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New RJR ads pull at kids, critics say

• Recent settlement does little to protect children, they claim

Friday, July 25, 1997

By John Hoeffel

JOURNAL WASHINGTON BUREAU

WASHINGTON

A recent advertisement for Camel Lights has become the prime exhibit for critics who allege that the proposed tobacco-advertising restrictions will do little to prevent the cigarette companies from targeting children.

Two advertising executives who studied the R.J. Reynolds Tobacco Co. advertisement for the American Lung Association said yesterday that there is no question it would appeal powerfully to teen-agers. The ad, which ran in a recent *Sports Illustrated*, features a sidelit black motorcycle fender with a Camel logo that bears some resemblance to the Harley-Davidson logo.

"To them, it says: Wow -- power, strength, mystery, excitement, speed, competition," said Penelope Queen, a former top official with Saatchi and Saatchi Advertising Worldwide who is now a brand consultant. "This is absolutely a beautifully constructed, powerful, meaningful piece of communication that hooks right into the issues of kids."

John R. Garrison, the managing director of the American Lung Association and an opponent of the proposed $368.5 billion tobacco settlement, called yesterday for a ban on color images in all tobacco advertising.

Garrison proposed allowing only black-and-white photos of cigarette packs in advertising and no words other than the warning labels.

The Food and Drug Administration regulations ban billboards and restrict advertisements to black-and-white text, except in adult establishments and publications in which the readership is at least 85 percent adult.

The proposed tobacco settlement takes that ban a step further, outlawing humans, such as the Marlboro Man, and cartoon characters, such as Joe Camel.

The new Camel Lights ad could run in magazines aimed at adults even after the proposed settlement takes effect.

"That ban will in no way prevent manufacturers from developing advertising that has enormous appeal to people under the age of 18," said Dan Cohen, who runs his own marketing firm.

"Killing off Joe Camel and the Marlboro cowboy may satisfy the blood lust of some of the anti-smoking advocates, but the death of these symbols will not diminish the power of cigarette advertising among teens and children," Cohen said.

Garrison's proposal could run afoul of the First Amendment's protection of free speech, which the courts have extended to commercial speech.

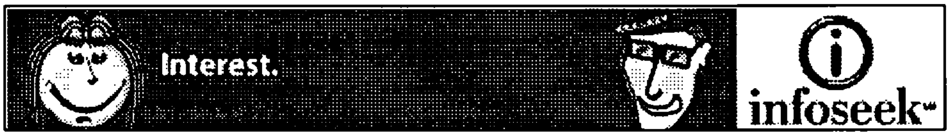
"I don't deny that there will be court challenges, but we think we can prevail," he said. "We're talking about regulating a drug here."

John F. Fithian, the counsel to the Freedom to Advertise Coalition, which is made up of advertising and publishing associations, said that the coalition would challenge any advertising ban that is enacted into law.

"You can't ban speech to adults in an effort to protect children," he said.

Matthew L. Myers, the counsel to the National Center for Tobacco-Free Kids, agreed with Garrison that the Camel Lights advertisement targets children but said that the settlement would prevent most children from seeing it. "The Camel ad is an indication that R.J. Reynolds will continue to run advertising that appeals to children unless they're required to change as a result of this agreement," he said.

Richard L. Williams, the spokesman for the Camel brand, said that the advertisement is aimed at smokers between the ages of 21 and 29. "We tested that campaign against adult smokers," he said. He said that it was not intended to appeal to children. "Who knows whether it does or not?" he asked.



NACS says tobacco deal too burdensone on retailers

03:29 p.m Jul 24, 1997 Eastern

REUTERS

WASHINGTON (Reuter) - The National Association of Convenience Stores said Thursday the proposed $368.5 billion **tobacco** settlement was ``unduly burdensome" and ``overly punitive" on retailers.

The landmark agreement, which is being reviewed by Congress and a presidential task force, would prevent the display of **tobacco** products in stores, requiring them to undertake costly remodeling ``to literally hide the product behind counters," NACS said in a written statement.

In addition, it called for ``an arbitrary and overly punitive" licensing scheme for **tobacco** retailers, NACS noted.

Under the proposed settlement reached last month between the industry and state attorneys general, **tobacco** companies would pay $368.5 billion over 25 years and curtail advertising and marketing. Some of the money would go to anti-smoking programs and reimburse states for treating patients with diseases related to smoking.

``The settlement may satisfy the lawyers and the states, but it devastates the retailers and ignores the kids," NACS said. "Our industry was not invited to participate in the settlement discussions despite the fact that retailers will be dramatically affected."

NACS said cigarettes and other **tobacco** products accounted for $17 billion, or 26.4 percent of convenience store merchandise sales and noted that 45 percent of all adult smokers purchased their cigarettes from convenience stores.

San Francisco Examiner

Thursday, July 24, 1997 · Page A 2

Lung Association says ads for tobacco still go too far

Complains that Camel slogan entices kids to smoke

Judy Holland
EXAMINER WASHINGTON BUREAU

WASHINGTON - The American Lung Association has criticized the proposed tobacco settlement for not going far enough in blocking advertising that appeals to children.

While several other major health organizations have endorsed the proposal, the Lung Association says the deal isn't tough enough on the tobacco industry.

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

The tobacco settlement, reached between the industry and attorneys general of 39 states, including California, calls for cigarette makers to pay $368.5 billion and accept new restrictions on marketing and advertising in exchange for protection against some kinds of lawsuits. Before it goes into effect, President Clinton and Congress must agree to it.

A study released Thursday by the association cites a new Camel Lights magazine ad, which would be allowed under terms of the proposed settlement, that it complains includes symbols just as alluring to teenagers as those that would be banned.

While familiar figures, including Joe Camel, would be prohibited under the settlement, the ad in question includes a motorcycle and the wings of an eagle similar to the logo used by the Harley-Davidson motorcycle company. The ad was analyzed by a panel of advertising and marketing experts working on behalf of the Lung Association.

Advertising restrictions in the proposed settlement include a ban on human images and cartoon characters and on outdoor advertising, such as billboards. It also would ban cigarette logos on items such as caps, jackets and bags; end tobacco sponsorship of sporting events and concerts; and prohibit color advertising in publications aimed at minors.

The tobacco deal was negotiated by the attorneys general following lawsuits through which states demanded the industry repay Medicaid expenses associated with treating smoking-related illnesses. The attorneys general met with trial lawyers, public health advocates and the tobacco industry in secret talks for three months before reaching an agreement June 20.

Clinton has assigned a task force to study the pact before he decides whether to endorse it. Some parts of the proposed settlement must be enacted through federal law.

The Lung Association and other health advocacy groups are trying to shape the legislation that Congress is writing, hoping to toughen its provisions.

The Lung Association panel analyzed a new Camel Lights advertisement that appeared in a July 6, 1997, issue of Sports Illustrated with the slogan "Live Out Loud."

Fri July 11, 1997
W Post
front page

R.J. REYNOLDS

The Joe Camel cartoon character projected hipness, a quality that anti-smoking activists said made him appealing to young people.

Joe Camel Fired

Cigarette Ads Were Accused of Luring Youth

By David Segal
Washington Post Staff Writer

RJ Reynolds Tobacco Co. announced yesterday that it is retiring Joe Camel, ending one of the cigarette industry's most criticized advertising campaigns.

The cartoon character, who projected hipness and was accused of luring teenagers to the Camel brand, is being dropped from future print and billboard advertisements and will no longer be emblazoned on T-shirts and hats, RJ Reynolds officials said. The more lifelike image now featured on the front of Camel packs will be used in forthcoming campaigns.

Company officials maintained that the decision was a result of a search for a spiffier advertising strategy.

RJR's decision to abandon Joe Camel is the latest conciliatory gesture from an industry that historically has rejected compromises in legal proceedings. In recent weeks, the nation's largest tobacco companies negotiated a proposed $368.5 billion settlement that trades some immunity from lawsuits for restrictions on advertisements and some government regulation. This month the companies also settled a lawsuit brought by the state of Mississippi for nearly $3.4 billion.

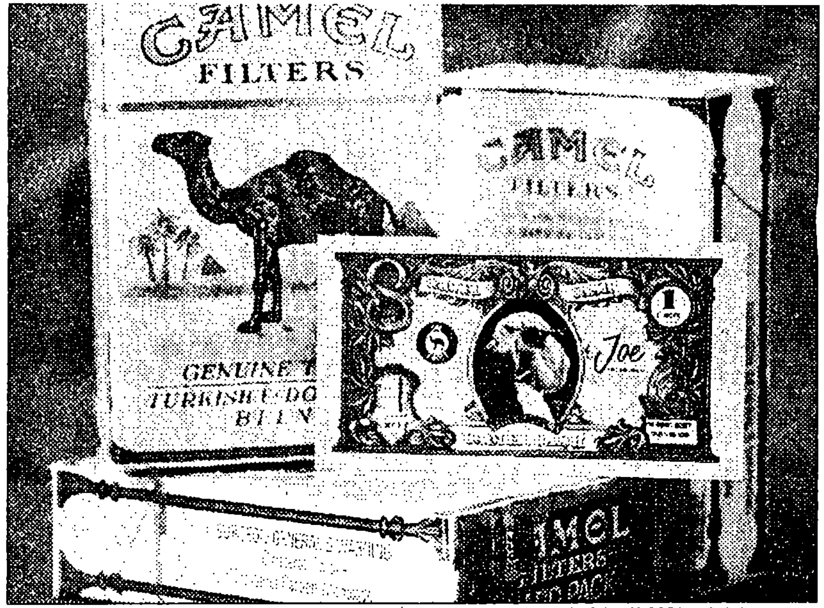
The RJ Reynolds announcement was deemed overdue by the White House and anti-smoking activists, many of whom have long charged that the saxophone-playing dromedary was designed to expand Camel's market share with young smokers.

