National Coalition of Hispanic Health and Human Services Organizations

1501 Sixteenth Street, NW • Washington, DC 20036 • (202) 387-5000

July 15, 1997

Bruce Reed
Domestic Policy Advisor
The White House
Washington, D.C. 20500

Dear Mr. Reed:

Thank you for the opportunity this past week to present the views of the National Coalition of Hispanic Health and Human Services Organizations (COSSMHO) on the agreement reached by state Attorney Generals and the tobacco industry. As we stated, COSSMHO is opposed to the agreement as presently structured. We strongly urge the Administration to use the final report submitted by Dr. David Kessler and Dr. C. Everett Koop as the blueprint for the development of any final agreement on tobacco regulation and marketing. In particular, COSSMHO urges the Administration to take the following actions:

EK, Eliz.

- Assure that all public education and smoking cessation agreement language include specific targets and efforts to reach the new generation of Hispanic smokers addicted to tobacco. Indeed, while Hispanics have traditionally been the group **least** likely to smoke, among 8th graders Hispanics are now the racial/ethnic group **most** likely to smoke. Without specific targets and goals for public education and smoking cessation programs targeted to Hispanic youth, the tobacco agreement is inadequate.

(?)

- Strengthen the current tobacco agreement by adding language that will limit marketing practices of U.S. tobacco makers in foreign markets and fund efforts to launch smoking prevention and cessation efforts internationally. Joe Camel, while dead in the U.S., should not become our nation's major export.

- Add language to the agreement that gives the Food and Drug Administration (FDA) the explicit and unhindered authority to regulate all areas of nicotine, as well as other constituents and ingredients. It is unwise to gamble the public's health by limiting the FDA's authority to regulate tobacco products. Such limiting language must be eliminated from the agreement and the FDA's authority explicitly recognized.

COSSMHO strongly supports the Administration's efforts to protect our children from tobacco addiction. We look forward to working with you and Secretary Shalala in the development of a plan that will truly protect all children.

Sincerely,

Jane Delgado

Jane L. Delgado, Ph.D.

LATINO COUNCIL ON ALCOHOL & TOBACCO

LCAT

Latino Council on Alcohol and Tobacco

JEANNETTE NOLTENIUS, Ph.D.
EXECUTIVE DIRECTOR

1015 Fifteenth Street, NW, Suite 409 • Washington, DC 20005
Telephone: (202) 371-1186 • Fax: (202) 371-0243
Email: lcat@erols.com

LCAT NEWS

Volume 11, Issue 3 *Summer 1997*

Don't repeal the beer tax!

LCAT joins CSPI and NCADD in protest of bill to lower beer taxes. On May 15, LCAT, along with the Center for Science in the Public Interest (CSPI) and the National Council on Alcoholism and Drug Dependence (NCADD), participated in a protest against HR 158, legislation that would reduce federal excise taxes on beer.

In 1991, the tax on a 31-gallon barrel of beer was $18, which amounts to roughly 5 cents per 12-ounce serving, or 32 cents per six-pack. Had the tax, which was originally imposed in the 1950's, kept up with inflation, today the tax on the same barrel of beer would be approximately $49, or 84 cents per six-pack.

In 1996, beer taxes contributed more than $3.3 billion to the U.S. Treasury, only a small fraction of the enormous economic societal costs generated by excessive beer consumption. Adjusting the tax rate for inflation and requiring automatic inflation adjustments in the future would provide billions more dollars to the treasury and help reduce the cost of alcohol problems, particularly among young people.

At the May 15 protest all members of Congress received empty beer bottles bearing labels proclaiming "A child's life is worth more than cheaper beer." The results of a study showing that an increase of the tax would save 600 young lives each year was released at the protest. The tax increase would also decrease school dropouts, crime, unwanted pregnancies, accidental deaths, and numerous other injuries and social and economic costs to society. Other studies have previously shown that lowering the beer tax would increase the frequency of drinking among youth.

While teenagers distributed the beer bottles in the background, representatives from CSPI and NCADD spoke to members of the press. Latino and African American teenagers that supported LCAT's work were interviewed by *Bill Moyer's Journal* on their personal experiences with alcohol and underage drinking. The teens interviewed felt that higher prices would reduce consumption and violence in their neighborhoods and schools.

The American people strongly support excise tax increases

⇒ 87% FAVORED A 50 CENT TAX INCREASE ON A SIX-PACK OF BEER (WSJ/NBC-TV NEWS POLL, 3/12/93)

⇒ 77% SUPPORTED THE SAME BEER TAX INCREASE IN A 4/93 WASHINGTON POST/ABC NEWS POLL.

⇒ ONE MONTH LATER (5/93), A GALLUP POLL FOUND AN ALCOHOL TAX INCREASE TO BE THE MOST POPULAR OPTION AMONG A RANGE OF TAX INCREASES, AT 75% APPROVAL.

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Alcohol Tax Equalization

Rep. Eleanor Holmes Norton reintroduces "Alcohol Tax Equalization Act of 1997". Concerned that the July 4th celebration would once again result in accidents, violence and other dire consequences for those young and old who insist on celebrating by consuming too much alcohol, Rep. Holmes Norton on June 24th reintroduced a bill that would raise beer and wine taxes to the same level as the tax on hard liquor. She said: "Beer is what America, and especially young America, drinks. In 1995, 60.3% of all alcohol sold was beer and 11.4% was wine. Only 28.4 % was hard liquor. America is getting drunk on beer and wine. It is time for the taxes on beer and wine to reflect their alcohol content. A can of beer, a 5 ounce of wine, a wine cooler and a shot of vodka are the same thing." Alcohol equivalence is a reality. A drink, is a drink, is a drink! Taxes have not reflected this. Beer and wine taxes are almost half of those imposed on liquor. This bill will increase taxes on beer and wine and will discourage teens from drinking. If you want a copy of this bill call (202) 225-3002.

FCC Deadlocked on Hard Liquor Ads on TV

On July 9th, the Federal Communications Commission (FCC) voted 2-2 on whether to investigate liquor advertising on TV and radio. Despite Reed Hundt's efforts to have an investigation take place, Commissioners Quello and Chong did not budge from their previously stated position. Quello argued that the FCC should wait until the FTC comes out with a "report" on their investigation on deceptive TV advertising, even though a "report" may not be forthcoming for some time. He also argued that the key members of Congress in charge of the pertinent committees stated that they don't consider this an FCC matter. For Quello, the less you do, the better. Yet, the less the FCC does, the more it risks harming our country's children. According to a survey conducted by the alcohol industry, 73% of the public believes alcohol advertisements are a major contributor to underage drinking. Over 50 percent of teen mothers conceive under the influence of alcohol, and 60 percent of young violent crime victims are found to have alcohol in their system. When will we finally wake up and demand regulation? Latino and minority groups are encouraged to monitor both Spanish and English local radio stations and TV cable channels to determine the content, time, frequency and actual lyrics of the ads. LCAT intends to submit a petition to the FCC for a Notice of Inquiry on advertising in Spanish and/or directed at Spanish-speaking audiences. *Please tape the radio and TV messages. We need this data to request special counter-advertising messages down the road. Seagram's, Allied Dome (Kahlua) and International Distillers (Heublein) have been advertising on TV. Keep an eye on BET, Univision and Telemundo. Those of you who listen to Spanish radio, please listen for these ads. Let's keep up the pressure, by providing data on occurrence. If you want more information call CSPI at (202) 332-9110 or NCADD at (202) 737-8122.*

Hard liquor ads may be trickling onto cable and ethnic networks, as well as radio stations. Please tape them and send them to LCAT.

TOBACCO SETTLEMENT DISCUSSIONS GET SENT UP TO THE WHITE HOUSE!

The Settlement does address important issues that will improve public health. It doesn't address other vital issues for minority communities. We need to be at the table making recommendations not just saying No. As we oppose we can propose.

July 11, 1997. After the hoopla and celebration by the Attorneys General the day of the "Global Tobacco Settlement" announcement and after the closing meeting of the Koop/Kessler Committee deliberations, the talks move to the White House. From news accounts and reliable sources inside the White House, all the players will be asked to say their piece about the Settlement and the "Blueprint for Tobacco Control " (Koop/Kessler). LCAT has requested a meeting not just to present LCAT's point of view, but to give the opportunity to minority representatives from the Tobacco Control Networks of California, American Indian, Asian and African American groups nationwide to have a chance to express themselves directly at the White House. Our moment will come the week of July 21st. If it doesn't, we will complain.

