SWISHER INTERNATIONAL, INC.

SWISHER INTERNATIONAL, INC.

JOSEPH R. AUGUSTUS
VICE PRESIDENT,
GOVERNMENT RELATIONS

459 E. 16TH STREET
JACKSONVILLE, FL 32206
PHONE: (800) 843-3731, EXT. 3388
FAX: (800) 397-9899

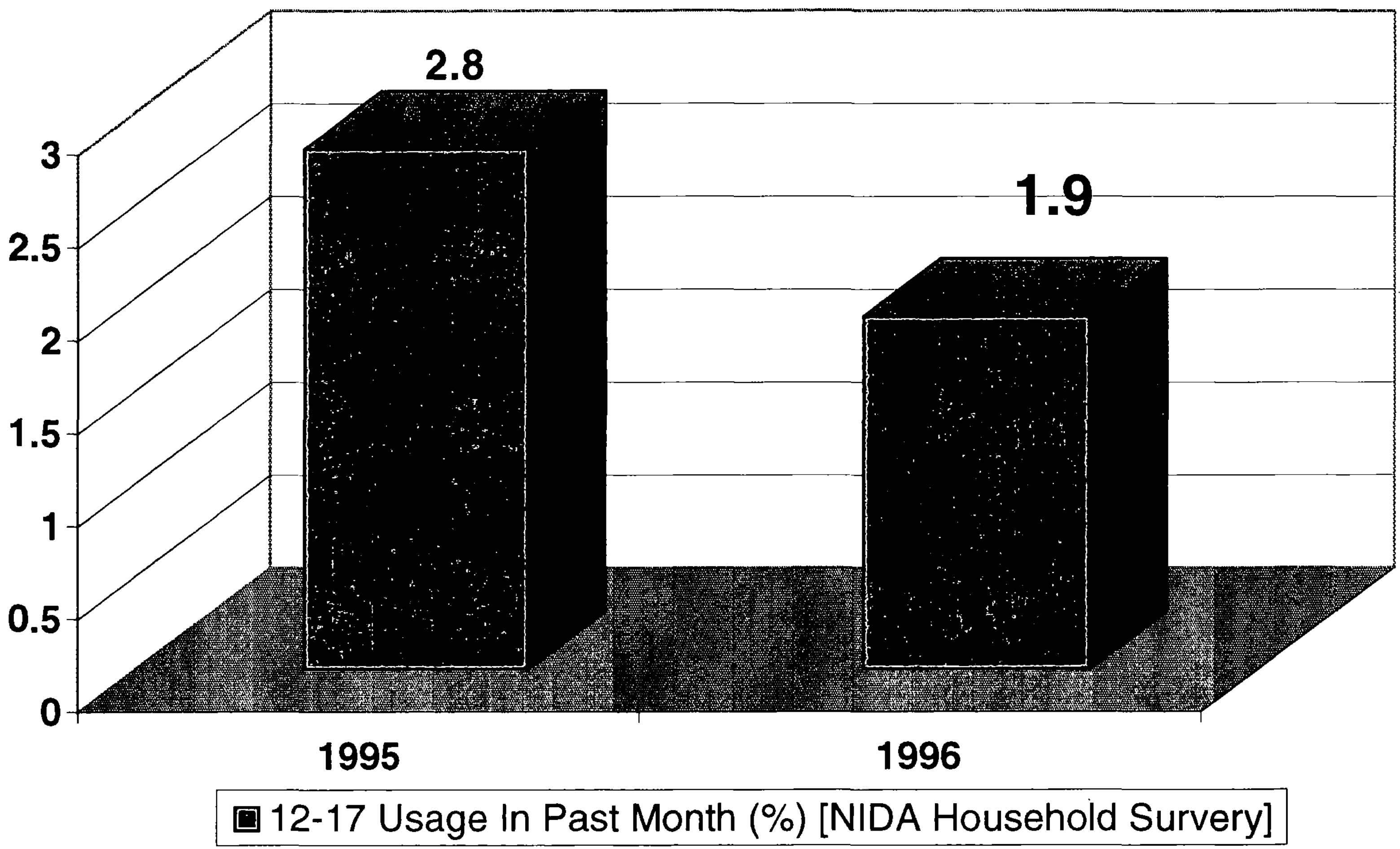
SWISHER INTERNATIONAL GROUP INC.

