

MICHELE H BLOCH, M.D., PH.D.

HEALTH POLICY CONSULTANT

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American Medical Women's Association, Inc.

Debra R. Judelson, MD, FACC, FACP, *President*
Eileen McGrath, JD, CAE, *Executive Director*

July 15, 1997

Ms. Elizabeth Drye
Associate Director for Consumer and
Public Health Policy
Domestic Policy Council
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear Ms. Drye,

I enjoyed meeting you at the White House on Friday, July 11, 1997. As we discussed, I am enclosing a copy of H.R. 4279, the Tobacco Advertising and Promotion Studies Act of 1994. This bill, sponsored by Lucille Roybal-Allard and 36 others, would have required the Federal Trade Commission to study and make recommendations on the tobacco (and alcohol) industry's marketing targeted at women and minorities. In 1992, The Coalition on Smoking OR Health, composed of the American Cancer Society, the American Heart Association and the American Lung Association, petitioned the Federal Trade Commission to undertake a similar study (support letter enclosed). H.R. 4279 sought to compel the FTC to make the needed studies.

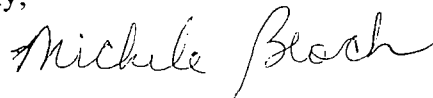
It is well recognized that the key target groups for tobacco industry marketing are youth, women, and minorities. Of these, only women are openly targeted by the industry. The tobacco industry has specific brands of cigarettes that are manufactured and marketed solely to women. They use explicit messages that appeal to women in order to sell their product. One such example is Virginia Slims new tag line, "It's a Woman Thing." In expressly targeting women, the industry can make the advertisements and promotions more direct and, consequently, more effective.

American women, particularly white women, are extremely focused on diet and body image, often with great detriment to their health. The sale of cigarettes as a weight control tool is among the industry's most effective targeting mechanisms. The industry conveys this message to women by using diet terms such as "slim," "thin," "superslim," "long," etc., on brand names and in advertising. Unfortunately, it is true that cigarettes cause women (and men) to lose weight which is reversed upon cessation.

I indicated in my presentation to Dr. Shalala that I urge the administration to consider the fact that the settlement proposal leaves intact the industry's ability to "communicate with adult customers," i.e. to target women (and minorities) to smoke. This is unacceptable. We would prefer that the U.S. follow the lead of 27 other nations and completely ban tobacco advertising. If this is not done, the industry should be required to establish a level playing field for men and women by banning the use of "diet terms" in advertising.

Thank you for your time and attention. If AMWA can provide assistance to you on this or other issues pertaining to women, girls, and smoking, please do not hesitate to contact me. I have enclosed a copy of the Journal of the American Medical Women's Association (JAMWA) dedicated to women, girls, and smoking issues. Several articles deal with targeted marketing to women and girls.

Sincerely,

A handwritten signature in cursive script that reads "Michele Bloch". The signature is written in black ink and is positioned above the printed name and title.

Michele Bloch, MD
Chair, Tobacco Control Sub-Committee

Committee on Banking, Finance,
and Urban Affairs

Subcommittee on Housing and
Community Development

Subcommittee on Consumer Credit
and Insurance

Committee on Small Business

Subcommittee on SBA Legislation and
the General Economy

Subcommittee on Minority Enterprise,
Finance, and Urban Development

Congress of the United States

House of Representatives

Washington, DC 20515-0533

LUCILLE ROYBAL-ALLARD

33D DISTRICT, CALIFORNIA

Mailing Address:

324 Cannon House Office Building
Washington, DC 20515-0533
Telephone: 202-225-1786

DISTRICT OFFICE:

255 East Temple St.
Suite 1860
Los Angeles, CA 90012-3334
Telephone: 213-628-9230

VICE-CHAIR CONGRESSIONAL
HISPANIC CAUCUS

July 11, 1994

H.R. 4279

Tobacco Advertising and Promotion Studies Act of 1994

Current List of Co-Sponsors:

Lucille Roybal-Allard (CA)

(36)

Cardiss Collins (IL)
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Lynn Schenk (CA)
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Lane Evans (IL)

Congress of the United States

House of Representatives

Washington, DC 20515

TOBACCO ADVERTISING AND PROMOTION STUDIES ACT OF 1994

H.R. 4279

BILL SUMMARY

Smoking has been on the rise among women and minorities in the United States. At the same time, the tobacco industry spends about \$4 billion each year for advertising and promotion of its products to recruit new smokers and to convince current smokers not to quit. Congresswoman Lucille Roybal-Allard has introduced The Tobacco Advertising and Promotion Studies Act of 1994 (H.R. 4279) which requires the Federal Trade Commission (FTC) to investigate whether tobacco and alcoholic beverage industries target women, girls and minorities through advertisements and promotions to use their products. We believe that this information will prove invaluable as we seek to reduce the burden that tobacco and alcohol imposes on a person's health.

Medical research has shed light on the fact that tobacco use is the single most common preventable cause of illness and premature death in this country. While smoking among adults has fallen, the fastest growing sector of smokers in the U.S. are women under the age of 23. Data shows that the rapidly growing rates of smoking among Hispanics, African-Americans, and Native Americans are also reason for concern. Data shows that tobacco use by African Americans is responsible for nearly 48,000 deaths each year. The costs associated with tobacco use are far reaching, we all pay the increased health care costs of lost productivity, higher insurance costs and higher maintenance costs in businesses where employees smoke.

