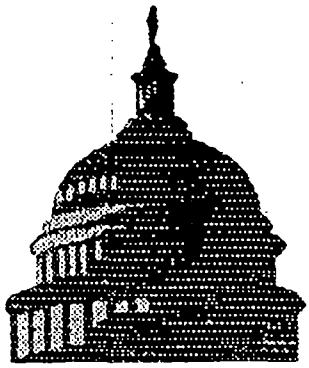

American Heart Association℠
Fighting Heart Disease and Stroke

OFFICE OF PUBLIC ADVOCACY

"actively working to change the political, social, legal, and medical environment to reduce heart disease and stroke"

- ♥ Heart attack, stroke and other cardiovascular diseases remain the No. 1 killer in the United States.
- ♥ More than 1 in 5 Americans suffer from cardiovascular diseases at an estimated cost of $259 billion in medical expenses and lost productivity in 1997.
- ♥ To fight these killers the AHA invests in research, education and community service programs.

Office of Public Advocacy
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Washington, D.C. 20036

Tel: (202) 822 9380
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Date: 8/5 **Time:** 4pm

To: Hima Vatti **Fax:** 456-7028

From: Marisa Brazil
AHA, Office of Public Advocacy

Tel: (202) 822 9380
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Number of pages including cover sheet: _____

Message _____

Confirmation: ☐ **yes** ☐ **no**

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For Release:
July 15, 1997
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Contact:
Trish Moreis (202) 822-9380
Robyn Landry (202) 872-4240

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According to the AHA, the tobacco settlement agreement must not preempt the adoption of state or local laws that are more comprehensive in reducing sales, marketing and use of tobacco products, and restricting smoking in public places. The AHA will continue to promote efforts to protect people from environmental tobacco smoke, which causes 30,000 to 60,000 deaths each year. The proposed federal OSHA standards are a minimum that must be met, but stronger state and local policies should not be preempted.

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The AHA feels that the proposed settlement must not grant immunity for past criminal wrongdoing to tobacco companies or their agents.

AMERICAN HEART ASSOCIATION
Response to the Settlement Proposal
Between the Tobacco Industry and State Attorneys General

Prevention of cardiovascular diseases and stroke remains the primary goal of the *American Heart Association*. The costs in terms of lives lost and health because of tobacco use are staggering. Tobacco use is the single leading preventable cause of death in the United States.

- Tobacco use kills more than 400,000 Americans each year – more people than car accidents, alcohol, homicides, illegal drugs, suicides, and fires combined.
- Each day 3,000 children begin smoking in the United States. Each year another 1 million young people will become regular smokers and approximately one out of every three of these adolescents will die prematurely as a result of tobacco use.
- Children are starting to smoke at earlier and earlier ages. Studies show that the proportion of 8th and 10th graders who reported smoking rose by 33 percent between 1991 and 1995.
- Approximately 3 million American adolescents currently smoke, and an additional 1 million adolescent males use smokeless tobacco.
- Cigarette smoking is the greatest risk factor for sudden cardiac death.
- Chronic exposure to environmental tobacco smoke (secondhand smoke) significantly increases the risk of heart disease.
- Smoking is the biggest risk factor for peripheral vascular disease (narrowing of blood vessels carrying blood to leg and arm muscles). Smokers with peripheral vascular disease are more likely to develop gangrene and require leg amputation.
- Of the fifty million people who smoke cigarettes, an estimated 77 – 92 percent are addicted.
- Some 82 percent of adults who have ever smoked had their first cigarette before age 18, and more than half of them had already become regular smokers by that age.
- The international impact of tobacco on world health is frightening. Between 1992 and 2025 mortality in developed countries will increase from two to three million. In developing countries, where the tobacco industry is concentrating their efforts, mortality will increase from one to seven million by 2025.

The AHA believes that the horrendous impact of tobacco use on the health of all people must be dealt with through multiple strategies. These include community education; government interventions including regulatory, legislative and judicial action; accountability by the tobacco industry; and individual responsibility.

At the forefront of our concerns is protecting the health of our children from the addiction, disease and risk of death from tobacco use.

After a careful review of the proposed settlement document drafted by the state attorneys general and representatives of the tobacco industry, the AHA has identified a number of concerns. These include FDA regulation of tobacco, penalties to the tobacco industry if the terms of the settlement document are not met, bankruptcy, public education, disclosure of tobacco industry documents, preemption, and immunity of the tobacco industry for wrongdoing.

