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Tobacco Industry Documents [1]

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**Response to Executive Memorandum
Public Availability of Tobacco Documents**

On July 17, 1998, the President issued an Executive Memorandum highlighting the importance of tobacco industry documents that have been released as a result of recent tobacco litigation and congressional subpoenas. Citing the potential value of these documents to the public health community, the Memorandum directed the Secretary of Health and Human Services to do the following:

1. Propose a method for coordinating review of the documents and making available an easily searchable index and/or digest of the reviewed documents.
2. Propose a plan to disseminate widely the index and/or digest as well as the documents themselves, including expanded use of the Internet.
3. Provide a strategy for coordinating a broad public and private review and analysis of the documents to gain critical public health information. Issues to be considered as part of this analysis include: nicotine addiction and pharmacology; biomedical research, including ingredient safety, product design; and youth marketing strategies.

This paper proposes a plan to fulfill the objectives outlined in the Executive Memorandum.

I. Preface

Importance of Tobacco Industry Documents

Tobacco and health-related litigation over the past several years has resulted in the release of millions of previously inaccessible internal tobacco industry documents. Recent intensification of litigation activity, due primarily to efforts by States to recover tobacco-related medical expenses, has highlighted the importance of these documents to public health.

Among other things, the documents contain information about what manufacturers know and have known about the health consequences of tobacco use, how they have concealed this knowledge from the public, how cigarettes are designed, how the industry abandoned research into safer products for fear of litigation, how the industry has targeted its marketing to particular demographic groups including youth, what factors are most important in determining tobacco use, and how the industry has worked to undermine public health efforts that effectively reduce tobacco use.

The information that is now available, but not yet analyzed in detail or effectively

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disseminated, will be invaluable in helping scientists, educators, public health specialists, and regulators understand the development of the tobacco epidemic, and will allow them to better educate the public and to develop effective regulatory and programmatic strategies to reduce the harm caused by tobacco products.

Available Documents

The single most comprehensive holding of documents is in Minneapolis, Minnesota, at the State of Minnesota's Document Depository, established as part of the settlement reached in May 1998 between the Minnesota Attorney General and tobacco companies. The depository contains documents acquired through discovery in the Minnesota litigation and will, as a condition of the Minnesota settlement, incorporate documents released in any other U.S. smoking and health litigation. The documents in the Minnesota Depository can be searched through an electronic search engine and index available only at the depository (the "4-B Index").

Many of the documents in the depository, as well as other documents, are available through four primary Internet sites: the *House of Representatives Commerce Committee Site* (39,000 documents released in the Minnesota trial for which the industry had claimed privilege; these documents are not available at the depository); *University of California Library* site (Brown & Williamson documents released in 1994); the *Tobacco Resolution* (tobacco industry) site; and the *Blue Cross/Blue Shield of Minnesota* site (Minnesota trial exhibits).

The challenges to researchers and others interested in obtaining information from the documents include the following:

- not all documents are in electronic format;
- documents are not organized by broad subject categories;
- lack of subject indexing prevents searching of documents by subject or key word;
- full-text document searches are not possible; and
- documents are sorted separately by company or institution, requiring searching of several databases for a single area of interest.

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Users of Documents

In determining priorities for improving the ease of accessibility to the documents, it is critical to understand the wide range of potential users of the documents and the needs of those users.

Three primary groups of users will be the research community, the public health community, and regulators and policy makers. The efforts of researchers are critical to ensuring the dissemination of information in the documents within an analytical framework meaningful to public health efforts. Members of the public health community, will use the documents to determining strategic priorities, guide interventions, and educate policy makers and the public. Regulators and policy makers will use the documents to obtain detailed information in very specifically defined subject areas within their regulatory purview.

Other users include the journalistic and legal communities. Journalists will want direct access to documents, but will also rely on researchers and members of the public health community to learn about information of potential value in the documents. The legal community will use documents for litigation purposes, but will rely largely on internal processing and classification procedures which meet their unique legal needs. However, greater ease of access may assist legal collaboration where collaboration by other means is restrained by legal mechanisms, such as court protective orders.

The general public, including educators, parents and youth, is the ultimate destination of information from the documents. The public will, in most cases, access the information through secondary sources, such as media reports, results of published research, advocacy materials, and the Internet. However, the means of access to the documents and the type of information they contain need to be promoted so that interested members of the general public can access documents directly if they choose. It is also important that use of the documents as an education tool and information source is encouraged through promotion in educational settings and among parents.

The Changing Landscape of Document Accessibility

The approaches to increasing accessibility of tobacco industry documents must be flexible. As litigation trials continue, more documents will become available and more information highlighted from documents already made public. Future tobacco settlements may negotiate improved access to documents, perhaps making them available in electronic format or providing improved indices and search mechanisms.

Documents also may be made more accessible by legislative means. Tobacco legislation recently considered by Congress contained provisions for improving document accessibility. Future national and state legislation on tobacco may propose similar provisions.

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The private sector has expressed a keen interest in processing the documents. Firms are already marketing full-text searchable CD-Roms of subsets of the documents, and it is likely that the activities of the marketplace will expand, making more documents available. It will be important for the public sector to foster collaboration with the private sector so that the most valuable documents are made available at an affordable price.

All of these developments should be monitored. Government agencies need to work cooperatively with private and public institutions to foster a common understanding of the importance of the information contained in the documents and of communicating this information to the public.

II. Next Steps

1. Promote availability and enhance usability of documents currently electronically available:

- A. The Department of Health and Human Services will organize the establishment of a centralized Internet site that promotes the documents and provides users with a first point of connection to all other Internet sites containing documents or related information. The site should:
- link directly to other sites and ultimately allow searching of these sites
 - provide guidelines for using each of the existing Internet sites
 - function as a database in progress to highlight and link to important documents within various subject areas, including incorporation of a search engine as document volume increases
 - highlight research results as they become public
 - provide an Internet version of the "4-B Index" (presently only available on-site at the Minnesota Depository), that allows searching of documents across companies rather than searching individually by company
 - ultimately include an overlaid search engine to the document databases currently available so that users can perform simple searches across databases [entering Bates Numbers retrieved from 4-B Index would allow users to search, view, and download documents from the remote sites without having to search separate databases]
 - ✓ • contain a youth-oriented component that can be used as an educational tool in the schools and by parents with their children, and that is promoted among schools, teachers, and parents.

↑
Time line: 3 - 6 months

- B. The Department of Health and Human Services will promote communication exchange among information specialists, researchers, and other document users by establishing formalized forums or communication systems (for example, electronic password-secured listservs, Internet discussion sites, scheduled meetings) to:

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- facilitate the exchange information about the documents
- highlight ongoing research into the documents
- • determine a common set of research categories
- • create guidelines for standardized processing of documents

Time line: List serv can be immediately established; ongoing

2. Improve electronic accessibility and searching of the most important subsets of the documents:

- A. The Department of Health and Human Services will work with the Department of Justice to make widely available via the Internet the 39,000 privileged documents released in the Minnesota trial (the "Bliley documents"), thought to be among the most valuable of the documents for public health purposes, in a full-text searchable and conveniently viewable and downloadable format.

Time line: ?

- B. The Department of Health and Human Services will work with the Department of Justice to make the "Minnesota Select Set" available in electronic format. (The Select Set is comprised of approximately one to two per cent of all documents released in the Minnesota trial, chosen by State of Minnesota attorneys as the documents most relevant to the case and the subset from which trial exhibits were selected.)

*How many
pages
doc.*

- B.1. Convert the Select Set to electronic TIF files (graphic images only) and make available on CD-ROM by request.

Time line: 3 months

- B.2. Convert the Select Set to full-text searchable files (through Optical Character Recognition) and make available on CD-ROM by request.

Time line: 12 months

- B.3. Make the Select Set available for full-text searching on the Internet.

Time line: 18 months > too slow??

3. Promote review and analysis of the documents to gain critical scientific and public health information:

- A. Tobacco industry documents should be analyzed to gain scientific and technical

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knowledge in at least the following areas: nicotine pharmacology, nicotine addiction, health consequences of tobacco use, tobacco product additives, tobacco product design and manufacturing, product packaging, advertising and promotion, agriculture, marketing research, disruption of public health programs and intervention activities, manipulation of scientific processes, environmental tobacco smoke, and policy research.

- B. Research teams, consisting of scientists in the above disciplines should review the industry documents and develop a consensus on the scientific validity and the application of the industry's findings. In order to accomplish this, experts will be identified who are currently analyzing or planning to analyze tobacco industry documents. These, and other experts whose disciplines reflect the aforementioned categories will be convened to exchange information, set priorities for analysis, and advise funding agencies.
- C. The NIH will promote research on tobacco industry documents in several ways. Information about the documents will be made widely available to the research community. A program announcement will be released by the National Cancer Institute, soliciting applications for research in this field. A special ad hoc review group will be formulated to review the resulting research proposals in this unique field. Grants awarded under this program announcement will include a requirement that tobacco industry documents used in the research should be made available in an appropriate electronic format on the Internet.
- D. In managing the resulting research portfolio, NCI will convene semi-annual meetings of the grantees in this field. These meetings will be conducted collaboratively with the Department and all interested DHHS agencies. Grantees will be given the opportunity to report on their progress, to discuss common problems and solutions within their studies, and to develop collaborative research. A centralized inventory of published analyses in the scientific literature will be maintained to monitor progress toward the Department's goals. Research results will be distributed widely to scientific and lay audiences.

III. Conclusion

The documents discussed in this paper potentially offer the most valuable information on tobacco and health issues to become available in the past several years. As research into effective tobacco use reduction suggests a shift from clinical to public health and public policy approaches, the industry's internal documents provide information relevant to these approaches not obtainable through other means.