The Tobacco Advertising and Promotion Studies Act of 1994 directs the Federal Trade Commission to take the first step in its authority to regulate unfair and deceptive advertising. Specifically the bill requires the FTC to conduct a total of four studies.

Study 1: Requires the FTC to determine if targeted advertising messages cause women, girls and minorities to increase their use of tobacco and alcohol products.

Study 2: Requires the FTC to study the overall wording and imagery used in tobacco advertising concerning weight loss and weight maintenance. Specifically the industry's use of terms such as "slim" and "light", and the impact of such techniques on women and girls.

Study 3: Requires the FTC to study the apparent targeting of girls and women by tobacco companies with the use of messages concerning "low yield cigarettes" as opposed to quitting smoking or smoking other "non low-yielding cigarettes".

Study 4: Requires the FTC to examine the demographics of audiences for cigarette advertising and promotions (such as age, race, gender, and socio-economic groups), including the expenditures for advertising targeted toward the aforementioned groups.

For more information please contact John or Sally of Congresswoman Lucille Roybal-Allard's office at (202) 225-1766.

EXECUTIVE COMMITTEE

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Congressional Caucus for Women's Issues

Congress of the United States
Washington, D.C. 20515

2471 Rayburn Building
(202) 225-6740

Lesley Pri
Executive Director

April 13, 1992

Janet Steiger, Chairman
Federal Trade Commission
Room 440
Sixth Street and Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Dear Chairman Steiger:

As Members of the Executive Committee of the Congressional Caucus for Women's Issues, we are writing to lend our support to a petition filed with the Federal Trade Commission on February 27, 1992, by the American Lung Association, the American Heart Association and the American Cancer Society. The petition asks the FTC to investigate cigarette advertisements that imply that tobacco use among women, particularly young women, will suppress appetite and help control weight.

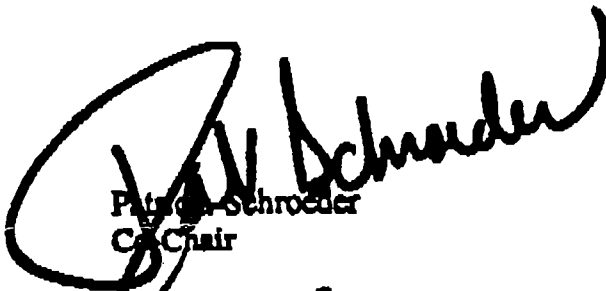
The mounting health impact of tobacco use among women is a national tragedy. Like their male counterparts, women smokers face increased risk of death or disability from cardiovascular disease, lung cancer and chronic lung disease. Tobacco use alone is the reason that more women die today from lung cancer than from breast cancer. But, smoking also subjects women to a number of special risks, including complications during pregnancy, increased risk of miscarriage or stillbirth, dramatically increased risk of heart attack or stroke among women who smoke and use oral contraceptives, and increased risk of osteoporosis.

Advertisements that associate smoking with slenderness and physical attractiveness are particularly abhorrent because they target young women. Over 50 percent of female smokers began smoking by the ninth grade. A recent national survey found that 30 percent of high school girls considered themselves overweight and over 40 percent were trying to lose weight. The FTC should put a stop to these dangerous marketing practices.

Page Two

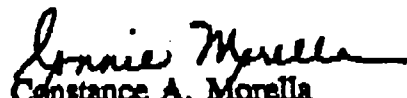
We urge you to act favorably on the petition filed by the Coalition on Smoking OR Health, and we look forward to your response.

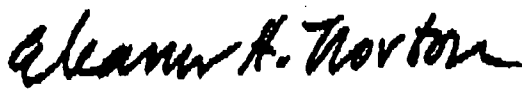
Sincerely,


Patricia Schroeder
Co-Chair


Maxine Waters
Executive Committee Member

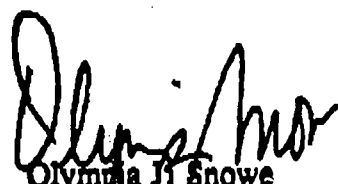

Jolene Unsoeld
Executive Committee Member


Constance A. Morella
Executive Committee Member

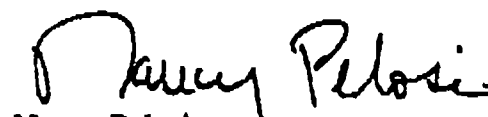

Eleanor Holmes Norton
Executive Committee Member

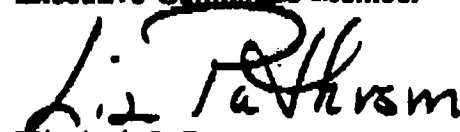

Marcy Kaptur
Executive Committee Member

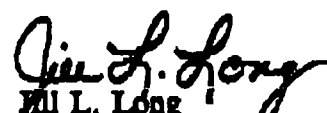

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Executive Committee Member

103D CONGRESS
2D SESSION

H.R. 4279

IN THE HOUSE OF REPRESENTATIVES

MS. ROYBAL-ALLARD (for herself, Mrs. Collins of Illinois, Mrs. Unsoeld, Ms. Harman, Ms. Schenk, Ms. Waters, Mr. Durbin, Mr. Foglietta, Ms. Furse, Mr. Torres, Mr. Serrano, Mrs. Mink, Mr. Underwood, Ms. Eshoo, Mr. Dellums, Mr. Romero-Barcelo, Mr. Synar, and Ms. Shepherd) introduced the following bill; which was referred to the Committee on Energy and Commerce.

