

## MEMORANDUM

**TO:** the President of the United States, Joseph Biden

**FROM:** the President of the United States, Joseph Biden

**SUBJECT:** Strategies to Constrain the Cigarette and Vaping Industries

**DATE:** 09/20/2022

Vaping product initially designed to substitute cigarettes for alleviation of adult smoker's craving for nicotine while minimizing the risk of causing cancer. However, according to CDCP and FDA,<sup>i</sup> 1/4 of high school kids and 1/10 of middle school kids vape, which partially because that JUUL as one of leading vaping companies aggressively targeting advertising towards teenagers by social media.

Therefore, President reignites Cancer Moonshot launched by him as VP in 2016, which intends to reduce death rate from cancer by at least 50% over next 25 years, aiming to improve public welfare substantially and left valuable policy legacy.

Cancer Moonshot<sup>ii</sup> is consistent with the administration immediate priorities<sup>iii</sup> of combat covid-19 pandemic and address worrisome disruption in public health. Under this context, several feasible policy options are available to the administration. As the header of executive branch, President Biden is capable for proposed new rules to regulate the producer's behavior and raise the issue to the national agenda. Also, representing federal government, Biden administration may seek for the cooperation to implement federal programs at state level through "intergovernmental transfers".

However, due to the extensive separation of powers, bicameralism, and federal dynamic embedding in U.S. political system, to pass a rule successfully, it requires the green light at multiple checking points<sup>iv</sup>, which can be blocked by the special interest groups lobbying for the business profit of a particular industries through direct donating to campaign, bribing, insider information exchange, etc. For instance, the rules to ban flavored vaping and menthols and reduce the nicotine level in cigarettes must be submitted for public comments, enduring the possibility of being sued by related companies<sup>v</sup>. Also, the electoral process in U.S. would render the incumbent officials constantly concerning about upsetting the base and the upcoming voting result, which can obstruct the development of policies unfavorable to the election<sup>vi</sup>.

On the other hand, the public support for the tobacco banning remains high, and advocacy groups are striving to promote the discourse. This memorandum attempts to provide a three-pronged approach from the angle of administration.

#### **A. Agenda-setting: harnessing loss-aversion mentality and extent attention span**

Pandemic creates a “window of opportunity” for the health-related policy due to the urgency of the issue, and report states the vaping rates among high school and middle school student reach a unprecedented low level<sup>vii</sup>. Thus, it’s essential to construct a momentum that teenagers are quit vaping, and loss-aversion parents would feel urging to not lose that momentum. More specifically, the report may tap into anxieties of the

parents and teachers through the language like: “relapse”, “addiction”, “epidemic”.

However, public may resist the policy change as individual weight losses more substantial than the gains in the evaluation due to the “endowment effect” (Eckles and Schaffner, 2010).<sup>viii</sup> To counter the status-quo bias, small-scale experimentation needs to be implemented.

Despite the salience of the issue, “issue-attention cycle” theory developed by Downs (1972)<sup>ix</sup> alarms about the gradual decline of intense public interest due to the high cost of solving the problem, split of interest, and bored of the problem. To extend the public attention span, Biden governments need to quickly mobilize the resource to “make news” by proposing new rules and implementing executive orders.

## **B. Reframing: movements to ethnic equity and realization of national values**

Public opinion is critical to achieve a series of policy objectives, as public opinion needs to be incorporated into the final rule as supporting argument, and it can impose high pressure on the politicians who deviates from ‘good policy’ to pursuit self-interest.

Firstly, its critical to reframe the debate over the regulation’s potential discrimination towards black community. The Rev. Al Shapton<sup>x</sup> argues that the government action disproportionally effects and harm African Americans, which constituting 85% of menthol smokers, and may illicit illegal underground market for

menthol cigarettes, giving law enforcement “another reason to targeting Black people. However, as Rep. Lisa Blunt Rochester (D-Del.)<sup>xi</sup> establishes, the culprit causing the massive disparities – the astonishingly high penetration rate of vaping and high prevalence of cancer among the black, is the biased promotion specifically targeting the Black community in America by the tobacco industries.” This is echoed by Derrick Johnson<sup>xii</sup>, the president of the NAACP, who identifies the devastating and fatal effect of tobacco for a vast of black people. Under this context, this regulation should be regarded as movements towards ethnic equity for its restraining the malicious targeting treatment endangering life and safety of African Americans.

Additionally, the individualism and suspicion towards federal government imbedded in the national value may be used by opponents as counter argument. However, the ideological arguments claiming to represent the public voice should be examined carefully, as corporation sponsor may create a deception of the public consensus. Also, the poll reports that 3/5 of Americans support stricter regulations on e-cigarettes<sup>xiii</sup>.

### **C. Building advocacy coalitions and discrediting the front groups**

According to Advocacy Coalition Framework proposed by Cairney (2019)<sup>xiv</sup>, policy actors may form advocacy coalition with actors sharing the same beliefs. To address information asymmetry, it’s essential for government to build coalition with

research institute or advocacy interest group to “integrate the role of such technique analysis into the overall process of policy change”, as Jenkins-Smith and Sabatier (1993)<sup>xv</sup> state. For instance, government may recognize the effort made by Campaign for Tobacco Free<sup>xvi</sup> kids and Bloomberg Philanthropies through certain forms of endorsement.

