
The Potential Impact of the Proposed Settlement Agreement On Black Smokers and the Black Community in the United States of America

Prepared by Charyn D. Sutton

The Onyx Group

July 1997

Introduction:

The Settlement Agreement, as agreed to by attorneys general of 39 of the 50 states, the attorney general of Puerto Rico, other attorneys involved in current litigation against tobacco companies, and representatives of major tobacco companies, contains a number of provisions that have the potential to directly impact Black people in the United States. This document provides a review and assessment of those provisions and includes an assessment of health, social, cultural and economic issues.

The majority of paragraphs in this document consist of a statement summarizing a provision of the Settlement Agreement in bold, followed by discussion of the potential impact of that provision in italics. The document concludes with the identification of two key issues that are not addressed in the Settlement Agreement and a list of eight specific items that should be addressed by the Administration and by Congress in their crafting of a tobacco policy for this nation.

Review and Assessment:

The Settlement Agreement, as currently written: .

Bans all billboard advertising of tobacco products, not just the tobacco advertising on billboards in places close to schools and other locations frequented by children.

This is something that has long been important to Black communities. Billboard advertising tends to be far more extensive in Black communities -- especially the smaller versions (called eight-sheets) that are on the sides of buildings. Also, tobacco billboards are frequently on public transit which is used by large numbers of low-income people, and especially by Black children in major cities. In addition to attracting youth, these tobacco billboards serve as constant cues to adult smokers and make quitting more difficult. While the Baltimore victory in the Supreme Court makes it more likely that local communities will act to ban tobacco billboards, the process may be speeded up through the Settlement. An agreement by tobacco industry to end the use of billboards may be easier to get enacted into law than other approaches. The separate state consent decrees could bypass First Amendment issues. In most cities, the small billboard companies with specialized in eight-sheets (some of which were begun by Blacks) have been bought out by larger concerns, so this is not an area where Black-owned businesses will be affected. However, tobacco companies have underwritten the costs of billboards promoting Black groups, like the NAACP and the Urban League, and this resource will likely be lost.

Eliminates all tobacco advertising using cartoon symbols (like Joe Camel and Willie Penguin) and all tobacco advertising using people (as with the Newport and Kool print advertisements).

When the cartoon-style Kool Penguin was introduced in the 1960s, it was enormously popular with Black teenagers and adults and was part of a marketing campaign that made Kools the #1 cigarette brand in the Black community for many years. Newport, which is currently the #1 cigarette brand in the Black community has used images of Black people in virtually all of their advertising. Brown & Williamsonís efforts to resurrect the cartoon Penguin as a streetwise symbol failed in test-market. The use of "Smooth Joe" to advertise a menthol brand of camels lasted just six months in its national roll-out. Community-based efforts to end this insidious marketing campaign, which threatened to increase the relatively low smoking rates of Black youth, were the basis of the Say No to Menthol Joe Community Crusade. A possible negative economic consequence of enacting this provision would be that eliminating cartoon and human image advertising would probably reduce tobacco-related advertising revenues for Black-owned newspapers and magazines.

There is less reason for tobacco companies to advertise in Black media unless the targeted advertising contains people or cartoon images that are identifiable as Black. A potential plus for Black media is that funding available for counter-advertising could be used to offset some of the revenue losses from any reduction in tobacco company advertising. The elimination of cartoon and human images in tobacco advertising may also decrease the amount of in-store promotional items that are targeted to African Americans, thereby lowering the incentive payments that store-owners in Black communities receive for displaying these items. This could directly impact profitability of small stores in inner city communities.

Bans all non-tobacco merchandise, including caps, jackets or bags bearing the name, logo or selling message of a tobacco brand, including gifts and proof-of-purchase promotional campaigns. The Food and Drug Administration regulations on tobacco products contained this provision. However, implementation of the FDA rule, originally planned for August 28, 1997, has been delayed due to litigation brought by the tobacco industry. This is an important provision for Black people because tobacco-industry promotional items are quite popular in Black communities. NAAAPI (National Association of African Americans for Positive Imagery) has been leading the fighting against these items through activities like T-shirt Exchanges and coined the term "unpaid, walking billboards."

Bans sponsorships, including concerts and sporting events, in the name, logo or selling message of a tobacco brand. Tobacco industry sponsorships have been quite important to many Black cultural programs, although not necessarily for Blacks in professional and amateur sports. Although language in the Settlement Agreement would permit sponsorships to continue under the corporate name, this is unlikely. In the past, funds for most sponsorships of civic and cultural activities have come largely from tobacco profits and have been used primarily to build goodwill for tobacco interests, even if they have used the corporate name. In addition, many sponsorships in the African American community have been brand-specific: Kool Achievement Awards, Benson & Hedges Blues Concerts. This provision of the Settlement Agreement, if enacted, may have a disproportionate impact on Black musicians and dance companies since tobacco companies have traditionally been major sponsors of Black cultural events. Replacement funds should be made available in instances where other non-tobacco funding cannot be secured and Black audiences will have to be cultivated in order to provide revenues that these programs require to survive and prosper.