A BILL

To require studies by the Federal Trade Commission of whether tobacco advertisements target women and minorities to promote smoking and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled.*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the "Tobacco Advertising
5 and Promotion Studies Act of 1994".

6 SEC. 2. FINDINGS.

7 (a) ADVERTISING.—The Congress makes the follow-
8 ing findings respecting advertising of tobacco products:

1 (1) The tobacco industry spends over \$4 billion
2 annually to advertise and promote cigarette prod-
3 ucts.

4 (2) Since 1964, the tobacco industry has had a
5 voluntary advertising code which it claims was im-
6 plemented to sufficiently ensure against children and
7 teenagers being encouraged to smoke cigarettes and
8 which, according to the tobacco industry, prohibits
9 the advertising of cigarette products from making
10 implied or direct health claims.

11 (3) The voluntary advertising code which the
12 tobacco industry claims is a sufficient safeguard
13 against improper advertising and marketing prac-
14 tices recommends that cigarette advertising shall not
15 suggest that cigarette smoking is "essential" to sex-
16 ual attraction, success, sophistication, or good health
17 and that models in cigarette advertisements shall be
18 at least 25 years of age and shall not be made to
19 appear under such age.

20 (4) Despite the existence of, and alleged compli-
21 ance by the tobacco industry with, the voluntary ad-
22 vertising code, a number of studies have shown that
23 cigarette advertising may be an important factor in
24 encouraging youth, women, and minorities to take

1 up the cigarette smoking habit and may reinforce
2 decisions to continue to smoke.

3 (b) WOMEN.—The Congress makes the following
4 findings respecting women and tobacco:

5 (1) The fastest growing sector of smokers in
6 the United States are women under the age of 23.
7 Approximately 2,000 girls and young women smoke
8 their first cigarette every day.

9 (2) It is expected that between the years 2005
10 and 2010, the number of women dying from smok-
11 ing related diseases will exceed the number of men
12 so dying.

13 (3) Each year tobacco kills more than 147,000
14 women in the United States, mostly through ciga-
15 rette smoking induced heart disease, lung cancer,
16 and other lung diseases.

17 (4) As smoking by women has increased, lung
18 cancer in women has skyrocketed. In 1987 lung can-
19 cer surpassed breast cancer as the leading cancer
20 killer of women.

21 (5) Women who smoke as little as one to 4
22 cigarettes each day increase their risk of heart at-
23 tack by 2 to 3 times.

1 (6) In 1991 for the first time in more than a
2 decade the prevalence of smoking among women ac-
3 tually increased rather than decreased.

4 (7) Women who smoke cigarettes during preg-
5 nancy increase the risk for low birth weight and pre-
6 mature infants, miscarriage, stillbirths, sudden in-
7 fant death syndrome, and infant mortality.

8 (8) Pregnant women who smoke deliver babies
9 an average of one-half inch shorter and 7 ounces
10 lighter than the babies of nonsmoking mothers.
11 There is a 25 to 50 percent higher rate of fetal and
12 infant death among women who smoke during preg-
13 nancy compared with those who do not smoke. It is
14 estimated that 4,000 infants die each year because
15 of their mother's smoking.

16 (9) Approximately 44 percent of all women who
17 currently smoke have attempted to quit smoking in
18 the past year.

19 (10) Cigarette smoking increases women's risk
20 of contracting cervical cancer.

21 (c) MINORITIES.—The Congress makes the following
22 findings respecting minorities and tobacco:

23 (1) Tobacco use by African-Americans is re-
24 sponsible for nearly 48,000 deaths each year in the
25 United States.

1 (2) Tobacco companies aggressively target
2 members of the African-American community and
3 the growing Hispanic population, particularly in the
4 urban, inner-city environment.

5 (3) As of 1991, 29.2 percent of African-Amer-
6 ican adults (aged 18 and older) smoked cigarettes,
7 including 35.1 percent of African-American men and
8 24.4 percent of African-American women.

9 (4) As of 1991, 16 percent of Asian/Pacific Is-
10 lander adults (aged 18 and older) smoked cigarettes,
11 including 24.2 percent of Asian/Pacific Islander men
12 and 7.5 percent of Asian/Pacific Islander women.

13 (5) As of 1991, 31.4 percent of American In-
14 dian/Alaskan Natives adults (aged 18 and older)
15 smoked cigarettes, including 27.9 percent of Amer-
16 ican Indian/Alaskan Natives men and 35.2 percent
17 of American Indian/Alaskan Natives women.

18 (6) As of 1991, 20.2 percent of Hispanic adults
19 (aged 18 and older) smoked cigarettes, including
20 25.2 percent of Hispanic men and 15.5 percent of
21 Hispanic women.

22 (7) African Americans suffer from tobacco-re-
23 lated disease at a higher rate than whites, including
24 a higher incidence of respiratory system, esophagus,
25 and oral cavity cancers.

1 (8) Lung cancer is increasing among Hispanic
2 men.

