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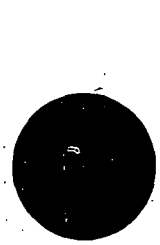


MAYBE.
BUT ONLY IF
TOM & JRM
THINK WE HAVE
SOMETHING TO SAY.
Call me
on this
Cathy

Joseph J. Andrew
(317) 686-7382
E-Mail: JAndrew@jsplaw.com

February 2, 1998

VIA FACSIMILE (202) 456-5542

Mr. Bruce Reed
Assistant to the President for Domestic Policy
The White House
Washington, D.C.

Re: Request for Meeting

Dear Mr. Reed:

Thank you for meeting with me, Pam Carter, Lacy Johnson and Karen Anne Lloyd to discuss the minority implications of a potential Tobacco Settlement. I hope the briefing book we supplied was helpful to you and your staff.

I would like to request a follow-up meeting with you on February 11, 1998, preferably mid-morning, to discuss the status of the tobacco settlement. Other attendees would include Lacy Johnson, Karen Anne Lloyd and Todd Gee of Congressman Thompson's office. Todd has been coordinating the efforts of the Congressional Black Caucus, Hispanic Caucus, Native American Caucus and Asian American Caucus toward a Tobacco Settlement. As you know, Lacy, Karen Anne and I represent those same groups.

My assistant, Angela, at (317) 686-4228 will be more than happy to make final arrangements. Thank you in advance for your continued assistance.

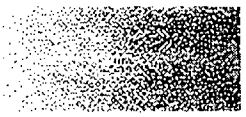
Sincerely,

Joseph J. Andrew

JJA/abp

Suite 1800
One Indiana Square
Indianapolis, Indiana 46204

Telephone: (317) 634-9777
Facsimile: (317) 636-9061



Jerold R. Mande

03/24/98 12:50:15 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: Tobacco - minorities.

fyi.

Blacks want cut of tobacco deal

By Peter S. Canellos, Globe Staff, 03/24/98

Armed with new documents showing tobacco companies targeted African-Americans, Boston's black leaders will convene a symposium today aimed at securing money for health projects in Roxbury, Dorchester and Mattapan from the proposed national tobacco settlement.

But behind the anger, there is a measure of chagrin. Tobacco companies have long stepped into the void to fund black causes ranging from the College Fund to Rev. Jesse Jackson's Operation PUSH to the Dance Theater of Harlem.

Even US Representative John Conyers Jr. of Michigan, a national point man for the black community on the tobacco settlement and guest of honor at today's symposium, regularly attended Black Congressional Caucus leadership weekends sponsored by cigarette makers.

"Representative Conyers would be the first to tell you that puts them in a very strange position," said Kelley Chunn, spokeswoman for the symposium's organizers. "Conyers would be the first to say there's plenty of blame to go around."

Chunn said the organizers of the daylong gathering at the Peoples Baptist Church in Roxbury, hope for a focused discussion of how to get reparations from the tobacco companies, but are prepared for some discussion of what she called the "schizophrenic relationship" between blacks and cigarette manufacturers.

"On the one hand, they support a lot of our organizations and institutions," Chunn said. "On the other hand, they're killing us with their products."

The black community's difficulty in determining blame for smoking-related diseases reflects larger uncertainties as Congress tackles the $368.5 billion settlement. While each successive release of internal tobacco-industry documents provokes anger and finger-pointing, it gives way to a realization of the difficulties of regulating a consentual act.

"Big Tobacco may be the evil empire of these times, but when the devil came knocking, prominent black organizations opened the door and made a deal," Cynthia Tucker, editorial page editor of the Atlanta Constitution, wrote last month, after documents showed cigarette companies devoting a disproportionate share of their advertising dollars for certain brands toward blacks.

Kool cigarettes, for instance, spent 17 percent of its advertising budget on ads aimed at blacks, who constitute 10 percent of the US population. Meanwhile, from 1950 until 1985, incidence of lung cancer increased 220 percent among black men, compared with 86 percent among white men.

Last month, when the latest tobacco papers were released, Conyers declared, "These documents make clear that the tobacco industry was targeting blacks, including black teenagers, at the same time the industry knew that tobacco was addictive and caused lung cancer."

Still, as Chunn noted, the link between advertising and any individual's decision to smoke is a hazy one, and "You can't regulate someone's right to smoke."

But last year, tobacco companies, fearful that their long winning streak in illness-related lawsuits was ending, agreed to pay tens of billions of dollars per year for public health in exchange for a cap on future litigation.

Congress, which must approve any cap on lawsuits, recently began the long process of reviewing and revising the settlement deal. And black leaders are now contending that their communities have suffered disproportionately, and must get a fair share of the public-health funds.

"We want to make sure the money is equitably distributed," said Rev. Hessie Harris of the Born Again Evangelistic Outreach Ministry in Mattapan. "If it's health funds we're talking about, we have health centers in the community. I would hope we could get funds for prevention, awareness, and cessation programs."