J. THOMAS RYAN

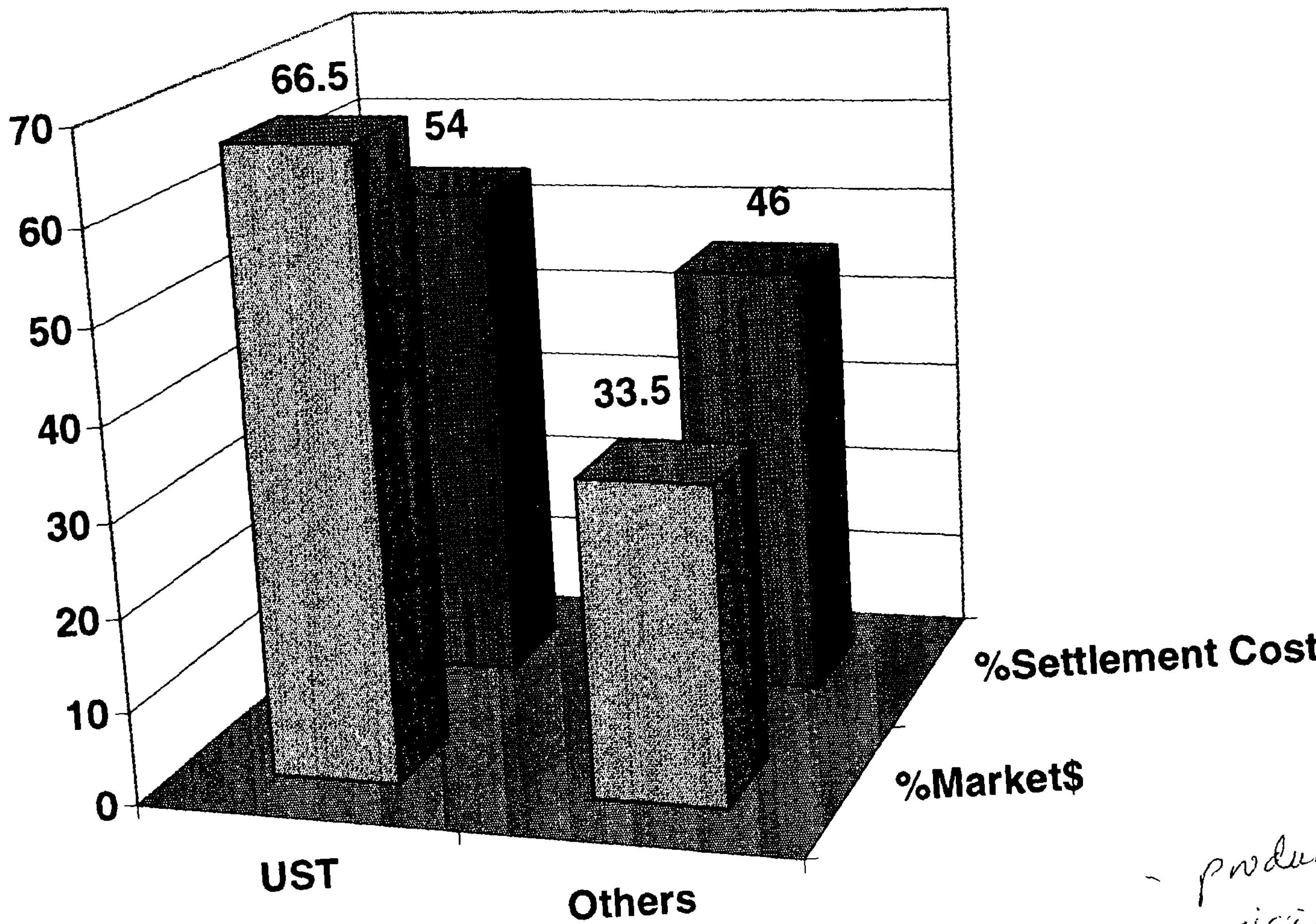
EXECUTIVE VICE PRESIDENT
MARKETING & SALES