Additionally, the AHA believes there are other crucial elements related to tobacco control that must be addressed by the Congressional and Executive Branches of our government. This response document will highlight those as well. They include international marketing of tobacco products, tobacco excise taxes, and tobacco farm issues.

Part 1 comments on the issues addressed in the proposed settlement document. *Part 2* addresses additional concerns that go beyond the scope of the settlement document, which the AHA believes are vital to the efforts to eliminate tobacco use.

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Overview Comments of the Proposed Settlement Document

The AHA views the proposed settlement document as one step in the battle against tobacco use.

The proposed settlement document is not perfect. Nor can it be thought of as a total solution to the death and disease caused by tobacco. But it could serve as a significant instrument to help reduce tobacco use in the United States. Those who have brought the proposal forward with true intent to positively improve the health and lives of all people should be thanked for their efforts.

The proposed settlement document is complex and will require legislative and regulatory action in order to implement and enforce many of its elements. Implementation of the terms of the document demands that the public health community be vigilant in holding both the tobacco industry and our government officials accountable to carry out steps that will reduce and eventually eliminate use of tobacco products in our country.

FDA Regulation of Tobacco

The proposed settlement document sets out detailed provisions for Food and Drug Administration (FDA) regulation of the manufacture, production, sales and marketing of tobacco products. The AHA holds as an absolute principle that the FDA must be guaranteed complete authority, and provided appropriate resources, to carry out its regulatory role over tobacco products in a timely fashion. The FDA must be provided funding and other needed resources as part of the settlement to enable them to conduct appropriate tobacco regulation without interfering with or impeding their regulatory responsibilities over other drugs and devices.

We also support expansion by Congress of the proposal to give the FDA authority to regulate the manufacture, sales and marketing of cigar and pipe tobacco in order to protect the public from the addictive and deadly qualities of these products.

Action by Congress or other government agencies must not create bureaucracy that will prevent or obstruct the FDA's ability to control tobacco products. FDA's control over tobacco and nicotine products must be total, including advertising and promotion, and Congress must commit to ongoing support of the FDA in the control of tobacco products.

We believe that the FDA's control over nicotine and tobacco should be governed by health and science concerns.

Concerns have been expressed that the proposed settlement document, in apparently requiring Formal Rule Making procedures and in requiring specified findings subject to certain evidentiary standards, may hamper the FDA in the discharge of its new duties. These concerns need to be explored and, if valid, addressed.

While the FDA's responsibilities relate only to U.S. consumed products, a strong FDA model for control over tobacco can serve as a useful template for international control over tobacco products.

Penalties to the Tobacco Industry

The AHA is concerned about the health damages of tobacco use, and therefore supports enactment of penalties significant enough to deter tobacco manufacturers from addicting new smokers. The penalties outlined in the settlement document should serve as a *floor* for Congress and others in determining appropriate amounts the tobacco industry should pay if it does not meet the terms of the agreement. Congress should assure there is a mechanism to enforce penalties and should be accountable for assuring the penalties are not reduced.

Penalties need to be painful to the tobacco industry and should eliminate any economic benefit of addicting a young person to tobacco.

Since penalties stated in the proposed settlement document are calculated on current information and data on teenage smoking, the figures must be reevaluated annually and adjusted appropriately. Adjustments must include evaluation of wholesale and retail prices of tobacco products to assure tobacco companies never again profit from sales to children.

It must cost the shareholders of tobacco companies money each time they addict a child to tobacco.

Bankruptcy
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Public Education
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This should be done in a manner that streamlines implementation of the educational programs, and does not create a bureaucratic quagmire.

Similar structures should be applied to programs earmarked for state and/or local implementation.

The availability of funds shall be removed from traditional appropriations processes.

Disclosure of Tobacco Industry Documents
Documents of the tobacco industries, and persons or organizations under their control, that yield information relevant to the health hazards of tobacco products and their use must be fully and openly disclosed.

Preemption
Any provisions resulting from the proposed tobacco settlement agreement must not preempt the initiation, adoption and/or enforcement of state or local laws that are more severe in reducing sales, marketing and use of tobacco products, and restricting smoking in public places.

The AHA will promote and uphold efforts to protect people from environmental smoke, which accounts for an estimated 30,000 to 60,000 deaths annually, and significantly contributes to diseases including heart disease, cancer, emphysema, chronic lung disease, asthma and sudden infant death syndrome. The AHA advocates strong clean indoor air policies, and we view the proposed OSHA standards as a minimum that must be met. Stronger state and local clean air policies must not be preempted.

