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3 HEARING ON ``SMOKELESS TOBACCO: IMPACT ON THE HEALTH OF OUR

4 NATION'S YOUTH AND USE IN MAJOR LEAGUE BASEBALL''

5 WEDNESDAY, APRIL 14, 2010

6 House of Representatives,

7 Subcommittee on Health

8 Committee on Energy and Commerce

9 Washington, D.C.

10 The Subcommittee met, pursuant to call, at 10:08 a.m.,
11 in Room 2123 of the Rayburn House Office Building, Hon. Frank
12 Pallone, Jr. (Chairman of the Subcommittee) presiding.

13 Members present: Representatives Pallone, Eshoo, Engel,
14 Green, DeGette, Capps, Schakowsky, Matheson, Barrow,
15 Christensen, Sarbanes, Waxman (ex officio), Shimkus,
16 Whitfield, Buyer, Blackburn, Gingrey and Barton (ex officio).

17 Staff present: Brian Cohen, Counsel; Alvin Banks,
18 Special Assistant; Mitchell Smiley, Special Assistant;

19 Brandon Clark, Minority Professional Staff; Clay Alspach,
20 Minority Counsel, Health; Ryan Long, Minority Chief Counsel,
21 Health, and Aarti Shah, Minority Counsel, Health.

|
22 Mr. {Pallone.} I call the meeting to order.

23 Today the subcommittee is having a hearing on the
24 prevalence--well, I should say the title of it is ``Smokeless
25 Tobacco: Impact on the Health of Our Nation's Youth and Use
26 in Major League Baseball,'' and I will recognize myself for
27 an opening statement.

28 The subcommittee is examining the prevalence of
29 smokeless tobacco products, diseases linked to the use of
30 these products and the correlation between smokeless tobacco
31 use by youth and Major League Baseball players. This is an
32 important issue of longstanding interest to this committee,
33 and it is my hope we can continue to raise awareness about
34 the dangers of smokeless tobacco and shape future discussions
35 both in Congress and in Major League Baseball.

36 There are various names for smokeless tobacco. I have
37 to say, I haven't even heard of all of them. It is called
38 spit tobacco, chewing tobacco, chew, chaw, dip, plug and
39 probably many other things unknown to us in this room. But
40 in all forms, the tobacco sits in the mouth while the user
41 sucks on the tobacco choices, spitting off when they get rid
42 of the saliva that builds up, allowing nicotine to be
43 absorbed into the bloodstream without even swallowing. But
44 no matter what name you call it, its use is clearly dangerous

45 to your health.

46 In the United States, both smoking and smokeless tobacco
47 has long been associated with baseball. In the early days of
48 the 1900s, baseball players chewed it to keep their mouths
49 moist on dry and dusty fields or they would spit it into
50 their gloves to soften up the leather and even use it to
51 prepare the notorious spitball. Then during the 1950s,
52 smoking tobacco became the product of choice. In fact, when
53 baseball games were first broadcast on TV, cigarette ads
54 became prominent features. Smoking was such a part of Major
55 League Baseball that fan loyalty in New York could be
56 identified merely by what cigarette brand an individual
57 smoked.

58 In the 1970s, things shifted again as the public became
59 aware of the dangers of smoking and chewing tobacco crept
60 back into baseball. During that time, the smokeless tobacco
61 industry used celebrity baseball players as models in their
62 advertisements, sent free samples to clubhouses in the major
63 leagues, minor leagues and colleges, and ramped up efforts to
64 reach a more youthful audience. As a result, sales rose by
65 55 percent between 1978 and 1985. Since then, smokeless
66 tobacco use by baseball players appears on TV screens across
67 the United States 7 months out of the year. It doesn't seem
68 too much of a stretch to consider that kids associate tobacco

69 use as part of the game, and perhaps even believe that it is
70 part of the game that enhances an athlete's performance. I
71 could easily imagine a child thinking well, last night Yankee
72 Nick Swisher hit a home run with a wad of chew in his cheek,
73 maybe I can do that too. And the hero phenomenon is a
74 powerful mania that can have profound effects on our
75 children.

76 My own concern is that smokeless tobacco use in baseball
77 presents a public health risk that extends beyond the
78 baseball players themselves. Millions of teenagers and young
79 adults in the United States use smokeless tobacco. The most
80 recent survey results indicate that over 13 percent of high
81 school boys and over 2 percent of high school girls currently
82 use smokeless tobacco products. In fact, surveys by the
83 Centers for Disease Control and Prevention have found that
84 among high school boys, usage rates of smokeless tobacco
85 increased by 22 percent between 2003 and 2007.

86 Now, we all know that tobacco use causes cancer no
87 matter how it is absorbed by the body. Smokeless tobacco is
88 not a safe alternative to smoking, and I am worried that
89 message is not reaching the youth of our country. A 2008
90 study by the World Health Organization's International Agency
91 for Research on Cancer concluded that smokeless tobacco users
92 have an 80 percent higher risk of developing oral cancer and

93 a 60 percent higher risk of developing pancreatic and
94 esophageal cancer, and despite bans of smokeless tobacco in
95 college and the minor leagues, there is no ban on it in Major
96 League Baseball.

97 So I look forward to exploring the reasons behind this
98 exception. I am also anxious to hear from our witnesses
99 about their recommendations on how Congress can better
100 address this public health issue, and I would like to thank
101 all of our witnesses for being here today.

102 [The prepared statement of Mr. Pallone follows:]

103 ***** COMMITTEE INSERT *****

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104 Mr. {Pallone.} I will recognize the gentleman from
105 Illinois, Mr. Shimkus, for the purpose of making his opening
106 statement.

107 Mr. {Shimkus.} Thank you, Mr. Chairman. I ask
108 unanimous consent that my full statement be submitted into
109 the record.

110 Mr. {Pallone.} Without objection, so ordered.

111 Mr. {Shimkus.} And then I will just briefly summarize.
112 First of all, I want to welcome Gruen Von Behrens, who is
113 from my district. He is a young man who will be testifying
114 about the damages of smokeless tobacco, and I appreciate his
115 testimony and his advocacy. Tobacco use is bad. I think we
116 all know that in America today. We need to continue to tell
117 the message.

118 As a young kid who wanted to be a baseball player my
119 whole life, of course we get to do that still here in
120 Washington with the Congressional game, but athletes are role
121 models to somebody, and professional baseball has to
122 understand that they are a role model to the next generation
123 of kids, and we want to encourage that good leadership by
124 example style.

125 I also want to mention and welcome Joe to the committee
126 room. I am a St. Louis area Member of Congress residing in

127 Collinsville, so as a St. Louis boy, we want to welcome you
128 to the committee. I still remember fondly throughout Major
129 League Baseball but especially in his hometown of St. Louis,
130 Missouri.

131 We had a master settlement with the tobacco companies
132 that should have paid in \$206 billion over 25 years. The
133 Government Accountability Office states that only 30 percent
134 of the settlement funds went to health care. Travesty number
135 one. Only 3.5 percent of the funds went to tobacco control
136 like smoking cessation and other educational programs. So
137 when money was provided in a settlement to the States to do
138 what we are talking about today, government didn't do their
139 job. Government always overpromises and we always
140 underdeliver, and the master settlement is a perfect example
141 of not delivering on a settlement with the tobacco companies.

142 We have a lot of issues here to face in health care, the
143 recently passed health care bill, 3,000 pages. There are
144 already fixes that need to be done, whether it is preexisting
145 conditions for kids left out until 2014, whether it is the
146 doctor fix, which still hasn't been done which cuts physician
147 payments starting this month. It is going to be extended
148 maybe a month. Can you imagine running a business on
149 calculations of income on a month-to-month basis? That is
150 what we should be dealing with our time today, addressing the

151 health care needs of the country, applauding the work--I am
152 not suggesting that using the bully pulpit to continue to say
153 that tobacco use is not, I am not saying that is not a good
154 use of time. I think when we are in an economy that people
155 are calling the Great Recession and we are looking at ways to
156 create and expand jobs, government underfunding health care
157 delivery in this country or taking away Medicare Advantage
158 from seniors or cutting \$500 billion from Medicare, there is
159 probably a more critical use of our time.

160 With that, Mr. Chairman, I yield back my time.

161 [The prepared statement of Mr. Shimkus follows:]

162 ***** COMMITTEE INSERT *****

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163 Mr. {Pallone.} Chairman Waxman.

164 The {Chairman.} Thank you very much, Mr. Chairman.

165 Last year, we passed a law out of this committee that
166 finally was signed by the President, the Family Smoking
167 Prevention and Tobacco Control Act, and it grants FDA
168 authority to regulate content, advertising and marketing of
169 tobacco products in order to protect the public health. This
170 legislation marked a critical step in a long history of
171 efforts to reduce tobacco use by teens, and we have seen
172 progress. Teen smoking rates are down, and while we still
173 have a long way to go, at least that trend is moving in the
174 right direction.

175 But there is one exception to this improvement, that is
176 smokeless tobacco. With smokeless tobacco, the trends are
177 moving in the wrong direction, and the tobacco companies know
178 it.

179 Throughout the 1980s and 1990s, the use of smokeless
180 tobacco by teens declined at about the same rate as cigarette
181 smoking. But over the last few years, the decline in
182 smokeless tobacco use has stagnated, and use has increased.
183 Last year, smokeless tobacco use among 10th graders reached
184 its highest level since 2002. This is a serious health risk.
185 The increased use of smokeless tobacco will mean millions

186 more teens getting hooked on nicotine.

187 That is why I want to thank you, Chairman Pallone, for
188 holding today's hearing. We will hear from some of the
189 Nation's leading experts in smokeless tobacco use, learn
190 about its risks, and learn about how to stem the rising tide
191 of use by young people.

192 Two of our witnesses are not new to this Committee. In
193 1994, when I was chairman of the Subcommittee on Health and
194 the Environment, I chaired hearings on the health effects of
195 smokeless tobacco. At those hearings, we heard from Dr.
196 Connolly and from Joe Garagiola, both of whom will be
197 testifying today on the second panel. Mr. Garagiola's 1994
198 testimony discussed the same subject we will focus on today:
199 the impact of tobacco use by Major League Baseball players
200 and how it influences young people. We appreciate the work
201 they have done for decades now to reduce the use of smokeless
202 tobacco by kids and by Major League Baseball players.

203 Unfortunately, Major League Baseball, and the players'
204 union, have yet to take decisive steps to end this terrible
205 scourge. Some progress has been made. In 1993, Commissioner
206 Selig banned smokeless tobacco in minor league clubhouses and
207 dugouts and therefore baseball no longer allows tobacco
208 companies to provide free samples to players. And the league
209 and the union continue to educate players and fund efforts to

210 reduce tobacco use by youth. But at the Major League level,
211 there continues to be no restrictions on the use of smokeless
212 tobacco by players. This means that millions of young fans
213 are exposed on a daily basis to the use of smokeless tobacco
214 by their heroes. The camera shots are relentless. A recent
215 study by Dr. Connolly's colleagues at Harvard found that in
216 just one game of the 2004 World Series, ballplayers provided
217 \$6.4 million worth of free advertising for smokeless tobacco.
218 If you are a Major League Baseball player, and you are
219 chewing tobacco, you can bet that many thousands of young,
220 impressionable ballplayers are watching you chew. Too many
221 of them will take up the habit to be just like you. That is
222 why Major League Baseball and the players association need to
223 take action to end the use of smokeless tobacco by big league
224 players. We are not saying they should ban the players from
225 using it but not to use it when they are in public, when they
226 are on the field. We don't let baseball players in the
227 leagues go stand out there in the field and drink beer.
228 Major League Baseball won't allow them to stand on the field
229 and smoke cigarettes. So why should they be out there in the
230 field in sight of all their fans on television and at the
231 ballpark using smokeless tobacco?

232 I think that baseball has the opportunity to protect
233 players' health and protect the health of millions of young

234 adults. This committee will continue its vigorous and
235 ongoing oversight of these issues. When Major League
236 Baseball and the union get together and negotiate the next
237 contract, I hope this will be on the table. I don't know why
238 there would be an objection from the players' union to the
239 same rules for Major League Baseball that apply to minor
240 league baseball where they don't allow the use of smokeless
241 tobacco. The protection of young Americans from the ravages
242 of tobacco in all its forms demands no less, and Major League
243 Baseball and its players must step up to the plate to do
244 their part.

245 Thank you, Mr. Chairman.

246 [The prepared statement of Mr. Waxman follows:]

247 ***** COMMITTEE INSERT *****

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248 Mr. {Pallone.} Thank you, Chairman Waxman. I neglected
249 to thank you in the beginning, but I want to now for all you
250 have done over the years to bring to light the problems with
251 smoking and the industry and championing and sponsoring the
252 legislation that has the FDA regulate tobacco use, so you are
253 going back to the 1990s and you have been doing this for so
254 many years, so I just wanted to mention that.

255 Next is the gentleman from Kentucky, Mr. Whitfield.

256 Mr. {Whitfield.} Thank you, Mr. Chairman.

257 Today's hearing is titled ``Smokeless Tobacco: Impact
258 on the Health of Our Nation's Youth,' ' and I don't think any
259 of us object to this type of hearing because it is imperative
260 that we explore this issue, but I think it is also important,
261 and I wish that we would be having a hearing on some
262 mechanisms that are already in place that could probably do
263 more on addressing this issue than this hearing would do.
264 And what am I talking about? Well, first of all, I do want
265 to mention that on March 19, 2010, FDA reissued its 1996 rule
266 and this rule becomes effective on June 22, 2010, which will
267 prevent the sale of smokeless tobacco and cigarettes to those
268 under 18 and prohibit distribution of free samples of
269 smokeless tobacco as well. But what am I talking about? I
270 think this hearing that we should be focusing on, for

271 example, the language that was in the stimulus bill, and one
272 of our complaints about some of that legislation was the fact
273 that none of us really knew what was in it, but now are
274 finding out, for example, that in the stimulus bill there is
275 \$650 million appropriated, made available to carry out
276 evidence-based clinical and community-based prevention and
277 wellness strategies. So the federal government is already
278 giving out money to States if these States will use that
279 money to address certain things like sugar in drinks, tobacco
280 products and so forth. And yet none of us really knew
281 anything about that, and I think it would be beneficial to
282 all of us we could get into that in more detail.

283 The second thing is the House also when it approved the
284 health care bill approved--not only did we authorize but we
285 appropriated \$5 billion between 2010 and 2015 and then \$2
286 billion a year forever on programs that would allow States to
287 submit application for grants from the federal government.
288 And in those grants, they are doing things like saying that
289 they are going to increase taxes on certain products, that
290 they are going to be involved in zoning in where, for
291 example, tobacco products or other unhealthy products could
292 be marketed. They are also even talking about reducing the
293 density of fast-food establishments, and what does that
294 actually mean? Are we going to be determining where fast-

295 food restaurants are located?

296 So while this hearing is worthwhile, I think our time
297 would be better spent on examining thoroughly what happened
298 in the stimulus bill and the health care bill and the money
299 appropriated for that relating directly to this issue. Thank
300 you.

301 [The prepared statement of Mr. Whitfield follows:]

302 ***** COMMITTEE INSERT *****

|
303 Mr. {Pallone.} Thank you.

304 The gentlewoman from California, Ms. Eshoo.

305 Ms. {Eshoo.} Good morning, Mr. Chairman. Thank you for
306 holding this hearing on the health impacts of smokeless
307 tobacco, especially its effect on the young people of our
308 country, which I really think goes to the heart of this
309 issue. This committee has spent a great amount of time
310 examining the health risks of smoking, and I am pleased that
311 we are focusing on this issue of smokeless tobacco today.

312 While cigarette smoking has declined substantially in
313 our country, which is very good news, especially in the last
314 10 years, smokeless tobacco use has decreased only slightly
315 over that period. This suggests that smokeless tobacco use
316 is not a substitute for smoking but instead is adding to the
317 number of tobacco users. Increased education and awareness
318 about the health risks of smoking along with tougher
319 regulations have led to a significant decrease in smokers in
320 the United States. This has been a Herculean effort and I
321 think it really signifies real progress.

322 As the tobacco industry sees sharp declines in sales, it
323 is obvious that they are looking toward alternative products
324 to hook young customers. Smokeless tobacco is inconspicuous.
325 Kids can use it at school or in class without causing much

326 attention. Smokeless tobacco is also a gateway substance
327 because kids who chew it are three and a half times more
328 likely to start smoking cigarettes. Both R.J. Reynolds and
329 Phillip Morris have introduced snus products, a less messy
330 version of what chewing tobacco used to look like. These
331 small, contained mesh packages are placed just under the
332 upper lip, making it more difficult to detect and eliminate
333 the need for a spitting cup. It really sounds pleasant,
334 doesn't it?

335 While the research is not definitive, many claim that
336 smokeless tobacco is less harmful than smoking. A recent 60
337 Minutes investigation on the use of smokeless tobacco claims
338 that because tobacco manufacturers are not allowed to
339 advertise that it is any safer than cigarettes, their ads
340 focus on smokeless tobacco as a way to get around smoking
341 bans, using smokeless tobacco in the subway or at work.

342 I think that smokeless tobacco is a serious health
343 hazard. I think we have to do more to prevent young people
344 from forming these early addictions, and I look forward to
345 hearing from our witnesses today, most especially from former
346 Major League Baseball player Joe Garagiola, Sr.--it is really
347 an honor to have you here and to see you, I am a great fan of
348 yours--and to understand how our Nation's role models can set
349 good, healthy examples for the younger generation who look up

350 to them.

351 Thank you, Mr. Chairman, and I look forward to the
352 testimony.

353 [The prepared statement of Ms. Eshoo follows:]

354 ***** COMMITTEE INSERT *****

|
355 Mr. {Pallone.} Thank you.

356 Next is the gentleman from Indiana, Mr. Buyer.

357 Mr. {Buyer.} Thank you very much.

358 First of all, I would like to express my disappointment
359 that no one from the Center for Tobacco Products is here to
360 testify today, and now that the Center is up and running, we
361 do not have a single witness from what is to be the premier
362 tobacco regulator in our country, so I am very disappointed,
363 and I have a sense that the Center has been deliberately
364 disregarded in this hearing.

365 I continue to remain very interested in the issue of
366 smoking cessation in country. Chairman Waxman and I
367 feverishly debated this matter last year and I continue to
368 follow the science behind smoking cessation with hopes that
369 we can share valuable information with 45 million Americans
370 who continue to smoke today despite strong public health
371 campaigns that have been in operation for 40 years. We know
372 that today over 70 percent of the tobacco users want to give
373 up smoking, and treatments for the diseases related to
374 tobacco are costly for our country. However, according to
375 the Surgeon General's report in 2008, of the 45 percent of
376 smokers who reported trying to quit in 2008, only 4 to 7
377 percent were successful and I believe that that is failure,

378 and what is really disappointing is, is that the bill that
379 was passed locks America into a system of failure. Americans
380 have no access to information about the alternative methods
381 of smoking cessation. For decades we have left them with the
382 understanding that they must either quit smoking or die.
383 However, this is not the only option for them, and there is a
384 vast schism in the public health community that is crying out
385 for the FDA and government officials to acknowledge the
386 scientific research which continues to show that individuals
387 throughout the world are finding tremendous success through
388 harm-reduction strategies yet we continue to ignore harm-
389 reduction strategies with regard to smoking. Oh, we will
390 apply them to everything else in life but not to smoking, and
391 I think that is pretty ridiculous. If we continue to employ
392 harm-reduction strategies and give Americans this information
393 showing the respective risks of tobacco products ranging from
394 cigars and cigarettes to smokeless products and eventually
395 pharmaceutical smoking products and complete cessation, we
396 can give Americans who cannot or will not quit smoking new
397 options to obtain the nicotine that they are dependent on or
398 from products that are up to 99 percent less hazardous than
399 cigarettes in terms of risk of tobacco-related illness. We
400 must acknowledge the growing public health community that is
401 acknowledging the differential risks between cigarettes and

402 non-burning tobacco products including almost 80 peer-
403 reviewed scientific and medical publications over the last 25
404 years of which four of them, Mr. Chairman, I am going to ask
405 be submitted for the record.

406 The FDA stated on its website that it will perform its
407 duties by using the best available science to guide the
408 development and implementation of effective public health
409 strategies to reduce the burden of illness and death caused
410 by tobacco products. In carrying out its responsibilities to
411 implement the bill we passed last year, while neither the FDA
412 nor the Center for Tobacco Products are here to testify, I
413 look forward to asking the CDC and NCI about their
414 initiatives to incorporate the latest science into our
415 Nation's tobacco control programs so that we can most
416 effectively reduce death and disease attributed to tobacco.
417 I yield back.

418 [The prepared statement of Mr. Buyer follows:]

419 ***** COMMITTEE INSERT *****

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420 Mr. {Pallone.} Thank you, Mr. Buyer.

421 Next is the gentleman from New York, a big fan of Major
422 League Baseball, from what I remember, Mr. Engel.

423 Mr. {Engel.} Well, thank you very much, Mr. Chairman,
424 for having this important hearing today to examine the
425 prevalence in use of smokeless tobacco products, the health
426 effects from use of these products and the correlation
427 between smokeless tobacco use by youth and Major League
428 Baseball players.