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The steps outlined in this plan will greatly enhance the ability of researchers and the public health community to understand the tobacco epidemic and to identify effective strategies to combat the epidemic. Improved access to documents and the activities of researchers and public health interests will ultimately result in a nation better informed about the risks of tobacco use, about the nature of tobacco marketing, and about steps that individuals can take to reduce tobacco use in their families and communities.

**Response to Executive Memorandum
Public Availability of Tobacco Documents
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On July 17, 1998, the President issued an Executive Memorandum highlighting the importance of tobacco industry documents that have been released as a result of recent tobacco litigation and congressional subpoenas. ***This initiative is designed to lift the tobacco industry's veil of secrecy so that all Americans can know the origins of our epidemic of teen smoking and the history of our national addiction to tobacco, and allow us to use the industry's darkest secrets to save a new generation of children from the deadly habit of tobacco-use.*** Citing the potential value of these documents to the American people and the nation's public health community, the Memorandum directed the Secretary of Health and Human Services to do the following:

1. Propose a method for coordinating review of the documents and making available an easily searchable index and/or digest of the reviewed documents.
2. Propose a plan to disseminate widely the index and/or digest as well as the documents themselves, including expanded use of the Internet.
3. Provide a strategy for coordinating a broad public and private review and analysis of the documents to gain critical public health information. Issues to be considered as part of this analysis include: nicotine addiction and pharmacology; biomedical research, including ingredient safety; product design; and youth marketing strategies.

This paper proposes a plan to fulfill the objectives outlined in the Executive Memorandum.

I. Preface

Importance of Tobacco Industry Documents

Landmark tobacco litigation ***brought by the State Attorneys General and others***, Congressional inquiries, and the Food and Drug Administration's historic investigation have resulted in the release of millions of previously inaccessible internal tobacco industry documents. Among other things, the documents contain information about what manufacturers know and have known about the health consequences of tobacco use, how they have concealed this knowledge from the public, how cigarettes are designed, how

the industry abandoned research into safer products for fear of litigation, how the industry has targeted its marketing to particular demographic groups including youth, what factors are most important in determining tobacco use, and how the industry has worked to undermine public health efforts that effectively reduce tobacco use.

The information that is now available, but not yet analyzed in detail or effectively disseminated, will be invaluable in helping scientists, educators, public health specialists, and regulators understand the development of the tobacco epidemic, and will allow them to better educate the public and to develop effective regulatory and public health strategies to reduce the harm caused by tobacco products. ***This information will help us design better public health strategies to break the addictive hold that tobacco currently has on 4.5 million children and 47 million adults in this nation.***

Available Documents

The single most comprehensive holding of documents is in Minneapolis, Minnesota, at the State of Minnesota's Document Depository, established as part of the settlement reached in May 1998 ***to resolve the lawsuit brought by between the Minnesota Attorney General, and Blue Cross and Blue Shield of Minnesota against the and tobacco companies.*** The depository contains ***an estimated 26 million pages of*** documents acquired through discovery in the Minnesota litigation and will, as a condition of the Minnesota settlement, incorporate documents released in any other U.S. smoking and health litigation ***in this country. Another 7 million pages of documents acquired through the litigation are stored in Guildford, England. However, the vast majority of these 33 million pages are only available on site at the two depositories.***

Additionally, the depository is also home to the Minnesota Select Set, which contains the 1-2 percent of the 33 million documents pages selected by the Minnesota trial attorneys as possible trial exhibits. These documents are currently available at the Minnesota depository [confirm: aren't they also on the industry web site?]. Also available only on site is The documents in the Minnesota Depository can be searched through an electronic search engine and index ~~available to date only at the depository~~ (the "4-B Index") ***which allow documents to be searched by date, author, and title [etc.], but not by subject matter.***

~~Many~~ ***A fraction*** of the documents in the depository, as well as other documents, are available through ~~four~~ ***five*** primary Internet sites: the ***House of Representatives Commerce Committee Site***

(<http://www.house.gov/commerce/TobaccoDocs/document.html>; 39,000 documents released in the Minnesota trial for which the industry had claimed privilege; these documents **were subpoenaed by Commerce Committee Chairman Bliley and** are not available at the depository); the **Smokescreen** site where many of the Commerce Committee documents are available in a searchable format (<http://www.smokescreen.org/documents>); **University of California Library** site (<http://www.library.ucsf.edu/tobacco>; Brown & Williamson documents released in 1994 and the Mangini collection released in 1998); the **Tobacco Resolution** (tobacco industry) site (<http://www.tobaccoresolution.com>); and the **Blue Cross/Blue Shield of Minnesota** site (<http://www.mnbluecrosstobacco.com/toblit/trialnews/index.html>; **the 3,000 documents used as** Minnesota trial exhibits).

The challenges to researchers and others interested in obtaining information from the documents include the following:

- ~~not all~~ **very few** a fraction of the documents are in electronic format, **and the vast majority of documents are available only in hard copy at the Minnesota depository;**
- **the 4-B index is only available on site at the Minnesota depository;**
- documents are not organized by broad subject categories;
- lack of subject indexing prevents searching of documents by subject or key word;
- full-text ~~document~~ searches **for most documents** are not possible; and
- documents are sorted separately by company or institution, requiring searching of several databases for a single area of interest.

Users of Documents

In determining priorities to improve accessibility to the documents, it is critical to understand the wide range of potential users of the documents and the needs of those users.

Three primary groups of users will be the research community, the public health community, and regulators. **Researchers will play the critical role of analyzing the documents for their public health value, including decades-worth of industry-sponsored studies on the nature of nicotine addiction, tobacco-related illnesses, and marketing strategies targeting children.** ~~The efforts of researchers are critical to ensuring the dissemination of information in the documents within an analytical framework meaningful to public health efforts.~~ Members of the public health community, will use the documents to determine strategic priorities **for shaping public policy,**

~~devise guide~~ interventions **to help people quit and prevent young people from smoking before they start** starting to smoke and educate policy makers and the public. Regulators will use the documents to obtain detailed information ~~in very specifically defined subject areas within their regulatory purview that will help guide and inform their work.~~

Other users include the journalistic and legal communities. While Journalists and lawyers will want direct access to documents, **but** they will also rely on researchers and members of the public health community to learn about information of potential value in the documents.

While the general public will not be the primary users of these materials, the American people -- especially educators, parents and youth -- should be the ultimate beneficiary of information contained in the documents. **The public deserves to learn both what the industry knew about the dangers of smoking while marketing their products, and steps that can taken to improve their health.** ~~It is the nation's public health that can be better protected by dissemination and analyses of the information contained in these documents. Through the work of Researchers, advocates and journalists can help the public will better understand how the tobacco industry sought for years to hide the truth about the dangers of smoking and about their own systematic efforts to target children. the epidemic of tobacco and how it has been spread.~~ Finally, these documents can be an immensely important education tool and should be provided to ~~both~~ teachers, ~~and~~ parents, **and students.** **Because research shows that an effective way to reduce youth smoking is to expose industry efforts to lure children by glamorizing smoking, special attention should be devoted to packaging and distributing educational materials based on documents that reveal this practice.**

The Changing Landscape of Document Accessibility

In taking steps to increase the accessibility of tobacco industry documents, the federal government should ~~be flexible~~ **devise a system that can be adapted and upgraded to keep pace with other public and private efforts.** As litigation continues, more documents and information will become available to the public. Future tobacco settlements may improve access to documents, by making them available in electronic format or providing improved indices and search mechanisms. **Moreover, the Department of Justice has filed a brief on behalf of the Department of Health and Human Services in support of the State of Minnesota's efforts to unseal the tobacco industry's own multi-million dollar computerized index (the "4-A Index"). Unlike the 4-B Index, which is currently available at the Minnesota depository, the 4-A Index would permit searches based on subject matter, allowing far more precise searches.** The 4-A index would permit far more precise searches and

focused identification of documents than the 4-B index currently available at the Minnesota Depository.

~~Documents also may be made more accessible by legislative means. Tobacco legislation recently considered by Congress contained provisions for improving document accessibility. Future legislation on tobacco should contain similar provisions.~~

The private sector has expressed a keen interest in processing the documents. Firms are already marketing full-text searchable CD-Roms of subsets of the documents, *but these sets are often expensive. and purchasing them may be prohibitively expensive for some members of the public.* It is likely that the activities of the marketplace will expand, making more documents more easily accessible.

II. Next Steps

Important steps can and should be taken now, however, to make the incredibly valuable public health information in these documents available and easy to use. Working with the Department of Justice, the Department of Health and Human Services will:

- o Within 60 days, create a comprehensive HHS Internet site with a searchable version of the 4-B index that will enable the public to locate and ~~request through the mail [verify]~~ and order through fax or mail from the Minnesota Depository electronic images or paper copies of its tobacco industry documents. ~~a hard copy of [verify] any of its tobacco industry documents.~~ In addition, this gateway doorway site will have links to other Internet sites with tobacco industry documents and will provide information on how best to use those other sites. ~~Ultimately, this site will have an overlaid search engine for all sites and databases linked to it.~~ To expedite and facilitate coordination in the research effort, HHS will establish communications systems through the Internet site and other electronic means to enable researchers to coordinate their activities and share the results of their findings.

