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MEMORANDUM

April 12, 2010

To: Members of the Subcommittee on Health
Fr: Democratic Staff of the Subcommittee on Health
Re: Subcommittee Hearing on Smokeless Tobacco

On Wednesday, April 14, 2010, at 10:00 a.m. in room 2123 of the Rayburn House Office Building, the Subcommittee on Health will hold a hearing entitled "Smokeless Tobacco: Impact on the Health of our Nation's Youth and Use in Major League Baseball." The hearing will examine the prevalence and use of smokeless tobacco products, diseases linked to the use of these products, and the correlation between smokeless tobacco use by youth and Major League Baseball players.

I. ADVERSE HEALTH EFFECTS OF SMOKELESS TOBACO

Smokeless tobacco use causes oral cancer, gum disease, an increased risk of heart attack and cardiovascular disease, and nicotine addiction.¹ Smokeless tobacco also causes leukoplakia, a disease of the mouth characterized by white patches and oral lesions on the cheeks, gums, and/or tongue. Leukoplakia, which can lead to oral cancer, occurs in more than half of all users in the first three years of use. Studies have found that 60% to 78% of spit tobacco users have oral lesions.² In addition, constant exposure to tobacco juice causes cancer of the esophagus,

¹ U.S. Department of Health and Human Services, *The Health Consequences of Using Smokeless Tobacco: A Report of the Surgeon General* (1986). American Journal of Public Health, *Smokeless Tobacco Use and Increased Cardiovascular Mortality Among Swedish Construction Workers* (1994). See also, Campaign for Tobacco Free Kids, *Health Harms from Smokeless Tobacco Use*, (online at www.tobaccofreekids.org/research/factsheets/pdf/0319.pdf).

² *The S.T.O.P. Guide (The Smokeless Tobacco Outreach and Prevention Guide): A Comprehensive Directory of Smokeless Tobacco Prevention and Cessation Resources*, Applied Behavioral Science Press (1997); Hatsukami, D & Severson, H, *Oral Spit Tobacco: Addiction, Prevention and Treatment*, Nicotine & Tobacco Research (1999).

pharynx, larynx, stomach and pancreas. Smokeless tobacco users are at heightened risk for oral cancer compared to non-users, and these cancers can form within five years of regular use.³ A 2008 study from the World Health Organization’s International Agency for Research on Cancer concluded that smokeless tobacco users have an 80 percent higher risk of developing oral cancer and a 60 percent higher risk of developing pancreatic and esophageal cancer.⁴ Smokeless tobacco contains nitrosamines – proven and potent carcinogens.⁵

Federal health authorities, including the U.S. Surgeon General and the National Cancer Institute, have spoken definitively on the health hazards of smokeless tobacco. The U.S. Surgeon General has concluded that “the oral use of smokeless tobacco represents a significant health risk. It is not a safe substitute for smoking cigarettes. It can cause cancer and a number of non-cancerous oral conditions and can lead to nicotine addiction and dependence.”⁶ The National Cancer Institute has found that the data “strongly support the epidemiological observation that [smokeless tobacco] is carcinogenic to humans. Twenty-eight carcinogens have been identified in chewing tobacco and snuff. The high concentrations of N-nitrosamines in [smokeless tobacco] . . . are of great concern.”⁷

II. SMOKELESS TOBACCO USE AMONG YOUTH IN THE UNITED STATES

Millions of teenagers and young adults in the United States use smokeless tobacco. The most recent survey results indicate that 13.4% of U.S. high school boys and 2.3% of high school girls currently use smokeless tobacco products.⁸

Despite declines in youth smokeless tobacco use during the 1990s and early 2000s, recent national surveys show that smokeless tobacco use among youth has increased in recent years. Surveys by the U.S. Centers for Disease Control and Prevention have found that among high school boys, usage rates of smokeless tobacco increased by 22% between 2003 and 2007.⁹ Similar trends are evident in another large-scale youth survey, which found a 33% increase in

³ *Id.*

⁴ Boffetta, P, et al., *Smokeless Tobacco and Cancer*, The Lancet (2008).

⁵ *The S.T.O.P. Guide, (Smokeless Tobacco Outreach and Prevention): A Comprehensive Directory of Smokeless Tobacco Prevention and Cessation Resources*, Applied Behavioral Science Press, 1997; Hatsukami, D & Severson, H, *Oral Spit Tobacco: Addiction, Prevention and Treatment*, Nicotine & Tobacco Research, (1999).