Harris is a founder of Churches Organized to Stop Tobacco, the organizer of today's symposium. Mayor Thomas M. Menino, US Representative Martin Meehan, Democrat of Lowell, and State Senator Dianne Wilkerson, among others, will discuss strategies with Conyers, who is drafting proposed changes in the settlement.

Athene Wilson, an organizer of the symposium, said she expects the issue of tobacco sponsorship of national black groups "to be mentioned" at today's public event.

Conyers was unavailable for comment. Leaders of black organizations have said they accepted donations from tobacco companies because there were so few other sources of money.

Tucker, the editorial page editor in Atlanta, is unimpressed.

"Isn't there always an argument for blood money?" she said yesterday.

"Anyone who takes blood money can say `We would have gone out of business,' `We couldn't put on the show without it,' `We gave scholarships to black kids.' But how do you balance that against the millions of people who've died?"

Tobacco sponsorship of art exhibits, concerts, political conferences and other activities "probably doesn't encourage smoking, but it does encourage silence," Tucker added. "It doesn't diminish the culpability of the tobacco companies. It diminishes the moral authority of someone like John Conyers."

Message Sent To:

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Barbara D. Woolley/WHO/EOP
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CDC
CENTERS FOR DISEASE CONTROL AND PREVENTION

OSH
OFFICE ON SMOKING AND HEALTH

American Indians/Alaska Natives and Tobacco

Approximately 2 million American Indians/Alaska Natives live in the United States and are members of 550 tribes that range from 20 to 250,000 in size. Since July 1, 1990, American Indians/Alaska Natives have grown by 12%. Major subgroups in this population are American Indians, Eskimos, and Aleuts, who are expected to grow steadily to 2.4 million in 2000, 3.1 million in 2020, and 4.4 million in 2050. Most American Indians/Alaska Natives have settled across the country, with the largest percentage residing in Oklahoma (13%). Other states heavily populated by American Indians/Alaska Natives are California, Arizona, New Mexico, Alaska, and Washington.[1] Although many tribes consider tobacco a sacred gift and use it during religious ceremonies and as traditional medicine, the tobacco-related health problems they suffer are caused by chronic cigarette smoking and spit tobacco use. Because of the cultural and geographic diversity of American Indians/Alaska Natives, tobacco use often varies widely by region or subgroup. Most statistics presented here are from national data sources.

- Combined 1994 and 1995 national survey data show that American Indians/Alaska Natives have the highest smoking prevalences in the nation: 39.2% overall -- 45.4% for men and 34.2% for women.[2]

- Regional smoking rates are highest among American Indians/Alaska Natives living in North Dakota and South Dakota, (53.1% for men and 45% for women) and lowest in Arizona (29.7% for men and 12.9% for women).[3]

- Tobacco use is a risk factor for heart disease, cancer, and stroke--all leading causes of death among American Indians/Alaska Natives.[4]

- In the general U.S. population, smoking rates decline as the level of education increases However, among men, the highest rate of smoking (49%) is among those with some college education, and for women the highest rate of smoking (43%) is among high school graduates.[4]

- Compared to whites, American Indians/Alaska Natives smoke fewer cigarettes each day. The percentage of American Indian/Alaska Native who reported that they were light smokers (smoking fewer than 15 cigarettes per day) was 49.9% as compared to approximately 35.2% for whites. However, American Indians/Alaska Natives are less likely to successfully quit smoking than the U.S. general population .[2]

- Since 1978, the prevalence of cigarette smoking has declined for African American, Asian/Pacific Islander American, and Hispanic women of reproductive age (18-44 years), but not so for American Indian/Alaska Native women. The rate of smoking was higher among American Indian/Alaska Native (44.3%) as compared to African American (23.4%), Asian/Pacific Islander Americans (5.7%), and Hispanic (16.4%) women of reproductive age in 1994-1995.[2]

- Aggregated high school senior data from 1990-1994, show that smoking prevalence was higher among American Indians/Alaska Natives: 41.1% for males and 39.4% for females, compared to white males (33.4%) and females (33.1%), Hispanic males (28.5%) and females (19.2%), Asian American/Pacific Islander males (20.6%) and females (13.8%), and African American males (11.6%) and females (8.6%).[5]

- State laws prohibiting the promotion and sale of tobacco products to minors are often not in effect because American Indian/Alaska Native lands are sovereign nations. As a result, American Indian/Alaska Native youth have access to tobacco products at a very young age.[6]

- The use of chewing tobacco or snuff was higher among American Indians/Alaska Natives (4.5%) as compared to whites (3.4%), African Americans (3.0%), Hispanics (0.8), and Asian/Pacific Islander Americans (0.6). American Indian/Alaska Native men (7.8%) are more likely to use chewing tobacco or snuff than American Indian/Alaska Native women (1.2%).[2]

- American Indian/Alaska Native men have the highest rates of spit tobacco use (7.8%) of any U.S. population group, compared with rates of 6.8% among whites and 3.1% among African Americans.[2]

- The tobacco industry targets American Indians/Alaska Natives by funding cultural events such as pow wows and rodeos to build its image and credibility in the community.[7]

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6. Schinke SP, Moncher MS, Holden GW, Botvin GJ, Orlandi MA. American Indian youth and substance abuse problems, risk factors and prevention interventions. Health Education Research 1989;4(1):137-144.