3 SEC. 3. TOBACCO ADVERTISING STUDIES.

4 (a) STUDIES.—The Federal Trade Commission shall
5 conduct the following studies which should be based on
6 existing studies and on significant original market re-
7 search:

8 (1) WOMEN AND MINORITIES.—A study of cur-
9 rent tobacco advertising to determine—

10 (A) if and in what forms such advertising
11 and promotion uses themes, graphics, and tech-
12 niques which are likely to appeal specifically to
13 (i) girls and women and (ii) minorities in ways
14 that make smoking attractive to them, and

15 (B) whether targeting girls, women, and
16 minorities increases tobacco use.

17 In connection with such study, advertising of alco-
18 holic beverages shall be reviewed to determine the
19 extent to which such advertising targets girls and
20 women and minorities.

21 (2) WEIGHT LOSS AND MAINTENANCE.—

22 (A) IN GENERAL.—A study of current cig-
23 arette advertising and promotion to investigate
24 the targeting of girls and women in cigarette
25 advertising and promotion and tobacco compa-

nies' use of messages in their advertising and promotion, explicitly or implicitly, concerning weight loss and weight maintenance, the wording and overall imagery used in such advertising and promotion and its impact on girls and women, and the perception of girls and women, including smokers and non-smokers, of the relation between the use of tobacco and weight control and maintenance.

(B) TERMS AND IMAGERY.—In conducting the study under subparagraph (A), the Federal Trade Commission shall examine the following:

(i) Whether women interpret the use of the terms "slim", "light", "thin", "superslim", and related terms and the shape of cigarettes employing such terms as implying that cigarette smoking results in weight loss or weight maintenance.

(ii) Whether girl's and women's interpretation of such terms and imagery accurately reflects the actual effect of cigarette smoking on weight. In particular, whether girls and women are knowledgeable about the transient and reversible nature of any smoking induced weight loss, the precise

1 magnitude of weight loss which may be ex-
2 perience upon the taking up of smoking,
3 and the precise magnitude of weight gain
4 which may be experienced upon smoking
5 cessation.

6 (iii) The relative impact of cigarette
7 smoking on the health of girls and women
8 and whether or not girls and women are
9 knowledgeable about the impact of smok-
10 ing on their health.

11 (iv) Whether the Federal Trade Com-
12 mission has authority to take action with
13 respect to advertising and promotion using
14 such terms and imagery.

15 (v) To the extent that the Federal
16 Trade Commission does not have the au-
17 thority to take needed action, what legisla-
18 tion is needed to enable the Commission to
19 take action necessary to fully remedy the
20 study's findings.

21 (3) LOW YIELD TOBACCO PRODUCTS.—

22 (A) IN GENERAL.—A study of current cig-
23 arette advertising and promotion to investigate
24 the apparent targeting of girls and women and
25 tobacco companies use of messages concerning

1 so called low tar/low nicotine cigarettes (here-
2 after in this paragraph referred to as "low yield
3 cigarettes"). This shall include the wording and
4 overall imagery used in advertising and pro-
5 motion for low yield cigarettes and the impact
6 of such advertising and promotion on both male
7 and female user's perception of the relative risk
8 of smoking such cigarettes as opposed to the
9 smoking of non low yield cigarettes or quitting
10 smoking.

11 (B) TERMS.—In conducting the study
12 under subparagraph (A), the Federal Trade
13 Commission shall examine the following:

14 (i) Whether men and women tend to
15 interpret messages and imagery used in
16 the advertising and promotion of low yield
17 cigarettes to indicate that smoking such
18 cigarettes is less hazardous than smoking
19 other cigarettes. The Commission shall
20 look at consumer's perception of a wide
21 range of health risks, including cardio-
22 vascular disease, lung and other cancers,
23 pulmonary diseases, risks during preg-
24 nancy, risk of environmental tobacco
25 smoke exposure to surrounding individuals,

1 and other risks and attempt to quantify
2 the degree of risk reduction perceived by
3 the reasonable consumer. In addition, the
4 Commission shall examine whether the per-
5 ception of male and female smokers differ
6 in this regard.

7 (ii) Whether men's and women's inter-
8 pretation of the wording and imagery used
9 in advertising and promotion of low yield
10 cigarettes, as determined under clause (i),
11 accurately reflects the health hazards of
12 cigarettes.

13 (iii) Whether men and women who
14 smoke are likely to be influenced to smoke
15 low yield cigarettes rather than quit smok-
16 ing because of the advertising and pro-
17 motion of such cigarettes. In this regard,
18 the Commission shall examine whether
19 smokers tend to differ according to wheth-
20 er or not they report being concerned
21 about smoking's negative impact on their
22 health and whether male and female smok-
23 ers tend to differ from each other in this
24 regard.

1 (iv) The relative likely impact of
2 smoking of low yield cigarettes on men's
3 and women's health relative to quitting
4 smoking.

5 (v) Whether the Federal Trade Com-
6 mission has the authority to take action
7 with respect to advertising and promotion
8 of low yield cigarettes.

9 (vi) To the extent that the Commis-
10 sion does not have the authority to take
11 needed action, what legislation is needed to
12 enable the Commission to take action nec-
13 essary to fully remedy the study's findings.

14 (4) DEMOGRAPHICS.—

15 (A) IN GENERAL.—A study of the demo-
16 graphics of targeted audiences of cigarette ad-
17 vertising and promotions which appear to be
18 targeted at girls, women, and minorities, includ-
19 ing the age, gender, race, ethnicity, and socio-
20 economic groups of the girls, women, and mi-
21 norities and, in the case of minorities, the de-
22 mographics of such advertising and promotions
23 for smokeless tobacco products.