459 E. 16TH STREET
JACKSONVILLE, FL 32206
(904) 353-4311 EXT. 3380
FAX (904) 358-9334

Underage Usage of Smokeless Tobacco Declining



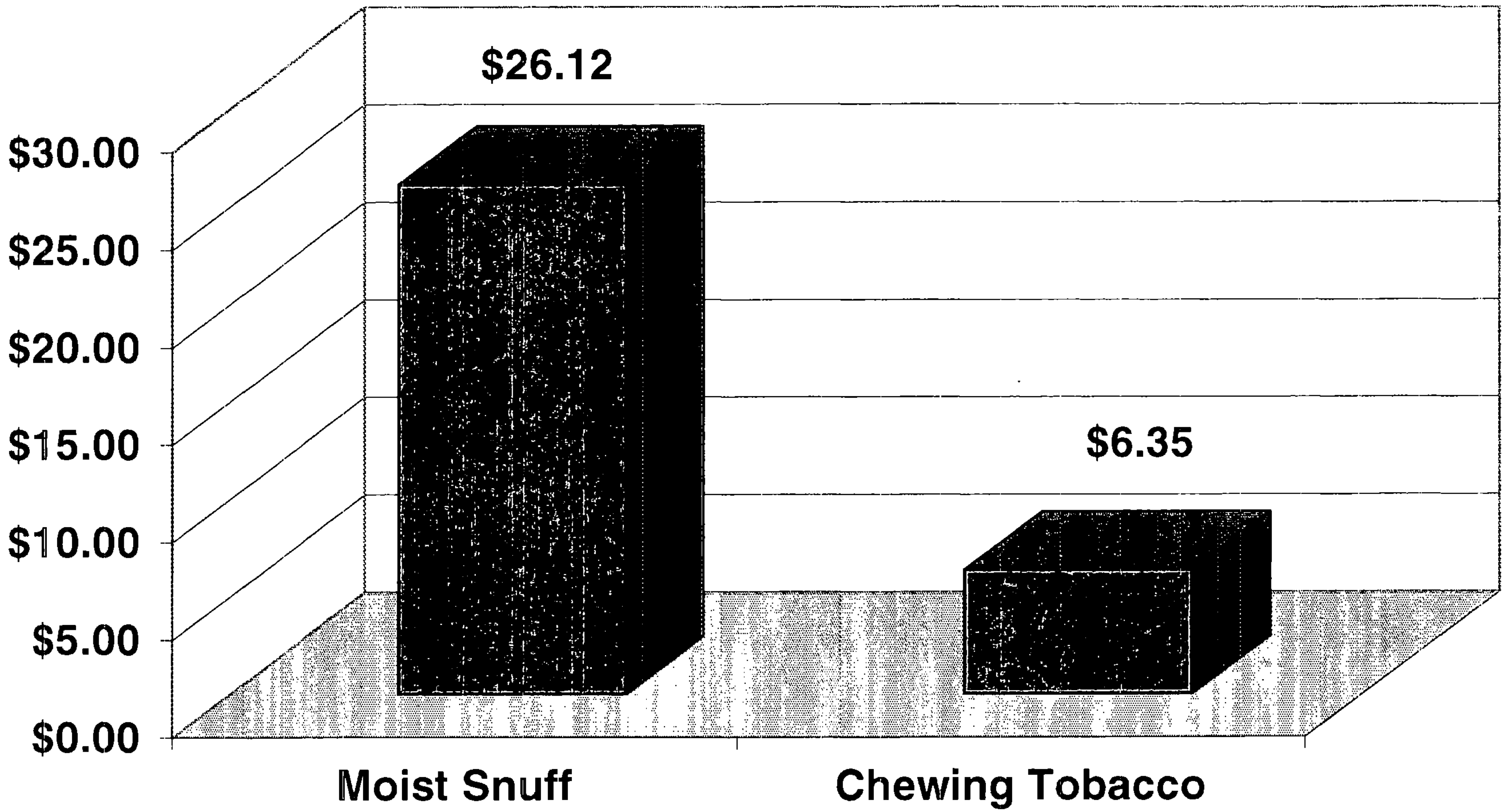
Payment Is Unfair



- product mix
- pricing

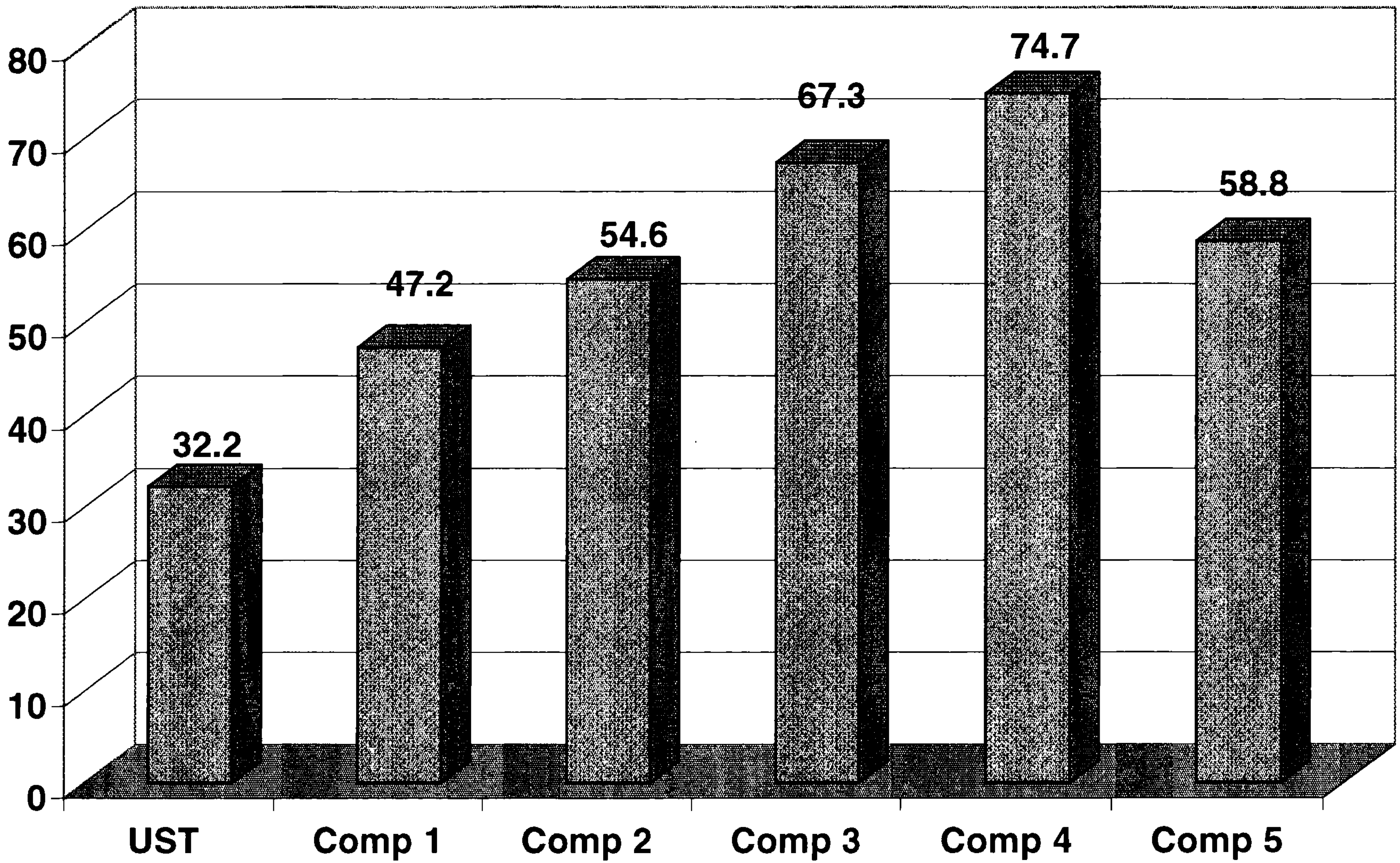
Different Products

Price Per Pound Moist Snuff vs Chewing Tobacco



UST 75-80% of market

Cost as Pct Sales



GLOBAL SETTLEMENT - IMPACT ON SWISHER INTERNATIONAL, INC.

I. **Swisher International, Inc. was not at the table but the settlement negotiated commits Swisher to pay unbearable penalties.**

- The settlement announced on June 20, 1997, is the product of negotiations between the five largest US Tobacco companies, trial lawyers and the attorneys general of the States now suing tobacco companies for Medicare/Medicaid reimbursement.

- Swisher sought to be a part of the negotiations once it learned they were taking place but were excluded from the process.

- Swisher is not a named party in any of the 40 class actions and State lawsuits that the agreement is designed to settle.

- Nevertheless, the agreement purports to force Swisher to pay a portion of the $368.5 billion cost of settling those suits. To date, Swisher has not been advised by the negotiators how the settlement amount was determined or what portion of it Swisher is expected to bear. Swisher's rough calculation, however, using publicly available data as to the ratio of Swisher's unit sales to those of the whole cigarette and smokeless sector, suggests that Swisher's annual share will exceed its annual pretax profit.