See JOE CAMEL, A18, Col. 1

ASSOCIATED PRESS

The image featured on Camel packs will be used in forthcoming ads.

R.J. Reynolds Tobacco Retires Joe Camel Cartoon Character



BY RICHARD DREW—ASSOCIATED PRESS

R.J. Reynolds's ad campaigns included such things as "Camel cash" coupons.

JOE CAMEL, From A1

"We have seen time and time again how this type of advertising lures impressionable children to begin a deadly habit that few are able to quit," Vice President Gore told reporters at the White House yesterday. "This is a step in the right direction, but there's still more to do. The president and I will not quit until all of the marketing and advertising aimed at young people is stopped."

Many industry experts expected Joe to be ushered into the sunset soon because he was one of two advertising icons—along with the Marlboro Man—earmarked for extinction by the recent tobacco settlement. R.J. Reynolds had also come under pressure to drop the campaign after the Federal Trade Commission filed suit against the company in May, alleging that the Joe Camel symbol enticed kids to pick up the habit. R.J. Reynolds countersued.

Yesterday, FTC officials said they would continue to pursue their case because they want R.J. Reynolds to pay for a program designed to dissuade underage smokers and to provide regular reports on the company's share of the teen cigarette market.

"We, at this time, do not know the details of their proposal [to end the Joe Camel campaign] and the details are critical," said Jodie Bernstein, director of the commission's Bureau of Consumer Protection.

Officials at the company, based in Winston-Salem, N.C., said Joe Camel is disappearing because a series of new ads, featuring the theme "What You're Looking For," had been successful in test-marketing. The company has maintained its ubiquitous icon was aimed at adults in much the way Metropolitan Life uses Snoopy to sell insurance.

"Obviously, we're aware of the myriad issues that have swirled around Joe for years," said Maura Ellis, a company spokeswoman. "But what motivated us was the reaction we got from consumers where we've been running the new campaign since March."

But anti-tobacco activists maintained that R.J. Reynolds's decision was made in the hopes of persuading the FTC to drop its lawsuit, which could make public potentially embarrassing internal memos and documents. Those documents, said Richard Daynard of the Tobacco Control Resource Center in Boston, might show that R.J. Reynolds realized through its own research that Joe Camel was successful in attracting underage smokers. Such information could provide fodder for lawsuits by smokers who became addicted to Camels before they were 18, he said.

"Reynolds was hoping to forestall a lot of liability problems by voluntarily taking Joe off the market," Daynard said.

Tobacco foes have been lashing out at Joe Camel since his arrival in 1988, a launch timed to coincide with the 75th anniversary of the then-ailing brand. The character, typically portrayed draped with women and exuding cool, was a hot topic at congressional hearings into the tobacco industry in 1994 and figured prominently in the Food and Drug Administration's 1995 proposal to regulate tobacco.

The ad campaign helped R.J. Reynolds fend off the Philip Morris onslaught. In 1988 Camels had 4.4 percent of the cigarette market, according to analysts at Wheat First Butcher Singer Inc. in Richmond. Last year, Camels' market share was 4.7 percent.

According to the Surgeon General's report of 1994, Joe was a hit with kids. Prior to his introduction, Camel commanded no more than 4 percent of the underage market. By 1991, it commanded 13 percent, the report said.

Matthew Myers of the National Campaign for Tobacco-Free Kids said that in recent years, Joe Camel's popularity with youth has slipped. Meanwhile, market leader Marlboro has maintained its allure, he added.

"Today's action is important, but Joe Camel has always been a poor second to the Marlboro Man in attracting kids," he said. "The measure of the tobacco industry's intention to change will be whether Philip Morris follows suit by killing the Marlboro Man."

Officials at Philip Morris Inc. said they have no plans to ditch the cowboy. "The campaign remains unchanged," said Karen Daragan, a company spokeswomen.

News of Joe Camel's death came on the morning that President Clinton's chief domestic policy adviser and Health and Human Services Secretary Donna E. Shalala met at the White House with two of the state attorneys general who helped forge the proposed settlement with the tobacco industry.

"Joe Camel is dead—he had it coming," said Bruce Reed, Clinton's chief domestic policy adviser.

"I'm very happy to say goodbye to Joe Camel," added Shalala.

During their meeting, Mississippi Attorney General Michael Moore implored Shalala and Reed to act quickly in reviewing the settlement and determining a course of action.

"What worries me is we'll waste a lot of time," Moore told reporters. "Every day that we don't do something about them, 3,000 kids are going to start smoking," he said, although he repeated warnings that the industry can't be pushed too far in pursuing concessions.

Wall Street analysts said they had been expecting Joe Camel's exit for months and predicted it would not hurt the company's sales or stock price. The stock of RJR Nabisco Holdings Corp., R.J. Reynolds's parent firm, closed yesterday at $31.69, down 37½ cents, on the New York Stock Exchange.

"After the settlement was formalized in writing, Joe Camel was going to depart from the cultural landscape one way or the other," said Emmanuel Goldman, an analyst with PaineWebber Inc. in San Francisco. Goldman predicted that Philip Morris would be more ready to fight than switch its advertising.

"The language in the agreement says that both the Marlboro Man and Joe must die, but that won't prevent Philip Morris from using, say, a spur in an advertisement, which might be all they need to evoke the cowboy image," he said. "That wouldn't work for Joe."

Staff writers John Schwartz and Peter Baker and staff researcher Richard Drezen contributed to this report.

THE FEDERAL DIARY

The OPM Shuffle

By Mike Causey
Washington Post Staff Writer

The often-downsized, frequently reinvented Office of Personnel Management made several key job changes yesterday.

The office has cut nearly 40 percent of its staff during the Clinton administration and is eliminating various deputy associate director positions. Changes cleared yesterday include:

Leigh Shein was selected to be deputy chief of staff to Director James King.

Carmen Lomellin replaces Shein as coordinator for interagency affairs and White House liaison.

Anna Marie Schuh becomes assistant director of merit systems oversight and effectiveness. She currently is chief of the office's Chicago oversight division and will replace **Judy M. Jaffe**, who is retiring.

Frank Titus, who had been deputy associate director for retirement and insurance, becomes assistant director for insurance programs.

Lucretia F. Myers, who had been assistant director for insurance programs, becomes senior adviser reporting to **Ed Flynn**, associate director of retirement and insurance service.

Deputy associate director for employment services **Donna Beecher** becomes director of contracting and administrative services.

Lynn Furman becomes senior adviser to **Mary Lou Lindholm**, associate director of employment services.

Dangerous Jobs

The National Treasury Employees Union says the recent shooting of two U.S. Customs Service inspectors on the California-Mexico border underscores the need to extend them special retirement benefits.

Sen. **Barbara A. Mikulski** (D-Md.) and Rep. **Bob Filner** (D-Calif.) have introduced legislation that would extend law enforcement retirement benefits to Customs inspectors and officers, Internal Revenue Service revenue officers and inspectors for the Immigration and Naturalization Service. Under the law enforcement retirement system, people can retire at age 50 if they have at least 20 years of federal service.

Union President **Robert Tobias** says Customs, IRS and INS employees routinely face danger as part of their jobs and should be given the same early retirement option as other federal law enforcement personnel.

Early Retirement Extended

It's official. The Office of Personnel Management, as reported here May 19, has extended the period in which federal agencies can let employees take early retirement. Almost all federal agencies—except the Postal Service and the Environmental Protection Agency—already had authority to offer employees early-outs through Sept. 30 of this year. The OPM has extended the early-out window until the end of this year.

The extension will allow agencies (at their option) to offer workers early-outs and buyouts, which are expected to return, big-time, between October and December.

Feds' New Friend

Rep. **Sanford D. Bishop Jr.** (D-Ga.) has joined the Federal Government Service Caucus. The bipartisan group of House and Senate members serves as a pro-civil-servant caucus on Capitol Hill. Members who belong come from districts with lots of federal workers or retirees, and the organization helps track—and sometimes knock down—legislation that would hurt government workers. Reps. **Steny H. Hoyer** (D-Md.) and **Thomas M. Davis III** (R-Va.) are co-chairman of the caucus.

Jobs

Commerce has openings for economists, Grades 5 through 12, and for a GS 12 or 13 staff accountant. Call 202-482-5138.

Reductions in Force

The National Treasury Employees Union says pending reductions in force at the Internal Revenue Service will hit women and minorities hardest. Under government layoff rules, employees with the least seniority, and those without veterans preference, are generally the first fired. The union hopes to block the layoffs which it says would violate the government's own anti-discrimination rules.

Thursday, May 29, 1997

The Washington Post
Thursday, May 29, 1997

Curb on Tobacco Ads Proposed, but Would It Snuff Out Sales?

