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January 27, 2020

Paula Pullano  
Department of Health  
3 Capitol Hill  
Room 410  
Providence, RI 029085097

**Re: Licensing of Electronic Nicotine-Delivery System Distributors  
and Dealers (216-RICR-50-156)**

Dear Ms. Pullano:

Truth Initiative® welcomes the opportunity to submit comment to the Rhode Island Department of Health as it promulgates regulations in order to prohibit the manufacture, distribution, sale, or offer for sale of, or the possession with intent to manufacture, distribute, sell, or offer for sale flavored electronic nicotine-delivery system products (or e-cigarettes) to consumers in Rhode Island. We encourage the Department of Health to prohibit all flavors in e-cigarettes, including mint and menthol. We believe this will limit the availability of these highly appealing tobacco products to youth.

Truth Initiative is committed to creating a generation of Americans for whom tobacco use is a thing of the past. Truth Initiative's flagship program is the proven-effective and nationally recognized youth smoking prevention campaign, truth®. Other programs include EX®, an innovative smoking cessation program; research initiatives exploring the causes, consequences and approaches to reducing tobacco use; and programs to address the health effects of tobacco use – with a focus on priority populations disproportionately affected by the toll of tobacco.

According to the 2019 National Youth Tobacco Survey, 4.1 million (27.5%) high school students report current use of e-cigarettes, 21.4% of whom report use on a daily basis.<sup>1</sup> We know that using e-cigarettes has been shown to increase the likelihood of smoking cigarettes among young people, raising concerns that e-cigarettes are acting as entry



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nicotine products that may lead to use of more dangerous combustible tobacco or nicotine products.<sup>2-4</sup> According to one study, U.S. youth are four times more likely to try cigarettes if they previously used e-cigarettes. The study also estimated that e-cigarettes are likely responsible for nearly 22% of new ever cigarette use (trying a cigarette) and 15.3% of current cigarette use for the same group — totaling nearly 200,000 new cigarette initiators.<sup>5</sup> Additionally, a recent study raises concerns about whether the rise of vaping nicotine could serve to increase other drug use and reverse progress in smoking rates and other drug use among young people.<sup>6</sup> Should that prove true, it further underscores the need for states to prevent e-cigarette use among youth.

Truth Initiative has long supported the removal of flavors in cigarettes, cigars and smokeless tobacco products. We know that flavors have overwhelmingly been used to attract those who have not previously used nicotine or tobacco products. Youth e-cigarette users cite flavors as a top reason they began using e-cigarettes, second only to use by a family member or friend.<sup>7</sup> A study that included middle and high school students reported that 43% of young people who ever used e-cigarettes tried them because of appealing flavors.<sup>8</sup> The US Food and Drug Administration (FDA) has also reported that, among current youth users of e-cigarettes, 97% used a flavored e-cigarette in the past month.<sup>9</sup> Youth and young adults have more than three times the odds of using fruit-flavored e-cigarettes compared to older adults.<sup>10</sup>

The FDA's recent e-cigarette policy announced earlier this month is vastly inferior to the one promised by the Trump administration on September 11, 2019 and keeps menthol and other youth-appealing e-cigarette flavors on the market. The policy allows menthol flavors in all forms, including pods and all flavored liquid nicotine like cotton candy and gummy bear used in open systems, to remain on the market. Exempting menthol creates a giant loophole for youth to continue to access flavored e-cigarettes. Some manufacturers indicated they may rename mint products to menthol. We already know that youth and young adults prefer mint and menthol flavors. A 2018 Truth Initiative survey found that mint was among the top three favorite flavors among young JUUL users aged 12-24, meaning they chose it the last time they vaped. New research shows that mint and menthol e-cigarette use among high school users rose from 16% in 2016 to 57.3% in 2019.<sup>11</sup> Among high school JUUL users, 67.5% reported that their preferred flavor was mint or menthol.

One study, conducted before JUUL pulled its other flavors from the market, found that mint was one of the most popular flavors among high school student JUUL users, while menthol was less so.<sup>12</sup> This study was cited by FDA as a reason to leave menthol on the market. However, the



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study authors themselves caution that leaving both mint and menthol on the market undermines the purpose of removing flavors — which is to prevent kids from using e-cigarettes at all.

This concern of undermining the removal of flavors has played out since that study was conducted. When JUUL removed its other flavors, such as mango and fruit medley, from the market in April 2019, JUUL's mint flavor became the top e-cigarette flavor choice among youth. The 2019 National Youth Tobacco Survey data show that mint and menthol e-cigarette use rose to 57.3% from 51.2% in 2018 among high school current users, suggesting youth switched to these flavors once mango and fruit medley became harder to obtain.<sup>11,13,14</sup> Moreover, in unpublished, preliminary data looking at Nielsen scanner data, Truth Initiative researchers found that after JUUL removed some of its most popular flavors, purchases of JUUL's mint flavor shot up to rates similar to that of the mango flavor before it was removed. We fully expect to see the same trend with youth switching to menthol, the only flavor left to them, rather than quitting.

These data support the removal of all flavored e-cigarettes from the market, including mint and menthol. The burden should always have been on manufacturers to show that their products would not appeal to youth before going to market. Given what we now know about how flavors dramatically influence youth e-cigarette use, the burden should be high. We encourage the Department of Health to move forward with the proposed regulation and prohibit the sale and distribution of all flavored e-cigarettes, including mint and menthol flavors.

We look forward to continuing to work with Rhode Island and all states to make tobacco a thing of the past. Please do not hesitate to contact Stacey Gagosian, Public Policy Managing Director at [sgagosian@truthinitiative.org](mailto:sgagosian@truthinitiative.org) or 202-454-5774, should you need more information or have questions about this submission.

Sincerely,

M. David Dobbins  
Chief Operating Officer



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