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Tobacco Settlement: AMA Supports Effort; Pushes For Two "Essential" Changes

WESTPORT, Aug 04 (Reuters) - The AMA announced late last week that it formally supports a "...comprehensive legislative solution..." to reduce tobacco use in this country, but at the same time urged modifications to the proposed tobacco settlement.

During a press conference Thursday, the AMA released a 45-page report that summarizes the board's recommendations for "...strengthening the agreement," according to an AMA press release. Basically, the AMA wants the FDA to have greater control over tobacco products, similar to the control the FDA has over drugs and devices. AMA officials also want the potential penalty against the tobacco industry increased "..from $80 million to as much as $423 million for each percentage of underage use above the targets," according to the AMA press statement.

"We will lobby vigorously for the adoption of these changes as part of any comprehensive legislation passed by Congress and signed by President Clinton," Dr. Randolph Smoak, AMA vice chairman said.

Another change to the existing tobacco settlement proposed by the AMA includes raising the per pack price on cigarettes by $1.00 instead of $0.62.

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AMA Wants More Protection For Public in Tobacco Deal

Group Approves Basic Agreement, Offers Changes

Reuter
Friday, August 1, 1997; Page A03
The Washington Post

The American Medical Association yesterday called for changes to the proposed tobacco settlement that would strengthen the public health provisions.

Along with several other prominent health groups, the nation's largest physicians group backed the framework of the agreement, saying a legislative solution was preferable to an attempt to sue the industry state by state with uncertain results.

But the 300,000-member AMA called for stricter language guaranteeing that the federal Food and Drug Administration has the power to regulate tobacco products. And it supported fivefold steeper penalties if the industry fails to meet its goals of reducing teenage smoking.

"The proposed tobacco litigation settlement represents a landmark effort to overcome the scourge of underage smoking and to achieve a substantial and permanent reduction in tobacco use," the AMA board of trustees said.

"The danger is that once the tobacco industry gets the relief it seeks, there is no incentive for them to cooperate further," said Richard Corlin, an AMA leader. "In other words, we have to get it right the first time."

Under the settlement, tobacco companies would pay $368.5 billion over 25 years, partly for anti-smoking programs, and would make certain marketing concessions.

In exchange, the pact would grant the tobacco industry protection from certain types of lawsuits. Without that litigation threat, health officials and the government will have little leverage to get the industry back to the bargaining table, the AMA said.

The AMA was the only major medical organization to have a representative at the talks that led to a proposed settlement in June between cigarette makers and the class-action lawyers and 40 state attorneys general suing them.

Although the AMA has been favorable toward the idea of a negotiated settlement, it joined other public health and anti-smoking groups convened this summer by former U.S. surgeon general C. Everett Koop and former FDA commissioner David A. Kessler.

That panel found that the settlement fell short in several areas, with the two most egregious being FDA and youth penalties.

The AMA called for several other changes in the agreement, which is undergoing a White House review and would have to be enacted by Congress. Among other things, it wants cigarette prices to rise by about $1 a pack, instead of the estimated 62 cents foreseen by the proposed settlement.

It also backed the right of states to enact rules stricter than the federal ones and recommended that all tobacco advertising be restricted to black and white "tombstone" formats even when directed at adults.

The pact has an uncertain future in Congress. Senate panels held a few hearings, and more are expected after the August recess. The House has not set a schedule.

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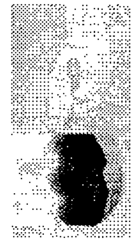

AMA wants changes in tobacco deal

BY PETER HARDIN
Times-Dispatch Washington Correspondent

WASHINGTON -- The American Medical Association pledged yesterday to throw its lobbying muscle behind legislation based on the tobacco megadeal if key provisions are strengthened.

The proposed $368.5 billion settlement with the tobacco companies "can be a powerful tool for diminishing the scourge of smoking," said Dr. Richard F. Corlin, speaker of the AMA's House of Delegates.

Two changes labeled essential by the AMA are strengthening of Food and Drug Administration control over tobacco and quadrupling potential fines for tobacco companies if youth smoking doesn't decline by agreed-upon targets.

Mississippi Attorney General Mike Moore, a leader of state attorneys general who helped negotiate the settlement, attended the AMA's news conference and welcomed its support.

"It's good to have the doctors of the country behind us," Moore said. "This is a tremendous endorsement."

AMA officials plan to hold a meeting of public health activists next week in efforts to shape a coalition to push for legislation. The public health community is not united.

Earlier this week, former Surgeon General C. Everett Koop and former FDA Commissioner David A. Kessler urged Congress to scuttle the settlement and write its own tough legislation to slash smoking.

Dr. Percy Wootton, a Richmond cardiologist and new president of the AMA, was optimistic.

"This is a public health issue we can win," he said yesterday from his Richmond office.

Born in Virginia and practicing medicine in a city known for its tobacco heritage, Wootton indicated no qualms about taking on the tobacco companies.

"Absolutely not," he said. "My patients come first!"

"This legislative solution is a historical landmark effort to try to address the tobacco problem."

A Clinton administration task force is reviewing the proposed settlement and is expected to call for several changes. The agreement would settle 39 state lawsuits seeking to recover Medicaid funds spent treating sick smokers and 17 class-action suits against industry.

The AMA's position did not come as a surprise. A past AMA president, Dr. Lonnie Bristow, participated in the talks leading up to the settlement proposal.

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The Inquirer National
Thursday, July 31, 1997

Tobacco pact splits two health leaders

A former AMA chief strongly endorsed the deal. The CEO of the American Cancer Society was less impressed.

By Dick Polman
INQUIRER STAFF WRITER

WASHINGTON -- Two prominent public-health leaders differed sharply yesterday on whether the proposed national settlement with the tobacco industry would save America's children or sell them out.

In congressional testimony, Lonnie Bristow, who as president of the American Medical Association participated in the settlement talks, declared that this deal "has public-health opportunities which would potentially dwarf the impact of even the polio vaccine."

But John Seffrin, chief executive officer of the American Cancer Society -- which was not party to the talks -- told the Senate Judiciary Committee that "this is not the right settlement" and that the deal contained "substantial" flaws.

Seffrin said that the deal -- negotiated primarily by the tobacco industry, state attorneys general, and a children's health lobbyist -- was filled with fine print that would "complicate and encumber" the Food and Drug Administration's embryonic attempts to police tobacco and reduce nicotine levels. Unless the FDA is freed of these restrictions, Seffrin said, the deal should be rejected.

But Bristow insisted that this pact "represents the best that everyone could come away with" and was not a sweetheart deal for Big Tobacco.

'Acrimony and distrust'

Although Bristow wasn't officially testifying for the AMA -- he stepped down as president last month -- members of the public-health community spoke privately yesterday of "acrimony and distrust" within their ranks. The AMA is expected to announce its official position today.

Under terms of the deal, which must be ratified by Congress and the White House, 40 states suing to recover health-care costs would end their suits in return for $368 billion from the tobacco industry over 25 years. The firms would accept broad curbs on ads and marketing while agreeing to finance tobacco education and pay penalties if youth smoking isn't reduced -- all in return for broad immunity from lawsuits and an annual cap on damage payments. The American Cancer Society has opted to join the deal's critics, whose ranks include former Surgeon General C. Everett Koop and former FDA

Commissioner David A. Kessler.

Few harsh words

Mississippi Attorney General Mike Moore, the prime mover for the deal, insisted during a break that the cancer society was essentially on his side: ``I only deal with John Seffrin, and he came out pretty strongly for [me] today." Indeed, Seffrin had few harsh words in his testimony; however, his written submission closely tracked the objections raised by Koop and Kessler, and by, among others, the American Lung Association.

Seffrin said that the pact wouldn't adequately punish Big Tobacco if it failed to reduce youth smoking by 60 percent over the next 10 years -- as promised. The industrywide penalty would be capped at $2 billion a year, which, he said could be merely passed along to consumers by increasing the price of a pack of cigarettes by a dime.

Also, he said, ``the settlement does not compel tobacco manufacturers to turn over hundreds of thousands of documents, representing millions of pages, currently protected by attorney-client privilege. The documents are believed to contain incriminating evidence on marketing research, strategies to induce teenagers to use tobacco, studies on health dangers, and political strategies." Bristow, however, said that the deal would allow a three-judge panel to review secret company documents and rule on whether they should be unsealed.

Moore, the Mississippi attorney general, said later: ``This settlement is like a rubber band. You can stretch it only so far before it breaks and the industry walks away."
The deal's defenders want congressional ratification before the end of the year, when state lawsuits against the industry come to trial, starting with Florida and Minnesota. Quick passage of the deal as negotiated is unlikely, but Sen. Orrin G. Hatch of Utah, the Republican chairman of Judiciary, said yesterday: ``If we can work out a balanced budget with President Clinton, then surely we can work this out too."

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Nation/World - *Stories from the latest print edition*

DUMP TOBACCO DEAL, CRUSADERS URGE SENATORS

'PACT SHORTCHANGES NATION'S HEALTH,' SAYS EX-SURGEON GENERAL

By Pat Widder, Washington Bureau. Tribune news services contributed to this report
Web-posted Wednesday, July 30, 1997; 6:13 a.m. CDT

Dateline: WASHINGTON

Two of America's top public health advocates who have spent years waging their own tobacco wars, urged Congress Tuesday essentially to scrap the landmark $368.5 billion tobacco settlement and start over.

"This pact shortchanges the nation's health," said former U.S. Surgeon General C. Everett Koop.

The voices of Koop and David Kessler, former head of the Food and Drug Administration, have a clarion ring because their battlefield credentials in this war are impeccable.

Their dissatisfaction with the proposed deal, negotiated between tobacco companies and 40 states suing them to recover health-care costs of treating sick smokers, by no means dooms it on Capitol Hill, where lawmakers are just starting to grapple with the issues in the settlement, which requires congressional approval.

But it does raise the ante. Koop and Kessler are saying, in effect, that the choices aren't limited to rejecting the agreement or simply improving it at the margins.

Congress should start by considering what is best for the public health of the nation, Kessler told the Senate Commerce, Science and Transportation Committee in its first public hearing on the settlement reached June 20. At least a half-dozen other congressional committees have begun to scrutinize the deal or plan to do so this fall.

Kessler cited five principles that should guide the nation's tobacco policy: Let the FDA regulate nicotine; keep the industry from marketing its products to children; impose penalties if it continues to target children; ban smoking in public places; and pass an excise tax to fund education and cessation programs.

"You don't need the industry's money. You don't need the industry's permission," Kessler said. "You can accept the settlement, tinker with it. That will make some difference but will keep the industry booming and profitable. Or you can do it right without ceding an inch to those forces that have lied and killed for years."

Sen. Wendell Ford (D-Ky.) characterized the Koop-Kessler views as "nothing more than back-door Prohibition. I submit your own back yard could be off-limits (for smoking)."

Ford, who represents a state with numerous tobacco farms, added, "These extreme views have the potential to undo the delicate balance" of the settlement.

The settlement--$368.5 billion over 25 years--requires the industry to fund the states' costs for treating ill smokers, smoking cessation and education programs. The industry also will submit to FDA regulation. The agreement sets targets for reduction in teen smoking levels and imposes penalties if those targets aren't met.

In exchange, current class action litigation against tobacco companies is resolved; future class action suits and punitive damages in individual suits will be banned. Some of those provisions require acts of Congress.

As part of the settlement, the states and tobacco companies have entered into consent decrees that sharply restrict the advertising and marketing of tobacco products to youths, agreements that sidestep possible constitutional free-speech challenges.

Kessler first proposed regulating nicotine as a drug three years ago, and Koop waged a campaign against smoking while surgeon general in the 1980s. Together, they headed the 23-member group commissioned by Congress to deliver a public health blueprint for waging the battle against smoking.

Koop and Kessler on Tuesday backed Minnesota Atty. Gen. Hubert Humphrey III's quest for more secret industry documents as he prepares for that state's trial against tobacco companies, due to begin Jan. 19.

"We have to know more about what's hidden in those secret documents," Koop said.

Humphrey, who also testified Tuesday, is urging Congress to unleash its subpoena powers to get at some of those documents that, he says, will determine what tobacco executives knew and when they knew it about the dangers of smoking.

Humphrey is opposed in this by the other attorneys general, who contend the information contained in the confidential documents isn't worth the time--and uncertain outcome--of those efforts.

Mississippi Atty. Gen. Michael Moore, who also testified Tuesday, said, "The best way to get hold of those documents--now and not five years from now"--is through the settlement mechanism.

Regarding Kessler's five points, Moore said, "You've been debating this issue for 40 years. If you can pass those five, pass 'em. But if you can't," the settlement is the best opportunity to accomplish those public health goals.

"I want to put something together that works," said Ford, who is well aware his state's own tobacco farmers would be hurt by the deal. "If you go too far, it won't work."

"The question is the price you pay," responded Kessler.

Another tobacco-state senator, Bill Frist (R-Tenn.), complained that farmers had not been represented in negotiations.

Kessler suggested the industry set aside economic redevelopment money to help farmers adjust.

"We have to deal in the real world here," Arizona Atty. Gen. Grant Woods said. He noted that the settlement restricts tobacco advertising and marketing in a way that could never be imposed by the FDA, Congress or the courts.

Sen. John Breaux (D-La.) reminded fellow senators, "We're all here today not because of any effort in Congress but as the result of private negotiations. They've done something no one in Congress has been able to put together."