429 It is fitting, Mr. Chairman, that we hold this hearing
430 in April as our Nation has once again embraced the start of a
431 baseball season. I represent the Bronx. I am from the
432 Bronx, and I grew up less than half a mile from Yankee
433 Stadium, and I love the Mets as well, so know how much joy
434 the game can bring for so many families including my own
435 three children. I can't even count how many games I have
436 brought them to, and thank you, Mr. Chairman, for remembering
437 that I am a big baseball fan. And these players rightly or
438 wrongly are someone kids are fascinated with for their
439 athleticism and accomplishments for the best of the best in
440 baseball. Kids are like sponges soaking up everything around
441 them, and whether or not it seems subtle, they pick up on one
442 of the more unfortunate aspects of baseball, which is the

443 prevalent use of smokeless tobacco. Today we have reports
444 that up to a third of Major League players report using this
445 highly addictive drug. Smokeless tobacco puts people at risk
446 for oral cancer, gum disease, heart attacks, cardiovascular
447 disease and cancer. It also causes leukoplakia, a disease of
448 the mouth characterized by white patches and oral lesions.

449 I want to commend Major League Baseball for trying to
450 proactively help our players and in turn the kids that look
451 up to them through their efforts. The 1993 minor league
452 tobacco policy has banned the use and possession of all
453 tobacco products by club personnel and by players in minor
454 league ballparks and during team travel as well. Major
455 League Baseball established the National Spit Tobacco
456 Education Program, called NSTEP, to curb the use of smokeless
457 tobacco products through public service announcements
458 featuring popular players and education and treatment
459 programs for players, but there is a major gap in MLB. While
460 personnel are barred from smoking with a uniform in view of
461 spectators, they can still chew tobacco. MLB has said that
462 this policy is one that the players association has sought to
463 protect in collective bargaining. I am concerned that the
464 players association continues to contend in their written
465 testimony today that baseball players should not be
466 prohibited from using substances that are legal and available

467 to the general public. Mr. Prouty has even said that it is
468 impossible for most fans to tell if players are using
469 smokeless tobacco while playing baseball or in the dugout. I
470 have to say I am disappointed in this response. There have
471 been well documented instances of players on TV being clearly
472 shown to be using smokeless tobacco. In fact, in one World
473 Series game in 2004, at least 9 minutes of such footage was
474 shown, so kids do see it. And secondly, while smokeless
475 tobacco may be legal, there is a difference between players
476 who want to use it in the privacy of their own homes and when
477 they are on TV being paid very generous salaries to provide
478 entertainment to millions of families each night. Every
479 workplace has rules about what their employees can and cannot
480 do. Such is a matter of respect for the institution of
481 Congress. We have to wear suits and ties or other
482 appropriate attire when on the Floor of the house. So
483 therefore, it seems quite fair and reasonable that players
484 abstain from using smokeless tobacco on the field, and I urge
485 the players association to continue to consider these facts.

486 I want to welcome Joe Garagiola, who is one of my
487 personal heroes, and the other people testifying today, and I
488 thank you, Mr. Chairman.

489 [The prepared statement of Mr. Engel follows:]

490 ***** COMMITTEE INSERT *****

|
491 Mr. {Pallone.} Thank you, Mr. Engel.

492 Next is the gentleman from Georgia, Mr. Gingrey.

493 Dr. {Gingrey.} Mr. Chairman, thank you.

494 According to a 2007 CDC study, 20 percent of high school
495 students smoke cigarettes and 8 percent of them use smokeless
496 tobacco. While smokeless tobacco may not be as prevalent
497 among teenagers as cigarettes, it can be no less damaging to
498 their health. All forms of oral tobacco have chemicals known
499 to cause cancer of the mouth, pancreas and esophagus. Oral
500 and smokeless tobacco also cause many other health problems
501 such as gum disease, destruction of bone sockets around the
502 teeth and eventually tooth loss.

503 All of us here today have experienced the pain and the
504 loss that comes with the onset of cancer. The mother of one
505 of my staff, her name is Mrs. Margaret Horn, was diagnosed
506 with leukemia a year and a half ago. There are many like
507 Margaret in communities and cities across this country that
508 will face cancer in their lifetime. It is a deadly disease
509 and one for which a cure is long, long overdue. It is with
510 this thought in mind that I want to thank Chairman Pallone
511 for his interest in this subject. Even one death from cancer
512 is one too many.

513 Today we understand the impact that advertising and

514 pictures can have on our youth. Early movie stars of the
515 20th century made smoking so fashionable. I even remember
516 seeing ads in magazines like Look and Life where there would
517 be physicians in their white coats and the stethoscope in
518 their pocket. They kept in the pocket back in those days.
519 They didn't drape it around their neck. But they would have
520 a cigarette in their hand. It was just amazing, and I am
521 sure all of you have seen those ads.

522 And of course, there are some baseball players who will
523 always in part be remembered for the amount of tobacco that
524 they could stuff into their cheek. Like anyone up on stage,
525 heroes can be memorable for the big things and for the little
526 things they do. With any impressionable child comes a chance
527 that they could emulate their heroes. To deny it is to deny
528 the importance that our heroes have to us as adults looking
529 back. The number of people on both sides of the dais of the
530 committee members paying tribute to Joe Garagiola, I do the
531 same. I remember when I was a kid growing up, and I loved
532 catchers. I never played catcher but I loved to follow the
533 career of Joe Garagiola and Clint Courtney and of course Yogi
534 Berra. So, you know, we all look back on our heroes and look
535 up to them. If smokeless tobacco was not something readily
536 associated with baseball players, I don't believe that bubble
537 gum today would be sold in packages that resemble these

538 tobacco pouches. When I was a kid, that is not how you got
539 bubble gum. So in short, there is an obvious correlation
540 between the two.

541 I do want to make one point in light of all the
542 testimony that we are going to hear today. I do not doubt
543 that children may look up to baseball players or movie stars.
544 However, I think it is fair to say that parents can and
545 should be their greatest heroes. There will be many things
546 in life, many choices that are our children will face, many
547 influences they will have to weigh. It is the parents who
548 have the greatest opportunity and ability to educate our
549 children about things not only tobacco but alcohol and drugs
550 and a lot of bad behavior. With this thought in mind, Mr.
551 Chairman, I would like to encourage this committee not to
552 forget the role that an informed and engaged parent can have
553 on the health of their children.

554 I look forward to hearing from both panels of witnesses.
555 Thank you so much for being with us today. I yield back.

556 [The prepared statement of Dr. Gingrey follows:]

557 ***** COMMITTEE INSERT *****

558 Mr. {Pallone.} Thank you.

559 The gentlewoman from Colorado, Ms. DeGette.

560 Ms. {DeGette.} Thank you very much, Mr. Chairman.

561 I have to say, I completely agree with the gentleman
562 from Georgia about the role of parents, and that also is my
563 view, that parents need to have a strong oversight over their
564 kids. But also in addition to that, I think the gentleman
565 will agree with me on this too. Study after study has shown
566 that advertising influences for tobacco and tobacco products
567 are particularly strong among minors, and in the past in the
568 many hearings that this committee has had, we have seen the
569 effects of advertising by tobacco companies on minors. In
570 fact, in my home State of Colorado, the tobacco industry is
571 spending \$171 million per year, and they will say that they
572 are not targeting that at minors, but as we have seen in many
573 hearings, much of that advertising is accepted by minors.

574 I will also say, being the parent of two young
575 daughters, teenage and young adults, I see that we have to
576 revisit these issues with every generation. My older
577 daughter, who is in college now, tells me that she is seeing
578 many of her friends who are highly educated, intelligent
579 young people smoking and using smokeless tobacco because they
580 think it is cool, and so we have to revisit these issues

581 generation after generation and we have to make sure that the
582 people who these kids look up to are not using tobacco
583 products with the assumption that they are okay for the kids.

584 I am especially concerned about the smokeless tobacco
585 because in places like Colorado, kids now are told from an
586 early age that smoking can kill them, but in many areas the
587 kids turn toward smokeless tobacco because they are not
588 getting that same message, and so I really look forward to
589 working with Major League Baseball and with all of my
590 colleagues on this committee to make sure those same messages
591 are getting out to kids and to make sure that our role models
592 for these kids including baseball players are also giving
593 that consistent message.

594 My younger daughter, who is 16, is the biggest Colorado
595 Rockies fan who exists. Her whole room is filled with
596 posters of these players, and it is pretty cute to me because
597 she is a girl, but she loves these players, she looks up to
598 them as her peers and her friends and she goes to every game,
599 so I want to make sure she gets the right messages from them,
600 just like I want to make sure she gets the right messages
601 from anybody else who is appealing to the teen market.

602 [The prepared statement of Ms. DeGette follows:]

603 ***** COMMITTEE INSERT *****

|
604 Mr. {Pallone.} Thank you.

605 The gentlewoman from Tennessee, Ms. Blackburn.

606 Mrs. {Blackburn.} Thank you, Mr. Chairman.

607 Welcome to all of our witnesses today. We are pleased
608 that you are here and we appreciate the time that you have
609 taken to prepare your testimony and be with us.

610 Mr. Chairman, I will have to tell you, I do find it a
611 bit perplexing that we are here once again to discuss youth
612 tobacco usage when I have offered my bill, H.R. 1423, as an
613 amendment in this committee not only this Congress but also
614 last Congress to address this very issue, and unfortunately
615 that request has fallen on deaf ears but we have had it here
616 in committee and in subcommittee and looked at this during
617 the markups in the 110th and the 111th Congress. H.R. 1432
618 is a good government piece which focuses on strengthening
619 existing programs to prevent illegal tobacco use. The bill
620 strengthens the existing work that States and localities are
621 doing to reduce underage access to and use of tobacco
622 products through the evolution of SINAR, a current successful
623 and effective program to lower teen smoking. The legislation
624 takes the next step in the evolution towards protecting youth
625 and informing the public regarding tobacco products. Mr.
626 Shimkus mentioned the use of the MSA funds, and it would have

627 required States to use at least 10 percent of those MSA funds
628 on smoking cessation and prevention programs. In addition, it
629 would require the States to enforce their laws prohibiting
630 the sale of tobacco products to minors or risk losing 40
631 percent of their federal subsidies. So when you say, those
632 of you on the other side of the aisle say you are not sure
633 about what to do, let me tell you, we have some things that
634 have been offered and we should be doing them, and I do feel
635 that if the Democrat leadership was serious about reducing
636 youth tobacco usage, surely there would have been thoughtful
637 debate given to that legislation.

638 But yet we are going to blame Major League Baseball for
639 the ills of youth smokeless tobacco usage so let us be clear.
640 If the MLB wants to change its policy on smokeless tobacco,
641 an agreement will be reached between the MLB and the MLB
642 players association. As the former president of the Middle,
643 Tennessee, Lung Association, and as a grandmother with a 23-
644 month-old who gets up every single morning and says go
645 outside, play baseball, it is his favorite thing to do, I am
646 very fully aware, I am fully aware of the risk of youth usage
647 of tobacco. I just find it a little bit of grandstanding
648 that you would pass not only in the 111th Congress but also
649 in the 110th Congress to take action and at a time when we
650 should be dealing with a budget that the Democrat leadership

651 does not want to deal with and when we should be looking at
652 the problems that have already been found with the health
653 care that passed, we are here once again addressing this
654 issue when the solution is clearly in front of you. I yield
655 back.

656 [The prepared statement of Mrs. Blackburn follows:]

657 ***** COMMITTEE INSERT *****

|
658 Mr. {Pallone.} Next is the gentlewoman from California,
659 our vice chair, Ms. Capps.

660 Mrs. {Capps.} Thank you, Chairman Pallone, for holding
661 this extremely important hearing. I wish to introduce for
662 the record two important statements from our non-governmental
663 organizations, one being Legacy and the other, the American
664 Association for Cancer Research, in support of this hearing.

665 [The information follows:]

666 ***** COMMITTEE INSERT *****

|
667 Mr. {Pallone.} Without objection, so ordered.

668 Mrs. {Capps.} It is common knowledge that tobacco is
669 unhealthy, dangerous and deadly. While we as a Nation have
670 taken great steps to reduce tobacco use, especially cigarette
671 smoking, we should all be alarmed by recent studies showing
672 an increase in smokeless tobacco use among young people. In
673 my field of public health, I am especially concerned that
674 smokeless tobacco products are somehow seen as a safe
675 alternative to cigarettes. We know conclusively that tobacco
676 is an addictive substance in any of its forms. It causes
677 numerous types of cancer, gum disease, oral lesions and
678 increases one's risk of cardiovascular disease. What is
679 worse is that some of these health repercussions can occur
680 within just a few years of use.

681 Tobacco companies have a history of targeting their
682 marketing campaigns to children and youth, encouraging them
683 to start using their products at an early age. One
684 particularly effectively strategy was to get celebrity
685 baseball players to endorse and use their products both on
686 and off the field. We continue to deal with the negative
687 repercussions of this today.

688 I commend the work that baseball has done to curb the
689 use of smokeless tobacco. I salute you for that. In

690 particular, the ban on its use in the minor leagues was a
691 bold step to improve the health of both their players and the
692 public. Despite these efforts, Major League Baseball
693 continues to be a venue where smokeless tobacco usage is
694 glamorized. At best, it is free advertising for the tobacco
695 industry. At worse, it is putting the lives of America's
696 children at risk.

697 On a personal note, I have seen how my own grandchildren
698 look up to athletes with such admiration. Children and
699 adolescents watch these games to see their heroes compete.
700 They try to mimic their throws and their swings. What else
701 will they copy? While I sincerely hope that children who
702 look up to baseball players can learn to filter out the
703 negative messages they are receiving about smokeless tobacco
704 use, you know, they really shouldn't have to do that. So I
705 look forward to hearing from our witnesses today and
706 appreciate the fact that you are here, and I yield back my
707 time.

708 [The prepared statement of Mrs. Capps follows:]

709 ***** COMMITTEE INSERT *****

|
710 Mr. {Pallone.} Thank you, Ms. Capps.

711 The gentleman from Texas, our ranking member, Mr.
712 Barton.

713 Mr. {Barton.} Thank you, Chairman Pallone.

714 There is a famous poem about Casey at the bat that
715 starts out, and I am trying to quote it from memory, so if I
716 miss it, I apologize to those who know it by heart. But it
717 says, ``Somewhere birds are singing, somewhere people shout
718 but there is no joy in Mudville, mighty Casey has struck
719 out.'' This is a hearing that appears to have struck before
720 we have even started it, Mr. Chairman, not that I don't like
721 baseball, I love baseball. I remember when Joe Garagiola was
722 actually a catcher for the Pittsburgh Pirates. That shows
723 how far back I go. We are glad to have him here. I am not a
724 big fan of tobacco. I have never smoked a tobacco cigarette.
725 I have never used smokeless tobacco. I don't allow smoking
726 in my office. That has been a policy since I got elected in
727 1985. So I am not an apologist for the tobacco industry. I
728 don't accept and never have political action contributions
729 from tobacco companies. But I don't see the need, Mr.
730 Chairman, on this particular hearing the way it is
731 structured. We have passed a law regulating tobacco
732 products. I didn't support that law. Under that, the FDA

733 has issued rules prohibiting the marketing of tobacco
734 products to people under the age of 18. Their rule has been
735 put on their website. It appears to me to be pretty explicit
736 and fairly exhaustive in its attempt to prevent tobacco
737 products getting to our youth. There may be a few Major
738 League Baseball players that are under the age of 18. I am
739 not aware of any but I guess it is technically possible. If
740 a Major Leaguer wants to use a tobacco product, he still has
741 that right under our Constitution to do so. If that product
742 happens to be smokeless tobacco, he has the right to use it,
743 and so far as I know, there is not a prohibition against a
744 Major League Baseball player being a sponsor or somehow a
745 spokesperson or being used in an advertising campaign for
746 that product. Again, I am not defending the product, but
747 even under the new law, it is a legal product.

748 So we are going to have a hearing today, Mr. Chairman,
749 where we appear to be trying to intimidate Major League
750 Baseball into prohibiting or discouraging their players from
751 engaging in either the use of these products or serving as
752 spokespersons and in some sort of advertising situation for
753 those products. I think that is a misuse of the
754 subcommittee's time, Mr. Chairman. I think time would be
755 better spent if we began to investigate and oversee this
756 recent mammoth 3,000-page health bill that is now the law of

757 the land. I was given yesterday a draft, a 55-page draft of
758 the mandates and the timelines in that bill that are now law.
759 There are many mandates that become effective date of
760 enactment, which is March 23, 2010, that are already not
761 being honored by the Obama Administration. I think our time
762 would be better spent, Mr. Chairman, if we began immediately
763 to see what the pluses and minuses are of the new health care
764 law and spent less time appearing to do a grandstand hearing
765 simply because Opening Day was a couple weeks ago and people
766 are beginning to focus on the diamond and what activities are
767 going on in Major League Baseball.

768 I do thank the witnesses for appearing. I know you are
769 here sincerely to express your position and that there are
770 issues to be addressed. I don't think it should be the subject
771 of a Congressional hearing at this point in time.

772 With that, Mr. Chairman, I yield back.

773 [The prepared statement of Mr. Barton follows:]

774 ***** COMMITTEE INSERT *****

|
775 Mr. {Pallone.} The gentlewoman from the Virgin Islands,
776 Ms. Christensen.

777 Mrs. {Christensen.} Thank you, Mr. Chairman.

778 When we passed the Family Smoking Prevention and Tobacco
779 Act, we did so to control and hopefully reduce all tobacco
780 use, so I want to thank you, Chairman Pallone and Ranking
781 Member Shimkus, for holding this hearing because we are
782 seeing companies trying to redirect their marketing to the
783 smokeless tobacco market and it is important to remind
784 everyone that smokeless tobacco is also addicting and has
785 harmful effects such as oral and throat cancer and increased
786 risk for esophageal, stomach and pancreatic cancers as well
787 as heart disease and stroke. So smokeless tobacco is by no
788 means a safe substitute for cigarettes. Therefore, the
789 increasing use of smokeless tobacco among anyone but
790 especially today's youth is quite troubling to me as a
791 physician, a mother and a grandmother of a 3-year-old who is
792 now in tee ball.

793 The history of smokeless tobacco use in Major League
794 Baseball only exacerbates the problem in today's youth
795 because of the influence that athletes, celebrities and
796 entertainers have on them. However cool, exciting or
797 glamorous these athletes or celebrities may seem, there is

798 nothing cool, exciting or glamorous about the harmful effects
799 caused by using smokeless tobacco that could impair or cut
800 short the potential of a young person before they even get
801 the change to experience all that life has to offer.

802 The bill we passed and the President signed will
803 restrict marketing and advertising of tobacco products near
804 schools and playgrounds beginning this summer as well as
805 implement other limitations, but that is not enough. We do
806 appreciate the actions that the minor leagues have taken and
807 look forward to stronger action from Major League Baseball
808 and to working together around this Act and any additional
809 legislation or initiatives that will work to reduce and
810 prevent the use of smokeless tobacco and all tobacco in
811 today's youth.

812 We appreciate our witnesses being here. We would like
813 to welcome also especially Joe Garagiola and we look forward
814 to the testimonies. Thank you. I yield back.

815 [The prepared statement of Mrs. Christensen follows:]

816 ***** COMMITTEE INSERT *****

|

817 Mr. {Pallone.} Thank you.

818 The gentleman from Utah, Mr. Matheson.

819 Mr. {Matheson.} Thanks, Mr. Chairman. I will waive my
820 opening statement.

821 [The prepared statement of Mr. Matheson follows:]

822 ***** COMMITTEE INSERT *****

|
823 Mr. {Pallone.} The gentlewoman from Illinois, Ms.
824 Schakowsky.

825 Ms. {Schakowsky.} First of all, Mr. Chairman, I want to
826 thank you for holding this hearing. It is never a waste of
827 time for us to focus on health risks that are posed to our
828 children and to have a thorough discussion over what may be
829 done either within this Congress or outside of in order to
830 make sure that our children are protected.

831 We know that on March 31st President Obama signed the
832 PACT Act into law, and this new law is a huge step forward in
833 our fight against the underage use of tobacco products and
834 was built on decades of advocacy and public outreach, and I
835 applaud this victory but I know that we have much work ahead.
836 Big tobacco is still finding its way into the lives of our
837 youth. I think everyone in this room knows that chewing
838 tobacco is just as dangerous as lighting a cigarette, and we
839 have heard over and over what those risks are, but we have
840 also started to see a resurgence in the use of these products
841 among young people, particularly among young men, and
842 prevention is an ongoing process, as my colleague,
843 Congresswoman DeGette, said. Every generation we always have
844 to keep repeating this.

845 As I was preparing for this hearing, one of my wonderful

846 interns, Michael Cottler, told me stories about his college
847 baseball team. Half of his team used tobacco products. Most
848 of them would chew but not smoke, and according to him, the
849 players chewed during games, not off the field. His
850 experience tells me we still have work to do and that a big
851 chunk of the responsibility to stop use of tobacco products
852 by underage kids comes from the role models that they look up
853 to. And every time I watch a baseball player spit before
854 stepping up to the bat, I know there are young ballplayers
855 who dream of becoming pros who see those images too.

856 According to the Harvard study of public health, just
857 one World Series game in 2004 had over 9 minutes of free
858 advertising for the tobacco industry because of shots of
859 players chomping on chew. I mean, you know, sometimes it
860 surprises me that this is looked at as attractive in any way
861 but apparently to young men, it does look very cool and
862 authentic.