LCAT's position is:

1) From the beginning of this process, minority communities were not represented in the Settlement negotiations and underrepresented on the Koop/Kessler Committee. Therefore, minorities have been excluded from the process, just as they have been excluded from most national tobacco control and policy activities in the past. In such states as California, state-assigned funds have made a difference since prevention programs have been designed and implemented by and for minorities.

2) Minorities have been specifically targeted by the tobacco companies since before the early 1960's and have received a double dose of advertising (i.e. in Spanish and English). The minority leadership has been effectively silenced by sponsorships of conferences, civil rights, political and social organizations, as well as the arts and sports, where groups have received "philanthropic" support. The minority political leadership has received Tobacco PAC funds, as have most politicians, and, therefore, has not confronted the tobacco companies.

3) Congress and local legislatures still are essentially pro-tobacco, even though some states have raised taxes on tobacco and banned vending machines and billboards advertising tobacco. This Congress' $0.20 tax increase in the child health bill is still in trouble, even though the initial proposal was for a $1 increase, then fell to $0.43 and finally settled at $0.20. And is still in trouble.

4) Appropriations for the FDA's tobacco rule, proposed at $34 million, have already been cut to $15 million at the Subcommittee level and it is still uncertain whether that whole amount will come out of the budget reconciliation process. The Administration's Tobacco Rule was good, but if Congress doesn't appropriate funds for its implementation, it

The Tobacco Settlement continued.....

will simply stay on the books and not spring into meaningful campaigns to request ID. The other provisions to limit advertising that would really curb tobacco use among children is still pending in the 4th District Court. FDA financing requirements and Congressional reaction to them gives public health advocates a "read" on what can happen if we rely solely on funding from Congress for greater public health campaigns. For years, Surgeon Generals have talked about the public health consequences of smoking, yet the budgets requested or allotted for tobacco control have not mirrored these concerns. Minorities have not been active, an we should admit this.

5) LCAT has no expertise to comment on the effectiveness or impact of litigation on the industry or the public health community as a whole, only that ETS rules may be strengthened. Minorities have traditionally not been a party to litigation either individually or through class action. As we understand it, some Attorneys General have been successful in obtaining compensation for state expenditures on tobacco-related illnesses and the settlement does pay for 40 AG suits. There are more AG cases in the pipeline that may hurt the tobacco companies, such as the Minnesota case. The Liggett Settlement and others have brought to light documents that show the insidious lies and deceptions of the industry. And the Minnesota AG attests to have many more documents that, when they see the light of day, could improve chances for litigation. The litigation process, if continued successfully, could in time break the financial stability of the industry and that has been one of the reasons why they went for the settlement. But this could be a long and treacherous road, with some results for individuals and class action cases. But what does all of this really mean in terms of public health gains?

6) The Settlement does effectively address issues of youth access, advertising and marketing, and if modified fairly, with specific funds assigned to cover specific minority concerns,could in the future curb smoking addiction in America.

BUT it doesn't fully address other important issues such as :

- The FDA's ability to regulate nicotine and tobacco products, including company oversight and its impact on black market. It should incorporate cigars in the definition of tobacco products.
- The inability to file class action suits against tobacco in the past and the future—the poor and minorities will likely not be able to file individual suits.
- Inadequate penalties for failing to reduce children's use, and remedies not specifically targeted at ethnic minority groups.
- High tobacco prices will be a burden to the poor, women and minority adults who are hooked, affecting their ability to buy basic items. The poor will pay for settlement costs.
- A black market will be created that will likely take hold in minority inner city communities.
- It doesn't deal with the need for international tobacco control activities, thereby putting the world's children at risk. Minority immigrant populations are particularly affected. The percentage of the world's cigarette consumption in 1995 indicates that 91% is consumed outside the US and only 9% inside the US market.

World Cigarette Consumption:

32% People's Rep. of China
12% Europe
9% United States
6% Japan
13% Other Asian countries
28% Other countries
The Washington Post, 7/7/97

(For a complete analysis of LCAT's concerns with the tobacco settlement, please contact us at 202-371-1186).

The Settlement is a politically "realistic"option and may provide a viable solution for tobacco control at this political time; but has serious consequences and omissions. In order for LCAT to support it a legislative package based on the settlement, it must deal effectively with the issues mentioned above and consider inserting the following recommendations:

Domestically:

- FDA should have full authority to regulate nicotine and all ingredients in tobacco products.
- Cigars and all tobacco products should be regulated.
- Tobacco company penalties for not curbing youth cigarette use should be raised considerably per percentage point and determined by ethnic/racial and gender-specific statistics. If the percentage of young white smokers decreases, so should the percentages of all ethnic minorities and genders. These penalties should not be tax deductible.
- Cessation programs need to be promoted and targeted at specific ethnic/racial groups, for adults and adolescents. Funds should be available to purchase nicotine patches, gum and other products and/or make these products affordable to low income smokers. Funds should be allotted according to the ethnic and gender composition of each state, to minority entities to design and implement continuous, culturally sensitive and language appropriate cessation education and counseling programs.
- Public education and prevention campaigns should be in the appropriate language and have culturally sensitive and gender sensitive messages. Multimedia campaigns should be funded through minority-owned advertising agencies, newspapers, magazines, radio and television stations that focus on each of the ethnic minority populations. These funds should be appropriated according to potential viewership and/or readership at the community level. American Indian publications should be funded in order to incorporate appropriate messages.
- The Scientific Advisory Panel should fund research to determine how minority communities will be affected by all provisions of the agreement, including: youth access, marketing, advertising, sponsorship, cessation, public education, addiction rates and consequences of various brands and types of tobacco products (Cubans and cigars, African-Americans and mentholated cigarettes, American Indians and smokeless tobacco, etc.) and recommendations and funds should be correspondingly allocated.
- A specific percentage of the $ 75 million assigned to compensate for loss of sponsorship by the tobacco industry to minority cultural, political, social, economic, arts, sports, education and health national and community groups should be provided for minority lead and related groups. Minorities should determine process of allocation of resources.
- The Koop/Kessler recommendations on compensation to small tobacco farmers should be incorporated into the Settlement.
- The exception of "adult only" facilities in the Settlement should be revisited, taking into consideration that places such as casinos, nightclubs, liquor stores, bars, etc., are disproportionately located in minority communities. Adult only facilities could include bingo salons, lottery outlets, etc., but before making this determination feedback should be obtained from minority leaders.

Internationally:

- HHS should assign a yearly portion of the $50 million it will receive to international control activities. This should be done through the World Health Organization. A portion should specifically be earmarked for PAHO's interagency Tobacco Control Task Force. Funds should be use to standardize tobacco control worldwide, restricting advertising, promotion and sponsorship.
- US tar and nicotine levels and non-tobacco ingredient regulations should apply worldwide to US owned companies, including its subsidiaries.
- All US exported cigarettes should have warnings in language of port of entry.
- Add other Koop/Kessler provisions, such as restrictions on government promoting tobacco abroad.

Beer Sting in Washington, DC

The "We ID" campaign doesn't work. 62.5% of the time kids can purchase beer without being asked for ID!

LCAT participated in CSPI's sting on Washington DC beer retailers. On May 19, the Center for Science in the Public Interest (CSPI) released the results of a sting operation performed with LCAT's support to show the ineffectiveness of the beer industry's national "We ID" campaign. The "We ID" campaign distributed stickers to retailers who sell beer to promote age checks. To prove that young people without proof of age have little trouble buying beer, CSPI had adults who look under 21 attempt to purchase beer at retailers in the area. Unfortunately, the sting proved successful—62.5% of the time the purchaser was able to buy beer without using any proof of age. "Kids don't need fake IDs in DC," said George Hacker, Director of CSPI's Alcohol Policies Project, "many retailers just don't check." Representatives from the Latin American Youth Center and 'Cause Children Count Coalition also shared their views at the press conference, whose audience included representatives from FOX News, News 7, ABC, and reporters from the *Washington Post* and *Washington Times*. Copies of the press release and study conducted are available at CSPI (202) 332-9110, ext. 341.

SMOKING CESSATION

LCAT, 'Cause Children Count Coalition and LAYC co-sponsor their first training for Latino Smoking Cessation Facilitators. A group of 18 enthusiastic and dedicated young people (most under 21) met in May and June for five sessions to become smoking cessation facilitators. Representatives of the Latin American Youth Center (LAYC), the PTA of Bell Multi-Cultural School, Americorps and neighborhood students took the course that was held at LAYC's offices. Roberto Noriega of the Tobacco Control Department of DC's Health Department held the bilingual workshop. He distributed a training manual in Spanish and provided materials in both languages. In order to teach by observation, sessions included five people who wanted to quit smoking, and the facilitators who wanted to become cessation facilitators observed the process. Three of the smokers quit through this workshop. If you want to learn more about follow up activities in the Latino community, please contact Dr. Carmen Duran at LAYC (202) 265-9225. Cessation programs for youth start in the fall.