II. **The method of allocating the settlement cost is unclear and may unintentionally impose harsher than intended penalties on Swisher and other smokeless tobacco manufactures not involved in the negotiations.**

- The settlement provides for payments to be allocated among the tobacco companies on the basis of their relative domestic "unit sales volume". It is unclear what is meant by "unit sales volume". As negotiated, the settlement amount is analogous to a tax levied on all products whether they agree to it or not. Therefore, fairness requires that the allocation of that amount should be done on the same basis that taxes are levied on cigarettes and smokeless tobacco products.

- Unlike the cigarette and moist snuff manufactured by the negotiating tobacco companies which are for the most part sold in standard packages, many of the products sold by Swisher and others absent from the process are packaged in a wide variety of different-sized containers. For that reason, taxes on smokeless tobacco products are typically levied on the basis of the weight of product sold rather than the number of packages sold. Even this practice has proved unreasonable, however, in an industry whose products are as non-uniform as smokeless tobacco products. Because of the disparate values added in the manufacture of the different smokeless tobacco categories (and the concomitant differences in the pricing structures) a uniform per pound tax for all smokeless products has long been recognized as too onerous.

- o In 1986, Congress re-imposed a federal excise tax on smokeless tobacco products (the prior excise tax had been repealed in 1965). That tax has been increased twice since then and a proposal for an additional increase was part of the recently signed budget agreement.

- o The 1986 tax and each subsequent revision has provided for a per pound tax on smokeless products that recognizes the three-to-one price differential between snuff and chewing tobacco products. Accordingly, the formulas have provided, for example, that the tax on a standard 1 or 1.2 ounce can of moist snuff is about the same as that on a standard 3 ounce pouch of looseleaf chewing tobacco.

III. Stiff penalties imposed for failure to reduce underage usage of Swisher's products will be difficult to avoid despite government studies finding that underage use of smokeless tobacco products is low and decreasing.

- o The recently released 1996 National Household Survey on Drug Abuse reported that underage use of smokeless tobacco products among 12 to 17 year olds was 3.9% in 1994 and decreased to 2.8% in 1995 and to 1.9% in 1996. The 1994 Healthy People 2000 review found that use of smokeless tobacco had dropped form 6.6% in 1988 to 4.8% in 1992 for the same group. Further, the NIH standard adopted by the settlement negotiators this year as the baseline measure of underage use puts use of smokeless tobacco by minors at 2.6%.

- o This low and decreasing trend has even been acknowledged by critics of the industry, Matt Myers, General Counsel of the National Center for Tobacco Free Kids, testified on June 26, 1997, before the Senate Judiciary Committee that "The smokeless numbers [for underage use] actually surprised me...use of smokeless tobacco among teenagers over the last five years has not shown the same trends [as cigarettes]."

- o Despite the fact that smokeless tobacco use among minors is trending downward, the "look back" provisions of the settlement will penalize all smokeless manufactures unless de minimis underage usage is further diminished. The smaller the incidence of underage usage, the more difficult it will be to measure decreases and the unfairer the "look back" penalties become.

- o Further, the "look back" provisions, as written, penalize all manufacturers equally for failures to reduce indusrty-wide underage usage. Fining companies uniformly without regard to whether they are equally responsible for the usage the negotiators seek to reduce is inequitable and counterproductive. A company-by-company or product-by-product system would be more just and effective.

IV. The Global Settlement improves the competitive position of larger companies at the expense of Swisher.

- Swisher and the other smokeless tobacco manufactures which did not participate in the settlement account for only 34% of the smokeless tobacco sales. The sole smokeless tobacco manufacturer represented at the table accounts for the rest. As negotiated, the settlement strengthens the position of the large manufacturers which participated in the process and weakens that of those which were not at the table;

  - By curbing or prohibiting use of the marketing tools that Swisher and most smokeless tobacco manufacturers have relied upon to introduce and support products, the negotiators have favored the larger, stronger companies with the more established products over the smaller companies trying to gain (or hold onto) a foothold in the market.