863 Smokeless tobacco is not a healthier substitute for
864 cigarettes. It destroys lives and kills just as effectively
865 as its smoked counterpart. There has been an incredible
866 grassroots effort to educate the public about the dangers of
867 smoking and we have seen a significant reduction in underage
868 smoking because of it. Without that same commitment, I worry
869 that young people like my intern's baseball team will see

870 chewing as an okay substitute for cigarettes.

871 I applaud the minor league tobacco policy which has
872 taken smokeless tobacco out of the clubhouses and ball fields
873 of the minor leagues. We are going to need that same type of
874 aggressive action at the major league level if we are going
875 to get tobacco products out of the game, and I yield back.

876 [The prepared statement of Ms. Schakowsky follows:]

877 ***** COMMITTEE INSERT *****

|
878 Mr. {Pallone.} Thank you.

879 The gentleman from Texas, Mr. Green.

880 Mr. {Green.} Thank you, Mr. Chairman, for holding the
881 hearing on smokeless tobacco and the impact on our Nation's
882 children and use in Major League Baseball.

883 Each year millions of teenagers use smokeless tobacco.
884 According to the CDC, 13.4 percent of U.S. high school boys
885 and 2.3 percent of high school girls currently use smokeless
886 tobacco products. Youth prevalence data from the Centers for
887 Disease Control also shows that while cigarette smoking has
888 declined substantially in the last 10 years, smokeless
889 tobacco use has decreased only slightly over that period.
890 The CDC found that among high school boys, usage rates of
891 smokeless tobacco increased by 22 percent between 2003 and
892 2007. There is a perception that smokeless tobacco is a safe
893 product and we should be clear that studies have found that
894 smokeless tobacco can contain as many as 28 different
895 carcinogens and smokeless tobacco causes oral cancer, gum
896 disease, increased risk of heart attack, cardiovascular
897 disease and nicotine addiction. The World Health
898 Organization's International Agency for Research on Cancer
899 concluded that smokeless tobacco users have an 80 percent
900 higher risk of developing oral cancer and 60 percent higher

901 risk of developing pancreatic and esophageal cancer.
902 Smokeless tobacco can be an alternative to smoking cigarettes
903 and may be perceived as safer than smoking cigarettes but
904 there are still significant health risks associated with
905 smokeless tobacco.

906 Today we are discussing the use of smokeless tobacco in
907 Major League Baseball and how that impacts our youth. Like
908 my colleagues, there is nothing more American than baseball.
909 I am a fan of the Houston Astros. I actually worked there.
910 I had the ideal job for a 7th grader. I could sell soda
911 water and earn \$10 a night and see all the baseball I wanted.
912 In fact, I skipped school to be able to go to Opening Day
913 when we had the Colt 45, so I remember it very well. But we
914 still have to provide the leadership from the players. Major
915 League Baseball has banned cigarette use by major league
916 players in uniform and in view of the public, has been banned
917 for over 3 decades. However, there are no restrictions on
918 the use of smokeless tobacco. Steps have been taken to
919 restrict smokeless tobacco use by players in uniform in minor
920 league baseball but these measures have not been in place in
921 the major leagues. We do know that in 2003 approximately 36
922 percent of the baseball players in the league reported using
923 smokeless tobacco. These players are idolized by our children
924 and seen using smokeless tobacco which certainly we do not

925 want to encourage our youth to begin using a harmful product
926 because they see a sports hero using it.

927 I look forward to the testimony of our witnesses, Mr.
928 Chairman, and I yield back my time.

929 [The prepared statement of Mr. Green follows:]

930 ***** COMMITTEE INSERT *****

|

931 Mr. {Pallone.} Thank you, Mr. Green.

932 Next is the gentleman from Georgia, Mr. Barrow.

933 Mr. {Barrow.} I thank the chairman. I will waive an

934 opening.

935 [The prepared statement of Mr. Barrow follows:]

936 ***** COMMITTEE INSERT *****

|
937 Mr. {Pallone.} Thank you.

938 I think that everyone has had an opportunity to--

939 Mr. {Shimkus.} Mr. Chairman?

940 Mr. {Pallone.} Yes?

941 Mr. {Shimkus.} I ask unanimous consent that my
942 statement be submitted into the record. Would that go for
943 everyone?

944 Mr. {Pallone.} Yes. Without objection, it ordered that
945 every member's statement in full will be submitted for the
946 record.

947 Mr. {Shimkus.} Thank you.

948 Mr. {Pallone.} We are now going to turn to our
949 witnesses, our first panel. I want to welcome them. Let me
950 introduce the two of you. First is Dr. Terry Pechacek, who
951 is associate director for science for the Office on Smoking
952 and Health within the Centers for Disease Control and
953 Prevention. And on my right is Dr. Deborah Winn, who is
954 deputy director for the Division of Cancer Control and
955 Population Sciences with the National Cancer Institute.
956 Thank you both for being here. You know the drill. You have
957 5-minute openings that become part of the record, and of
958 course, if you like, you may in the discretion of the
959 committee submit additional statements in writing for

960 inclusion in the record.

961 We will start with Dr. Pechacek.

|
962 ^STATEMENTS OF TERRY PECHACEK, PH.D., ASSOCIATE DIRECTOR FOR
963 SCIENCE, OFFICE ON SMOKING AND HEALTH, CENTERS FOR DISEASE
964 CONTROL AND PREVENTION; AND DEBORAH WINN, PH.D., DEPUTY
965 DIRECTOR OF THE DIVISION OF CANCER CONTROL AND POPULATION
966 SCIENCES, NATIONAL CANCER INSTITUTE

|
967 ^STATEMENT OF TERRY PECHACEK

968 } Mr. {Pechacek.} Mr. Chairman, Ranking Member and
969 distinguished members of the subcommittee, thank you for the
970 opportunity to participate in this hearing. My name is Dr.
971 Terry Pechacek and I am the associate director for science in
972 the Office of Smoking and Health at the Centers for Disease
973 Control and Prevention. Today I will provide an overview of
974 smokeless tobacco including health effects, trends and
975 product use, and use of smokeless products and their
976 marketing.

977 I want to begin by emphasizing a very important point.
978 There is no safe form of tobacco use. Use of any tobacco
979 product is hazardous to health. The only proven way to
980 reduce the staggering toll that tobacco use takes on our
981 society is to prevent people from ever starting to use
982 tobacco and to help those who already use these products to

983 quit as early in life as possible.

984 What is smokeless tobacco? Smokeless tobacco products
985 come in two forms: chewing tobacco and snuff, or ground
986 tobacco. In recent years, a new generation of smokeless
987 tobacco products has entered the U.S. market. They include
988 snus, a form of moist snuff, and dissolvable products such as
989 lozenges, sticks and strips. The questions in national
990 surveys that I will cite in this testimony generally ask
991 respondents about the use of smokeless tobacco products
992 without disaggregating information by specific product types.

993 The scientific evidence clearly shows that using
994 smokeless tobacco products is hazardous to health. They
995 contain at least 28 carcinogens and are known to cause oral,
996 pancreatic and esophageal cancer. Some studies have also
997 linked smokeless tobacco use to fatal heart attacks and
998 certain adverse productive outcomes during pregnancy. Like
999 cigarettes, smokeless tobacco contains nicotine and is highly
1000 addictive. As individuals use smokeless tobacco over time,
1001 they typically change products they use to get more nicotine.
1002 In doing so, they may be increasing their exposure to
1003 carcinogens and other toxic agents.

1004 The National Survey on Drug Use and Health, or NSDUH,
1005 which is conducted by the Health and Human Services'
1006 Substance Abuse and Mental Health Service Administration,

1007 indicates that about 3.5 percent of persons in this country
1008 age 12 and older, or approximately 7.8 million persons, used
1009 smokeless tobacco in the past month. Men are more likely
1010 than women to use smokeless products. In fact, the highest
1011 prevalence of smokeless tobacco use in recent years has been
1012 among young adult men. Therefore, this testimony will focus
1013 on recent trends related to this population. The NSDUH
1014 survey reported a significant increase in smokeless tobacco
1015 use among persons 12 years and older from 3 percent in 2004
1016 to 3.5 percent in 2008. During these years, patterns of use
1017 among persons 26 and older have remained relatively stable at
1018 about 3 percent. Patterns of use among adolescent girls have
1019 also remained stable at a very low level. The observed
1020 increase primary comes from an increase among men 18 to 25
1021 years of age, especially in two demographic groups. Among
1022 non-Hispanic white men, rates increased from 13.6 percent in
1023 2003 to 15.4 percent in 2008. Among Hispanic men age 18 to
1024 25, rates of smokeless tobacco use increased from 1.9 percent
1025 to 3.4 percent during that same time. Recent data from
1026 Monitoring the Future also confirms an increase among young
1027 males with the rate increasing from 15.8 percent in 12th-
1028 grade boys in 2008 up from 11 percent in 2007. Data from
1029 CDC's 2009 youth risk behavior survey, which will be released
1030 this summer, also is showing significant increase in

1031 smokeless tobacco use since 2003 among both male high school
1032 students overall and non-Hispanic white high school students.

1033 As with smoking, most smokeless tobacco use begins
1034 during adolescence and young adulthood. Data from NSDUH
1035 shows that in 2002, about 950,000 Americans 12 years and
1036 older used smokeless tobacco for the first time. By 2008,
1037 that number had increased to 1.4 million. Almost half of
1038 those first-time users were under 18 and almost three-fourths
1039 were male. Traditionally, cigarette smokers and smokeless
1040 tobacco users have been fairly distinct groups. However,
1041 several national surveys show that a large proportion of
1042 smokeless tobacco users are also smoking cigarettes. This
1043 pattern is most common among adolescents and young adults
1044 than among older Americans. In fact, the data indicates that
1045 two-thirds of males between 18 and 25 who use smokeless
1046 tobacco also smoke cigarettes. These trends need to be
1047 placed in the changing context of tobacco use in the United
1048 States including lower smoking rates, increased restrictions
1049 in smoking in public and increased social acceptability of
1050 smoking.

1051 Mr. Chairman, am I over my limit?

1052 Mr. {Pallone.} You are, but you can wrap up if you
1053 like.

1054 Mr. {Pechacek.} So the marketplace has been changing

1055 with the promotion of tobacco products increasing from 200
1056 million in 2005 to 300 million in 2006, and particular
1057 concern is that many of these smokeless products are being
1058 marketed in ways to satisfy and sustain their nicotine
1059 addictions when they are settings that do not allow smoking.

1060 So what is the public health harm? This dual use raises
1061 potential concerns. More than half of adolescents and young
1062 adults who are using smokeless tobacco also are smoking
1063 cigarettes. I have submitted my written testimony, which
1064 provides greater details on these important issues, but it is
1065 important to emphasize that recent increases in smokeless
1066 tobacco use by adolescent boys and young men as well as
1067 increasing dual use of cigarettes and smokeless tobacco are
1068 reasons for serious concern. Together these may portend a
1069 leveling off or even reversal in the decline of smoking and
1070 the perpetuation of nicotine dependence including high levels
1071 of tobacco-related disease and death in this country.

1072 Thank you for the opportunity to participate in this
1073 hearing and I would be happy to accept questions.

1074 [The prepared statement of Mr. Pechacek follows:]

1075 ***** INSERT 1 *****

|
1076 Mr. {Pallone.} Thank you, and thank you for being
1077 mindful of the time. I appreciate it.
1078 Dr. Winn.

|
1079 ^STATEMENT OF DEBORAH WINN

1080 } Ms. {Winn.} Thank you. Good morning. I am Deborah
1081 Winn, deputy director of the Division of Cancer Control and
1082 Population Sciences, National Cancer Institute, National
1083 Institutes of Health. Thank you, Chairman Pallone and
1084 distinguished members of the committee for the opportunity to
1085 be here to discuss smokeless tobacco and its health
1086 consequences.

1087 It is well established that the use of smokeless tobacco
1088 causes cancer of the mouth and throat, esophagus and
1089 pancreas. As far back as 1985, the Advisory Committee to the
1090 U.S. Surgeon General examined literature on health
1091 consequences associated with use of snuff and concluded that
1092 the evidence is strong that the use of snuff can cause cancer
1093 in humans. The evidence for causality is strongest for
1094 cancer of the oral cavity. The excess risk of cancer of the
1095 cheek and gums may reach nearly 50 fold in long-term snuff
1096 users. Global health authorities have also reached similar
1097 conclusions. The World Health Organization's International
1098 Agency for Research on Cancer, which I will call IARC,
1099 convenes expert panels to evaluate the world's scientific
1100 literature on environmental agents to determine whether those

1101 agents cause cancer. Those reports are considered to be
1102 highly authoritative and are used extensively worldwide to
1103 provide the scientific basis for public health action. This
1104 group has evaluated the carcinogenicity of smokeless tobacco
1105 three times over the past 25 years and I served as a member
1106 of all three panels. In 2009, IARC concluded that the use of
1107 smokeless tobacco causes cancer of the mouth, throat,
1108 esophagus and pancreas. These findings were based on
1109 international data from North America, Scandinavia and Asia,
1110 among other places. Using smokeless tobacco is associated
1111 with at least a fourfold increased risk of oral cancer.

1112 Scientists have a fairly clear understanding of how
1113 smokeless tobacco causes cancer. It contains carcinogens,
1114 the most common of them being the tobacco-specific
1115 nitrosamines. Cancer may develop when metabolites of
1116 nitrosamines attach to DNA causing a genetic mutation. This
1117 mutation leads to other cellular disruptions and ultimately
1118 results in cancer. Nitrosamines are found in all tobacco
1119 products and are not safe at any level.

1120 In addition to cancer, smokeless tobacco users are more
1121 likely than non-users to develop leukoplakia, or white
1122 patches in the mouth that can lead to cancer. Other changes
1123 in the lining of the mouth related to smokeless tobacco
1124 include wrinkling of the inner cheek and gums and color

1125 changes. In the 1980s, a national survey of teens found that
1126 more than 25 percent of children who used smokeless tobacco
1127 have these changes compared to less than 1 percent of
1128 children who did not use smokeless tobacco.

1129 Cancer and leukoplakia are not the only adverse health
1130 effects linked to smokeless tobacco. It is also associated
1131 with gum disease, dental caries and reproductive effects such
1132 as decreased fetal growth, increased risk of preterm delivery
1133 and stillbirth. Other serious effects may include increase
1134 risk of heart attack and stroke. A recent summary of data
1135 regarding this subject showed that smokeless tobacco
1136 increased the risk of fatal heart attack by 13 percent and
1137 death from stroke by 40 percent. Although more research is
1138 needed to firmly establish whether smokeless tobacco is a
1139 risk factor for heart attack and stroke, these studies
1140 suggest that smokeless tobacco may lead to serious health
1141 consequences other than cancer.

1142 Smokeless tobacco should not be substituted for
1143 cigarettes. A large study done by the American Cancer
1144 Society examined the health impact of quitting cigarette
1145 smoking versus substituting smokeless tobacco for cigarette
1146 smoking. It compared more than 110,000 cigarette smokers who
1147 quit smoking and did not use any other tobacco products with
1148 4,400 smokers who switched from smoking cigarettes to using

1149 smokeless tobacco. After 20 years of follow-up, the risk of
1150 dying was 8 percent higher among those who switched to
1151 smokeless tobacco than among those who quit tobacco use
1152 entirely. Those who switched from smoking to smokeless also
1153 had a 46 percent higher risk of dying from lung cancer, a 13
1154 percent higher risk of coronary heart disease and a 24
1155 percent higher risk of death from stroke compared to those
1156 who quit tobacco entirely. In another study, using both
1157 smokeless tobacco and cigarettes had a higher risk of heart
1158 attack than the risks of using either one or the other.

1159 It is important that people understand that there is no
1160 scientific evidence that using smokeless tobacco can help a
1161 person quit smoking. It does not provide a safer alternative
1162 to cigarettes. All tobacco products are harmful and cause
1163 cancer and there is no safe level of tobacco use.

1164 I want to switch to media findings. Research findings
1165 show that when adolescents associate a particular behavior
1166 with people or personality characteristics they admire, they
1167 are more willing to try that behavior because adolescents
1168 identify with such people. Baseball players like many
1169 athletes serve as role models and are probably considered the
1170 quintessential users of smokeless tobacco. There are high
1171 rates of smokeless tobacco advertising in magazines such as
1172 Sports Illustrated. Considerable research has demonstrated

1173 that smoking in movies or on TV increases positive attitudes
1174 towards smoking and intentions to smoke in update of tobacco
1175 use among adolescents. There is also evidence that positive
1176 role models can help prevent smoking onset. Several studies
1177 show that celebrity health behavior such as Magic Johnson's
1178 announcement of his HIV status or Katie Couric's televised
1179 colonoscopy on the Today show have immediate positive
1180 impacts, so actions taken by baseball players to discourage
1181 the use of smokeless tobacco could also have positive impact
1182 on youth behaviors.

1183 We focus today on smokeless tobacco. However, the
1184 scientific evidence continues to confirm that tobacco use in
1185 any form causes cancer. All tobacco products contain harmful
1186 chemicals, and no matter how they are presented in
1187 advertisements, be warned that all tobacco products are
1188 dangerous. The only way to reduce death and disease caused
1189 by tobacco use is to prevent youth from starting to smoke and
1190 to help current smokers to quit. These must remain our
1191 highest priorities, and I appreciate the opportunity to talk
1192 to you today.

1193 [The prepared statement of Ms. Winn follows:]

1194 ***** INSERT 2 *****

|
1195 Mr. {Pallone.} Thank you, Doctor.

1196 We are going to now take questions, 5 minutes from those
1197 who gave opening statements, and we have a few members who
1198 passed so they get 8 minutes for questions, and I will start
1199 with myself.

1200 Both of your testimony indicates strongly that smokeless
1201 tobacco causes cancer, and we have talked a lot about smoking
1202 tobacco and the different chemicals that make up a cigarette
1203 that cause cancer. Now, you started how it works with
1204 chewing tobacco when there is no smoking relation and how
1205 that causes cancer, but just explain it to me again because
1206 it wasn't too clear to me. What is it that causes the
1207 cancer? And then you specifically mentioned pancreatic
1208 which, you know, I often mention pancreatic at our hearings
1209 because my mom passed away from pancreatic cancer, and most
1210 people don't know, you know, when you ask what is the cause
1211 of pancreatic cancer, generally speaking, the answer is, we
1212 don't know, so if you would just reiterate some of that.

1213 Ms. {Winn.} Sure. I will start with pancreas cancer
1214 first, and important causes of pancreatic cancer are smoking
1215 and smokeless tobacco. Heavier weight is also associated
1216 with pancreatic cancer risk but there is certainly a great
1217 deal more than we need to learn regarding pancreatic cancer

1218 risk because we know that it is often identified at an
1219 advanced stage.

1220 With regard to how smokeless tobacco causes cancer,
1221 tobacco-specific nitrosamines are--nitrosamines are a
1222 category of carcinogens, and tobacco-specific nitrosamines
1223 are found only in tobacco products, and tobacco products
1224 contain these. They have been found in experimental animals
1225 to cause cancer. We also have done experiments that show the
1226 progression from metabolites of these nitrosamines, which
1227 attach to DNA that causes a replication error in the DNA when
1228 the DNA--

1229 Mr. {Pallone.} But in other words, you don't inhale it,
1230 so how does it get into your system?

1231 Ms. {Winn.} Because you are ingesting.

1232 Mr. {Pallone.} Just through your stomach, in other
1233 words, through your digestive system?

1234 Ms. {Winn.} Right.

1235 Mr. {Pallone.} And then, you know, we get these muddled
1236 messages about substituting smokeless for tobacco for just
1237 smoking. I mean, you have made it quite clear that you think
1238 that they are both dangerous, but what about this idea that
1239 somehow you can substitute smokeless and that somehow weans
1240 you off actually using cigarettes?

1241 Ms. {Winn.} There certainly are differences in risks

1242 between smokeless tobacco and smoking. However, what counts
1243 is the potential effect on the population of giving advice to
1244 recommend using smokeless tobacco. We have to consider that
1245 that type of a message may delay or halt some people from
1246 quitting smoking who might have quit smoking through some
1247 other means. We also know that smokeless tobacco is a
1248 gateway to smoking among young children. For example, in one
1249 study of adolescent boys, the boys who used smokeless tobacco
1250 and no other tobacco product were three times more likely 4
1251 years later to be using--

1252 Mr. {Pallone.} Because there are studies that show that
1253 the perception of risk from smokeless tobacco is declining
1254 among youth, so bottom line, they may figure well, I better
1255 not smoke a cigarette but I will chew instead, and then they
1256 get addicted. We can't give the impression out that somehow
1257 that is okay because what you are saying is, it often leads
1258 to smoking cigarettes.

1259 Ms. {Winn.} Absolutely, and there are no safe levels,
1260 and smokeless tobacco causes a variety of diseases.

1261 Mr. {Pallone.} Let me ask Dr. Pechacek, your testimony
1262 explains how the scientific evidence clearly shows that
1263 smokeless tobacco is hazardous, that 28 carcinogens have been
1264 identified in smokeless tobacco. They cause specific
1265 physical feelings and effects, cardiovascular effects, fatal

1266 heart attacks. I mean, it seems to me that this is totally
1267 contrary to what a baseball player or any athlete would want
1268 to do, so how does tobacco use specifically affect the
1269 performance of an athlete, in particular a baseball player?
1270 Because young athletes, if they are paying attention, it
1271 would seem to me that it would hurt their athletic
1272 performance, not enhance it in any way. So what is the
1273 message there in terms of what it means if you are young and
1274 you start using this stuff?