FDA makes ID poster available in Spanish.

The Food and Drug Administration (FDA) is printing 10,000 posters in Spanish to allow national and community groups to distribute them to retailers across the country. The attached poster is a small, black and white version of the color poster. If you would like to receive copies of the color poster please contact the following number: **1-888-FDA4KIDS.** Retailer brochures in English are available in the tobacco section of the FDA's web site, **www.fda.gov**. Please feel free to copy and post the attached mini-poster. HHS will hold a National Hispanic Health Symposium, "Building a Healthy Nation", Sept.11-13, 1997, in Los Angeles. Call (202) 797-4313 for more information.

¿Cuál de Las Dos Tiene 16 Años?

Photographs by Rhoda Baer

Lena Anita

La venta de cigarrillos o tabaco para mascar, a cualquier persona menor de 18 años de edad es ilegal.*
Para eliminar las dudas, los comerciantes deben verificar la edad de los compradores menores de 27 años.

Si usted tiene menos de 27 años favor de mostrar su tarjeta de identidad con su fotografía. Solamente toma un momento. Si usted tiene menos de 18 años, ningún comerciante puede venderle productos de tabaco.

Lena tiene 16 años. Anita tiene 25 años.

*La edad mínima es más alta en algunos estados.

FDA
ADMINISTRACION
DE DROGAS Y ALIMENTOS

Latino Council on Alcohol and Tobacco

1015 15th Street, NW
Suite 409
Washington, DC 20005
Jeannette Noltenius, PhD
Executive Director
Tel: (202) 371-1186
Fax: (202) 371-0243
Email: lcat@erols.com
www.smokescreen.org/?latino
www.incacorp.com/lcat

Committed to combating alcohol & tobacco related harm and their underlying causes in the Latino Community.

In This Issue... Don't Repeal Beer Tax, FCC on Hard Liquor Ads, Tobacco Settlement.....

LCAT Board of Directors

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First year: free of charge. Second year: $30 membership fee.

Please fax to LCAT at (202) 371-0243.

LCAT NEWS

Volume II, Issue 2 Special Tobacco Issue *Spring 1997*

The Latino Council on Alcohol and Tobacco (LCAT) is dedicating this issue to tobacco control. We will be sending our members an update of recent activities and alcohol policy developments in our Summer issue.

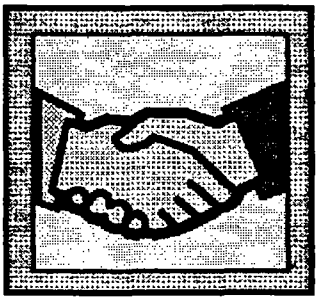
DID YOU KNOW THAT?

- 19.5 % of Latino adults (24.3% of men and 15.2% of women), are currently smokers.
- A 1990 survey showed that,among Latinos living in the US, Cuban (64.1%), and Puerto Rican (52.3%) men were most likely to be heavy smokers, (1+ pack(s) per day), compared to 33.8% of Mexican American male smokers.

Campaign for Tobacco-Free Kids. 1997

Tobacco Settlement? Maybe. Will it blow up in smoke and/or protect public health interests? Who is or should be at the table?

Spring 1997 will be remembered by many tobacco control advocates as a series of rounds in a boxing match against the tobacco giants. Sometimes tobacco winning, sometimes losing, but mostly as a tough fight whose outcome may be ultimately decided by a technical knockout, or called off in favor of a negotiated settlement. Who are the fighters? Attorneys general, plaintiffs' lawyers, tobacco CEOs, smokers that are dying prematurely and some longtime tobacco control advocates are in the ring. But, if there is a settlement, who represents the public health community at the negotiating table? Will it be better to fight to the 10th round or settle? If tobacco advocates are at the table, can they be free to walk out? The giants have duped us in the past, will they get what they want at the expense of public health? What is best for the health of the nation? What is best for the public health concerns of the whole world: fight or settle? Who should be at the negotiation's table representing public health interest at large? At this moment, it appears that Matt Myers of the *Campaign for Tobacco-Free Kids* will be doing the punching, some others joining in as it evolves. But can one or two advocates really represent all sectors of the tobacco control movement? Who is representing the point of view of communities of color? Why should these negotiations be done in a secretive and selective manner? Why should we be left out?



Will a "Deal" protect the health and interest of all Americans?

Round one: Dr. David Kessler, as Commissioner of the Food and Drug Administration (FDA), was able to push an FDA Tobacco Rule that gave the FDA the authority over nicotine since FDA proved it was a drug, and cigarettes were devices that delivered this addictive drug to the public. The FDA demonstrated that tobacco companies tampered with tobacco in order to increase the levels of nicotine delivered through cigarettes. The FDA also proved that many of the "additives" were specifically selected because they increased the nicotine "punch" for smokers. Lastly, the FDA made a strong case for regulating the sale, distribution, advertising and promotion of cigarettes since these were luring children into becoming addicts before the age of 18. President Clinton supported Dr. Kessler and the final rule was approved. On February 28th, 1997, in most states, sales clerks started asking for photo ID's for those under 27 years of age before selling them cigarettes; no cigarette sales to anyone under 18 or higher in some states.

Round two: The Liggett Settlement brought to light docu-

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Tobacco Settlement? Maybe. Will it protect the gains achieved..

ments that proved that tobacco companies knew that nicotine was addictive and that they were deliberately targeting youth and minorities. Liggett broke the code of silence forcing tobacco executives around the country to admit that they purposefully produce, promote, advertise, and sell an addictive drug that damages vital organs and ultimately is responsible for a smoker's death.

Round three: The tobacco companies sued the federal government claiming the FDA has no jurisdiction over nicotine or over the advertising of these products. North Carolina Judge Osteen's decision was a surprising victory for tobacco control since it sustained the FDA's jurisdiction over nicotine, as a "drug" or as a "device," but a setback since it ruled that the FDA cannot rule over advertising to children. The decision will be appealed by the tobacco companies and the government alike. If the decision is upheld, Judge Osteen's ruling would give great power to the FDA and this gain cannot be watered down or blown away in any "settlement" negotiation.

Round four: Before round three was decided, pressure mounted againts the two largest cigarette makers Philip Morris Cos. and RJR Nabisco Holdings Corp. representing themselves as well as major US tobacco companies, Loews Corps's Lorillard and B.A.T. Industries PLC's Brown & Williamson's unit, who made an unexpected move by seeking a deal. They are besieged by current mounting liability lawsuits and a black cloud over their future profits; they want to pay now, and ensure their future profitability. In addition, the non-smoker's rights movement has successfully promoted ordinances prohibiting smoking in public and some commercial spaces. After recent insider document disclosures made it evident that tobacco companies knew of the dangers of their addictive products and deliberately marketed them to teenagers. (Tobacco executive's 1994 Congressional testimony is a joke.) Tobacco wants to pay now and be free from future liability. But as the "settlement" talks get underway, the tobacco companies seem to be backing away from requiring "immunity" for their "$300 billion fund" to settle all smoking-related claims brought by individuals and states in exchange for complete legal protection. Finally we are heading a resounding "NO" to blanket immunity! But will this hold through the round of negotiations starting in May in Dallas? Some think that there is only a 50-50 chance the negotiations will proceed. Others believe that since the tobacco companies are on the run (even if they "win" some individual cases) settlement is a give away.

Round five: Technical Knockout or Settlement. Negotiations are going on and maybe they will result in a settlement whether the public health community agrees with it or not. And/or whether communities of color as a whole or representatives of individual constituencies are at the table or not. Some newspaper articles, editorials and OpEds question whether the Campaign for Tobacco-Free Kids has the "authority" to negotiate for the public health community and/or whether the attorneys general interested in recuperating funds immediately are the best suited to negotiate the future. What is necessary is to carry out an open discussion as to what is best for the nation's children, the world's children and public health in general.

LCAT believes that a settlement at this point of the game is premature. Negotiations are going on, whether we like it or not. Latinos and other minorities should make their positions known to the attorneys general, the Campaign for Tobacco-Free Kids (see article), the major groups, and the general public. We don't want to be sold out; we insist that minority concerns be heard and taken into account. Communities of Color will not stop fighting until our communities are not targeted by tobacco and the world's children are protected and free from all worldwide marketing strategies and sales.