Bans direct and indirect payments for tobacco product placement in movies, television programs and video games and prohibits direct and indirect payments to "glamorize" tobacco use in media appealing to minors, including recorded and live performances of music. These are media that attract Black youth. Removing the tobacco influences in these areas is an important step toward keeping children and youth tobacco-free. This is not an area that will impact Black business ownership in any major way, except possibly tobacco industry support for Black-owned advertising agencies and some Black-owned recording labels.

Bans most self-service tobacco product displays. This provision may have disproportionate negative economic impact on small Mom & Pop stores in inner cities since tobacco often provides a significant profit margin and the availability of cigarettes often leads to purchases of other items. The removal of displays will have an additional impact on small retailers because the incentives they receive for these displays often provide additional revenues, which can be sizeable. However, the presence of self-service displays have been shown to contribute to shoplifting of tobacco products and many Black parents are concerned about any incentives that could increase unlawful activities among Black youth, particularly in view of the disproportionate penalties that the justice system imposes on people of color in this country.

Institutes tough, national licensing requirements for merchants selling tobacco products.

This provides communities with a mechanism to address merchants who are breaking the law. Such mechanisms can be particularly important in inner cities, where stores that illegally sell tobacco often illegally sell alcoholic beverages to underage youth. Tobacco licensing provides an additional mechanism for leverage.

Establishes a Scientific Advisory Panel to determine whether there is a threshold below which nicotine does not produce drug dependency. This may be important since estimates are that as much as 10% of Black regular smokers are "chippers"-- sporadic smokers who are not addicted to nicotine and who smoke relatively few cigarettes in week or month. Also, this may facilitate the determination of whether there is a measurable difference between tobacco "use" and tobacco "abuse" as is the case with alcohol. These guidelines may also facilitate closer collaboration between alcohol and tobacco prevention and treatment programs in Black communities.

Mandates that no cigarette shall be sold in the United States which exceeds a 12 mg "tar" yield, using the testing methodology now being used by the Federal Trade Commission.

Current brands preferred by Black smokers tend to be high in both "tar" and nicotine. Both Newport (#1 among Black smokers, especially teenagers) and Kool (#2 among Black smokers) average 17 mg. "tar" per cigarette (Kings). Since the tar is considered one of the harmful ingredients in cigarettes, lowering the tar levels to a 12 mg. maximum could benefit African American smokers. It is not clear, however, whether lowering tar levels would have a significant health impact on Black smokers.

Extends coverage to "roll your own," "little cigars" and "fine cut," etc.

An important concern to many African Americans is that the Settlement Agreement does not yet cover cigars. This is an important issue since cigar displays are proliferating in inner city communities and cigar use is often linked to marijuana use among Black teenagers.

Allocates $100,000,000 annually to fund research and development of tobacco prevention and cessation methods. There has been little research done on the effectiveness of various quit approaches for African American and other Black smokers, although there are some existing models. Research work should be focused in this area, since Black smokers have higher morbidity and mortality from tobacco use than most other groups. The available of this funding would also offer an opportunity to study the impact of menthol in cigarettes, since mentholated cigarettes are smoked by the majority of Black smokers and may be associated with more negative health outcomes.

Allocates $75,000,000 annually (beginning in the second year) for 10 years to compensate events, teams or entries in such events, who lose tobacco industry. Sponsorship and/or funding and that cannot replace

that funding from other sources, provided that the funding provided under the auspices of the Settlement Agreement is used to promote a tobacco-free theme. It is critical that any replacement dollars also should be available to fund cultural and educational programs in African American and other communities that depend heavily on funding from tobacco companies in addition to sports and music events that are "sponsored" by tobacco companies. Programs qualifying for such replacement monies would include visual and creative arts and educational and scholarship programs, such as the United Negro College Fund. This may require a different allocation formula.

Allocates $500,000,000 annually for multimedia campaigns to discourage and de-glamorize tobacco use with attention paid to the needs of particular populations.

This provision does address the need for media campaigns directed at "certain populations" and allows for the purchase of paid media which can be used to purchase time and space in minority-owned media. The enactment of this provision could benefit African Americans in general and Black advertising agencies that are willing to break their ties with tobacco companies.

Funds large-scale smoking cessation programs with a focus on "special populations."

Poor and nonwhite groups have not been served adequately by existing smoking cessation programs and have been short-changed by the tobacco controlís wholesale "paradigm shift" to policy issues. The importance that the Settlement Agreement places on cessation programs could offer major benefits to African Americans and others of African descent in this country. There is a clear need to develop programs for "special populations" like African Americans, because Black smokers differ in key ways from the general population and so need tailored materials, classes and approaches to increase quit rates. The explicit mention of "special populations" in the Settlement Agreement recognizes this reality and offers financial resources for this purpose.

Allocates $1 billion per year for the first four years and $1.5 billion thereafter to a Trust Fund to assist individuals who want to quit their use of tobacco. The Secretary of Health will set regulations governing eligibility and how programs offering cessation services will be governed. Smoking cessation programs and materials have had a low priority in recent years, with the tobacco prevention movement shifting its focus to policy issues and away from individual treatment. This has had a negative impact on groups that still have high rates of smoking including Black adults, Native Americans, and women. In addition, there have been difficulties in providing government funding for African American cessation efforts that included references to religion, prayer and spirituality because of issues related to separation of church and state. The availability of these funds for culturally-appropriate cessation programs for Black adults and other groups with high smoking rates would be a positive step toward reducing the health-related risks of tobacco use in poor and minority communities.