1275 Mr. {Pechacek.} Well, first of all, our advice to both
1276 major league or youth baseball players is that like any other
1277 person, anyone who is using any form of tobacco, we would
1278 encourage them to quit as early in life as possible. It is
1279 especially important for the baseball players who are setting
1280 an example because like parents, teachers and coaches, they
1281 serve as role models to children and adolescents.

1282 With respect to the specific aspects on performance, I
1283 can provide you more detail on that from the previous work
1284 that has been done in the Surgeon General reports but the key
1285 point is that all users, particularly young adolescents and
1286 young adults who are following those role models, need to be
1287 aware that all forms of tobacco are addictive and cause
1288 cancer and serious health effects and that quitting all forms
1289 of tobacco use as early in life as possible will be very

1290 beneficial to their long-term health.

1291 Mr. {Pallone.} But I think they almost get the
1292 impression, young people, that somehow it enhances athletic
1293 performance and clearly it is the opposite in terms of
1294 performance.

1295 Mr. {Pechacek.} Well, the aspects of this and how youth
1296 perceive the product have been reviewed in past Surgeon
1297 General reports, most in detail in the 1994 Surgeon General
1298 report on the impact of tobacco on youth and young people.
1299 We are currently updating that report, which will be out next
1300 year, and are going into how these current patterns of
1301 smokeless tobacco are being perceived by youth and are
1302 impacting their overall decisions about what they are doing
1303 with using all tobacco products.

1304 Mr. {Pallone.} Thank you.

1305 The gentleman from Illinois.

1306 Mr. {Shimkus.} Thank you, Mr. Chairman.

1307 Dr. Pechacek and Dr. Winn, I am getting conflicting
1308 briefing things. You are listed as doctors but in here it
1309 says Ph.D.'s. Are you medical doctors that have Ph.D.'s, or
1310 what is the title here?

1311 Mr. {Pechacek.} Ph.D., so I am an epidemiologist.

1312 Ms. {Winn.} I have a Ph.D. in epidemiology.

1313 Mr. {Shimkus.} Great. Thank you.

1314 Dr. Winn, we have had hearings, and I am new in the
1315 ranking member position, on the NCI and we appreciate the
1316 great work that the cancer institute does and we really are
1317 starting to focus on cost-benefit analysis, where the money
1318 goes, biggest return on investment versus the politicizing of
1319 some research dollars, and we will get more involved in that
1320 in the future, but what is the deputy director of the
1321 Division of Cancer Control and Population Sciences? For the
1322 layman, what does that mean?

1323 Ms. {Winn.} That means that we are the division that is
1324 responsible for understanding environmental exposures and
1325 genetic factors that may be linked to cancer in human
1326 population studies. We are responsible for the cancer
1327 registry system. We are responsible for understanding the
1328 effects of cancer on people's outcomes in terms of quality of
1329 life, physical functioning after cancer. We are responsible
1330 for understanding the access to cancer care, quality of
1331 cancer care in the United States.

1332 Mr. {Shimkus.} Thanks. I think that helps. But in
1333 this hearing, we are focusing on Major League Baseball but
1334 there are other environmental issues that we could probably
1335 address. I don't want to get raked over the coals but I
1336 represent deep southern Illinois, and of course NASCAR is
1337 well known for its advertising. Country and western music--

1338 I think most people identifying chewing tobacco use with the
1339 West and cowboy use and all those. Have you done similar
1340 focuses on or has our committee or are we just focusing on
1341 one area, Major League Baseball, and not looking at other
1342 environmental impacts?

1343 Ms. {Winn.} Most of the research that I presented was
1344 not done in tobacco in baseball players. Virtually all of
1345 the research that I have presented has either been in
1346 national surveys of schoolchildren or other populations.

1347 Mr. {Shimkus.} Great, and let me follow up with this,
1348 and then I will go to Dr. Pechacek. In your testimony, you
1349 said any tobacco use--I mean, my colleague, Mr. Buyer, is
1350 really on this risk avoidance and mitigation stuff but your
1351 testimony says that patches or nicotine gum is not any help
1352 in reducing nicotine and tobacco use for anyone.

1353 Ms. {Winn.} No, there are effective ways of quitting
1354 use of tobacco.

1355 Mr. {Shimkus.} That is fine. That is really I wanted
1356 to get record of. What you stated, I thought that you--and I
1357 think a lot of us would say, no, we want to encourage people
1358 to eliminate nicotine input over time, and most people can't
1359 do cold turkey. Some can't. But I think there are some risk
1360 avoidance and mitigation-type stuff and I know my colleague
1361 will follow up on that.

1362 Dr. Pechacek, according to a December 2009 report from
1363 the Campaign for Tobacco Free Kids, only one State currently
1364 funds a tobacco prevention program at the level recommended
1365 by the CDC. Do you agree with that assessment?

1366 Mr. {Pechacek.} We are continuing to work with our
1367 States, and it depends on what year. The most recent put out
1368 by the Campaign for Tobacco Free Kids, their criteria found
1369 that only one State met our guidelines for recommended
1370 funding.

1371 Mr. {Shimkus.} And so our focus probably should be, if
1372 we are serious about this, is calling in the States and
1373 asking them why aren't they fully funding the tobacco
1374 cessation plans as recommended by the CDC. Don't you think
1375 that would be another good approach?

1376 Mr. {Pechacek.} The CDC is very clearly on this
1377 recommendations to the States and about what works and what
1378 levels of investment would be most effective. We are in
1379 regular dialog with our States about comprehensive State
1380 programs and local tobacco programs that use the evidence-
1381 based approaches that have been shown to be effective and to
1382 be reducing rates of both youth and adult tobacco use.

1383 Mr. {Shimkus.} Thank you. That goes to my opening
1384 statement where I talk about the master settlement agreement,
1385 which would be about \$206 billion over 25 years that the

1386 tobacco companies would pay. Don't you think it is pretty
1387 egregious that only 30 percent of that money has gone to
1388 health care and only 3.5 percent of those funds go to tobacco
1389 control like smoking cessation and education programs?

1390 Mr. {Pechacek.} CDC has been very consistent in
1391 providing evidence both to policymakers and individual States
1392 and to the other groups.

1393 Mr. {Shimkus.} You are being very political, and I
1394 appreciate that. My point is, the State attorneys general
1395 have a master settlement agreement which should have brought
1396 billions of dollars into States. The States have used that
1397 money to do other things other than health care and
1398 education. You have also testified that you have recommended
1399 to States that they do an educational program, believing that
1400 an exponential decrease in tobacco use by kids would occur if
1401 they would at least fully fund tobacco cessation and
1402 educational programs. I think if you go to the conclusion
1403 here, we have States who received billions of dollars who
1404 have not funded health care, who have not done cessation
1405 programs, and now to a point of we see an uptick in at least
1406 chew tobacco increase by kids, which is another example of us
1407 failing to do the job that we are asked to do and in essence
1408 took money for, thus showing how inept we are at doing the
1409 jobs we are asked to do by the public, and I yield back my

1410 time.

1411 Mr. {Pallone.} Thank you.

1412 Ms. Eshoo.

1413 Ms. {Eshoo.} Thank you.

1414 Dr. Winn and Dr. Pechacek, can you tell us what CDC and
1415 the National Cancer Institute have observed with regard to
1416 use of smokeless tobacco by teenagers?

1417 Mr. {Pechacek.} In my testimony, I reviewed the latest
1418 evidence that multiple surveys have shown an increase in
1419 smokeless tobacco use overall in youth populations. The data
1420 that we are going to be releasing this summer is the National
1421 Objective Youth Use Tobacco Survey showing an increase in
1422 smokeless tobacco use among adolescent males, high school
1423 males overall and white students.

1424 Ms. {Eshoo.} And in the minority community?

1425 Mr. {Pechacek.} The NSDUH survey has found that when it
1426 is looking at the recent increases nationwide in smokeless
1427 tobacco use over the last 4 to 5 years, that the greatest
1428 increases have been in non-Hispanic white and Hispanic males.
1429 So while there have been traditionally higher rates of use in
1430 some other demographic groups, non-Hispanic white males and
1431 Hispanic males are the ones who appear to be showing the
1432 greatest increases in recent years.

1433 Ms. {Eshoo.} Do you have any thoughts on what accounts

1434 for these increases in smokeless tobacco use? I mean,
1435 obviously we have representatives from baseball here today.
1436 I think that everything that adults do from being a parent to
1437 obviously anyone in sports is a--you know, they are the
1438 gladiators of the 20th and the 21st century. So they heavily
1439 influence young people. I think we do as well. Congress
1440 isn't always known for putting forward all of its best but
1441 certainly when there is something that goes wrong here, by
1442 example of an individual member, that says something to the
1443 people of our country and obviously young people. So do you
1444 have anything that you want to tell us about what you think
1445 accounts for these increases in smokeless tobacco use?

1446 Mr. {Pechacek.} Yes. As the comments that in my
1447 written testimony which we submitted is that these recent
1448 upticks need to be placed in the changing context of tobacco
1449 use in this country. Smoking rates are down and restrictions
1450 on smoking in public places are increasing, particularly in
1451 your State of California. And overall we have observed that
1452 there is an increasing social acceptability of smoking.

1453 However, while these things are occurring, there have
1454 been significant changes in the smokeless tobacco industry
1455 and how smokeless tobacco products are marketed. Until 2006,
1456 smokeless tobacco was largely produced by companies that did
1457 not manufacture cigarettes. Now major cigarette

1458 manufacturing companies produce and sell most smokeless
1459 tobacco products in the United States. In recent years,
1460 these companies have been marketing smokeless tobacco and
1461 snus named after their leading cigarette brands. The
1462 advertising and promotional spending on these types of moist
1463 snuff products increased by 50 percent between 2005 and 2006,
1464 the latest year in which these data have been reported. This
1465 timing is significant because it was at this point in time
1466 that this transfer from the smokeless tobacco manufacturers
1467 being independent of cigarette makers started. Of particular
1468 concern is that many of these new smokeless products are
1469 being marketed in a way for smokers to satisfy and sustain
1470 their nicotine addiction when they are in settings that they
1471 cannot smoke.

1472 Additionally, to your point, while we do not have any
1473 new and more detailed studies with respect to sources of
1474 influence, the two largest groups where we are seeing the
1475 increase are in non-Hispanic young men and in Hispanic men.
1476 Additionally, we know from other data that--

1477 Ms. {Eshoo.} Let me just ask you about that. It is a
1478 little confusing. Non-Hispanic young men and Hispanic older
1479 men?

1480 Mr. {Pechacek.} No, 18- to 25-year-old white and
1481 Hispanic. We call it non-Hispanic white to separate it from

1482 Hispanic that self-identify Hispanic. So both Hispanic and
1483 non-Hispanic young men who are--

1484 Ms. {Eshoo.} You know what? It is got to be a little
1485 simpler. It sounds--I don't understand what you are saying.
1486 Let me put it that way. Name the groups. Name them.

1487 Mr. {Pechacek.} White and Hispanic young men 18 to 25
1488 years old.

1489 Ms. {Eshoo.} Increase?

1490 Mr. {Pechacek.} Are increasing more than anybody else.

1491 Ms. {Eshoo.} All right. Well, I think that these are
1492 really disturbing trends. I just leaned over and I said to
1493 my staffer a little while ago, when it comes to baseball
1494 players, why don't they just chew gum, I mean, if they feel
1495 like they need to chew something, and she responded because
1496 they are addicted. So clearly I think there is a nexus here.
1497 I don't think it has everything to do with those that play
1498 baseball but on the other hand, they are individuals that are
1499 really looked up to and young people always want to look in
1500 the mirror and see the reflection of their heroes. So I
1501 think that we need to work hard to find a way to reverse
1502 these trends and make sure that smokeless tobacco really--
1503 when you come back in succeeding years, that we can claim
1504 that there is a huge decline. This isn't something that is
1505 healthy.

1506 Anyway, thank you very, very much for your testimony.
1507 Dr. Winn, I am over my time so I don't know if you wanted to
1508 add something to it, but maybe you can when someone else
1509 questions you. Thank you very much.

1510 Thank you, Mr. Chairman.

1511 Mr. {Pallone.} Thank you.

1512 The gentleman from Kentucky, Mr. Whitfield.

1513 Mr. {Whitfield.} Thank you all for being with us today.
1514 I think that Congress has given the regulators a lot of
1515 opportunities to make great progress in this area. It is
1516 true, Mr. Pechacek, isn't it, that on June 22, 2010, it will
1517 be illegal to sell a smokeless tobacco product to anyone
1518 under the age of 18? Is that correct?

1519 Mr. {Pechacek.} Yes, that is my understanding of the
1520 bill, yes.

1521 Mr. {Whitfield.} Now, many of us were not aware of it
1522 but in the stimulus bill, which certainly was about creating
1523 jobs, there was \$650 million set aside in there to address
1524 clinical and community-based prevention and wellness
1525 strategies, and it is my understanding that that money was
1526 given to HHS and CDC to get this money out there. So my
1527 question would be, number one, of that money, how much went
1528 for tobacco strategies in the States or the local
1529 communities?

1530 Mr. {Pechacek.} I don't have those detailed numbers.
1531 We would be happy to provide those to you and your staff in
1532 this committee.

1533 Mr. {Whitfield.} When this money became available, did
1534 you in your regulations set out how much money should be
1535 spent on nutrition and how much money on tobacco, how much
1536 money on obesity or anything like that?

1537 Mr. {Pechacek.} Well, yes, we can provide you the
1538 details on the funding announcement. The priorities were
1539 smoking prevention and obesity--

1540 Mr. {Whitfield.} You said a certain amount of money for
1541 each one of those in your regulations?

1542 Mr. {Pechacek.} There were funding guidelines that were
1543 put out to the States and the actual numbers we can get you
1544 in terms of how the breakdown on that--

1545 Mr. {Whitfield.} How much money remains to be spent of
1546 that \$650 million?

1547 Mr. {Pechacek.} The application awards I believe are
1548 completed now and are available that we can make available to
1549 you. I think it all has gone through funding announcements
1550 and awards.

1551 Mr. {Whitfield.} Well, how much money has already been
1552 sent out?

1553 Mr. {Pechacek.} I would have to get our administrative

1554 people to give you the details on that since the--
1555 applications have been reviewed. However, the process of
1556 actually getting the money into States budgets, you know, is
1557 an administrative function.

1558 Mr. {Whitfield.} So you don't know how much is going to
1559 be going out in grants and you don't know how much money has
1560 already been distributed to States and local government under
1561 this program?

1562 Mr. {Pechacek.} With respect to that \$650 million, all
1563 of that money was put into funding announcements, so yes, all
1564 of that is going out.

1565 Mr. {Whitfield.} Well, you know, one of the things
1566 that--I mean, this is a big problem obviously, smokeless
1567 tobacco and its impact on health, but to put this money in
1568 the stimulus bill, and then I read an article that in
1569 Washington, D.C., they received \$977,000 and created one
1570 full-time job, and what did they do with that money? They
1571 bought BlackBerrys for people so that they could be in touch
1572 with their smoking counselors. Now, do you consider that a
1573 good utilization of the money?

1574 Mr. {Pechacek.} I don't have any details on that
1575 specific case. However, there is very specific guidance that
1576 is provided in the funding announcement from CDC with regard
1577 to the most efficacious, comprehensive strategies that have

1578 been shown to be effective and cost-effective in reducing
1579 tobacco use.

1580 Mr. {Whitfield.} Although we were not aware of it, in
1581 the health bill itself that passed, in the first 5 years
1582 there is over \$5 billion set aside for a grant program to go
1583 out addressing the so-called maps intervention for
1584 communities program. Where are you all in developing the
1585 regulations for that?

1586 Mr. {Pechacek.} Well, first of all, a point of
1587 clarification, CDC is not a regulatory agency. We are a
1588 public health agency. With respect to--

1589 Mr. {Whitfield.} Well, HHS, you know, where they are on
1590 it.

1591 Mr. {Pechacek.} The specific aspects of that overall
1592 program--

1593 Mr. {Whitfield.} Will you be involved in distributing
1594 that grant money? Will CDC be involved?

1595 Mr. {Pechacek.} CDC has a role in working with HHS and
1596 the White House with respect to guiding the evidence-based
1597 interventions that have been found to be most effective.

1598 Mr. {Whitfield.} Well, I know in your position, you are
1599 involved with smoking and health. I want to ask one other
1600 question. One of the guidelines that they put in the area of
1601 nutrition in spending this money is urging communities, local

1602 communities to reduce density of fast-food establishments.
1603 How do you propose that that be done? How do you hope that
1604 will be accomplished?

1605 Mr. {Pechacek.} That is outside of my division. With
1606 respect to issues of tobacco, I can give you more specifics,
1607 but we can provide you feedback on what we are doing on
1608 density of fast-food restaurants if you would like.

1609 Mr. {Whitfield.} Thank you. I see my time has expired.
1610 Mr. Chairman, if there is not an objection, I would just like
1611 to insert for the record a publication of the National
1612 Convenience Store Association going into some detail about
1613 the health portion of the stimulus bill as well as the
1614 Washington Times article about the BlackBerry.

1615 [The information follows:]

1616 ***** COMMITTEE INSERT *****

1617 Mr. {Pallone.} Without objection, so ordered.

1618 Mr. Engel.

1619 Mr. {Engel.} Thank you, Mr. Chairman.

1620 Dr. Winn, your testimony describes baseball players, and

1621 I am quoting you, ``as the prototypical user of chewing

1622 tobacco.'' You also note that, and again, I quote from your

1623 written testimony, that ``adolescents engage in more risky

1624 behaviors including tobacco use to the extent they endorse

1625 positive prototypes of individuals who engage in those

1626 behaviors.'' I know that Mr. Manfred from Major League

1627 Baseball and Mr. Prouty from the Major League Baseball

1628 players' union are in the audience for this testimony and we

1629 will hear from them later, but I want them to hear your views

1630 on this matter, so let me ask you this very simple question.

1631 When teenagers and young adults see Major League Baseball

1632 players using smokeless tobacco, does it make it more likely

1633 that these young people will themselves become users?

1634 Ms. {Winn.} That is likely based on evidence that shows

1635 that peers and parents and other role models for children

1636 influence their use of smokeless tobacco.

1637 Mr. {Engel.} So it was an obvious question. I know

1638 that would be your answer. So let me also ask another

1639 obvious question. Do you believe that if Major League

1640 Baseball and the players' union were to agree to ban the use
1641 of smokeless tobacco on the field and in the dugout, would
1642 that result in a reduction in smokeless tobacco use among
1643 teenagers?

1644 Ms. {Winn.} Well, certainly the evidence from Katie
1645 Couric's colonoscopy and Magic Johnson's HIV status
1646 definitely had a positive impact on the U.S. public in terms
1647 of taking preventive measures, so it seems likely by analogy
1648 that that would have a positive effect on youth in the United
1649 States.

1650 Mr. {Engel.} Thank you.

1651 Dr. Pechacek, do you have any thoughts of the impact of
1652 the use of chewing tobacco by Major League Baseball players?

1653 Mr. {Pechacek.} The evidence that we have reviewed in
1654 the 1994 Surgeon General report as well as other documents
1655 since then shows that professional athletes in certain sports
1656 including baseball have traditionally had high levels of
1657 smokeless tobacco use. Athletes serve as role models for
1658 youth and smokeless tobacco manufacturers have used these
1659 imageries in advertising testimonials by featuring athletes
1660 in sports to make smokeless tobacco products appear
1661 attractive to youth. Teens to mimic the behaviors of those
1662 who they look up to and identify with including baseball
1663 players and athletes. While smokeless tobacco use was

1664 prohibited in minor leagues in the early 1990s, this policy
1665 has not been extended to major leagues.

1666 Mr. {Engel.} Thank you.

1667 Dr. Winn, I have heard reports that in Sweden,
1668 significant numbers of people are quitting smoking and using
1669 smokeless tobacco and that the country's rates of lung
1670 cancers have gone down. This might seem to support the
1671 argument that smokeless tobacco is a form of harm reduction.
1672 This argument rests on the idea about the use of smokeless
1673 tobacco is good because the risks of death and disease from
1674 using smokeless tobacco are less severe than the risks of
1675 death and disease from using cigarettes. So I want to ask
1676 you about that. Does that idea match up with reality? Is
1677 smokeless tobacco really a form of harm reduction, especially
1678 when we are talking about children who are not using any form
1679 of tobacco? I think that this notion of harm reduction
1680 becomes even more untenable in the case of young athletes in
1681 general. My understanding is that young athletes are less
1682 likely than the general population to smoke cigarettes but
1683 they are more likely to use smokeless tobacco. I want to
1684 hear your thoughts on that.

1685 Ms. {Winn.} Well, I have reviewed the report, the
1686 Swedish statistics, and I want to note that the claim that
1687 because the rates of smokeless tobacco have gone up that that

1688 has influenced the rates of smoking going down. Well, I want
1689 to emphasize three fundamental facts. One is that all
1690 tobacco products are hazardous and there is no safe level,
1691 and what we need to do is prevent its use and help them quit.
1692 But with regard to the Swedish situation, the Swedish
1693 National Institute of Public Health found in their survey
1694 that of Swedish women who use snuff, that is a relatively
1695 small portion of women in Sweden use snuff, but smoking rates
1696 have dramatically declined in Swedish women, indicating that
1697 snuff is actually not responsible for the decline in smoking.
1698 There is a continuum of risk associated with both smokeless
1699 tobacco and smoking but we are most concerned about issues
1700 related to dual use of smoking and smokeless tobacco and on
1701 smokeless tobacco as a gateway for children.