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ACTION ON SMOKING AND HEALTH
A National Legal-Action Antismoking Organization

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http://ash.org

ASH TESTIMONY TARGETS SETTLEMENTS BENEFITS TO TOBACCO INDUSTRY[7.30.1]

Senate Judiciary Hearings Continue

TESTIMONY PRESENTED BY KATHLEEN E. SCHEG LEGISLATIVE COUNSEL ACTION ON SMOKING AND HEALTH BEFORE SENATE JUDICIARY COMMITTEE JULY 30, 1997 ON "THE PROPOSED GLOBAL TOBACCO SETTLEMENT: WHO BENEFITS?"

Action on Smoking and Health(ASH) respectfully submits the following testimony on the "The Proposed Global Tobacco Settlement: Who Benefits?" ASH is the nation's oldest and largest antismoking organization. It is a national, nonprofit, legal and educational organization concerned solely with the many problems of smoking.

In ASH's opinion , it is the tobacco industry who will be the primary beneficiary of the tobacco deal in its current form. Lawyers of the tobacco industry will also certainly benefit, but as well be shown below it is the industry who will gain the most from the deal unless Congress corrects a number of glaring flaws.

On its 30 year history, ASH has seen other tobacco deals passed by Congress which time has shown primarily benefit the tobacco industry. In 1964, the tobacco industry agreed to accept health warnings on cigarette packages. Now we know the industry wanted those warnings to help immunize it from liability for its wrongful acts. The tobacco industry benefitted, the American public and particularly individual smokers and their families lost.

In 1969, the tobacco industry offered another deal. They offered to accept a ban on cigarette commercials on television and other electronic media. Once again Congress and the American people were tricked. The tobacco industry simply shifted the money saved on T.V. ads to other forms of advertising. Moreover, the end of tobacco ads on T.V. also ended the counteradvertising which had been very effective. Cigarette consumption went up. Once again, it was the tobacco industry who benefitted.

The current tobacco deal has the potential to be the biggest tobacco bailout yet. It will substantially benefit the tobacco industry in a number of ways.

I.SEVERELY LIMITS FDA JURISDICTION

The tobacco deal would severely limit FDA's jurisdiction over tobacco. It has taken decades for the FDA to assert its jurisdiction over cigarettes and other tobacco products. Now that it has, and even the court in North Carolina has upheld that jurisdiction, the deal asks Congress to severely limit that authority by imposing new legal restrictions and requirements.

ASH, the Koop-Kessler Advisory Committee, and virtually every antismoking organization in the national strongly oppose any curtailment of FDA's jurisdiction over nicotine. All of the organizations believe that the FDA must have the same authority to regulate nicotine in cigarettes that it now has with regard to nicotine in patches, chewing gum, inhalers, and other devices, as well as the authority it has to regulate literally thousands of other drugs which are not even addictive and are far less dangerous than cigarettes. As the Koop-Kessler committee said: "There should be no limitations on or special exceptions to FDA authority to regulate nicotine, other constituents, and ingredients of tobacco products."

Any limitation on FDA authority benefits the tobacco industry. It will allow them to continue to addict current and future generations with all the suffering and death that that entails.

II.SUPPORTS ENVIRONMENTAL TOBACCO SMOKE EXPOSURE

Environmental Tobacco Smoke(ETS) has been classified as a class A carcinogen by the EPA. It has been found to be a "human carcinogen" by the International Agency for Research on Cancer; to be a "potential occupational carcinogen" by the National Institute for Occupational Safety and Health (NIOSH); to cause lung cancer and lung deaths among nonsmokers by the National Research Council of the National Academy of Sciences, the U.S. Public Health Service, the National Cancer Institute, and the World Health Organization, among other scientific and medical organizations. Based on this and other evidence, the Occupational Safety and Health Administration(OSHA) has issued proposed regulations restricting smoking in all workplaces.

The proposed tobacco deal would permit smoking in restaurants (except fast food), bars and casinos. It would give the American worker far less protection than OSHA has proposed.

As Koop-Kessler said "Smoking should be banned in all work sites and in all places of public assembly." Smoking must be prohibited in restaurants, bars and casinos not only to protect customers, but also to protect workers from extraordinarily high and dangerous levels of tobacco smoke.

Supporting smoking in restaurants, bars and casinos benefits the tobacco industry. It would harm workers and customers.

III.CONTINUED CONCEALMENT OF SECRET DOCUMENTS.

What the tobacco industry knew and when it knew about the harmfulness of tobacco, including the addictiveness of nicotine is a key public health issue. The public has a right to know.

As Koop-Kessler said "All internal tobacco industry documents that bear on the public health must be disclosed." The disclosures must come before Congress passes any legislation so the public can judge what penalties and restrictions are appropriate and fair; not afterwards, when it is too late, and all sides are bound by the legislative agreement. The disclosures must also be made so consumers and future customers can make an informed choice about the industry and its products.

Courts in Minnesota and Florida have already indicated that the secret documents do not qualify for protection because of their possible fraudulent problems, and that they contain information about the danger of smoking and other concealed research.

Anti-smoking groups have long maintained that no global settlement should be entered into with the tobacco industry until the secret documents are released. Now the appeals court in Florida has just upheld the release of 13 of the secret documents considered by Liggett "most likely to prove that the industry engaged in fraudulent activity".

Prosecutors don't plea bargain with criminals until they know all of the facts. Similarly, the Congress should stop rushing to move the tobacco deal forward until they and the public know the full extent of the harm the tobacco companies have caused the American people. FULL DISCLOSURE needs to occur before any deal is considered.

Otherwise the reality is that the secret documents may never be revealed. The tobacco industry will benefit the American public will loose.

Since the deal is designed to keep those documents secret until after Congress passes legislation and even then permit disclosure of only some of the documents and then only through a cumbersome process, once again the tobacco industry would be the sole beneficiary. Congress and the public would be kept in ignorance; the industry would get to hide its dirty secrets; its reputation would be protected from further erosion; and its stocks would rise.

IV.NO ADMISSIONS THAT SMOKING CAUSES CANCER AND OTHER DISEASES AND THAT NICOTINE IS ADDICTIVE

The tobacco companies must be made to tell the truth about the harm caused by smoking and the addictiveness of nicotine. The current tobacco deal requires no such admissions.

Bennet S. LeBow, owner of the Liggett Group, admitted last March, as part of the settlement on the tobacco cases against Liggett, that cigarettes are addictive. Recently, he reiterated that admission under oath in the flight attendants case in Florida.

The other tobacco companies have yet to tell the truth and admit that cigarettes are addictive and kill people. It is one of the glaring omissions from the global tobacco settlement and one that needs to be cured before the public and Congress consider the tobacco deal.

All the companies should be required to admit - as Liggett already has - that their products cause cancer, etc. This should be a pre-condition to any deal, or else the coverup and denial simply continues, and industry can deny risks of smoking in any subsequent proceedings. The tobacco industry benefits. The public looses.

V.YOUTH SMOKING TARGETS PENALTIES

Penalties for the tobacco industry's failure to meet the agreed targets to reduce youth smoking, appear to benefit the public but that is an illusion. The real beneficiaries of these provisions are again the tobacco industry. Despite widespread reports that the tobacco industry has agreed to pay almost $370 billion to settle claims against it, the deal still only amounts to a few cents on the dollar.

It is estimated that smoking costs the American public over $100 billion a year in direct and indirect medical care costs and other expenses. Since this settlement deals with wrongful conduct going back at least 35 years, and the deaths will continue at a high rate for decades, the total costs will be roughly 60 years times $100 billion a year or $6 trillion ($6000 billion). Thus a cash settlement of even $400 bill would represent only about 7 cents on the dollar.

Another way to estimate the value of the settlement of lawsuits is to note that most agencies and jury verdicts value an adult human life at over $1 million. Since smoking kills almost 500,000 Americans each year (419,000 smokers and over 60,000 nonsmokers), the annual costs in lives alone (not including those simply disabled) would be roughly 500,000 times $1 million or $500 billion per year, or $30 trillion over 60 years. A settlement of even $400 billion would be less than 2 cents on the dollar.

Since the industry will not have to pay out the entire amount all at once, a standard technique of financial analysis is to ask how much it would cost in dollars today if the cash was invested at a reasonable rate of return, and the money were paid out over many years from both principal and accumulated interest. This is called the "present value of an annuity."

If $200 billion dollars were invested today at 5% annual return, the tobacco industry could pay out $400 billion in equal payments over 25 years, simply by utilizing the accrued interest as part of the payment. Thus the real value of the deal is far far less than the reported $368.5 million.

Penalties of the $1 a pack or more, as provided for in pending legislation, would provide far greater incentive for cigarette markers to really reduce illegal cigarette use. It would also help deter children from starting down the path of addiction.

Finally, it appears that the payments will be deductible from federal and state corporate income tax as an ordinary and reasonable business expense. Thus taxpayers -- through this enormous loss of tax revenue which would otherwise be paid -- will in effect be taxed to make up a very substantial portion of the cost of the settlement.

As the industry has already conceded, smokers -- those who were addicted during the past 30 years by the misrepresentations and concealment of the tobacco industry -- will pay virtually all of the rest through increases in the price of cigarettes.

Smokers and the public receive minor benefits. The tobacco industry is the major beneficiary.

VI.MONETARY DAMAGES LIMITED

Under the deal, punitive damages are completely prohibited, and the amount industry must pay each year is capped to protect it. No other industry has been given this broad protection and more is less deserving than the tobacco industry.

Not only are victims entitled to the justice juries give them; litigation is a powerful tool for uncovering wrongdoing which should not be limited. There is no reason to take these issues from the courts. Moreover, the tobacco industry is seeking to obtain through the settlement deal what Congress has otherwise wisely refused to give it: protection from product liability.

Once again victims and their families would loose; the tobacco industry would benefit.

VII.ILLUSORY PUBLIC BENEFITS

In addition to the $370 billion over 25 years discussed above, the proposed deal purports to benefit the public in other ways. Most of these are also illusory benefits.

It would ban the sale of cigarettes through vending machines. Yet, hundreds of state and local jurisdictions have already done so and more are in the process of doing so. Most state courts have unequivocally upheld the state and local jurisdictions right to ban or restrict vending machines. It is in effect a concession of something the industry has already lost.

The deal would stop advertising on billboards and stadium signs. Yet, the City of Baltimore's just had its tobacco billboard restrictions upheld all the way to the U.S. Supreme Court. Other jurisdictions have already begun to follow Baltimore lead. Moreover, stadium signs have already been largely eliminated through public pressure. The industry is once again conceding what it has already lost. The industry benefits far outweigh the public benefits even when on the surface it looks like the industry is giving the public something.

SUMMARY

In summary, the major beneficiary of the proposed tobacco deal in its current form is the tobacco industry. The industry would benefit and the public would loose, among other ways, by:

I.Restricting the FDA's Jurisdiction II.Supporting Environmental Tobacco Smoke Exposure III.Continuing Concealment of Secret Documents. IV.No Admissions That Smoking Causes Cancer and Other Diseases and That Nicotine is Addictive V.Youth Smoking Targets Penalities VI.Limiting Monetary Damages VII.Providing Illusory Public Benefits

The current deal is seriously flawed. It will take major rewriting for Congress to fix it. Unless this Congress has the courage to do what no Congress before it has successfully done and stand up to the tobacco industry, history will once again declare the tobacco industry the beneficiaries and Congress and the public tricked for a third time.

Respectfully submitted, Kathleen E. Scheg, Legislative Counsel, Action on Smoking and Health 2013 H Street, N.W. Washington, D.C. 20006, (202) 659-4310

To Anti-Tobacco Advocates, Issue Is Anything but Settled

Koop, Kessler Propose Control Plan; Senate Skeptical

By John Schwartz
Washington Post Staff Writer
Wednesday, July 30, 1997; Page A04
The Washington Post

Two of the nation's most prominent anti-tobacco advocates, in their strongest condemnation yet of the proposed national settlement with the cigarette industry, yesterday urged lawmakers to reject the plan and instead implement an aggressive tobacco control program.

"The settlement gives the tobacco industry virtually everything it wants, but shortchanges the public health," former surgeon general C. Everett Koop told the Senate Commerce, Science and Transportation Committee. It was the latest in a series of congressional hearings on the proposed deal.

Koop and former Food and Drug Administration commissioner David A. Kessler urged senators to fashion a new tobacco control policy along the lines of recommendations from a panel they led.

That six-point tobacco control plan would give the FDA explicit authority to regulate nicotine, prohibit tobacco marketing to children, impose severe financial penalties if targets for reducing youth smoking are not met, ban smoking in all public places, and create extensive public education programs and help for addicted smokers and tobacco farmers.

The testimony was met with strong skepticism by several members of the committee. Sen. Wendell H. Ford (D-Ky.)

said that the blueprint offered by Koop and Kessler constituted "nothing more than a back-door prohibition" on tobacco and would make it "pretty hard to buy a tobacco product at all." Ford argued that the public smoking restrictions recommended were so strict that "I submit that your own backyard could be off limits."

Several senators chided Kessler and Koop for making recommendations that they called unrealistic. "If you put all of the antis on this package, it's going to fall of its own weight," Ford warned. Sen. John Breaux (D-La.) said, "Fortunately or unfortunately, we have to deal with the art of the possible -- not the world of the impossible."