Communities of Color take a position on the Settlement *...continues page3*

Members of NAAAPI, African American, Asian, American Indian and Latino orgaizations as members of Communities of Color in the US are concerned about the content and form of negotiations currently underway between the tobacco industry and attorneys general and lawyers for victims of tobacco. Our major concerns are in three areas:

1. As African-Americans, Asian Americans/Pacific Islanders, Latinos/Hispanics, Native Americas and Alaskan Natives, we understand that tobacco use and abuse has impacted each of our communities differently and that the tobacco industry has deliberately targeted our communities in various ways. Since people of color are not included "at the table" in these negotiations and discussions, we are concerned that the issues currently being brokered do not fully address our concerns as racial groups, ethnicities and tribal nations. Our fear is a settlement that is negotiated without our voices as part of the discussion will continue to leave our communities vulnerable to the ravages of tobacco.

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

Campaign for Tobacco-Free Kids at the table.

On April 24th, 1997, the National Center for Tobacco-Free Kids sent a Dear Colleague letter. What follows is a partial presentation of what it says. "As you know, discussions are taking place among representatives of the tobacco industry, state attorneys general, plaintiffs' lawyers and others. We have been involved, not as an official representative of any other organization, but to represent a set of public health principles. Because of your commitment to protecting children from tobacco addiction, and all that is at stake, we want to explain the principles that have been central to the discussions thus far, and will remain so. These principles were developed in conjuction with several leading public health organizations including American Cancer Society, American Heart Association, American Medical Association, American Lung Association, American Academy of Pediatrics, and the American Academy of Family Physicians. We believe strongly that there must be no compromise with the tobacco industry that fails to meet these fundamental goals:

"We believe strongly that there must be no compromise ...that fails to meet these fundamental goals:"

1. Regulatory Authority; The FDA must have the authority to regulate the manufacture, sale, labeling, distribution, and marketing of tobacco products.

2. Minimum Standard: The current FDA requirements governing youth access and tobacco marketing are essential minimum components of any public policy initiative. The agency's ability to augment these requirements should not be curtailed.

3. Public Education: A well funded, effective sustained public education campaign that is protected from political pressure is critical to reducing tobacco use.

4. Preemption: Congress should not preempt state or local laws that are stronger than federal laws, nor should the FDA be preempted from revising the form, content, and placement of the warnings on cigarette packs.

5. Public Disclosure: The tobacco industry must disclose its research and studies about the effects of its products, including nicotine on the human body and the marketing of tobacco to children.

6. Rights of Victims: The rights of victims of the Tobacco industry to seek compensation for the injuries they have suffered should not be abridged and the tobacco industry should not be immunized from accountability for its wrongdoing.

We are aware that any discussion with the tobacco industry involves risks. Our participation represents our view that while we are rightly skeptical, we are prepared to explore any alternative that truly will accomplish our public health goals." ..."We believe that our presence ..strenthens the position of those who share the common desire to protect public health.." signed: Matt Myers and William Novelli.

Since the date of this letter, the Campaign has modified these principles and has obtained further feedback from many of the tobacco control and advocacy groups nationally and from across the nation. These modified basic principles were printed in an advertisement in The Washington Post.

If you have any questions and or comments, contact the Campaign for Tobacco-Free Kids at (202)296-5469 or (202)296-5427 fax, or 1-800-824-KIDS.

*Communities of Color take a position on the Settlement.**page 4*

A disproportionate number of these individuals are low-income and from our racial, ethnic and tribal communities. We are concerned that a monetary settlement —even one in the range of $ 300 billion over 25 years— will only shift the burden of payment from the general public to individual smokers as tobacco companies raise prices on their addictive products to pay the settlement costs. This represents regressivity as its worse and has the potential to victimize low-income smokers, while allowing the investors in tobacco to realize enormous financial rewards by "immunizing" tobacco companies from the costs of further litigation.

3. In some news stories, there have been references to a proposed "global" settlement. The only thing that is "global" is that these negotiations give the tobacco industry a way to effectively rid itself of liabilities in the United States, while at the same time, tobacco companies can continue to market their addictive products in other parts of the world —especially in Latin America, Africa, Asia and the

6th Biennial Symposium on Minorities, the Medically Underserved and Cancer

More than 900 cancer minority professionals, researchers, survivors and students met in Washington DC from April 22 to April 27 to share their professional knowledge and human concerns about cancer and its toll on minority communities. The Intercultural Cancer Council, in association with Baylor College of Medicine and scores of foundations, organizations and non-profit organizations organized a very successful meeting. The planned goals stated by the organizers were:

1) Exchange the latest scientific and treatment information and to share strategies for reducing the disproportionate incidence of cancer morbidity and mortality among minorities and the medically underserved in the US;

2) Enhance the competency of health care providers, laypersons and survivors in the areas of primary and secondary cancer prevention, early detection and treatment; and

3) Promote culturally competent cancer care and services and ethnically balanced research, especially clinical trials. Presymposium workshops included the following topics: Survivorship: from the moment of diagnosis; Achieving culturally-competent health care delivery; and Achieving Ethnically Balanced Clinical Trials.

One of the main speakers at the opening ceremony was Dr. Richard D. Klausner, who spoke about The Role of the National Cancer Institute; the keynote address was delivered by The Honorable Louis Stokes, Congressman from Ohio.

The current status of cancer research was discussed as well as: liver, leukemia, lymphoma, prostate, colorectal, lung, gynecological and breast cancer research.

At the public policy luncheon the Honorable Kevin L. Thurm, Deputy Secretary of DHHS gave the overall perspective. FDA Associate Commissioner Sharon Natanblut, presented the FDA Tobacco Rule, its origins and current battle for implementation. Dr. Joseph Simone discussed the National Cancer Policy Board and Dr. Valeria Setlow presented the perspective from the Institute of Medicine NIH Review.

Selected abstracts for oral presentation were on basic, clinical and behavioral research and community-based program research and evaluation. These sessions allowed participants the opportunity to interact with the speakers on special topics of interest.

Dr. John Alderete presented the Hispanic perspective at the Congressional Briefing receiving a standing ovation, for his moving speech about the real conditions of Latinos in America. Attendance by House/Senate members was scarce. Minority researchers and activists have to make a case about the needs and realities of minority communities affected by cancer, or else Congress won't respond to our needs.

LCAT with support from www.smokescreen. org made communicating directly with Congress an easy and effective system. Letters in support of the FDA were sent via fax through the WWW site. LCAT's interns, Aldo Tinoco, 2nd year Medical Student at Georgetown University and Gina Engler, pre-med student at Howard University, circulated petitions in support of the Hatch-Kennedy bill that would raise tobacco taxes to pay for medically uninsured children. Advocacy is a vital part of community action.

If you want to get involved in tobacco control through the Web, sign on to site: **www.smokescreen.org**, which is the easiest way to express your tobacco corcerns.

Cancer affects minorities disproportionately. Minority health professionals are working to make a difference at the local, state and national levels.

Communities of Color take a position on the Settlement..page 5

Islands of the Pacific. As people of color we have links to our brothers and sisters worldwide. We do not view an increased international trafficking of tobacco addiction as a legitimate trade off in return for tougher actions on advertising and marketing to youth in the United States. All youth are important and all youth must be protected from tobacco marking practices, here and abroad.

These are our specific concerns, but beyond the specifics loom the large issue of principle. As communities of color, we believe strongly in the processes of consensus, inclusion, openness, and fairness. These back room negotiations toward a possible "settlement" have an air of secrecy and deception —which is in keeping with the history of the tobacco industry in this country. We oppose the clandestine nature of these discussions. We are not asking that a few representatives of our communities be allowed to enter these closed meetings. Instead, we are joining our voices together with others to ask that all secret negotiations designed to cut a "deal" with the tobacco industry end immediately. These issues must be brought into the light of public disclosure and debate so that all those

LCAT's core principles on Tobacco Control

The Campaign for Tobacco-Free Kids and members of the larger tobacco control advocacy groups, drafted some core principles, that LCAT has modified. The modifications are in bold capital letters. LCAT also used ASTHO's clause on international concerns.