Immunity for Wrongdoing
Tobacco companies and their agents should not be granted any immunity for past criminal wrongdoing.

Part 2:

Additional Concerns of the Proposed Settlement Document

The battle against tobacco is far from over. As the proposed tobacco settlement document moves forward, its terms must be scrupulously watched to assure that the public's health is ultimately protected. In addition to the terms contained in the proposed settlement agreement, there are three other items of critical concern to the AHA.

International Marketing of Tobacco Products

There is a significant concern about issues related to the manufacturing, distribution, marketing, sales and use of tobacco outside the United States. The proposed settlement document does not address international issues, and we understand that these issues were not a part of the discussions that led to the proposed settlement document.

However, the AHA believes any actions related to tobacco use in which the public health community is involved must consider international use of tobacco products.

U.S. tobacco companies must be prevented from exporting cigarettes and other tobacco products that are more hazardous than those permitted on the domestic market.

In addition the AHA is concerned that a consequence of reducing U.S. tobacco sales will intensify marketing of tobacco products elsewhere in the world. Therefore the AHA requests that the White House, through executive action, initiate assertive efforts to enable the appropriate international organizations to more aggressively attack international tobacco use.

As a partner with many international health and medical organizations, the AHA believes there is a responsibility to look at tobacco control not only within the U.S., but also worldwide.

Tobacco Excise Taxes

The settlement agreement should not preclude the use of tax policy to further decrease consumption of tobacco products, particularly among our nation's youth. (Independent studies of past tax increases show that for every 10 percent increase in the price of cigarettes, overall smoking rates fall approximately four percent.) Aggressive enactment of federal and state tobacco excise taxes must be maintained.

Tobacco Farm Issues

The AHA recognizes the production of tobacco plays a significant role in the economic maintenance of many American families living in states that grow a large quantity of tobacco. We urge Congress and the Executive Branch to actively work to provide tobacco-producing communities viable economic options for diversification as well as ensuring assistance for economic development. Opportunities must be provided to tobacco growing communities and tobacco farmers which provide for their future economic stability and productivity independent of tobacco production.

The AHA recommends that a portion of tobacco excise taxes include "set-asides" that will provide economic stability for tobacco farmers as they transition out of tobacco crops and into other agricultural ventures.

Summary

The American Heart Association remains steadfast in its efforts to hold the tobacco industry accountable for the death and disability it has caused. We are committed to assuring that the tobacco industry and our government agencies enact appropriate measures to correct past wrongdoing and assure future protection of our children and of the public's health.

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The settlement provides for disclosure of some but not all tobacco industry documents. In the interest of public health, the AHA would like all tobacco industry documents related to health issues to be fully and openly disclosed.

- **Preemption**

According to the AHA, the tobacco settlement agreement must not preempt the adoption of state or local laws that are more comprehensive in reducing sales, marketing and use of tobacco products, and restricting smoking in public places. The AHA will continue to promote efforts to protect people from environmental tobacco smoke, which causes 30,000 to 60,000 deaths each year. The proposed federal OSHA standards are a minimum that must be met, but stronger state and local policies should not be preempted.

- **Immunity for Wrongdoing**

The AHA feels that the proposed settlement must not grant immunity for past criminal wrongdoing to tobacco companies or their agents.

AMERICAN HEART ASSOCIATION
Response to the Settlement Proposal
Between the Tobacco Industry and State Attorneys General

Prevention of cardiovascular diseases and stroke remains the primary goal of the *American Heart Association.* The costs in terms of lives lost and health because of tobacco use are staggering. Tobacco use is the single leading preventable cause of death in the United States.

- Tobacco use kills more than 400,000 Americans each year – more people than car accidents, alcohol, homicides, illegal drugs, suicides, and fires combined.

- Each day 3,000 children begin smoking in the United States. Each year another 1 million young people will become regular smokers and approximately one out of every three of these adolescents will die prematurely as a result of tobacco use.

- Children are starting to smoke at earlier and earlier ages. Studies show that the proportion of 8th and 10th graders who reported smoking rose by 33 percent between 1991 and 1995.

- Approximately 3 million American adolescents currently smoke, and an additional 1 million adolescent males use smokeless tobacco.

- Cigarette smoking is the greatest risk factor for sudden cardiac death.

- Chronic exposure to environmental tobacco smoke (secondhand smoke) significantly increases the risk of heart disease.