By John Mintz
Washington Post Staff Writer

Who can imagine life in Marlboro Country without the Marlboro Man, the quintessential cowboy? And what could keep Camels cool if not Joe Camel, the saxophone-playing hipster?

These are among the questions on the minds of tobacco executives as they bargain a possible legal settlement with state attorneys general and plaintiffs' lawyers, according to industry analysts and public health activists.

Under terms being discussed by negotiators, cigarette firms would stop depicting people and cartoon figures in advertisements, and would pay up to $300 billion to settle health-related lawsuits. In exchange, the companies would receive some form of immunity from litigation.

Analysts say the industry, with $45 billion in sales and $7.7 billion in profits each year, would have no trouble raising prices enough to finance the fund for damages.

And many analysts and anti-smoking crusaders say they doubt the advertising restrictions now under discussion would substantially disrupt tobacco sales. In other countries such as Britain that have limited cigarette ads, tobacco firms simply launched new ad campaigns that passed muster, and industry officials say their sales haven't suffered.

"This industry never considers ending advertising, only using a different style," said Richard Pollay, a tobacco advertising expert at the University of British Columbia. "It thinks way into the future.... I've seen the industry run circles around rules restricting advertising."

Advocates of a deal hope that a curb on tobacco ads would end cigarette brand distinctions, which could result in fewer young people taking up the habit. Each year 1 million Americans begin smoking, and 90 percent of them are under 18.

"The industry appears willing to concede issues [at the talks] that would have been unthinkable six months ago," said Gary Black, a tobacco analyst for Sanford C. Bernstein & Co. Among the "sacred cows" the industry has expressed willingness to give up, he said, are human and cartoon figures in ads, cigarette billboards and tobacco sponsorships.

But Black said the industry has shown that it can successfully promote its products despite advertising restrictions. Tobacco firms in Britain, for example, have thrived for 22 years under rules banning tobacco ads that are funny, depict landscapes, glorify athletes or link cigarettes to "social, sexual, romantic or business success."

British tobacco firms instead use clever, exquisitely photographed magazine and billboard ads. Benson & Hedges ads portray its golden-colored packs as gondolas in a city park or colossal doors bathed in celestial light. Ads for the Vantage brand, aimed at well-to-do smokers, show tabletops with gloves and opera tickets, or architects' drawings.

"The British experience shows tobacco advertising restrictions don't stop cigarette promotion," Pollay said. "It just makes creative people work harder to get the same bang for the advertising buck."

The companies also have been active sponsors of events that put their products in the public eye—Benson & Hedges sponsors British cricket matches, for example, and the Embassy brand promotes darts competition. (Britain's new Labor government wants to ban all tobacco ads, as well as sponsorship of sports events.)

After Canada's 1989 ban on cigarette ads, the industry sponsored jazz festivals, tennis and golf tournaments, car races, comedy shows and fireworks displays.

In European nations that ban tobacco ads, the companies even have gone so far as entering other businesses so they can keep their brand names before the public, selling Marlboro and Camel watches and opening "Marlboro Country" travel agencies. There also are Marlboro film clubs, More car dealerships and Salem record stores. Hundreds of

See CIGARETTES, E2, Col. 1

CIGARETTES, From E1

"Marlboro Classic" stores sell western-theme housewares and clothes.

"No matter how hard you try, you can't beat this industry" with ad curbs, said Eric Solberg, a tobacco advertising expert and executive director of the anti-smoking Doctors Ought to Care group. "This is an unimaginably creative industry with endless amounts of money."

Studies disagree on whether tobacco use has declined since Norway, Britain and other nations curbed advertising in the 1970s. The firms cite research by Jean Boddewyn, a Baruch College marketing professor whose work they partly financed.

"There's been no change in consumption," said Boddewyn. "It's indisputable.... Consumption isn't going to go down" as a result of curbing cigarette ads.

The Food and Drug Administration disputes that conclusion and cites other studies showing that European countries that limit tobacco ads do reduce smoking.

Marvin Goldberg, a Pennsylvania State University marketing expert, conducted a 1994 study showing that in Canada, five years after a 1989 ban on cigarette ads, people still associated cigarette brands with the types of people that had been targeted by ads. Canadians still saw Benson & Hedges, which years before had been aimed at well-to-do professionals, as a businessman's cigarette, and Matinee as a product for young people.

"Even after five years, the images were as crystallized as ever," Goldberg said.

The Canadian experience also demonstrated that the big winners of cigarette advertising restrictions are the largest tobacco companies themselves. Imperial Tobacco Ltd., Canada's biggest cigarette firm, has raised its market share to 67 percent from 57 percent in the eight years since the ad ban was imposed.

"If you restrict advertising, companies with downward momentum would have a hell of a time turning it around," said John Maxwell, a tobacco analyst with Wheat First Butcher Singer Inc. in Richmond. "It would be harder for the smaller companies to get new products out."

That's a bad portent for laggards Brown & Williamson Tobacco Corp., Lorillard Inc. and Liggett Group Inc. But it's wonderful news for Philip Morris Inc., which has 48 percent of the domestic market and lately has gained 1 percent a year.

"Philip Morris could benefit to a greater extent from this settlement," agreed Merrill Lynch & Co. analyst Allan Kaplan. He noted that 62 percent of U.S. smokers under age 25 buy Marlboros and 6 percent smoke other Philip Morris brands.

Marlboros are the world's most popular cigarette brand. From the start, Philip Morris ensured that only older men, not youngsters, portrayed the Marlboro cowboys, according to "Ashes to Ashes," Richard Kluger's 1996 history of the industry. Marlboro Country was an imaginary place that "seemed to beckon Americans to an earlier, simpler, morally unambiguous time, to the frontier irretrievably lost," he wrote.

Can Philip Morris conjure this place without the Marlboro Man?

Tobacco investor Thomas Russo, a partner at Pennsylvania-based Gardner Investments, thinks not. Over time, he said, Marlboro ads depicting the Grand Canyon but no cowboys "just won't drive consumers to the same [subconscious] excitement."

Activist Solberg disagrees. He cited Marlboro ads in Europe that depict striking black-and-white scenes of the tumbleweed-strewn American West with a single object in the signature red from Marlboro's pack—a motorcycle, for instance, or hot peppers hanging from a bunkhouse.

"What are you going to do, ban the color red?" Solberg said.

Philip Morris and other U.S. cigarette manufacturers also have developed a variety of promotions that may not be affected by the legal settlement now under discussion. An example: a 10-city "It's a Woman Thing" music tour, sponsored by Philip Morris's Virginia Slims brand. It features singer Martha Byrne, 27, a former star of TV's "As the World Turns," who auditions hot female rock bands at hip nightclubs.

The cigarette industry spends an ever greater share of its $5 billion annual marketing budget on such unconventional campaigns—including sports promotions; specialty items such as T-shirts, caps and lighters; coupons; and publications such as "Unlimited Action-Adventure," a glossy Philip Morris publication with articles on rock bands, arm wrestling and motorcycles that is aimed at male youth. In 1970 the industry alloted 12 percent of its ad dollars to such marketing, and now it devotes 78 percent.

Greg Connolly, chief of Massachusetts's anti-smoking program, said the attorneys general bargaining with the industry must demand that it end such campaigns, along with Philip Morris's detailed marketing databases containing millions of customers' names.

The state attorneys general "are well meaning, but we need better technical knowledge at that table," Connolly said.

The talks also are focusing on another proposal agreed to in principle by the industry: penalties if the firms fail to meet targets in reducing underage smoking by, say, 50 percent after seven years.

Anti-tobacco activists fear a repetition of events in 1969, when Big Tobacco agreed to end television ads. Elated public health activists expected a sharp drop in smoking, especially when the firms also agreed not to launch new forms of advertising. But tobacco firms tripled their ad budgets in magazines, billboards and promotions, such as the Virginia Slims women's tennis tournaments. Smoking rates surged.

As for the $300 billion penalty now under discussion, tobacco firms would simply pass on the $12 billion annual hit to customers. It could be financed with a 50-cent increase in the price of a pack of cigarettes, which would cost an average of $2.38, still only about half of what some European consumers pay.

Analysts say such an increase would cause 11 percent of U.S. smokers to quit, costing the industry $900 million in annual profits. But analyst Black estimates the industry would be able to shave $360 million from the $600 million it pays each year in legal bills.

The industry also counts on its overseas business continuing to flourish. Salomon Brothers Inc. analyst Diana Temple estimates that Philip Morris's domestic tobacco sales will grow 3 percent a year, but foreign sales will increase by 14 percent. By 2000, she said, its U.S. cigarette revenue will be $14 billion, and foreign sales will be $38 billion.

Black said that of all the industry's attributes that will continue to lure investors—its all-for-one legal strategy, its high barriers to entry—none is more important than its customers' "price insensitivity." That means they'll pay a lot to keep getting nicotine.

"There are no substitute products that you at the way a cigarette d " said. "This is a business."

The Washington Post
THURSDAY, MAY 29, 1997

Tobacco Deal Faces Growing Criticism

Officials of 3 States Oppose Any Proposal to Limit Individual Right to Sue

The tobacco industry and the small coterie of lawyers across the bargaining table have pledged to wrap up a settlement agreement in the next two weeks, but opposition to the deal is escalating.