- o Within ~~90~~ 120 days, make available to the public on CD-Rom, imaged copies of all the tobacco industry documents contained in the Minnesota Select Set. These documents, totaling about 500,000 pages, were chosen by the Minnesota Attorney General's office and its co-counsel as the most important documents for that state's litigation. *Currently, the documents are not available electronically, but instead are available only in hard copy on-site at the depository [confirm: is select set available on industry web site].*

- o Within 120 days, announce the intention of the National Cancer Institute

(NCI) to support availability of ~~[up to] \$__ million in~~ additional research on tobacco industry documents. ~~funds from the National Cancer Institute (NCI).~~ NCI ~~has already taken an initial step in this direction by is already~~ funding research based on recently disclosed tobacco industry documents. ~~, resulting in the publication last month of and just last month a major scientific journal article was published on nicotine addiction as a result of this effort.~~ ***This additional funding will enable NCI to vastly expand its research in this area and others of critical importance to public health, including nicotine pharmacology; biomedical research, including ingredient safety; product design; youth marketing strategies; and environmental tobacco smoke.*** A special ad hoc review group will be formed to review research proposals in this unique field. ~~Grants awarded Under this program announcement, will include a requirement that tobacco industry documents used in the research~~ ***along with an index a digest in the standard format prepared by the researchers*** will ~~should be~~ made available in an appropriate electronic format on the HHS Internet site. ~~To encourage a more coordinated and expedited research effort, HHS will promote communication among all document users by establishing communications systems, such as password-secured listservs and electronic bulletin boards, that will enable researchers to communicate easily with one another. In addition, NCI will convene semi-annual research meetings to give tobacco document researchers the opportunity to report on their progress, to discuss common problems and solutions, and to develop collaborative research. A centralized inventory of published analyses in the scientific literature will be maintained on the HHS Internet site to monitor progress toward the Department's goals.~~

~~o Ultimately Within 150 days, these the Minnesota Select documents will be made available in a text-searchable format on the HHS Internet site and on CD-ROM. Other groups of tobacco documents, such as those subpoenaed by House Commerce Committee Chairman Tom Bliley, will also be made available on the HHS Internet site. At the same time, HHS will also post on the HHS internet site an improved search engine that will allow simple searching of~~ Ultimately, this site will have an overlaid search engine for all sites and databases linked to the ~~HHS site it. This will enable users to search all tobacco documents available on-line through a single "one stop shopping" point of entry using a standardized search format, instead of searching each separate web site individually, as currently required. This search engine will establish a common, easily searchable format for all documents posted on the HHS web site. In order to facilitate this effort and to coordinate with private efforts to make the documents public, HHS will convene meetings of interested parties who will be charged with establishing a common set of terms for the search engine and will develop a document digest format. digest.~~

o Within 180 days, the Minnesota Select Set will be made available in a text-searchable format on the HHS Internet site. At the same time, HHS will post on the HHS Internet site a single search interface able to search other tobacco industry document sites, within technological limitations. This would allow a user

to enter a single set of search parameters into the HHS search interface (which would sequentially search all other sites that it is technically able to search), browse the results of the search on the HHS site, and link to the documents on other sites resulting from the search.

~~e Within 12 months, make key documents now available only at the Minnesota and Guildford England Depositories widely available. To ensure the millions of important documents beyond those that are currently available on-line are reviewed, analyzed, and readily accessible, HHS will convene a multi-disciplinary team of experts, including individuals who managed the documents for the Minnesota trial and FDA representatives, to establish a priority list of types of documents that are in these depositories and should be made more widely accessible. This list shall rank types of documents (on the basis of subject matter, authorship, dates, etc.) based on their expected public health significance. HHS will then send teams of researchers to the depository to search for these documents and make them available in a searchable electronic form on CD-Rom and/or the Internet. As with other documents cited above, NCI research funds will be made available to support researchers' analyses of these documents.~~

~~e Encourage and support efforts to investigate and make public all relevant public health information from the tobacco industry's secret documents. Because of the volume of materials that have been made available, there are literally millions of pages of documents that need to be reviewed and analyzed for their public health value. Traditionally, archived materials such as these have been studied by researchers individually. To encourage a more coordinated approach and to speed up this process, HHS will promote communication among all document users by establishing formalized forums or communication systems such as electronic password-secured listservs and scheduled meetings. In addition, NCI will convene semi-annual meetings of its grantees in the field of research into the tobacco documents. Grantees will be given the opportunity to report on their progress, to discuss common problems and solutions, and to develop collaborative research. A centralized inventory of published analyses in the scientific literature will be maintained on the HHS Internet site to monitor progress toward the Department's goals.~~

~~e Within 18 months, the Food and Drug Administration will convene an ad hoc committee to review relevant tobacco industry documents as well as scientific analyses of these documents, and provide a report to the Secretary regarding their implications for the regulation of tobacco products.~~

~~e The Secretary shall submit bi-annual reports to the President on the implementation of this plan.~~

III. Conclusion

The documents discussed in this paper offer the most valuable information on tobacco and health issues to become available in the past several years. As research into effective tobacco use reduction suggests a shift from clinical to public health and public policy approaches, the industry's internal documents provide information relevant to these approaches not obtainable through other means.

The steps outlined in this plan will greatly enhance the ability of researchers and the public health community to understand the tobacco epidemic and to identify effective strategies to combat the epidemic. Improved access to documents and the activities of researchers and public health interests will ultimately result in a nation better informed about the risks of tobacco use, about the nature of tobacco marketing, and about steps that individuals and government can take to reduce tobacco use in their families and communities.

THE WHITE HOUSE AT WORK

Friday, July 17, 1998

PRESIDENT CLINTON: PROTECTING AMERICA'S YOUTH FROM TOBACCO

Let's agree on at least one thing: Children are not the future of our tobacco companies. They are the future of America. We must not let their future, or America's future, go up in smoke.

President Bill Clinton
July 17, 1998

Today, President Clinton signs an Executive Memorandum directing the Secretary of Health and Human Services (HHS) to coordinate a public health review of tobacco industry documents and develop a plan to make the documents more accessible to researchers and the public. The President also announces that the Department of Justice will file a brief in support of the State of Minnesota's efforts to make the tobacco industry's own, currently existing, computerized index to these documents available to the public. Through these actions, we can use the industry's darkest secrets to save a new generation of children from this deadly habit.

Most Tobacco Documents Are Not Readily Accessible. For decades, the tobacco companies sought to hide from the public the truth about the dangers of smoking and the industry's own efforts to target children. Documents that have been released show that even as tobacco companies denied the addictive nature of nicotine, they conducted secret research in their labs and devised marketing strategies to addict children to smoking. These documents are the tobacco companies' legacy of shame; however, most of these documents are not readily accessible by the public.

A Presidential Plan For Public Access To Tobacco Industry Documents. President Clinton is directing the Department of Health and Human Services to devise a plan to make these documents more accessible for all Americans. The President is calling on HHS to create a plan that would:

- *Propose a strategy for coordinating the review of tobacco documents and make them available through an easily searchable index and/or digest of the reviewed documents;*
- *Devise a plan to widely distribute the index and/or digest as well as the documents themselves, including expanded distribution on the Internet;*
- *Provide a strategy for coordinating a broad public and private review and analysis of the documents to gain critical public health information. As part of this analysis, issues to be considered include, an analysis of nicotine addiction and pharmacology, biomedical research, product*

design, and youth marketing strategies.

Access To Documents Will Lead To Additional Research. By making these documents widely available, the public and private sector will benefit:

- Public health experts can design more effective anti-smoking strategies by studying marketing plans in these documents;
- Scientists can look to the documents for findings that can aid their research into nicotine addiction and tobacco-related illnesses;
- All Americans can understand the role the tobacco industry has played in addicting our children to this deadly habit.

Supporting Efforts To Unseal The Key Tobacco Industry Database. The President will announce that the Department of Justice will file a brief in the trial court of Minnesota in support of the efforts by the State of Minnesota to unseal a comprehensive index to industry documents created by the tobacco companies for use in litigation. This index is the tobacco industries' road map to its own documents, and it will significantly improve the ability of public health experts, scientists, state and federal officials, and the public to gain important public health information. Opening the doors to these documents will help lift the veil of secrecy regarding the tobacco industry's efforts to hook our children on cigarettes.

The White House Briefing Room
The White House at Work Archives



July 17, 1998

MEMORANDUM FOR THE SECRETARY OF HEALTH AND HUMAN SERVICES

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

July 17, 1998

July 17, 1998

MEMORANDUM FOR THE SECRETARY OF HEALTH AND HUMAN SERVICES

SUBJECT: Public Availability of Tobacco Documents

For decades, the tobacco industry sought to hide from the American people critically important information about the health hazards of tobacco and the industry's efforts to induce children to smoke. Recently, court cases and congressional subpoenas have forced the tobacco companies to make many of their documents public.

These documents confirm that for decades the tobacco companies did intensive research on the smoking habits of children, knew tobacco products were addictive and deadly, understood that a price increase would drive down the number of young people who smoke, and deliberately marketed their products to young people and minorities.

Because they provide new information about which types of advertising appeal to children, these documents can help public health experts design counter-advertising campaigns and other strategies to protect children. These documents also can assist scientists in understanding more about the addictive nature of nicotine, the health consequences of tobacco use, and the effects of certain tobacco product designs and ingredients. It is therefore critical to the fight against youth smoking that the Nation's scientists and public health experts carefully examine and analyze these documents.

Although many tobacco industry documents are now public, most are not readily accessible. While many public health leaders have found and highlighted important documents, there is no comprehensive public index to help researchers locate information contained in the documents. Only a small percentage of the documents are posted on the Internet and it is difficult to search through them in their current format.

The State of Minnesota is currently involved in litigation to obtain the public release of a computerized index (the so-called 4-A Index), created

by the tobacco industry for use during litigation. The tobacco industry has fought to prevent the release of this index. It is the industry's road map to its own documents and could improve significantly the ability of public health experts, scientists, State and Federal officials, and the public to search through industry documents. The bipartisan comprehensive tobacco legislation recently considered in the Senate contained strong provisions for public disclosure of tobacco industry documents. While I will continue to fight to enact comprehensive tobacco legislation, I am determined to move forward to protect America's children from tobacco.