7. Freeman, Delgado JL, Douglas CE. Minority Issues. *Tobacco Use: An American Crisis, Final Report of the Conference.* January 1993.

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Name:	Mr. Jerry Mande
Facsimile Number:	(202) 456-6027
From:	Joseph Andrew (Angela Pneuman)
Date:	March 6, 1998
Client/Matter No.:	05809 - 1
Document Transmitted:	letter & Amendment to S. 1638
Total Pages:	08

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JOHNSON SMITH
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WRIGHT & HEATH
ATTORNEYS AT LAW

Joseph J. Andrew
(317) 686-7382
E-Mail: JAndrew@jsplaw.com

March 6, 1998

VIA FACSIMILE (202) 456-6027

Mr. Jerry Mande
Office of Science & Technology Policy
Old Executive Office Building
Washington, D.C. 20502

Dear Jerry:

Attached is the language concerning the Minority Foundation that we discussed.

As I mentioned to you, Congressman Fazio's staff and committee counsel are interested in the White House's informal, confidential views on this non-profit foundation.

Julie Tippens can be reached at 226-3210.

Thank you for your continued openness in discussing these important issues.

Sincerely,

Joseph J. Andrew

JJA/abp
Attachments

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One Indiana Square
Indianapolis, Indiana 46204

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Facsimile: (317) 636-9061

Congressman

BENNIE G. THOMPSON

2nd District - Mississippi

1408 Longworth H.O.B.
Washington, D.C. 20515

(202) 225-5876
Fax (202) 225-5898

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FROM:

___ *Congressman Bennie G. Thompson*

___ *Tammy Boyd* ___ *Todd Gee* ___ *Edward Jackson*

___ *Minnie Langham* ___ *Marsha McCraven* ___ *La Tario Powell*

___ *Walter Vinson* ___ _____

Pages, Including This Cover Page Total: 6

COMMENTS:

7 Rules!

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Nonprofit

AMENDMENT TO S. 1688

OFFERED BY MR. THOMPSON

Insert the following at the appropriate place:

SEC. ___. TOBACCO CONTROL IN MINORITY POPULATIONS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established in the District of Columbia a private, nonprofit corporation to be known as the National Center on Tobacco Prevention. The Center shall—

(A) not be an agency or establishment of the United States;

(B) except as otherwise provided in this section, be subject to, and have all the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (D.C. Code section 29-501 et seq.); and

(C) be exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

(2) RELATION TO UNITED STATES.—Nothing in this subsection shall be construed as making the Center an agency or establishment of the United States, or as making the members of the Board of

March 3, 1998 (1:53 p.m.)

the Center, or its employees, officers or employees of the United States.

(3) RELATION TO NONGOVERNMENTAL ORGANIZATIONS.—The Center shall have a limited staff, and, to the maximum extent practicable, utilize the available experience and talents of nongovernmental organizations with specialized experience in health, education, media, and tobacco.

(4) GOVERNING BOARD.—The Secretary shall appoint a governing board of the Center of up to 20 representatives of minority public health experts and organizations with each ethnicities' representation based on its proportion of the total smoking population.

(b) FUNDING.—

(1) IN GENERAL.—The Secretary of the Treasury shall on October 1 of each fiscal year beginning after the date of enactment of this Act, transfer an amount equal to [redacted] percent of the amounts made available under section 101(d)(5)(C) for the fiscal year to the Center to carry out this section.

(2) REQUIREMENTS FOR ELIGIBILITY FOR ANNUAL TRANSFERS FROM THE TRUST FUND.—

(A) OVERSIGHT.—The Center and its grantees shall be subject to the oversight and supervision of Congress.

(B) USE OF FUNDS.—The Center may provide funding only for programs for grants and contracts which address issues related to tobacco use in the minority populations.

(c) ELIGIBLE ENTITIES.—To be able to receive a grant or contract from the Center an entity shall submit a request to the Center, on such forms and in such manner as the Center may require, that—

(1) describes the plan the entity will establish to govern the conduct of the program funded under a grant or contract and to provide for the maintenance of records and furnishing of reports to the Center as may reasonably be required under subsection (f);

(2) describes the manner in which the entity intends to use the grant or contract amount to conduct anti-tobacco programs targeted at minority populations;

(3) describes the specific anti-smoking program that will be funded;

(4) describes the activities to be conducted under such program, including the populations to be served and the goals and purposes of such program;

(5) describes the amount of funds that will be used;

(6) describes the measurable objectives that will be used to evaluate the program;

(7) describes the procedures the entity will use to engage the specified population;

(8) describes the procedures the entity will use to engage potential program participants; and

(9) meets other criteria established by the Center as are reasonably necessary to meet the objectives of this section.

(d) EVALUATION.—Each entity which receives funds from the Center shall submit to the Center an evaluation of the entities plan submitted under subsection (c)(1), including an assessment of its effectiveness in reducing the use of tobacco products by individuals (by age, gender, race, and ethnicity) and a description of an analysis of the effectiveness of the plan's elements.

