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Chairman Pallone, Ranking Member Deal, and Members of the Subcommittee, thank you for this opportunity to testify about the need for H.R. 1108, the Family Smoking Prevention and Tobacco Control Act. I am Dr. Risa Lavizzo-Mourey, President and CEO of the Robert Wood Johnson Foundation, the nation's largest philanthropy devoted exclusively to improving the health and health care of all Americans.

For more than a decade, the Robert Wood Johnson Foundation has worked successfully to help reduce the prevalence of tobacco use through a two-pronged approach. First, we have funded research to learn which policies and programs are most effective. Second, we have focused attention and fostered action on evidence-based policies aimed at preventing people from starting to smoke, helping current smokers quit and protecting non-smokers from the serious health harms of secondhand smoke.

Tobacco use is still the leading cause of preventable death in our country – causing more than 400,000 preventable deaths in the United States each year, sickening millions more, reducing the productivity of our workforce and undermining our nation's economic competitiveness due to \$100 billion a year in tobacco-related health care bills.

Today we are asking you, the Congress, and the federal government to provide the leadership needed to address this significant threat to the health of our nation. One of the most important things you can do now would be to give the FDA authority over tobacco products.

Our country has made significant – although by no means sufficient – progress, especially at the state and local level. A growing number of states and localities have increased taxes on tobacco products, enacted smoke-free air laws that cover all workplaces and public places, and funded tobacco prevention and cessation programs. Collectively, we have also made great strides in getting effective tobacco cessation treatments into clinical practice and through state and national quitlines, and many health and health care policy changes have boosted access to and use of evidence based treatments.

The best measure of progress is that fewer Americans, both youth and adults, are smoking. Youth smoking rates have declined by 37 percent since peaking in 1997, and adult smoking rates have steadily declined as well.

But we have not yet turned the corner on this pervasive health threat which continues to take an enormous toll in health, lives and money in our country. Nearly one in four high school students still smokes and nearly 21 percent of all Americans remain addicted to this deadly product. Most troubling of all is the fact that our progress in reducing smoking has stalled among both youth and adults in recent years.

Our challenge today, Mr. Chairman, is to resist complacency and for all levels of government to redouble efforts to reduce tobacco use. The good news is that we know what to do, and there is a strong consensus among our nation's public health experts about the science-based actions that must be taken. As both the Institute of Medicine and the President's Cancer Panel recommended in landmark reports issued this year, this strategy must include both stepped-up initiatives at the state and local level *and* enactment of federal legislation granting the FDA authority over tobacco products.

As the IOM concluded, "Incremental reforms... will not end the nation's tobacco problem. A more fundamental shift must occur. It is time for Congress and other policymakers to change the legal structure of tobacco policy, thereby laying the foundation for a strategic initiative to end the nation's tobacco problem—that is, reducing tobacco use to a level that is insignificant from a public health standpoint."

These expert conclusions regarding FDA authority are critical.

Mr. Chairman, there are many reasons why we need FDA regulation of tobacco products in addition to and in support of the ongoing efforts to reduce tobacco use at the state and local government. I will name two:

- FDA authority over tobacco has a high probability of stopping tobacco marketing that targets our children and undermines the effective prevention measures in states and communities.

- FDA authority over tobacco has a high probability of stopping tobacco industry practices that undermine efforts to help smokers quit. These include the manipulation of tobacco products to make them more addictive and the deceptive marketing of light and low-tar cigarettes and other so-called “reduced risk” products.

Mr. Chairman, we all know that the tobacco companies continue to engage in these harmful practices today.

While the 1998 tobacco settlement, known as the Master Settlement Agreement or MSA, curtailed some tobacco marketing to children, the MSA addressed less than 20 percent of all tobacco marketing expenditures. Federal Judge Gladys Kessler found last year that tobacco companies continue to market in ways that appeal to young people and continue to recruit children as new tobacco users. In Judge Kessler’s words: “Despite the provisions of the MSA, Defendants continue to track youth behavior and preferences and market to youth using imagery which appeals to the needs and desires of adolescents. Defendants are well aware that over 80 percent of adult smokers began smoking before the age of 18, and therefore know that securing the youth market is critical to their survival.”

The tobacco companies have circumvented MSA restrictions by dramatically increasing overall marketing expenditures and constantly finding new ways to market their products, many of which appeal to kids. Between 1998, the year of the MSA, and 2005, the last year for which data is available, the major tobacco companies nearly doubled their total marketing expenditures from

\$6.9 billion to \$13.4 billion, according to the Federal Trade Commission. That is nearly \$37 million each and every day – much of it appealing to kids.

There are many examples of how the tobacco companies continue to market in ways that appeal to children:

- The MSA did not place specific restrictions on advertising in print media, such as magazines. As a result, cigarette advertising increased in youth-oriented magazines in the two years after the MSA, and tobacco companies continue to place magazine ads that portray smoking as cool and glamorous.
- The MSA did not restrict in-store advertising. Knowing that 75 percent of teens visit a convenience store once at least once a week, the cigarette companies have increased their advertising and promotions in and around these stores. In fact, retail marketing now makes up about 90 percent of all cigarette marketing expenditures, according to the Federal Trade Commission. Science tells us this kind of marketing influences youth behavior. A study supported by the Robert Wood Johnson Foundation and published this May in the journal *Archives of Pediatrics and Adolescent Medicine* found that the more cigarette marketing teens are exposed to in retail stores, the more likely they are to smoke. The study also found that restricting these retail-marketing practices would reduce youth smoking.
- While the MSA banned large billboards, it permitted outdoor signs up to 14 square feet in size, even if placed right next to schools or playgrounds.

