup> The models assess a nationwide change in the minimum age of sale and aggregate the effects of state and local tobacco control measures on tobacco initiation, use, and cessation. Therefore, state or local level changes to the minimum age of sale cannot be extrapolated from these models.