1702 Mr. {Engel.} So in the case of young athletes who don't
1703 smoke cigarettes but use smokeless tobacco because they see
1704 Major League Baseball players using it, would it be fair to
1705 say that smokeless tobacco use significantly increase their
1706 health risks?

1707 Ms. {Winn.} Yes. It increases their risk of oral
1708 lesions in their mouth and many oral lesions have the
1709 potential to develop oral cancer.

1710 Mr. {Engel.} Thank you.

1711 Thank you, Mr. Chairman.

1712 Mr. {Pallone.} Thank you.

1713 The gentleman from Indiana, Mr. Buyer.

1714 Mr. {Buyer.} Thank you, Mr. Chairman.

1715 Dr. Winn, I am trying to reconcile a couple of comments.

1716 You acknowledge that there is a continuum of risk within
1717 tobacco products, smoking to smokeless, pharmaceutical and
1718 quitting, a continuum of risk. You acknowledge that,
1719 correct?

1720 Ms. {Winn.} There is a continuum of risk associated
1721 with--

1722 Mr. {Buyer.} From very high risk to very low risk. You
1723 acknowledge that?

1724 Ms. {Winn.} Quantitating it at the higher load, they
1725 all have risks.

1726 Mr. {Buyer.} You acknowledge that there is a continuum
1727 of risk from very high risk to very minimal risk. Do you
1728 acknowledge?

1729 Ms. {Winn.} Very high risk to moderate risk.

1730 Mr. {Buyer.} To moderate risk, so if I can say in
1731 proving science that there is a product on the market that
1732 would remove 99 percent of the nitrosamines, you would define
1733 the 1 percent as moderate?

1734 Ms. {Winn.} All smokeless tobaccos have some risk of
1735 health effects.

1736 Mr. {Buyer.} That is correct. I concur with that.
1737 Now, let me go back and acknowledge this, and let us not play
1738 games. Do you acknowledge that there is a continuum of risk
1739 from very high risk to very low risk?

1740 Ms. {Winn.} Of specific--

1741 Mr. {Buyer.} The health effects and the use of tobacco
1742 products.

1743 Ms. {Winn.} Some tobacco, for example, chronic
1744 obstructive pulmonary disease is not caused by smoking
1745 tobacco.

1746 Mr. {Buyer.} I am not going to quibble with you,
1747 because it appears that if you won't even acknowledge that
1748 there is a continuum of risk, then you are placing yourself
1749 in a camp of complete abstinence. Now, I will concur with
1750 you that tobacco products are not healthy. I concur with
1751 that. But to ignore that there is a continuum of risk from
1752 very high risk, cigars, to very low risk, which would be a
1753 product--let me ask you this question. If you able to put a
1754 product on the market that reduces the nitrosamines, does
1755 that improve the chances of one's, or does that eliminate
1756 then health risks?

1757 Ms. {Winn.} What causes us concern under those
1758 circumstances is the population effect that might be
1759 influenced by people smoking and adopting smokeless tobacco--

1760 Mr. {Buyer.} Do you acknowledge that if I can reduce
1761 the nitrosamines in a product that I can reduce the risk?

1762 Ms. {Winn.} There is no epidemiologic evidence that
1763 shows that that is the case. It is important that
1764 nitrosamine levels be reduced.

1765 Mr. {Buyer.} So are you saying to me then that an orb
1766 or a stick that has reduced 99 percent of the nitrosamines is
1767 just as harmful as smoking a cigar? That is what your
1768 statement is saying.

1769 Ms. {Winn.} Yes.

1770 Mr. {Buyer.} And you concur with that?

1771 Ms. {Winn.} Assessing nitrosamine levels or reduced
1772 nitrosamine products is under the purview of FDA so I would--

1773 Mr. {Buyer.} All right. Great. Your staff just gave
1774 you that so you could read it. But just answer the specific
1775 question.

1776 Ms. {Winn.} We don't know that there is any--there is
1777 no level of nitrosamines that is known to be safe.

1778 Mr. {Buyer.} Wow. So you are unwilling to recognize
1779 differentials of risk within tobacco products? I guess that
1780 is what I am hearing from you. You do not acknowledge that
1781 there is a differential of risks among tobacco products?

1782 Ms. {Winn.} There is a continuum of risk.

1783 Mr. {Buyer.} Thank you. We got there, didn't we? We

1784 got there. There is a continuum of risk. Now, why is that
1785 important? It is important because as a country, those of
1786 whom are the advocates of an abstinence approach are locking
1787 us in to a system of failure. If we only have up to 7 or 8
1788 percent of whom want to quit, that is failure in my eyes.
1789 And so if we can actually migrate a population from smoking
1790 to smokeless to eventually quitting, that is important. Now,
1791 no one wants our teens or adolescents or youth or you name it
1792 to gain access to these products. So I concur with you on
1793 that point.

1794 Mr. Chairman, I respect you because you are open to many
1795 different distillations of thought and I believe in personal
1796 cultivation, I believe in the scholarship maintenance of our
1797 knowledge. It improves our self-worth and it is our quest
1798 for a greater understanding and ration and reason and
1799 tolerance to ameliorate. I am going to offer some differing
1800 views and I would like to offer them for the record. So what
1801 I would like to offer for unanimous consent to be placed into
1802 the record, first is a report called a Broken Promise to Our
1803 Children. It is an 11-year analysis of how the States are
1804 not spending the MSA settlement on tobacco prevention. I ask
1805 unanimous consent this be placed into the record.

1806 Mr. {Pallone.} Can I just ask, are some of these things
1807 going to be part of the printed record or can we just do

1808 them--how does it work? It looks like it is pretty

1809 extensive. We can? Okay.

1810 [The information follows:]

1811 ***** COMMITTEE INSERT *****

|
1812 Mr. {Pallone.} Without objection, so ordered.

1813 Mr. {Buyer.} I would also ask unanimous consent that
1814 the Strategic Dialog on Tobacco Harm Reduction: A Vision and
1815 Blueprint for Action in the United States by Mitch Zeller and
1816 Dorothy Hatsukami also be entered into the record.

1817 Mr. {Pallone.} Can I look at that? Go ahead. Why
1818 don't you continue?

1819 Mr. {Buyer.} I would also ask unanimous consent that
1820 the Smoke-Free Tobacco and Nicotine Products Reducing the
1821 Risk of Tobacco-Related Diseases and by Scott Ballin be
1822 entered into the record.

1823 And last, I would unanimous consent--not last. I would
1824 ask unanimous consent that the brief report on evidence
1825 against a gateway from smokeless tobacco use to smoking by
1826 Dr. Brad Badu also be entered into the record.

1827 Mr. {Pallone.} I am just taking a minute here because I
1828 noticed they are pretty extensive and I just want to make
1829 sure--okay. Is that everything?

1830 Mr. {Buyer.} Yes.

1831 [The information follows:]

1832 ***** COMMITTEE INSERT *****

|
1833 Mr. {Pallone.} Without objection, so ordered.

1834 Mr. {Buyer.} Thank you.

1835 Mr. {Pallone.} Next is our vice chair, Ms. Capps.

1836 Mrs. {Capps.} Thank you, Mr. Chairman.

1837 I want to thank our witnesses for their excellent
1838 testimony. I particularly want to thank the second panel for
1839 your patience in waiting through this first one, which is our
1840 process here in this subcommittee.

1841 I have a question for each of you and I am going to
1842 start with Dr. Pechacek. I was particularly alarmed by your
1843 statement during your testimony that the perceived risk of
1844 harm from smokeless tobacco has decreased, actually decreased
1845 among teenagers. You know, we have taken such, I think,
1846 quite significant steps through enactment of recent health
1847 reform legislation to invest in greater wellness and
1848 prevention strategies as a whole. We have this opportunity
1849 with some of these new parts of the reform legislation. I
1850 would like you to give us some advice of what strategies we
1851 could take in our local communities through our health
1852 clinics expansion and so forth to reverse this very alarming
1853 trend.

1854 Mr. {Pechacek.} Comprehensive State and local tobacco
1855 control programs that we have defined in our multiple CDC

1856 documents give evidence-based approaches that have been shown
1857 to be effective in reducing tobacco use overall as well as
1858 smokeless tobacco. These approaches change environmental
1859 cues in ways that make tobacco use in any form less
1860 acceptable and quitting easier. These types of programs
1861 include educational strategies as well as public policy
1862 changes that send a clear message to youth that smokeless
1863 tobacco along with all product use are dangerous to their
1864 health. On a concrete level, CDC has been communicating a
1865 clear message that there is no safe form of tobacco use and
1866 that any tobacco product is hazardous to health. For
1867 example, the CDC has recommended since the mid-1990s that
1868 schools implement 100 percent tobacco-free policies that
1869 eliminate all tobacco products by faculty, staff and students
1870 including smokeless tobacco on school grounds, at school
1871 events including sporting events. CDC is closely monitoring
1872 trends in the smokeless tobacco use and how different
1873 marketing campaigns are impacting youth and providing this
1874 information to our States so they can more effectively
1875 provide informational campaigns that can turn around this
1876 negative trend.

1877 Yes, we are concerned about this downturn in perceived
1878 risk which is in 8th, 10th and 12th graders with the largest
1879 drop in 10th graders. This indicator has been a very

1880 reliable leading indicator of this type of question, not only
1881 for smokeless tobacco but for cigarettes, alcohol, marijuana
1882 and other behaviors. Therefore, this downturn does indicate
1883 reason for concern.

1884 Mrs. {Capps.} Thank you. I have a feeling our second
1885 panel is going to elaborate on some of the specific ways that
1886 we can really get this message across at such a key age group
1887 and their habits of course will impact their health for a
1888 lifetime. I appreciate that from the CDC.

1889 Now, a question for you, Dr. Winn. During our
1890 committee's debate on giving the FDA authority to regulate
1891 tobacco products, some of our colleagues were advocating
1892 policies promoting this so-called lower risk of tobacco
1893 products. I think you heard some of that voiced today as
1894 well. In your testimony, you clearly outline that
1895 transitioning from cigarettes to smokeless tobacco actually
1896 contributes to more negative health outcomes in many cases,
1897 and just for the record, I would like to have you elaborate a
1898 bit more on this strategy because this is a myth that keeps
1899 rearing its head, and doesn't it make more sense to provide
1900 comprehensive education about all tobacco kind of in line
1901 with what Dr. Pechacek was saying to include information
1902 about why it is all dangerous and how to be empowered to
1903 resist and reject it?

1904 Ms. {Winn.} Right. Certainly the evidence to date, and
1905 it is a growing literature, indicates that using both
1906 behaviors increases risk of several chronic diseases, and
1907 that is a great concern that we have with regard to some of
1908 the trends in youth using both products together. This is a
1909 very concerning trend that we have. Is there an additional
1910 specific question?

1911 Mrs. {Capps.} No. Well, I think you are highlighting
1912 the goals for having comprehensive education. In other
1913 words, if you are talking about stopping smoking of
1914 cigarettes or never starting with young people, you want to
1915 also make sure that they don't see an alternative. It all
1916 has to be presented at one time. Otherwise they are going to
1917 fall prey because the targeting of advertising, and we have
1918 seen this with cigarettes as well, is so insidious with young
1919 people, the targeting of just the right images using
1920 athletes, which is understandable. They are heroes. My
1921 grandkids look up to them. If they even see them without
1922 even saying a word chewing, that will be in their
1923 subconscious to be tempted to try, so I appreciate that very
1924 much.

1925 Thank you. I yield back.

1926 Mr. {Pallone.} Thank you.

1927 The gentlewoman from Tennessee, Ms. Blackburn.

1928 Mrs. {Blackburn.} Thank you, Mr. Chairman. I
1929 appreciate that.

1930 I have got just a couple of questions that I want to
1931 direct to the two of you together, and again, thank you for
1932 your patience for this morning. The CDC's youth risk
1933 behavior survey measures smokeless tobacco among high school
1934 students. That is correct, right?

1935 Mr. {Pechacek.} Yes, 9th through 12th graders.

1936 Mrs. {Blackburn.} Okay, and it also publishes data for
1937 individual States and a number of major cities, and as we
1938 were getting ready for the hearing, I looked at the data that
1939 was there for several Major League Baseball cities including
1940 Baltimore, Boston, Chicago, Detroit, Houston, L.A., Miami,
1941 Milwaukee, New York, Philadelphia, San Diego, San Francisco
1942 and Washington, D.C. I wish that Nashville or Memphis was
1943 included in that list but it is not, but we will talk about
1944 that another day. So given the topic of this hearing and
1945 what we were going to be discussing and looking at your
1946 survey, I found something very interesting. Every single one
1947 of those major league cities, every one of them, every single
1948 one of them, believe it or not, had a teenage smokeless
1949 tobacco rate that was below the national average, and I found
1950 that so interesting. The major league cities have a
1951 smokeless tobacco rate that is below the national average.

1952 And the same is true when you go back and you look at the
1953 previous CDC surveys, which are published every 2 years. It
1954 was true in 2007, it was true in 2005, it was true in 2003,
1955 it was true in 2001. You know what? There is not one single
1956 exception, not one. Every single Major League Baseball city
1957 in every single year where the CDC survey measured, it was
1958 lower than the national average. So if baseball players are
1959 having such a dramatic impact on teenage smokeless tobacco
1960 use, why would evidence of this impact only occur in places
1961 where there is no Major League Baseball team? I want to know
1962 if there was any finding in your work that would shed some
1963 light on that, and I would love to hear from both of you on
1964 that.

1965 Mr. {Pechacek.} Thank you for your question. Yes,
1966 there is evidence that will help explain that.

1967 Mrs. {Blackburn.} Wonderful. Elaborate.

1968 Mr. {Pechacek.} First of all, rates of smokeless
1969 tobacco use traditionally have been higher in more rural and
1970 other parts of the country. We can provide you more detail
1971 on the geographic breakdown. Additionally, the rates of
1972 smokeless tobacco use among African American populations is
1973 much lower than overall in other demographic groups. So
1974 those two factors alone just by the demographics of the major
1975 cities that you have mentioned result in a differential.

1976 When we are looking at the influence of any factor, what
1977 we are looking at is the exposure. One of the main things
1978 that we have to be aware of in the exposure is the primary
1979 exposure is not necessarily attending the baseball games but
1980 watching them on the media so that the geographic
1981 distribution of the imagery exposure is quite different than
1982 the location of the stadium. Now, we do not have any
1983 published studies with respect to number of minutes watching
1984 Major League Baseball and its impact but the data that has
1985 been done will show that it is the youth that are paying
1986 attention to baseball that may be at the greatest risk.

1987 Mrs. {Blackburn.} Okay. So let me ask you this.
1988 Looking also at your surveys, you see that the use went down
1989 from 11.5 in 1993 to 7.9 in 2007 and from 20.4 among teenage
1990 boys the smokeless tobacco rate has dropped from 24.4 in 1993
1991 to 13.4 in '07. So what factors have been working so well in
1992 recent years? What is it that is being done in recent years
1993 that is causing young people to choose not to use smokeless
1994 tobacco? Is it education? Is it parents? Is it outreach?
1995 Was it the tobacco settlement agreement? What do you think
1996 has helped to spur that kind of drop in usage?

1997 Mr. {Pechacek.} First of all, the types of programs
1998 that work for smokeless tobacco are very similar to those
1999 that work for preventing all tobacco use, cigarettes and

2000 other forms. What we have found is that the comprehensive
2001 types of programs that focus on public policy change such as
2002 smoke-free environments and other types of things that are
2003 sending a clear message that all tobacco use is harmful is
2004 reaching youth. The programs in the mass media are
2005 particularly effective that are providing broad messages
2006 about the risk of tobacco use such as the legacy media type
2007 of campaign as well as the State-specific campaigns. All of
2008 those types of things are effective in preventing cigarette
2009 use and smokeless tobacco use. One of the things that is of
2010 concern is that while we have been seeing a decline in both
2011 cigarettes and smokeless tobacco use through about 2005, the
2012 data that will be published this summer from the youth risk
2013 behavior shows a reversal of those trends that you were
2014 citing, and then when you look at all the data points
2015 including the 2009 data point that will be released this
2016 summer, that the rates of smokeless tobacco use among high
2017 school males has reversed and is now increasing with the
2018 point of deflection or the statistical point of change being
2019 2003. So for a number of years the pattern in multiple
2020 surveys is showing an increase of smokeless tobacco use among
2021 youth in general, particularly males, particularly white and
2022 Hispanic males.

2023 Mrs. {Blackburn.} Thank you very much. I am over my

2024 time. I will yield back. Thank you, Mr. Chairman.

2025 Mr. {Pallone.} Thank you.

2026 The gentleman from Maryland, Mr. Sarbanes.

2027 Mr. {Sarbanes.} Thank you, Mr. Chairman. I have a
2028 couple of sort of random questions here.

2029 Just following up on the surveys, the cities that my
2030 colleague mentioned where the rate of smokeless tobacco use
2031 is lower than the national average, is it however the case
2032 that if you looked at the use among the two populations you
2033 cited in Hispanic youth and non-Hispanic white youth that in
2034 those cities you would find evidence of this trend of an
2035 increase even if it wasn't carrying a statistic above the
2036 national average?

2037 Mr. {Pechacek.} The individual data will be released
2038 this summer with respect to all of the locations including
2039 the national data. What we are seeing in the overall pattern
2040 is yes, across the Nation in non-Hispanic white and Hispanic
2041 youth we are seeing the uptick. This uptick has been going
2042 on for several years now. With respect to patterns in
2043 specific communities, we have not had those levels of
2044 analyses yet but we certainly are willing to look into that.

2045 Mr. {Sarbanes.} So it is at least possible that even
2046 though the increase hasn't taken the statistic above the
2047 national average in some of those places cited that the fact

2048 that there is an increase could be connected to the use by
2049 role models such as Major League Baseball players.

2050 A lot of the discussion is focusing on Major League
2051 Baseball, you know, responsibility to implement restrictions
2052 on the use of smokeless tobacco because of the role model
2053 status that the players have. This isn't really a question,
2054 it is just kind of an observation, and I guess the second
2055 panel is in a position to speak to this better. I would just
2056 think that the owners and team management and the league
2057 itself would be interested, given the kind of investments
2058 they make in their players financially and otherwise to put
2059 these kinds of limitations, regardless of the impact it is
2060 having on youth or other members of the public, given the
2061 litany of effects that you have been able to describe today
2062 in terms of how harmful it can be and how quickly the
2063 conditions that it causes can develop. That is the other
2064 thing that is striking when you look at the testimony that
2065 you have presented, so I just want to introduce that theme
2066 here that it is not simply about the example that is being
2067 set that ought to cause us to call upon Major League
2068 Baseball. I would just imagine that as a matter of good
2069 practice and good business management on the part of the
2070 league and the owners that they would want to institute this.
2071 It has been done at the minor league level so somebody has

2072 figured out that it is not a great thing because it is not
2073 the role model aspect of the minor league baseball players
2074 that led to that ban being put in place. It must have been
2075 some other consideration like the health of the players. So
2076 I just don't understand why that wouldn't apply to the major
2077 league players.

2078 Let me ask you, is the restriction on advertising on
2079 television and so forth that applies to smoking tobacco, does
2080 that apply as well to smokeless tobacco?

2081 Mr. {Pechacek.} The new FDA legislation signed last
2082 year extends the restrictions more completely to smokeless
2083 tobacco.

2084 Mr. {Sarbanes.} Okay. So when you think about--I mean,
2085 I was reading some of the testimony, one World Series game
2086 somebody calculated there was 9 minutes of tobacco use that
2087 would have been viewed by someone who watched the whole game
2088 on the part of the players. That is like a giant loophole,
2089 isn't it, in terms of being able to distribute this kind of
2090 imagery over the airwaves? Is it fair to characterize it
2091 that way?

2092 Mr. {Pechacek.} I believe our next panel is going to go
2093 into that in more detail, but in general as we have reviewed
2094 in recent Surgeon General reports from 1994 on, those types
2095 of imageries do reach youth and do have an impact.

2096 Mr. {Sarbanes.} And more sinister, arguably, because it
2097 is more kind of just woven into the fabric of what they are
2098 seeing than a full-force advertisement might be.

2099 Thank you, and I yield back my time.

2100 Mr. {Pallone.} Thank you, Mr. Sarbanes.

2101 I guess that concludes our questions for the first
2102 panel, but we do want to thank you, and you may get questions
2103 from us, written questions, within the next 10 days that we
2104 will ask you to get back to us as soon as you can, so thank
2105 you very much.

2106 If I could ask the second panel to come forward and see
2107 where your nametags are there. Take your seats and we will
2108 proceed. Let me introduce each of you. First on my left is
2109 Gruen Von Behrens, who is from Stewardson, Illinois. Thank
2110 you for being here. And then we have Robert D. Manfred, Jr.,
2111 who is executive vice president of labor relations and human
2112 resources for Major League Baseball. And then we have David
2113 Prouty, who is chief labor counsel for Major League Baseball
2114 Players Association. And then the famous, it says here
2115 Joseph Henry, but Joe Garagiola, Jr., who is a Major League
2116 Baseball announcer and a former Major League Baseball player.
2117 And then finally is Gregory Connolly, who is a professor of
2118 the practice of public health at Harvard University. I again
2119 thank all of you for being here today. Try to keep the

2120 comments to 5 minutes. Your statement becomes part of the
2121 record. Of course, you can submit additional written
2122 statements or comments if you will after you leave here
2123 today.