Yesterday, three of the 29 attorneys general who have sued the tobacco industry to recoup the costs of treating people with smoking-related illnesses for the first time publicly expressed strong misgivings about the proposed settlement plan. Marking the most serious rift to date, attorneys general in Iowa, Maryland and Wisconsin, said they want to take any proposal that would limit an individual's right to sue the tobacco industry off the negotiating table.

By Wall Street Journal staff reporters Suein L. Hwang and Alix M. Freedman in New York and Thomas M. Burton in Chicago.

"I'll be very reluctant to agree to any significant limitations on individual liability," Iowa's Attorney General Tom Miller said in an interview. "It's hard to give special liability protection to the tobacco industry when they're the worst not the best and are only now doing what a responsible industry should have done 40 years ago."

Added Wisconsin's Jim Doyle: "Even though we have no real authority, we are bargaining away the rights of future individuals. I am very uncomfortable in limiting citizens' rights to go to court."

Richard F. Scruggs, a plaintiffs lawyer and a lead negotiator for the states, said that these state officials have "a sincere concern that the rights of victims to compensation will not be respected" in the proposed agreement. But he defended the proposed limitations on lawsuits saying they are intended "to insure the ability of future victims to recover and not just the first in line."

Connecticut Attorney General Richard Blumenthal added: "The general sentiment is we should continue negotiating and that every term has to be assessed in terms of the package as a whole."

The mounting criticism to cutting a hasty deal and giving the tobacco industry significant immunity from lawsuits could endanger the settlement's prospects on Capitol Hill. While Congress could force states to settle their cases, such an action would become politically risky if enough states come out against the plan. Until now, Minnesota's Hubert Humphrey III has been the only attorney general to speak out publicly against the settlement.

"If this is too controversial, no one on the Hill is going to go near it," said David Kessler, former commissioner of the Food and Drug Administration, which has asserted its authority to regulate cigarettes as a drug. "In trying to solve everything, [the negotiators] have created an almost impossible task for themselves."

As it now stands, the current proposal would restrict the ability both of current smokers and individuals bringing secondhand-smoke claims to sue cigarette makers. It would be even tougher for future smokers to be compensated for the most common tobacco-related illnesses, such as lung cancer.

Industry leaders **Philip Morris Cos.** and **RJR Nabisco Holdings Co.** have been negotiating with lawyers for the states and individual smokers as well as public-health representatives for the past two months. The talks mark a watershed in the four-decade-long history of tobacco litigation, since the $45 billion industry has until now staunchly refused to either settle lawsuits or to concede that smoking causes disease.

Joe Feels the Heat

An FTC complaint accuses RJR of using its Joe Camel character to entice underage smokers. Meanwhile, Florida's pension fund voted to sell off its tobacco holdings. Articles on B1 and C11.

The tobacco proposals also were coming under fire yesterday at a national summit of hundreds of antismoking activ-

Please Turn to Page A11, Column 1

Continued From Page A3

ists near Chicago. A number of advocacy-group representatives gathered at the Sofitel Hotel in Rosemont, Ill., to condemn the industry's pursuit of immunity as well as the secrecy of talks conducted over the past several weeks by some of their own colleagues with representatives of the tobacco industry.

"This has been done in secret all along," said John R. Garrison, chief executive of the American Lung Association, the biggest health group to assail the settlement. He added: "This wouldn't be the right time for a settlement. Every day, there are more documents being made public. Why should we bail the industry out?"

Although public-health organizations aren't likely to reap big financial benefits from a the talks, the groups do exert significant political clout. For example, Maryland's Attorney General Joseph Curran, said he was uncomfortable not only with restricting an individual's ability to sue, but also with endorsing any deal that doesn't have the blessing of the public-health community. "My position is going to be that if the health community isn't on board, we're not going to be on board," he said.

Mr. Scruggs, the negotiator, countered that some of the members of the public-health community "have unrealistic expectations of what can be acheived in litigation, especially against an industry that has never paid a dime in compensation or lost a major lawsuit after appeals."

Mississippi Attorney General Mike Moore, another chief negotiator for the tobacco opponents, flew to Chicago yesterday to build support for the deal that does, in fact, envision more sweeping restrictions on the tobacco industry than the FDA had originally proposed.

Among key concessions, the industry has tentatively agreed to pour more than $300 billion into a fund to settle all the lawsuits filed against it. The industry has also agreed to substantial fines if youth smoking rates don't decline by 30% in five years and 60% in 10 years as well as to ban both cartoon and human figures in advertising – thus retiring both the hugely popular Joe Camel icon and the famed Marlboro man.

The matter of how much regulatory authority over nicotine to cede to the FDA remains one of the most contentious outstanding issues now facing negotiators. Mr. Moore, however, assured participants at the antitobacco summit that negotiators would never accept a deal that would impose limits on the ability of the FDA to regulate nicotine in cigarettes.

Mr. Moore is particularly eager to wrap up the negotiations: If a deal isn't struck soon, he must turn his attention back to preparing Mississippi's case against the tobacco industry, which is scheduled to go to trial in July. The tobacco industry also has powerful incentives to settle as speedily as possible, say people familiar with the industry's thinking.

The industry is privately betting that it could lose about three of the 29 state lawsuits arrayed against it, these people say. Moreover, the industry is concerned that it is vulnerable in certain other cases that have been lodged against it, particularly a Florida secondhand-smoke suit brought on behalf of flight attendants. But individuals familiar with the matter cite an even more potent catalyst: Continuing federal criminal investigations could result in prison terms for tobacco executives.

Justice Department officials say privately that the settlement negotiations have no bearing on their investigations into industry conduct. They further maintain that prosecutors are aggressively pursuing those probes. Still, an individual familiar with the industry's thinking says the industry is betting that a settlement would help defuse the escalating hostility against cigarette marketers.

"Even knowing there are no guarantees, these people [tobacco executives] would like to get this done so their lawyers can go to U.S. attorneys and say, 'We live in peaceful times now. Let's let the past be the past.'"

THE WALL STREET JOURNAL
THURSDAY, MAY 29, 1997

ADVERTISING

Joe Camel Ads Illegally Target Kids, FTC Says

By Bruce Ingersoll
Staff Reporter of The Wall Street Journal

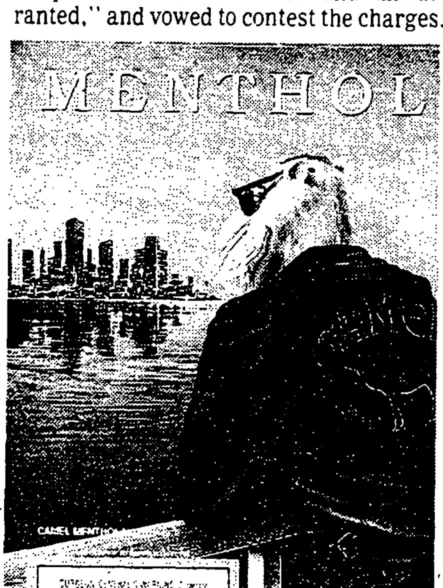
The Federal Trade Commission filed an unfair-advertising complaint against R.J. Reynolds Tobacco Co., alleging that its colorful Joe Camel campaign illegally seeks to entice youngsters to smoke Camels.

The commission voted 3-2 yesterday to take on the nation's No. 2 cigarette maker, largely on the strength of new evidence about the company's advertising tactics that wasn't available in 1994, when the FTC decided not to bring a Joe Camel case.

The complaint, filed with an administrative law judge within the FTC, accuses the **RJR Nabisco Holdings** Corp. unit of using the appeal of a suave cartoon character to promote an addictive and dangerous product to youngsters who are too young to legally buy cigarettes – and too young to comprehend the health risks. The campaign, the complaint says, has been so successful that Camel's market share among kids exceeds its share among adults.

"Joe Camel has become as recognizable to kids as Mickey Mouse," said Jodie Bernstein, the FTC's director of consumer protection. "Yet the campaign promotes a product that causes serious injury, addiction and death. It is illegal and should be stopped."

RJR denounced the FTC's complaint as "unprecedented, unfounded and unwarranted," and vowed to contest the charges.



Spring 1997 ad for Camel Menthol Lights

"Joe Camel has become a scapegoat for issues our society has been unable to resolve," the company asserted.

The FTC action opens another front in the tobacco wars, greatly complicating the industry's efforts to ward off a proliferation of legal and regulatory challenges. Until now, one of the industry's arguments against the Food and Drug Administration's regulations to curb underage smoking and restrict cigarette and chewing-tobacco advertising has been that only the FTC is empowered to crack down on tobacco ads.

Now, the industry faces a regulatory double team. Last month, a federal judge in North Carolina upheld the FDA's right to regulate tobacco but struck down its restrictions on advertising. In going after Joe Camel, the FTC is picking up the regulatory slack, pending an appeal of the judge's decision.

At a news conference in Washington yesterday, Ms. Bernstein said the FTC will ask an administrative law judge to order

Please Turn to Page B8, Column 1

Continued From Page B1

the company to stop the Joe Camel campaign, provide sales and market-share data regarding underage smokers and conduct a 10-year public-education program to discourage people under 18 from smoking.