- Smoking is the biggest risk factor for peripheral vascular disease (narrowing of blood vessels carrying blood to leg and arm muscles). Smokers with peripheral vascular disease are more likely to develop gangrene and require leg amputation.

- Of the fifty million people who smoke cigarettes, an estimated 77 – 92 percent are addicted.

- Some 82 percent of adults who have ever smoked had their first cigarette before age 18, and more than half of them had already become regular smokers by that age.

- The international impact of tobacco on world health is frightening. Between 1992 and 2025 mortality in developed countries will increase from two to three million. In developing countries, where the tobacco industry is concentrating their efforts, mortality will increase from one to seven million by 2025.

The AHA believes that the horrendous impact of tobacco use on the health of all people must be dealt with through multiple strategies. These include community education; government interventions including regulatory, legislative and judicial action; accountability by the tobacco industry; and individual responsibility.

At the forefront of our concerns is protecting the health of our children from the addiction, disease and risk of death from tobacco use.

After a careful review of the proposed settlement document drafted by the state attorneys general and representatives of the tobacco industry, the AHA has identified a number of concerns. These include FDA regulation of tobacco, penalties to the tobacco industry if the terms of the settlement document are not met, bankruptcy, public education, disclosure of tobacco industry documents, preemption, and immunity of the tobacco industry for wrongdoing.

Additionally, the AHA believes there are other crucial elements related to tobacco control that must be addressed by the Congressional and Executive Branches of our government. This response document will highlight those as well. They include international marketing of tobacco products, tobacco excise taxes, and tobacco farm issues.

Part 1 comments on the issues addressed in the proposed settlement document. *Part 2* addresses additional concerns that go beyond the scope of the settlement document, which the AHA believes are vital to the efforts to eliminate tobacco use.

Part 1:

Overview Comments of the Proposed Settlement Document

The AHA views the proposed settlement document as one step in the battle against tobacco use.

The proposed settlement document is not perfect. Nor can it be thought of as a total solution to the death and disease caused by tobacco. But it could serve as a significant instrument to help reduce tobacco use in the United States. Those who have brought the proposal forward with true intent to positively improve the health and lives of all people should be thanked for their efforts.

The proposed settlement document is complex and will require legislative and regulatory action in order to implement and enforce many of its elements. Implementation of the terms of the document demands that the public health community be vigilant in holding both the tobacco industry and our government officials accountable to carry out steps that will reduce and eventually eliminate use of tobacco products in our country.

FDA Regulation of Tobacco

The proposed settlement document sets out detailed provisions for Food and Drug Administration (FDA) regulation of the manufacture, production, sales and marketing of tobacco products. The AHA holds as an absolute principle that the FDA must be guaranteed complete authority, and provided appropriate resources, to carry out its regulatory role over tobacco products in a timely fashion. The FDA must be provided funding and other needed resources as part of the settlement to enable them to conduct appropriate tobacco regulation without interfering with or impeding their regulatory responsibilities over other drugs and devices.

We also support expansion by Congress of the proposal to give the FDA authority to regulate the manufacture, sales and marketing of cigar and pipe tobacco in order to protect the public from the addictive and deadly qualities of these products.

Action by Congress or other government agencies must not create bureaucracy that will prevent or obstruct the FDA's ability to control tobacco products. FDA's control over tobacco and nicotine products must be total, including advertising and promotion, and Congress must commit to ongoing support of the FDA in the control of tobacco products.

We believe that the FDA's control over nicotine and tobacco should be governed by health and science concerns.

Concerns have been expressed that the proposed settlement document, in apparently requiring Formal Rule Making procedures and in requiring specified findings subject to certain evidentiary standards, may hamper the FDA in the discharge of its new duties. These concerns need to be explored and, if valid, addressed.

While the FDA's responsibilities relate only to U.S. consumed products, a strong FDA model for control over tobacco can serve as a useful template for international control over tobacco products.

Penalties to the Tobacco Industry

The AHA is concerned about the health damages of tobacco use, and therefore supports enactment of penalties significant enough to deter tobacco manufacturers from addicting new smokers. The penalties outlined in the settlement document should serve as a *floor* for Congress and others in determining appropriate amounts the tobacco industry should pay if it does not meet the terms of the agreement. Congress should assure there is a mechanism to enforce penalties and should be accountable for assuring the penalties are not reduced.

Penalties need to be painful to the tobacco industry and should eliminate any economic benefit of addicting a young person to tobacco.

