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August 12, 2008

William E. Kovacic, chairman
Pamela Jones Harbour, commissioner
Jon Leibowitz, commissioner
J. Thomas Rosch, commissioner
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

RE: Cigarette Test Method, [P944509]

Dear Chairman Kovacic and Commissioners Harbour, Leibowitz and Rosch:

The American Academy of Pediatrics (AAP), a non-profit professional organization of 60,000 primary care pediatricians, pediatric medical subspecialists, and pediatric surgical specialists dedicated to the health, safety, and well-being of infants, children, adolescents, and young adults, urges the Federal Trade Commission (FTC) to rescind its 1966 guidance on cigarette testing, pursuant to a request for comments published in the *Federal Register* on July 14, 2008.

Since its founding in 1930, the AAP has been a voice for children's health through education, research, advocacy, and expert advice. The Academy has demonstrated a continuing commitment to working with hospitals and clinics, as well as with state and federal governments to protect the well-being of America's children. It has been a long-standing priority of the Academy to prevent harm to the health of children and adolescents caused by the use of tobacco products and exposure to second-hand tobacco smoke. Most recently, the AAP established in 2006 the Julius B. Richmond Center of Excellence, named for the former Surgeon General Julius B. Richmond. The center is dedicated to eliminating children's exposure to tobacco and secondhand smoke.

Smoking is a pediatric disease. In the vast majority of cases, smoking starts during childhood.¹ It is estimated that more than 3 million US adolescents are cigarette smokers and more than 1,000 children under the age of 18 become regular smokers each day. For many, smoking will become a lifelong addiction. If current tobacco use patterns persist, an estimated 6.4 million children will die prematurely from a smoking-related disease.

Tobacco use by parents also results in devastating health consequences for children. Smoking and exposure to second-hand smoke during pregnancy are contributing causes of low-birth weight babies, preterm delivery, perinatal deaths and sudden infant death syndrome. Well over 30,000 births per year in the United States are affected by one or more of these problems. Other effects during childhood may include cancer, leukemia, lymphomas and brain tumors.²

FTC Cigarette Testing Guidance Must Be Rescinded

The AAP strongly supports the long overdue proposal by the FTC to rescind guidance announced in 1966 that allows cigarette manufacturers to use the Cambridge Filter Method to test their products and place the resulting tar and nicotine data on cigarette packaging with FTC consent. Tobacco companies knew early on that the FTC testing method was flawed and that smokers of light cigarettes were not being exposed to less tar and nicotine than regular smokers.³ Despite this knowledge, manufacturers perpetrated a massive fraud against the American public, continuing to discourage quitting by convincing smokers that light cigarettes were a healthier, viable alternative to cessation.

It has been well documented for years that the results of Cambridge Filter Method tests are meaningless in determining the health risks associated with smoking.⁴ The machines that test cigarettes under the FTC method do not mimic human behavior. Smokers adapt to light cigarettes by inhaling smoke longer and deeper to achieve the same dose of nicotine delivered by a regular cigarette. Manufacturers have altered cigarette design to take advantage of the inaccuracy of the testing method. Human smokers unknowingly cover small vents in cigarettes with their fingers and lips, causing additional inhalation of smoke not measured by the testing machines. Epidemiological studies have not shown any reduction in smoking-related disease as a result of light cigarettes.⁵ The science is clear. Light cigarettes do nothing to improve public health.

It is profoundly disappointing that the federal government has not stepped in earlier to protect Americans from the deception of the tobacco industry. The FTC proposal comes years too late and falls far short of the comprehensive regulation needed to protect children from the harms of tobacco. For decades, the FTC has consistently failed to use its authority to adequately regulate tobacco marketing.