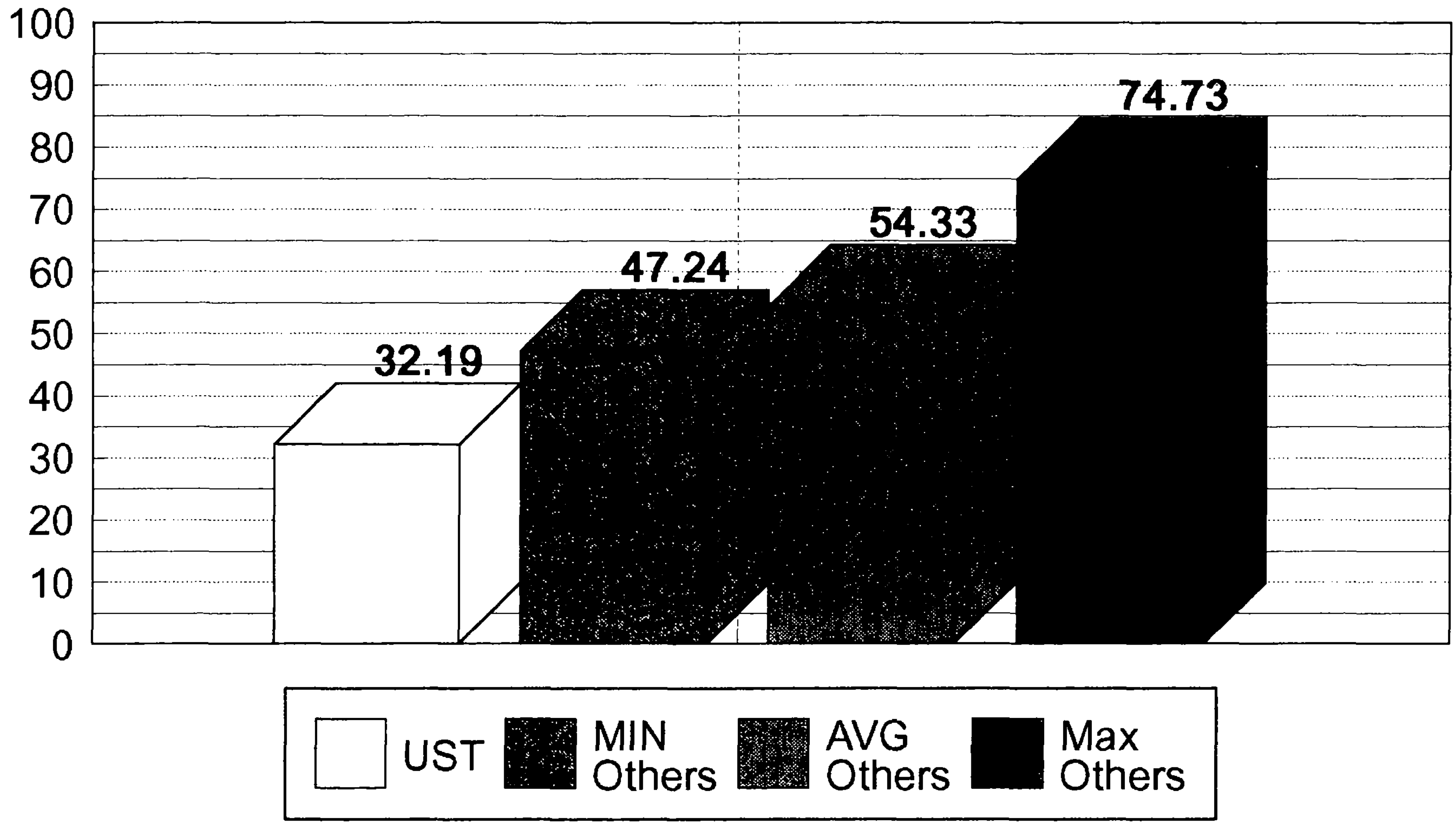
  - By requiring Swisher to share the cost of settling the larger companies' lawsuits, the larger companies not only reduce their liability but increase the cost of doing business for their smaller competitors. Further, those costs can be expected to impact the smaller companies more harshly than the larger, more diversified companies who agreed to them. By using the settlement to cripple Swisher and other small manufacturers, larger manufacturers are able to consolidate their competitive positions.