Under the proposal announced in June, the 40 states suing the tobacco industry to recover tobacco-related health care costs would agree to end their suits in return for an estimated $368 billion over 25 years. The deal, if passed by Congress, would give the industry protection from all but individual lawsuits and would prohibit punitive damages against the companies for past acts. In return, the industry agreed to comprehensive restrictions on advertising and marketing and to fund tobacco education and smoking-cessation programs.

Kessler, now dean of the Yale University School of Medicine, challenged members of the committee to go beyond the settlement proposal. That deal would "keep the industry booming and profitable," Kessler said.

"If this is the best you can do, do it" -- but "history will not look lightly on your timidness," Kessler said.

Kessler also urged lawmakers to examine some of the internal industry documents gathered by Minnesota in its lawsuit against the tobacco industry. He noted that R.J. Reynolds, after agreeing to withdraw the Joe Camel advertising campaign, has initiated a new campaign that he said appeared to target the 18- to 24-year-old market. Holding up a copy of Spin magazine containing the new ads, he asked "Where is the moral outrage?"

Attorneys General Michael Moore of Mississippi, Christine Gregoire of Washington state and Grant Woods of Arizona defended the proposal, which they hammered out in three grueling months of negotiations with the industry. They warned that tobacco company support was key to passage of any proposal.

Committee Chairman John McCain (R-Ariz.), however, said that what once seemed impossible in Congress might now be possible. "The whole terrain has changed dramatically," McCain said.

Kessler raised the hackles of trial lawyers observing the hearings when he said that he would rather see money from any settlement directed to helping tobacco farmers than to paying attorneys fees. Washington lawyer John P. Coale, sitting at the back of the hearing room, said the comment was "outrageous. . . . When the lawyers filed the suits and supplied the documents they were unable to get for 50 years, we were their great friends. Now they take gratuitous shots at the lawyers for short-term political benefit."

@CAPTION: C. Everett Koop, left, and former FDA commissioner David A. Kessler urge senators to shape new tobacco control policy.

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Tobacco - health groups

Nation/World - *Stories from the latest print edition*

SPLIT AMONG PUBLIC HEALTH GROUPS ON SETTLEMENT AIDS TOBACCO LOBBY

By Pat Widder, Washington Bureau. Tribune staff writer William Neikirk contributed to this article

Web-posted Friday, July 25, 1997; 6:04 a.m. CDT

Dateline: WASHINGTON

Public health groups had hoped to present a united front in their war against Big Tobacco, but each day the rifts grow more apparent.

The skirmishing in the public health community is unlikely to doom the landmark $368.5 billion settlement reached five weeks ago by tobacco companies and 40 states.

But as the proposal moves toward battles on Capitol Hill, the rivalry among public health groups makes it easier for pro-tobacco forces to marshal support.

On Thursday, the American Cancer Society and the American Lung Association held separate news conferences to lay out their views of the settlement. The cancer society detailed the changes it will insist on, while the lung association castigated tobacco advertising and reiterated its view that the entire settlement is "premature and wrong."

The American Medical Association is to release its own position paper as early as next Wednesday.

All three groups are part of the public health coalition headed by former Food and Drug Administration head David Kessler and former Surgeon General C. Everett Koop that was commissioned by Congress to craft a blueprint for curtailing tobacco use.

After three protracted sessions, the Koop-Kessler group, made up of 23 public health advocacy groups, recommended toughening the proposed settlement in a report issued July 9. But that hasn't stopped individual members from issuing reports pressing their own priorities.

The settlement would resolve lawsuits filed by the states to recoup the health costs of treating sick smokers.

The proposal forces the tobacco industry to meet targets for reducing teen smoking and sharply restricts advertising, marketing and retail sales to youths. It also restricts future class-action lawsuits and punitive damages against tobacco companies.

Parts of the settlement are contained in consent decrees between the companies and the states, but Congress needs to approve legislation regarding the medical care provisions.

The public health community's imprimatur on any tobacco settlement is considered crucial to its winning support from the White House and Congress.

The public airing of differences among public health groups has "always concerned me," Koop said Thursday. "I had hoped people could refrain from calling their own press conferences."

To underscore the difficulties facing anti-tobacco forces in Congress, where the tobacco lobby has been a powerful force, the Senate on Wednesday refused to eliminate subsidies to tobacco farmers and failed to fund a teen smoking prevention program. Similarly, the House on Thursday rejected 216-209 an amendment to save $34 million by eliminating crop insurance subsidies for tobacco growers.

"It is almost impossible to explain why the government is subsidizing the growth of a product that the government tells people is dangerous to consume," said Sen. Dick Durbin (D-Ill.)

The White House hopes to complete its own exhaustive review of the proposed settlement by mid-August. Clinton's domestic policy adviser, Bruce Reed, and Health and Human Services Secretary Donna Shalala have been leading a review team of more than 50 officials from throughout the administration.

"We are scrubbing the document from top to bottom," said Reed.

The cancer society Thursday detailed seven areas where it believes the settlement needs improvement, including increasing the federal excise tax on cigarettes by $2 a pack, forcing the industry to meet tougher targets for reducing teen smoking, and ensuring the FDA retains the unencumbered ability to regulate tobacco products.

"The ACS supports a settlement that is the right settlement," said American Cancer Society Chairman George Dessart, "but this settlement is not that."

The lung association, said chief executive John Garrison, considers the settlement's restrictions on tobacco advertising "a mere inconvenience" to the industry. "Joe Camel and the Marlboro Man may be dead," he added, "but cigarette advertising still has an impact on encouraging young people to smoke."

Since the tobacco settlement was unveiled June 20, it has been roundly criticized as being unable to pass constitutional muster, going much too easy on Big Tobacco, forcing the FDA to meet impossible standards in order to regulate nicotine, and ignoring the international marketing of tobacco products.

Tobacco — Advertising

The New York Times

July 25, 1997

Cancer Society Says Tobacco Deal Falls Short of Expectations

Related Articles

- Study Finds Secondhand Smoke Doubles Heart Disease (May 20)
- Tobacco Index

Forum

- Join a discussion on Tobacco Suits and Settlements

By BARRY MEIER

The American Cancer Society said yesterday that it would not back the proposed tobacco settlement unless it was significantly revised, a stance likely to increase pressure on both advocates of the deal and the Clinton Administration to toughen it.

At a press conference in Washington, top officials of the cancer society said they believed that the $368.5 billion proposal was a major step toward reducing smoking-related deaths. But they also said the proposal reached last month between tobacco companies and state attorneys general should be toughened in seven areas, including raising cigarette excise taxes sharply, strengthening Federal regulation of cigarettes and nicotine, and increasing penalties for cigarette companies if smoking by young people did not fall.

"The American Cancer Society supports the right settlement, but this is not that settlement," George Dessart, the group's chairman, said in a statement.

The position of the cancer society, which had earlier expressed more limited criticism of the tobacco proposal, is likely to increase pressure on the White House to extract more concessions from industry.

Two public health groups, the Campaign for Tobacco-Free Kids and the American Medical Association, were involved in the negotiations that led to the accord. But unqualified support from the broader community of health advocates has been slow in coming.

Under the settlement proposal, major producers of cigarettes and smokeless tobacco products agreed, among other things, to pay tens of billions of dollars to settle lawsuits filed by states and smokers, restrict advertising of tobacco products and pay fines if smoking by young people failed to decline.

In return, the proposal, which must be approved by Congress, would protect the companies against certain types of lawsuits and bar the awarding of punitive damages.

Soon after the proposal's announcement last month, officials of the cancer society said they were concerned because the plan seemed to undercut the existing authority of the Food and Drug Administration to regulate nicotine and because the fines that the industry would pay if smoking by young people did not drop were inadequate. But the cancer society convened a panel of medical and health experts to study the agreement for a month before announcing a position on it yesterday.

"We are trying to say we have come light years through this settlement process, but there are some things that need to be fixed so that we don't get a Trojan horse settlement and live with a reality that was fatally flawed," John Seffrin, the cancer society's chief executive, said in a telephone interview.

The group's findings, which are in a report that will be distributed to members of Congress, calls for, among other things, a $2 increase in the price of a pack, a move the group claimed would sharply reduce youth smoking. In addition, the cancer society said it believed that the rights of state and local governments to toughen restrictions on cigarette sales should be preserved and that information about ingredients and additives in tobacco products should be disclosed.

A spokesman for the tobacco companies involved in the agreement, who spoke on the condition of anonymity, said the companies had no comment on the cancer society's stance.

Tobacco - Health Groups

Thursday July 24 10:02 AM EDT

Company Press Release

Source: American Lung Association

American Lung Association Calls Proposed Tobacco Settlement Advertising Provisions Ineffective

Organization Recommends Stricter Advertising, Marketing Guidelines

WASHINGTON, July 24 /PRNewswire/ -- Calling the proposed tobacco settlement's advertising provisions ``a mere inconvenience to the tobacco industry," the American Lung Association and a volunteer task force of advertising and marketing experts today issued recommendations for ways to end tobacco advertising and marketing to adolescents.

``Joe Camel and the Marlboro Man may be dead, but cigarette advertising still has an impact on encouraging young people to smoke," said John R. Garrison, Chief Executive Officer of the American Lung Association.

The American Lung Association created a Tobacco Advertising Advisory Committee to analyze the proposed tobacco settlement. Based on that analysis, the Lung Association has developed the following guidelines to ensure that cigarette advertising does not reach young people and contribute to their decision to smoke:

- All tobacco advertising visuals accepted by publications with audiences over the age of 18 should be limited to black-and-white ads showing only the product package. No props or scenery of any kind should be allowed. Except for the warning label, no copy should be allowed.
- All publications that accept tobacco advertising should be required to conduct annual readership studies showing the percentage of their readers under the age of 18. Those with an under-18 readership more than 15 percent should be prohibited from running tobacco advertisements or announcements of tobacco marketing or promotional campaigns.
- Direct and indirect payments for tobacco product placement in movies, TV programs and video games should be banned. So should payments to entertainment or sports figures to smoke ``in public" or in the course of their professions, such as in live music performances.

``Human images and cartoon characters were banned from cigarette advertising during last month's proposed tobacco settlements, however there are an infinite number of symbols and images that can be used which are meaningful to adolescents," said Dan Cohen, President of Dan Cohen

Marketing/Communications, a member of the Lung Association's advisory panel.

An analysis of a new Camel Lights print advertisements which adheres to the proposed tobacco settlement's restrictions, reveals the impact symbols and images have on young people. The advertisement, one in a series of ads in a new Camel campaign, appeared in the July 6, 1997 issue of ``Sports Illustrated" and contains the headline ``Live Out Loud." Depicted in the ad are several symbols that appeal to young people without the use of traditional images such as human figures or cartoon characters.

``The symbols us ad in the ad -- a motorcycle, the wings of an eagle, a camel and the color black -- create powerful visual messages that appeal to adolescents," said Penelope Queen, Director of Band Consultancy, TEAM Strategic International, and a member of the Lung Association panel. ``The ad demonstrates how easy it is and will be for the tobacco industry to circumvent the tobacco settlement and create powerful advertising to effectively reach a youth audience."

The proposed tobacco settlement recommends new programs for Public education and tobacco-use prevention, including counter-advertising campaigns. The American Lung Association's Tobacco Advertising Advisory Committee will review these proposed programs and make recommendations for steps that must be taken to curb the persuasiveness and influence of tobacco imagery in American culture.

The American Lung Association has been fighting lung disease for more than 90 years. With the generous support of the public and the help of our volunteers we have seen many advances against lung disease. However, our work is not finished. As we look forward to our second century, we will continue to strive to make breathing easier for everyone. Along with our medical section, the American Thoracic Society, we provide programs of education, community service, advocacy, and research. The American Lung Association's activities are supported by donations to Christmas Seals(R) and other voluntary contributions. You may obtain additional information via our America Online site, keyword: ALA, or Web site at http://www.lungusa.org.

SOURCE: American Lung Association

Contact: Diane Maple, 202-785-3355, or Elizabeth Hlinko, 212-315-6473, both of American Lung Association

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USA TODAY Tobacco settlement

07/24/97 - 10:05 PM ET - Click reload often for latest version

Lung, cancer associations criticize deal on tobacco

WASHINGTON - Two more of the nation's leading health groups Thursday came out against the proposed deal to settle dozens of state and private lawsuits against the tobacco industry, and a longtime tobacco industry ally joined the chorus as well.

At separate news conferences here, the American Lung Association and the American Cancer Society both urged Congress and President Clinton to insist on changes to the settlement worked out by state attorneys general and the top tobacco companies last month.

The American Heart Association made a similar announcement last week. The health groups say the deal isn't tough enough on the tobacco companies.

Meanwhile, the National Association of Convenience Stores (NACS) issued a statement calling the settlement "overly punitive" and "unduly burdensome" on retailers. The group has for years worked closely with cigarette manufacturers to limit federal and state regulation of tobacco sales and to implement voluntary programs to curb sales to minors.

The settlement requires every tobacco retailer to have a license and bans most in-store tobacco displays and signs.

American Lung Association managing director John Garrison says the language of the settlement leaves too much room for continued tobacco marketing to teens.

"(It) will not appreciably inhibit the tobacco industry's ability to influence the 12- to 17-year-old segment," he says.

The settlement proposal requires the tobacco industry to pay $368.5 billion and accept wide-ranging regulations of tobacco sales and marketing. In exchange, 40 states and 17 private groups would halt litigation, the industry's annual litigation liability would be capped and future lawsuits would be limited.