(e) AUDITS.—

(1) PUBLIC ACCOUNTS.—The accounts of the Center shall be audited annually in accordance with generally accepted auditing standards.

(2)) COMPTROLLER GENERAL.—The financial transactions of the Center for each fiscal year may be audited by the Comptroller General. A report of each audit shall be made by the Comptroller General to Congress. A copy of each report shall be furnished to the President and to the Center at the time the report is submitted to Congress.

(f) RECORDKEEPING.—the Center shall ensure that each recipient of assistance from the Center under this subsection keeps such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit. the Center shall ensure that it, or any of its duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of each recipient of assistance from the Center that are pertinent to assistance provided through the Center under this subsection.

DRAFT

CONCEPT PAPER
THE TOBACCO SETTLEMENT, MINORITY HEALTH, AND MINORITY MEDICAL SCHOOLS

The tobacco industry has successfully targeted African American, Hispanic and Native American populations for increased rates of consumption. Currently, minority Americans suffer disproportionately high rates of tobacco related illnesses, including cancer, heart disease, emphysema and stroke. As the tobacco settlement moves forward, a special emphasis must be placed on addressing the health status disparities created by increased rates of smoking among minorities. A substantial amount of support should be provided for endowments to minority medical schools.

The Role of Minority Medical Schools:

Historically African American, Hispanic and Native American serving medical schools, numbering approximately 10 in the United States are at the national forefront of 1) training a culturally sensitive healthcare workforce; 2) studying smoking related illnesses that disproportionately impact minorities 3) preparing physicians for service in underserved rural and urban areas. For example, four historically African American medical schools have trained 50% of all of the black physicians in the country.

The Financial Challenges faced by Minority Medical Schools:

Historically, minority medical schools have struggled financially through their existence. Because of a mission to serve underserved populations and train minorities to serve in primary care. Minority medical schools survive on inadequate endowments , and suffer from financial insecurity and instability.

Producing an Adequate Endowment For Minority Medical Schools:

At the turn of the century, the country had seven black medical schools. Largely because of inadequate endowments and unstable financial support, all of these schools were closed with the exception of Howard University and Meharry Medical College. Considering the current financial position of the nation's four black medical schools and the increasing importance of these institutions to train physicians likely to care for those communities hardest hit by smoking, the proposed settlement represents a significant opportunity to improve the health status of minorities by bringing permanent stability to African American, Hispanic American, and Native American serving medical schools.

The tobacco settlement provides a historic opportunity for the tobacco industry to atone for its targeting of minority populations by providing a $1 billion endowment to the nation's 10 African American, Hispanic serving, and Native American serving medical schools.

For More Information Contact:

Ronny Lancaster (404) 752-1760

Dale Dirks (202) 544-7499

Statement of Principles for Inclusion in Tobacco Control Legislation
draft draft draft draft

The recent disclosure of tobacco industry documents shows *us* empirically what we have known anecdotally for years -- minorities - African Americans, Hispanics, Asians, and Pacific Islanders, and Native Americans -- have been disproportionately targeted by the tobacco industry. The natural result of this targeting is *that* minority smoking rates and youth rates in particular, are increasing at alarming levels. In recognition of historic targeting and to mitigate the regressive effects of new tobacco taxes on low-income and minority populations, any comprehensive tobacco control legislation must include provisions expanding research, education, prevention and cessation programs for *the* minority **communities** conducted by minority based institutions.

Specifically we recommend:

I. **Tobacco-related Public Health Programs**

Tobacco-related public health programs aimed at preventing and reducing minority smoking rates should:

be culturally and linguistically appropriate for their intended audiences;

utilize community based organizations with a minority or low income focus **so they are** integral to the delivery of public **health** services;

include accessible and affordable **smoking cessation programs** for low income persons.

Any federal, state, or local tobacco-related advisory **committees** should require proportional representation from all minority groups.

II. Counter advertising campaigns should be:

nationally and locally driven;

culturally and linguistically appropriate;

produced based on **research demonstrating its effectiveness for** the Intended audiences, including focus groups;

and, use multi-media outlets including ethnic language television, radio and print media.

III. Federal Funding Issues

Federal funds generated from tobacco control legislation and federal money returned to the states should be distributed for minority public health programs in accordance with the minority smoking prevalence rate in each state.

The Department of Health and Human Services and **its** related agencies should **be required to** collect and analyze data on minorities **including** ethnic sub-populations with respect to tobacco use.

Any agreement relating to the distribution of funds among the states should guarantee Puerto Rico and the other territories receive fair and equitable treatment.

IV. Tobacco-related Research

More tobacco related research should be conducted at minority institutions or by minority researchers.

V. Enforcement

Any look back provisions should ensure smoking reductions among minority youth.