⁶ U.S. Department of Health and Human Services, *The Health Consequences of Using Smokeless Tobacco: A Report of the Advisory Committee to the Surgeon General*, NIH Publication No. 86-2874 (Apr. 1986)

⁷ National Institutes of Health, National Cancer Institute, *Smokeless Tobacco or Health: An International Perspective* (Sep. 1992).

⁸ CDC, *Youth Risk Behavior Surveillance – United States, 2007*, MMWR Surveillance Summaries 57(SS-4):1-131, (June 6, 2008).

⁹ *Id.*

smokeless tobacco use among 12th grade males (from 11.8% to 15.8%) and a 37% increase among 10th grade males (from 8.2% to 11.1%) in just one year, from 2008 to 2009.¹⁰

Youth prevalence data show that while cigarette smoking has declined substantially in the last 10 years, smokeless use has decreased only slightly over that period.¹¹ This suggests that smokeless use is not substituting for smoking but instead is adding to the number of tobacco users. Smokeless tobacco use also appears to be an important predictor of smoking among high school males. A recent study found that the likelihood of cigarette smoking was three-and-a-half times higher among smokeless tobacco users than it was among non-users.¹²

III. SMOKELESS TOBACCO USE AND MAJOR LEAGUE BASEBALL

A. Background

The use of tobacco – in both smokeless tobacco and cigarettes – has been associated with baseball and baseball players since the inception of the professional game in the 1860s. In recent decades, as cigarette smoking has declined and Major League Baseball has banned smoking while in uniform in view of the public, smokeless tobacco has become the primary type of public tobacco use among major baseball players.¹³ In the 1970s as the smokeless tobacco industry embarked on a campaign to change attitudes toward its products, the industry used celebrity baseball players as models in its advertisements, sent free samples to clubhouses in the Major Leagues, Minor Leagues and colleges, and ramped up efforts to reach a more youthful audience. Sales of smokeless tobacco increased by 55% between 1978 and 1985.¹⁴

B. Prevalence of Smokeless Tobacco Use Among Baseball Players

Through the years chewing tobacco has been a popular practice among baseball players, and numerous ex-Major League players have died from cancer or other tobacco-related illnesses. Babe Ruth, a cigarette smoker, died from throat cancer at the age of 52.

¹⁰ Johnston, L.D., et al., *Smoking continues gradual decline among U.S. teens, smokeless tobacco threatens a comeback*, Monitoring the Future, (December 14, 2009).

¹¹ CDC, *supra*, note 9.

¹² Tomar, SL, Albert, HR, Connolly, GN, *Patterns of dual use of cigarettes and smokeless tobacco among US males: findings from national surveys*, Tobacco Control 19:104-109, (2010).

¹³ Slate, *Why Do So Many Baseball Players Chew Tobacco?* (online at www.slate.com/id/2234341/) (Nov. 2, 2009).

¹⁴ Robert Wood Johnson Foundation, *To Improve Health and Health Care, Volume II, The National Spit Tobacco Education Foundation* (online at www.rwjf.org/files/publications/books/1999/chapter_03.html) (1999).

A 2003 survey found that 36% of Major League players reported using smokeless tobacco.¹⁵ These usage rates were similar to those reported in 1998, and are significantly higher than usage rates among young males overall.¹⁶

There was a significant decrease in chewing tobacco use among minor league players from 1998 to 2003, with seven-day self-reported use declining from 31.7% in 1998 to 24.8% in 2003. No significant year-to-year changes were observed for major league players, with seven-day self-reported use rates at 35.9% in 1998 and at 36% in 2003.¹⁷

C. Impact on Youth Of Smokeless Tobacco Use by Major League Baseball Players

Baseball is a popular, highly-televised American sport, and as a result of the use of smokeless tobacco by Major League players, it is a virtual certainty that during televised games at least one player will be caught on camera with a wad of tobacco in his mouth. To the extent that this behavior influences the use of smokeless tobacco by youth, it presents a public health risk that extends beyond the players themselves.

Studies have found that amateur baseball players at both the college and high-school level have higher rates of smokeless tobacco use than the public at large, and that usage rates are higher than rates among other amateur athletes.¹⁸ Baseball announcer and former Major League baseball player Joe Garagiola has noted that “if you have a hero, you want to do everything he does. You want to hold the bat like he does, you want to throw like he does, you want to run like he does. And if he uses spit tobacco, chances are you will emulate him.” In 1994 testimony before the Subcommittee on Health and the Environment, Rick Bender, a former smokeless tobacco user and cancer survivor, described why he began to use smokeless tobacco: “I was a baseball player. I felt that ...if you were going to be a professional, you chewed tobacco.”