Allows the FDA to adopt "performance standards" that would not permit the total elimination of nicotine in less than 12 years and that also would mandate certain requirements: a) clear health benefit, b) technologically feasible, c) no creation of a "black market" for cigarettes and smokeless tobacco.

This is the provision that has caused the most concern among tobacco control advocates because it restricts the ability of the FDA to move immediately to ban nicotine-containing tobacco products. However, the potential of black market sales of cigarettes to disrupt community life is a real possibility for low-income, Black communities. The power of nicotine addiction and the potential of cigarettes as contraband is already being seen in smoke-free prisons, where cigarettes are contraband and go for as much as $60 for a pack of 20 cigarettes -- an exorbitant amount given the low level of prison wages. Cigarette smuggling already has a niche in many poor communities and given the high unemployment

rates in inner cities, may be seen as an attractive way to earn a living. Therefore, the requirement that the society take steps to assure that any decision to ban or severely restrict tobacco products does not create widespread opportunities for illegal tobacco sales in communities already hard-hit by illegal drug and alcohol sales is important. Any action to ban or severely restrict the availability of cigarettes to adults should be accompanied by the implementation of culturally-appropriate cessation programs and nicotine replacement products that can significantly reduce the numbers of persons using tobacco regularly to avoid creation of large-scale, illegal marketing of tobacco.

Provides financial assistance and identifies effective programs, techniques and devices to help current tobacco users quit. Providing financial resources to assist smokers would be beneficial to low-income individuals. This funding also could be utilized to fund a national hotline, modeled on the Cancer Information Service, that could provide brief counseling, self-help cessation materials and referrals to cessation programs. The American Lung Associationís pioneering work with Black church groups and Black women smokers and the smoking cessation guide Pathways to Freedom that was developed under a grant from the National Cancer Institute could be used as the basis for further development, including uses of nicotine replacement products in ways that address cultural differences.

Permits individuals to sue for compensatory damages but designates that punitive damages would be part of the overall settlement, caps the amount that can be distributed in a given year, and eliminates the option of class action suits.

Rather than having punitive damages go to individual smokers and their families, the punitive damages would go to society as a whole to be invested in programs to help smokers quit, replace funding for community events and activities formerly bankrolled by tobacco companies, provide research into cessation techniques and less hazardous tobacco products, and develop counter-marketing campaigns to prevent young people from beginning tobacco use and convince current smokers to quit. It is not clear whether the number of Black participants in class action suits is proportionate to the percentage of Black people harmed by tobacco overall. If that is not the case, there may be more opportunity for equity if punitive damage funds go to society as a whole rather than to individual smokers and their families. There is widespread concern that the elimination of class action suits and punitive damages to individuals as a mechanism to address major issues may set an unwelcome precedent, particularly in areas other than tobacco where such suits are a critical part of the strategy and where classes tend to be comprised primarily of Black and poor people, such as suits around issues of environmental justice. However, given recent court setbacks that the Black community has experienced in areas of affirmative action, set-aside legislation and voter redistricting, there tends to be less confidence among Blacks in the judicial process as a remedy for social ills than was the case in from 1954 until the end of the 1970s.

Additional Issues:

There are two additional issues that were addressed in the "Statement by Communities of Color in the United States on Private Negotiations Toward a Proposed ëSettlementí with the Tobacco Industry" that was issued in May 1997. Recognition of the importance of these issues is critical to any assessment of the impact of the Settlement Agreement and subsequent action by Congress on items contained in the Settlement Agreement.

In the statement, Communities of Color representing African Americans/Blacks, Latinos/Hispanics, Native Americans/Alaskan Natives and Asian/Pacific Islanders said:

With respect to the issues being negotiated by the Attorneys General, the major reason for the litigation is that public monies are being spent on health services to persons with illnesses caused by tobacco. A

disproportionate number of the individuals who receive Medicaid-funded health care are low-income and are from our racial, ethnic and tribal communities. We are concerned that a large monetary settlement will only shift the burden of payment from the general public to individual smokers as tobacco companies raise prices on their addictive products to pay the settlement costs. This has the potential to victimize low-income smokers disproportionately, while allowing the investors in tobacco to realize enormous financial rewards by "immunizing" tobacco companies from many of the costs of further litigation. There must be a balance struck so that poor people and people of color, who are most likely to pay the higher costs of such a settlement through increased prices, also receive significant and measurable benefits from any agreement.

Given the enormous financial outlays that such a settlement would require from tobacco companies, it is inevitable that these costs would be passed along to consumers with substantial price increases in the cost of tobacco products. Since much of this increase would be paid by low-income individuals, who have the highest rates of tobacco use, it is critical that proportionate amounts of the funds that would be paid by the tobacco companies as a result of any Settlement Agreement go to fund programs that have poor people as their primary beneficiaries so that money is returned to the communities from which it has been taken. Clearly, any such allocation would benefit people of African descent in this country and other people of color. Use of funds raised by tobacco taxes and increases in tobacco costs that occur to pay for the settlement would offset much of the regressivity that is contained in any initiative that has its greatest negative financial impact on those least able to pay.

The Communities of Color statement also highlighted international issues of tobacco sales and marketing by companies based in the United States.