Last summer, FTC investigators revived the Joe Camel case after the commission received bipartisan petitions from 67 House members, led by Democratic Rep. Timothy Roemer of Indiana, and from seven senators. This time, the agency has a trove of internal RJR documents and other industry files, including many uncovered by the FDA over the past three years.

One RJR document discusses the importance of repositioning the Camel brand to attract younger smokers, including beginning smokers who are selecting what the industry terms their "first usual brand." By 1984, the complaint says, some RJR employees recommended setting up a "formal program" to attract those smokers.

Before the company launched Joe Camel in 1987, less than 3% of the underage smokers bought Camels, according to Lee Peeler, a senior FTC lawyer. By 1993, Camels had a market share of at least 13% of underage smokers. He declined to say what the current percentage is.

RJR spokeswoman Peggy Carter countered that none of the RJR documents being cited as new evidence relate to the Joe Camel campaign and that none were prepared by RJR employees involved in the campaign.

The FTC has suggested, she said, that the testing of Joe Camel ad copy on young people proves that the company knew how attractive the campaign would be to kids. What it really proves, she argued, is that RJR management was merely making sure the ads wouldn't violate the company's policy against targeting underage smokers.

The administrative hearings could start as early as June 24. FTC lawyers will argue that the Joe Camel campaign is unfair because it's likely to "cause substantial and ongoing injury" to the health of youngsters, an injury that they "cannot reasonably avoid." The agency lawyers also will argue that it's unfair—and unlawful – to lure youngsters into buying cigarettes, illegal in 50 states.

To make their case, FTC lawyers said, they don't have to prove that Joe Camel ads on billboards and in magazines caused youngsters to smoke; instead, they need only show that Joe Camel contributed to youngsters' decision to start and continue smoking. But Ms. Carter, the R.J. Reynolds spokeswoman, insisted that Joe Camel has never been aimed at youngsters and cited a company-sponsored survey showing that his appeal among teenagers who buy their own cigarettes is greatly exaggerated.

If the administrative law judge rules against R.J. Reynolds, the company can appeal to the full commission; failing that, it can file a federal court appeal.

The dissenting votes were cast by Commissioners Mary Azcuenaga and Roscoe Starek, who said the new evidence isn't strong enough to justify an about-face on Joe Camel. Mr. Starek contended it would better to await the decision of a federal appeals court on the FDA regulations and the outcome of tobacco settlement talks between the cigarette companies and several state attorneys general and plaintiffs lawyers.

Nevertheless, the FTC under Chairman Robert Pitofsky, a Clinton appointee, has evinced a strong interest in protecting youngsters from unfair advertising. The FTC staff is pursuing a broad probe to determine whether Joseph E. Seagram & Sons Inc., a **Seagram** Co. unit, and three major brewers target minors with their TV ads. At the news conference, the FTC's Ms. Bernstein didn't rule out the possibility of enforcement action against other cigarette makers.

"The Clinton administration is committed to kicking Joe Camel and others who glamorize tobacco products out of our children's lives," said Donna Shalala, Health and Human Services secretary. "Each day, 3,000 young people become regular smokers, and 1,000 will have their lives cut short as a result of smoking."

Ad Notes. . . .

COKE PROMOTION: Coca-Cola expanded its previously announced summer promotion program to include 18 million discount cards that will be given out by bottlers. The cards, which come in 350 varieties and vary from region to region, offer discounts from companies including AMC Theaters and Domino's Pizza, with available discounts of $250 million a day. Last month, Coke said it is tying up with Mastercard International this summer to give away cash and Coke with a total value of $50 million, by means of branded money cards used in automated teller machines.

WSJ.com **Journal Link:** For the full text of the Federal Trade Commission complaint against R.J. Reynolds Tobacco, see The Wall Street Journal Interactive Edition at **http://wsj.com**

THE WALL STREET JOURNAL
THURSDAY, MAY 29, 1997

FTC Seeks to Ban 'Joe Camel' in Ads

Agency Says Cigarette Firm Targets Children

A1

By John Schwartz
Washington Post Staff Writer

Tobacco giant R.J. Reynolds's "Joe Camel" advertising campaign violates federal law by enticing children to smoke, the Federal Trade Commission charged yesterday. The move could lead to a virtual ban on the controversial cartoon character's use in advertising and promotional items.

The company, which can continue to use the cartoon figure pending an administrative trial, denied that it markets to children and said it will vigorously fight the "unprecedented, unfounded and unwarranted" action by the FTC.

"Joe Camel has become the government's scapegoat for issues our society has been unable to resolve," the company said in a strongly worded statement.

The cartoon ruminant long has been a target of anti-smoking activists. "Old Joe" figured prominently in 1994 congressional hearings into tobacco industry practices, in the Food and Drug Administration's 1995 plan to regulate tobacco products, and has been cited in many lawsuits against the industry as evidence that cigarette makers target children.

The FDA and now the FTC cited surveys showing that the brand's popularity rose among underage smokers during the Camel campaign, and have suggested that the sunglass-wearing cartoon character and its depiction in situations children would want to emulate—at parties, on the beach, in nightclubs—led to the rise.

"Joe Camel has become as recognizable to kids as Mickey Mouse," said Jodie Bernstein, the FTC's director of consumer trade protection. "Joe Camel must grow up or go away."

Officially, the FTC is charging that it has "reason to believe" R.J.

See TOBACCO, A16, Col. 1

TOBACCO, From A1

Reynolds Tobacco Co.'s campaigns are an "unfair practice" under Section 5 of the Federal Trade Commission Act. The FTC regulates advertising and has the power to restrict messages that are "unfair," a legal term that means likely to cause substantial and ongoing injury that is not reasonably avoidable, and which is not offset by a compensating benefit. In the past, the commission has used the "unfair" classification successfully to challenge companies that pitch telephone "900" numbers to children. It now will take the case before an administrative law judge, who will hold an administrative trial. No date has been set for the trial.

The commission will ask for an order prohibiting the nation's second-largest tobacco company from using Joe Camel in any ads or promotional merchandise except in adult settings, such as nightclubs. The commission is also asking the judge to order the company to make its sales figures available and to force the firm to fund a public education campaign to curb underage smoking.

The FTC action, first reported as pending in Monday's edition of Advertising Age and decided by 3 to 2, reverses a 1994 commission decision not to take on R.J. Reynolds over Joe Camel. FTC officials said that new information that had become available since the prior decision.

The commission would not identify specific documents that have come to light that might have changed its view, but one R.J. Reynolds document not generally known before the 1994 decision stands out: a 1984 memo about the "First Usual Brand Young Adult Smokers," a program that attempted to monitor brand choice among new smokers. Other memos described a "Young Adult Smokers" marketing program that encouraged salesmen to stock promotional items in stores near high schools and college campuses.

Those memos were discussed at length in the Food and Drug Administration's August 1995 proposal to regulate cigarettes and smokeless tobacco products. In its complaint yesterday, the FTC did not directly cite those memos but did discuss Reynolds's efforts to attract "first usual brand" smokers. In its statement, R.J. Reynolds said that the documents relied upon by the FTC do not relate directly to the Joe Camel campaign and were not prepared by anyone with responsibility for developing the campaign.

R.J. Reynolds spokeswoman Peggy Carter said the "first usual brand" memo "clearly was looking only at smokers—only adult smokers—and trying to determine the dynamics of brand choice," and explicitly staked out the ages 18 to 24 as "young adult." Anti-tobacco activists, however, have charged that because the vast majority of smokers begin the habit before the age of 18, the 18-to-24 statement was little more than a legal fig leaf.

Two commissioners filed dissents: Mary L. Azcuenaga and Roscoe B. Starek III. Azcuenaga wrote that "intuition suggests" that the charges against R.J. Reynolds "are true," but added that, "Intuition alone. . . . is not a sufficient basis for issuing a complaint." Starek wrote that "intuition and concern for children's health are not the equivalent of—and should not be substituted for—evidence" that the company's campaign caused children to smoke. The dissenters said the new documents were not enough to warrant reversing the earlier decision.

R.J. Reynolds filed more than 80 pages of comments with the commission during discussions of the Joe Camel investigation. Yesterday, the company's top lawyer excoriated the FTC. "The real loser today is the American public," said Charles A. Blixt, senior vice president and general counsel for R.J. Reynolds. "When the theory on which the commission has proceeded is examined, I expect that those in the motion picture, music, cosmetic, lottery, beer, wine and spirits businesses, to name a few, will feel the cold chill of potential regulation on their backs."

In an April 1994 congressional hearing, then-R.J. Reynolds chief executive officer James W. Johnston told lawmakers that: "If I thought that campaign caused any young people to begin smoking, I would pull it in a heartbeat . . . it would be stupid and crazy for me to threaten my ability to advertise by targeting kids."

He said the cartoon character was not intended to appeal to children. Instead, he said, "It's fun, just like Snoopy the Dog sells Met Life Insurance, just like Garfield the Cat sells Embassy Suites Hotels. We're not accusing them of targeting kids, are we?"

The FTC reversal had its beginnings in a July 1996 request to reopen the investigation from Rep. Timothy J. Roemer (D-Ind.). That letter was signed by 65 members of the House of Representatives. A year later, Frank R. Lautenberg (D-N.J.) and six U.S. senators sent a similar request to the commission.

