



For: Senate Committee on Ways and Means
18th Congress
Senate of the Philippines

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**Position Paper on the Bills on Heated Tobacco Products (HTPs),
Electronic Nicotine Delivery Systems (ENDS), and Alcohol Products**

Child Rights Coalition Asia (CRC Asia) and the Mindanao Action Group for Children's Rights and Protection (MAGCRP) recommend that during the deliberation of bills on increasing the excise tax on heated tobacco products (HTPs), electronic nicotine delivery systems (ENDS), and alcohol products, the 18th Congress of the Philippines should address the misinformation on the impacts of HTPs and ENDS; ban the sale, promotion, and distribution of these products to children and young people; tax the HTPs and ENDS with the same rate as traditional cigarettes and tobacco-based products; and increase the tax on alcohol products to reduce alcohol consumption and boost the resources for the implementation of the Universal Health Care.

This year, 2019, marks the 30th anniversary of the United Nations Convention on the Rights of the Child (UN CRC). This most ratified treaty in history, of which the Philippines is a State party, played a critical role in improving the lives of children around the world.

Article 24 of the UN CRC mandates that State parties recognize the right of the child to the highest attainable standard of health. In 2003, the UN Committee on the Rights of the Child came out with a General Comment on adolescent health, a detailed guidance on actions required by governments to ensure the implementation of the Convention. It outlines particular provisions on alcohol and tobacco:

1. "The Committee is concerned about the influence exerted on adolescent health behaviors by the marketing of unhealthy products and lifestyles. In line with article 17 of the Convention, States parties are urged to protect adolescents from information that is harmful to their health and development, while underscoring their right to information and material from diverse national and international sources. States parties are therefore urged to regulate or prohibit information on and marketing of substances such as alcohol and tobacco, particularly when it targets children and adolescents¹."

2. "Adolescents have the right to access adequate information essential for their health and development and for their ability to participate meaningfully in society. It is the

¹ Committee on the Rights of the Child. Thirty-third session 19 May-6 June 2003. General comment No. 4 (2003). Adolescent health and development in the context of the Convention on the Rights of the Child

obligation of States parties to ensure that all adolescent girls and boys, both in and out of school, are provided with, and not denied, accurate and appropriate information on how to protect their health and development and practise healthy behaviours. This should include information on the use and abuse, of tobacco, alcohol and other substances, safe and respectful social and sexual behaviours, diet and physical activity.”

The Preamble of the World Health Organization (WHO) Framework Convention on Tobacco Control (FCTC), a treaty developed to address the global tobacco epidemic, acknowledges that there is clear scientific evidence that prenatal exposure to tobacco smoke causes adverse health and developmental conditions for children, and that the escalation in tobacco consumption by children and adolescents and the initiation of smoking at increasingly early ages are alarming concerns.

A New England Journal of Medicine letter to the editor citing study on the trends in adolescent vaping showed that vaping prevalence among nationally representative 12th-, 10th-, and 8th-grade students more than doubled from 2017-2019². In the Philippines, according to the 2018 National Nutrition Survey, one out of five e-cigarette users in the country is aged 10 to 19 years old. This is three times higher than the proportion of traditional cigarette users among the same age group.

Guided by these, CRC Asia and MAGCRP recommend the following points:

1) Address the misinformation on the impacts of HTPs and ENDS.

Contrary to manufacturers’ claims, there is no evidence that HTPs are less harmful than traditional cigarettes. HTPs and ENDS contain nicotine -- a highly addictive substance, toxic chemicals, and flavored non-tobacco additives. As such, the manufacturers’ claims are yet to be supported by independent and non-industry-funded studies.