As people of color, we have links to our brothers and sisters worldwide. Some of our communities have large immigrant populations that are doubly impacted by the tobacco industryís targeted marketing practices here in the United States and in their home countries abroad. We do not view an increased international trafficking of tobacco addiction as a legitimate trade off in return for tougher sanctions on advertising and marketing to youth in the United States. All youth are important and all youth must be protected from tobacco marketing practices -- in the United States and throughout the world.

This issue is not addressed in the Settlement Agreement and that is a major oversight. It must be addressed thoughtfully in any discussion of the Settlement Agreement by the United States Congress. There are many ways that the United States can work with the World Health Organization and other groups in providing leadership in the reduction of the addictive use of tobacco products throughout the world. However, this should be done in concert with the governments of other nations since the United States and multi-national corporations should not dictate how independent nations handle their own issues relative to the manufacturing, marketing, and promotion of cigarettes and other tobacco products. The Settlement Agreement should not be used as a way of increasing marketing of tobacco products to other nations of the world.

Summary:

It is vital that African Americans and other persons in this country of African descent (including those from the islands of the Caribbean, from South and Central America, from Canada, from Europe and from Africa itself) review the Settlement Agreement from two perspectives: its impact on tobacco use in general and the specific impact that the various provisions of the Settlement Agreement will have on the Black community. This document is designed to provide the latter analysis and should be considered together with other reviews of the Settlement Agreement that address general market issues or relate to other racial or ethnic groups.

As one of the population groups that has been harmed the most by mortality and morbidity due to use of tobacco products, the concerns of Black people must be heard on this issue. We are pleased that Dr. Lonnie Bristow, an African American who served as Past President of the American Medical Association, joined the Settlement talks to bring a public health perspective. However, African Americans from all walks of life should become actively involved in discussions regarding the Settlement Agreement and the future of tobacco in this country. Only in this way can we be assured that future legislation and regulations on tobacco will provide increased benefits to our communities.

Here are items that are of specific concern to Black people in the United States. These items should be addressed in any legislative modifications by the Congress of the Settlement Agreement.

1. There should be specific language in any legislation passed by Congress indicating that diversity will be a major consideration in all aspects of tobacco prevention and control and mandating appropriate levels of representation from the communities of color, from women, and from other special populations will be mandated.

2. Money from the tobacco industry should be available to serve as replacement funding for cultural and educational programs and projects, to provide paid advertising in Black-owned and Black-oriented mass media, and to provide transition funds for African American farmers and African American workers in tobacco manufacturing companies and in other companies that will be seriously impacted by the changes in how tobacco companies conduct their affairs.

3. Cigars should be regulated in ways similar to cigarettes and smokeless tobacco.

4. Research should be conducted to understand the role of menthol in cigarettes (since that is the formulation of choice for most African American smokers), as well as on the best ways to provide cessation and prevention programs that are culturally appropriate to Black audiences of various ages: children, teenagers, adults, elders.

5.Funds should be set aside to provide health insurance for children, to educate parents to the dangers of secondhand smoke, and to provide appropriate medical treatment for children suffering from illnesses for which exposure to environmental tobacco smoke is an identified risk factor.

6. Any language relating to class action law suits should be written so that restrictions do not serve as precedent for areas that are unrelated to tobacco, given that class actions are used by many urban and rural poor communities to effectuate justice in areas of health, environmental justice and discrimination.

7.Because of the international scope of the tobacco companies, money should be allocated to fund tobacco prevention and control mass media campaigns in other countries, using information that has been gained in the United States to craft culturally appropriate messages for those populations.

8. The regressivity that will occur as a result of higher tobacco product prices resulting from industry payments and additional government taxation on tobacco products should be offset by earmarking funds raised due to the higher costs of cigarettes and other tobacco products in ways that allow people from poor communities and communities of color to receive proportionate benefits and services.

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08/15/97 03:56:00 PM

Record Type: Record

To: Elizabeth Drye

cc:
Subject: Analysis of tobacco deal

ANALYSIS OF THE PROPOSED RESOLUTION OF THE UNITED STATES TOBACCO LITIGATION

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July 16, 1997

EXECUTIVE SUMMARY

On June 20, 1997 a group of attorneys general presented to the public a proposed resolution, which would resolve their lawsuits against the tobacco industry and establish a national tobacco policy for the United States. This deal, which had been negotiated with the tobacco industry, was widely anticipated. It became possible as a result of the intense pressures the tobacco industry has faced in the past few years from regulatory authorities and from the threat posed by civil litigation against it.

Because of this pressure, the tobacco industry was willing to come to the negotiating table a develop a deal acceptable to it and to the attorneys general. As conditions for settlement the tobacco industry wanted protection from or predictability from the threat of lawsuits. In return the attorneys general wanted concessions which would provide the states reimbursement for the excess medical expenditures and would improve the public's health.

In the months leading up to the publication of the deal, many commentators discussed the relative merits of entering into a negotiated resolution. The advocates of the deal pointed to the ability to obtain specific relief, the advantages of having a national tobacco policy, and the elimination of the risks to continuing the litigation. Critics of the deal making process were concerned about making a deal which would guarantee tobacco industry profitability, would require Congressional action because of the influence the tobacco lobby in national politics, would preempt stronger state, local and regulatory efforts to control tobacco and would preclude broad based public health efforts to control tobacco.