Also Thursday, the National Medical Association criticized the deal. The organization of black physicians says it "does not go far enough to protect the public health."

By Doug Levy, USA TODAY

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① – health groups

ACTION ON SMOKING AND HEALTH
A National Legal-Action Antismoking Organization

2013 H St., NW, Wash. DC 20006, (202) 659-4310

http://ash.org

NATIONAL CANCER ADVISORY BOARD CRITICIZES DEAL [7.23.3]
Read the Text of Their Letter

The National Cancer Advisory Board has written a letter to key members of the Administration as well as selected members of Congress criticizing the proposed tobacco deal. The text is reprinted below.

The letter was sent to Donna Shalala, William Corr, Bruce Reed, Newt Gingrich, Richard A. Gephardt, Trent Lott, Tom Daschle, Henry A. Waxman, Orrin G. Hatch, Ron Wyden, Tom Bliley, John D. Dingell, James M. Jeffords, Edward M. Kennedy, William V. Roth, Jr., Daniel P. Moynihan, Bill Archer, Charles B. Rangel, Patrick J. Leahy. [Please note that the words "in the executive branch" in line 9 of paragraph 1 were changed to "in Congress" in the letters to members of Congress.]

Donna Shalala
Secretary Department of Health and Human Services
Room 638G 200 Independence Avenue, SW Washington,
DC 20201

Dear Secretary Shalala:

Tobacco use is the Nation's largest cause of preventable disease and disability, killing over 400,000 people per year in the United States and claiming the lives of one in three smokers. The best long-term strategy to reduce this enormous health toll and its costs to society is to prevent the initiation of tobacco use and addiction to tobacco products among children and youths. Unfortunately, as you know, tobacco use among young people has increased consistently over the past several years. The Nation is losing ground, despite growing public awareness and renewed federal action. Action by local, state, and federal governments, along with action in the private sector will be necessary to reverse this trend, and reverse it we must if we are to reduce the health impacts of tobacco use. As you review tobacco control policies in the executive branch, we wish to call to your attention the following five points, based on the 1994 report from the Institute of Medicine (IOM), Growing Up Tobacco Free, as updated by data presented at a July 15, 1997 IOM workshop and considered by the National Cancer Policy Board at its meeting on July 16.

1. Goals for reducing rates of youth initiation and tobacco use must be explicit, and failure to achieve them must be penalized sufficiently to build strong incentives for compliance by the tobacco industry. Any long-term solution to the problem of tobacco-related disease will require incentives for private firms to be in alignment with public health goals. The proposed settlement is one opportunity to create such incentives, but even without a settlement federal policy should establish appropriate incentives.

2. The price of tobacco products must be increased substantially and immediately. The first recommendation of the 1994 report was to increase the federal excise tax to $2 per pack (or its equivalent for other tobacco products), depressing domestic demand and making the U.S. price comparable to that in other developed economies. The federal excise tax on tobacco is proportionately

lower than it was in 1955, and prices to consumers are considerably lower than in other developed economies. Price increases, especially when combined with public education, are the best demonstrated public health interventions to reduce demand, and have the added benefit of generating revenue for tobacco control and other purposes. The proposed settlement among state attorneys general and tobacco firms is estimated to entail price increases in the range of 50 to 75 cents per pack, and these could be introduced gradually, lessening their effect. Studies of past price increases domestically and abroad suggest this magnitude of price increase would reduce consumption far less than the goals adopted by the federal government in Healthy People 2000 or goals specified in the proposed settlement itself. To achieve a more powerful public health impact and to match the intervention to its stated goal, state and federal excise taxes over and above any settlement must be increased immediately by at least the $2 increment recommended in 1994, and thereafter continually adjusted to match or exceed inflation.

3. The federal preemption of state and local regulation of advertising and promotion must be repealed. The most successful efforts to curb tobacco use in this country have grown from mobilization at the state and community levels, entailing collaborations among private health organizations and federal, state, and local governments. Federal legislation currently prohibits state and local governments from regulating any form of advertising and promotional activities based on smoking and health, even if the activity occurs exclusively within the jurisdictional borders. Some state and local governments have indicated that their tobacco control efforts would be more powerful with such regulation, so removing the federal preemption remains critical. Building capacity for other state and community tobacco control measures is also important. States such as California and Massachusetts have mounted effective public education campaigns funded by state excise tax increases, but similar efforts in other states require sustained funding at levels well above those involved in federal tobacco control efforts to date. Federal support to states and local communities should be increased.

4. FDA regulation of tobacco products must be strengthened. We applaud the actions of the Food and Drug Administration to regulate tobacco products as nicotine-delivery devices. The FDA regulation proscribing sale of tobacco products to those under 18 and limiting distribution pathways, as recommended in IOMs 1994 report, is an important first step but will require funds sufficient to ensure adequate enforcement. Despite the steps taken by FDA, federal regulation of advertising, promoting, labeling, packaging, and contents of tobacco products is incomplete. Federal regulatory efforts through FDA, the Federal Trade Commission, and other agencies must be strengthened to approach the full range of actions recommended in 1994.

5. The federal government must study, monitor, and evaluate tobacco control measures. The federal government should continue to support research, monitoring, and evaluation, regardless of whether a settlement is implemented. New knowledge is needed to guide policy choices. Youth initiation rates have risen in recent years, for example, but the reasons are not fully understood, nor are the factors that underlie substantial differences in tobacco use among population subgroups. The 1994 report noted the importance of research to understand and improve behavioral and public health interventions. Generating new knowledge will become even more important as tobacco control activities escalate. Supporting research, monitoring and evaluation is a federal responsibility.

We appreciate your consideration of this letter. We will make this letter public on July 21, 1997.

Smoking Foes, Public-Policy Makers Ally

By Bruce Ingersoll
And Suein L. Hwang
Staff Reporters of The Wall Street Journal

WASHINGTON — Antismoking advocates and public-policy makers organized themselves into an advisory committee to shape the outcome of any tobacco settlement that Congress might embrace.

Their determination to set the tobacco-policy agenda is likely to raise significant hurdles for codifying a global tobacco-industry settlement.

LEGAL BEAT

At a meeting here yesterday, committee members asserted that they won't be rushed into rubber-stamping any agreement, despite looming trial dates in a number of key tobacco cases and an increasingly cluttered congressional schedule. And several members raised new issues that haven't been addressed in the tobacco talks between the industry and state attorneys general, including sharp increases in federal excise taxes on cigarettes and curbs on U.S. tobacco exports and overseas marketing of cigarettes.

"The ultimate question is who's setting the agenda," said David Kessler, the former Food and Drug Administration commissioner who is co-chairman of the committee with former Surgeon General C. Everett Koop.

People familiar with the talks said concerted opposition by the 20-member committee could torpedo any deal's chances of winning White House and congressional approval. Democratic allies of the tobacco foes said they will insist on including the committee's recommendations in whatever legislative settlement the Republican leadership supports.

The group at the negotiating table "doesn't represent the broad public health community, and certainly doesn't represent the American community at large," Dr. Kessler said. "If the tobacco industry thinks it can cut a deal without the input of the public-health community, they do so at their own peril."

One frequent refrain at yesterday's meeting was deep concern about the cigarette makers' booming global sales, which haven't yet been addressed in negotiations. It is a sensitive subject for the industry, notably world market leader **Philip Morris** Cos., which makes more money on cigarettes overseas than in the U.S.

"Since tobacco use is a truly global epidemic, reductions in consumption here will be followed by increasingly aggressive activity by the industry elsewhere," warned the American Medical Association's Randolph Smoak.

Particularly striking was some committee members' deep distrust of the tobacco negotiators — including antismoking advocate Matthew Myers — and a determination to resist being rushed into signing off on a deal. Earlier this week, Republican Senate Majority Leader Trent Lott of Mississippi, brother-in-law of key negotiator Richard Scruggs, warned that Congress will soon run out of time this year to take on something as complex and controversial as a tobacco settlement. Mississippi Attorney General Mike Moore stressed the same point last month at a briefing for health groups.

In anticipation of a possible settlement, the panel plans to hammer out a package of recommendations within a few weeks.

Also yesterday, the lead negotiators in the settlement talks convened in Washington to discuss a written terms sheet submitted by the antitobacco camp.

The meeting marks the first between both camps since negotiations broke off a week ago, following an internal dispute in the antitobacco camp about whether to give the tobacco industry — **RJR Nabisco Holdings** Corp. as well as Philip Morris — the immunity from punitive damages it has been seeking.

But people familiar with the consensus terms sheet say it doesn't make that key liability concession to the industry. Nor does it fulfill another industry stipulation: requiring the FDA to get congressional approval before the agency can effectively ban nicotine in cigarettes.

In other respects, however, the written terms closely hew to proposals that the antitobacco side already has floated in recent weeks. The plan calls for the tobacco industry to be subject to steep financial penalties if youth smoking isn't reduced 30% in five years and 60% in 10 years. It also calls for new advertising restrictions and warning labels and gives the FDA regulatory control over both nicotine and additives in cigarettes.

On the other hand, the terms sheet gives the industry protection from class-action lawsuits and limits the amount of money it has to pay out annually to cover its liability. The precise amount of money the industry has to pay out — now pegged at more than $300 billion — remains undetermined.

People in both camps predicted that the tobacco industry would reject the terms sheet submitted yesterday.

THE WALL STREET JOURNAL
FRIDAY, JUNE 6, 1997

Justice Department Abandons Effort To Reverse Affirmative-Action Ruling

By Eva M. Rodriguez
Staff Reporter of The Wall Street Journal

It has been a long week for the Clinton administration on the affirmative-action front.

Yesterday, the Justice Department threw in the towel on a controversial affirmative-action/employment case in New Jersey. On Monday, despite a vigorous fight from the department, a federal judge in Colorado struck down as unconstitutional various federal provisions that allowed the use of racial preferences in government contracting.

Both developments come just days before the unveiling of a presidential initiative against racial friction nationwide.

The Colorado case, Adarand Constructors Inc. vs. Pena, made headlines in 1995 when the Supreme Court rendered a landmark decision that cast doubts on the use of racial preferences in government contracting. The high court concluded that affirmative-action programs must be "narrowly tailored" to meet a "compelling" government interest.

This week, Senior Judge John Kane Jr. of the federal district court in Colorado applied those findings and struck down the federal provisions, which had allowed a minority-owned firm in Colorado to beat out a nonminority firm with a lower bid for a highway construction contract. In a 71-page decision, Judge Kane found unconstitutional provisions in the Small Business Act and in two other federal transportation acts.

"Contrary to the [Supreme] Court's pronouncement that strict scrutiny is not 'fatal in fact,' I find it difficult to envisage a race-based classification that is narrowly tailored," Judge Kane wrote.

Opponents of affirmative action, who have been following the case since the Supreme Court sent it back to Colorado for final disposition, hailed the ruling and criticized the Justice Department for prolonging the inevitable.

"The fact that the Clinton administration continued to fight for these programs after the Supreme Court's decision illustrates how tenacious their support is for racial preferences, despite the moderate rhetoric," says Clint Bolick, vice president and director of litigation for the Washington-based Institute for Justice.

Meanwhile, the administration decided to back out of its fight in Board of Education of the Township of Piscataway vs. Taxman. In 1989, a white teacher sued the school board after, during a layoff, she was let go so an equally qualified black teacher could be hired. The Justice Department under the Bush administration supported the white teacher, who claimed the board had violated Title VII of the Civil Rights Act by using race as a determining factor in an employment decision. When Mr. Clinton took office, the Justice Department reversed course: It sided with the black teacher and argued that race can sometimes be a legitimate factor in personnel matters. Both a federal trial judge and a federal court of appeals concluded

Tennessee Valley Chairman to Revise Plan on Funding

Dow Jones Newswires

WASHINGTON—Tennessee Valley Authority Chairman Craven Crowell said that he will amend his proposal to end $106 million in annual federal appropriations, but he refused to withdraw the current version of his controversial plan.

In January, Mr. Crowell proposed ending TVA's annual appropriation of $106 million in September 1998 for nonpower projects such as land management and flood control in the Tennessee Valley. At that time, Mr. Crowell said he was trying to make TVA more efficient in the emerging competitive power market by focusing the agency on its core power business.

Mr. Crowell's proposal met with stiff opposition from a group of lawmakers known as the TVA Caucus, which represents the seven-state area served by TVA.

Yesterday, Mr. Crowell, appearing before the House Transportation and Infrastructure Committee's Water Resource Subcommittee, acknowledged that his proposal will be revised. "It is clear to me a compromise will be necessary," he told reporters outside the hearing. "I don't have any regrets about this, but I could have done a better job of communicating with the caucus."

The caucus members have been ardent supporters of TVA against attacks that the federal utility provides cheap electricity rates in its service territory because of federal subsidies financed by U.S. taxpayers. Those subsidies have been estimated to be about $1.2 billion a year. TVA also carries about $27 billion in corporate debt.

Most of the criticism yesterday from members of Congress centered on the proposal's failure to say who would take over those nonpower projects and how TVA planned to operate in a deregulated utility market.

"If Chairman Crowell's real agenda is to make TVA competitive in a deregulated utility market by chopping off its nonpower programs, I question the wisdom of the proposal," said Democratic Representative Bob Clement of Tennessee, a longtime TVA supporter and former TVA board member. "I do not believe there is a direct link between TVA's ability to compete and its sustainment of the nonpower programs."