With the HTPs and ENDS targeting young people through their variety of flavors, colorful packaging design, and other “young, vibrant, and fashionable lifestyle” marketing strategies, children and adolescents should be properly informed about scientifically – and independently – gathered evidences on the impacts of e-cigarettes and tobacco use on their overall development. They should be provided with information and materials that promote their social, spiritual, and moral well-being, physical health, and mental health (UN CRC Article 17). Given the lack of reliable studies that HTPs and ENDS are “less harmful” alternatives to traditional cigarettes and given the facts about the negative impacts of tobacco use, the key messages in information dissemination should focus on dissuading children and adolescents from initiating the use of tobacco and not resorting to “less harmful” alternatives.

2) Ban the sale, promotion, and distribution of HTPs and ENDS to children and young people.

Consistent with the UN CRC principles and the Global Sustainable Development Agenda, children and young people should not be targeted as consumers of HTPs and ENDS. As

² Miech, R., Johnston L., O’Malley P.M., Bachman J.G., Patrick M.E. (September 2019) Trends in Adolescent Vaping, 2017-2019 [Letter to the Editor]. The New England Journal of Medicine. DOI: 10.1056/NEJMc1910739

recommended by the World Health Organization (WHO) Framework Convention on Tobacco Control (FCTC),³ the following complementary regulatory actions should be done:

- Banning the sale and distribution of ENDS to minors
- Banning the possession of ENDS by minors;
- Banning or restricting advertising, promotion, and sponsorship of ENDS
- Taxing ENDS at a level that makes the devices and e-liquids unaffordable to minors in order to deter its use in this age group. In parallel, combustible tobacco products should be taxed at a higher level than ENDS/ENDS to deter initiation and reduce regression to smoking
- Banning or restricting the use of flavors that appeal to minors
- Regulating places, density and channels of sales
- Taking measures to combat illicit trade in ENDS

At the moment, there are flavored, colorfully-packaged e-cigarettes and appealing HTPs that are attractive to children and young people. A research done by McKelvey K, Popova L, Kim M, et al (2018) on the likelihood of HTPs to attract adolescents and young people argues that based on industry's own data and independent scientific studies on the impact of the marketing of precedent technology-centric tobacco products, the introduction of HTPs will likely result in adolescent and young adult non-tobacco-users initiating HTP and could increase use of HTPs along with other tobacco products.

Preventing children from accessing highly addictive substances, such as nicotine, is crucial because these substances are harmful to the children and adolescents' brain development, including up to early and mid-20s. The adolescent brain is uniquely susceptible to nicotine addiction and several studies show that nicotine exposure during adolescence has long-standing effects in the brain, such as cell damage that leads to both immediate and persistent behavior changes.⁴ HTPs and ENDS also has adverse effects on children and adolescents' mental health. The effects of nicotine on a developing brain make quitting from smoking difficult for adolescents. Once addiction hits, children's capacities to develop and to decide on his/her health and well-being are jeopardized.

While tobacco-use initiation poses harm, the unique capacities of adolescents and young people to respond motivations should not be underestimated. A well-planned and accurate public health information and interventions addressing the impacts of HTPs and ENDS may provide opportunities to discourage smoking behavior among adolescents and young people.⁵

3) Tax the HTPs and ENDS with the same rate as traditional cigarettes and tobacco-based products as a prevention measure.

Public funds should be used to protect the health and well-being of the most vulnerable groups. Regardless of the debate on whether ENDS is an effective cessation tool or a gateway to smoking, the WHO recommends measures that prevent non-smokers, especially children/minors, and vulnerable groups, from being first-time users and later on developing addiction. Having a tax uniformity or taxing the HTPs and ENDS with the same rate as

³ WHO Framework Convention on Tobacco Control (2016). https://www.who.int/fctc/cop/cop7/FCTC_COP_7_11_EN.pdf

⁴ Yuan M, Cross SJ, Loughlin SE, Leslie FM. Nicotine and the adolescent brain. *J Physiol.* 2015;593(16):3397–3412. doi:10.1113/JP270492. "Nicotine exposure, increasingly occurring as a result of e-cigarette use, may induce epigenetic changes that sensitize the brain to other drugs and prime it for future substance abuse."