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Therefore, I hereby direct you, working with the Attorney General, the States, public health professionals, librarians, and other concerned Americans, to report back to me in 90 days with a plan to make the tobacco industry documents more readily accessible to the public health community, the scientific community, the States, and the public at large. This plan should:

- (1) Propose a method for coordinating review of the documents and making available an easily searchable index and/or digest of the reviewed documents.
- (2) Propose a plan to disseminate widely the index and/or digest as well as the documents themselves, including expanded use of the Internet.
- (3) Provide a strategy for coordinating a broad public and private review and analysis of the documents to gain critical public health information. Issues to be considered as part of this analysis include: nicotine addiction and pharmacology; biomedical research, including ingredient safety; product design; and youth marketing strategies.

To help ensure greater access to these documents, the Department of Justice plans to file an amicus brief in the trial court in support of the State of Minnesota's motion to unseal the industry-created 4-A index.

I remain committed to using every power of my office to protect children from the dangers of tobacco. Through these actions, we can use the industry's darkest secrets to save a new generation of children from this deadly habit.

WILLIAM J. CLINTON

#

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July 17, 1998

MEMORANDUM FOR THE SECRETARY OF HEALTH AND HUMAN SERVICES

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

July 17, 1998

July 17, 1998

MEMORANDUM FOR THE SECRETARY OF HEALTH AND HUMAN SERVICES

SUBJECT: Public Availability of Tobacco Documents

For decades, the tobacco industry sought to hide from the American people critically important information about the health hazards of tobacco and the industry's efforts to induce children to smoke. Recently, court cases and congressional subpoenas have forced the tobacco companies to make many of their documents public.

These documents confirm that for decades the tobacco companies did intensive research on the smoking habits of children, knew tobacco products were addictive and deadly, understood that a price increase would drive down the number of young people who smoke, and deliberately marketed their products to young people and minorities.

Because they provide new information about which types of advertising appeal to children, these documents can help public health experts design counter-advertising campaigns and other strategies to protect children. These documents also can assist scientists in understanding more about the addictive nature of nicotine, the health consequences of tobacco use, and the effects of certain tobacco product designs and ingredients. It is therefore critical to the fight against youth smoking that the Nation's scientists and public health experts carefully examine and analyze these documents.

Although many tobacco industry documents are now public, most are not readily accessible. While many public health leaders have found and highlighted important documents, there is no comprehensive public index to help researchers locate information contained in the documents. Only a small percentage of the documents are posted on the Internet and it is difficult to search through them in their current format.

The State of Minnesota is currently involved in litigation to obtain the public release of a computerized index (the so-called 4-A Index), created

by the tobacco industry for use during litigation. The tobacco industry has fought to prevent the release of this index. It is the industry's road map to its own documents and could improve significantly the ability of public health experts, scientists, State and Federal officials, and the public to search through industry documents. The bipartisan comprehensive tobacco legislation recently considered in the Senate contained strong provisions for public disclosure of tobacco industry documents. While I will continue to fight to enact comprehensive tobacco legislation, I am determined to move forward to protect America's children from tobacco.

more

(OVER)

2

Therefore, I hereby direct you, working with the Attorney General, the States, public health professionals, librarians, and other concerned Americans, to report back to me in 90 days with a plan to make the tobacco industry documents more readily accessible to the public health community, the scientific community, the States, and the public at large. This plan should:

- (1) Propose a method for coordinating review of the documents and making available an easily searchable index and/or digest of the reviewed documents.
- (2) Propose a plan to disseminate widely the index and/or digest as well as the documents themselves, including expanded use of the Internet.
- (3) Provide a strategy for coordinating a broad public and private review and analysis of the documents to gain critical public health information. Issues to be considered as part of this analysis include: nicotine addiction and pharmacology; biomedical research, including ingredient safety; product design; and youth marketing strategies.

To help ensure greater access to these documents, the Department of Justice plans to file an amicus brief in the trial court in support of the State of Minnesota's motion to unseal the industry-created 4-A index.

I remain committed to using every power of my office to protect children from the dangers of tobacco. Through these actions, we can use the industry's darkest secrets to save a new generation of children from this deadly habit.

WILLIAM J. CLINTON

#

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Issue Agenda

7-13-98
Docs. Mtg.
CR, OMB, HHS
Turman O'Hara

I. Purposes of the Document Index/Depository

- (1) to provide access to tobacco-related material to support public and private lawsuits;
- (2) to gather information that could assist in the regulation of tobacco, including scientific, medical, and research data; and
- (3) to make key tobacco documents more readily accessible to the media and the public-at-large.

II. Option 1 -- DPC Proposal -- Plan for Tobacco Document Depository/Index

III. Option 2

IV. Option 3

V. Ranking of Options -- (by criteria such as feasibility, effectiveness, or cost)

VI. Contingencies (e.g., if Justice is successful in obtaining a master index or funds are available in other areas)

STATE OF MINNESOTA
Office of the Attorney General

TO: Jerry Mande
Office of Domestic Policy Advisor
The White House

DATE: July 6, 1998

FROM: Eric Johnson 
Executive Assistant
to the Attorney General

PHONE: 612/296-6196 Voice
612/297-4193 Fax
612/297-7206 TTY

SUBJECT: Here's the summary of the information re: Tobacco Documents

Minnesota Depository Documents

Totaling approximately 33 million tobacco documents, this is the largest collection of tobacco documents in the world. The documents are warehoused in two separate depositories. The Minneapolis depository contains approximately 27 to 28 million documents and is now open to the public. A second depository in Guildford, England contains approximately 5 to 7 million BAT and affiliated company documents. While the Guildford depository is not currently open to the public, the "Minnesota Select Set" documents from that depository have been added to the Minneapolis depository.

Minnesota Select Set

These are the 1 to 2 percent of the 33 million documents (a couple hundred thousand) that were selected by the Minnesota trial team for possible use at trial. This is the group of documents that the industry placed on its web-site in order to stop the hemorrhaging suffered from the day after day release of damaging documents. The site, however, is notoriously difficult to search and even more difficult to download. Moreover, we believe it may be missing many key documents.

Minnesota Trial Exhibits

These are the crème de la crème - - close to 2,000 documents that were admitted as exhibits in the Minnesota trial. Most of these documents can be accessed on the Blue Cross Blue Shield of Minnesota web-site.

39,000 Privilege Documents

These are the industry's attorney-client privilege documents which Minnesota fought all the way to the United States Supreme Court to uncover. Once we prevailed, the industry turned the documents over to the United States House Commerce Committee. Chairman Bliley had the documents placed on the Committee's public web-site, but he has restricted access to at least 39 documents. Moreover, the site is very difficult to search - - like going to a public library without a card catalog.

Other Privilege Documents

We are still fighting in Court to gain the public release of several thousand privilege documents, mostly from American Tobacco and BAT. These documents have been received and reviewed by the Minnesota Trial Team, but are still subject to a protective order. We would welcome DOJ or the White House intervening to support the public release of these secret documents.

864 Liggett Documents

These privilege documents were made public in the Minnesota trial and are on the House Commerce Committee web-site.

Minnesota Lobbying Documents

Under the terms of Minnesota's settlement, the tobacco companies have been forced to disclose documents relating to lobbying in Minnesota. Included have been documents of national significance such as the 100 page 1996 Tobacco Institute budget and a 350 page 1995 document detailing the lobbying strategy for opposing the proposed FDA rules.

4 A-Index

This is the multi-million dollar index created for internal use by the tobacco industry. It is the roadnap to the industry's documents and would be a critical aide in searching for key documents that aren't contained in the Minnesota Select Set and for identifying key privilege documents that haven't yet been produced. Minnesota had to fight all the way to the United States Supreme Court to force the release of this computerized index. However, it is still subject to the Court's protective order. We continue to fight in Court for public release of the 4 A Index and would welcome intervention and support by DOJ or the White House.

Jerry,

Re the Court Orders releasing documents, here's the status:

1. The Settlement essentially says that we will continue litigating over making certain documents and indices public.
 2. The first order issued on this subject after the Settlement was from the trial judge, Fitzpatrick, issued on May 31 (enclosed). It says that the 4 A indices (the GOOD ones) and several sets of documents for which privilege had been stricken or which were ordered produced as a sanction, "shall be made available to the public."
 3. Even prior to filing an appeal, the Industry moved to vacate the May 31 Order. That motion was acted on by the judge now handling the case, Judge Cohen - Judge Fitzpatrick had taken himself off the bench and filed for early retirement and disability based on a severe heart condition. Judge Cohen issued an Order on June 15th (enclosed) that says that the documents referred to in the May 31 Order remain CONFIDENTIAL until he can rule further on their motion to vacate. He has not yet done so.
- NOTE: His order says (p 3) that it does not affect the disclose of docs that were admitted as trial exhibits, and s are out, and we, along with everyone else in the world, can work with those docs, talk about them with others, etc.
4. In the mean time, the defendants have appealed the May 31 Order. That appeal is pending in the Appeals Court.
 5. It is anticipated that no matter which way the appeal goes, it will be appealed to both the Minnesota Supreme Court and the U.S. Supreme Court.
 6. So, for now, the documents referred to in the May 31 order remain Confidential with respect to the Minnesota action.

Luanne Nyberg for Eric Johnson (612-215-1533)

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Case Type: Other Civil

THE STATE OF MINNESOTA,

COURT FILE NO. C1-94-8565

BY HUBERT H. HUMPHREY, III,
ITS ATTORNEY GENERAL,

and

BLUE CROSS AND BLUE SHIELD
OF MINNESOTA,

Plaintiffs,

**RELEASE OF DOCUMENTS
FOR PUBLIC ACCESS**

vs.

PHILIP MORRIS INCORPORATED,
R.J. REYNOLDS TOBACCO COMPANY,
BROWN & WILLIAMSON TOBACCO CORPORATION,
B.A.T. INDUSTRIES P.L.C.,
BRITISH-AMERICAN TOBACCO COMPANY LIMITED,
BAT (U.K. & EXPORT) LIMITED,
LORILLARD TOBACCO COMPANY,
THE AMERICAN TOBACCO COMPANY,
LIGGETT GROUP, INC.,
THE COUNCIL FOR TOBACCO RESEARCH - U.S.A., INC.,
and THE TOBACCO INSTITUTE, INC.,

Defendants.