1 (B) FOCUS.—In conducting the study
2 under subparagraph (A), the Federal Trade
3 Commission shall identify—

4 (i) the media used to apparently tar-
5 get the groups described in subparagraph
6 (A), including the types of publications
7 used with their demographic profile, in-
8 cluding the demographic profile of readers
9 under the age of 18,

10 (ii) the types of promotions used, giv-
11 ing information about specific venues, and

12 (iii) the amount of money spent in
13 each category.

14 (b) REPORT.—The Federal Trade Commission shall
15 complete each of the studies identified in subsection (a)
16 not later than 9 months after the date of the enactment
17 of this Act and shall, not later than 12 months after such
18 date, report to the Congress—

19 (1) the results of such studies,

20 (2) whether the Federal Trade Commission has
21 the authority to take action on the study's findings,

22 (3) any actions the Commission proposes to
23 take on the basis of such findings, and

24 (4) to the extent that the Commission does not
25 have the authority to take needed action, what legis-

- 1 lation is needed to enable the Commission to take
- 2 action necessary to fully remedy the study's findings.

Tobacco - settlement - international

Total Pages: 12

LRM ID: RJP117

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Tuesday, August 5, 1997

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Janet R. Forsgren (for) Assistant Director for Legislative Reference
OMB CONTACT: Robert J. Pellicci
PHONE: (202)395-4871 FAX: (202)395-6148

SUBJECT: COMMERCE Report on S1060 Worldwide Tobacco Disclosure Act of 1997

DEADLINE: NOON Wednesday, August 6, 1997

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Commerce Secretary Daley has promised Sen. Lautenberg a response by August 7th.

DISTRIBUTION LIST

AGENCIES:

52-HHS - Sondra S. Wallace - (202) 690-7760

128-US Trade Representative - Fred Montgomery - (202) 395-3475

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Louisa Koch

Janet R. Forsgren

Eliz / Barry / 1st page to Bruce -

Say Daley's response
is absolutely right, but
FYI I kind of like this.

Elena

The Honorable Frank Lautenberg
506 Hart Senate Office Building
Washington, DC 20510-3002

The Honorable Ron Wyden
717 Hart Senate Office Building
Washington, DC 20510-3703

Dear Senators Lautenberg and Wyden:

Thank you for your letter requesting the Administration's views regarding your bill, the "Worldwide Tobacco Disclosure Act of 1997" (S. 1060). President Clinton has called for an interagency review of the proposed tobacco settlement, including an examination of a wide range of domestic and international policies and recommendations in this area. Since the review is ongoing, the Administration is not in a position to comment on specific, related proposals prior to the completion of the review. However, as this interagency review progresses, the Administration will give serious consideration to your proposals, and will follow developments concerning your bill.

Sincerely,

William M. Daley
Secretary of Commerce

105TH CONGRESS
1ST SESSION

S. 1060

IN THE SENATE OF THE UNITED STATES

Mr. LAUTENBERG (for himself, Mr. WYDEN, Mr. DURBIN, and Mr. HARKIN) *and Reed*
introduced the following bill; which was read twice and referred to the
Committee on _____

A BILL

To restrict the activities of the United States with respect
to foreign laws that regulate the marketing of tobacco
products and to subject cigarettes that are exported to
the same restrictions on labeling as apply to the sale
or distribution of cigarettes in the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Worldwide Tobacco
5 Disclosure Act of 1997".

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

2

1 (1) CIGARETTE.—The term "cigarette"
2 means—

3 (A) any roll of tobacco wrapped in paper
4 or in any substance not containing tobacco
5 which is to be burned,

6 (B) any roll of tobacco wrapped in any
7 substance containing tobacco which, because of
8 its appearance, the type of tobacco used in the
9 filler, or its packaging and labeling is likely to
10 be offered to, or purchased by consumers as a
11 cigarette described in subparagraph (A),

12 (C) little cigars which are any roll of to-
13 bacco wrapped in leaf tobacco or any substance
14 containing tobacco (other than any roll of to-
15 bacco which is a cigarette within the meaning
16 of subparagraph (A)) and as to which 1000
17 units weigh not more than 8 pounds, and

18 (D) loose rolling tobacco and papers or
19 tubes used to contain such tobacco.

20 (2) DOMESTIC CONCERN.—The term "domestic
21 concern" means—

22 (A) any individual who is a citizen, na-
23 tional, or resident of the United States; and

24 (B) any corporation, partnership, associa-
25 tion, joint-stock company, business trust, unin-

1 corporated organization, or sole proprietorship
2 which has its principal place of business in the
3 United States, or which is organized under the
4 laws of a State of the United States or a terri-
5 tory, possession, or commonwealth of the Unit-
6 ed States.

7 (3) NONDISCRIMINATORY LAW OR REGULA-
8 TION.—The term "nondiscriminatory law or regula-
9 tion" means a law or regulation of a foreign country
10 that adheres to the principle of national treatment
11 and applies no less favorable treatment to goods that
12 are imported into that country than it applies to like
13 goods that are the product, growth, or manufacture
14 of that country.

15 (4) PACKAGE.—The term "package" means a
16 pack, box, carton, or other container of any kind in
17 which cigarettes or other tobacco products are of-
18 fered for sale, sold, or otherwise distributed to cus-
19 tomers.