Core Principles for Considerations of the Resolution of Current Outstanding Tobacco Issues

Any resolution of the current outstanding tobacco issues –whether in the Courts, in Congress, or elsewhere –should be guided by a number of clearly enunciated principles. They include:

- **Regulatory Authority**: The FDA must have the authority to regulate the manufacture, sale, labeling, distribution and marketing of tobacco products.
- **Minimum Standard**: The current FDA requirements governing youth access and tobacco marketing are essential minimum components of any public policy initiative. The agency's ability to augment these requirements should not be curtailed.
- **The rights of victims** of the tobacco industry to seek compensation for the injuries they have suffered should not be abridged and the tobacco industry should not be immunized from accountability for its wrongdoing. **ADEQUATE MECHANISMS MUST BE IN PLACE TO SUPPORT VICTIMS WHO BECAUSE OF ECONOMIC CONSTRAINTS CANNOT PURSUE COMPENSATION.**
- **Public education and tobacco control**: a well funded, **INCLUSIVE,** effective sustained public education and tobacco control **AND CESSATION** campaign that is protected from political pressure is critical to reducing tobacco use.
- **Preemption**: Congress should not preempt state or local laws that are stronger than federal laws, nor should the FDA be preempted from revising the form, **PACKAGING,** content, and placement of the warnings on cigarette **packs.**
- **Public Disclosure**: The tobacco industry must disclose its research and studies about the effects of its products, including nicotine, **AND OTHER INGREDIENTS**, on the human body and the marketing of tobacco to children, **WOMEN AND MINORITIES**.
- **INTERNATIONAL SALES AND PROMOTION: CHILDREN IN EVERY NATION MUST BE PROTECTED FROM THE PROMOTION AND UNREGULATED SALE OF TOBACCO PRODUCTS. INTERNATIONAL STANDARDS FOR RESPONSIBLE PUBLIC HEALTH AND BUSINESS PRACTICES MUST BE ESTABLISHED TO PREVENT CHILDHOOD NICOTINE ADDICTION. (This is ASTHO's clause.)**

In addition to these principles, it is vital to recognize that there are other issues which are key components of any overall comprehensive tobacco control plan, including items such as increased tobacco taxes and protection of non-smokers from environmental tobacco smoke.

Please circulate these "Principles" and provide LCAT with feedback so that your concerns are also addressed. (202)371-1186

Communities of Color take a position on the Settlement

who are touched by tobacco can have their concerns acknowledged and addressed. We urge the public to speak out on this important issue and let all those who are part of these secret meetings —especially the individuals who are elected public officials— know how the public feels. As people of color, we will continue to raise our voices and to express our concerns. No one else can speak for us on the critical matter of the abusive sales and marketing of tobacco in all communities — especially in communities of color.

This statement was circulated among leaders and advocates of communities of color nationwide for their input and consideration. If you would like to make a contribution to this statement and/or have any comments or desire more information about what you can do about this matter, please call (215) 477-4113 or fax your comments to (215) 477-5535.

LCAT urges action on the part of our community leaders to make the concerns stated above known to public officials and the public in general.

Communities of Color must protect their own children and the children of the world from the ravages of tobacco addiction and the greed of the tobacco companies. ###

Latino Council on Alcohol and Tobacco

1015 15th Street, NW
Suite 409
Washington, DC 20005

Jeannette Noltenius, PhD
Executive Director
Tel: (202) 371-1186
Fax: (202) 371-0243
Email: lcat@erols.com

Committed to combating alcohol & tobacco related harm and their underlying causes in the Latino Community.

In This Issue...

Tobacco Settlement, Communities of Color take a stand, Campaign for Tobacco....

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First year: free of charge. Second year: $30 membership fee.

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The 1997 People's Annual Report

Bills for debates get picked up by corporations

Tobacco industry a loud voice in public affairs

Tobacco and politics

Biggest donors

The Human Toll of Corporate Influence-Peddling

THE MONEY

Corporate Donors Give to Both Sides

Corporations skirt funding law

Corporate money talks

DONORS

Corporate money flows to conventions

An INFACT Exposé

Clinton Presidential Records
Digital Records Marker

This is not a presidential record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

This marker identifies the place of a publication.

Publications have not been scanned in their entirety for the purpose of digitization. To see the full publication please search online or visit the Clinton Presidential Library's Research Room.

Joe of Oklahoma has end-stage emphysema at age 64.

Philip Morris, RJR Nabisco and other tobacco companies spend over $6 billion annually to advertise and promote their deadly products in the US alone. Most of this promotion is aimed at children and youth. Half of the young people hooked today will die from a painful tobacco-related illness.

Harry and Viola of Massachusetts. "My parents were hard-working people who didn't enjoy their retirement years, and had few of them, because of smoking-related disease. My father died of emphysema, my mother died of lung cancer. We got to watch them die."

Over 80% of the US public supports new regulations on youth-oriented tobacco marketing.

Josephine of New York died from emphysema after watching her son die of lung cancer at age 50. Before she died, she wrote: "I inhaled and felt my breathing shut down. I must have passed out on the floor. I stopped that day, but the emphysema had already progressed so far that I would spend the time I had left tied to an oxygen hose. If only I could have the years back to change it all."

"The man in the picture was my father. He died of lung cancer at age 71. These children were deprived of having a loving grandfather, all because he could not beat an addiction to a substance he started using at age 13. Watching my father die of such a cruel disease and not being able to help him was the hardest thing I ever had to do. I will never accept the fact that he was taken away from us prematurely, and I will put every effort into stopping the tobacco industry from taking any more young lives." — Henrietta of Colorado

Michael of Oregon died of heart disease, leaving behind his infant son Oliver.

The Human Toll of Tobacco

Diane (left) of Ohio began smoking at age 15, and died from lung cancer at age 47.

Audrey Mae of Mississippi died from a tobacco-related illness.

Each year more than 400,000 people in the US, and over three million around the world, die from tobacco-related illnesses. Here are just a few people who want to share their photos and stories in hope of preventing the tobacco industry from spreading the pain to the next generation.

What You Can Do

Join INFACT's Tobacco Industry Campaign today! Help put an end to the Marlboro cowboy, Joe Camel and other youth-oriented marketing such as the sponsorship of rock concerts and sporting events.

Tobacco has long been the least-regulated consumer product in the US. It won't be easy to break this industry's stranglehold over policymaking, but with your help we are sending a powerful message to the companies and their political allies that the public demands a change.

Don't let the tobacco industry make a killing off another generation of kids! Here's how you can help:

- ☐ Attached is my photo for INFACT's "Face the Faces" Project. I am asking my friends to send photos as well.
- ☐ I would like "Face the Faces" to come to my town. *Call 617-742-4583 to find out how.*
- ☐ **Yes!** I want to join INFACT's Tobacco Industry Campaign.

Name _____

Address _____

_____

Phone _____

INFACT, 256 Hanover Street, Boston, MA 02113.

In 1993, INFACT called on Philip Morris, RJR Nabisco and the rest of the tobacco industry to:

- ***Stop tobacco marketing and promotion that appeal to children and young people***
- ***Stop influencing and interfering in public policy on issues of tobacco and health***

INFACT is a national grassroots organization with an eighteen-year history of mobilizing consumers on issues of corporate accountability.

"Face the Faces" is a project of INFACT, 256 Hanover Street, Boston, MA 02113. 617-742-4583

About "Face the Faces"

INFACT began the "Face the Faces" Photo Project in response to Congressional testimony by a former RJR Nabisco executive that the people who die each year from tobacco are just "computer-generated numbers."

"Face the Faces" is a collection of photos and stories of people who are suffering or have died from tobacco-related illnesses. Photos have come in from all over the country, and are now part of a powerful display entitled, "The Human Toll of Tobacco." These photos graphically demonstrate the human suffering and loss of life caused by the tobacco industry. "Face the Faces" made a memorable debut at the Philip Morris and RJR Nabisco Annual Meetings in the Spring of 1995. The display is now being used in public events calling on tobacco industry leaders and their political allies to account for their role in this preventable epidemic.

Ed of Oregon began smoking at age 14 and died at age 59.

"It is our intention to defend our industry and the rights of our consumers as briskly as we possibly can, as strenuously as we possibly can."
—Geoffrey Bible, CEO, Philip Morris

Katherine (right), pictured with her daughter Susan, died in 1992.

Jim of Connecticut with grandchildren less than three months before he died from emphysema. He smoked Camel cigarettes.