VI. Transitional Assistance

Transitional assistance should be provided for minority-owned newspapers and magazines, athletic events and other civic, educational and cultural activities to replace **tobacco funding.**

MINORITY ISSUES RAISED BY THE SETTLEMENT

1. *Regressive Nature of Settlement* - Only $10 billion of the proposed tobacco settlement is paid for directly by the tobacco industry. The remaining $358.5 billion is to be passed on to consumers by raising the price of tobacco products. While this increase is essential in order to reduce youth smoking, there is less evidence that it will reduce tobacco demand among adults - where African Americans have the greatest problems - nor that the public health programs these taxes will be used to fund will be designed in a manner that will be effective in the minority community.

The current taxes on cigarettes are the most regressive of any tax currently levied, and smoking prevalence is higher at lower income levels. According to a report cited in a CRS document recently:

* For those with incomes less than $10,000, smoking prevalence is 31.6% and cigarette taxes take up 5.1% of these smokers' median income.
* For the $10,000-$20,000 level, 29.8 percent smoke and these smokers pay 1.7% of their median income in tobacco taxes.
* For the $20,000-$35,00 class, 26.9% smoke of which the tobacco tax takes up 0.93% of their median income.
* Compare these low income rates with smokers in the $50,000 and over class, which has a smoking prevalence rate of 19.3% and where tobacco taxes take up 0.4% of these smokers' income.

The tobacco settlement will more than double the current cigarette taxes, making them over 10% of the median income of smokers earning less than $10,000 a year (higher than even Social Security costs) and almost 5% of the median income of smokers in the $10,000-$20,000 level.

Any final tobacco settlement agreed to by Congress must include specific provisions that establish culturally-effective cessation, education, and media programs targeted directly at minorities in order to

lower both youth and adult smoking rates. These funds should be based on the percentage of minorities in each state's smoking population. These programs could be administered at a state and federal level as well as by an independent nonprofit directed by minority public health groups and responsible for serving that community. In addition, there should be research funds reserved for minority educational and medical institutions charged with developing culturally-effective cessation, education, and media programs.

2. *Need to Design Culturally-Effective Minority Cessation Programs* - The Department of Health and Human Services 1991 Report entitled "Strategies to Control Tobacco Use in the United States: a blueprint for public health action in the 1990's," and many other older reports on reducing tobacco use, have argued that innovative strategies will have to be developed to operate effective education and cessation campaigns in the minority community.

A. *Minority Researchers* - According to the "Chronicle of Higher Education," minority scholars received less than 10 per cent of the grants from the National Institute of Health in 1991 (even though minorities make up 25 per cent of the total population) and these rates have not significantly improved since then. Minority medical schools and educational institutions have significant resources devoted to minority health research although they have received little direct government assistance. Since researchers at minority institutions are likely to be the most familiar with the community resources that will need to be coordinated for effective tobacco control programs operating in the minority community, funds from the tobacco settlement research portions must be targeted at these minority institutions in the interest of designing effective public health programs.

B. *Minority Public Health Research* - In addition to research for

effective prevention and cessation programs for minorities, there are a number of minority health issues pertaining to tobacco use that need further research. 76% of African Americans, for example, smoke menthol cigarettes compared with 23% of whites. This is particularly disconcerting since menthol cigarettes can be inhaled more deeply and therefore cause more damage to the lungs. However, most admit that research on menthol cigarettes is severely lacking. Research programs must be undertaken on menthol cigarettes and other tobacco-related public health issues that are specific to the minority community.

3. *Lack of Funding to Offset Costs of the Settlement* -

A. *Farmers & Tobacco Industry Employees* - According to the latest census, there are 90,826 tobacco farms of which African-Americans operate 1,956. As the demand for tobacco products is reduced due to the settlement's effects on price, tobacco farmers (small farmers in particular) will face losses and bankruptcy. The settlement must include funds to offset these effects for both farmers and communities where tobacco is the mainstay of their economy. Low-income and poorly educated tobacco farmers in particular will likely require extra assistance. In addition, Phillip Morris alone has 3,117 minority employees (37.7% of its workforce), which will need assistance if the settlement forces layoffs.

B. *Advertisement* - The tobacco industry has long been a source of support for the minority media and retailers. Phillip Morris alone spent $23.618 million in 1997 with minority-owned vendors. The tobacco settlement in its current form includes $75 million annually for 10 years to compensate events or teams that lose their tobacco industry sponsorship due to the settlement's advertising restrictions. Care should be taken to ensure that large corporate

events are not the only recipients of these funds. Furthermore, support for specific businesses, such as minority newspapers, that have relied heavily on tobacco industry support should be provided.

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cc: Tom, JRM, EK, Chris
Minority concerns FYI

Cathy - file: Tobacco - Legislation

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PLEASE DELIVER THE ACCOMPANYING MATERIALS TO:

Name:	Bruce Reed Assistant to the President for Domestic Policy
Facsimile Number:	(202)456-5542
From:	Pamela F. Carter, Esq.
Date:	November 18, 1997
Client/Matter No.:	05805-00001
Document Transmitted:	Review and Revisions to Proposed Tobacco Settlement Resolution dated June 20, 1997
Total Pages:	7

IF YOU EXPERIENCE DIFFICULTY WITH THIS TRANSMISSION, PLEASE CALL (317) 686-4228 AND ASK FOR ALANNA DeFABIS.