2124 So I will start with Mr. Von Behrens. I hope I am
2125 pronouncing that correctly.

|
2126 ^STATEMENTS OF GRUEN VON BEHRENS, STEWARDSON, ILLINOIS;
2127 ROBERT D. MANFRED, JR., EXECUTIVE VICE PRESIDENT, LABOR
2128 RELATIONS AND HUMAN RESOURCES, MAJOR LEAGUE BASEBALL; DAVID
2129 PROUTY, J.D., CHIEF LABOR COUNSEL, MAJOR LEAGUE BASEBALL
2130 PLAYERS ASSOCIATION; JOSEPH HENRY ``JOE'' GARAGIOLA, SR.,
2131 MAJOR LEAGUE BASEBALL ANNOUNCER, FORMER MAJOR LEAGUE BASEBALL
2132 PLAYER; AND GREGORY CONNOLLY, M.P.H., D.M.D., PROFESSOR OF
2133 THE PRACTICE OF PUBLIC HEALTH, HARVARD UNIVERSITY

|
2134 ^STATEMENT OF GRUEN VON BEHRENS

2135 } Mr. {Von Behrens.} That is correct, and thank you for
2136 allowing me to be here today. I appreciate the opportunity
2137 and I really hope that this message I bring to you will make
2138 you all a lot smarter on about what tobacco can do to you.

2139 My name is Gruen Von Behrens and I am a national
2140 spokesperson here today on behalf of Oral Health America and
2141 NSTEP and also myself. I travel throughout the United States
2142 as a motivational speaker to youth about the dangers of
2143 tobacco use. I have currently been in 46 of the 50 States of
2144 America, every province of Canada and spoke to over 2 million
2145 kids across North America about this topic. I work with
2146 different collegiate and minor league athletic programs. I

2147 work with different media across the United States. So I
2148 have a lot to say when it comes to this topic.

2149 Now, first things first. I always apologize to my
2150 viewers because I understand I can be kind of hard to
2151 understand. I have had 34 surgeries to my mouth and to my
2152 neck to get rid of the cancer I had. And not everything I
2153 say always comes out the way I want it to, so I apologize to
2154 the panel.

2155 Nobody tells me that I have to do this. I didn't get in
2156 trouble in my home State of Illinois and they are like, all
2157 right, Gruen, for your punishment, you have to go out in
2158 public, show people your face and tell them that tobacco did
2159 that to you. That is not the reason I do this. I don't do
2160 this as an authority figure as somebody who is going to
2161 preach to anybody for using a tobacco product because me as
2162 an ex-tobacco user realizes how powerful the addiction is on
2163 its victims. I am not out there knocking cigarettes out of
2164 people's hands and I am not knocking two hands out of their
2165 back pockets. I want people to have a fair choice with their
2166 life. I want my viewers to be able to look at my face and to
2167 my words and my story, understand what I have been through so
2168 they can make an educated and thoughtful choice for
2169 themselves about whether or not they want to take up this
2170 position or not.

2171 I come from a very small town in the Midwest, 750
2172 people in my hometown, and that is counting farm animals and
2173 small dogs so it is a very rural area, and as a part of the
2174 culture of our area, we use tobacco. My grandfather used
2175 tobacco. My uncle used tobacco. Why do these two men who
2176 loved me dearly and helped bring me up offer me a product
2177 that could hurt me this bad? So I was very naïve that this
2178 could happen to me. And I hope that by traveling around the
2179 country and educating youth about the dangers of tobacco, not
2180 only youth but parents, certain forms of government, all
2181 different forms. You know, we are sitting here with Major
2182 League Baseball and I think it is great to be part of
2183 baseball. I think that as a baseball player growing up, and
2184 I idolized the people I was watching on TV and that led a
2185 small part to my tobacco use but not to the main reason why I
2186 used tobacco. Across the United States there is a culture
2187 out there where people pick up these habits at a very young
2188 age because just being naïve to what this product can do to
2189 you. The amount of kids and people that I see victimized by
2190 this drug is phenomenal. You know, I see 8-year-old kids
2191 using spit tobacco. I see mothers wiping their babies' gums
2192 with spit tobacco wrapped in a nylon stocking to cure a
2193 toothache. I see 10-, 11- and 12-year-old kids coming up to
2194 me after my presentation and handing me their chew and saying

2195 I don't want to use this no more because I didn't know that
2196 that could do that to me.

2197 As I said, I really appreciate the opportunity to be
2198 here today. I hope that this message brought to America can
2199 educate them about the dangers of tobacco. I see our
2200 government sometimes almost telling us that spit tobacco is a
2201 safer alternative to cigarettes, and numerous States, they
2202 raised the taxation on cigarette sales but they will not
2203 raise the taxation on tobacco sales. So as a whole, is that
2204 them telling us that this is a safer alternative when I know
2205 it is not? Every bit of spit tobacco that somebody puts in
2206 their lip, into their oral cavity has the same cancer-causing
2207 ingredients in it as three to five cigarettes smoked. So
2208 they are hurting their oral cavity. This is as bad as
2209 whether they would be if they ingested a cigarette. And then
2210 we talk about harm reduction. Harm reduction. I laugh at
2211 the face of harm reduction, guys. You get lung cancer, you
2212 get oral cancer. What is the difference? You have still got
2213 cancer. You still have a very deadly disease that you have
2214 to fight for your life to fix.

2215 I started using tobacco at the age of 13. At 17 I was
2216 diagnosed with a full-blown oral cancer. So often people
2217 come up to me and say oh, Gruen, spit tobacco only hurts the
2218 person using it. I wish each and every one of you in here

2219 who are interested, seriously interested in this cause, to
2220 have been with me the day that my mom found out I was sick,
2221 the day my mom sat in that doctor's office with me and bawled
2222 her eyes out because her son had been diagnosed with this
2223 disease because of trickery and misconception that this thing
2224 was a safe thing to do, and the impact that had on my mother-
2225 -I mean, I had people come up and say to me that it only
2226 affects the person using it. That is not right. It affects
2227 everybody in the community. It affects each and every one of
2228 us. People are getting sick from this. As the government,
2229 do what it takes to fix this problem. I don't care if it
2230 baseball. I don't care if it with health care. Mr. Barton
2231 says this isn't a very important thing, we ought to worry
2232 about health care. I think we are worrying about health
2233 care, guys. We are starting on this level. All right? Let
2234 us make it this level.

2235 Thank you for your time. I appreciate the opportunity
2236 to be here.

2237 [The prepared statement of Mr. Von Behrens follows:]

2238 ***** INSERT 3 *****

|
2239 Mr. {Pallone.} Thank you, and let me thank you also. I
2240 didn't realize how often you go around and how many States
2241 and how much you have become a spokesman for this, and we
2242 really appreciate that. Thank you.

2243 Mr. Manfred.

|
2244 ^STATEMENT OF ROBERT D. MANFRED, JR.

2245 } Mr. {Manfred.} Chairman Pallone and members of the
2246 committee, thank you for the opportunity to be here to
2247 address our shared commitment to the reduction of the use of
2248 smokeless tobacco products. I would like briefly to review
2249 Major League Baseball's past and ongoing efforts to reduce or
2250 eliminate the use of such products by players, as well as the
2251 legal framework within which Major League Baseball's efforts
2252 have been undertaken.

2253 For almost 2 decades, Major League Baseball has worked
2254 on multiple fronts to reduce the use of smokeless tobacco
2255 products and educate members of the baseball community
2256 accordingly. The centerpiece of our effort is the Minor
2257 League Tobacco Policy, which was issued by Commissioner Selig
2258 in 1993. That policy bans the use and possession of all
2259 tobacco products by club personnel, including players, n
2260 minor league ballparks and during team travel. We believe
2261 that our efforts at the minor league level are crucial
2262 because players must learn at an early age to avoid these
2263 product. The minor league policy is displayed in all minor
2264 league clubhouses, and each minor league player contract
2265 requires the player to represent that he is aware of the

2266 policy and agrees to its provisions. To ensure compliance
2267 with the policy, Major League Baseball's resident security
2268 agents conduct roughly 100 random security inspections of
2269 minor league ballparks annually. Players and field managers
2270 who violate the policy are subject to game ejection and incur
2271 substantial monetary penalties.

2272 Major League Baseball has also administered a formal
2273 policy regarding tobacco products at the major league level
2274 for well over a decade. Pursuant to the major league policy,
2275 clubs may not permit the distribution of tobacco products in
2276 major league clubhouses. The major league policy likewise
2277 encourages clubs not to permit club personnel, clubhouse
2278 attendants and the like, to buy tobacco products on behalf of
2279 players.

2280 I should also point out that club personnel are barred
2281 from smoking when in uniform in view of spectators, and
2282 contrary to a suggestion that was made in the earlier panel,
2283 our athletes are not allowed to participate in tobacco
2284 advertising while in uniform, and I am not aware of a single
2285 major league player who endorses tobacco products publicly.

2286 Our efforts to reduce the use of tobacco products extend
2287 beyond formal disciplinary measures and into education and
2288 treatment. To that end, the minor league policy encourages
2289 field managers to hold tobacco education meetings with their

2290 clubs and waives fines for first-time offenders who complete
2291 cessation counseling programs that are provided by the club's
2292 employee assistance professionals. Major League Baseball has
2293 also collaborated extensively with its partners to raise
2294 public awareness.

2295 In 1994, Major League Baseball helped establish the
2296 National Spit Tobacco Education Program to curb the use of
2297 smokeless tobacco products. Major League Baseball has
2298 provided NSTEP and its partners with over \$100 million in
2299 cash contributions, television exposures and other support to
2300 conduct public service activities and announcements, which
2301 featured players including stars like Hank Aaron and Derek
2302 Jeter.

2303 Within the baseball community, NSTEP has served major
2304 and minor league players via numerous education and treatment
2305 options. These options include oral examinations, brush
2306 biopsies, educational seminars, cessation programs and
2307 training for club employee assistance professionals. Through
2308 2003, Major League Baseball, at times on conjunction with the
2309 Major League Baseball Players Association, sponsored NSTEP
2310 programs with the assistance of grants from not-for-profit
2311 organizations including the Robert Wood Johnson Foundation.
2312 Clubs continue to administer oral examinations and smokeless
2313 tobacco education programs as part of their annual spring

2314 training activities. Highmark Blue Cross Blue Shield, the
2315 insurance provider for minor league players, also conducts an
2316 annual spring training presentation for players that
2317 addresses tobacco cessation options.

2318 Largely because of these efforts, the use of smokeless
2319 tobacco products has declined substantially in baseball over
2320 the last 2 decades. Commissioner Selig nevertheless remains
2321 committed to exploring additional opportunities in
2322 conjunction with the Safety and Health Advisory
2323 Committee, a joint committee of baseball and the MLBPA. Last
2324 November, at Commissioner Selig's urging, the committee
2325 hosted a presentation on smokeless tobacco use prevention by
2326 Dr. Ashok Shaha, a head and neck surgery specialist from
2327 Memorial Sloan-Kettering Cancer Center. During the 2010
2328 season, the Commissioner's Office will be surveying players
2329 to develop other educational and treatment programs.

2330 As we carry these initiatives forward, however, it is
2331 important for the Committee to bear in mind the legal
2332 framework that applies to smokeless tobacco. Like drug
2333 testing, the regulation of player use of tobacco products is
2334 a mandatory subject of collective bargaining. But unlike
2335 performance-enhancing substances, smokeless tobacco products
2336 are legal in all 50 States and for sale to and consumption by
2337 adults. And even the most ardent critics of smokeless

2338 tobacco use as a public health matter would argue that it
2339 compromises the competitive integrity of our game in a manner
2340 analogous to performance-enhancing substances. While an
2341 outright ban on the use of smokeless tobacco in the major
2342 leagues is a laudable goal, it will have to be pursued
2343 against the backdrop of these legal realities.

2344 I thank you for your time.

2345 [The prepared statement of Mr. Manfred follows:]

2346 ***** INSERT 4 *****

|

2347 Mr. {Pallone.} Thank you, Mr. Manfred.

2348 Mr. Prouty.

|
2349 ^STATEMENT OF DAVID PROUTY

2350 } Mr. {Prouty.} Thank you. Chairman Pallone and members
2351 of the committee, thank you for the opportunity to testify
2352 today. My name is David Prouty. I am the chief labor
2353 counsel for the Major League Baseball Players Association. I
2354 won't repeat verbatim my written testimony but I just want to
2355 make a few points based on the testimony and also what we
2356 have heard today.

2357 First, no one disputes the health risks of smokeless
2358 tobacco. You have heard the medical evidence today. You
2359 will hear more. And you have heard the compelling testimony
2360 of Mr. Von Behrens. The players association completely
2361 agrees that smokeless tobacco poses a huge health problem for
2362 this country.

2363 Second, and it is for that reason that the players
2364 association has long discouraged its members from using
2365 smokeless tobacco. We have participated in educational
2366 programs to alert the players and the public to its dangers.
2367 For players, we have run educational seminars and offered
2368 medical screenings in spring training. We have participated
2369 in the NSTEP program that Mr. Manfred referred to, to offer
2370 cessation workshops. We have worked with Mr. Garagiola, in

2371 fact brought him to address a meeting of our executive board
2372 to talk about this topic.

2373 For the public, we have worked again through NSTEP on
2374 various outreach programs including the taping of a series of
2375 public service announcement involving prominent players
2376 including Derek Jeter, Hank Aaron and also Jeff Bagwell and
2377 Alex Rodriguez.

2378 We have also embarked on a new program with the
2379 Partnership for a Drug Free America called Healthy
2380 Competition, which is focused on helping parents and children
2381 make smart decisions regarding health and nutrition. The
2382 players want to help kids choose what to do, not just tell
2383 them what not to do. Through this program, we hope to
2384 educate young people, both athletes and non-athletes, to make
2385 smart choices when it comes to fitness, supplements, drugs,
2386 alcohol and tobacco, including smokeless tobacco.

2387 Third, the obvious question, why isn't smokeless tobacco
2388 banned in baseball? Remember that smokeless tobacco is a
2389 legal product available for all adults to purchase everywhere
2390 in the United States but we can and we will educate players
2391 as to why they should not use it. There is a tension here
2392 because many players do not think they should be banned from
2393 using a product which Congress has so far deemed to be legal.
2394 If Congress were to ban smokeless tobacco, the players

2395 association would not object and might even support such a
2396 measure. Would the players association agree to ban
2397 smokeless tobacco in baseball as part of our next round
2398 collective bargaining negotiations? Well, we are a union.
2399 We pride ourselves on having a democratic structure and a
2400 democratic process, much like this Congress. It is up to the
2401 players, the members of this union, to decide what issues
2402 they want to bring to the table. I can guarantee you that I
2403 will bring back to the players the concerns that have been
2404 raised here today, and I am sure more will be raised, back to
2405 the membership of the union and that this issue will get a
2406 full airing. That is how a union works and that is how
2407 collective bargaining works.

2408 Lastly, since this is the Health Subcommittee, I want to
2409 raise with you another health hazard that affects our members
2410 and the public at large, and that is the issue of dietary
2411 supplements. Simply put, the existing regulatory scheme is
2412 not working. There are many quality products on the market
2413 but there are also many that contain dangerous ingredients
2414 that aren't labeled as such. In fact, the Food and Drug
2415 Administration just released a list of over 100 dietary
2416 supplements that can be bought over the counter that contain
2417 performance-enhancing substances which are banned under
2418 baseball's drug-testing program. Our members have suffered

2419 the consequences by testing positive and receiving
2420 suspensions as a result of ingesting these products that
2421 contain such unlabeled substances. We realize this may be a
2422 politically sensitive issue for some on this committee, but
2423 without your help, millions of Americans, young and old,
2424 athletes and non-athletes, will continue to be at risk from
2425 taking supplements that contain steroids, pharmaceuticals and
2426 other dangerous substances. We hope that you will give this
2427 issue as well the attention that it deserves.

2428 Thank you for your time. I will be happy to answer any
2429 questions at the conclusion.

2430 [The prepared statement of Mr. Prouty follows:]

2431 ***** INSERT 5 *****

|

2432 Mr. {Pallone.} Thank you.

2433 Mr. Garagiola.

|
2434 ^STATEMENT OF JOSEPH HENRY ``JOE'' GARAGIOLA, SR.

2435 } Mr. {Garagiola.} Thank you, Chairman and the committee
2436 and--

2437 Mr. {Pallone.} I think your mic, you have to bring it
2438 closer and--there we go.

2439 Mr. {Garagiola.} I have never been around a microphone
2440 before. I don't know what to do. I just holler.

2441 You are not going to hear a bunch of numbers from me,
2442 and don't start the clock yet because I have got all kind of
2443 notes here on my papers. These guys come with typewritten
2444 sheets and all that, but I made some notes are listening to
2445 this. Six hundred and fifty million dollars, when we started
2446 out with--and I hate to hear that word ``smokeless.'' That
2447 belongs to the tobacco companies. I could use a word that
2448 would get me kicked out of a game when I hear that, but I
2449 will not. I watched 60 Minutes like you did and it was
2450 scary.

2451 Let me just throw a few things out. In 1993--and I keep
2452 hearing numbers and it is true. In 1993, 21 percent of the
2453 players in the World Series used tobacco, spit tobacco. That
2454 is what I call it, spit tobacco. That is what it is. In
2455 2000, 7 years later, it was zero. Why was that? I was in

2456 the trenches with a bunch of guys who went with me, and I
2457 called the producers. I said why do you guys stay on that
2458 shot, get off that shot. I called the guys who--the
2459 presidents of the networks. Lenny Dykstra, who was the
2460 poster boy, just to give you a story, I went up to him and I
2461 said Lenny, why do you use that garbage, what did they give
2462 you? Did they give you any money? He said no, I have to
2463 have it. Why do you have to it? I just have to have it.
2464 And I said just tell me you won't use it during the World
2465 Series. I will talk to my guys at CBS and we will make an
2466 impact. No, I can't do that. Lenny Dykstra has quit using
2467 it, guys, because he ran into a problem. So I don't know
2468 about numbers and all that kind of stuff but I just want you
2469 to know that that is where it got started.

2470 Six hundred and fifty million dollars--when I was with
2471 NSTEP, I made speeches across this country. I will never
2472 forget going into Connecticut with the attorney general, and
2473 that is when the tobacco company, they were going to use it
2474 as a safe alternative to cigarettes. Oh, come on. Give me a
2475 break. I am not going to go through all this. I am just
2476 going to tell you some of the things that I have learned.

2477 In my day, we called it chew. I chewed. Why did I
2478 chew? Because the others players chewed. I thought it was
2479 part of baseball, and that is what it is all about. I mean,

2480 the things that you do because the other guys do it. They
2481 used to give us salt tablets. Salt tablets, they used to
2482 give us. I think they were trying to kill us is what I
2483 thought they were trying to do. But it has improved so much,
2484 and now, I got so much I want to say I am choking on myself.

2485 Like many other players, I thought being a major league
2486 player, you had to chew. You watch those guys, Lon Warnicke,
2487 who I grew up with, that kind of--I chewed until my daughter
2488 came home from school one day and said Daddy, are you going
2489 to die? I said sweetheart, sure I am going to die, we are
2490 all going to have to die. She said I mean are you going to
2491 die. I said yeah, but not now. I am not looking forward to
2492 it. And she said no, and she had that look in her eyes. And
2493 I said sweetheart, why are you asking me? And she said
2494 because we're studying about tobacco and we are studying
2495 about lungs and they said if you use tobacco you are going to
2496 die. I stopped. I stopped. I wish you guys could walk with
2497 me on a field because I have been called everything from a
2498 Nazi anti-tobacco chew zealot. I mean, come on. This is
2499 what these ballplayers do. I mean, forget the numbers and
2500 all that. Get in the trenches and watch them. And with the
2501 minor leaguers, baseball has done a great job, and baseball
2502 is taking a beating here. They really have, and I am sitting
2503 next to the guy that I wanted to romance here, put some

2504 Chapstick on and get him to do the job. But to me, in my 20
2505 years of working to spread the word about the dangers of
2506 smokeless tobacco, many of my friends, Jack Crawl, a coach,
2507 he lost half his tongue like my friend Gruen. I have a type
2508 here, and I am all over the place I know. I am going to tell
2509 you about this tape. This is Gruen Von Behrens' tape, and if
2510 any of the people on the committee would like to have a copy,
2511 we will get it to you. I will get it to you. The
2512 Diamondbacks paid for this. We didn't have any of that 650
2513 million. There is a booklet that Bud Selig, the
2514 commissioner, gave out to people, and I mean, it is nothing
2515 but little cartoons that kids can see. Here is one. It is
2516 easy to quit smoking cigarettes, you just take them out of
2517 your mouth. No, Daddy, let us make him a nonsmoker--he is
2518 working on a snowman--he will last longer. I mean, I was
2519 begging everybody to help us, and they did. But I lost Jack
2520 Crawl, lost part of his tongue, couldn't talk, and in a year
2521 he was dead. Bill Tuttle--Bill Tuttle died one piece at a
2522 time. Bob Leslie, a high school coach--and I never asked
2523 anybody to make a tape or a DVD. Bob Leslie called and he
2524 said Amy and I, we want to make a tape, and we went out there
2525 and made this tape, and I will never forget when Bob Leslie
2526 died, I spoke at his funeral, and here was Amy right where
2527 that chair is, the second chair, holding a baby, and I said

2528 to myself, in her 20s, holding a baby that can't even stand
2529 up by himself or walk, she should be enjoying it, and instead
2530 of being a mother and a wife, she is a widow. She hadn't
2531 even seen 30 years old. They all died too soon.