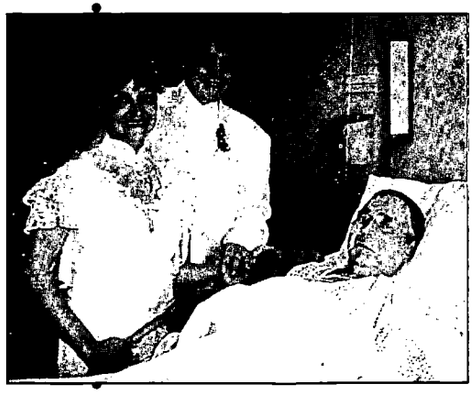
Linda of Texas started smoking at 12. She died at age 47, leaving behind a husband, daughter, and new grandbaby. She thought smoking would make her thin.

"I lost my husband Tony to lung cancer. He was 37 and had smoked since he was 15 years old. He left behind three children, ages 8, 7 and 7 months. It is not a matter of choice. It is a matter of honesty and integrity. It is a matter of who knew what and when it was known. It is a matter of money talking, and money killing."
— Audrey of Massachusetts.

The tobacco industry, led by Philip Morris and RJR Nabisco, has invested more than $17 million in political contributions over the past decade.

Bryan of California with his wife Judy and son, Scott. He died at age 50 from lung cancer.

More than 3,000 teens in the US, and thousands more worldwide, become regular smokers every day. The average age of the tobacco industry's new customers is about 14.



Bill of Florida on his 75th birthday and the wedding day of his daughter, Donna.

Michael with daughter Debbie. "This is my father and me in 1993. My father was a chain smoker for over 30 years before he died from cancer in 1994. He was 52. He was so addicted to cigarettes that being diagnosed with cancer was not enough to make him quit."

Johnnie of California, Ynette's grandfather, dying from lung cancer.

Ruthi's mom died at age 57 in North Carolina. "The last time I saw my mother she asked when I was going to have a baby. Now my baby will never know its grandmother."

Boise of Florida has lung cancer.

STATEMENT ON TOBACCO ISSUES PREPARED FOR THE WHITE HOUSE AND DEPARTMENT OF HEALTH AND HUMAN SERVICES
By Kathryn Mulvey, INFACT Executive Director
August 1, 1997

I want to thank you for the opportunity to be here today on behalf of INFACT, an organization with 30,000 members around the US and allies internationally that has campaigned for 20 years to hold corporations accountable for engaging in life-threatening activities. INFACT organized the successful Nestlé and General Electric Boycotts, and since 1993 we have been pressuring the tobacco giants Philip Morris and RJR Nabisco to stop addicting new customers around the world.

At the outset of our Tobacco Industry Campaign, INFACT issued a Public Challenge to industry decisionmakers, outlining changes we believe are essential to end this global epidemic:

- Stop tobacco marketing and promotion that appeals to children and young people.
- Stop spreading tobacco addiction internationally.
- Stop influence over, and interference in, public policy on issues of tobacco and health.
- Stop deceiving people about the dangers of tobacco.
- Pay the high costs of health care associated with the tobacco epidemic.

This Challenge guides our position on public policy issues. It led us to applaud the FDA regulations as a courageous step forward, and to mobilize public support for this initiative. But our grassroots base distrusts the current deal, the dealmaking, and the dealmakers. We have taken a principled stand in opposition to the proposed settlement negotiated by the tobacco corporations, due to several fatal flaws:

1) We have suffered too long the horrible legacy of the tobacco industry's voluntary marketing code. It's time for **advertising and promotion** restrictions with real teeth, backed by independent regulatory authority at the federal level that does not preempt local or state action. This settlement does not provide the necessary flexibility to deal with future, clever advertising and promotion strategies. The $5 billion this industry spends annually on tobacco promotion in the US is paid speech, not free speech.

2) This deal actually creates an incentive for **international expansion** by the tobacco industry. These corporations must take responsibility for US health care costs, but not through increased international profits at the expense of "expansion markets" in economically poor countries. Furthermore, the US public and our international neighbors have a right to know the truths contained in industry documents about the decades of cover-ups and deception. Without this information, it should be impossible to grant immunity from prosecution for criminal activities.

3) By making penalties **tax deductible,** the settlement amounts to little or no financial burden on the tobacco industry—one of the most profitable businesses around. Without accounting for inflation, the payout would cover only a fraction of the nation's estimated $1.25 trillion health care bill for treating tobacco-related illnesses over the next 25 years.

4) **Accountability**. It is irresponsible and shortsighted to throw away our tort system for an industry that has caused so much death and destruction. No other industry is afforded such protections, and this deal would set a dangerous precedent for other corporations that put people's lives at risk.

5) Finally, it rewards **political influence-peddling**. The tobacco giants are emblematic of what ails our political system today: a powerful few exercising too much influence over public policy at the expense of the rest of us. More than two-thirds of the US public believes business has too much influence in Washington. Even as we are here today, the tobacco industry is lobbying heavily in favor of this deal. The tobacco industry should have no role in the shaping of public health policy. We call on this administration to push for a public commitment from the tobacco corporations not to interfere in decisionmaking on health issues by the people's elected representatives.

There is no quick fix to reverse decades of deceit and entrenchment. This administration, with the backing of public health advocates and activists, has brought us closer to protecting the health of future generations. Yet the changes the public demands are not in place; the progress in motion is still vulnerable. We urge you to stand firm against the proposed tobacco deal.

A PUBLIC CHALLENGE TO THE TOBACCO INDUSTRY
APRIL 19, 1994

PREAMBLE

For decades, the tobacco industry has been called upon to end its abusive practices. INFACT's grassroots Campaign, involving millions of citizens and consumers in bringing pressure to bear directly on the tobacco industry, is a critical addition to the overall movements for tobacco control and corporate accountability. With the Tobacco Industry Campaign, INFACT joins other groups and individuals worldwide working to stop the tobacco industry from addicting new customers around the world, especially children and young people; and to stop the tobacco industry from manipulating public policy in the interests of tobacco profits.

INFACT challenges the tobacco industry to:

- **Stop tobacco marketing and promotion that appeals to children and young people.**
- **Stop spreading tobacco addiction internationally.**
- **Stop influence over, and interference in, public policy on issues of tobacco and health.**
- **Stop deceiving people about the dangers of tobacco.**
- **Pay the high costs of health care associated with the tobacco epidemic.**

INFACT 256 Hanover Street Boston, MA 02113 (617)742-4583

A PUBLIC CHALLENGE TO THE TOBACCO INDUSTRY
APRIL 19, 1994

AT-A-GLANCE SUMMARY

- **Stop tobacco marketing and promotion that appeals to children and young people.**

Examples of changes the industry must make to meet this challenge

1) End the use of advertising images and themes — including the Marlboro cowboy and Joe Camel — that appeal to young people.
2) Discontinue advertising in media that are widely accessible to youth — such as billboards, transit ads, television, and radio.
3) Stop sponsoring events that reach large audiences of young people, including rock concerts and sports.
4) Stop promoting tobacco brand names and logos on other products used by young people, such as clothing, accessories, and toys.
5) Cease free tobacco sample giveaways.

- **Stop spreading tobacco addiction internationally.**

Examples of changes the industry must make to meet this challenge:

1) Cease associating tobacco with positive popular images of the US — such as wealth, freedom, glamour, and democracy.
2) Stop entering into new markets through exports, acquisition of local companies, and joint ventures.
3) Stop advancing the spread of tobacco addiction to women in countries where they have not traditionally smoked.

- **Stop influence over, and interference in, public policy on issues of tobacco and health.**

Examples of changes the industry must make to meet this challenge:

1) Discontinue financial contributions and lobbying to influence legislation and administrative regulation on tobacco or health — including PAC contributions or "soft money" to the political parties.
2) Stop pushing for preemption of national laws through international intervention, and of local laws through state intervention.
3) Disclose funding for and other connections to organizations opposing tobacco control legislation — such as "smokers' rights" groups.
4) Obey the law in every country in which tobacco products are sold, marketed, and promoted.

- **Stop deceiving people about the dangers of tobacco.**

Examples of changes the industry must make to meet this challenge:

1) Stop using slogans, themes, and images that contradict the addictive and deadly effects of tobacco use.
2) Terminate counterproductive anti-youth smoking campaigns.
3) Disclose all findings on the dangers of smoking and environmental tobacco smoke — including the records of the Council for Tobacco Research.
4) Withdraw all lawsuits disputing legitimate research on the dangers of tobacco.

- **Pay the high costs of health care associated with the tobacco epidemic.**

Examples of changes the industry must make to meet this challenge:

1) Cease all lobbying efforts, worldwide, against proposed increases in tobacco excise taxes.
2) Reimburse US taxpayers the billions of dollars in public funds spent to treat tobacco-related disease — for example, through Medicaid and Medicare ($7.2 billion in 1991).