Also, government may combat Astroturfing, a practice that appear to be grassroots lobbying that organized by firms for business profits (Scott, 2019)<sup>xvii</sup>, by encourage FTC to take more active role, who is able to require disclosure of material connection between the endorser and seller of advertised product. Considering the history of the creation of front group in tobacco history, such as “Get Government Off our Back” (Apollonio and Bero, 2007)<sup>xviii</sup>. government may caution consumer about the integrity of ideological argument and raise public attention to the JUUL Labs “Switch Network” astroturfing by making documentaries<sup>xix</sup>.

Conclusively, this memorandum suggests using COVID-19 as opportunity window, reframing the debate as the movements to greater ethnic equity and realization of national value, building advocacy coalition and discrediting the front group as three-pronged political strategies to constraint the cigarettes and vaping strategies.

Appendix:

Table: Biden-Harris government movement towards tobacco and vaping

| Timeline                    | Biden-Harris government movement towards tobacco and vaping   | Type of Action          | Agenda Stage of Rulemaking | policy prospects  |
|-----------------------------|---|-------------------------|----------------------------|---|
| 2021.11                     | Houses passes Bidens 1.7 trillion social safe net and climate package, which exempts the tax duty of Cigarettes but includes vaping | Packages                | Passed                     | <ul style="list-style-type: none"> <li>- Reduce vaping consumption</li> <li>- Shifts to cigarettes as substitution</li> </ul>     |
| 2022.3.11                   | Regulate e-cig that contains synthetic nicotine, including menthol cig and flavored cig   | rule                    | Proposed Rule              | <ul style="list-style-type: none"> <li>- After 30-60 days public review</li> <li>- Tobacco industry may sue to stop it</li> </ul> |
| 2022. 6.2                   | Biden administration: cut nicotine in cigarettes  | Rule                    | Proposed Rule Stage        | <ul style="list-style-type: none"> <li>- After 30-60 days public review</li> <li>- Tobacco industry may sue to stop it</li> </ul> |
| 2022.06.23<br>(2022, 09.06) | FDA orders Juul to stop selling E-cig (Juul Settle Multistate Youth Vaping Inquiry for 438.5 million)                               | Marketing Denial Orders | Settled                    | <ul style="list-style-type: none"> <li>- Involve court decision</li> </ul>  |

## Reference:

- 
- <sup>i</sup> [Results from the Annual National Youth Tobacco Survey | FDA,](https://www.nytimes.com/2019/11/08/health/vaping-illness-cdc.html)  
<https://www.nytimes.com/2019/11/08/health/vaping-illness-cdc.html>
- <sup>ii</sup> <https://www.whitehouse.gov/briefing-room/statements-releases/2022/02/02/fact-sheet-president-biden-reignites-cancer-moonshot-to-end-cancer-as-we-know-it/>
- <sup>iii</sup> <https://www.whitehouse.gov/priorities/>
- <sup>iv</sup> [https://www.wsj.com/articles/juul-asks-court-to-block-fda-ban-on-its-e-cigarettes-11656076896?mod=latest\\_headlines](https://www.wsj.com/articles/juul-asks-court-to-block-fda-ban-on-its-e-cigarettes-11656076896?mod=latest_headlines)
- <sup>v</sup> <https://time.com/6156327/FDA-SYNTHETIC-NICOTINE-REGULATION/>
- <sup>vi</sup> <https://www.washingtonpost.com/health/2022/06/21/nicotine-cigarettes-biden-administration-cut/>
- <sup>vii</sup> (<https://www.latimes.com/science/story/2021-09-30/big-drop-in-u-s-teen-vaping-seen-with-covid-school-closures>)
- <sup>viii</sup> Eckles, D. L., & Schaffner, B. F. (2010, April). Loss aversion and the framing of the health care reform debate. In *The Forum* (Vol. 8, No. 1). De Gruyter.
- <sup>ix</sup> Downs, A. (1972). Up and down with ecology: The issue-attention cycle. *The public*, 28, 38-50.
- <sup>x</sup> (<https://int.nyt.com/data/documenttools/sharpton-letter-to-dr/9f8d7b2f079e67f5/full.pdf>)
- <sup>xi</sup> <https://www.politico.com/news/2022/04/28/proposed-menthol-ban-divides-black-leaders-00028750>
- <sup>xii</sup> <https://www.politico.com/news/2022/04/28/proposed-menthol-ban-divides-black-leaders-00028750>
- <sup>xiii</sup> <https://www.forbes.com/sites/brianbushard/2022/08/12/three-in-five-americans-support-strict-vaping-laws-poll-finds/?sh=1fdd93e0603>
- <sup>xiv</sup> Cairney, P. (2019). *Understanding public policy: theories and issues*. Bloomsbury Publishing.
- <sup>xv</sup> Jenkins-Smith, H. C., & Sabatier, P. A. (1994). Evaluating the advocacy coalition framework. *Journal of public policy*, 14(2), 175-203.

---

<sup>xvi</sup> <https://www.nytimes.com/2019/04/28/health/juul-lobbying-states-ecigarettes.html>

<sup>xvii</sup> Scott, M. J. (2019). Ripping up the astroturf: regulating deceptive corporate advertising methods. *Iowa L. Rev.*, 105, 431.

<sup>xviii</sup> Apollonio, D. E., & Bero, L. A. (2007). The creation of industry front groups: the tobacco industry and “get government off our back”. *American Journal of Public Health*, 97(3), 419-427.

<sup>xix</sup>

<https://www.google.com/url?q=https://tobaccotactics.org/wiki/astroturfing/&sa=D&source=docs&ust=1663771364296361&usg=AOvVaw0HDLROM2c5OjvdngCi0G2->