The Washington Post

THURSDAY, MAY 29, 1997

Texas Twister Tore Pavement From the Street

In Jarrell, Storm's Ferocity Left People Nowhere to Run

A1

By Sue Anne Pressley
Washington Post Staff Writer

JARRELL, Tex., May 28—As the tornado roared directly toward their home, 13-year-old John Reyes, his grandmother Emma Mullins, and his small cousin Ryan took refuge under a bed. There was nowhere else to go.

"They were up underneath the bed, and the mattress started lifting up and the boys started to be pulled away," said Mullins's nephew, Dwayne Meche. "My aunt went to reach for them, and she got lifted up, and John said he saw a board go straight through her back."

Mullins, a waitress for more than 30 years at the L&M Cafe in nearby Georgetown, was among the 27 confirmed dead in this small farming community that has been struck twice in the past eight years—once in 1989 and again Tuesday—by killer tornadoes. Ryan Mullins, age 5, whose body was flung at least 500 feet, also died. But John Reyes, although badly cut and bruised, managed to survive the afternoon of death and destruction.

The tornado, one of a series that ripped through central Texas on Tuesday afternoon, flattened the Double Creek subdivision where Mullins lived, scraping the modest houses from their foundations, hurling pets and farm animals into the air, ripping

See TEXAS, A6, Col. 1

TEXAS, From A1

the very pavement off streets and leaving residents with the horrifying reminder that the same tragedy can visit the same small community again and again. Only one person, however, died in the May 17, 1989, storm that destroyed half of the town.

Even as the bodies were removed from a temporary morgue at the volunteer fire department today and anxious relatives scanned the "safe lists" at the American Red Cross shelter, authorities offered this ominous fact: Twenty-three other persons here are unaccounted for, which could bring the death toll in this community of about 500 residents as high as 50, one-tenth of the population of Jarrell proper. With nearby farming families, the total population of the unincorporated area, about 40 miles north of Austin, is about 1,000.

"Frequently miracles do happen," said Sherri Deatherage Green, a spokeswoman with the Texas Department of Public Safety about the ongoing rescue efforts involving sniffer dogs and dozens of workers. "It's possible, but not extremely likely right now."

That dim prospect [illegible]e Gerald Gower's search for his 11-year-old son, Brian, all the more poignant. "Do you want to see a picture of my little boy?" he asked reporters, producing a photograph of a handsome boy with a wide smile who loved to play baseball and put together model cars. Brian was with his mother, Gower's ex-wife, Bernice Gower, when the storm destroyed their Double Creek home. Both are missing.

"I've got some hope, but the way it looks . . . " Gower, a 47-year-old security guard, said, his voice trailing off. "Twisters just do crazy things to people."

Green said the Jarrell tornado cut a swath a half-mile wide and four or five miles long, pulverizing about 50 homes in the development. The scene looked strangely peaceful today in the muggy sunlight, like green fields swept clean of buildings, with small chunks of debris piled all around. "There really aren't any houses," Green said. "A couple on the perimeter are damaged but still standing. [Rescuers] are just going through the rubble."

After touring the site by helicopter, Gov. George W. Bush (R) seemed shaken by what he had seen. "The devastation was mind-boggling," Bush said. "It's hard to believe you're looking at a patch of Earth where life was literally sucked out of it."

State insurance commissioner Elton Bomer, who accompanied Bush, said the damage in Jarrell alone could reach $20 million. The massive storm may have spawned as many as six tornadoes; two other people died in Travis County as the winds sped south, and five more are still missing in the Williamson County community of Cedar Park, where the roof of a grocery store collapsed on shoppers.

The twister that devastated Jarrell this second time was "a very large tornado, rare for us, but not unique," said meteorologist Al Dreumont of the National Weather Service. He classified it as a F-4 tornado, with winds of 200 mph, traveling south/southwest at 20 mph. On the tornado-power scale, an F-5 is the strongest twister, with winds exceeding 250 mph.

Jarrell lies about 60 miles south of what is known as "Tornado Alley," the region from Waco northward to Dallas and on to Oklahoma and Kansas where springtime tornadoes are most likely to occur. But violent storms in April and May are still a given here. Dreumont said that Tuesday's tornado stayed on the ground a particularly long time, as much as 25 to 30 minutes, although perhaps not in the Double Creek subdivision for all that time. The twister was the state's worst since May 22, 1987, when 30 people died and 162 were injured in the West Texas town of Saragosa.

Although Texas law requires that mobile homes be anchored to withstand tornadoes—a precaution officials said would have done little good against the force of the Tuesday storm—there are no requirements that permanent homes contain underground shelters, and basements are relatively rare in Texas.

Dreumont said the weather service issued its first tornado warning for the Jarrell area Tuesday at 3:30 p.m., 35 minutes before the twister struck at 4:05 p.m. "There's nothing else we could have done," he said. "Unfortunately, in a very large tornado, there are not too many places to hide—it's too large to outrun and judging from the damage, too strong to have survived unless you got away from the path. . . . This one sucked up the asphalt in some of the streets."

John Johnson, principal of Jarrell High School, said the warning sirens at the volunteer fire department were sounded in plenty of time. He said he felt certain the residents tried to protect themselves as best they could, but in the end, they were simply in the worst possible place.

"With what happened to those houses out there, it didn't matter," Johnson said. "I think they had warning, they took shelter the way we've all been told to, and it didn't matter."

Authorities had not released the names of victims by late this afternoon, but confirmed that all the Jerrell deaths were in Double Creek, a collection of working-class houses and some mobile homes in the southwest corner of the community. David Harp, principal of the elementary school, said that "probably as many as nine students in our whole school have been killed." The Jarrell School has about 600 students in grades kindergarten through 12.

For residents who figured that after weathering the 1989 storm they might be spared another twister forever, the latest devastation was mind-numbing.

"I was home until 10 minutes before it hit and I grabbed my grandson and I boogeyed out of there," said Cindy Carroll, whose house at the top of the hill was left damaged but still standing. "I don't know how to explain why we were hit twice. Maybe it's the way the weather currents go through that valley, I don't know. Both were devastating, but this one took so many lives, this one stopped right there at the hill and stayed there."

After the 1989 storm, which seemed to focus on the business section of the town—largely unscathed this time—residents rebuilt the small collection of stores and small restaurants. Shocked residents left homeless today said they could not even begin to imagine yet how they would put their lives together.

Jim and Virginia Davidson, however, were simply thankful, despite the loss of everything they had worked hard for. When Jim Davidson returned to what had been his home Tuesday night, he feared he would not find Virginia alive.

"I couldn't believe anyone could live through this," he said. But when he looked up the road, he saw his wife, bloodied, bruised and clinging to her two puppies, running toward him.

"I just grabbed her like I've never grabbed her before in my life," he said.

Virginia Davidson had curled up in the bathtub. When the storm hit, she said, she went sailing through the air in her porcelain boat.

"Everything is gone," she said. "My home is gone. My cattle pen is gone. My entire farm is gone. I've always heard that tornadoes were fast, but this was so slow. I thought it would last forever."

Special correspondent Elizabeth Hudson contributed to this report.

The Washington Post
THURSDAY, MAY 29, 1997

der 18 begin smoking each day, public health surveys show.

The commission is seeking to ban the widely recognized Joe Camel cartoon figure, which the agency asserts lures young people to emulate his "cool" and "smooth" image by taking up smoking or switching to the Camel brand. The agency also wants additional company documents detailing its marketing strategy. In addition, the commission seeks to require the cigarette maker to finance a nationwide anti-smoking campaign aimed at teen-agers.

The Joe Camel campaign includes not only print advertisements and billboards, but a wide variety of promotional items popular with teen-agers and young adults, including caps, T-shirts, drink coolers, watches, mugs and beach towels.

"R. J. Reynolds has conducted one of the most effective advertising campaigns in decades," said Jodie Bernstein, director of the commission's bureau of consumer protection. "Joe Camel has become as recognizable to kids as Mickey Mouse. Yet the campaign promotes a product that causes serious injury, addiction and death. Joe Camel must grow up or go away."

Today's action reverses a decision three years ago not to charge R. J. Reynolds with unfair advertising. Officials said the agency reopened the case last year to consider recently-uncovered data, including new company documents.

Voting to bring the action against R. J. Reynolds were the chairman of the commission, Robert Pitofsky, and Commissioner Christine A. Varney, Democrats appointed by President Clinton, and Janet D. Steiger, a Republican appointee of President George Bush.

Two commissioners, Mary L. Azcuenaga and Roscoe B. Starek 3d, dissented. Ms. Azcuenaga, an independent first appointed by President Ronald Reagan in 1984, said the accusations in the majority complaint were serious but unsupported by the evidence. "Intuition alone is not a sufficient basis for issuing a complaint," she wrote in her dissent. "I have carefully considered the totality of the available evidence, including new material that has been presented to the commission, and have concluded that the new information does not strengthen the case the commission rejected in 1994."

Mr. Starek said the commission should devote its resources to other concerns while extensive tobacco-related litigation and broad settlement talks were under way.

"Either of these developments might result in advertising restraints that would largely duplicate any remedies the commission might obtain," said Mr. Starek, who was appointed by Mr. Bush in 1990.