WHEREAS, the Consent Judgment entered by the Court on May 8, 1998, sets forth procedures for public access to documents and court files (*see* procedures set forth at Paragraph VII, Public Access to Documents and Court Files, in the Consent Judgment dated May 8, 1998);

WHEREAS, Paragraph VII.C of the Consent Judgment grants leave for Plaintiffs to seek court approval to ensure the availability of certain documents to the public, provided that any such

In accordance with the procedures set forth at Paragraph VII, Public Access to Documents and Court Files, in the Consent Judgment dated May 8, 1998, the following documents are hereby released and shall be made available to the public at the depository, if they have not already been provided²:

a. All non-privileged documents contained in the Minnesota Depository, including 4A and 4B indices and privilege logs as provided in ¶VII.A;

b. All documents for which claims of privilege have been stricken and/or previously ordered produced pursuant to the following Orders of the Court :

(i) Order with Respect to Non-Liggett Defendants' Objections to the Special Master's Report Dated September 10, 1997, dated December 16, 1997 (CLAD Nos. 1821, 1835);

(ii) Order Imposing Sanctions Upon the American Tobacco Company and Brown & Williamson Tobacco Corporation as Successor by Merger to the American Tobacco Company, dated December 30, 1997 (CLAD No. 1914);

(iii) Order with Respect to Non-Liggett Defendants' Objections to the Special Master's Report Dated February 10, 1998, dated March 7, 1998 and related Orders (CLAD Nos. 2345, 2348, 2625); and

(iv) Order Imposing Sanctions for Failure to Comply with Order of January 5, 1998, dated March 21, 1998 (CLAD No. 2429).

Dated: May 31, 1998

/s/ Kenneth J. Fitzpatrick
Kenneth J. Fitzpatrick
Judge of District Court

By making such documents available to the public, their use in any subsequent litigation is, of course, subject to appropriate redactions and other objections based on the rules of evidence such as relevancy or hearsay.

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

FILED
Court Administrator

SECOND JUDICIAL DISTRICT

JUN 16 1998

Case Type: Other Civil

THE STATE OF MINNESOTA,

J.E. GOCKOWSKI
By *[Signature]* Deputy

Court File No. C1-94-8565

BY HUBERT H. HUMPHREY, III,
ITS ATTORNEY GENERAL,

and

BLUE CROSS AND BLUE SHIELD
OF MINNESOTA,

Plaintiffs,

vs.

PHILIP MORRIS INCORPORATED;
R.J. REYNOLDS TOBACCO COMPANY;
BROWN & WILLIAMSON TOBACCO
CORPORATION; B.A.T. INDUSTRIES
P.L.C.; LORILLARD TOBACCO COMPANY;
THE AMERICAN TOBACCO COMPANY;
LIGGETT GROUP, INC.; THE COUNCIL
FOR TOBACCO RESEARCH - U.S.A., INC.;
and THE TOBACCO INSTITUTE, INC.,

Defendants.

ORDER CONCERNING MATERIALS IDENTIFIED
IN MAY 31, 1998, ORDER AND DOCUMENTS PLACED
IN NEUTRAL PRIVILEGE FACILITY

WHEREAS, an Order entitled "Release of Documents for Public Access" was entered in this action on May 31, 1998 (the "May 31 Order");

WHEREAS, the May 31 Order provides that certain documents shall be released and made available to the public;

WHEREAS, plaintiffs have agreed not to disclose to the public the documents identified in the May 31 Order pending further order of this Court;

WHEREAS, this Court wishes to ensure that the documents identified in the May 31 Order not be disclosed to the public by plaintiffs, Smart Legal Assistance and Special Master Gehan pending further order of the Court;

WHEREAS, control over the documents contained in the Neutral Privilege Facility, a secure room located within the Minnesota Document Depository, has been transferred from Special Master Gehan to Smart Legal Associates;

WHEREAS, the Court further wishes to ensure that all documents placed within the Neutral Privilege Facility remain confidential pending further Order of the Court; and

WHEREAS, the parties hereto have stipulated to the entry of this ORDER;

NOW, THEREFORE, IT IS HEREBY ORDERED by the Court as follows:

1. The May 31 Order is hereby stayed, and plaintiffs, Smart Legal Assistance, and Special Master Gehan shall therefore keep confidential and shall not disclose to anyone the documents identified in the May 31 Order pending further Order of this

Court. Notwithstanding the above, this Order does not address or affect the disclosure of:

- a) those documents identified in the May 31 Order that were admitted as trial exhibits by Court Order in this action; or of
- b) those documents identified in the May 31 Order that have been posted on the internet.

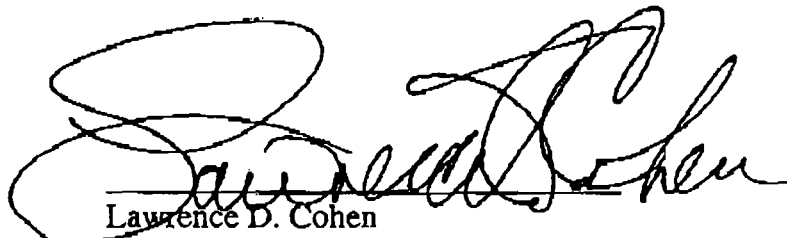
2. Smart Legal Assistance shall not disclose to anyone any of the documents placed within the Neutral Privilege Facility and shall ensure that those documents remain confidential pending further Order of this Court.

3. This Order does not reflect the Court's view on the merits of defendants' proposed motion to vacate the May 31 Order. In addition, plaintiffs retain the right to use any document covered by the May 31 Order in briefing in this action, provided that such documents are submitted under seal.

4. Nothing in this Order shall be construed as a waiver of any rights that defendants may have to claim that the documents identified in the May 31 Order are privileged.

SO ORDERED.

Dated: June 15th, 1998


Lawrence D. Cohen
Chief Judge

[HELP](#)[NEW SEARCH](#)**Document viewing tips:**

- Click the "NEXT PAGE" or "PREVIOUS PAGE" button to navigate the pages of the document returned.
- To view all the pages of a document, click the "VIEW ALL PAGES" button.
- When finished viewing a document, click "Back" to return to these Search Results.

Search Results

1 document(s) match your query for *Achey and Judge and 19780830*.

1.
ID: 03537131/7132
AUTHOR: ACHEY, TL
RECIPIENT: JUDGE, CH
COPIED: DAVIS, B J, CH
DATE: 19780830
TYPE: MEMORANDUM
TITLE: PRODUCT INFORMATION
REQUEST NUMBER: R1-004
LITIGATION USAGE:
DATE LOADED: 19980605

[RETURN TO MAIN PAGE](#)

First with the finest cigarettes... through Lorillard research

Bob Davis:

August 30, 1978

Please draft a reply for me by 9/11 -

TO: Mr. Curtis Judge

Thanks -

FROM: T. L. Achey - Field 3

CHS 9/6

SUBJECT: Product Information



Mr. Judge, if you will look at my Sales figures (attached), you will note that NEWPORT KING SIZE is the #1 selling Lorillard brand, and NEWPORT BOX the #6 selling Lorillard brand in Field 3 for the year-to-date.

I know your immediate concern must be the "Lights" market; however, I also know the efforts placed into several "taste" brands over the past few years.

The success of NEWPORT has been fantastic during the past few years. Our profile taken locally shows this brand being purchased by black people (all ages), young adults (usually college age), but the base of our business is the high school student.

NEWPORT in the 1970's is turning into the Marlboro of the 60's and 70's. It is the "In" brand to smoke if you want to be one of the group.

Our problem is the younger consumer that does not desire a menthol cigarette. If that person desires a non-menthol, but wants to be part of the "In group", he goes to Marlboro.

Could we be furnishing a back-lash to Marlboro from our NEWPORT brands?

Is Marlboro as strong with the early beginning consumers as the NEWPORT brands?

Could we end the success story for Marlboro by furnishing the young adult consumers with a total category of "In" brands?

I think the time is right to develop a NEWPORT NATURAL (non-menthol) cigarette to attract the young adult consumer desiring a non-menthol product. We have a solid base with NEWPORT and I foresee much success with the name of NEWPORT on new packaging.

SUITE 2, RTR BLDG., RTE. 71, MT. LAUREL, N.J. 08054 Telephone: (609) 234-8141-42

CONFIDENTIAL: MINNESOTA TOBACCO LITIGATION

03537131

TRIAL EXHIBIT
10,195

First with the finest cigarettes...through Lorillard research

-2-



We would need packaging in the Soft pack and Box.

A good test area might be the Camden, New Jersey Division.
NEWPORT KING SIZE is the #6 brand (all companies) in this
Division.

TLA
T. L. A.

TLA:es

CONFIDENTIAL MINNESOTA TOBACCO LITIGATION

03537132

SUITE 2, RTR BLDG., RTE. 73, MT. LAUREL, N.J. 08054 Telephone: (609) 234-8141-42

LEAD**NEWS & RECORD online****Front Page****Sports****Politics****Education****Fun****Local News****Business****Opinions****Obituaries****Kids Stuff****N&R Info****Help****Documents discuss nicotine levels and marketing to teens**

6-28-98

By DOUG CAMPBELL, Staff Writer

Lorillard Tobacco Co. strongly suggested in confidential documents that its customers smoked because they were physically addicted to nicotine, that high school students were the core of its customer base, and that a supposedly independent industry-funded health research organization was a public relations machine.

The documents also show that Greensboro-based Lorillard extensively studied ways to elevate the delivery of nicotine and considered developing a brand aimed at image-conscious teenagers.