⁵ Lydon DM, Wilson SJ, Child A, Geier CF. Adolescent brain maturation and smoking: what we know and where we're headed. *Neurosci Biobehav Rev.* 2014;45:323–342. doi:10.1016/j.neubiorev.2014.07.003

traditional cigarettes conveys a strong public message on the State's commitment to fulfill its role in protecting the health and well-being of its constituents.

Decisions on how to deal with HTPs and ENDS must be informed by historical experiences on traditional tobacco regulations. As the world has seen in the past decades, the loose regulation on traditional cigarettes greatly contributed to the current generation's nicotine addiction. With the advent of ENDS and HTPs, the Philippine Congress now has the opportunity to harvest learnings on tobacco control and prevent new forms of nicotine addiction among children and young people by imposing strong regulations early at this stage. Taxing HTPs and ENDS with rates on par with traditional cigarettes and tobacco products is a proactive measure to address another form of nicotine addiction by the next generation. The tax to be collected from HTPs and ENDS should be earmarked for the implementation of the Universal Health Care Law and child protection services.

Moreover, HTPs and ENDS pose environmental risks through their product lifecycle -- from the production process, to consumption, and up to waste disposal. HTPs and ENDS are made of plastic and metal materials that contain chemical ingredients, which are yet to be disclosed by the manufacturers in order to further ascertain the environmental risks and impacts. Nonetheless, pollution control policies in some states in the USA have already identified vaping liquids and e-cigarettes as acute biohazardous wastes containing highly concentrated nicotine residues, electronic circuit boards, hard plastics, and lithium ion batteries.⁶ When disposed of improperly, these can leak out toxic heavy metals such as mercury, lead, and bromines, battery acids, and nicotine into the local environment. The sharp and acidic elements in e-cigarettes can also collapse, explode, or burn.⁷ Current patterns of disposal of traditional cigarettes and electronic wastes (e-waste) can provide a picture on possible problems regarding the environmental impacts of HTPs and ENDS that the children have to face in the future.⁸ As an intervention, the Philippine Congress should demand environmental tax and accountability from businesses profiting from HTPs and ENDS. Environmental impact assessment and closing the waste loop should be the mandated responsibility of the manufacturers.

Imposing tax on HTPs and ENDS for the rest of the population is a complementary measure that the Philippine can undertake. Ideally, HTPs and ENDS should be regulated similar to the action taken by some of the countries in the Asian region. To date, Thailand, Cambodia, Singapore, and India banned e-cigarettes in their countries due to the absence of a credible safety study. The ban is an attempt to safeguard the health of young people targeted to try "new and fashionable" ways to consume nicotine. In principle, no regulatory authority around should allow any new tobacco product to come to market without solid evidence clearly showing that this new product will not put the health of children and young people at risk, and without establishing appropriate measures to ensure that these harmful products will not be target for the youth's consumption.

4) Tax alcohol products to the maximum level and adjust the alcohol tax rates to inflation and income levels to boost resources for the implementation of the Universal Health Care.

⁶ <https://www.pca.state.mn.us/sites/default/files/w-hw4-65.pdf>

⁷ Hendlin, Y.H. (2018). Alert: Public Health Implications of Electronic Cigarette Waste. *American Journal of Public Health*. doi:10.2105/AJPH.2018.304699

⁸ Hendlin, Y.H. op cit

CRC Asia and MAGCRP are alarmed by the rise of affordable, easily-accessible, flavored, and pre-mixed alcopops or alcoholic beverages with less than 10% alcohol content that are marketed to appeal young people. The 2015 Global School-Based Student Health Survey cites that 67% of students who drank alcohol before age 14 for the first time, among students who ever had drink of alcohol other than a few sips⁹. One of the best-buy interventions to prevent access of the most vulnerable populations and reduce the use of harmful use of alcohol is to increase excise taxes. Almost all (95%) countries have alcohol excise taxes, but fewer than half of them use the other price strategies such as adjusting taxes to keep up with inflation and income levels, imposing minimum pricing policies, or banning below-cost selling or volume discounts.¹⁰