20 (5) SALE OR DISTRIBUTION. The term "sale
21 or distribution" includes sampling or any other dis-
22 tribution not for sale.

23 (6) STATE.—The term "State" includes, in ad-
24 dition to the 50 States, the District of Columbia,
25 Guam, the Commonwealth of Puerto Rico, the Com-

4

1 monwealth of the Northern Mariana Islands, the
2 Virgin Islands, American Samoa, the Republic of the
3 Marshall Islands, the Federated States of Microne-
4 sia, and the Republic of Palau.

5 (7) TOBACCO PRODUCT.—The term "tobacco
6 product" means—

7 (A) cigarettes;

8 (B) little cigars;

9 (C) cigars as defined in section 5702 of
10 the Internal Revenue Code of 1986;

11 (D) pipe tobacco;

12 (E) loose rolling tobacco and papers used
13 to contain such tobacco;

14 (F) products referred to as spit tobacco;
15 and

16 (G) any other form of tobacco intended for
17 human use or consumption.

18 (8) UNITED STATES.—The term "United
19 States" includes the States and installations of the
20 Armed Forces of the United States located outside
21 a State.

5

1 SEC. 8. RESTRICTIONS ON NEGOTIATIONS REGARDING
2 FOREIGN LAWS REGULATING TOBACCO
3 PRODUCTS.

4 No funds appropriated by law may be used by any
5 officer, employee, department, or agency of the United
6 States—

7 (1) to seek, through negotiation or otherwise,
8 the removal or reduction by any foreign country of
9 any nondiscriminatory law or regulation, or any pro-
10 posed nondiscriminatory law or regulation, in that
11 country that restricts the advertising, manufacture,
12 packaging, taxation, sale, importation, labeling, or
13 distribution of tobacco products; or

14 (2) to encourage or promote the export, adver-
15 tising, manufacture, sale, or distribution of tobacco
16 products.

17 SEC. 4. CIGARETTE EXPORT LABELING.

18 (a) LABELING REQUIREMENTS FOR EXPORT OF
19 CIGARETTES.—

20 (1) IN GENERAL.—It shall be unlawful for any
21 domestic concern to export from the United States,
22 or to sell or distribute in, or export from, any other
23 country, any cigarettes whose package does not con-
24 tain a warning label that—

25 (A) complies with Federal labeling require-
26 ments for cigarettes manufactured, imported, or

6

1 packaged for sale or distribution within the
2 United States; and

3 (B) is in the primary language of the coun-
4 try in which the cigarettes are intended for con-
5 sumption.

6 (2) LABELING FORMAT.—Federal labeling for-
7 mat requirements shall apply to a warning label de-
8 scribed in paragraph (1) in the same manner, and
9 to the same extent, as such requirements apply to
10 cigarettes manufactured, imported, or packaged for
11 sale or distribution within the United States.

12 (3) ROTATION OF LABELING.—Federal rotation
13 requirements for warning labels shall apply to a
14 warning label described in paragraph (1) in the
15 same manner, and to the same extent, as such re-
16 quirements apply to cigarettes manufactured, im-
17 ported, or packaged for sale or distributed within
18 the United States.

19 (4) WAIVERS.—

20 (A) IN GENERAL.—The President may
21 waive the labeling requirements required by this
22 Act for cigarettes, if the cigarettes are exported
23 to a foreign country included in the list de-
24 scribed in subparagraph (B) and if that country
25 is the country in which the cigarettes are in-

7

1 tended for consumption. A waiver under this
2 subparagraph shall be in effect prior to the ex-
3 portation of any cigarettes not in compliance
4 with the requirements of this section by a per-
5 son to a foreign country included in the list.

6 (B) LIST OF ELIGIBLE COUNTRIES FOR
7 WAIVER.—

8 (i) IN GENERAL.—Not later than 90
9 days after the date of enactment of this
10 Act, the President shall develop and pub-
11 lish in the Federal Register a list of for-
12 eign countries that have in effect require-
13 ments for the labeling of cigarette pack-
14 ages substantially similar to or more strin-
15 gent than the requirements for labeling of
16 cigarette packages set forth in paragraphs
17 (1) through (3). The President shall use
18 the list to grant a waiver under subpara-
19 graph (A).

20 (ii) UPDATE OF LIST.—The President
21 shall—

22 (I) update the list described in
23 clause (i) to include a foreign country
24 on the list if the country meets the
25 criteria described in clause (i), or to

8

1 remove a foreign country from the list
2 if the country fails to meet the cri-
3 teria; and

4 (II) publish the updated list in
5 the Federal Register.

6 (b) PENALTIES.—

7 (1) FINE.—Any person who violates the provi-
8 sions of subsection (a) shall be fined not more than
9 \$100,000 per day for each such violation. Any per-
10 son who knowingly reexports from or transships
11 cigarettes through a foreign country included in the
12 list described in subsection (a)(4)(B) to avoid the re-
13 quirements of this Act shall be fined not more than
14 \$150,000 per day for each such occurrence.

15 (2) INJUNCTION PROCEEDINGS.—The district
16 courts of the United States shall have jurisdiction,
17 for cause shown, to prevent and restrain violations
18 of subsection (a) upon the application of the Attor-
19 ney General of the United States.

20 (c) REPEAL.—Section 12 of the Federal Cigarette
21 Labeling and Advertising Act (15 U.S.C. 1340) is re-
22 pealed.