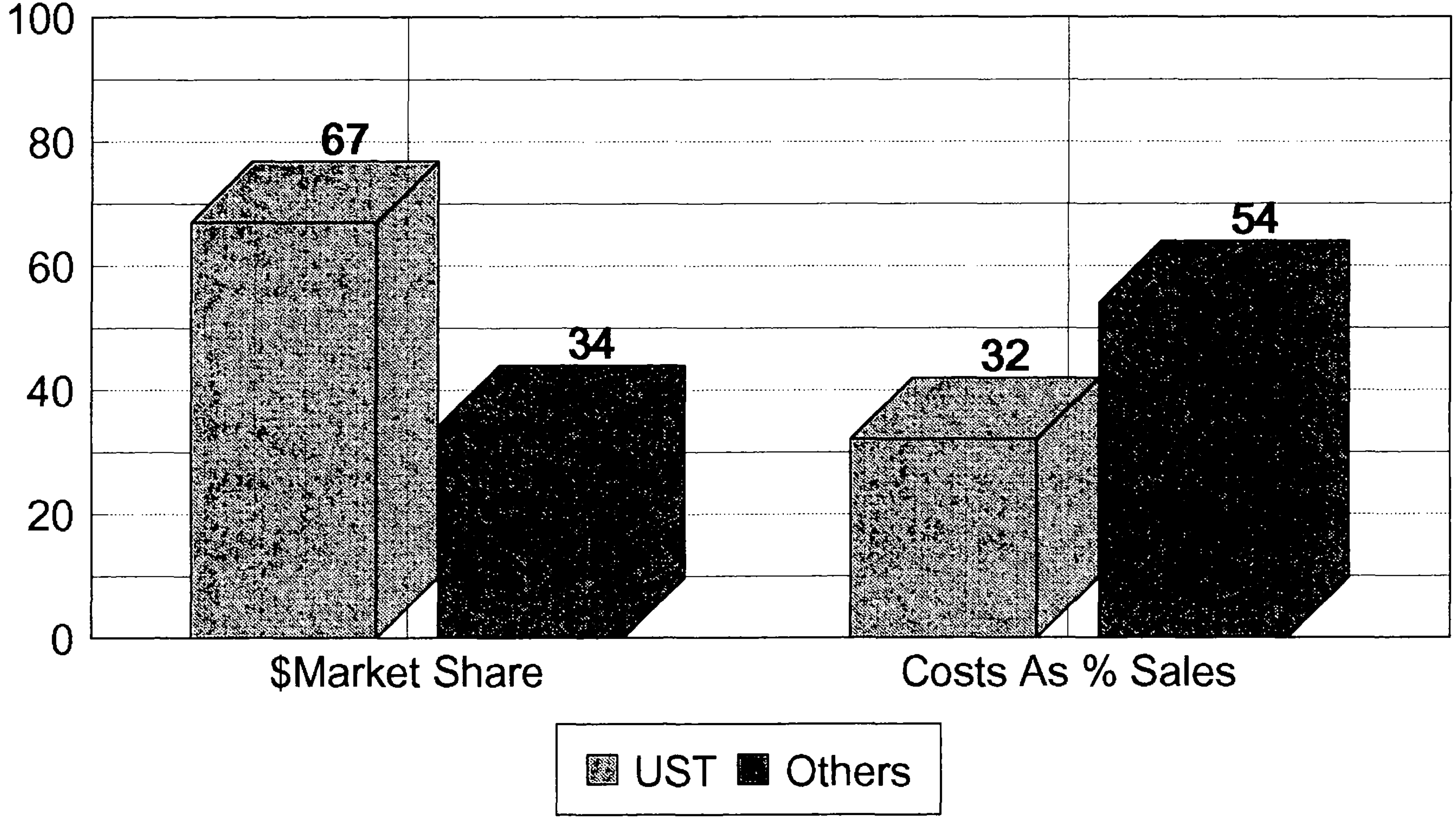
  - By arranging for small companies like Swisher to be subjected to disproportionate fines under the "look back" provisions, the negotiating companies make further inroads into the small companies' profitability while laying off part of the fines that they would otherwise pay alone.

  - By agreeing to marketing restrictions that are more restrictive than those struck down by the Federal District Court in Greensboro in the litigation over the new FDA regulations and which reward larger companies by, for example, permitting them to use more "point of purchase" marketing tools than small companies, the negotiating manufacturers are able to tilt the playing field further to make it more difficult for Swisher and other small companies to market their products to adult customers and to make headway against products that monopolize the market.

  - By forcing small companies which were locked out of the settlement talks to bear a share of the settlement expense (by requiring, in the alternative, punitive up-front payments), the negotiating companies seek unjustly to force companies which were not at the table to accept a portion of the burden undertaken by those which were, without receiving comparable value for the expense.

Smokeless Tobacco Industry Estimated Cost As % Sales





100
80
60
40
20
0
67
34
32
54
$Market Share
Costs As % Sales
UST
Others

Costs as Pct Sales