Alcohol products should be taxed to the maximum level to deter children, young people, and their households from using alcohol, which has the following outcomes and impacts as stated in the 2018 Global Status Report on Alcohol and Health 2018 of WHO:¹¹

- Children are more vulnerable to the harms of alcohol. Those most seriously harmed by another's drinking are likely to be the male drinkers' female partner and children. They are particularly adversely affected, both in terms of the drinker's behavior after drinking and in terms of shared family resources being expended on or in the course of the drinking (World Health Organization, 2018)
- Parental heavy drinking and alcohol problems were shown to be associated with worse outcomes in children, including educational outcomes, drug use, conduct problems, and criminality. Parental alcohol use disorders (AUDs) are associated with a higher risk of their children developing depression in adulthood. (World Health Organization, 2018)
- As drinking alcohol at an early age is said to significantly hamper brain development, and may lead to impaired memory and cognitive deficits that persist well beyond adolescence.
- Alcohol use in adolescents is associated with alterations in verbal learning, visual-spatial processing, memory and attention as well as with deficits in development and integrity of grey and white matter of the central nervous system. These neurocognitive alterations by adolescents' alcohol use seem to be related to behavioral, emotional, social and academic problems in later life, drinking or poor parent-adolescent relationship quality are among the factors related to adolescent alcohol use. (World Health Organization, 2018)
- Road traffic injuries are the leading cause of death for children and young adults aged 5-29 years. Among the top risk factors is driving under the influence of alcohol and any psychoactive substance or drug.¹²

While these measures ultimately aim to safeguard the health of children and young people by preventing initiation to HTPs, ENDS, and alcohol products, the proposals will also contribute to the mobilization of resources for public spending for the realization of child rights, in the context of the newly-legislated UHC Law.

CRC Asia and MAGCRP call on the Philippine Congress to consider these points in formulating policies that are consistent with the commitments to uphold the rights of children in the Philippines.

⁹ Global School-based Student Health Survey (GSHS), Philippines Country Report (2015). Retrieved from https://www.doh.gov.ph/sites/default/files/publications/2015GSHS_PHL_FinalCountryReport_0.pdf

¹⁰ Ibid

¹¹ Ibid

¹² Road Traffic Injuries. 7 December 2018. World Health Organization. Retrieved from <https://www.who.int/news-room/factsheets/detail/road-traffic-injuries>

About Child Rights Coalition Asia (CRC Asia)

CRC Asia is a network of child rights organizations working together to be a strong voice for child rights in the region by leading in strengthening child rights movements, promoting innovative approaches, and advocating better policies for and with the children. To date, CRC Asia has 16 member organizations based in 13 countries: Child Rights Coalition Cambodia, Hong Kong Committee on Children's Rights, Yayasan KKSP Education and Information Centre for Child Rights (Indonesia), Yayasan SEJIWA (Indonesia), Village Focus International (Lao PDR), Protect and Save the Children (Malaysia), Equality Myanmar, Child Workers in Nepal Concerned Centre, Group Development Pakistan, Civil Society Coalition on the Convention on the Rights of the Child (Philippines), Mindanao Action Group for Children's Rights to Protection (Philippines), Child Welfare League Foundation (Taiwan), The Life Skills Development Foundation (Thailand), Childline Thailand Foundation, and Vietnam Association for the Protection of Children's Rights.

About Mindanao Action Group for Children's Right to Protection (MAGCRP)

MAGCRP is a child rights protection network in Mindanao, the Philippines composed of six local child-focused non-government organizations (NGOs) had bonded together and accepted the challenge by then Save the Children Sweden to spearhead the campaign against Corporal Punishment. These organizations were Tambayan Center, Bantay Bata 163, Kabataan Consortium, Adolescent Health Advocates of Davao City, Family Planning Organization of the Philippines-SoCSarGen, Gitib of Ozamis and Katilingban Alang sa Kalambuan in Zamboanga. This was in response to the result of the world study on VAC by the United Nations that came public on that year.

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