These findings are contained among 33 million papers released this year as part of a tobacco industry trial in Minnesota and subpoenaed by the House Commerce Committee. Only a handful of the memos ever before have been available to the public.

The documents offer the most vivid look to date at Lorillard's strategic thinking in an assortment of high-level efforts to make its Kent and Newport brands more competitive.

The revelations appear to undercut Lorillard's long-held public positions on the addictive properties of nicotine and on its evaluations of marketing strategies regarding youths. Academics and some legal experts who have fought against the tobacco industry believe the documents could hurt Lorillard in court and in an ongoing federal criminal probe.

The same experts say that the Lorillard documents are being used in a Justice Department investigation into whether the tobacco companies, including Lorillard, concealed damaging

How to find tobacco documents

Tobacco company documents are widely available on the Internet. Retrieving them sometimes takes a powerful computer and familiarity with the litigation that forced the cigarette makers into turning them over.

The House Commerce Committee has posted nearly 39,000 of the most sensitive documents on its Web site. The cigarette companies continue to assert attorney-client privilege over these documents.

Maneuvering around this site is tricky because you need special nine-digit numbers to retrieve many documents. There is no traditional index, just privilege logs in which defense attorneys listed the dates the documents were written, their authors, and the subject.

A simpler site to search is the Blue Cross and Blue Shield of Minnesota page. The state posted thousands of documents out of 33 million original items that a court ordered the companies to turn

Lorillard, concealed damaging information about their product and therefore committed fraud on customers and the government. The Justice Department is investigating whether cigarette makers suppressed information about the health hazards of smoking, manipulated nicotine levels to keep smokers hooked, or marketed to young teens. Justice spokesman John Russell would not comment, except to say the investigation is continuing.

Furthermore, tobacco foes say the recently disclosed papers -- of which Lorillard's accounted for only a fraction -- place the entire industry in a weak bargaining position in talks over a national settlement. A Senate tobacco settlement bill was recently scuttled, but debate may resume within months.

Lorillard executives, including Alexander Spears, chairman and chief executive, declined to answer specific questions regarding the documents, citing ongoing litigation. Also, Spears said that the tobacco companies are continuing to claim attorney-client privilege over thousands of the papers and that discussing them may cause the companies to forfeit that privilege in future lawsuits.

Before the documents were released, Lorillard issued a statement Feb. 24 saying it was preparing to post its papers on the Internet as part of an effort to emphasize our complete commitment to the comprehensive resolution currently being considered in Congress." Asked whether some of the papers are hurting the tobacco industry in national settlement talks, Spears disagreed.

I don't really know that that's true," Spears said in an interview. The documents are out there and they can serve whatever purpose people want to use them for." Spears declined to elaborate.

Spears was the head of Lorillard's research and development facility in Greensboro during the time that many, but not all, of the documents were drafted, and he was prominently named in numerous papers dealing with nicotine manipulation. Active in local civic affairs, Spears was chairman of the Greensboro Area Chamber of Commerce in 1997 and has worked for Lorillard since 1959.

Ron Milstein, Lorillard senior associate general counsel in Greensboro, referred all questions to tobacco industry spokesman Scott Williams in Washington. Williams, who works for a public relations firm, declined to comment about specific documents or to answer specific questions. But he acknowledged that the documents' release has caused headaches for the industry.

over. Only documents that were identified as exhibits during the trial are posted. This site includes a sampling of the controversial 39,000 documents.

Also, the tobacco companies have a site with a large share of the 33 million documents they released in early 1998.

- [House Commerce Committee's site](#)
- [Blue Cross' site](#)
- [The tobacco companies' site](#)
- [Lorillard's site](#)

Critics use the documents to push political hot buttons," Williams said. The documentation will be a part of the history of the tobacco industry forever. Ultimately, lessons will be learned by both sides when the material is reviewed by cooler heads separated from the heat of the political debate."

Nicotine research

The documents indicate that Lorillard executives recognized at least 25 years ago that the key ingredient in cigarettes is nicotine. Numerous papers produced by scientists at Lorillard's research and development facility in Greensboro appear to undermine the company's -- and the tobacco industry's -- longtime public stance that smoking isn't physically addictive and that the practice and its perceived health risks are a personal choice.

The papers analyzed by the News & Record tend to portray Lorillard executives as having two positions on nicotine: one public and one private.

Appearing before Congress in the spring of 1994, Spears testified: We do not set nicotine levels for particular brands of cigarettes ... Nicotine levels follow the tar levels." Spears' superior at the time, Andrew Tisch, in sworn testimony said he didn't believe nicotine was addictive. In the summer of 1997, Spears told jurors in a Florida second-hand smoke trial that he believed nicotine wasn't addictive.

Yet this was not what Spears' own colleagues were telling him. On April 13, 1977, researcher Harry J. Minnemeyer, who later became director of quality control, wrote to Spears about an effort referred to in the memo as the the nicotine enrichment project."

Tobacco scientists know that physiological satisfaction is almost totally related to nicotine intake," Minnemeyer wrote. The objective of the Research Department in this project has been to find how the nicotine delivery of the new product could be maximized."

Two months later, the vice president for research and development, Fred Schultz, told Spears to continue the nicotine research.

Consideration of nicotine delivery necessary to achieve long-term use and satisfaction by the consumer dictate that we should continue to pursue the concept of nicotine enhancement," reads the

July 22, 1977, memo to Spears.

Three years later, the project continued. Goal: Determine the minimum level of nicotine that will allow continued smoking," reads a Feb. 13, 1980, memo from Lorillard executive Richard Smith to Spears. Smith goes on to state that smoking is both physiologically and psychologically motivated," and that when nicotine levels drop too low smokers will quit."

James Brock, a professor of economics at Miami University in Ohio who has written a book on the history of the tobacco industry, said such statements make it clear that Lorillard and other tobacco companies were well aware of nicotine's addictive properties.

It becomes pretty hard to maintain with a straight face that you didn't know it was addictive," Brock said. The documents make it clear that very high-ranking scientific people knew it was addictive and that they had done extensive research into its addictiveness, and they actually contemplated and in some cases implemented ways to enhance its delivery."

Lorillard's documents

Minnesota requested papers from the country's five major cigarette makers dealing with specific topics such as nicotine, marketing and health. Attorneys involved in the case said they can't be certain they collected all of the companies' internal communications. The attorneys said that although many memos described in detail studies on manipulating nicotine, for example, no documents appeared to announce that any company had put to market a nicotine-enriched cigarette.

Lorillard Tobacco Co.

Headquarters: Green Valley Road,
Greensboro

Employees: 2,273

Founded: 1760 in New York by
Pierre Lorillard

Year established in Greensboro:
1956

Chairman and CEO: Alexander
Spears

Core business: Cigarette maker
with major brands including
Newport, Kent and True

Annual production: 40 billion
cigarettes, \$2 billion in sales

Parent company: Loews Corp.

Almost all the Lorillard documents entered into evidence in Minnesota were written by scientists in the company's research facility in Greensboro, where chemists develop and test brands before they are put to market. Several executives named prominently in the documents were contacted by the News & Record, but none would comment for this story, saying they had been advised by Lorillard not to say anything.

Although politicians have hammered industry leaders Philip Morris and R.J. Reynolds Tobacco Co. over damaging internal memos, Lorillard has eluded the national spotlight. Experts say that may be because of its relatively small -- 9 percent -- share of the U.S. cigarette market.

Richard Daynard, a longtime tobacco adversary, believes the Lorillard documents could be highly damaging because they appear to contradict sworn congressional testimony made by Lorillard executives. Daynard is a professor at Northeastern University School of Law and the chairman of the Tobacco Products Liability Project, which consults with plaintiff attorneys in tobacco suits.

Lorillard seems to have gotten off quite lightly so far," Daynard said. There may be less quantitatively on Lorillard (in the trove of documents), but nonetheless they may turn out to be among the first indicted."

Other experts are less certain about Lorillard's fate in the Justice Department's criminal investigation into possible fraud by tobacco producers.

You've got to show fraud. Where's the fraud?," said Gary Black, a tobacco analyst with Sanford C. Bernstein in New York. You've got to show there's some deliberate misstatement by the industry, and there's no misstatement that I can see. The belief that smoking isn't addictive, I don't know that that's fraud."

David Adelman, a tobacco analyst with Morgan Stanley Dean Witter in New York, said: It's incredibly difficult, not to bring a charge of perjury, but to sustain it. You can be factually inaccurate and believe something."

Lorillard officers would not comment.

The most damaging Lorillard documents can be roughly divided into three categories: nicotine research, youth marketing and health studies.

Nicotine research. During the 1970s and into the 1980s, scientists at Lorillard's research facility in Greensboro attempted to make an enriched nicotine cigarette as part of an effort to make Lorillard brands more competitive. The scientists admitted that nicotine is addictive and postulated that a high-nicotine, low-tar cigarette would keep smokers hooked while making them believe they were using a healthier product.

Cigarette sales are made for one reason. The customer is satisfied with the product either from the taste or the physiological satisfaction derived from the smoke," says a July 16, 1976, Lorillard memo by researcher M.S. Ireland to fellow researcher Minnemeyer. The most probable reason for the addictive properties of the smoke is nicotine."

A May 4, 1976, paper from Minnemeyer to researcher Schultz states: Recommendations from health oriented agencies and pressure from competitive companies make it imperative that Lorillard develop a flavorful cigarette delivering lower tar while at the same time delivering a level of nicotine higher than could be obtained normally."

Lorillard's own tests in the 1970s and 1980s rated its brands as having lower nicotine levels and yields than rival brands such as Marlboro, according to various documents. For example, an April 3, 1973, paper from researcher T.B. Moring to C.L. Tucker, the director of product development, found that Marlboro had almost five times as many milligrams of nicotine per cigarette than Lorillard brands.