Staff officials of the agency said that before the Joe Camel campaign began in 1987, Camel's share of the youth smoking market was less than 3 percent. In two years, its share jumped to 8.9 percent, and by 1993 the brand was used by 13.2 percent of under-age smokers. Officials said that they hoped to gain more current data in pretrial discovery.

But Peggy Carter, a spokeswoman for R. J. Reynolds, said that a company survey of 26,000 households in April and May of this year showed that only 3.1 percent of teen-agers smoked Camels. The company spent $48.1 million in 1996 to promote its Camel brand, according to Competitive Media Reporting, a New York firm that tracks advertising spending. The firm did not separate Joe Camel advertisements from generic promotions for the Camel label.

Much of the commission's case is based on documents uncovered in a Food and Drug Administration investigation concluded last year. Commission officials said that pretrial confidentiality rules precluded making public the numerous incriminating documents they said they found.

Among company documents already released is a 1993 R. J. Reynolds survey that revealed that 86 percent of young people from 10 to 17 recognized the Joe Camel character and virtually all knew that he peddled cigarettes.

The company contends that even though children recognize Joe Camel, 97 percent of them have a negative view of cigarettes. R. J. Reynolds also asserts that other cartoon sales figures, including the Energizer Bunny, Tony the Tiger and Ronald McDonald, are more familiar to children.

Representative Tim Roemer, Democrat of Indiana, who along with 66 other members of Congress last summer urged the commission to reopen its R. J. Reynolds investigation, declared himself "ecstatic" about today's vote. "I am delighted that the F.T.C. has decided to snuff out Joe Camel," Mr. Roemer said in a telephone interview. "This is a huge victory for our nation's children and for cutting down on the costs of smoking to society."

The Chicago meeting of health advocates disbanded amid deep disagreement over the shape of any possible deal with tobacco companies, and even over the wisdom of negotiating with industry.

A number of participants expressed fear that Congress, which has been favorably disposed toward the cigarette makers in the past, would not shepherd through an agreement that protected the public health. "We listened to these people talk about going to Congress to package a deal," said John O'Hara, a longtime Maryland opponent of tobacco. "I'm going to tell you that what goes into Congress does not come out the same way it goes in."

CHRONOLOGY

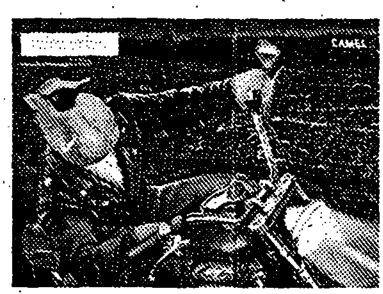
A Camel's Career

1974 Joe Camel, also known as Old Joe, is created by a British artist for a French advertising campaign.

1987 The symbol is first used by the R.J. Reynolds Tobacco Company in the United States, in a campaign to celebrate the Camel brand's 75th anniversary.

1988 The advertising agency McCann-Erickson invents the line "Smooth character." Camel sales skyrocket, going from 3.9 percent to 4.4 percent of the cigarette market by 1990.

1991 Studies find that Joe Camel is as recognizable to preschoolers as Mickey Mouse, that Camels are 10 times as popular among teen-agers as adults, and that illegal sales to minors have reached nearly $500 million.



Detail from a 1996 advertisement.

Detail from a 1988 advertisement.

1992 Surgeon General Antonia Novello calls on R.J. Reynolds to withdraw the Joe Camel campaign.

1993 The Federal Trade Commission staff recommends banning Joe Camel ads because of their appeal to children.

1994 The full F.T.C. rejects the recommendation, 3 to 2.

1995 President Clinton attacks Joe Camel, saying the campaign tells minors that "smoking is cool."

MARCH 1997 The F.T.C. staff once again recommends action against the campaign.

MAY 28, 1997 The F.T.C. says the Joe Camel campaign illegally promotes cigarettes to minors.

The New York Times

The New York Times

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The New York Times
THURSDAY, MAY 29, 1997

F.T.C. Charges 'Joe Camel' Ad Illegally Takes Aim at Minors

R.J. Reynolds Vows to Contest Complaint Issued by Agency

A1

By JOHN M. BRODER

WASHINGTON, May 28 — In another blow to an industry under siege, the Federal Trade Commission charged today that the R. J. Reynolds Tobacco Company illegally aimed its Joe Camel advertising campaign at minors.

The agency asserted in an administrative complaint that the company violated Federal fair trade practice laws by promoting a lethal and addictive product to children and adolescents who could not legally purchase or use it.

This is the first time that the commission has accused the tobacco industry of peddling its products to minors. The complaint will be supported, agency officials said, by extensive citations from internal company documents.

The Government says it believes that R. J. Reynolds papers will prove that the company deliberately designed its cartoon-based advertising campaign in the mid-1980's to increase its shrinking market share among young smokers.

The complaint amounts to a civil indictment of the company, commission officials said. The case will be tried before an administrative law judge.

R. J. Reynolds vowed to contest the agency's action. In a written statement, the company denied that it focused on under-age smokers and said that it had a First Amendment right to advertise its products in a colorful and appealing way.

"The real loser today is the American public," said Charles A. Blixt, the tobacco company's senior vice president and general counsel. "When the theory on which the commission has proceeded is examined, I expect that those in the motion picture, music, cosmetic, lottery, beer, wine and spirits businesses, to name a few, will feel the cold chill of potential regulation on their backs."

A number of Federal and state courts have upheld efforts to ban certain types of cigarette and alcohol advertising. Just last month, the Supreme Court let stand two Baltimore ordinances banning billboard advertisements for cigarettes and liquor in residential neighborhoods.

The commission voted 3 to 2 to bring the action, which adds to the

Continued on Page A21

Continued From Page A1

troubles facing the tobacco industry. Cigarette makers are seeking to negotiate relief from dozens of potentially devastating lawsuits from state attorneys general and plaintiffs' lawyers in exchange for payments of hundreds of billions of dollars.

Officials of the agency said that the action today was not timed to bring pressure to bear on negotiators in the settlement talks but emerged from months of investigation and commission deliberations.

In Chicago today, those talks hit a potential roadblock as more than 100 public health advocates and grass-roots anti-smoking advocates, many wearing buttons opposing any deal with the tobacco industry, convened today at a hotel for a contentious meeting with some of the main participants in the tobacco talks.

There was no consensus after the closed gathering, sponsored by the American Medical Association and billed as a "listening session" rather than a strategy meeting. The gathering was the first time that public health advocates, many of whom are angry at being excluded from the talks, have been able to confront those sitting across the table from industry lawyers in the so-called global settlement talks.

After an entire day of debate, including presentations by two negotiators, Attorney General Michael Moore of Mississippi and Matthew Myers of the Center for Tobacco Free-Kids, the health advocates said they would urge the negotiators not to rush into a deal. And they warned they would not support any plan that gave the cigarette makers immunity from future lawsuits.

Tobacco advertising, particularly advertising aimed at the young, is a central part of the overall settlement talks, which have been under way since March. Cigarette makers have expressed a willingness to accept sharp restrictions on advertising, including the use of human and cartoon characters, as part of a deal to win partial immunity from lawsuits.

Earlier this year, one of the nation's major tobacco companies, the Liggett Group, acknowledged that the industry focused on minors with its promotional efforts because virtually all smokers begin the habit as teen-agers.

Commission officials said the timing of today's action was not influenced by the continuing settlement talks and did not depend upon Liggett's assertions about industry practices.

President Clinton, members of Congress, Federal regulators and public health advocates are pressing the industry to halt practices that they say entice teen-agers to smoke.

An estimated 3,000 adolescents un-

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Cigarette makers continue hard sell
By LAURAN NEERGAARD
Associated Press Writer

WASHINGTON (AP) - Inside the bright pink envelope mailed to Janet Czech's Minnesota home was the promise of a glamorous makeover from Misty cigarettes. Across the country, Philip Morris was giving away copies of the first CD from its new recording label, Woman Thing Music, to promote Virginia Slims.

Even as they're negotiating a truce in the tobacco wars, cigarette makers are continuing hard-sell tactics that could skirt the very rules they're agreeing to follow under a peace deal.

"I'm extremely troubled that new initiatives have begun even as we attempt to negotiate an end to these types of practices," said Connecticut Attorney General Richard Blumenthal, who is helping to lead the negotiations with 29 states suing the tobacco industry.

Marketing campaigns aren't the only new pressure. A group partly funded by tobacco giants Philip Morris and R.J. Reynolds is spending $60,000 a week on radio ads blasting federal legislation that would use a 43-cent cigarette tax to buy health insurance for children.

At the same time, tobacco companies are standing firm on their settlement demand to limit lawsuits that sick smokers can file against them, a sticking point still so divisive that Blumenthal said no date has yet been set to formally resume negotiations.

All that adds up to dim prospects for a quick settlement.

"There's really no sense of a good-faith effort on their part," said Fran Du Melle of the American Lung Association, which is monitoring the talks.

Blumenthal said the new campaigns aren't yet explicitly part of negotiations. But anti-tobacco critics are beginning to caution attorneys to watch for loopholes in any concessions tobacco makes.

Cigarette makers in early April began negotiating to settle the nation's war on tobacco by paying some $300 billion and accepting certain Food and Drug Administration curbs on their advertising and marketing. In return, they want protection from lawsuits.