With the publication of the deal it is possible to analyze its merits directly. Within the Preamble to the document many strongly worded claims that the deal will strengthen the federal and state government's regulatory arsenal, reaffirm individual's right of access to the courts, ensure FDA and state regulatory flexibility to affect youth access, hazardous components of tobacco products, and other tobacco related issues, fund various programs to compensate those who have suffered loss due to tobacco products. When the terms of the deal are analyzed directly, it is clear that the deal does not measure up to the promises made.

An analysis of the individual terms of the deal discloses two facts.

First, the deal is far from complete. In many parts terms are left undefined, there are ambiguities and inconsistencies. The legislation that is drafted with this as a basis will need to make assumptions which may or may not be consistent with the drafters' intent. In most cases the ambiguity can serve to work against the public health community, whereas the well-defined portions of the deal are those which provide protection to the tobacco industry.

Second, the deal fails to live up to its billing. Close scrutiny of the likely policy implications of the individual terms of the deal disclose that the disadvantages outweigh the advantages.

As a result, we conclude that the deal fails to meet the standards established in the Preamble and fails as a public health tool.

The Funding Provisions Are Inadequate

The money in the deal is large in absolute terms but small when compared against the damage done by tobacco products. Therefore, with a careful analysis it becomes clear that there are insufficient funds to satisfy the claims made against the payments. The amount of medical damages against the industry for the settled claims are out of proportion to the actual money that will be available resulting in a great under-funding. Moreover, the financial portions of the deal are structured in such a manner as to guarantee industry profits and will be insufficient to cause a dramatic drop in demand or create incentives for industry reform.

The Taxpayers will Absorb a Substantial Fraction of the Nominal Costs to the Industry

All payments by the tobacco industry, including those made "in lieu of" punitive damages, are tax deductible which results in a decrease in incentives to the industry and a cost shifting to American taxpayers. Taxpayers will absorb 30-40% of the cost of the deal.

The Industry Will be Protected From Most Threats of Litigation

The civil liability protections will strongly protect the tobacco industry. They will increase the barriers to litigation and provide perfect security to the industry in the way of capping exposure. The limitations on litigation may deprive injured smokers from receiving just compensation. The caps will eliminate the incentives civil justice system, by reducing any

threat for failing to act in a responsible manner.

Regulatory Controls are Unnecessary and Insufficient

Specifically, the claims of that the deal results in new regulatory authority are exaggerated. The FDA already has jurisdiction over tobacco products and is executing its regulatory authority pursuant to its jurisdiction. The few provisions in the deal which are not currently a part of FDA regulations could become so, or like the advertising restrictions, be regulated by another agency. Furthermore, the claims regarding the benefits attendant with many of the regulatory changes are exaggerated. Even with the advertising restrictions in place, the tobacco industry will still find successful ways to market their products, and tobacco imagery will be ubiquitous. Similarly the proposed regulations regarding tobacco warnings, and restrictions on youth access, add little new authority.

The deal also adds intensive rollbacks to the FDA authority that currently exists. The Agency will face additional regulatory hurdles before it can regulate tobacco constituents and will have specific restriction on how and when it can regulate nicotine. These hurdles will preclude much of the potential for reform towards safer products.

Similarly, the environmental tobacco smoke provisions represent a rollback of the current ability to regulate broadly. The ETS provisions within the deal would exclude a large number workplaces such as in the hospitality industry. These restrictions are not a part of the proposed OSHA regulations currently under review.

The Lookback Provision Is Inadequate

There are provisions in the deal designed to hold the industry accountable for not implementing programs to decrease youth smoking, by exacting penalties for not meeting specific targeted reductions. These targets, however, are based upon faulty analysis of youth prevalence rates, and the penalties imposed are not sufficient to create industry incentives to eliminate youth smoking.

The Deal Preserves the Oligopoly Structure of the Industry

Throughout the deal there are a number of provisions which increase barriers to market entry and preserve the current profit structure. These provisions will encourage anti-competitive behavior and eliminate any incentive to innovate towards safer products. Furthermore, by closing the market new companies will find it more difficult to compete. this will further guarantee excess profits for the industry.

Conclusion

When weighing the advantages with the disadvantages of the deal it becomes clear that the costs far outweigh the benefits and that the claims in the Preamble are exaggerated. Furthermore, when the terms of the deal are compared against public health benchmarks it is clear that the deal does not even meet the minimum standards for an acceptable resolution. As a result, we conclude that this deal should be rejected on its merits.

(I will mail the full 97 page document.)

CAMPAIGN for TOBACCO-FREE Kids

NATIONAL CENTER FOR TOBACCO-FREE KIDS

Facsimile Transmission

Number of pages (including this cover page): 3

TO: Elizabeth Dreyer

FAX #:

FROM: Scott Ballin

DATE: July 30, 1997

SUBJECT: Letter to President from the ISFC (International counterpart to the Am. Heart Assoc) on International tobacco issues

MESSAGE:

FYI

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Société et Fédération Internationale de Cardiologie
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Geneva, 28 July 1997.