Similar findings were reported in a Dec. 16, 1980, memo from T.D. Jessup, a researcher, to manager D.R. Tedder. Today Tedder is a member of the Guilford County Board of Education who still works for Lorillard. Tedder, through his secretary, declined to comment.

Although it is unclear whether a nicotine-enhanced brand was put to market, in January 1998 Lorillard's Newport brand was rated in federal tests, as administered by the state of Massachusetts, as the leader in terms of nicotine yield among the nation's most popular cigarettes. Those tests used different methods than Lorillard employed in the 1970s and 1980s in measuring nicotine yields, so the results may not be comparable.

Lorillard researchers considered developing a low-nicotine cigarette for smokers who wanted to quit, several documents state. The idea apparently was scrapped in the mid-1970s because the company decided such a product wouldn't sell.

It is our judgment that a cigarette with substantially lowered nicotine could not deliver the smoking satisfaction to sustain consumer purchase," researcher Richard Smith wrote on Nov. 9, 1976, to Schultz. Smith said in the memo that he reached this conclusion after consulting Spears.

The papers dealing with nicotine manipulation may be of particular interest to Justice Department investigators. The government wants to know whether cigarette companies altered nicotine levels without being detected in federal tests, according to legal experts familiar with the inquiry.

The researchers recognized 25 years ago that the best-selling brands were those with high pH levels, or high acidity. Nicotine with a higher pH is more quickly absorbed in the body. The chemists set about adding

chemicals such as ammonia to Lorillard's experimental tobacco blends to increase the pH, documents state.

Youth marketing. Company executives said that high school students were the core of Lorillard's business and worried about losing this customer base to rival brands.

An Aug. 30, 1978, marketing memo from T.L. Achey, an executive in the company's former offices in New Jersey, to former Lorillard President Curtis Judge suggests the development of a non-menthol brand to compete head-to-head with Marlboro, which was popular among young smokers.

The success of Newport has been fantastic during the past few years," the memo says. Our profile taken locally shows this brand being purchased by black people (all ages), young adults (usually college age), but the base of our business is the high school student."

It is the 'in' brand to smoke if you want to be one of the group."

Marlboro was the No. 1 brand among all smokers during 1978, as it is today. Lorillard executives appeared worried that despite Newport's popularity among high school students, it still had limited appeal because it was a menthol cigarette.

Our problem is the younger consumer that does not desire a menthol cigarette. If that person desires a non-menthol, but wants to be part of the 'In group,' he goes to Marlboro," the memo says. Is Marlboro as strong with the early beginning consumers as the Newport brands?"

Lorillard officials declined to comment.

A Nov. 25, 1981, memo from marketing researcher Laurie Moroz to Robert Ave, who became Lorillard president in 1984, compares smoking rates among different age groups, including 13- to 17-year-olds.

Jeff Greene, the director of special projects for the American Lung Association of North Carolina, said Lorillard's and other companies' memos regarding marketing to youths indicate that the industry was aware of national studies showing that people are more likely to become smokers if they start before they turn 18.

The tobacco companies' pledges to curb youth smoking to this point have been made in order to limit their liability; that's their interest, not to reduce youth smoking," Greene said. "We have seen no evidence that they're genuine. They've engaged in unethical marketing practices and have been deceptive to the American people."

Health studies. Lorillard acknowledged in its internal memos that the Council for Tobacco Research was a public relations machine and

controlled by lawyers.

The CTR was founded in 1954 by tobacco companies after government health studies first reported links between smoking and disease. It was presented to the public as a source for independent research on smoking and health. Lorillard documents suggest that the CTR was a waste of money because nobody outside the industry treated its studies seriously.

The joint industry funded smoking and health research programs have not been selected against specific scientific goals, but rather for various purposes such as public relations, political relations, position for litigation, etc.," Spears wrote to Lorillard President Curtis Judge on June 24, 1974.

Thus, it seems obvious that reviews of such programs for scientific relevance and merit in the smoking and health field are not likely to produce high ratings," Spears wrote.

The available documents suggest Lorillard sought more independence from the leadership of industry lawyers who seemed to be determining what sort of studies the CTR would fund.

In handwritten notes dated April 21, 1978, then-CEO Curtis Judge said: We have again 'abdicated' the scientific research directional management of the Industry to the 'Lawyers' with virtually no involvement on the part of scientific or business management side of the business ... Lorillard's management is opposed to the total Industry future being in the hands of the (industry lawyers.)"

Ed Sweda, a senior attorney with the Tobacco Products Liability Project, said these memos are proof that the CTR was a public relations machine. It showed who was fundamentally calling the shots -- not the scientific group, the attorneys," Sweda said.

Legal implications

Attorneys say the recently released tobacco industry documents were crucial in Minnesota's and Blue Cross Blue Shield's claim that the country's five cigarette makers -- Lorillard, RJR, Philip Morris, Brown & Williamson and the Liggett Group -- should reimburse the state of Minnesota for the cost of treating sick smokers. The case was settled for \$6.6 billion in what was widely seen as a victory for the state.

They were profoundly important," said Tom Gilde, an attorney with Blue Cross Blue Shield of Minnesota. The documents can't recant themselves and they can't say 'I don't remember.' They simply state what people were thinking and saying and doing at the time and in that sense they are unimpeachable."

In more than 300 lawsuits brought to trial, the tobacco industry has only

one standing courtroom defeat (in which all appeals have been exhausted) in lawsuits seeking damages from smoking.

Suits brought by three other states besides Minnesota were settled without the introduction of company documents. But those resolutions came at a time when Big Tobacco was poised to agree to a \$368.5 billion national settlement that would limit its future liability in lawsuits. The Minnesota trial happened as cigarette companies were in a fighting mode after the Senate proposed a crippling \$516 billion settlement that offered no immunity from class-action suits.

Now with these new documents, the only kind of immunity that anyone is going to get is to turn state's evidence," said Donald Garner, a professor at the Southern Illinois University School of Law and a tobacco litigation expert.

At present, Lorillard is a defendant in about 200 product liability cases also involving other cigarette makers, and the sole defendant in 15 such cases, according to company filings with the Securities and Exchange Commission.

Lorillard's only standing courtroom defeat in which it was the lone defendant came from a 1994 case in which a California man's lung cancer was caused by smoking asbestos-containing filters made during the 1950s. But that case did not deal with nicotine or tobacco.

At least 58 class-action suits may involve Lorillard, the company said in its government filing, and about 110 reimbursement cases in which government agencies and private citizens are seeking to recover the health care costs of smoking.

Internal documents have been used against Lorillard in trials before. For example, the famous Cipollone case, the first to suggest a conspiracy by tobacco companies to mislead smokers about health risks, in 1988 brought to light a 1946 paper by Lorillard chemist H.B. Parmele. The scientist noted that studies had produced just enough evidence" to possibly justify a link between smoking and cancer. Regardless, the tobacco industry eventually won that trial.

But the Cipollone documents, and others released since then, were not nearly as descriptive as those released en masse this spring, according to tobacco litigation experts. And that difference, the experts say, could change everything.

Many analysts attributed the surprising June 10 defeat of Brown & Williamson in a Florida trial brought by relatives of a smoker who died to the tobacco company's inability to counteract compelling evidence provided by internal company documents.

Charles Thompson, the lead attorney in a class-action suit brought by 10

North Carolinians against the cigarette companies, said the newly released documents make his case. The suit, filed in Greensboro's federal court in February, has yet to reach trial.

It's better than a confession," said Thompson, whose office is in Birmingham, Ala. I've handled several class actions where you had one smoking gun, but never have I had a case like this where you've got smoking guns everywhere."

Top

Have an opinion?

1. Post it on [Inter@ct](#), our bulletin board
2. E-mail a [letter to the editor](#). Please specify that it is intended for publication, and you must include your name, home street address and daytime phone number. Letters must not exceed 250 words.

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Nadine-Rae Leavell <nleavell @ sc3103.med.buffalo.edu>
07/08/98 06:55:27 PM

Record Type: Record

To: Jerold R. Mande/OSTP/EOP
cc: mcummings @ sc3102.med.buffalo.edu
Subject: Re: Document searching

Mr. Mande:

In response to your call to Dr. Cummings, I will attempt to address as many of your concerns as possible.

I definitely believe that a program designed to make the documents more accessible is worth investing in. From the relatively small percentage I've seen thus far, I believe that the documents could be very valuable research tools that may aid in shaping tobacco control policies and programs. Cataloguing and abstracting the documents makes them that much more accessible and that much more valuable.

I do not believe, however, that all of the estimated 33 million documents should be processed as such and posted to an Internet website...I will expand on this thought later in this letter.

From what I have seen over the past four months, the tobacco industry's website <http://www.tobaccoresolution.com> contains trial exhibits, documents selected for use during litigation but not necessarily entered as exhibits, and other documents not selected for use during litigation. Each company's search page has a brief statement regarding the types of documents posted to the site, but I cannot vouch for the accuracy of the statement. I cannot say with certainty that all "33 million" documents have been posted to the sites, but each company has included a disclaimer of sorts stating that documents are continuously being added.

The tobacco industry website appears to differ from the Blue Cross site in the following ways:

1. As noted above, the industry site contains more than just trial exhibits, whereas the BC site contains mainly trial exhibits and a "sampling" of the 39,000 docs released which were once protected by attorney-client privilege.
2. Each site has different means of searching for documents. For example, the BC site allows for searching on all fields related to document characteristics (year, author, recipient, etc.) and by keyword- no Subject Headings. The industry site has field-searching capabilities which differ across companies, but it also has a low-end subject heading scheme found in the Plaintiff's Request for Production- codes based on document content rather than just type. These codes have formed the basis of our search

strategy and have proven to be very useful. Incidentally, Brown & Williamson's site is by far the most user-friendly.

I am only minimally aware of the "4A index" you asked about...would this be in reference to scientific research as controlled by the Committee of Council? It seems like this would be more of a document category than an index. In any case, I would be interested to know more about it.