23 (d) REGULATORY AUTHORITY.—Not later than 90
24 days after the date of enactment of this Act, the President

AUG-05-1997 15:38 TO:ELENA KAGAN
C. 1516/1516/1470

FROM:SCOTT, A.

P. 12/12

r. 16/16

S.L.C.

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- 1 shall promulgate such regulations and orders as may be
- 2 necessary to carry out this section.
- 3 (e) EFFECTIVE DATE.—The provisions of subsections
- 4 (a) through (c) shall take effect upon the effective date
- 5 of the regulations promulgated under subsection (d).

Total Pages: 12

LRM ID: RJP117

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Tuesday, August 5, 1997

LEGISLATIVE REFERRAL MEMORANDUM

SPECIAL

TO: Legislative Liaison Officer - See Distribution below
FROM: Janet R. Forsgren (for) Assistant Director for Legislative Reference
OMB CONTACT: Robert J. Pellicci
PHONE: (202)395-4871 FAX: (202)395-6148
SUBJECT: COMMERCE Report on S1060 Worldwide Tobacco Disclosure Act of 1997
DEADLINE: NOON Wednesday, August 6, 1997

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Commerce Secretary Daley has promised Sen. Lautenberg a response by August 7th.
DISTRIBUTION LIST

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LRM ID: RJP117
Act of 1997

SUBJECT: COMMERCE Report on S1060 Worldwide Tobacco Disclosure

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

- (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
- (2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Robert J. Pellicci Phone: 395-4871 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

The following is the reponse of our agency to your request for views on the above-captioned subject:

Concur

 No Objection

No Comment

See proposed edits on pages _____

Other: _____

 FAX RETURN of pages, attached to this response sheet

The Honorable Frank Lautenberg
506 Hart Senate Office Building
Washington, DC 20510-3002

The Honorable Ron Wyden
717 Hart Senate Office Building
Washington, DC 20510-3703

Dear Senators Lautenberg and Wyden:

Thank you for your letter requesting the Administration's views regarding your bill, the "Worldwide Tobacco Disclosure Act of 1997" (S. 1060). President Clinton has called for an interagency review of the proposed tobacco settlement, including an examination of a wide range of domestic and international policies and recommendations in this area. Since the review is ongoing, the Administration is not in a position to comment on specific, related proposals prior to the completion of the review. However, as this interagency review progresses, the Administration will give serious consideration to your proposals, and will follow developments concerning your bill.

Sincerely,

William M. Daley
Secretary of Commerce

106TH CONGRESS
1ST Session

S. 1060

IN THE SENATE OF THE UNITED STATES

Mr. LAUTENBERG (for himself, Mr. WYDEN, Mr. DURBIN, and Mr. HANSEN) *and Reed*
introduced the following bill; which was read twice and referred to the
Committee on _____

A BILL

To restrict the activities of the United States with respect
to foreign laws that regulate the marketing of tobacco
products and to subject cigarettes that are exported to
the same restrictions on labeling as apply to the sale
or distribution of cigarettes in the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Worldwide Tobacco
5 Disclosure Act of 1997".

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

2

1 (1) CIGARETTE.—The term “cigarette”
2 means—

3 (A) any roll of tobacco wrapped in paper
4 or in any substance not containing tobacco
5 which is to be burned,

6 (B) any roll of tobacco wrapped in any
7 substance containing tobacco which, because of
8 its appearance, the type of tobacco used in the
9 filler, or its packaging and labeling is likely to
10 be offered to, or purchased by consumers as a
11 cigarette described in subparagraph (A),

12 (C) little cigars which are any roll of to-
13 bacco wrapped in leaf tobacco or any substance
14 containing tobacco (other than any roll of to-
15 bacco which is a cigarette within the meaning
16 of subparagraph (A)) and as to which 1000
17 units weigh not more than 9 pounds, and

18 (D) loose rolling tobacco and papers or
19 tubes used to contain such tobacco.

20 (2) DOMESTIC CONCERN.—The term “domestic
21 concern” means—

22 (A) any individual who is a citizen, na-
23 tional, or resident of the United States; and

24 (B) any corporation, partnership, associa-
25 tion, joint-stock company, business trust, unin-

1 corporated organization, or sole proprietorship
2 which has its principal place of business in the
3 United States, or which is organized under the
4 laws of a State of the United States or a terri-
5 tory, possession, or commonwealth of the Unit-
6 ed States.

7 (3) NONDISCRIMINATORY LAW OR REGULA-
8 TION.—The term "nondiscriminatory law or regula-
9 tion" means a law or regulation of a foreign country
10 that adheres to the principle of national treatment
11 and applies no less favorable treatment to goods that
12 are imported into that country than it applies to like
13 goods that are the product, growth, or manufacture
14 of that country.

15 (4) PACKAGE.—The term "package" means a
16 pack, box, carton, or other container of any kind in
17 which cigarettes or other tobacco products are of-
18 fered for sale, sold, or otherwise distributed to cus-
19 tomers.

20 (5) SALE OR DISTRIBUTION. The term "sale
21 or distribution" includes sampling or any other dis-
22 tribution not for sale.

23 (6) STATE.—The term "State" includes, in ad-
24 dition to the 50 States, the District of Columbia,
25 Guam, the Commonwealth of Puerto Rico, the Com-

1 monwealth: of the Northern Mariana Islands, the
2 Virgin Islands, American Samoa, the Republic of the
3 Marshall Islands, the Federated States of Microne-
4 sia, and the Republic of Palau.