MESSAGE:

Discussion Draft - October 28, 1997

Review and Revisions to Proposed Tobacco Settlement Resolution dated June 20, 1997

I. Title I. Reformation of the Tobacco Industry

A. Restrictions on Marketing and Advertising

1. Marketing and Advertising Restrictions must include a ban on lifestyle and image advertising that are appealing to minority populations.

2. Marketing and Advertising Restrictions must be required on all military bases and in all prisons.

3. Deceptive advertising, e.g., "low tar" and discounting practices, must be banned.

B. Warnings, Labeling and Packaging

1. All warnings, labeling and packaging must be distributed in languages that will reach nonEnglish speaking populations.

C. Restrictions on Access to Tobacco Products

1. No comments at present.

D. Licensing of Retail Tobacco Product Sellers.

1. No comments at present.

E. Regulation of Tobacco Product Development and Manufacturing

1. No comments at present (see F).

F. Non-tobacco Ingredients

1. Minority population's use of mentholated tobacco products is disproportionately high. There has been limited research evaluating the combined effects of menthol and nicotine in tobacco products.

2. The FDA's Scientific Advisory Committee must examine not only the effects of alteration of nicotine yield, but also the effects of mentholated products in tobacco products based on its prevalence in tobacco brands consumed by minorities.

G. Compliance and Corporate Culture.

No comments at present.

II. Title II. Look-Back Provisions

A. Historically, tobacco consumption in certain minority youth populations have been significantly less than for White youth. However, there is evidence indicating a significant increase in tobacco consumption in certain minority youth populations in the last few years.

1. The benchmark used must adequately capture data reflecting this changing trend.

2. The methodology used to compute the reduction targets must adequately capture changes in minority youth tobacco use.

3. The benchmark and targets must measure use of all tobacco products, including cigarettes, cigars, smokeless tobacco and other similar products that serve as nicotine delivery devices.

4. Any surcharge collected for failure to meet the targets must ensure that a percent of those funds be used exclusively for efforts to reduce tobacco use by minority youth. The percent would be based on the percent of minority youth tobacco users relative to all youth tobacco users.

III. Title III. Penalties and Enforcement Consent Decrees: Nonparticipating Companies.

No comments at present.

IV. Title IV. Nationwide Efforts to Minimize Involuntary Exposure to Environmental Tobacco Smoke.

A. All standards imposed must include the nation's prisons, mental health institutions and military bases.

V. Title V. Scope and Effects.

No comments at present.

VI. Title VI. Programs/Funding

See Title VII.

VII. Title VII. Public Health Funds from Tobacco Settlement

A. Allocation of Grant Monies Among Programs

To date, research on factors contributing to tobacco use in minority populations has been limited. As a result, the success of many cessation/treatment programs have not proven effective in minority communities. Therefore, any future research and cessation/treatment programs must include and be effective for minority communities.

1. Reduction in Tobacco Usage. This section must earmark a specified percent of these funds to programs targeted at the minority communities. The percent would be ___ based on the percent of minority smokers to all smokers. The Secretary could provide grants to qualified nonprofit organizations.

2. FDA/State Enforcement. This section must ensure that minority communities are not disproportionately targeted in enforcement.

3. State/Local Tobacco Control Community Based Efforts. This section must earmark a specified percent of these funds to programs targeted at the minority communities. These programs could be based on any effectively program designed to reduce tobacco use, not just ASSIST, in the minority communities. The

percent would be ___ based on the percent of minority smokers to all smokers. These funds could be distributed directly to qualified nonprofit entities.

4. Research/Methods for Prevention and Cessation. This section must earmark a specified percent of these funds to programs targeted at the minority communities. The percent would be ___ based on the percent of minority smokers to all smokers.

5. Compensation for Past Sponsorship. This section must earmark a specified percent of these funds to programs targeted at the minority communities. The percent would be ___ based on the percent of events sponsored by tobacco companies in minority communities.

B. Establishment of Programs by Secretary

1. The Secretary must be directed to ensure that any education, prevent and cessation campaign include culturally-sensitive, minority focused programs.

2. The Secretary must be directed to ensure that any research into and development of technologies designed to reduce tobacco use include minority communities.

3. The Secretary must be directed to evaluate the effects of menthol and tar, in addition to other tobacco and non-tobacco constituents of tobacco products.

C. Public Education Campaign.

1. The Commission must be directed to include representative of minority communities, without regard to whether the individual worked with an entity affiliated with tobacco. This is important due to the number of events and other activities in minority communities sponsored, in part, with tobacco dollars.

2. The Commission must earmark a specified percent of these funds be used to support campaigns that are targeted at the minority communities. The percent would be ___ based on the percent of minority smokers to all smokers.

3. The Commission must ensure that entities knowledgeable about

these communities be provided with funding to develop campaigns designed to discourage and deglamorize tobacco product use.

4. The Commission shall be directed to contract with private nonprofit entities, beyond state health departments, to run such campaigns. These entities must have a demonstrated knowledge of the community in which the campaign is run.

