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FDA’s regulatory plan promising, yet seems to favor e-cigarette industry

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July 28, 2017 - Today, Dr. Scott Gottlieb, Commissioner of the Food and Drug Administration (FDA), announced “a new comprehensive plan for tobacco and nicotine regulation that will serve as a multi-year roadmap to better protect kids and significantly reduced tobacco-related disease and death.” The plan includes investigating lowering nicotine levels in combustible tobacco cigarettes and the role that flavors, including menthol, play in tobacco products. It also grants an extended approval timeline for newly-regulated combustible products, such as cigars, pipe tobacco, and hookah tobacco, and non-combustible products, such as e-cigarettes and other electronic smoking devices.

While the announcement is a welcomed sign to address our concerns about nicotine levels and flavors in tobacco products, we have concerns about the extended deadlines for regulating e-cigarettes and other tobacco products, as well as excluding e-cigarettes from the proposed reduction in nicotine levels. There is enough evidence that youth uptake of electronic smoking devices skyrocketed in 2011 and continues to increase, while these products remain unregulated and the industry continues to massively market and advertise e-cigarettes to youth and young adults who have never smoked traditional tobacco products but are now becoming addicted to nicotine.

Americans for Nonsmokers’ Rights would fully support removing flavors from tobacco products and e-liquids to reduce their appeal to youth and prevent another generation addicted to nicotine; we would support providing adult smokers with an FDA-approved e-nicotine delivery system; and we believe that no e-products should be used in smokefree environments due to the secondhand aerosol that they emit.

We are extremely concerned about the extended timeline to regulate e-cigarettes in general, and to evaluate the efficacy of e-cigarettes to assist smokers to quit tobacco cigarettes. In addition, we are unclear as to why the reduction in nicotine levels applies only to combustible tobacco products and not to e-liquids. The e-cigarette industry group SFATA (Smoke-Free Alternative Trade Association) issued a response that this new FDA announcement discusses ‘non-specific immediate relief’ and they view today’s announcement as “a lifeline in the form of several more years to work out better regulations with the new administration’s FDA.” We are concerned about concessions potentially being made to the e-cigarette industry and the fact that the industry has previously referred to Commissioner Gottlieb as being vape-friendly, in part given his past service on the Board of an e-cigarette retailer.

While we trust that science and facts will rule the day, we are concerned that any delays in regulations will be detrimental to public health. The FDA emphasized that it will have a transparent process and wants public comment on these issues. As with the recently upheld decision on the Department of Transportation’s rule prohibiting e-cigarette use on airplanes, we can expect e-cigarette proponents and front groups to be extremely vocal in this process. Public health and nonsmokers advocates should also be engaged and involved in the public comment process as well because in this way, they play a significant role in ensuring that the FDA works for the public, not under the influence of corporations.

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