5 (7) TOBACCO PRODUCT.—The term "tobacco
6 product" means—

7 (A) cigarettes;

8 (B) little cigars;

9 (C) cigars as defined in section 5702 of
10 the Internal Revenue Code of 1986;

11 (D) pipe tobacco;

12 (E) loose rolling tobacco and papers used
13 to contain such tobacco;

14 (F) products referred to as spit tobacco;

15 and

16 (G) any other form of tobacco intended for
17 human use or consumption.

18 (8) UNITED STATES.—The term "United
19 States" includes the States and installations of the
20 Armed Forces of the United States located outside
21 a State.

5

1 **SEC. 8. RESTRICTIONS ON NEGOTIATIONS REGARDING**
2 **FOREIGN LAWS REGULATING TOBACCO**
3 **PRODUCTS.**

4 No funds appropriated by law may be used by any
5 officer, employee, department, or agency of the United
6 States—

7 (1) to seek, through negotiation or otherwise,
8 the removal or reduction by any foreign country of
9 any nondiscriminatory law or regulation, or any pro-
10 posed nondiscriminatory law or regulation, in that
11 country that restricts the advertising, manufacture,
12 packaging, taxation, sale, importation, labeling, or
13 distribution of tobacco products; or

14 (2) to encourage or promote the export, adver-
15 tising, manufacture, sale, or distribution of tobacco
16 products.

17 **SEC. 4. CIGARETTE EXPORT LABELING.**

18 (a) **LABELING REQUIREMENTS FOR EXPORT OF**
19 **CIGARETTES.—**

20 (1) **IN GENERAL.**—It shall be unlawful for any
21 domestic concern to export from the United States,
22 or to sell or distribute in, or export from, any other
23 country, any cigarettes whose package does not con-
24 tain a warning label that—

25 (A) complies with Federal labeling require-
26 ments for cigarettes manufactured, imported, or

1 packaged for sale or distribution within the
2 United States; and

3 (B) is in the primary language of the coun-
4 try in which the cigarettes are intended for con-
5 sumption.

6 (2) LABELING FORMAT.—Federal labeling for-
7 mat requirements shall apply to a warning label de-
8 scribed in paragraph (1) in the same manner, and
9 to the same extent, as such requirements apply to
10 cigarettes manufactured, imported, or packaged for
11 sale or distribution within the United States.

12 (3) ROTATION OF LABELING.—Federal rotation
13 requirements for warning labels shall apply to a
14 warning label described in paragraph (1) in the
15 same manner, and to the same extent, as such re-
16 quirements apply to cigarettes manufactured, im-
17 ported, or packaged for sale or distributed within
18 the United States.

19 (4) WAIVERS.—

20 (A) IN GENERAL.—The President may
21 waive the labeling requirements required by this
22 Act for cigarettes, if the cigarettes are exported
23 to a foreign country included in the list de-
24 scribed in subparagraph (B) and if that country
25 is the country in which the cigarettes are in-

7

1 tended for consumption. A waiver under this
2 subparagraph shall be in effect prior to the ex-
3 portation of any cigarettes not in compliance
4 with the requirements of this section by a per-
5 son to a foreign country included in the list.

6 (B) LIST OF ELIGIBLE COUNTRIES FOR
7 WAIVER.—

8 (i) IN GENERAL.—Not later than 90
9 days after the date of enactment of this
10 Act, the President shall develop and pub-
11 lish in the Federal Register a list of for-
12 eign countries that have in effect require-
13 ments for the labeling of cigarette pack-
14 ages substantially similar to or more strin-
15 gent than the requirements for labeling of
16 cigarette packages set forth in paragraphs
17 (1) through (3). The President shall use
18 the list to grant a waiver under subpara-
19 graph (A).

20 (ii) UPDATE OF LIST.—The President
21 shall—

22 (I) update the list described in
23 clause (i) to include a foreign country
24 on the list if the country meets the
25 criteria described in clause (i), or to

8

1 remove a foreign country from the list
2 if the country fails to meet the cri-
3 teria; and

4 (II) publish the updated list in
5 the Federal Register.

6 (b) PENALTIES.—

7 (1) FINE.—Any person who violates the provi-
8 sions of subsection (a) shall be fined not more than
9 \$100,000 per day for each such violation. Any per-
10 son who knowingly reexports from or transships
11 cigarettes through a foreign country included in the
12 list described in subsection (a)(4)(B) to avoid the re-
13 quirements of this Act shall be fined not more than
14 \$150,000 per day for each such occurrence.

15 (2) INJUNCTION PROCEEDINGS.—The district
16 courts of the United States shall have jurisdiction,
17 for cause shown, to prevent and restrain violations
18 of subsection (a) upon the application of the Attor-
19 ney General of the United States.

20 (c) REPEAL.—Section 12 of the Federal Cigarette
21 Labeling and Advertising Act (15 U.S.C. 1340) is re-
22 pealed.

23 (d) REGULATORY AUTHORITY.—Not later than 90
24 days after the date of enactment of this Act, the President

9

- 1 shall promulgate such regulations and orders as may be
- 2 necessary to carry out this section.
- 3 (e) EFFECTIVE DATE.—The provisions of subsections
- 4 (a) through (c) shall take effect upon the effective date
- 5 of the regulations promulgated under subsection (d).