Since penalties stated in the proposed settlement document are calculated on current information and data on teenage smoking, the figures must be reevaluated annually and adjusted appropriately. Adjustments must include evaluation of wholesale and retail prices of tobacco products to assure tobacco companies never again profit from sales to children.

It must cost the shareholders of tobacco companies money each time they addict a child to tobacco.

Bankruptcy
As legislation moves through Congress to implement the terms of the proposed settlement agreement, provisions need to be added so that tobacco companies cannot escape their obligations through bankruptcy.

Public Education
The funding of all education programs resulting from the settlement agreement must be under the auspices of independent organizations appointed to handle counter-advertising programs, educational programs and related issues. This does not preclude government organizations from being funded to implement such tobacco-control or education programs.

This should be done in a manner that streamlines implementation of the educational programs, and does not create a bureaucratic quagmire.

Similar structures should be applied to programs earmarked for state and/or local implementation.

The availability of funds shall be removed from traditional appropriations processes.

Disclosure of Tobacco Industry Documents
Documents of the tobacco industries, and persons or organizations under their control, that yield information relevant to the health hazards of tobacco products and their use must be fully and openly disclosed.

Preemption
Any provisions resulting from the proposed tobacco settlement agreement must not preempt the initiation, adoption and/or enforcement of state or local laws that are more severe in reducing sales, marketing and use of tobacco products, and restricting smoking in public places.

The AHA will promote and uphold efforts to protect people from environmental smoke, which accounts for an estimated 30,000 to 60,000 deaths annually, and significantly contributes to diseases including heart disease, cancer, emphysema, chronic lung disease, asthma and sudden infant death syndrome. The AHA advocates strong clean indoor air policies, and we view the proposed OSHA standards as a minimum that must be met. Stronger state and local clean air policies must not be preempted.

Immunity for Wrongdoing
Tobacco companies and their agents should not be granted any immunity for past criminal wrongdoing.

Part 2:

Additional Concerns of the Proposed Settlement Document

The battle against tobacco is far from over. As the proposed tobacco settlement document moves forward, its terms must be scrupulously watched to assure that the public's health is ultimately protected. In addition to the terms contained in the proposed settlement agreement, there are three other items of critical concern to the AHA.

International Marketing of Tobacco Products

There is a significant concern about issues related to the manufacturing, distribution, marketing, sales and use of tobacco outside the United States. The proposed settlement document does not address international issues, and we understand that these issues were not a part of the discussions that led to the proposed settlement document.

However, the AHA believes any actions related to tobacco use in which the public health community is involved must consider international use of tobacco products.

U.S. tobacco companies must be prevented from exporting cigarettes and other tobacco products that are more hazardous than those permitted on the domestic market.

In addition the AHA is concerned that a consequence of reducing U.S. tobacco sales will intensify marketing of tobacco products elsewhere in the world. Therefore the AHA requests that the White House, through executive action, initiate assertive efforts to enable the appropriate international organizations to more aggressively attack international tobacco use.

As a partner with many international health and medical organizations, the AHA believes there is a responsibility to look at tobacco control not only within the U.S., but also worldwide.

Tobacco Excise Taxes

The settlement agreement should not preclude the use of tax policy to further decrease consumption of tobacco products, particularly among our nation's youth. (Independent studies of past tax increases show that for every 10 percent increase in the price of cigarettes, overall smoking rates fall approximately four percent.) Aggressive enactment of federal and state tobacco excise taxes must be maintained.

Tobacco Farm Issues

The AHA recognizes the production of tobacco plays a significant role in the economic maintenance of many American families living in states that grow a large quantity of tobacco. We urge Congress and the Executive Branch to actively work to provide tobacco-producing communities viable economic options for diversification as well as ensuring assistance for economic development. Opportunities must be provided to tobacco growing communities and tobacco farmers which provide for their future economic stability and productivity independent of tobacco production.

The AHA recommends that a portion of tobacco excise taxes include "set-asides" that will provide economic stability for tobacco farmers as they transition out of tobacco crops and into other agricultural ventures.

Summary

The American Heart Association remains steadfast in its efforts to hold the tobacco industry accountable for the death and disability it has caused. We are committed to assuring that the tobacco industry and our government agencies enact appropriate measures to correct past wrongdoing and assure future protection of our children and of the public's health.

We are committed to our responsibility as the public's advocate for the elimination of tobacco use. This is crucial to our mission: *the reduction of disability and death from cardiovascular diseases and stroke.*