D. Tobacco Use Cessation

1. This Trust Fund must earmark a specified percent of these funds be used to support tobacco cessation/treatment in minority communities. The percent would be ___ based on the percent of minority smokers to all smokers.

2. The Secretary must use a negotiated rule-making process to develop the criteria and procedure for implementing this section.

E. Public Health Trust Fund

1. The Commission must include representatives from various organizations representing minority communities.

2. The Commission must earmark a specified percent of these funds be used to fund research of minority-specific tobacco-related health matters. The percent would be ___ based on the percent of minority smokers to all smokers and will be administered by the new independent nonprofit corporation created under Section F. of which __ percent shall be distributed to qualified educational institutions whose historic charter is designed to serve minority communities or who currently serve minority communities and who are eligible for funds under Title VIII of the Public Health Service Act. [Ensure that this wording is sufficient to include the 4 historically African-American medical schools, 4 medical school serving Hispanic communities and the 2 medical schools serving Native Americans.]

F. New Section.

1. _____ percent of the total payments described in Title VI, shall be distributed to an independent nonprofit organization with a Board made up of individuals and leaders with expertise in minority health and health-related professions, education, financial and other

relevant professions that shall be created under this Act. The organization shall be able to distribute funds to eligible and qualified nonprofit organizations to conduct research designed to examine factors promoting tobacco use in minority communities, to develop culturally appropriate prevention, treatment and education programs designed to reduce tobacco use in minority communities and to provide other health-related services to minority communities.

G. New Section. There shall be a clearinghouse created that will collect information regarding the use of funds distributed under this Title. The information collected shall include a description of all education, treatment, prevention and cessation programs and research funded under this Title and an evaluation of all such programs and research (including the program's effectiveness). This clearinghouse shall be maintained by the Office of Smoking and Health at the Center for Disease Control. This information shall be publicly available.

H. New Section. Definitions

1. For purposes of this Act, the term "minority" shall have the meaning used in the Disadvantaged Minority Health Act.

VIII. Title VIII. Civil Liability

A. The Commission must include representatives from minority communities.

B. In the event the annual aggregate cap is not reached in any year, ____ percent of those funds must be used to support smoking behavior programs and research targeted at minority communities.

IX. Board Approval

No comments.

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OBJECTIVES

1. FORMATION OF NONPROFIT ENTITY TO RECEIVE FUNDS TO ADDRESS SMOKING RELATED BEHAVIOR IN MINORITY COMMUNITIES AND TOBACCO TARGETING OF THE MINORITY COMMUNITIES (New Corporation ("NEWCO").

2. INCLUSION OF LANGUAGE ADDRESSING ISSUES IMPORTANT TO MINORITY COMMUNITIES IN ANY LEGISLATION REGARDING THE TOBACCO SETTLEMENT.

FORMATION OF NONPROFIT ENTITY

1. ARTICLES OF INCORPORATION
2. BYLAWS
3. PROCESS FOR OBTAINING TAX-EXEMPT STATUS

ARTICLES OF INCORPORATION

ISSUES TO CONSIDER

1. Name

2. Purpose

   - Engage in activities designed to reduce smoking in minority communities;
   - Develop educational and marketing program targeted to the minority communities to counter efforts of tobacco promotions;
   - Conduct/fund research designed to examine smoking effects in minority communities and ways of reducing smoking related behavior; and
   - Raise/invest/expend funds to benefit specified classes of nonprofits.

3. Board of Directors

4. State of Incorporation

BYLAWS

ISSUES TO CONSIDER

1. COMPOSITION OF BOARD OF DIRECTORS

2. APPOINTMENT PROCESS FOR DIRECTORS

- Directors would be selected by designated groups of organizations representing various minority communities. Groups of rganizations would appoint a specified number of Directors to represent their community's interest. This process could entail the creation of various nominating committees in which each organization would appoint one person. These committees would prepare a slate of Directors for approval by their respective organizations. Once approved, those Directors would be appointed to the Board.

  - The following list provides examples of organizations that could appoint Directors. This list is not all inclusive, more organizations may be added/deleted based on interest and tax-exempt status.

    Congressional Black Caucus
    Congressional Hispanic Caucus
    Congressional Asian Pacific Caucus
    National Medical Association
    National Black Nurses
    African American Medical Schools (4)
    Hispanic-Serving Medical Schools (4)
    Native-American Serving Medical Schools (2)
    National Black Leadership Initiative on Cancer
    National Hispanic Leadership Initiative on Cancer
    Native American Cancer Network
    Coalition on Civil Rights
    National Minority Bar Associations
    National Black Publishers
    National Financial/Banking Organizations
    United Negro College Fund

3. COMMITTEES (STANDING/ADVISORY)

- Each committee responsible for establishing guidelines for distribution of funds/grants that will be approved by the Board of Directors. Such guidelines will be consistent with parameters established in legislation.

Possible Committees

- Executive
- Research
- Education
- Counter-Marketing
- Cessation Programs
- Financial/Investment

4. Staffing - The Board would determine the appropriate staffing needs for NEWCO.

PROCESS FOR OBTAINING TAX-EXEMPT STATUS

1. IRS Application Process (Form 1023)

   - Required Information

     -- Activities and Operational Information
     -- Technical Requirements
     -- Financial Data

   - 3 to 12 Month Time-frame for Obtaining Determination

     -- This process can be expedited by ensuring that legislation mandates that NEWCO be "tax-exempt."