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STOP TOBACCO MARKETING AND PROMOTION THAT APPEALS TO CHILDREN AND YOUNG PEOPLE

WHY THIS CHALLENGE IS IMPORTANT

The tobacco industry loses 5,000 customers every day in the US alone — including 3,500 who manage to quit, and over 1,100 who die. The most promising "replacement smokers" are youth. According to the US Surgeon General, virtually all US smokers start before the end of high school. Nicotine addiction means that once a young person starts smoking, the tobacco industry usually has a lifelong customer. With aggressive marketing and promotional campaigns, the industry succeeds in hooking 3,000 new young smokers in the US each day, and thousands more worldwide.

EXAMPLES OF CHANGES THE INDUSTRY MUST MAKE TO MEET THIS CHALLENGE

1) End the use of advertising images and themes — including the Marlboro cowboy and Joe Camel — that appeal to young people.

2) Discontinue advertising in media that are widely accessible to youth — such as billboards, transit ads, television, and radio.

The industry's advertising images and promotional techniques appeal to young people's desire to be sophisticated, independent, and grown-up. It is no coincidence that the brands most heavily smoked by youth are among the most heavily advertised. According to Michael Eriksen, director of the US Office on Smoking and Health, "Marlboro has the heaviest advertising and it's most heavily smoked by kids. Kids are three times more likely to smoke Marlboros than adults."

Jack Landry, the advertising executive for Philip Morris, coordinated with the Leo Burnett agency to develop "commercials that would turn rookie smokers on to Marlboro. . . . the right image to capture the youth market's fancy. . . . a perfect symbol of independence and individualistic rebellion." The powerful appeal of this image ad campaign to youth has made Marlboro not only the leading cigarette in the US and in the world, but also the leading consumer product in the world.

Marlboro's success has inspired both imitation and aggressive competition. In an effort to recapture declining market share and regain its dominant position in the US cigarette market, RJR Nabisco developed a cartoon character — Joe Camel — to promote its Camel brand. Despite strong opposition to this campaign from the general public, health experts, and government officials, RJR has not only kept the campaign going, but repeatedly escalated it.

3) Stop sponsoring events that reach large audiences of young people, including rock concerts and sports.

Sponsoring rock concerts and sporting events gives the tobacco industry access to large audiences of young fans. Televised sponsorship is particularly attractive because it offers a way to evade advertising restrictions on tobacco products. Sports sponsorship, which connects cigarette brands like Marlboro, Virginia Slims, Camel, Winston, and Lucky Strike with good health and physical fitness, is especially insidious.

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4) Stop promoting tobacco brand names and logos on other products used by young people, such as clothing, accessories, and toys.

A recent survey found that half of teen smokers in the US — and one-fourth of nonsmoking teens — had received promotional items from tobacco companies. These merchandise promos turn youth into "walking billboards," and reward increased consumption. RJR's "Camel Cash" promo has set the pace in the US: coupons resembling one-dollar bills come in every pack of filtered Camel cigarettes. Consumers can redeem Camel Cash for "smooth stuff" with obvious appeal to young people — including flip-flops, insulators for beverage cans, jackets, towels, T-shirts, and hats.

5) Cease free tobacco sample giveaways.

Nicotine's addictive power makes free tobacco samples an effective investment that can pay off for decades by hooking a lifelong customer. From Latin America to Asia, free cigarettes are often available in discos and other places where young people gather.

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STOP SPREADING TOBACCO ADDICTION INTERNATIONALLY

WHY THIS CHALLENGE IS IMPORTANT

If present trends continue, the World Health Organization projects that within the next three decades, ten million people worldwide will die yearly from tobacco use — seven million of them in economically poor countries. As tobacco use begins to decline slowly in industrialized countries, that drop is more than offset by a greater than 2% annual increase in other countries. This totally preventable future epidemic will result in the loss of more lives than have been lost from all previous world epidemics.

EXAMPLES OF CHANGES THE INDUSTRY MUST MAKE TO MEET THIS CHALLENGE

1) Cease associating tobacco with positive popular images of the US — such as wealth, freedom, glamour, and democracy.

Through their advertising and promotion, transnational tobacco companies create the dangerous impression that smoking is more common in the US than it actually is, and even that it is essential to the wealth and freedom widely associated with the US and desired by many people.

2) Stop entering into new markets through exports, acquisition of local companies, and joint ventures.

The giant tobacco transnationals set the pace for the rest of the industry to follow. US-based companies are not only exporting their addictive and deadly product, but also their sophisticated, extremely effective advertising and promotional techniques. In many countries, these industry leaders take advantage of the lack of health-related regulations, or of a limited capacity to enforce them, to bombard the public with marketing campaigns. They even employ many tactics long banned or discredited in the US — including direct television and radio advertising, and celebrity endorsements. Formerly lethargic national companies often adopt aggressive new marketing tactics in response to US competition, with devastating results for public health.

3) Stop advancing the spread of tobacco addiction to women in countries where they have not traditionally smoked.

In economically poor countries, on average, only about 5% of women smoke. In industrialized countries, about 30% of women smoke, and lung cancer has surpassed breast cancer as the leading cancer killer of women. With promotional campaigns targeting women, the tobacco transnationals are imposing a perverse and deadly notion of "equality" on women in economically poor countries.

INFACT 256 Hanover Street Boston, MA 02113 (617)742-4583

STOP INFLUENCE OVER, AND INTERFERENCE IN, PUBLIC POLICY ON ISSUES OF TOBACCO AND HEALTH

WHY THIS CHALLENGE IS IMPORTANT

Tobacco use is a preventable global epidemic, but tobacco products remain largely unregulated in many countries. This government inaction does not, however, reflect a lack of public support for change. The enormous financial clout of this deadly industry has enabled it to manipulate the making and implementation of public policy in the US and around the world. The tobacco industry's undue influence has ensured that tobacco remains the least regulated consumer product in the US, exempt from virtually every major federal health and safety law. In other countries, tobacco transnationals have openly defied tobacco advertising bans, and challenged health-related restrictions on tobacco as unfair trade barriers.

EXAMPLES OF CHANGES THE INDUSTRY MUST MAKE TO MEET THIS CHALLENGE

1) Discontinue financial contributions and lobbying to influence legislation and administrative regulation on tobacco or health — including PAC contributions or "soft money" to the political parties.

In the US, the tobacco industry holds what Representative Michael Synar has termed a "stranglehold over Congress." The industry's massive political contributions guarantee important access to and influence over key policymakers. Tobacco interests gave $2.3 million to Congressional candidates, and $2.8 million to the major political parties, in the last election cycle.

2) Stop pushing for preemption of national laws through international intervention, and of local laws through state intervention.

In the 1980's, the US-based tobacco transnationals enlisted the aid of the US government to pry their way into the markets of Japan, South Korea, Taiwan, and Thailand. The US Trade Representative challenged these countries' anti-tobacco health measures as unfair trade barriers. The next prize the companies covet is China.

Within the US, tobacco companies are pushing for preemption at the state level of democratically enacted local ordinances restricting tobacco promotion, use and sales.

3) Disclose funding for and other connections to organizations opposing tobacco control legislation — such as "smokers' rights" groups.

As its own credibility wanes, the tobacco industry is organizing its more highly regarded allies — including workers, smokers, retailers, and restaurant owners — to take the lead in pressing its agenda.

4) Obey the law in every country in which tobacco products are sold, marketed, and promoted.

The transnational tobacco companies have used the promise of short-term investment as leverage with many cash-poor countries — most recently in Eastern Europe and the former Soviet republics. They persuaded the Czech Republic to overturn a tobacco advertising ban, and have openly defied ad bans in Russia and Hungary. In other countries, the companies evade the law by heavily advertising their brands without explicitly mentioning cigarettes.

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STOP DECEIVING PEOPLE ABOUT THE DANGERS OF TOBACCO

WHY THIS CHALLENGE IS IMPORTANT

Despite irrefutable evidence from over 50,000 medical studies that tobacco kills when used exactly as intended, people do not fully appreciate the dangers of tobacco addiction, disease, and death. One major reason is that the tobacco industry's advertising and promotion overwhelms the health messages: in the US, the industry pours $4 billion a year into its aggressive marketing campaigns, outspending the annual budget of the federal Office on Smoking and Health in a *single day's* worth of advertising and promotion.