The Honorable William J Clinton
President of the United States
Washington DC

Dear Mr President,

I am writing you, expressing the fears of the International Society and Federation of Cardiology (ISFC) caused by a possible agreement between your government and tobacco manufacturers. The ISFC is an international organization dedicated to the promotion of the study, prevention and relief of cardiovascular diseases throughout the world. At a recent meeting of the International Conference of Preventive Cardiology in Montreal, Canada, many of the ISFC national members (organizations collaborating with the American Heart Association and the American College of Cardiology in the United States) expressed deep concerns at the effect of any tobacco settlement between your government and tobacco manufacturers on the international community where tobacco production, manufacturing, sales and marketing are growing at an alarming rate.

While many tobacco companies are American-owned, they are also international conglomerates, and are continuing to create serious health consequences for the rest of the world by the aggressive marketing of their products. Many countries have limited resources to fight the tactics used by the tobacco companies to entrench themselves into their economies and lives. The world is becoming tobacco dependent. It is not only addicted to the nicotine-containing cigarette, but also to the financial benefits brought about by the vast amount of money being poured into the growing, manufacturing and marketing of the product. This money also influences the policy makers to protect the interests of the tobacco industry at the expense of the health of the population.

The United States and many other countries with advanced economies are now suffering the consequences of the mistakes made thirty years ago - so let us not repeat the same mistakes in the rest of the world, particularly in developing countries.

The ISFC commends your administration for implementing greater controls over the sale and marketing of tobacco. Thus we hope you will support us in sounding the alarm on the irresponsible actions of the tobacco industry not only in the United States of America but also all over the world.

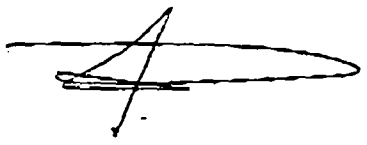
International Society and Federation of Cardiology
Société et Fédération Internationale de Cardiologie
Sociedad y Federación Internacional de Cardiología

Any agreement with the US companies must carry with it a commitment to work towards the application of comparable standards internationally. The ISFC, together with organisations campaigning against cancer and lung disease, is dedicated to improving global health, which cannot be achieved without the strong commitment of all policy makers. Such leadership has been amply demonstrated by your administration and we are convinced that you will continue to promote the move towards reducing the devastating effects of tobacco throughout the world.

For all these reasons, may we, with greatest respect, request that any settlement that is aimed to protect the health of American citizens, should carry with it your personal and explicit commitment to achieving comparable standards internationally.

We greatly appreciate your assistance and hope that we may count on your support as we strive in our efforts to combat this ever-growing health menace.

Sincerely yours.



A. Bayés de Luna
President
International Society and
Federation of Cardiology.

F.6 - ~~Public Comments~~ ~~Spit Tobacco~~
(1) health groups
EK, ED, JRM

NATIONAL SPIT TOBACCO EDUCATION PROGRAM

ORAL HEALTH AMERICA

AMERICA'S FUND FOR DENTAL HEALTH

410 North Michigan Ave., Suite 352
Chicago, Illinois 60611-4211
(312) 836-9900 Fax (312) 836-9986

July 17, 1997

Mr. Brian Reed
White House Domestic Policy Advisor
The White House
1600 Pennsylvania Avenue
Washington, DC 20001

Dear Brian:

Oral Health America very much appreciates being part of the July 11, 1997, meeting to discuss issues related to tobacco control.

Enclosed, our list of recommendations on spit tobacco. I think it's important to recognize that this is a tobacco and not exclusively smoking issue. Just this week U.S. Tobacco has said it will introduce a newer, *cheaper* version of its snuff product. The purpose of the cheaper product is to attract younger users who may not have the money to purchase spit tobacco at current prices. We urge you to include all tobacco products in any settlement with tobacco companies.

Yours very truly,

Robert J. Klaus
President and
Chief Executive Officer

RJK:bpr

NATIONAL SPIT TOBACCO EDUCATION PROGRAM

ORAL HEALTH AMERICA

AMERICA'S FUND FOR DENTAL HEALTH

410 North Michigan Ave., Suite 352
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ORAL HEALTH AMERICA'S PERSPECTIVE ON THE MOST PRESSING ISSUES REGARDING TOBACCO

Oral Health America (OHA) is a non-profit charitable organization that has worked for more that 40 years to improve the oral health of Americans. We address the many barriers to Americans maintaining and improving their oral health that come about because of a lack of knowledge of how to be orally healthy, a lack of access to necessary treatment and preventive services, or exposure to risk factors that increase the potential for disease, disability, or death. Tobacco use is of extreme importance to OHA because its use leads to lesions of the oral cavity, including precancer (leukoplakias, erythroplakias), cancers, periodontal disease, and oral tissue defects. Tobacco and alcohol use have been identified as responsible for 75% of the approximately 30,000 oral and pharyngeal cancers that occur each year in the U.S. Nearly 9,000 Americans die form these cancers each year, and thousands more are permanently disfigured as a result of treatment. Only half of the people diagnosed with oral cancer are still alive five years post diagnosis. And, given the highly addictive nature of tobacco in general and spit tobacco specifically, our concerns are well founded.