An analysis by researchers at the Harvard School of Public Health found that in just one game of the 2004 World Series, players were observed using smokeless tobacco for a total of over nine minutes.¹⁹ This single game provided the equivalent of \$6.4 million worth of free advertising for the smokeless tobacco industry. The same researchers concluded that:

¹⁵ Severson, H.H., et al., *Smokeless Tobacco Use among Professional Baseball Players: Survey Results, 1998 to 2003*, Tobacco Control, (2005).

¹⁶ Journal of the California Dental Association, *Prevalence of Spit Tobacco Use Across Studies of Professional Baseball Players*, (May 1998)

¹⁷ Severson, et al., *Smokeless Tobacco Use among Professional Baseball Players: Survey Results, 1998 to 2003*, Tobacco Control, (2005).

¹⁸ Cooper, et al, *Spit (Smokeless)-Tobacco Use by Baseball Players Entering the Professional Ranks*, Journal of Athletic Training (2000), Walsh, et al, *Spit (Smokeless)-Tobacco Use by High School Baseball Athlete in California*, Tobacco Control, (2000).

¹⁹ Caughey, et al., *Televised Smokeless Tobacco Use During the 2004 and 2005 World Series: Dirty Habit Becomes Disaster When Directed at Our Children* (2006).

Because of the position of Major League Baseball players and their influence on baseball players and youngsters alike, reducing and eliminating televised smokeless tobacco consumption may have greater effects on consumption by the younger generation.²⁰

D. Major League Baseball Actions to Restrict Smokeless Tobacco Use

Cigarette use by Major League players in uniform and in view of the public has been banned by Major League Baseball for over three decades. However, there are no restrictions on the use of smokeless tobacco by Major League players. Such restrictions, if they were to be put in place, would have to be put in place by changing the Major League Baseball Collective Bargaining Agreement (CBA), requiring agreement between Major League Baseball and the player's union, the Major League Baseball Players' Association. The current CBA expires on December 11, 2011.

The Commissioner of Baseball has acted in other areas to reduce smokeless tobacco use, most notably banning the use of smokeless tobacco by minor league players. In April 1993, the Office of the Commissioner implemented the Minor League Tobacco Policy, which banned the use and possession of all forms of tobacco by players and other Club personnel in all parts of every Minor League ballparks and during team travel. If a player violates the Tobacco Policy, the fine is \$100 for a player at the Single-A level and below and \$300 for a Double-A player and above. The manager of any player who violates the Tobacco Policy is also fined \$1,000.

In January 1999, Commissioner Selig banned Major League Baseball clubs from accepting and offering free samples of tobacco to players in the clubhouse. Other efforts to reduce the use of smokeless tobacco by Major League players have focused on educating players conducting oral examinations to identify the risks of tobacco use, and providing players with access to tobacco cessation programs. In 1994 Major League Baseball created the National Spit Tobacco Education Program (NSTEP), a baseball-focused campaign to educate players and the public about the risks of smokeless tobacco use.²¹ The league has provided an estimated \$100 million in cash and in-kind contributions for NSTEP.

²⁰ *Id.*

²¹ Robert Wood Johnson Foundation, *Working with Baseball to Change Tobacco's Spitting Image: The NSTEP Program*, (Mar. 25, 2006) (online at www.rwjf.org/pr/product.jsp?id=16288).

IV. WITNESSES

The following witnesses have been invited to testify:

Robert D. Manfred, Jr.
Executive Vice President
Labor Relations & Human Resources
Major League Baseball

David Prouty, Esq.
Chief Labor Counsel
Major League Baseball Players Association

Terry Pechacek, Ph.D.
Associate Director for Science
Office on Smoking and Health
Centers for Disease Control and Prevention

Deborah Winn, Ph.D.
Deputy Director of the Division of Cancer Control and Population Sciences
National Cancer Institute

Joseph Henry “Joe” Garagiola, Sr.
Major League Baseball Announcer and former Major League Baseball Player

Gregory Connolly, M.P.H.
Professor of the Practice of Public Health
Harvard University

Gruen Von Behrens
Stewardson, IL