Mr. Crowell said he believed that the U.S. Army Corps of Engineers would be the likely candidate to take over TVA's nonpower activities, but he didn't detail that in his proposal. Federal funds would still be needed if the Corps or the Department of Interior assumed TVA's nonpower responsibilities, several lawmakers pointed out.

Mr. Clement said Mr. Crowell put the TVA Caucus in a "precarious position" in making his proposal without consulting with TVA's congressional supporters.

"Do you realize the significance of what you did?" he asked Mr. Crowell, adding that TVA opponents have used the proposal to further their arguments to privatize TVA.

Another Tennessee lawmaker, Republican Representative Zach Wamp, said the proposal wasn't acceptable because it eliminates funding without clearly defining who would pick up responsibility for the nonpower projects. Mr. Wamp, who heads the TVA Caucus, said about $80 million in funding will continue to be needed from the federal government.

CITIZEN WATCH CO.

Citizen Watch Co., Tokyo, a major Japanese maker of wristwatches and other precision machinery, said yesterday that group pretax profit surged 30% in the past fiscal year because of good business in the U.S. and Asia. Pretax profit climbed to 25.34 billion yen ($218 million) in the year ended March 31 from 19.52 billion yen a year earlier, as group sales rose to 392.92 billion yen from 384.90 billion yen. Sales of watches and parts rose to 177.47 billion yen from 157.27 billion yen, buoyed by new products and a weak yen, which aided exports, Citizen said. But sales of information and industrial machines were stagnant at 154.90 billion yen against 154.71 billion yen, as electronic equipment performed well but personal computer sales fell.

First-Time Claims For Jobless Benefits Increased Last Week

By a Wall Street Journal *Staff Reporter*

WASHINGTON — First-time claims for jobless benefits rose by 19,000 last week to a seasonally adjusted total of 337,000, the highest level in a month, the Labor Department said.

But the four-week moving average of state unemployment claims, considered a better measure of labor-market conditions, fell by 2,750 to 323,750, the lowest level since mid-April.

The government will provide a more comprehensive look at the employment situation today with its report on May payroll growth and the unemployment rate. For April, the unemployment rate was reported as 4.9%, the lowest level in a quarter century.

THE WALL STREET JOURNAL
FRIDAY, JUNE 6, 1997

Beleaguered Tobacco Foe Holds Key to Talks

The New York Times
WEDNESDAY, JUNE 4, 1997

A1

By SHERYL GAY STOLBERG

Matthew Myers slumped in his chair, looking like a man on the way to the guillotine.

All morning long, fellow tobacco opponents, people with whom he had battled the industry for more than 15 years, had been offering terse smiles and sympathetic pats on the back. "I don't like that," he complained as a colleague gently touched his shoulder. "This is not a funeral."

Perhaps not, but for Mr. Myers, executive vice president of the year-old National Center for Tobacco-Free Kids, the recent gathering of tobacco foes was hardly cause for celebration. He had come to this meeting, at a hotel outside Chicago, to brief public health advocates about a possible legal settlement with the cigarette manufacturers. And despite the kind gestures, he knew that some of his closest allies were quietly furious with him.

Mr. Myers had vowed never to negotiate with the enemy. But for two months he had been doing just that, participating in secret talks with people he says are "responsible for the premature deaths of more Americans than any other group of individuals who have ever lived." For Mr. Myers, dealing with the industry is dancing with the devil.

In many respects, though, he is the most important person at the negotiating table. He has an encyclopedic knowledge of the tobacco industry, having learned its tactics in battles won and lost. He is the only negotiator without a financial stake in a settlement, aside from Dr. Lonnie Bristow, a former president of the American Medical Association who was recently brought in to lend Mr. Myers support. And the White House will look to him before bestowing its backing on any agreement, backing that will be crucial if the accord is to

Continued on Page A16

Continued From Page A1

be codified in Federal legislation that will set the nation's tobacco policy for decades.

"Matt Myers is more important to this process than any single person at the table," said Richard F. Scruggs, a lawyer from Pascagoula, Miss., who represents 20 states in the talks. "There is no person in America that has more knowledge of tobacco issues and health than Matt."

As one Clinton Administration official said: "If Matt were to walk from the deal, there's no deal. He's an essential player for the discussions."

That is truer now than ever. The talks have been suspended until the end of the week while the attorneys general of some 30 states suing the cigarette makers iron out a position on the industry's demand for a measure of protection from future lawsuits. Mr. Myers has publicly opposed any limits on the rights of smokers to sue, and so the fate of any deal could rest in his hands.

"To this day," Mr. Myers said on Monday, "I don't know whether there will be an agreement, or, if there is an agreement, whether it is one I will support."

Public health advocates are bitterly divided over whether Mr. Myers should even be a part of the talks.

To some, his decision to negotiate demonstrates that he is a man of courage and honor, a peacemaker willing to lay his professional reputation on the line for détente in the decades-old tobacco wars.

"Can you imagine India having sought its independence without Gandhi?" said Cliff Douglas, a Chicago lawyer and longtime tobacco foe who considers Mr. Myers his mentor. And Mr. Scruggs describes Mr. Myers as "the Anwar Sadat of the public health community."

Others accuse him of selling out, and say that as bright as he is, he runs the risk of being outsmarted.

"I view him as a tragic figure," said Stanton F. Glantz, a professor of cardiology at the University of California at San Francisco. "He's spent the last 15 years working on this issue, and he's going to go down in history as the guy who allows the industry to slime off the hook again."

The story of how Mr. Myers, an obscure public interest lawyer with a widely acknowledged commitment to social justice, wound up a central player in the tobacco talks is, at its core, a Washington insiders' tale.

Had it not been for a longstanding relationship with Al Gore, who in the early 1980's helped him write a law that placed new, tougher warning labels on cigarette packages, he might not have had the influence he enjoys in the Clinton White House.

And had it not been for a telephone call from George J. Mitchell, the former Senate majority leader, who had been retained by the cigarette manufacturers to help piece the negotiations together, he might not have been involved at all.

It is also the story of a man in conflict. Mr. Myers is convinced that what he is doing is right, given the vast public health benefits that an agreement could produce. But, he said in an interview, not a day goes by that he does not re-evaluate his participation in the talks, and swallow another dose of Maalox.

"It is the ultimate challenge," he said. "I can't afford to be wrong."

Participants say the 50-year-old Mr. Myers has had a major influence on the course of the negotiations. When the industry agreed to put more explicit warning labels on cigarette packs, he demanded that the typeface be big and bold, and that the warnings be displayed prominently on the top of the packs.

He is also the architect of the "look-back provisions," which would require the industry to pay states more money if teen-age smoking was not reduced by 30 percent in five years, 50 percent in seven years and 60 percent in 10 years.

And he has obtained an important concession on secondhand smoke: the industry, Mr. Scruggs says, has agreed not to oppose a ban on smoking in all workplaces and all public places where children are present.

~~But some of Mr.~~ Myers's public health colleagues say the talks are taking place too soon. They believe that their side will gain leverage when thousands of pages of confidential industry documents become public in trial of the state lawsuits. And they note that the cigarette manufacturers have a long history of appearing to cave in to public pressure — agreeing, for example, to warning labels on cigarettes and a ban on television advertising — only to emerge stronger in the end.

Mr. Myers is well aware of this history, and says he is being cautious. But some tobacco foes complain that at a critical juncture in their movement, he has vanished behind closed doors.

"The National Center for Tobacco-Free Kids is performing exactly the wrong role," said one longtime tobacco foe, Representative Henry A. Waxman, Democrat of California. "They seem to have forgotten that their original mission was to be advocates, not back-room negotiators."

Those who know Mr. Myers well

1/2

say he is hardly comfortable with back-room deals.

"Matt is almost the emblem of the deeply committed public interest advocate," said Michael Pertschuk, a former chairman of the Federal Trade Commission. "He has a mission, and you can feel it."

It is a mission he never expected. But in 1980, after six years of litigating the civil rights of prisoners for the American Civil Liberties Union, he was hired by the Federal Trade Commission, where he issued an analysis of tobacco marketing's effects on public health and recommended tougher warning labels on cigarette packs. By the time the report was issued in 1981, however, Ronald Reagan had been elected President on a wave of anti-regulatory sentiment. The commission was in retreat.

Some colleagues praise Matthew Myers. Others say he has sold out.

By 1982, Mr. Myers had started a small law firm and was leading a new group called the Coalition on Smoking or Health, a venture of the American Cancer Society, the American Heart Association and the American Lung Association.

He successfully lobbied Congress to double the cigarette tax, to 16 cents a pack, the first increase in 31 years. And he enlisted Mr. Gore, then a House member from Tennessee, to persuade lawmakers to adopt the stronger warning labels.

For more than a decade, Mr. Myers fought the tobacco industry on a shoestring budget. That changed last year, when the Robert Wood Johnson Foundation and the cancer society pitched in $20 million and $10 million, respectively, to create the National Center for Tobacco-Free Kids. With Mr. Myers as its executive vice president, the center began waging the most aggressive anti-tobacco advertising campaign in history.

By that time, the political climate surrounding tobacco had changed radically. The Food and Drug Administration had declared its intention to regulate nicotine as a drug. Individual and class-action lawsuits against the industry were piling up. And an increasing number of states were following the lead of Mississippi's Attorney General, Michael Moore, who was suing the cigarette manufacturers, seeking reimbursement of Medicaid costs for treating smokers.

Mr. Moore, generally regarded as the architect of the current settlement talks, turned to Mr. Myers for private advice early on. Still, when Mr. Moore and Mr. Scruggs last summer floated the idea of a far-reaching settlement of all the lawsuits, Mr. Myers publicly denounced the concept.

Then, this March, former Senator Mitchell called with a request: Would Mr. Myers be willing to meet two of Mr. Mitchell's law partners who were representing the industry? Mr. Myers was skeptical, but he agreed.

The session took place on April 1 and left Mr. Myers largely unimpressed. That day, Mr. Myers says, Mr. Moore told him that he had agreed to meet with industry representatives on two conditions: that the chief executives of the nation's two largest cigarette manufacturers attend, and that the meeting take place within 48 hours. Under those terms, Mr. Myers said, he too would attend.

So it was that on April 3 — the same day Mr. Myers went to the Capitol to urge lawmakers to resist any industry overtures of compromise — he found himself face to face with Geoffrey C. Bible, chairman of the Philip Morris Companies, and Steven F. Goldstone, chairman of the RJR Nabisco Holdings Corporation.

While industry officials have refused to discuss the negotiations, Mr. Myers says the two executives listed points they would be willing to discuss: wholesale changes in advertising, F.D.A. jurisdiction on cigarettes, financing for anti-smoking education programs and tight controls on youths' access to tobacco. "Anybody who had studied the public health agenda," Mr. Myers recalled, "would feel compelled to listen."

But now he had a choice to make. Could he negotiate with people he describes as lacking "a moral gyroscope"? With the confidential blessing of the heads of both the heart association and the cancer society, he decided he could.

Some people who know Mr. Myers think pressure from the White House, which had longed for a legislative solution to the tobacco wars and wanted Mr. Myers to participate in the talks, also played a part.

Others say it was simply a matter of pragmatism. "Matt clearly believed that this train was leaving the station," said Mr. Douglas, who previously worked under Mr. Myers at the Coalition on Smoking or Health, "and that it was much better not to be left standing on the platform."

Nevertheless, when word of the negotiations leaked out later in April, many tobacco foes felt that Mr. Myers had betrayed them.

Last week, at the tobacco opponents' gathering outside Chicago, William Godshall, executive director of Smokefree Pennsylvania, complained that Mr. Myers was not being forthcoming about details of the negotiations. "Matt Myers is keeping confidential discussions with tobacco executives," Mr. Godshall said, "and then he refuses to tell any of us, his supposed colleagues, what's going on. And then we're supposed to trust him? That's absurd."

Meanwhile, Mr. Waxman and others in Congress have asked former Surgeon General C. Everett Koop and David A. Kessler, former Commissioner of Food and Drugs, to create an advisory panel to review any settlement. Mr. Waxman is hoping that the panel will unify the factionalized anti-smoking forces, but for now Mr. Pertschuk sees benefits to the divisions Mr. Myers has created.

"It is the perfect inside-outside strategy," he said. "While Matt is at the table, he has clearly extracted a whole set of concessions. At the same time, the tobacco-control leadership is free to say: 'We weren't at the table. Either you add these critical elements, or we walk.'

"It's a no-lose situation, except that nobody feels very good about it."

Least of all Mr. Myers. "I've been surprised at how bad I've felt about this," he said. "But if these talks have the chance to bring about change that would not otherwise occur, then it's worth the price."