2532 That lit the fire, guys. I want to tell you, that lit
2533 the fire, and that is why I agreed--in 1994, that is how long
2534 I have been going out there--and I never got paid a nickel.
2535 Never got paid a nickel. I didn't want to get paid. If they
2536 wanted to hear my speech, they had to pay my flight there,
2537 and I am going to tell you, sitting in the middle seat sucks.
2538 That is not in the script, by the way. But anyhow, I agreed
2539 to chair the National Spit Tobacco Education Program, and we
2540 had some money from the Robert Wood Johnson Foundation. I
2541 worked with them and now I haven't heard from anybody. It is
2542 almost like I got leprosy.

2543 Anyhow, I lobbied Major League Baseball to ban the
2544 distribution of tobacco products in major league clubhouses,
2545 a rule that is still in effect, and I am going to tell how
2546 that started. Rob knows it. I went to the Diamondbacks and
2547 I said to them, you guys hired the clubhouse guy, tell him he
2548 can't put that tobacco there and don't let the tobacco
2549 companies give you free tobacco, and kind of looked at me and
2550 he said what do you mean. I mean clean it out, let them
2551 stop, make it inconvenient to buy the tobacco, which they

2552 did, and that was good. But you know what? When the kid
2553 comes up from the minor leagues, he knows he shouldn't use it
2554 but I see it. The first thing they know, they don't even
2555 pick the bat first, they throw a chew in their mouth. We
2556 have to educate, educate, educate, and Commissioner Selig is
2557 behind it 100 percent.

2558 Hey, U.S. tobacco, if you look at it, they don't call
2559 themselves a U.S. tobacco company anymore, they are a U.S.
2560 smokeless tobacco company. Now, if that isn't a subtle
2561 commercial, I don't know what is.

2562 I have letters from Commissioner Selig and Donald Fehr
2563 both who are backing what I am doing. Why can't baseball and
2564 the players association right here get together and ban it?
2565 Take it off the field. I think it was Mr. Waxman who said
2566 something about we don't see a player going out there with a
2567 cigarette in his hand. I know where he got that line, when I
2568 testified before his committee. I mean, Arnold Palmer used
2569 to play golf, walk on the green, flip a cigarette and putt,
2570 but we don't have that in baseball. Tobacco is tobacco is
2571 tobacco. Get together. The players association, baseball,
2572 get together, guys, ban tobacco and anyone who uses it is
2573 penalized. I don't care if it is a suspension. I don't care
2574 if it is fines or what. Get it out of our game. It is a
2575 great game, greatest game going. I have heard all kinds of

2576 things about it.

2577 I almost forgot the most important thing. We have a
2578 club in Arizona that I went to the Diamondbacks and I said
2579 you know, why don't we let the kids in free. I wanted to
2580 call it Let's Kick Their Cans, and this is what Bill Keane
2581 did for me. We call it the No Chew Crew, and they get a red
2582 tee shirt with No Crew Chew and they sign a pledge that they
2583 are not going to use tobacco. Well, you don't know if they
2584 are going to use it or not but they are going to be aware of
2585 it, but they get into the game free if they come chaperoned.

2586 This is Gruen Von Behrens' tape. We got this in every
2587 school in Phoenix, Arizona. How I would love to see that in
2588 every school in Arizona, the whole State.

2589 Spit tobacco. I would like the players--and boy, do I
2590 get it from them--who are role models, and I don't care what
2591 anybody says, whether they agree, Charles Barkley
2592 notwithstanding, they are role models. I want them to quit
2593 carrying a can of dip in their uniform pockets and especially
2594 where the youngsters see them. I just had an incident last
2595 Saturday. I did a broadcast. I am just getting out of
2596 surgery. I had three major surgeries. I didn't work at all
2597 last year and I was in the hospital all of 2009, but when I
2598 got this invitation, that is how important this is to me. I
2599 was in the Diamondback clubhouse and one of the players, I

2600 don't want to name him, he is sitting there with a laptop and
2601 he is dipping. I go around the corner and they got a kitchen
2602 now. We never had a kitchen. If you had a bologna sandwich,
2603 you were lucky. These guys sit there and watch Days of Our
2604 Lives or whatever instead of taking batting practice and then
2605 they wonder why they can't hit and they are going to be
2606 broadcasters. I saw him using that stuff. I said why are
2607 you using it now? Oh, it feels good. Until they find
2608 something. I can name players. Curt Schilling, we took him
2609 in for a brush biopsy that Rob was talking about. He came
2610 out, he was as white as this towel because they found a
2611 lesion and he had to have it biopsied. Curt Schilling, who
2612 pitched in the World Series, I don't know if he's using
2613 again. He may or may not. But it is a deadly, addictive
2614 habit, and it is an uphill battle, this spit tobacco, and I
2615 am going to tell you why. Nobody has mentioned it, but I
2616 will.

2617 I have made speeches before the firefighters, police
2618 officers, anyone who works with the public, they can't smoke.
2619 They can't smoke. So what do they do? They use spit
2620 tobacco. And when I told them about it and the reaction that
2621 I got was tremendous, and they start early because the
2622 tobacco companies advertise to them at a very early age.
2623 These companies mislead you. You want to talk about

2624 advertising? Here is a catalog that they put out, okay? I
2625 know you have got a bunch of books there, Chairman. I will
2626 give you this if you want it. In fact, one of them got me
2627 mad. Brad Roudeaux--Brad Roudeaux is from the University of
2628 Alabama Birmingham. He is on the payroll of the tobacco
2629 companies. So if you want to burn it, you can burn it. You
2630 have my permission. Here is a catalog of gifts. Here is a
2631 pool table. Do you know how many lids you need to get this
2632 pool table? Ten thousand lids. You use 10,000 cans of
2633 tobacco, you would have cancer of the feet. And, you know,
2634 they talk about cowboys and westerns and all that. They do
2635 that.

2636 We were at a NASCAR--one of the people here talked about
2637 NASCAR. I went there and we put a sign up there, smokeless
2638 does not mean harmless. They came and said that it was
2639 insulting to them. I said insulting? I can't believe it.
2640 They made us take it down.

2641 It is not a safe alternative to cigarettes. Fewer
2642 people die from it. That is the song of the tobacco
2643 companies. You know what it is like? And this is what I
2644 said to the attorney general in Connecticut. It is like
2645 saying don't jump out at the 50th floor, what are you nuts?
2646 Jump out of the 30th floor. You got 20 floors on your side.
2647 The result is going to be the same. It is a dangerous,

2648 deadly habit and baseball can't solve the problem by itself.
2649 We need help. The players association--Commissioner Selig
2650 encourages everything that I do. Donald Fehr, he is gone
2651 now, right?

2652 Mr. {Prouty.} Still around but he is retired.

2653 Mr. {Garagiola.} But you are here.

2654 Mr. {Prouty.} I am here.

2655 Mr. {Garagiola.} Okay. You go back with this message.

2656 Let me just say this. We need truth in advertising.
2657 That is important. I can't think of the Congressman's name,
2658 he was from California. He called me and he said he is going
2659 to have a press conference in California and could I get a
2660 ballplayer because he wants to have stronger words on the
2661 can, and I wasn't too smooth with him and I said is this a
2662 photo op or do you really mean. He said no, I am really
2663 going to do it, and I said what are you going to do. He said
2664 make a stronger message black print, big print. I said okay.
2665 We came out there. A kid named Mike Watson from Denver, he
2666 is a firefighter now, kid was on a Friday, he quit. Monday
2667 he went back to using it. And, you know, what can I tell
2668 you? Smokeless does not mean harmless.

2669 I don't know what my time is but I am very emotional
2670 about this--

2671 Mr. {Pallone.} Your time is up but we appreciate the

2672 fact that you--

2673 Mr. {Garagiola.} Thank you very much.

2674 [The prepared statement of Mr. Garagiola follows:]

2675 ***** INSERT 6 *****

|

2676 Mr. {Pallone.} No, I appreciate that you spent so many
2677 years dealing with this and trying to make a difference, and
2678 I know you are making a difference, so thanks a lot, really.
2679 I appreciate it.

2680 We will go to Dr. Connolly.

|
2681 ^STATEMENT OF GREGORY CONNOLLY

2682 } Mr. {Connolly.} Thank you very much. It is really hard
2683 playing cleanup witness to Joe Garagiola, believe me.

2684 I did have the opportunity to testify 25 years ago
2685 before Mr. Waxman on this very issue, and I think the only
2686 difference I can see is that at the time Mr. Waxman had no
2687 hair and I did have hair.

2688 I am a dentist. I teach at Harvard. I had the
2689 opportunity to work with Major League Baseball Players
2690 Association for spring training and conducted surveys on why
2691 they used the product, also did examinations of the oral
2692 cavities.

2693 I just want to go through with what the players risk.
2694 If I represented a union, I would be concerned with the
2695 health of my union members. The Teamsters put efforts in to
2696 protecting the health of their union members and I think
2697 other unions in the United States of America should worry
2698 about their union members.

2699 [Slide.]

2700 But just turning over here, if you take the dip out you
2701 see something called leukoplakia. This is a grade III, and I
2702 used to have a game with the Blue Jays, I can guess how many

2703 dips you use a week game. Just by looking at these lesions,
2704 you can identify is it one can, two cans, three cans, four
2705 cans. And I remember one player said I beat you, doc. I
2706 said one can. I said look over here. It was two cans here
2707 and two cans here. The University of San Francisco screened
2708 52 players and found two precancerous lesions in those white
2709 lesions, and those are precursors to cancer. They are
2710 present in about 50 percent of the players. The players tell
2711 me they want to stop, they can't because they are addicted
2712 and they are doing it in spite of a known health problem.

2713 [Slide.]

2714 This is another famous baseball player who spent
2715 literally \$10,000 to treat another condition. This is where
2716 the nicotine and the ingredients get in and destroy the bone
2717 tissue. He had to have grafting, and unfortunately midlevel
2718 of the season he is back using again. Next slide, please.

2719 [Slide.]

2720 This is use rates. We monitor use rates over time, and
2721 we see about one-third of the players use it, minor leaguers
2722 less, maybe because of the ban with minor leaguers. I am
2723 really not sure. But this really hasn't changed. So we are
2724 still seeing players at risk of developing disease not during
2725 their careers in baseball but most likely later in baseball.
2726 And I think you have to protect the health of the players.

2727 That is the basic element here. Next set of slides, please.

2728 [Slide.]

2729 So then we also look at reasons why the players use it,
2730 and I asked them. We did a survey among 556 players and the
2731 respondents who were heavier users primarily used reasons for
2732 addiction. It was for, ``I was hooked,'' ``I was treating
2733 relaxation, withdrawal.'' Not one player said I used it to
2734 enhance my performance. Players are not proud of using this,
2735 and that is the reality. They wish they didn't start as
2736 Little Leaguers or as high school ballplayers or as minor
2737 league ballplayers. Next slide, please.

2738 [Slide.]

2739 We estimated use over time, and it has been about 9
2740 minutes of game use from 1987, 1986 to 2004. It hasn't
2741 changed. What has changed is the use now is being
2742 concentrated by a handful of players. It is only one or two.
2743 The vast majority of baseball players do not want to be bad
2744 role models, and the only way one is going to deal with those
2745 one or two players, and I can just look at--you know, we
2746 banned advertising through the MSA. We banned it through the
2747 FDA Act. But all you have to do is pick up the front of
2748 Sports Illustrated, and fortunately this guy is wearing a
2749 Dodgers uniform and not a Red Sox uniform, to see what type
2750 of advertising reaches kids across America. I told the Jays,

2751 I said, you know, based on the use you used just in the World
2752 Series, that equals the salary of the entire club, and you
2753 guys are deemed to be greedy by Americans. The one guy got
2754 up and said I am going to call my agent. And it is
2755 spreading. This is Facebook. We are seeing dozens and
2756 dozens of groups on Facebook with high schoolers extolling
2757 the virtues of using smokeless tobacco products, and it is
2758 all related to Major League Baseball players. We see two
2759 groups on steroids, one opposed and one saying maybe it is
2760 okay, but we are seeing widespread use of adding a drug,
2761 nicotine, to users. Next slide, please.

2762 [Slide.]

2763 You know, when we take an oath as health professionals,
2764 we take an oath to do no harm. That is called the
2765 Hippocratic Oath. It is not an oath to do less harm. I want
2766 to make that perfectly clear. We take an oath to do no harm.
2767 We have medications called Nicorette that are outselling
2768 these newer products 1,000 to one. They are being used
2769 effectively. They are approved by the FDA. They increase
2770 quit rates. They double quit rates and they don't have
2771 cancer-causing chemicals in them. We have tens of thousands
2772 of baseball fields across this Nation and it is banned on
2773 virtually every one except 30 yet those 30 fields are the
2774 most important fields to the health of American children,

2775 only those 30. You can't dip in high school. We got NCAA to
2776 stop it. Major League Baseball stepped to the plate and
2777 stopped it, and we have a problem right now in America. We
2778 have a problem in America, and that is protecting the health
2779 of the union and letting the members do what they want to do
2780 and not be victimized by one or two players who think somehow
2781 it is glamorous to throw it in your mouth and look like who
2782 knows what.

2783 I want to thank you very much for giving me the time to
2784 testify, and the last time I was with Joe was at the Red Sox
2785 game where he announced the whole gang to me and my son. It
2786 was a wonderful experience. Thank you, Mr. Chairman.

2787 Mr. {Garagiola.} No spit tobacco, either.

2788 [The prepared statement of Mr. Connolly follows:]

2789 ***** INSERT 7 *****

|
2790 Mr. {Pallone.} Thank you, Dr. Connolly.

2791 We are going to take questions from the members and I am
2792 going to start with myself.

2793 I am not trying to be difficult in any way, Mr. Prouty,
2794 but you took a lot of time to explain that the smokeless
2795 tobacco was essentially banned in minor leagues but you said
2796 in major league it is not and you cited the fact that
2797 basically it is legal and so why should we be pressured or
2798 whatever, I guess, to ban it. But it is obvious that you ban
2799 a lot of other things. I guess players aren't allowed to
2800 open a beer or mix themselves an alcoholic drink in the
2801 dugout, and also you banned the smoking of cigarettes, or
2802 Major League Baseball has banned the smoking of cigarettes in
2803 uniform in view of the public. I mean, cigarettes are legal,
2804 alcohol is legal. What is the difference? Why is it so
2805 important to continue the use of smokeless tobacco but not
2806 these other things? Why is it any different?

2807 Mr. {Prouty.} Well, Congressman, first of all, let me
2808 say that there is a difference between cigarette smoking and
2809 smokeless tobacco insofar as smoking affects the game. You
2810 can't smoke while you are playing. Cigarette smoking also
2811 has secondhand effects on other players. But I don't think
2812 we are here today to defend smokeless tobacco. What we are

2813 saying is that it is a legal product and it is legal in the
2814 United States for use. If you want to go about banning it,
2815 Congress should go about banning it.

2816 Mr. {Pallone.} No, I understand that, but I guess what
2817 I am saying is that is just seems strange to me. I guess
2818 when you negotiate a collective bargaining agreement, why is
2819 there not an effort to say pursuant to the collective
2820 bargaining agreement that smokeless tobacco would be banned
2821 as well? I guess I am asking from the point of view of the
2822 players as well as from the point of view of the union. It
2823 doesn't make sense to me that you would have a lot of--that
2824 you wouldn't press to do the same thing. Is this coming from
2825 the players? Are they demanding that it not be prohibited?
2826 What is the reason?

2827 Mr. {Prouty.} Well, you know, in any organization,
2828 there are varying views. We have people who are all for
2829 using smokeless tobacco. We have people who are against it.
2830 We have a round of collective bargaining negotiations coming
2831 up. We can only look forward on this. We are just beginning
2832 to formulate our proposals on all kinds of issue. I am not
2833 the union. We represent the players. The players will get
2834 together and decide what issues to bring to bargaining. Mr.
2835 Manfred's side will get together and decide what issues they
2836 want to bring to bargaining. As he said, smokeless tobacco

2837 is a mandatory issue so if either side brings it up, we have
2838 got to talk about it. We hear what you are saying. We will
2839 take the concerns of everyone here back to the players. It
2840 is for the players to make a decision about what to go ahead
2841 and bring to the bargaining table, but rest assured, I will
2842 make sure based on the hearing today that they hear what you
2843 are saying.

2844 Mr. {Pallone.} I appreciate that. And then I wanted to
2845 ask Mr. Von Behrens, and again, I appreciate your being here
2846 today. When you said that you reached over 2 million kids in
2847 the course of your speeches and presentations, that is really
2848 amazing. But I wanted to go back. You mentioned when you
2849 first started using tobacco. How much did your decision to
2850 start and use correlate with your passion for baseball, which
2851 actually you have, and do you think if you had known more
2852 about the health effects when you were a young person you
2853 still would have used it?

2854 Mr. {Von Behrens.} You know, I tell kids every day that
2855 if somebody like myself would have came and spoke to their
2856 school or my school whenever I was a young man, there is no
2857 way I would be sitting in front of you guys here today
2858 because I would have made an educated choice and I would have
2859 stopped using. This would have scared me enough into not
2860 using these products. You know, baseball had, like I said,

2861 marginal effects of why I used tobacco, guys. We are sitting
2862 here today and we are talking about baseball and spit
2863 tobacco, baseball and spit tobacco, and yes, I believe that
2864 they should not be able to use it on the field. It is like
2865 smoking a cigarette on the field. I am not going to get into
2866 that because that is not the type of person that I am.

2867 But there are so many other things that we are
2868 overlooking. I am a competitive bass fisherman. I fish all
2869 over the Midwest. There are boats out there selling ads.
2870 They are boats advertising Longhorn tobacco. The guy who got
2871 second place in the Bassmasters last year fished out of a
2872 boat sponsored by Longhorn tobacco products. So there are so
2873 many other forms and there is a lot more of these types of
2874 people out there than there are potential baseball players.
2875 There is more hunters, there is more fisherman, there is more
2876 farmers, kids, people who aren't really that associated with
2877 baseball that are being affected by the advertisements and
2878 the ploy that tobacco is a safer alternative to cigarettes.

2879 Mr. {Pallone.} But you are convinced that if we had
2880 more education and awareness, a lot of these young people
2881 would not start using it?

2882 Mr. {Von Behrens.} Definitely. You know, it irritates
2883 me when we talk about education because there is so many
2884 budgets cut that are in effect across the United States.

2885 There is people out there fighting to do their jobs to
2886 prevent you from using these products. They can't even do
2887 their job anymore because somebody wanted to build a road
2888 with the money donated to them from the master settlement
2889 agreement. So we need to first make sure that the master
2890 settlement agreement money goes into education. That is what
2891 it is meant to be used for, not to fix the roads, not to get
2892 somebody out of trouble, to educate youth. And if we educate
2893 youth, I think in the long term we will see our health and
2894 our financial well being get better. I spent almost \$3
2895 million in medical expenses from what this product did to me,
2896 3 million bucks to have surgeries, to have radiation
2897 treatment, to lay in the hospital for two months at a time,
2898 \$3 million. I don't know of one person who spent \$3 million
2899 or how much taxation you will make off of one person in their
2900 lifetime selling this product. It is a very harmful drug and
2901 we just need to put guidelines in and make it better and make
2902 kids understand what it can do to them.

2903 Mr. {Pallone.} Thank you.

2904 Mr. Shimkus.

2905 Mr. {Shimkus.} Thank you, Mr. Chairman.

2906 Mr. Von Behrens, you have made Illinois proud.

2907 Mr. {Von Behrens.} Thank you.

2908 Mr. {Shimkus.} I appreciate you coming, and Mr.

2909 Garagiola, of course, you made St. Louis proud.

2910 Mr. {Garagiola.} Before you start, I have this DVD. It
2911 is the best piece of equipment I have to talk to people. It
2912 is all about Gruen and nobody else, and he talks to high
2913 school kids, and the Diamondbacks were good enough to make
2914 sure that it was distributed and the schools got it. Gruen
2915 was great, and I wish you could see the effect he had on the
2916 young people because when he walked out there, there was a
2917 collective ``huh'' and then he started, and boys, he knocked
2918 their socks off. I will never forget that, Gruen.

2919 Mr. {Von Behrens.} You know, I was--

2920 Mr. {Pallone.} Would the gentleman yield? And I am not
2921 going to take away your time. I will give you more time.
2922 What I was going to suggest, Mr. Garagiola, is that you have
2923 or can get us extra copies of that, we will circulate them to
2924 the members of the committee.

2925 Mr. {Garagiola.} You tell me how many you want.

2926 Mr. {Pallone.} We will get back to you. And also I
2927 don't know if there is a transcript of it. We could enter
2928 that in the record. But we will look into that, all right?

2929 Mr. {Garagiola.} I will tell you what. I am going to
2930 give you that and the Bob Leslie tape when I ask Bob Leslie
2931 what is the toughest part of the day.

2932 Mr. {Pallone.} Okay. Thanks.

2933 Mr. {Shimkus.} And let me just follow up on that. You
2934 did talk about the No Chew Crew program with Arizona. Has
2935 that been accepted or replicated in any other ballpark
2936 organizations and stuff?