We at OHA have been particularly concerned about the epidemic of spit tobacco (smokeless, snuff, chew) use of young people in this county in recent years. Currently, nearly one in four high school senior boys uses spit tobacco. Use among high school, collegiate, and professional baseball players has been reported to be significantly higher. Up to half of the regular users of spit tobacco will have evidence of tissue damage in their mouths. Most regular users of spit tobacco start before they are teenagers, and children as young as kindergarten have been reported to use spit tobacco. With the help of Hall of Fame Broadcaster Joe Garagiola, Major League Baseball, and the Robert Wood Johnson Foundation, OHA has been waging a war against spit tobacco. This past Tuesday at Jacob's Field in Cleveland, the 68th Major League Baseball All-Star Game was played. It was noteworthy for the spectacle of the occasion and athletic feats of the skilled players from the American and National Leagues. But more importantly, thanks to the efforts of the American Baseball Players Association many individual players volunteered to refrain from using spit tobacco during the All-Star Game. And, I am proud that OHA's public service announcements aired on the stadium Jumbotron during the game and also appeared in the official All-Star Program.

While these are positive steps, they are modest relative to the challenge that spit tobacco poses for our nation's youth. I would like to mention several concerns that need to be addressed in a serious and ongoing fashion

if we are to stem the tide of spit tobacco use by young people in their country and prevent an epidemic of oral cancer in the future:

1. Spit tobacco is still too readily available to young people. When sold in stores, it must be placed where it is hard for young people to see and must be impossible for young people to reach or buy it.
2. Spit tobacco must be accurately and understandably labeled on the package for what it is– a highly addictive substance that causes disease and death. "Warning – if you start to use this product you may not be able to stop." The same should be true wherever advertising or promotional items or activities are employed that involve spit tobacco.
3. We must start the educational process as early as first or second grade, given what we know about experimentation with spit tobacco occurring before age 10 by many children. The educational process must continue through high school and college. Education must occur outside of the classroom also – in community settings and in all sporting and recreational activities where spit tobacco use occurs. Bans on spit tobacco are helpful, but are not the final answer. A significant percentage of high school, college, and minor league ballplayers use spit tobacco, even though it has been banned from practices and games.
4. Professional help to assist people get off of spit tobacco is essential. We need many more qualified counselors to work with individuals who want to quit using spit tobacco, but can not stop on their own. This will require documenting effective curricula and techniques and developing a nationwide registry and/or referral service of qualified counselors. From our work with Major League ballplayers, we know that this is a high priority need. We anticipate that the need exists for amateur ballplayers also, given case studies of individuals claiming addition. The tobacco companies should pay the cost of providing this assistance.
5. More prominent role models need to step forward to tell their story about what spit tobacco has done to harm them. Players like Lenny Dykstra, Rod Carew, Curt Schilling, and Pete Harnish have paid a terrible personal price because of spit tobacco use. This has received much publicity.
6. Adequate resources must be made available to conduct a nationwide, comprehensive, ongoing tobacco avoidance program. Spit tobacco must not get second shrift in this. With one in four high school senior boys using spit tobacco, it is not a low-level problem and can not be assumed to be transitory. A well formulated and adequately resourced program to engage employers and major corporations in addressing spit tobacco use by their personnel needs to be undertaken. Again this should be paid for by the tobacco companies.
7. We need 100% of health professionals (including physicians and dentists) talking to their patients about tobacco use, including spit tobacco. Insurance companies and employers should pay health professionals for clinical intervention services designed to get people off of tobacco. These should be required services in approved health plans.
8. Lastly and most importantly, the Food and Drug Administration must be able to closely regulate tobacco products into the future. We know from past experience that the tobacco companies will always be able to pry a crack into a canyon. We must reserve the right to employ whatever legal and regulatory force is needed in the future in the interests of the public's health.

While this list is not exhaustive, I am hopeful that it will be of assistance as you deliberate your course of action. Thank you for the opportunity to share these perspectives.

Robert J. Klaus, Ph.D.
President and CEO
Oral Health America
7/11/97

NEWS

ORAL HEALTH AMERICA
AMERICA'S FUND FOR DENTAL HEALTH

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For Immediate Release:
July 17, 1997

For more information contact: Bryan J. McGuire
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Spit Tobacco Dangers Profiled at White House Meeting and Major League Baseball's All-Star Game

Oral Health America, President and CEO Robert Klaus joined representatives from a dozen other national health organizations at a special White House meeting last Friday to advise Secretary Shalala and President Clinton on pending tobacco regulation and control policy.

The meeting was lead by White House Domestic Policy Adviser Brian Reed, and included representatives of the American Cancer Society, the Coalition for Tobacco Free Kids, the American Lung Association, and the American Heart Association.

Dr. Klaus addressed tobacco concerns from an oral health perspective, but additionally pointed out that it was critically important to understand tobacco as a generic issue that included, besides cigarette smoking, spit tobacco, cigars, and pipes. Klaus presented a series of recommendations from Oral Health America on spit tobacco which included explicit warning labels on spit tobacco products as dangerous and addictive and provisions for tobacco companies to pay for extensive spit tobacco education and cessation programs, such as are reflected in Oral Health America's National Spit Tobacco Education Program (NSTEP).

Klaus also urged tobacco control groups to make common cause with organizations outside of health care from both the private and independent sectors. "A broad-based coalition," he said, "especially if it includes members from private industry and business, will make the case for strict tobacco regulation unassailable."

