



**Oral Testimony of Elmer Huerta, M.D. M.P.H**  
**President-Elect, American Cancer Society**  
**Before The Committee on Health, Education, Labor, and Pensions**  
**United States Senate**  
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Good morning, I am Dr. Elmer Huerta, incoming President of the American Cancer Society and Director of the Cancer Preventorium at the Washington Hospital Center. As a physician and researcher who specializes in cancer prevention and screening among the medically underserved, I see firsthand the toll tobacco takes on our country and the benefits of prevention in combating cancer. On behalf of the more than 28 million volunteers and supporters of the American Cancer Society and its sister advocacy organization, the American Cancer Society Cancer Action Network, I thank you, Mr. Chairman, and your Committee colleagues for inviting me to testify today.

The need for FDA regulation of tobacco is great and its benefits are clear. The tobacco industry made voluntary promises as part of the Master Settlement Agreement that it would stop marketing to children. Those promises have been broken. Our children have been left unprotected, and the tobacco industry has



taken advantage of that loophole in sinister fashion. Indeed, the most popular cigarettes among children are the most heavily advertised brands – Marlboro, Camel and Newport. How did this happen? Here are five ways.

First, the MSA did not place any restrictions on advertising in print media, such as magazines. In fact, cigarette advertising in youth-oriented magazines actually increased in the two years after the MSA. Second, the MSA did not limit or restrict in-store tobacco advertising. Knowing that 75 percent of teens visit a convenience store at least once a week, the cigarette companies increased their advertising and promotions in and around these stores. Third, 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. Fourth, the MSA lacks a quick and effective mechanism for identifying violations and compelling industry compliance. Finally, and most importantly, the MSA did not establish an enforceable system and comprehensive set of rules to restrict or eliminate all the major tobacco advertising and marketing tools that have the greatest influence on our children.



Because the tobacco companies remain unregulated and unchecked, they have circumvented the limited advertising restrictions placed on them by the 1998 Master Settlement Agreement and continue to target children. Two recent examples include Brown and Williamson's Kool Mixx campaign and R.J. Reynold's candy-flavored cigarettes. The Kool Mixx campaign focused its marketing images around music and hip-hop, which is particularly appealing to African American and Latino youth. The campaign included 14 music concerts, a DJ competition and special-themed packs of cigarettes. In 2004, R.J. Reynolds introduced flavored cigarettes such as Twista Lime and Winter MochaMint, using colorful graphics and "scratch and sniff" marketing tactics. In both cases, the states' Attorneys General asserted the tobacco companies had violated the MSA by targeting youth through their advertising and promotion.

This legislation introduced by you, Mr. Chairman, and Senator Cornyn would provide the FDA with the authority and resources to effectively regulate tobacco products. The FDA would be authorized to restrict tobacco advertising and promotions, especially those targeted at children as evidenced in the examples stated previously. In addition, it would require the tobacco



companies to disclose the ingredients of tobacco products and smoke constituents, prohibit unsubstantiated health claims about so-called “reduced risk” products, and require larger and more informative health warnings on tobacco products, among other measures.

Last year, in the Department of Justice case against the tobacco companies, U.S. District Court Judge Gladys Kessler concluded “Knowing that advertising and promotion stimulated the demand for cigarettes, Defendants used their knowledge of young people, gained through tracking youth behavior and preferences, in order to create marketing campaigns (including advertising, promotion, and couponing) that would appeal to youth, in order to stimulate youth smoking initiation and to ensure that young smokers would select their brands.”

Just this year, R.J. Reynolds introduced a new version of its Camel brand cigarettes, specifically designed to appeal to women and girls. These new packs are laced in hot pink and teal. Ads include slogans such as “light and



luscious.” Shockingly, the industry is targeting women and girls at a time when lung cancer is the number one cancer killer of women.

FDA regulation presents our country with an historic opportunity to protect all Americans from tobacco addiction, especially our children. In addition to helping our children, this legislation is a critical step toward reducing health care disparities. Tobacco-related cancers remain disproportionately high among lower-income and minority communities, in part because the tobacco industry targets these groups. I know from my experience as a doctor that prevention is effective at improving people’s health and well-being. And I also know that minority groups and low-income populations do not have the same access to health programs, like cessation services, that others do. This once again gives the tobacco industry an unfair advantage. Tobacco use is the most preventable cause of death and disease in this country. Granting the FDA authority over tobacco products is the key prevention measure needed to reduce tobacco’s deadly toll.



Thank you, and thank you for your work on this bill. It will give our children a chance.