- Since the MSA, the tobacco companies have regularly introduced new candy and fruit-flavored tobacco products that clearly are intended as starter products for new tobacco users, most of whom are children. The R.J. Reynolds company, for example, introduced new flavored Camel cigarettes with names like Twista Lime, Warm Winter Toffee and Mocha Mint. A 2005 Harvard School of Public Health study concluded, “Flavored cigarettes can promote youth initiation and help young occasional smokers to become daily smokers by masking the natural harshness and taste of tobacco smoke and increasing the acceptability of a toxic product.” Survey data reveal that youth are almost twice as likely as adults to be aware of these flavored products and their advertising, and youth smokers are much more likely than older ones to have tried them.

Unfortunately, this youth-oriented marketing works. According to the 2005 National Survey on Drug Use and Health, more than 81 percent of youth smokers prefer the three most heavily advertised cigarette brands – Marlboro, Camel and Newport. Numerous studies have found an association between tobacco marketing and youth smoking initiation and progress to regular use. As the National Cancer Institute found in a 2002 report, “the conclusion that there is a causal relationship between tobacco marketing and smoking initiation seems unassailable.”

In addition to targeting youth, the tobacco companies also have a long history of targeting specific populations that have had historically lower smoking rates, and that tobacco companies regarded as potential new “customers,” including girls and women and African American and Hispanic youth.

The most recent example of tobacco marketing to women and girls is R.J. Reynolds' Camel No. 9 cigarette introduced earlier this year by the same company that brought us the notorious Joe Camel. The Oregonian newspaper has aptly called Camel No. 9 "Barbie Camel." Camel No. 9 comes in a shiny black box with a tiny pink camel and pink and teal borders. Ads in the most popular fashion magazines associate Camel No. 9 with everything a teenage girl aspires to be: glamorous, sophisticated and beautiful. And then there are the promotional giveaways: berry lip balm, cell phone jewelry, cute little purses and wristbands, all in hot pink.

Camel No. 9 continues the tobacco industry's long history of targeting women and girls, dating back to the "You've Come A Long Way Baby" campaign Philip Morris launched in 1968. These campaigns have cynically equated smoking with independence, sophistication and beauty and preyed on the unique social pressures that women and girls face. The marketing of cigarettes as "slims" or "thins" and later as "low-tar" and "light" also played into young women's concerns about weight and health.

As a physician, I can tell you that there's nothing glamorous or beautiful about cancer and heart disease, which have been the main consequences for women. While death rates for most cancers have declined among women, rates have skyrocketed for lung cancer. Since 1987, lung cancer has been the leading cancer killer among women, surpassing breast cancer. Heart disease is the overall leading cause of death among women, and smoking accounts for one of every five deaths from heart disease. Altogether, more than 178,000 women die of tobacco-related diseases each year. This is the lethal legacy of the tobacco industry's targeting of women and girls.

The tobacco companies have similarly targeted African-Americans and Hispanics, especially children in those communities. One of the most egregious recent examples is Brown & Williamson's marketing campaign for Kool cigarettes, called Kool Mixx. This hip-hop themed campaign featured images of musicians, disc jockeys and dancers on cigarette packs and in advertising. It even included radio giveaways with cigarette purchases.

Again, the evidence is powerful that this targeted marketing works, especially on children. Take Lorillard's Newport cigarettes, which have been marketed to African Americans longer and more heavily than any other brand. While about 42 percent of African-American adults who smoke prefer Newport, 80 percent of African-American youth smokers prefer this brand.

This marketing has a devastating impact on the health of African Americans. While African Americans smoke at roughly the same rates as whites, they die at a higher rate from smoking-caused diseases. African American men bear an especially high burden of death and disease, with lung cancer rates almost 40 percent higher and average death rates about 30 percent higher than for white men.

The tobacco industry has similarly targeted Hispanic communities. As they have done with women and African Americans, the industry has sought to associate smoking with the culture, music and aspirations of the Hispanics and Latinos. One recent ad campaign for Kool cigarettes featured multicultural images, concerts with Latino musicians and aspirational slogans such as "It's about pursuing your ambitions and staying connected to your roots." It is truly offensive

that the tobacco industry would exploit ethnic communities to sell a deadly and addictive product.

Mr. Chairman and members of the Subcommittee, these examples make it abundantly clear why the FDA needs the authority and resources to effectively regulate tobacco products and their marketing. With the authority that you can give, the FDA can finally stop tobacco marketing and sales to children; eliminate special flavored cigarettes that appeal to and target youth smokers; prevent tobacco companies from deceiving the public about the health risks of their products and undermining efforts to help smokers quit; and take other necessary steps to protect public health and save lives. These steps will significantly enhance state and local efforts to reduce tobacco use and help address the tobacco industry's targeting of specific populations, resulting in an excess burden of disease borne by many of the most vulnerable among us. The FDA is uniquely qualified to help achieve these goals because of its regulatory experience, scientific knowledge and public health mandate. With the powerful public health combination of FDA authority over tobacco products and enhanced efforts at the state and local level, we can achieve the goal that the Institute of Medicine has set for us-- to eliminate tobacco use as one of the most pressing public health problems in the United States.

Thank you for your attention to this issue and the opportunity to testify.