2937 Mr. {Garagiola.} I have been frustrated a lot. I am
2938 going to answer that question as honestly as I can. Only one
2939 other club called the Diamondbacks and said tell us more
2940 about it. That was the Marlins. And nobody else. This
2941 booklet, I want to give it to the little guys because I
2942 thought they could read it because it is a tobacco message
2943 but they could also color it, and Commissioner Selig, he gave
2944 me \$50,000 to make the distribution. One club, and I don't
2945 want to embarrass them, the girl says I am going to throw
2946 them away because we don't have any room to store them. I
2947 said no, you are not going to throw them away. I called the
2948 president of the club and we got them distributed. No, it
2949 was met with industrial-strength apathy.

2950 Mr. {Shimkus.} Dr. Connolly, when you talk about the
2951 addictions, I believe there are social kind of addictions,
2952 peer pressure. Are you making a determination because social
2953 kind of addictions and peer pressures or the physical
2954 addiction?

2955 Mr. {Connolly.} Well, I think we have to understand
2956 that you have two different dosing mechanisms for nicotine.

2957 The cigarette, you get a rapid dose of nicotine and it falls
2958 off and sets a spike effect. It is very, very attractive
2959 because it is reinforcing and it has central nervous system
2960 effects. With smokeless, it is a slow effusion across the
2961 oral cavity, about 20 cell layers, and you get a general
2962 background dose. And then with a product like Copenhagen,
2963 you get a bolus of nicotine into the central nervous system.
2964 So it is a chemical addiction. The Surgeon General described
2965 it as such. And then we look at quitting patterns. We find
2966 it is about the same. It is equally hard for smokeless
2967 tobacco users and cigarette smokers to quit. They are about
2968 the same because they are dealing with a chemical addiction.
2969 Finally, what is disturbing is the increase in dual use that
2970 we are seeing in the American public, people using cigarettes
2971 and using smokeless, and what we may be observing is the
2972 emergence of dual dependency, someone being dependent upon
2973 cocaine and heroin at the same time. It is extremely hard
2974 because of the difference in dosing to treat dual dependency.
2975 This is a major concern that we have for the Nation is that
2976 young people seem to be using both now in particular parts of
2977 the country and it is going to be harder, I believe, to treat
2978 those dependencies.

2979 Let me point out too, the players association has to
2980 step up to the plate here. I mean, we have to--

2981 Mr. {Shimkus.} My time is--

2982 Mr. {Connolly.} I am sorry.

2983 Mr. {Shimkus.} I am going to address that, and we have
2984 been here a long time already, but I do think my colleague
2985 from Maryland, it does make sense if you have got an asset as
2986 the players' union does and as Major League Baseball does to
2987 protect the asset. I am a Republican. We believe in
2988 competitive markets. We want to protect collective
2989 bargaining and we want you all to work it out. I am not one
2990 to want government to intervene with a national law to say--
2991 because if we ban tobacco products, then we would have the
2992 underground economy, we would have the products just like we
2993 have illegal drugs, et cetera, et cetera. But it is always
2994 better, gang, if you do this and work this out, and I think
2995 you hear collective agreement by the panel that we would hope
2996 that in the next round you all would step up and lead by
2997 example and then you wouldn't be called back up here anymore
2998 for this issue.

2999 Mr. {Connolly.}

3000 Mr. {Shimkus.} Yes, sir.

3001 Mr. {Connolly.} There is no silver bullet here. We
3002 need education for the kids, education for the players. We
3003 need treatment for those players. We need counseling. But
3004 we also need policies. You can't say one is going to work

3005 without the other. It is a combination of efforts.

3006 Mr. {Shimkus.} Well, and Mr. Von Behrens mentioned the
3007 family, and leadership is not just professional sports. It
3008 is family. I caught in the hot summers of St. Louis and my
3009 parents gave me salt tablets because of sweating, and that
3010 was what was thought at the time.

3011 We do appreciate your time and effort, and Mr. Chairman,
3012 I will yield back.

3013 Mr. {Pallone.} Thank you.

3014 Chairman Waxman.

3015 The {Chairman.} Thank you very much, Mr. Chairman.

3016 As I understand the situation, if Major League Baseball
3017 wanted to ban the use of smokeless tobacco or cigarettes,
3018 they can just go ahead and do it when it comes to the minor
3019 leagues, but when it comes to the major leagues, they can't
3020 just go ahead and do it because you have to have a collective
3021 bargaining. The union represents the players in the major
3022 leagues but not in the minor leagues. Is that right, Mr.
3023 Prouty?

3024 Mr. {Prouty.} Yes, that is correct.

3025 The {Chairman.} So the only way you would get to talk
3026 about the major leagues would be through collective
3027 bargaining agreement?

3028 Mr. {Prouty.} That is correct. It is a mandatory

3029 subject of bargaining.

3030 The {Chairman.} So you have to bargain this question
3031 out and have it as part of your contract.

3032 Mr. Prouty or Mr. Manfred, do either of you disagree
3033 with the harm that comes to the players after all the
3034 testimony you have heard today from the use of smokeless
3035 tobacco?

3036 Mr. {Prouty.} No, Congressman, we don't disagree at
3037 all.

3038 The {Chairman.} And Mr. Manfred, you don't disagree, do
3039 you?

3040 Mr. {Manfred.} No. As a matter of fact, we put
3041 extensive effort into trying to encourage our players at all
3042 levels, minor and major league, to not use smokeless tobacco.

3043 The {Chairman.} Do either of you disagree with the idea
3044 that children, young people are influenced by seeing behavior
3045 of players on the field? Mr. Manfred?

3046 Mr. {Manfred.} No, I don't.

3047 Mr. {Prouty.} No, we don't disagree. Players are role
3048 models. We don't dispute that.

3049 The {Chairman.} So then the question is, if there are
3050 health risks to the users and there is a problem in the
3051 message that is sent to the kids, you seem to both agree with
3052 that. Wouldn't you both be in favor of agreeing to not allow

3053 players to be using smokeless tobacco on the field?

3054 Mr. {Prouty.} Congressman Waxman, it is not as simple
3055 as Mr. Manfred and me just agreeing. We both represent
3056 constituencies. The union is a democratic organization. We
3057 have to go back to our members. We have to hear what--

3058 The {Chairman.} I understand that. What would be the
3059 argument against it?

3060 Mr. {Prouty.} The argument against it is that it is a
3061 legal substance which can be used in this country.

3062 The {Chairman.} So are cigarettes.

3063 Mr. {Prouty.} So are cigarettes.

3064 The {Chairman.} Your members don't want to reopen that
3065 issue, do they?

3066 Mr. {Prouty.} No, they don't.

3067 The {Chairman.} So you have two legal products. No one
3068 is disputing that. How about drinking beer or other
3069 alcoholic beverages? It is perfectly legal, may or may not
3070 be harmful, depending on the circumstance. Do any of your
3071 players think that they ought to be allowed to drink on the
3072 field?

3073 Mr. {Prouty.} No, they don't. I don't believe so.

3074 The {Chairman.} So I am trying to understand an
3075 argument they might make on smokeless tobacco. If it hurts
3076 the health of the players and it influences adversely kids to

3077 use a product that is going to harm their health, I would
3078 hope you would take back to your members that they shouldn't
3079 stand in the way of what Major League Baseball did when it
3080 came to the minor leagues and put in the same policy for the
3081 major leagues.

3082 Mr. {Prouty.} Absolutely, Congressman. You can be
3083 assured we will take back the concerns that we have heard
3084 here today and the players will continue that along with all
3085 the other issues and we will bring it up in the next round of
3086 bargaining if that is what they decide to do. It is a
3087 democratic organization. I can't promise you here today it
3088 will be brought up. I can promise you that I will bring back
3089 and make them understand as we did with steroids and other
3090 issues you are aware of exactly what Congress feels about
3091 this.

3092 The {Chairman.} What if your players said to you I
3093 don't want to have a ban on steroid use because we think it
3094 helps us improve our performance? Would the players advance
3095 the argument in the collective bargaining agreement that
3096 there shouldn't be any ban on performance-enhancing drugs?

3097 Mr. {Prouty.} Congressman, that is not where we are.
3098 As you know, we went through a series of--

3099 The {Chairman.} I remember. I remember it well. I am
3100 just obviously pointing out the illogic.

3101 Mr. {Prouty.} But, no, I understand that. But if you
3102 remember, the process that we went through every time was, we
3103 went back and held meetings with players and developed a
3104 consensus about this is what has got to happen, these are the
3105 risks, this is the testing program and frankly, if we don't
3106 act, Congress is going to act but we would rather settle it
3107 by collective bargaining. In the end, that is what we did
3108 was settle it by collective bargaining, and you endorsed what
3109 came out of that.

3110 The {Chairman.} Let me ask you if you will be willing
3111 to start this process of consultation with your members now
3112 so you can be ready with a consensus position to allow this
3113 to be part of the collective bargaining when your contract is
3114 next up.

3115 Mr. {Prouty.} Yes, we will, as I said before, bring
3116 this back to the membership and start consulting.

3117 The {Chairman.} Good.

3118 Thank you very much, Mr. Chairman. I appreciate
3119 everybody's testimony today.

3120 Mr. {Pallone.} Thank you, Chairman Waxman.

3121 The gentleman from Indiana, Mr. Buyer.

3122 Mr. {Buyer.} Thank you very much.

3123 I want to agree with the comment, educate, educate,
3124 educate. I think you are right. And in a free society, I

3125 believe there are always going to be differences of opinions
3126 based on differing values, beliefs, perceptions and also due
3127 to the imperfections of reason. So in the effort to educate,
3128 educate, educate, we also have to nourish the hope that how
3129 do we achieve improvements to public health. Now, when you
3130 make that effort, you cannot ignore science. Now, what was
3131 challenging from the first panel was to have an individual
3132 who would not acknowledge that there is a continuum of risk
3133 among tobacco products. Now, I don't smoke. I don't
3134 advocate for people to smoke. I also recognize that it is a
3135 lawful adult product and that it is a product that we don't
3136 want in the hands of children. So I also acknowledge as a
3137 worthy effort to prevent role models from using such a
3138 product and what can we do to make sure that children don't
3139 gain access.

3140 Well, you know, we have done a lot of things. Not only
3141 have we made it illegal for individuals under the age of 18
3142 to gain access to these products, but you know what? The
3143 master settlement agreement. I am surprised by the advocates
3144 of this panel that you haven't talked about the master
3145 settlement agreement and the fact that the States out there
3146 are not utilizing monies collected not only from the MSA but
3147 also from cigarette taxes to be spent on education programs.
3148 So in fiscal year 2010 alone, and this is according to the

3149 document that I have now submitted to the record titled A
3150 Broken Promise to Our Children. It states that in the
3151 current fiscal year 2010, States will collect \$25.1 billion
3152 from the tobacco settlement and tobacco taxes and they will
3153 spent just 2.3 percent of it, which is approximately \$560
3154 million, on tobacco prevention and cessation programs. Now,
3155 when we passed Mr. Waxman's bill, I had offered an amendment.
3156 I had offered an amendment for us as a Nation to improve
3157 public health to acknowledge the continuum of risk and is it
3158 possible to migrate people from smoking to smokeless to
3159 finally quitting. Is that possible? When in fact there is a
3160 crucible out there for which we can look at, which is called
3161 the Swedish experiment. Incorporated in that amendment was
3162 also the advocacy on behalf of Ms. Blackburn to actually
3163 state that, you know, States, you should be required to spend
3164 a portion on education, a portion of the MSA. That was
3165 defeated. That effort was defeated here on the committee and
3166 it should not have been. Because those of whom will
3167 acknowledge and actually say that smoking a cigarette is just
3168 as bad as utilizing a smokeless tobacco product ignores
3169 science. Because there is truly a difference in the
3170 continuum of risk.

3171 Now, I don't advocate the use of either of those
3172 products but to say that a snus product that eliminates 99

3173 percent of the nitrosamines and you have got a 1 percent of
3174 health risk versus the 100 percent from a cigar ignores
3175 science. And so it is challenging for me because I look at
3176 this and say I agree with the testimony of educate, educate,
3177 educate but why would the advocates of abstinence then not be
3178 willing to educate tobacco users that there truly is an
3179 opportunity to lessen the risk, that if you can reduce the
3180 thousands of constituents and toxins from smoking to move to
3181 smokeless, that that in fact can make your healthier. But
3182 the complete goal here is actual cessation of the tobacco
3183 product. To ignore that is also then to ignore science and
3184 ignore the advocacy to educate, educate, educate. A nation
3185 cannot be ignorant sustain freedom. So as a government when
3186 you ask government for its help and assistance, we as a
3187 government need to be honest with regard to is our advocacy
3188 with regard to availability of tobacco products. Now, for
3189 those of whom are advocating abstinence, if you want to
3190 advocate the complete outlawing of tobacco products, go ahead
3191 and say that if that is what the advocacy is. But that is
3192 not what this committee has chosen to do. It is not as a
3193 country what we have chosen to do.

3194 So I just--I want to thank all of you for your efforts.
3195 It is unfortunate with regard to Major League Baseball and
3196 the players' union that my sensing is that you have been

3197 brought here to testify and the committee is somehow strong-
3198 arming you with regard to what should occur or not occur
3199 within collective bargaining. I think that is wrong if we
3200 are going to actually say that the marketplace is a sacred
3201 place. And so that is unfortunate. You can choose to do
3202 what you believe is morally right, and I believe that you
3203 have that sense and that can happen at the table, but for us
3204 to strong-arm you and to dictate as to what you should and
3205 shouldn't do and supplant our moral understanding upon you,
3206 wow, if that is what we want to do, then we should have made
3207 tobacco products illegal instead of passing that bill.

3208 With that, I yield back.

3209 Mr. {Connolly.} Could I just comment?

3210 Mr. {Pallone.} I think we should probably let them
3211 respond if they want.

3212 Mr. {Buyer.} I did not ask a question. I yielded back.
3213 I made a statement.

3214 Mr. {Connolly.} As a person--

3215 Mr. {Pallone.} He has yielded back, Dr. Connolly.

3216 Ms. Blackburn.

3217 Mrs. {Blackburn.} Thank you, Mr. Chairman, and mine is
3218 more of a statement than a question. I do appreciate that
3219 all of you are here, and Mr. Buyer mentioned some of the
3220 frustration that we have with this issue. As I said in my

3221 opening statement and in my questions, in the 110th Congress,
3222 in the 111th Congress, there was an opportunity to expand
3223 SINAR and to take care, special care, extra care to address
3224 this issue of teens and smoking.

3225 Now, I was interested in the testimony of a couple of
3226 you, Mr. Manfred, in your testimony, and Mr. Garagiola, in
3227 yours. You talk about education and the importance of
3228 education, and why this needs to be expanded, and I liked the
3229 example of the No Chew Crew.

3230 Mr. {Garagiola.} But you need money.

3231 Mrs. {Blackburn.} Okay. Then is this a program that
3232 would function well with some of the master settlement
3233 dollars? Have you looked at that? Are you seeking to move
3234 forward with expanding that program through the--the money is
3235 there. I mean, that is--

3236 Mr. {Garagiola.} The money is there but I think it is--
3237 I have a clipping that I have saved. This is from 2001. In
3238 North Dakota, legislators have been criticized for
3239 considering using a portion of the settlement money to built
3240 a state morgue. In Alabama, legislators allocated a portion
3241 of the settlement to fight gangs and satanic worship in
3242 public schools. In Montana, officials funded a juvenile
3243 delinquent boot camp. Tobacco-growing States like North
3244 Carolina, South Carolina, Virginia, funds have been set aside

3245 to compensate tobacco farmers for losing crop revenues as
3246 smoking declines. The problem comes when you call these
3247 people. Mike Moore, the attorney general from Mississippi,
3248 we thought we had the money, and when you call the line is
3249 buy, they will get back to you. I am still waiting for calls
3250 from some of these guys.

3251 Mrs. {Blackburn.} Well, and the legislation I have
3252 brought before this body that action was not taken on would
3253 have addressed the usage of some of these master settlement
3254 funds and would have required the States to meet certain
3255 expanded criteria. There is a way to address this.

3256 Mr. Manfred, I think you had a couple of thoughts, and I
3257 do appreciate your testimony, and when you talked about the
3258 minor league policy that is there on smoking and tobacco
3259 products and the compliance rates on that, and I wanted to
3260 know if the smoking cessation counseling programs that are
3261 provided by the clubs' employee assistance personnel, to what
3262 extent that has been successful and if you all are doing
3263 outreach specifically geared toward children.

3264 Mr. {Manfred.} Let me start with the employee
3265 assistance programs. I think when you talk to our employee
3266 assistance professionals as a group, the 30 of them, we get
3267 them together twice a year, and I think that in all candor,
3268 they feel that they have very good programs. They feel that

3269 they have a moderate degree of success, and the single
3270 biggest frustration that you hear from them is, people go
3271 through the programs, they do well, they stop and then they
3272 return to use. You know, if I had to summarize what our very
3273 long discussions with this group, that is how I would
3274 summarize it.

3275 In terms of outreach, Major League Baseball has been
3276 committed to the NSTEP undertaking for years and years. I
3277 think Mr. Garagiola referred to the fact that Commissioner
3278 Selig allocated \$50,000 recently for a specifically child-
3279 directed program. He is holding up the pamphlets from that
3280 program. Commissioner Selig himself sees this as a public
3281 health issue, and I think that it is fair to say that our
3282 efforts in this regard both internally and externally will
3283 continue.

3284 Mrs. {Blackburn.} I appreciate that.

3285 I will just close by saying from our perspective, there
3286 has been an opportunity to address this. We have
3287 legislation. The SINAR language has worked. We don't need
3288 to reinvent the wheel. The goal is to make certain that
3289 children are educated and realize the dangers of tobacco use.
3290 As a mom, as a former Lung Associate volunteer, as the former
3291 president of that board, the education programs have been
3292 vitally important and that is how we are going to change

3293 this, and there does exist an avenue for that and I think it
3294 is regretful that this committee did not take up the
3295 opportunity to address that and I would have preferred out
3296 time today be spent on some other components that addressing
3297 some things in the health care bill that need to be done or
3298 addressing getting a federal budget together which I am
3299 understanding the Democrat leadership in this body does not
3300 want to do.

3301 With that, I yield back.

3302 Mr. {Pallone.} Thank you.

3303 There are only a few of us left so we are just going to
3304 have a second round for whoever wants to ask questions, and I
3305 am going to yield myself some time.

3306 I asked Mr. Prouty before about a commitment to bring
3307 this up, and I think Mr. Waxman did also, to bring up the
3308 issue of smokeless tobacco in the context of collective
3309 bargaining agreement, and I just wanted to ask Mr. Manfred
3310 the same thing, if you would be willing to say that you would
3311 make the issue of smokeless tobacco a priority when you
3312 negotiate with the players over collective bargaining? Would
3313 you and the commissioner fight to try to end the use of
3314 smokeless tobacco by major league players? I mean, I know
3315 that you don't have--you know, a lot of this depends on what
3316 happens but we are still trying to at least get you and Major

3317 League Baseball to say look, we will try to make this a
3318 priority, we will bring it up, we are committed to putting an
3319 end to it in the same way you have with the minor leagues.

3320 Mr. {Manfred.} We have begun our preparations for 2011
3321 already. I think that Commissioner Selig's directive that
3322 Dr. Shaha make a presentation to the safety and health
3323 committee is indicative of his commitment to the idea that
3324 this issue needs to be addressed in 2011. I can also tell
3325 you that in our conversations with individual teams, we have
3326 had a number of teams raise this issue as something that we
3327 need to be putting on the table in 2011.

3328 Mr. {Pallone.} But can you just go beyond that and say
3329 that it is a priority for that purpose?

3330 Mr. {Manfred.} I can say--certainly I can say this,
3331 that for Commissioner Selig it is a priority in terms of the
3332 issues that we have discussed so far. I think that is an
3333 accurate statement.

3334 Mr. {Pallone.} I appreciate that.

3335 I am going to yield back and ask Mr. Shimkus if he would
3336 like to say anything or ask any more questions.

3337 Mr. {Shimkus.} No, I just appreciate the panelists. I
3338 think my colleague, Congresswoman Blackburn, makes a good
3339 point, and I would request that maybe the full committee
3340 chairman bring in the States and ask them to use their master

3341 settlement money on the tobacco to print your brochures, to
3342 print the DVDs and get them in all the schools across the
3343 country. That might be a good use of that instead of some of
3344 the other things that Mr. Garagiola highlighted in that old
3345 article. I mean, if we are serious about educating, we ought
3346 to be about the business of educating, and I appreciate those
3347 who are doing their part with their own ability, but again, I
3348 think government has dropped the ball on some of these
3349 aspects, and I yield back my time.

3350 Mr. {Pallone.} Mr. Buyer, no additional questions?

3351 Okay.

3352 Let me thank all of you, really. I thought that his was
3353 very worthwhile today. It is obviously an issue that Mr.
3354 Waxman in particular but many members of the committee have
3355 cared about for a long time, and I also appreciate the fact
3356 that some of you are willing to take it back with the major
3357 leagues and try to address it. I think it is very important
3358 to us, so thank you very much.

3359 The way we operate is that you may get additional
3360 written questions within the next 10 days or so that we would
3361 also ask you to respond to as quickly as possible.

3362 Thank you. And with that, the subcommittee hearing is
3363 adjourned.

3364 [Whereupon, at 1:28 p.m., the Subcommittee was

3365 adjourned.]