2. Legislative Process

   - Include in Legislative Language that new entity will be tax-exempt

3. State - File for nonprofit status in various states as needed.

PROPOSED RESOLUTION

OUTLINE

1. Title I. Reformation of Tobacco Industry*
2. Title II. "Look-Back" Provisions/State Enforcement*
3. Title III. Penalties and Enforcement; Consent Decrees; Non-Participating Companies
4. Title IV. Nationwide Standards to Minimize Involuntary Exposure to Environmental Tobacco Smoke
5. V. Scope and Effect
6. Title VI. Programs/ Funding*
7. Title VII. Public Health Funds*
8. Title VIII. Civil Liability*
9. Title IX. Board Approval

*Titles with suggestion revisions.

PROPOSED RESOLUTION

ISSUES FOR CONSIDERATION

1. Title I. Reformation of the Tobacco Industry

   a. Restrictions on Marketing and Advertising

      - Include requirement that such marketing/advertising not only reduce appeal to minors, but to minority communities.

   b. Regulation of Tobacco Product Development and Manufacturing

      - Consider a requirement that the FDA's Scientific Advisory Committee not only examine the effects of alteration of nicotine yield, but also the effects of mentholated products in cigarettes based on its prevalence in cigarette brands consumed by minorities. (This suggestion is based on the fact that the amount of research evaluating the combined effect of menthol and nicotine in cigarette products appears limited.)

   c. Non-tobacco ingredients (see b)

2. Title II. Look-Back Provisions

   a. Proposal imposes required reductions in underage tobacco. If reduction targets are not met, surcharge imposed on cigarette manufacturers. Industry can request an abatement based on certain issues. Ninety percent (90%) of the funds collected by the surcharge are transferred as grants to state and local public health agencies to be used by the agencies or nonprofits to reduce underage smoking.

      - Consider imposing a requirement on agencies that a certain percent of those funds be targeted to minority communities.

      - Consider distributing funds directly to nonprofits, e.g., NEWCO, in addition to state and local public agencies.

3. Title VI. Programs/Funding

   - Tax Treatment. Proposal calls for all payments to be deductible as ordinary and necessary business expenses. Payments to NEWCO would be deductible as charitable contributions.

PROPOSED RESOLUTION
ISSUES FOR CONSIDERATION (Cont')

4. Title VII. Public Health Funds from Tobacco Settlement

   a. Allocation of Grant Monies. Proposal allocates grant monies among various programs, (e.g., $75 to $125 million) to fund state and local tobacco control community-based efforts modeled after the ASSIST program.

      - Consider distributing funds directly to designated nonprofits, e.g., NEWCO.

      - Consider allowing local community groups to receive funds that have new and innovative smoking behavior programs that may not be modeled after the ASSIST program.

   b. HHS Programs. Proposal allows HHS to make grants to state health department for Reduction in Tobacco Usage programs.

      - Consider expanding HHS grant authority to include nonprofit entities, (e.g., NEWCO).

   c. Public Education Campaigns. Proposal creates an independent nonprofit organization made up of "prestigious individuals" and leaders of "major public health organizations" to provide grants to nonprofit entities who have "a demonstrated record of working effectively to reduce tobacco product use and expertise in multi-media communication campaigns."

      - Consider granting certain entities, e.g., NEWCO, the right to appoint a specified number of individuals to this organization.

      - Consider requiring that funds be given to NEWCO to address the needs of the minority community and allowing NEWCO to provide grants in this area.

   d. Tobacco Use Cessation. Proposal puts $1 billion to $1.5 billion in a Trust Fund to assist individuals wanting to quit. Secretary of HHS must promulgate regulations to govern (i) criteria and procedure for approval of smoking cessation programs; (ii) eligibility requirements of individuals seeking assistance from the Fund; and (iii) procedures to govern such programs.

PROPOSED RESOLUTION
ISSUES FOR CONSIDERATION (Cont')

- Consider requiring Secretary to use a negotiated rule-making process to include NEWCO and other entities.

- Considering providing funds directly to programs that provide services to individuals meeting the eligibility requirements.

e. Public Health Trust Fund Presidential Commission. Proposal creates a Commission including public health representatives, Attorney Generals, Castano Attorneys and others to determine the specific tobacco related medical research for which the $25 billion Public Health Trust Fund will be used.

- Consider requiring the Commission to include representatives from NEWCO and various organizations representing minority communities.

- Consider requiring a specific percent of those funds be used to conduct research that targets minority populations.

5. Title VIII. Civil Liability

Proposal provides that in the event the annual aggregate cap is not reached in any year, Presidential Commission determines how that credit is allocated among various uses (e.g., public health, governmental entities, and others).

- Consider requiring the Commission to include representatives from NEWCO and that a specific percent of the funds be used to support smoking behavior programs and research targeted at minority populations.