Back to the original question regarding a project to process the documents on a national level: There are a few approaches that Dr. Cummings and I have discussed.

1. Centralizing the project. One central "vendor" would be responsible for cataloguing and abstracting the documents. Then different investigators would use the vendor's product (the processed documents) to produce reports regarding different aspects of tobacco control, for example. Our project is focused on the advertising and marketing techniques employed by the tobacco industry to capture the youth market. Another investigator might focus on environmental tobacco smoke, etc. Then only the documents used by each investigator would be posted as a grouping with the reports, to keep them in context. Posting all 33 million documents would probably be a waste of resources.

My greatest concern with this approach is that using a centralized vendor, detached so to speak from the ultimate goal of useful public access, would compromise the quality of the outcome. Individual researchers are likely to be more invested in producing a quality product.

2. Fund individual investigations using the documents as they are now...each investigator would be responsible for cataloguing, abstracting and posting to their own website. This is a far less efficient model, and would result in a piece-meal representation (and presentation) of the documents and their contents. Also, inconsistencies in cataloguing and abstracting methods, database design, etc.

3. What I believe to be the most viable option: Fund individual investigations as in #2 but require investigators to be trained in (and agree to) one consistent method of cataloguing, abstracting, database design, software, etc. to maintain a uniform representation of the documents. One central website, with written interpretations of the documents (by subject area) accompanied by the documents pertinent to each investigation. The documents can then be viewed in context, and not all 33 million documents will need to be posted. A very collaborative effort, and one which would be more conducive to creating quality access to and understanding of the industry documents.

I have attached two files for you to review: a list of our current subject headings and a copy of our analysis worksheet which we use to abstract documents, assign appropriate subject headings and designate the document's level of relevance to our study.

I truly hope this information has helped answer your questions. Please feel free to contact me should you need any further assistance.

Sincerely,
Nadine-Rae Leavell

At 05:52 PM 7/7/98 -0400, you wrote:

> Nadine:

>

> I received a call today from Jerry Mande in Washington. Apparently, the government is considering whether it might be worth investing in a program to catalog the tobacco documents to make them more accessible to the public. Jerry mentioned that the Minnesota Depository contains about 33 million documents. One question that he asked that I couldn't answer is what the industry is putting up on their web page. Does this include the entire 33 million documents or only those that were identified as possible exhibits in the trial. Jerry mentioned that the Minnesota lawyers informed him that only a small fraction of the 33 million documents obtained via discovery were selected for trial exhibits. How does the industry tobacco web site differ from the Blue Cross/Blue Shield site that contains the trial exhibits?

>

> Jerry was also interested in how we actually do our searching. I tried to describe the protocol we use, but I'm sure you can explain it better. Also, what do you think of the 4A index used for the Minnesota documents? I would appreciate it if you would e-mail Jerry a brief description of our study, information on where and how we are accessing documents and then what we are doing with the documents we collect. If you have any thoughts about how to expand and make more user friendly the availability of documents what would you recommend be done on a national basis? If you had unlimited resources do you think it would be essential to scan all the documents so that they could be accessed electronically? If no, what would you do?

>

> Finally, please e-mail Jerry a file with the subject headings and abstracting forms we've developed. Thanks.

>

> Mike Cummings

>

 - sh.doc  - Document Analysis Worksheet.doc

Nadine-Rae Leavell
Senior Project Coordinator/Information Specialist
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Jerold R. Mande

07/09/98 02:41:04 PM

Record Type: Record

To: Cynthia Dailard/OPD/EOP

cc:

Subject: Documents narrative.

Here is my redraft of the summarizing info that you prepared on documents. I am still waiting to clear up a couple of points with Minnesota, so I may have some refinements.

Background facts about the documents: Over the last three years, tens of millions of pages of once secret tobacco industry documents have become publicly available. The State of Minnesota has assembled the largest repository of documents. There are currently 33 million pages of tobacco industry documents from the Minnesota trial on file in two depositories (27-28 million pages are housed in Minnesota and 5-7 million are housed in Guildford, England). The University of California at San Francisco also operates a tobacco document depository. The Food and Drug Administration has on file the record from its tobacco investigation and rulemaking.

Internet access is available for a small percentage of the documents via web sites established by the tobacco industry, Blue Cross Blue Shield of Minnesota (2,000 documents used in the Minnesota trial), the House Commerce Committee (39,000 documents which were declared non-privileged and released as part of the Minnesota trial and 800 Liggett documents), UCSF (Brown and Williamson, and Mangini documents), and Tobacco BBS (Bulletin Board System) a free resource center focusing on tobacco and smoking issues. The documents on most of these web sites, however, are notoriously difficult to search and download. Moreover, as many as 27-28 million pages are not in electronic form and must be searched manually at the depository.

The "4 A-Index" is a multi-million dollar electronic index created for internal use by the tobacco industry. It is the industry's roadmap to their documents and would be a critical aid in searching for key documents. Minnesota fought all the way to the U.S. Supreme Court to gain access to this computerized index. However, it is still subject to a protective order and not available to the public.

FAX COVERCOMMITTEE ON GOVERNMENT REFORM
AND OVERSIGHTDEMOCRATIC STAFF OFFICE

HON. HENRY A. WAXMAN

RANKING MINORITY MEMBER

8350A RAYBURN HOUSE BUILDING

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FAX (202) 225-4784 or 8185

DATE: _____

TO: Terry Mandle FAX # (456-6057)FROM: Phil Barnett

SUBJECT: _____

NO. OF PAGES 4
(EXCLUDING COVER SHEET)

COMMENT:

IF THERE IS A PROBLEM WITH THIS
TRANSMITTAL, PLEASE CALL OFFICE A.S.A.P.

Marketing to Children: 1994 Testimony

**“We do not market to
children and will not.”**

**Testimony of James Johnston,
Chairman, RJ Reynolds Tobacco
Co., Before the House Health and
Environment Subcommittee,
April 14, 1994**

Marketing to Children: What We Now Know

"This young adult market, the 14-24 age group, ... represent[s] tomorrow's cigarette business. As this 14-24 age group matures, they will account for a key share of the total cigarette volume - for at least the next 25 years."

"...our strategy becomes clear for our established brands: 1. Direct advertising appeal to the younger smokers."

**Presentation from C.A. Tucker,
Vice President of Marketing, to the
Board of Directors of RJR
Industries, September 30, 1974**

“It is important to know as much as possible about teenage smoking patterns and attitudes.

“Today’s teenager is tomorrow’s potential regular customer.”

-- Memorandum to Robert B. Seligman,
Vice President for Research and
Development for Phillip Morris,
March 31, 1981

“The success of Newport has been fantastic during the past few years. The base of our business is the high-school student.”

-- Memo to the president of Lorillard,
excerpted from Opening Statement
State of Minnesota Tobacco Suit,
January 20, 1998

STATE OF MINNESOTA
Office of the Attorney General

TO: Jerry Mande
Office of Domestic Policy Advisor
The White House

DATE: July 6, 1998

FROM: Eric Johnson 
Executive Assistant
to the Attorney General

PHONE: 612/296-6196 Voice
612/297-4193 Fax
612/297-7206 TTY

SUBJECT: Here's the summary of the information re: Tobacco Documents

Minnesota Depository Documents

Totaling approximately 33 million tobacco documents, this is the largest collection of tobacco documents in the world. The documents are warehoused in two separate depositories. The Minneapolis depository contains approximately 27 to 28 million documents and is now open to the public. A second depository in Guildford, England contains approximately 5 to 7 million BAT and affiliated company documents. While the Guildford depository is not currently open to the public, the "Minnesota Select Set" documents from that depository have been added to the Minneapolis depository.

Minnesota Select Set

These are the 1 to 2 percent of the 33 million documents (a couple hundred thousand) that were selected by the Minnesota trial team for possible use at trial. This is the group of documents that the industry placed on its web-site in order to stop the hemorrhaging suffered from the day after day release of damaging documents. The site, however, is notoriously difficult to search and even more difficult to download. Moreover, we believe it may be missing many key documents.

Minnesota Trial Exhibits

These are the crème de la crème - - close to 2,000 documents that were admitted as exhibits in the Minnesota trial. Most of these documents can be accessed on the Blue Cross Blue Shield of Minnesota web-site.

39,000 Privilege Documents

These are the industry's attorney-client privilege documents which Minnesota fought all the way to the United States Supreme Court to uncover. Once we prevailed, the industry turned the documents over to the United States House Commerce Committee. Chairman Bliley had the documents placed on the Committee's public web-site, but he has restricted access to at least 39 documents. Moreover, the site is very difficult to search - - like going to a public library without a card catalog.

Other Privilege Documents

We are still fighting in Court to gain the public release of several thousand privilege documents, mostly from American Tobacco and BAT. These documents have been received and reviewed by the Minnesota Trial Team, but are still subject to a protective order. We would welcome DOJ or the White House intervening to support the public release of these secret documents.

864 Liggett Documents

These privilege documents were made public in the Minnesota trial and are on the House Commerce Committee web-site.

Minnesota Lobbying Documents

Under the terms of Minnesota's settlement, the tobacco companies have been forced to disclose documents relating to lobbying in Minnesota. Included have been documents of national significance such as the 100 page 1996 Tobacco Institute budget and a 350 page 1995 document detailing the lobbying strategy for opposing the proposed FDA rules.

4 A-Index

This is the multi-million dollar index created for internal use by the tobacco industry. It is the roadmap to the industry's documents and would be a critical aide in searching for key documents that aren't contained in the Minnesota Select Set and for identifying key privilege documents that haven't yet been produced. Minnesota had to fight all the way to the United States Supreme Court to force the release of this computerized index. However, it is still subject to the Court's protective order. We continue to fight in Court for public release of the 4 A Index and would welcome intervention and support by DOJ or the White House.