Rescission Must Be Accompanied by a Public Awareness Campaign

While rescinding the 1966 guidance is necessary and appropriate, it will likely have little immediate or noticeable effect on smoking behavior. Removing the phrase “per FTC Method” from cigarette packs may have a marginal impact on those consumers who have mistakenly assumed that FTC oversight of cigarette content testing has been science-based and in the interest of public health. In actuality, FTC oversight has been neither and can only be presumed to have given smokers the false assurance of appropriate government regulation.

There is, however, little understanding among the American public about cigarette testing methodology, especially among children, and therefore this change will do little to cause people to quit smoking, reduce smoking, or prevent initiation. It is particularly unfortunate that children—those most vulnerable to new tobacco addiction—are those least likely to be affected by such a complicated regulatory action. Therefore, the AAP recommends that rescission of the guidance be accompanied by a new robust public awareness campaign. Only if accompanied by a campaign that explains the failure of the cigarette testing system and its tragic consequences, might this FTC action have a significant positive impact on the public’s smoking behavior.

FTC Should Mandate the Removal of All Descriptors from Cigarette Packs

Rescinding the 1966 guidance would unfortunately do nothing to stop manufactures from using descriptors on cigarette packaging such as “light,” “low,” and “mild,” despite the fact that many of these terms were originally adopted for use based on the flawed FTC-sanctioned test method. FTC action must include an immediate ban on the use of these terms in tobacco marketing. The use of “light,” “low,” and “mild” continue to imply a reduced health risk and prevent smokers from quitting by offering the illusion of a healthier alternative. The lack of accurate information on the effects of light cigarettes has prevented children from making informed choices about smoking. Adolescents have both unrealistic and patently false notions about the addictive nature and health consequences of light cigarettes.⁶ The fraud of the tobacco industry will continue to harm children and youth until tobacco is subject to meaningful government regulation.

Comprehensive Tobacco Regulation is Imperative

Only comprehensive government regulation of tobacco products can sufficiently protect children from tobacco. Currently, no government agency is permitted to prevent tobacco companies from deceiving the public about the health risks of tobacco use, marketing candy-flavored cigarettes, advertising to children, altering nicotine levels, and using harmful additives. The FTC’s mishandling of cigarette testing underscores the need for a science-based agency to regulate tobacco with broad authorities to protect the public health.

For well over a decade, the American Academy of Pediatrics, along with scores of partners from the public health community, has advocated for giving the Food and Drug Administration (FDA) the authority to regulate tobacco products. Tobacco regulation will fit well with the FDA’s strong public health mission, science-based methods, and unique experience in regulating both the content and the marketing of drugs. Legislation pending in Congress to give the FDA tobacco authority would also ban the use of descriptors such as “light,” “low,” and “mild.” While the FTC’s proposal is a positive, yet tentative step, it is our hope that Congress will act quickly to establish meaningful regulation of tobacco for the health of our nation’s children.

Thank you for the opportunity to comment on this proposal.

Sincerely,



Renée R. Jenkins, MD, FAAP
President

RRJ:mdm

¹ American Academy of Pediatrics, Committee on Substance Abuse. Tobacco’s Toll: Implications for the Pediatrician. *Pediatrics*. 2001;107:794-798.

² American Academy of Pediatrics, Committee on Environmental Health. Environmental Tobacco Smoke: A Hazard to Children. *Pediatrics*. 1997;99:639-642.

³ Testimony of Cathy Backinger, Ph.D., Acting Chief, Tobacco Control Research Branch, National Cancer Institute, president before the Committee on Science, Commerce and Transportation, U.S. Senate (Nov. 13, 2007).

⁴ National Institutes of Health, National Cancer Institute, *Smoking and Tobacco Control Monograph 13: Risk Associated with Smoking Cigarettes with Low Machine-Measured Yields of Tar and Nicotine*, 2001.

⁵ Backinger, 2007.

⁶ Kropp RY, Halpern-Felsher BL. Adolescents' Beliefs About the Risks Involved in Smoking "Light" Cigarettes. *Pediatrics*. 2004;114:445-451.