But Mrs. Czech asked Minnesota officials to stop the direct-mail campaign because she feared cosmetic-obsessed teens like her 16-year-old granddaughter would be tempted.

"They're bound to want to try it," said Mrs. Czech, who asked how B&W got her address. Although she smoked briefly about two decades ago, the Brookland Park woman says she never bought B&W brands.

B&W says only past company customers get the booklets, which show a young woman transformed from drab to glamorous and sporting a Misty cigarette. B&W requires consumers to sign the beauty book order form certifying that they are 21.

The Food and Drug Administration is fighting in court to ban cigarette giveaways that it says would apply to the Misty campaign - and tobacco attorneys have said during settlement negotiations that they would agree to those FDA rules under any deal.

Philip Morris also declined to discuss its Woman Thing music promotion.

But that campaign was designed not to mention Virginia Slims in the title, meaning it could actually skirt FDA curbs. "It's a gray area," said Dr. Michele Bloch of the American Medical Women's Association.

Any settlement would have to be approved by Congress, and some lawmakers say tobacco lobbying already has begun in the guise of fighting a children's health-insurance bill that would be funded by a 43-cent cigarette tax increase - and possibly supplemented by settlement money.

The bill would allow states to expand existing Medicaid programs to provide health care for uninsured children.

But radio ads by Citizens for a Sound Economy blast Sen. Orrin Hatch, R-Utah, the bill's author, and Sen. Gordon Smith, R-Ore., a co-sponsor, for pushing $30 billion in new taxes - not calling them cigarette taxes - for a liberal "health care entitlement program."

"Tobacco is not funding this campaign," insisted Brent Bahler, a spokesman for Citizens for a Sound Economy. He said the organization has always opposed "government-run health care."

But the advocacy group's sponsors include Philip Morris, which lobbying watchdog groups contend has given CSE hundreds of thousands of dollars, and RJR.

"They're the ones with a dog in this fight," said Smith. "They are making a huge mistake by criticizing me in Portland, Ore., where we have a history of taxing tobacco that it might bear its share of public health costs."

[FDA]

Rock 'Til They Drop: Tunes, Teens and Tobacco

By William D. Novelli

You've got to give them credit for audacity. With the noose of federal regulations and state lawsuits beginning to tighten around them, tobacco companies continue to find new, sneaky ways to promote their products—particularly to kids.

In some of their most immoral marketing initiatives to date, conglomerates such as Philip Morris and U.S. Tobacco have recently teamed up with singers and alternative rock groups to promote cigarettes and smokeless tobacco to teenagers. The slate of concert tours could not be more aggressively aimed at the youth market: From creating a slick Web page, to advertising in youthful magazines, to offering interactive games, Big Tobacco has impressionable 12- to 18-year-olds squarely in its cross hairs.

I'm not surprised at the tobacco executives—they're capable of anything. On "60 Minutes" last Sunday, I watched the videotaped deposition of Philip Morris president James Morgan as he was asked if he would stop selling tobacco if scientists determined conclusively that it caused cancer. His answer was a simple "no."

But I am surprised at the entertainers, who have allowed themselves to be turned into tobacco pitchmen. The latest outrage is the ROAR tour, a 40-city rock show that is being underwritten by U.S. Tobacco's Skoal brand of moist snuff—the most popular form of smokeless tobacco, a product whose use by teenage boys and young men has exploded in recent years. U.S. Tobacco sells a carefully graduated line of products intended to bring their young users all the way from cherry-flavored to full-blown addiction.

The ROAR (Revelation of Alternative Rhythms) tour, which makes local stops in Manassas and Baltimore, includes '70s throwback Iggy Pop, and alternative rock groups like the Rev. Horton Heat, Sponge, Tonic, the Bloodhound Gang and others. It is being advertised on a Web site and in national magazines such as Details and Rolling Stone.

While it is illegal to sell tobacco products to anyone under the age of 18, the appeal of these bands to youth is unmistakable. Those under the age of 20 are the biggest purchasers of rock music. The companies are using the universal teen language of music to create the impression that tobacco is stylish, cool and acceptable. Studies show that virtually all tobacco habits begin well before the age of 20, often in the 12- to 14-year-old range.

The Web page also heralds another feature of these concerts, the ROAR LEV, or Lifestyle Experience Village, which promoters are billing as a "multimedia, interactive compound, unprecedented in the history of touring music. In between our unbelievable line-up of bands, the LEV will provide a place to hang out and do some cool stuff." No doubt that cool place will highlight the alluring, but highly addictive and deadly taste of smokeless tobacco, if U.S. Tobacco's previous efforts are any indication. The company has long handed out free samples at rodeos, at hunting and fishing expositions, and on college campuses.

Smokeless tobacco, or snuff, is pulverized tobacco that you "dip" from a tin and put between your cheek and gum. It's a cheap way to get a nicotine high (federal taxes are minuscule). The Surgeon General says that the use of oral snuff can lead to mouth cancer, gum disease and nicotine addiction. Routine use causes leukoplakia, a disease characterized by lesions on the cheeks, gums and tongue—and 50 times the likelihood of oral cancer.

The highest prevalence of smokeless tobacco use is among young males. Twenty percent of high school boys currently use smokeless, according to the most recent study by the Centers for Disease Control and Prevention.

Lloyd D. Johnston, a University of Michigan specialist in teen drug use, says that one notable factor in the increase in tobacco use is the industry's aggressive use of advertising and promotional giveaways. In the case of snuff, a doubling of advertising expenditures since 1985 has resulted in a 50 percent increase in sales, according to the Federal Trade Commission.

U.S. Tobacco is not alone in its efforts to use hip, youth-oriented musicians as a way to hook a new generation. And, perhaps not surprisingly, teen smoking has been rising. In 1991, 28 percent of high school students smoked in the month preceding the CDC survey. Just four years later, that rate had increased to 35 percent. CDC has concluded that as many as 5 million teens will die prematurely from smoking-related diseases unless current trends are reversed.

The rate of smoking is now highest among white teen females, with 40 percent having smoked in the month preceding the 1995 survey. That number will no doubt grow if the Virginia Slims "It's a Woman Thing" partnership with the music industry is successful. Previous marketing efforts by Virginia Slims, a Philip Morris brand, have substantially increased smoking by young women.

In the forefront of the new effort is soap opera actress Martha Byrne, who says she has long dreamed of becoming a pop-rock icon. Philip Morris hired a major producer and high-priced instrumentalists to put together Byrne's first album, then launched her on a nationwide tour. But the CD wasn't designed to be purchased in music stores. Instead, the tobacco company is marketing its own record label, Woman Thing Music, named after the new slogan for Virginia Slims. Customers can only get the CD at Byrne concerts or free with the purchase of two packs of cigarettes.

Byrne apparently didn't face any moral struggle in making the decision to sign on with Philip Morris. "I don't feel that I am being used, I feel that I am being elevated to the next step," Byrne told the Wall Street Journal.

Similarly, Art Collins, Iggy Pop's manager, expressed no concern about peddling smokeless tobacco with his band's music. "I know it's an issue to lots of people, but not to me—I'm a smoker," he told the Los Angeles Times. "It's not the PC thing—it's just the way of doing business in America right now."

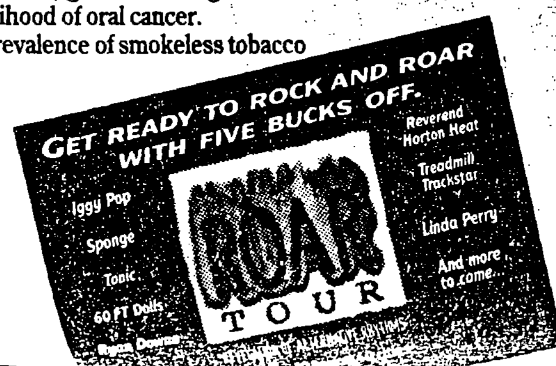
Fortunately, not every entertainer approached by Big Tobacco feels the same way. Leslie Nuchow, a New York City-based singer, turned down an offer to appear with Byrne because of the tour's tobacco taint. A former smoker whose grandmother died from emphysema, Nuchow is planning her own protest concert, "Virginia Slam," in June to "show girls you don't have to sell out and be manipulated," according to the Atlanta Journal-Constitution.

A band listed on Skoal's ROAR tour recently wrote the Campaign for Tobacco-Free Kids to say that they had never agreed to participate. "60ft Dolls was offered a place on the tour, and although 60ft Dolls could really do with a major tour we turned it down purely because of its involvement with tobacco," wrote Natasha Hale, the group's manager. "60ft Dolls al have two cigarette addicts in its own group and thus know what a disgusting unhealthy addictive habit it is and would never do anything to support it. The fact that we are on the billing is a mistake and we are doing all we can to get our name off the promotional material as soon as possible."

It's not too late for other performers to stand up and make the only right choice: Don't tour.

Of course, U.S. Tobacco and Philip Morris could also do the right thing and cancel the tours. But based on the ethics displayed by tobacco industry leaders like James Morgan, that is highly unlikely.

William Novelli is president of the Campaign for Tobacco-Free Kids.



Skoal's ROAR tour is being advertised on a Web site and in Rolling Stone. While it is illegal to sell tobacco products to anyone under the age of 18, the appeal of the tour bands is unmistakable.