-more-

After the meeting Secretary Shalala, Mr. Reed, and the organizational representatives held a press conference on the White House lawn.

The dangers of spit tobacco were addressed at another high level gathering just days before the White House meeting. Spit tobacco was very much in focus at Major League Baseball's All-Star Game and FanFest last week at Jacobs Field in Cleveland, Ohio. As part of a cooperative effort with Major League Baseball and the Major League Baseball Players Association, Oral Health America's anti-spit tobacco message was reinforced through several multi-media productions. A full page public service announcement appeared in the Official All-Star Program featuring players from all 28 Major League teams. These stars "Agree" that "Chew, Dip, or Snuff Aren't Part of Our Game." Well over 100,000 copies of the Official Program are purchased by attendees at the All Star venues or through other outlets. A video public service announcement was also played on the Jacobs Field Jumbotron screen during the All-Star Game on Tuesday evening.

Hall of Famer Joe Garagiola hosted "Stay in the Game", a morning pre-game clinic for youngsters at the FanFest. Garagiola emphasized not using spit tobacco and other tobacco products as part of a routine that players of all ages must adhere to in order to do their best. Olympic gold medal softball pitcher Michelle Smith, former Major League Baseball star Jay Johnstone, and Los Angeles Dodgers and National League All-Star trainer Charlie Strasser joined Garagiola in reinforcing the message. Clinic attendees received copies of the colorful "We Agree!" pledge card that will be made available to youth around the country who take the pledge to remain tobacco-free.

Oral Health America is in the second year of a planned four-year collaboration with the Robert Wood Johnson Foundation to reduce spit tobacco use in America, particularly among the nation's youth. For more information on the National Spit Tobacco Education Program (NSTEP) and other Oral Health America initiatives or to order materials contact Bryan McGuire at 312-836-9900.

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AMERICAN COLLEGE OF CHEST PHYSICIANS

August 1, 1997

William J. Clinton
President
United States of America
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President:

We understand that you and your advisors are currently reviewing the proposed tobacco settlement. The American College of Chest Physicians (ACCP), a medical specialty society of over 16,000 physicians, scientists and allied health professionals specializing in cardiopulmonary and critical care medicine, participated in the settlement discussions. We also participated on the Advisory Committee on Tobacco Policy and Public Health, chaired by Dr. David Kessler and Dr. Everett Koop, and most recently, on the AMA Task Force to Evaluate the Tobacco Settlement. Because of our experience we ask that you recommend that legislation be enacted by Congress which supports much of this settlement agreement.

The ACCP has been actively opposed to smoking since the early 1960s. Moreover, we are the only professional medical society that requires our Fellows to take a non-smoking pledge before they are admitted to Fellowship in the College. For your information, I am enclosing a copy of this Pledge.

The ACCP Board of Regents has evaluated the proposed tobacco settlement and has found it to be worthy of our support with two exceptions. The Food and Drug Administration must be given full control over nicotine as a drug, and the look-back provision penalties must be strengthened to ensure the tobacco industry's earnest and early compliance in the reduction of underage smoking behaviors.

We realize that by definition a settlement will not give either side 100% of what it wants. Even the Attorney General from Mississippi, who began this public discussion with a ground breaking lawsuit against the tobacco industry, has said that this is not a perfect agreement. We can hope that those other 39 states suing the industry will begin to win their fights, but while we fight the industry in the courts, children will continue to be lured by tobacco advertising. While we try to pass state laws restricting youth access, time will pass and over 1,000,000 children a year beginning to smoke and well over 400,000 Americans a year will continue to die from tobacco-related diseases, and this number too will climb.

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AMERICAN COLLEGE OF CHEST PHYSICIANS

Moreover, while we are not experts in the law, we do note that Mississippi has already settled its case. As other states do the same, much of the leverage that brought the well-funded tobacco companies to the bargaining table will disappear. Also, the monies settled for in these individual suits are not earmarked for public health programs but are to be used to reimburse Medicaid costs for smoking related diseases. All of the public health advantages of this proposed settlement you are studying will disappear.

The ACCP believes it is of major importance to the health of our children, and especially to those Americans who are not yet addicted to nicotine to move quickly and to make the most of this historic opportunity. Accordingly, Mr. President, we strongly urge you to move quickly to translate the proposed tobacco settlement into proposed legislation that encompasses most of the current settlement provisions and strengthens the two points of weakness that we have highlighted. We also ask that such legislation is introduced into both houses of Congress as soon as possible.

The American College of Chest Physicians stand ready to assist in any way we can. Thank you for your consideration these important matters.

Sincerely,

Bart Chernow

Bart Chernow, MD, FCCP
President, American College of Chest Physicians
President, The CHEST Foundation

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Nonsmoking Pledge of the American College of Chest Physicians

As a Fellow of the American College of Chest Physicians and a leader in the most important struggle faced by the chest physicians, the prevention and control of our major health problems of lung cancer, cardiovascular and chronic pulmonary disease, I shall make a special personal effort to control smoking and to eliminate this hazard from my office, clinic, and hospital. I shall ask all of my patients about their smoking habits, and I shall assist the cigarette smoker in stopping smoking. I make this pledge to my patients and to society.

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CHEST 1997
The Sixty-Third Annual Scientific Assembly
October 26- October 30, 1997
New Orleans, LA

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