The New York Times
WEDNESDAY, JUNE 4, 1997

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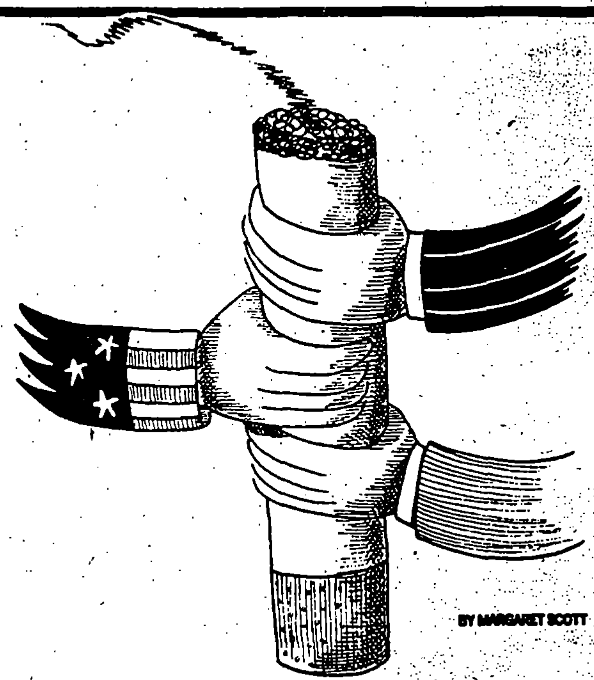
The Washington Post
TUESDAY, JUNE 3, 1997

Joseph A. Califano Jr.

The Tobacco Talks: No Deal



The drumbeat of reports about talks to settle lawsuits filed by states against tobacco companies bangs home with numbing percussion how Big Tobacco's money has corrupted federal and state legislatures and distorted the traditional roles of legislative and judicial branches.

Frustrated by their inability to get relief from federal or state legislators, many governors have resorted to the gunslinging plaintiffs' bar to recover from tobacco companies hefty health care costs that their states must pay to treat tobacco-related diseases such as cancer, heart disease and emphysema. Not surprisingly, plaintiffs' lawyers (hungry for their percentage of any payment), some state attorneys general (to help hard-pressed governors balance budgets), and tobacco executives (grabbing their chance to get a below-cost bargain and maintain fat profits) have moved behind closed doors to cut a deal.

Plaintiffs' and tobacco's lawyers trumpet as a national victory the possibility of tobacco companies' agreeing to pay up to $4 billion a year in damages for smoking-related diseases; to limit use of glamorous individuals in cigarette ads, advertising at sporting events and smoking in enclosed public places; and to fund a campaign to discourage teenage smoking. In return for this and their legal fees, plaintiffs' lawyers seek ways to grant tobacco companies some immunity from future suits by individuals (whom these lawyers don't represent) who have been—or may be—killed or maimed by smoking.

"Relying on tobacco company attorneys and plaintiffs' lawyers to do the public's business behind closed doors in smoke-filled rooms is not a success story."

Let's put the $4 billion a year in tobacco company payments in perspective. Smoking imposes at least $100 billion in health care costs each year. A study by the National Center on Addiction and Substance Abuse at Columbia University found that, over the next 20 years, Medicare alone will spend $800 billion to treat diseases attributable to smoking.

Any deal that shields tobacco companies from suits by individuals and classes to recover damages in the future will most severely curtail women's rights. A generation ago, tobacco companies targeted women with slogans such as, "You've come a long way, baby!" (For Virginia Slims, smoking is still "A woman thing.") As a result, women are just now beginning to reap the deadly harvest of years of heavy smoking.

From the early 1960s to the mid-'80s, the death rate from lung cancer among women soared 500 percent (from 26 to 155 per 100,000), six times the pace of increase among male smokers (from 187 to 341 per 100,000). In the early 1960s only one of six women who smoked (16.7 percent) were expected to die from related causes. Today, half of women smokers (47.4 percent) will die as a result of their tobacco use.

What of the limits on advertising? Public authorities are already banning cigarette advertising at sporting events; more sports are separating themselves from tobacco money; and the Supreme Court has upheld local bans on cigarette billboard ads. If the industry is serious about not luring kids to smoke, it should simply end all advertising. Britain is about to do so by law. But under our First Amendment, the only sure route to a complete ban would be by voluntary industry action.

Big Tobacco's willingness to accept smoking bans in public places as part of any settlement isn't even small potatoes. Such bans are going into effect every day in cities and towns across America. Second-hand smoke now stands convicted beyond reasonable doubt as a serial killer. Last year it took more American lives than AIDS. The potential legal liability here is of such concern to employers—whether airlines, manufacturers or white-collar businesses—that they are rushing to ban workplace smoking.

The tobacco pushers have deceived us for decades as they rolled up profits by hooking children on their products. Tobacco executives knew long before the rest of us that 90 percent of smokers are puffing away before they reach age 21 and that nicotine is addictive. Their newfound concern about children in their settlement talks can be better expressed by supporting the Clinton administration's proposals to keep cigarettes out of the hands of minors and agreeing to the Federal Trade Commission's demand to stop using Joe Camel to attract kids.

Rather than a victory for public health, these negotiations reveal starkly the extent to which tobacco money has corrupted the national Congress and legislatures of the 50 states. Conservatives who attack the judiciary for overreaching should think hard about why this issue—one of public health, public taxes, public spending and public law and regulation—is now being handled by plaintiffs' lawyers and tobacco attorneys in the courts. It is because for decades the tobacco industry has been able to influence the votes of enough senators, congressmen and state legislators to kill laws that protect the public health.

Through judicial discovery, plaintiffs' attorneys obtained documents that uncovered the industry's knowledge of the dangers and addictive power of smoking and its efforts to hook children. These documents were available to any legislative committee with the spine to subpoena them. The few legislators who tried, such as Henry Waxman, quickly had their sails trimmed by colleagues beholden to Big Tobacco.

The settlement talks are already influencing the legislative process in Washington as tobacco lobbyists hustle to line up advance support for their deal with plaintiffs' lawyers and kill proposals that might jeopardize their strategy. The first casualty is consistent with the industry's attitude toward children. Just two weeks ago, the Senate defeated an effort by Republican Sen. Orrin Hatch and Democratic Sen. Edward Kennedy to provide health care to 10 million children and finance it with a 43 cent-per-pack increase in the cigarette tax. Privately most senators expressed support for the proposal.

But Republican Senate Majority Leader Trent Lott, a friend of Big Tobacco familiar with the settlement negotiations, said he would scuttle the budget agreement between President Clinton and the Republican Congress unless the Hatch-Kennedy bill, which pays for itself, was defeated. The higher tax on cigarettes threatened to reduce the pot of money tobacco companies were offering to plaintiffs' lawyers. In this game of legislative chicken, President Clinton clucked and delivered Democratic votes needed to kill the proposal.

Relying on tobacco company attorneys and plaintiffs' lawyers to do the public's business behind closed doors in smoke-filled rooms is not a success story. It is tragic confirmation of the failure of our elected representatives to deal with the number one public health enemy of their time and a deadly symptom of how tobacco's campaign contributions are distorting the constitutional roles of our legislative and judicial branches and corrupting so many of our elected representatives.

The writer is president of the National Center on Addiction and Substance Abuse at Columbia University. He was secretary of health, education and welfare from 1977 to 1979.

n Hoagland

Revenge of the French Electorate

The consequences border on the cosmic, though the causes are all too human: France's bristling rejection of President Jacques Chirac's conservative coalition in parliamentary elections calls into question the future of European integration, the pace of economic globalization and impending reform of NATO's military structure.

Not bad for a Sunday's work of revenge, *mes amis.*

You French voters have demonstrated you still count in a world of seemingly inexorable, impersonal political and economic forces. Your message reaches beyond the tomb: Charles de Gaulle will be turning in his grave at this rejection of his spiritual heirs, while his Socialist rival, Francois Mitterrand, will be chortling comfortably in his.

Your Sunday of turbulence shows how intensely personal this political vote was. You set out to punish Chirac and his prime minister, Alain Juppe, even if it meant leaving the French political scene in chaos, making it unpredictable and a drag on Europe's economic recovery.

Which it does.

In defiance of your beloved Cartesian logic and alleged slavishness to self-interest, you have taken a road that is at once vengeful and romantic, as heroic a gesture of cutting off one's *nez* to spite one's *visage* as I can remember. You have wrought an unworkable political situation that you will have to go back to the polls to rectify in a year or two.

Chirac, elected comfortably two years ago, still has five years to go on his presidential mandate. He clearly did not believe you would do this. He called this election a year early because he thought he could keep control of the assembly now, with a greatly reduced conservative majority, whereas he was likely to lose in 1998. You voters just as clearly did not like this electoral opportunism.

As in other things, Chirac's instincts were laudable and his vision faulty. From Day One of his presidency, he has seen time as an ally that he could control. In 1995 he saw himself as the only Western leader "with a foot firmly planted in the next century." He would be president at least until 2002. He and Juppe could wait, ride out bad polls, get their parliamentary ducks in a row for the next five years with this election.

Even after public protests forced them to drop their tentative effort to overhaul the expensive French welfare system, Chirac and Juppe temporized, failing to cut the 12.8 percent unemployment rate they had promised repeatedly to reduce dramatically. They did not seem even to try seriously to fulfill their campaign promises in their first two years, preferring to wait.

Now Lionel Jospin, the new prime minister, and his victorious Socialists have made their own undeliverable promises, swearing to let you keep your favorite government-financed programs, increase government employment and cut the deficit. The writer Philippe Labro got it right in telling me last Friday the right would lose:

"We French are incapable of making the changes in our lives that the reality of the new global economy demands. So now we change governments instead every two years and pretend we are changing our lives."

Chirac and Jospin must now cohabit in their separate works of political fiction under your vengeful eye. In calling this election before he had results to show, Chirac disregarded an observation made nearly a decade ago by the late Emmanuel de Margerie, then French ambassador in Washington:

"It has been written that every Frenchman's greatest fear is being duped, and that is right," he told me. "Treat a Frenchman as if you have fooled him or cuckolded him and you will have an enemy for life."

Juppe paid the price for your feeling that you had been fooled in 1995. One of the best foreign ministers France has had in this half-century, he was politically unconvincing as prime minister. He came to symbolize an entire political class you seem to feel has lost touch with your concerns and lives.

You punished the Socialists in 1993 by giving Chirac's neo-Gaullists and their center-right allies a huge majority in Parliament. Now you punish the right in turn by voting in a new working majority composed of Socialists, Communists and Greens, who are likely to backtrack on some Chirac initiatives.

They will freeze Chirac's attempts to reintegrate France into NATO's military wing. They are lukewarm to hostile on a single European currency and other provisions of the Maastricht unity treaty. If forced to choose, they are likely to opt for more protectionism rather than more openness to globalization.

This power sharing will be different from the two times Mitterrand had to deal with a conservative majority in the assembly. Mitterrand arranged it so that he was not responsible for his party's defeat. As devious, patient and cynical as Chirac is straightforward, impulsive and impressionable, Mitterrand manipulated power sharing with delight.

It will be an ordeal for this French president, who gambled on your forgiving nature and lost, *grand temps.* Chirac repeated the fundamental error made by his political idol, de Gaulle, who also took you for granted. In 1969 de Gaulle demanded that you vote yes in a pointless referendum on regional administrative reform. You voted no, and he quit.

That is not Chirac's way. I suspect he will hang on, and hope that you will remember in a year or two Jospin's promises as vividly as you did those he and Juppe made.

The Washington Post
TUESDAY, JUNE 3, 1997

E. J. Dionne Jr.

Designer Children

So how should you dress your kid? What about a nice little $250 Versace black motorcycle jacket? Or perhaps your tastes run to a $329 denim jacket and pants set, available for children in yellow, orange or green from the designer Moschino. And Versace offers your little girl a $325 lime green skirt and jacket set.

You think I'm kidding, don't you? I certainly hope you do. But these and other outfits are part of one of the remarkable trends in American life. Those with the means are getting up their kids—even very little kids aged 2 or 3 or 4—in designer outfits that cost big bucks. When Carly Simon sang "You're So Vain" all those years ago, she didn't know the half of it.

News of this trend came courtesy of a fine article by Robert Berner in the Wall Street Journal last week. Children's designer clothing, he tells us, is "outpacing the sluggish designer market for women." Seems that the well-off, and even some among the not so well-off, think the way "to do better for their children," as one of Berner's interviewees put it, is to make them label-conscious at an early age. "I can afford it, so why not?" mother told Berner.

You wonder where all the values mavens, the people who worry aloud and in public about the moral messages we're sending kids, will be on this one. The view of the values mavens, which I generally share, is that kids ought to be (1) protected from, and (2) encouraged to avoid some of the more despicable trends of modern life. The culture is saturated with selfishness, violence, degrading sex, lack of commitment and all sorts of other terrible things. Okay, but what kind of values are represented by label mongering? What message do parents send kids when they decide that it matters that they have $250 motorcycle jackets and $99 jeans?

In some ways, this is an old issue. We've been talking about $100 sneakers for so long that their market value now is closer to $200. Where, though, do kids get their desire for the $100 footwear? Look no farther than parents obsessed with kids' designer clothes. Parents, not kids, create the moral climate.

There a quiet racial undertone to the $100 sneaker discussion. Those sneaks are often advertised, for big bucks, by African American ketball players. You heard talk about kids killing other kids for Air Jordans or their equivalent.

Sadly, some of those stories were true. But the stories made it easy for people to distance themselves from value-free materialism. They provided a way of writing it off as primarily a habit of the "underclass." The designer clothes that Berner describes are a habit of the overclass. If you wonder where materialistic values come from, you shouldn't start with the ghetto.

I don't mean to be a spoilsport. Everybody likes their kids to look good, and kids enjoy their clothes. From my experience, at least, they quickly develop favorite colors, shoes, shirts and dresses. But they don't care whether their shoes come from Gucci or Payless, unless somebody tells them it makes a difference.

You can't fault Versace and other designers for trying to make a killing in this market. If people buy the stuff, the designers will make it.

But children are not consumption items, and shouldn't become totem poles for their parents' displays of co icuous wealth. Seeing kids as consumer objects, as among the large array of "options" and "choices" available to people in the marketplace, is a characteristic error of the time.

The relationship between parents and kids is not described by the market's "contract." Contracts can be made and ended, which is why the market is flexible. The parent-child relationship is that of a "covenant," an unbreakable commitment. Social habits that reinforce the contract notion rather than the covenant idea are bad habits.

The social point ought to be obvious: There is something just a trifle disturbing, isn't there, about some kids having a closet full of designer clothes and other kids not even having health insurance? That says something about our "values," too.

The good news is that the stuff described by Berner is so expensive that few parents will spend the money on it, except perhaps as a one-time show of affluence. But some of the same preaching directed to the poor about "middle-class values"—thrift, sobriety, regard for others, the danger of feeling "entitled" to things—might usefully be turned toward those affluent enough to g labels on their children.

Journal

FRANK RICH

Hypocritic Oath

Riddle: How do you find a doctor who says there's no need to worry about smoking? Answer: Consult the American Medical Association.

In 1964, when the Federal Trade Commission proposed that cigarette packages carry health warnings, the A.M.A. broke with the American Cancer Society and other public-health groups to oppose the plan. Why? The A.M.A. was violently opposed to the creation of Medicare — which it saw as a threat to physicians' bank accounts — and needed the support of tobacco-state Congressmen to derail it.

The secret A.M.A.-tobacco interests quid pro quo — which did slow the arrival of both Medicare (by one year) and health warnings in cigarette ads (by five-plus years) — was first reported by the muckraking Washington columnist Jack Anderson, who called it "the weirdest lobbying alliance in legislative history." Though the A.M.A. denied the story at the time, it has since been confirmed by Howard Wolinsky and Tom Brune of The Chicago Sun-Times, who provide a full account in their 1994 book, "The Serpent on the Staff."

Last week history repeated itself. On the eve of the Senate's vote on "partial birth" abortion, the A.M.A. board, which only five days earlier had issued a report backing a doctor's discretion in choosing the safest abortion procedure for a patient, did an abrupt about-face. Suddenly it endorsed Senator Rick Santorum's "partial birth" ban — once the Senator made a few small changes designed to protect doctors, not women. As in 1964, the A.M.A. not only contradicted its own medical judgment but broke with other public-health organizations — this time the American College of Obstetricians and Gynecologists, the American Medical Women's Association and the American Nurses Association.

Why? Once again a journalist rakes in a clue. In this week's Modern Healthcare magazine, Jonathan Gardner reports that on the same day — May 19 — that the A.M.A. announced its "partial birth" switcheroo, its executive vice president, P. John Seward, sent an eight-page letter to Newt Gingrich (a copy of which I've now seen) that amounts to a Christmas list of requests in the latest battle over Medicare. Under the budget deal, Congress is squeezing Medicare spending by $115 billion over five years, and, needless to say, Dr. Seward has a detailed plan to stall or minimize any cuts that might come from physicians' hides.

As it did when caught in bed with Big Tobacco, the A.M.A. has vehemently denied any quid pro quo for its Medicare deathbed conversion on "partial birth" abortion: "Our positions on public health issues are done one at a time. There's an absolutely compelling need to look at things in isolation," said its spokesman to Modern Healthcare.

But equally compelling is the additional recent evidence suggesting that the A.M.A.'s priority is not public health but the wooing of the current Congressional leadership, which it regards as its meal ticket in Medicare reform. In the 1995 debate over Medicare cuts, the A.M.A. was also caught by journalists in the act of making behind-closed-door sweetheart deals with Speaker Gingrich. In 1996, the A.M.A.'s campaign contributions overwhelmingly favored G.O.P. candidates.

The A.M.A.'s bad medicine.

That the A.M.A., like any labor union, should lobby intensely to bolster its members' incomes is hardly unexpected. What makes its last-minute effort to sway the abortion debate so noxious is that both it and its Congressional benefactors pretended that the A.M.A. board was handing down a principled medical judgment about women's health rather than just playing political pool. As Mr. Wolinsky and Mr. Brune detail in their book on the A.M.A., its position on abortion has always shifted "with the political winds as it suited the organization's purposes." The A.M.A. is *pro-doctors'* choice above all.

Such is the anguish among A.M.A. members that the board action could yet be rescinded when the association's full House of Delegates meets in June. Nor was the A.M.A. able to swing a veto-proof margin for the Santorum bill. But the organization's hardball Washington tactics nonetheless leave other drive-by casualties — kids who might have been educated earlier about the dangers of smoking in the 1960's, the elderly who might not get a fair economic shake in Medicare reform today. □

The New York Times

THURSDAY, MAY 29, 1997

Foreign Affairs

THOMAS L. FRIEDMAN

Put Up, Shut Up, Hang Up

WASHINGTON

As the Arab-Israeli peace process continues sliding downhill, American officials say they may soon have to opt for one of two extremes: either "The Plan" or "The Phone Number." Either the President lays down, publicly, exactly what steps the U.S. believes Israelis and Palestinians must take to get the process back on track, or he gives them both the White House phone number, 202-456-1414, and tells them to call when they're serious. As one top White House official put it: "Either we step forward or we step backward, but where we are now is not working."

The temptation to walk is great. It would leave Yasir Arafat and Benjamin Netanyahu both standing stark naked before their own publics, without any U.S. mediators to hide behind or blame. But such strategic neglect would come at a price the U.S. may not want to pay. Here's why:

Mr. Arafat is not and has never been a democrat. He is at heart a typical Arab autocrat, for whom corruption, censorship and abuse of political opponents come naturally. Yet as a result of the Oslo process, Mr. Arafat has also presided over the creation of a Palestinian parliament, in the freest election ever in the Arab world. Palestinian elites were hopeful that as Mr. Arafat shifted the basis of his authority from leader of an armed struggle to leader of a peace process bringing Palestinians land and prosperity, he would be willing to — indeed would have to — tolerate more democracy within Palestinian life. In Jordan, too, King Hussein began fostering a freely elected Parliament and freer press to broaden his legitimacy for making peace with Israel and reforming Jordan's economy.

With the collapse of the Oslo process these baby steps toward democratization are being quashed, and Mr. Arafat and King Hussein are reverting to form. This is, in part, because both men had made huge bets on Oslo. As it crumbles, they feel increasingly politically exposed. Their critics are now out in full force, declaring, "I told you this would never work." And so their natural inclination is to silence all critics before they become a serious political challenge.

The peace process and Arab democrats.

Mr. Arafat's outrageous arrest of one of the finest Palestinian journalists, Daoud Kuttab, is a good example. Mr. Kuttab's sin was that his infant Palestinian educational television station, a direct outgrowth of the peace process and the only real competitor to Mr. Arafat's official station, was broadcasting debates of the Palestinian legislature, another outgrowth of the peace process. The Palestinian legislators often criticize Mr. Arafat's rule. When things were going well he was ready to ignore much of it, but with his peace strategy in shambles he sees this sort of criticism as a more serious threat, and so he arrests Mr. Kuttab. (He finally released him Tuesday.) In Jordan, King Hussein, also feeling besieged, has been clamping down on the press and tightening rules for who can run for office.

Mr. Netanyahu loves to lecture the Arab states about how they must become democracies. But he is just trying to score propaganda points. Because Bibi is utterly blind to the relationship between the peace process and the process of internal change in the Arab world. Yitzhak Rabin chose not to build in Jerusalem because King Hussein wrote him and said such a move would badly undercut the King at home. With Bibi, King Hussein comes to Israel, asks him not to build in Jerusalem, and Bibi announces — at a joint news conference with the King — that he is going ahead anyway. Hello?

It would be absurd to suggest that the peace process is a cure-all for Arab politics. Democratization will only come to the Arab world after fundamental changes in Arab political culture. But the peace process helps promote internal changes, opens Arab societies and business to more outside contacts and puts some power in the hands of Arab democrats, like Daoud Kuttab. That is exactly why Syria's Hafez al-Assad fears the peace process. It's also why fledgling Arab democrats in Palestine or Jordan will be much worse off without it.

Which is also why, as much as I'd love to stick Mr. Arafat and Mr. Netanyahu with the phone number, that would be too easy on them. They might never dial the phone. The U.S. needs to come up with a clear-cut plan that engages every Israeli and Palestinian, presents them with some real choices and, ideally, enlists *their* pressure to move forward. □

Stop the Ticket Scalpers

Every frustrated theater, sports or music fan is familiar with the problem. After a huge buildup, tickets go on sale for a big game or entertainment event and are almost immediately sold out. Then suddenly it seems as if every broker, scalper or entrepreneur with an 800 number has seats available, but at several times the price of the original ticket. There ought to be a law preventing so many tickets ending up in the hands of price-gouging ticket agents, you say. Well, there is. The problem is that it is rarely enforced. Now the New York State Legislature is giving some thought to tightening the law and stiffening the penalties for scalping. Its efforts are welcome.

At first it looked as if the Legislature would adopt an approach that would only make the ticket-scalping problem worse. Republicans in the State Senate wanted to deregulate the resale of tickets altogether. Current law limits scalper markups to a cap of $5 or 10 percent, whichever is greater, beyond the face value of any ticket. But Republicans argued that since this regulatory cap is widely ignored, getting rid of it entirely might at least encourage more brokers to enter the business and drive ticket prices down by free competition.

Theater owners and many other sponsors of entertainment events are strongly opposed to removing the ceilings on prices altogether. They argue that doing so would only unleash higher prices, turn off customers and encourage more scalpers into the business of buying up more tickets for themselves. As a result of the pressure from theaters and sponsors of sporting and other entertainment events, the idea of outright deregulation has been scrapped in Albany. Instead the debate is focused on where to set the new cap.

The ceiling ought to be fixed at a reasonable rate for ticket brokers, perhaps 30 percent above the face value of the ticket, without the possibility of special charges added on beyond that. The new law should also contain stiff fines for anyone found guilty of charging more than the cap. Since many ticket brokers have moved out of the state to New Jersey and other parts of the region, the Attorney General or some other law enforcement authority should be given the power to require that all sellers in the secondary market register in New York, and then punish anyone who tries to sell a ticket to a New York event for an exorbitant price.

Some Democrats in Albany want another provision requiring Madison Square Garden and other places to disclose to the public how many of their tickets are held back from public sale. Three years ago, many fans were outraged that shows like Barney the dinosaur at Radio City Music Hall, and the Barbra Streisand concert at the garden, were sold out within minutes, at least partly because the people who put on those shows kept back large numbers of tickets for themselves.

Gov. George Pataki, Mayor Rudolph Giuliani and the Republicans in the Legislature, however, oppose the disclosure provision as an onerous burden on producers and promoters. Surely disclosure is a reasonable requirement in a regulated industry, though it should not be allowed to block passage of a bill placing a more realistic ceiling on ticket prices.

No matter what happens in Albany, the problem of exorbitant prices for the hottest tickets is not likely to go away. As long as there are people with money and the desire to get a ticket for a big game or hot show at the last minute, they will find the way to pay for it. But the Legislature should do what it can to prevent the problem from getting worse. The current law expires at the end of May and will be replaced by an old set of restrictions that will be even less likely to be enforced. It makes the most sense to ease the curbs somewhat and then enforce them aggressively.

Mr. de Klerk's Siege Mentality

When he served as South Africa's last white President, F. W. de Klerk could be a man of vision and pragmatism. He saw that apartheid was collapsing, and recognized that a negotiated transition was the only way to salvage some power for whites. He freed Nelson Mandela from jail and managed a transition to majority rule.

This month, however, Mr. de Klerk seems to have put his blinders back on. In dealing with his nation's Truth and Reconciliation Commission and with the future of his own National Party, he has retreated to narrow and unrealistic decisions. He is damaging his own reputation, the fortunes of his party and the chance that South Africans can live together in peace.

Earlier this month, Mr. de Klerk disbanded a National Party task force charged with redesigning the party. It was led by Roelf Meyer, the leader of the party's young generation and once Mr. de Klerk's most trusted lieutenant. Mr. Meyer won the respect of many black South Africans when he and Cyril Ramaphosa of the African National Congress led the teams negotiating the details of the transitional constitution. Mr. de Klerk set up the task force to help make the party into a conservative alternative to the A.N.C. for voters of all races.

Mr. Meyer feels that the party, which now enjoys the support of only 14 percent of South Africans, is doomed unless it is reconstituted with a mostly black leadership. He is certainly right, but the party hard-liners did not appreciate this view. They persuaded Mr. de Klerk to close down the task force. Mr. Meyer then resigned from the party to start a new political movement.

Also this month, Mr. de Klerk announced that the National Party would no longer cooperate with the country's Truth Commission. His statement came after commission leaders questioned his testimony that he knew nothing about apartheid-era atrocities. Archbishop Desmond Tutu, who heads the commission, said that he himself had come to Mr. de Klerk when he was President with information about police brutality.

The National Party's withdrawal will probably not block the commission's quest to uncover the truth about apartheid-era crimes. The commission retains subpoena power, and those who have applied for amnesty for their crimes cannot turn back. The change will mean the National Party will no longer participate in party testimony, where it had provided little of value anyway. But the withdrawal will hurt the commission symbolically, fueling the erroneous but widespread feeling among whites that it is targeting the apartheid-era governments.

Mr. de Klerk's decisions show he has not yet come to grips with the consequences of the process he set in motion. His father was one of apartheid's architects, and he apparently cannot bring himself to admit that its top leaders knew of the crimes that were necessary to prop up minority rule. People who know him say he is bitter, feeling that blacks and particularly Mr. Mandela owe him gratitude he is not receiving.

South Africa needs a full accounting of the past, and a political system where parties are divided by ideology, not race. Mr. de Klerk's siege mentality is a setback to both goals. He would do his reputation, and his country, a service if he either returned to the leadership qualities that marked his presidency or got out of politics altogether.

The New York Times

THURSDAY, MAY 29, 1997

TRENDLINES

Inconspicuous Consumption

Stock Market Wealth Isn't Financing the Spending Hike

By John M. Berry
Washington Post Staff Writer

Consumer spending has been the driving force behind the U.S. economy over the past year but, ironically, American families haven't been spending very much of the wealth generated by the soaring U.S. stock market.

In the past, when financial wealth increased rapidly, elated consumers typically could be counted on to spend so much that the nation's personal savings rate would fall. That is, with more wealth—measured by the value of financial assets including stocks, bonds and money in the bank—households could confidently increase their spending faster than their current incomes were rising.

Instead, since the end of 1994 when the stock market really took off, personal saving as a share of disposable personal income has grown to 5.1 percent from 4.2 percent.

As Federal Reserve Chairman Alan Greenspan told Congress's Joint Economic Committee two months ago, "Looking at the data through 1996, the surging stock market does not seem to have imparted as big a boost to spending as past relationships would have predicted."

As the chart at the right shows, the total value of corporate equities and mutual fund shares owned by U.S. households rose to $6.271 trillion at the end of 1996 from $4.128 trillion two years earlier, a 52 percent jump. A small portion of the total is owned by nonprofit organizations.

Economist Chris Vavares of Macroeconomic Associates, a St. Louis

See TRENDLINES, E2, Col. 1

TRENDLINES, From E1

forecasting firm, said that based on past spending and wealth patterns, consumers should have increased their purchases by about 4 cents for every dollar increase in wealth, with the increase spread over roughly an 18-month period. This time, however, the "kick" to consumption has been only about half that size, he said.

Just about the time the market really started to move up, the econometric model on which the firm based its forecasts "began to overpredict increases in consumer spending," Vavares said. "The model does assume a lagged response to the increases in wealth, so it is not that we are not waiting long enough for it to happen. . . . The wealth effect seems to be working at about half force."

Vavares said the very strong rise in consumer spending in the fourth quarter of last year and the first three months of this year was not related to the stock market. Spending went up sharply "but the savings rate did not fall, so the added spending was a contemporaneous effect of [a strong increase in] income. It didn't have much to do with wealth at all."

Other private analysts, such as Ezra Greenberg of DRI/McGraw-Hill in Lexington, Mass., another forecasting group, agreed that spending, as high as it has been, has fallen short of expectations based on the huge increase in stock prices.

Greenberg suggested that one factor restraining consumers may be a concern that the stock market's rise is not necessarily permanent, and households are less likely to change consumption levels in response to a transitory increase in wealth. The econometric models, on the other hand, assume the rise in wealth is "all permanent," he said.

Vavares, Greenberg and other analysts also said there may be several other reasons why the added wealth has had no greater impact on spending. For one thing, many more households have part of their stock portfolio locked up in various types of tax-deferred retirement accounts, such as 401(k) or Keogh plans or individual retirement accounts. The formal restrictions on early withdrawal of money from such plans could give some consumers pause, though many households might be able to take funds from some other source to finance purchases if the greater value of their retirement accounts made them comfortable doing so.

But it is also likely that the funds in the retirement accounts are "psychologically" different, one analyst suggested. Given all the publicity about potential future financial problems in the Social Security and Medicare systems, consumers could be reluctant to treat the increased value of retirement accounts as money they are free to spend now rather than after retirement, the analyst said.

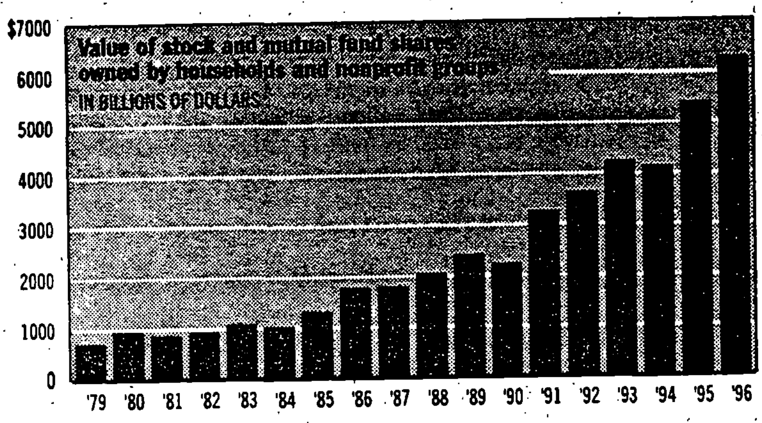
In his testimony, Greenspan said the lack "of a more substantial wealth effect is especially surprising because we have also seen a noticeable widening in the ownership of stocks over the past several years." A recently released Fed survey of consumer finances found that families with incomes under $100,000 in 1995 held 46 percent of publicly traded stocks and mutual funds, up from 32 percent in 1989, he noted.

The Fed chairman also mentioned the possibility that some consumers "may be reluctant to spend their added wealth because they see a greater need to keep it to support spending in retirement," while the spending of other families may be constrained because of high debt burdens.

The lack of a clearly understood explanation for the unexpectedly small size of the wealth effect is more than an academic issue for Greenspan and other Fed policymakers seeking to keep the nation's 4.9 percent jobless rate from falling further and possibly making inflation worse. Shortly after Greenspan's March testimony, the Fed raised its target for overnight interest rates to slow economic growth as an "insurance" step in that direction.

What if consumers suddenly decided that it was okay for them to spend a larger share of their newfound stock market wealth? They have the wherewithal to do it and it could happen with little warning. If it did, growth could surge again and the Fed could be forced to raise interest rates significantly—something it now appears unlikely to do given forecasts that growth will be considerably slower in the second half of the year than the first half.

FOR SOME NOT WELL *understood reason, consumers have boosted their spending much less than expected in response to the 52 percent rise in the value of their stock and mutual fund shares over the past two years. Consumer spending hasn't gone up even as fast as disposable personal income, so that the personal savings rate went up instead of down, as it did in the past under similar conditions.*



SOURCE: Federal Reserve

DIGEST

DOW
7357.23
DOWN 26.18
DETAILS ON PAGE 2

BONDS
30-YEAR TREASURIES
7.02% YIELD
UNCHANGED

DOLLAR
VS. JAPANESE YEN (N.Y.)
115.81 YEN
- 0.87 YEN

The United States and the European Union cleared the way for a deal allowing businesses one-time safety standards approval in five product categories worth $40 billion a year. "We feel that we have a breakthrough, and we hope that it will lead to an agreement in the next few days," President Clinton said. The agreement would reduce marketing costs for telecommunications equipment, information technology products, pharmaceuticals, medical devices and pleasure boats.

Durable goods orders rose 1.4 percent in April, the third advance in four months. The Commerce Department said orders totaled a seasonally adjusted $175.6 billion, up from $173.2 billion in March. Orders for all major categories except electronic and other electrical equipment increased.

The SEC cleared a proposal by the Nasdaq Stock Market to quote securities listed on Nasdaq in sixteenths if their bid price is $10 or above, effective Monday.

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THURSDAY, MAY 29, 1997

O'M Extends 'eriod 'o Age icies o Offer Ear y Re ireme

By Stephen Barr
Washington Post Staff Writer

In a sign that the government continues to downsize and restructure, the Office of Personnel Management will allow federal agencies to offer employees the option of voluntary early retirement through the end of this year.

The "early out" authority would have expired on Sept. 30, but OPM decided to extend it until Dec. 30, when the current "buyout" law expires. Under the buyout law, federal agencies pay workers up to $25,000 to resign or retire if the cash bonus is linked to a specific downsizing goal.

Approximately 100 agencies seem likely to take advantage of the early retirement extension, said Donna Beecher, OPM's deputy associate director for employment.

OPM data show there are 256,666 civil service employees eligible for early outs and that agencies expect 26,307 to opt for early retirement.

But eligible employees should not assume they will be offered the early-out option. Agencies may limit them to certain occupational categories or to offices where work is being shifted to other locations or where work will be turned over to computers. Agencies facing job cuts, such as the Internal Revenue Service, also may offer early outs as a way to reduce layoffs.

Early retirement can be offered only to employees who are at least 50 years old with 20 years of service or to employees of any age who have completed 25 years of federal service.

Early outs, however, carry a financial penalty for employees covered by the Civil Service Retirement System. Those employees lose 2 percent of their annuity for each year the employee is under 55. Employees covered by the Federal Employees Retirement System, which features a stock market investment program, do not face the penalty.

Some agencies find the early retirement authority more useful than buyouts because the buyout law requires an agency to permanently abolish a position for each buyout taken. Early outs allow agencies to fill a vacant position or to shift hiring into offices with heavier workloads.

In fiscal 1996, OPM figures show, 39.8 percent of the employees who received buyouts also retired early. Another 52.6 percent took regular retirement and 7.6 percent resigned.

Beecher said "it's hard to read the psychology" of early retirement and how many employees will seek the option, but she noted that with the advent of government-wide buyouts in 1994 "the popularity of early retirement dramatically increased."

The number of executive branch employees is about 1.9 million now. OPM figures show that 296,785 employees left the government between January 1993, when President Clinton took office, and March 1997.

Health Groups Air Differences On Tobacco Deal

Many Remain Opposed To a 'Global Bailout'

By Saundra Torry
Washington Post Staff Writer

Public health advocates came away from an all-day meeting in a Chicago suburb yesterday as divided as they were at its start over a potential negotiated settlement with the tobacco industry.

"If there was going to be consensus building, it didn't happen today," said Paul Billings, deputy director of government relations for the American Lung Association, which has staunchly opposed any deal. "The tenor of every comment [is that] people are real skeptical."

The meeting, the first major gathering of public health advocates since the secret negotiations began last month, brought together about 100 representatives of major health organizations, including the American Medical Association and the American Cancer Society, and smaller grass-roots anti-smoking groups to exchange information and express concerns about a possible settlement. Because any deal will require congressional action, support from the health community could be crucial.

But many of those attending the meeting sported yellow buttons with little round bombs on them, proclaiming "no global bailout," and their comments underscored that position.

"It's too soon [for a deal]," said Anne Morrow Donley of Virginia GASP, Group to Alleviate Smoking in Public, who added that damaging new information about the industry is being uncovered every day. "I am not sure they should even be at the table now."

Opponents of a settlement asserted that negotiators are giving up too much for any concessions they may win, and that the industry cannot be trusted to forge a deal without loopholes that it can later turn to its advantage.

Still, some of the health advocates who remain open to the idea of a deal pronounced the meeting a success. It was designed to provide information and give "a sense of input" to the public health groups that have not been at the negotiating table, said former AMA president Lonnie R. Bristow, who has sat in on some of the talks. People expressed "diverse opinions, with great passion," he said. "Some may modulate their positions, and others will not."

The meeting featured presentations from Mississippi Attorney General Mike Moore, who has been leading a negotiating team for a group of state officials suing the industry, and representatives of Minnesota's Hubert H. Humphrey III, the attorney general who has been the strongest critic of a deal.

Humphrey aide Eric Johnson said in an interview that yesterday's move by the Federal Trade Commission for a virtual ban on R.J. Reynolds's "Joe Camel" advertising campaign only served to underscore Humphrey's position. "The tobacco companies are on the ropes—with every new document that becomes public, every new whistleblower, every new judgment in court, every new action by agencies such as the FTC, our position grows stronger," he said. "This is no time for hasty compromises."

Meanwhile yesterday, a small group of negotiators met in New York and a larger group was scheduled to meet today. While agreement has been reached on several issues, the negotiators have yet to agree on such major concerns as how much protection tobacco companies would get from lawsuits, the total amount of money the industry would pay and the scope of federal regulation of nicotine in cigarettes the industry would accept. One negotiator called the nicotine question "probably highest on the list of deal-breakers."

Also yesterday, another attorney general, Maryland's J. Joseph Curran Jr., joined those taking a hard line against a deal. "Any deal that relieves the tobacco industry of liability is not a settlement, but a gift," said Curran, who also questioned yielding any ground to the industry on the scope of federal regulation.

Some of those who favor an agreement had strong reaction to the negative comments from public health advocates.

"In three years, Mike Moore and his troops have accomplished more than the health community, Congress or anyone else has [on the tobacco front] in 60 years," said D.C. lawyer John P. Coale, who is part of a coalition of trial lawyers suing the industry in 17 states. Negotiators already have won concessions from the industry "that the health community never dreamed were possible, such as a ban on virtually all advertising and a good faith effort to drastically reduce teen smoking."

Others who have been at the negotiating table said the debate was healthy. "These are issues that will effect generations to come, and the caution and skepticism are very well-grounded in" the industry's history, said Connecticut Attorney General Richard Blumenthal, who has been a frequent participant in the talks. "We need to hear and heed those views."

Special correspondent Jennifer Ordonez in Chicago contributed to this report.

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