EXAMPLES OF CHANGES THE INDUSTRY MUST MAKE TO MEET THIS CHALLENGE

1) Stop using slogans, themes, and images that contradict the addictive and deadly effects of tobacco use.

Advertising themes such as "Alive with Pleasure" encourage smokers and potential smokers to disbelieve or ignore their own knowledge of tobacco's health impacts. No possibility for truly informed adult consent to these dangers exists until the industry stops blocking the accurate communication of health information.

2) Terminate counterproductive anti-youth smoking campaigns.

With programs such as "It's the Law" and "Helping Youth Say No," the tobacco industry claims to be trying to discourage young people from smoking. However, "It's the Law" has had no real effect on youth access to tobacco products, and "Helping Youth Say No" does not mention the known health consequences of smoking. By framing tobacco use as a marker of maturity, the industry may actually be increasing the appeal of smoking to young people.

3) Disclose all findings on the dangers of smoking and environmental tobacco smoke — including the records of the Council for Tobacco Research.

The tobacco industry actively disputes evidence of tobacco's addictive and lethal effects. For nearly 40 years, the industry-sponsored Council for Tobacco Research has waged what the Wall Street Journal labeled the "longest-running misinformation campaign in US business history." The CTR has been the centerpiece of a massive industry effort to cast doubt on the links between tobacco and disease.

4) Withdraw all lawsuits disputing legitimate research on the dangers of tobacco.

The tobacco industry is currently suing the US Environmental Protection Agency over its report on the dangers of environmental tobacco smoke. RJR has sued researchers who demonstrated the effect of the Joe Camel ad campaign on young children. Such lawsuits, no matter how spurious, give the industry the capacity to foster doubt in the public mind simply by asserting that the evidence is being challenged in court. They may be particularly dangerous internationally, as this industry uses the impression of ongoing "debate" and "controversy" to move into new markets.

PAY THE HIGH COSTS OF HEALTH CARE ASSOCIATED WITH THE TOBACCO EPIDEMIC

WHY THIS CHALLENGE IS IMPORTANT

Tobacco use is the leading preventable cause of death in the US, killing 419,000 people a year. Tobacco-related disease and death is responsible for about 8% of all US health care spending. The US Office of Technology Assessment conservatively estimates that tobacco use cost the US economy $21 billion in direct health care costs in 1990; other estimates range as high as $100 billion.

These expenses are astronomical enough in the US. Children addicted today are the casualties of tomorrow; as the tobacco epidemic takes hold in economically poor countries, the tobacco industry is inflicting an enormous future health care burden that these countries can ill afford.

EXAMPLES OF CHANGES THE INDUSTRY MUST MAKE TO MEET THIS CHALLENGE

1) Cease all lobbying efforts, worldwide, against proposed increases in tobacco excise taxes.

2) Reimburse US taxpayers the billions of dollars in public funds spent to treat tobacco-related disease — for example, through Medicaid and Medicare ($7.2 billion in 1991).

The tobacco oligopoly, which has reaped enormous profits, must take responsibility for the implications of its abusive marketing practices. This industry has raised prices at will and enjoyed high profit margins while millions of its customers suffer and die from horrible diseases. Victims, their families and government health agencies are now left to pick up the tab. It's high time for the tobacco companies, not the taxpayers, to shoulder the true societal costs of tobacco use.

LATINO COUNCIL ON ALCOHOL AND TOBACCO

COMMITTED TO COMBATING ALCOHOL & TOBACCO RELATED HARM AND THEIR UNDERLYING CAUSES IN THE LATINO COMMUNITY

Serious health problems are now confronting the Latino community because it is a target of intense advertising and promotion for alcohol and tobacco products.

THE FACTS ABOUT THE THREAT ARE*:

- The Latino community suffers widespread problems of ill health, poverty, unemployment and illiteracy--problems that are exacerbated by alcohol abuse and cigarette smoking.
- Alcohol use and cigarette smoking account for a high percentage of health problems in the Latino community, ranging from birth defects and cancer to hypertension and heart disease.
- Alcohol use and cigarette smoking contribute to a wide range of social and safety problems, including fires, auto fatalities, industrial and other accidents, and violent crime.
- Among certain sub-groups in the Latino community, drunkenness is three times more common and the alcohol-related dearth rate is twice that of blacks or whites
- Alcohol problems in the community are reinforced by pervasive promotional campaigns. Latino receive a double dose of such promotion, with Spanish-language newspapers, magazines and radio/TV media added to the English-language alcohol advertising they are subjected to.
- Alcoholic beverage producers sponsor many Latino community events, music groups and civic association, making it difficult for many Latino organizations to combat alcohol-related problems.
- Tobacco companies are also heavy advertisers in the Latino community and frequent sponsors of community activities, and cigarette smoking as well as lung cancer are on the increase.

*Maxwell, Bruce & Michael Jacobson, *Marketing Disease to Hispanics,* (1989), Washington, DC, Center for Science in the Public Interest.

LCAT is a national organization dedicated to reducing the enormous harm caused by alcohol and tobacco in the Latino community. LCAT is an independent, non-profit group that does not accept support from alcohol or tobacco industries. LCAT advocates prevention measures ranging from education to legislation to promote better health among children and adults. In meeting these objectives, LCAT will publish a newsletter, testify at legislative hearings, write and publish articles, and serve as a resource agency for journalists and others.

JOIN THE LATINO COUNCIL ON ALCOHOL AND TOBACCO

Name:_____

Title:_____

Organization:_____

Address:_____

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Circle materials you would like to receive:
Newsletters, Action Alerts, Articles,
Campaign and Educational Materials.
First year, free of charge.
Second year: $30.00 membership fee.

Send to:
Jeannette Noltenius, Ph.D.
Executive Director
Latino Council on Alcohol and Tobacco
1015 15th Street, NW, Suite 409
Washington, DC 20005
Tel: (202) 371-1186
Fax: (202) 371-0243
Email: lcat@erols.com

Analysis of Minority Issues in the Tobacco Settlement
Latino Council on Alcohol and Tobacco

FIRST DRAFT
July 16, 1997

TOBACCO SETTLEMENT	***MINORITY ISSUES***
	Italics denote correlating observations between the following minority issues and the Draft Final Report of the Advisory Committee on Tobacco Public Policy and Public Health, co-chaired by Dr. C. Everett Koop and Dr. David A. Kessler.
TITLE I: REFORMATION OF THE TOBACCO INDUSTRY	
A. Restrictions on Marketing and Advertising	
Prohibit the use of non-tobacco brand names of tobacco products except for tobacco products in existence as of January 1, 1995.	The restrictions seem to offer effective measures which may significantly decrease and prevent children from smoking. They will ban human images and cartoon characters in advertising, prohibit direct and indirect payments to "glamorize" tobacco use in media appealing to minors, and ban all non-tobacco merchandise bearing the name, logo or message of a tobacco brand.
Restrict tobacco product advertising to FDA specified media.	
Restrict permissible tobacco product advertising to black text on a white background except for advertising in adult-only facilities and in adult publications.	
Require cigarette and smokeless tobacco product advertisements to carry the FDA-mandated statement of intended use ("Nicotine Delivery Device").	
Ban all non-tobacco merchandise, including caps, jackets or bags bearing the name, logo or selling of a tobacco brand.	There will be a loss of income for minority message advertisers. Provisions need to be made so that "counter-advertisements" must be bought from "minority" companies if it involves minority/and or targeted advertisements.
Ban offers of non-tobacco items or gifts based on proof of purchase of tobacco products.	
Ban sponsorships, including concerts and sporting events, in the name, logo or selling message of a tobacco brand.	Minority store owners will likely lose income due to these provisions since "in-store" promotions will be lost. They will react negatively to the regulations.
Ban the use of human images and cartoon characters, thereby eliminating Joe Camel and the Marlboro Man in all tobacco advertising and on tobacco product packages.	
Ban all outdoor tobacco product advertising, including in enclosed stadiums as well as brand advertising	*The provision that bans sponsorships*

directed outside from a retail establishment.	*is very important for the minority community.* (See Title VII, A, (5), [page 8] for replacement funds to minority groups.)
Prohibit tobacco product advertising on the internet unless designed to be inaccessible in or from the United States.	This is a gain for all communities.
Establish nationwide restrictions in non adult-only facilities on point of sale advertising to minimize the impact of such advertising on minors.	There are no provisions which specify types of advertising in communities of color. This is needed because of wording that exempts "adults-only facilities" from restrictions in the settlement (liquor stores, bars, casinos, etc.), are disproportionately located in minority communities. (Since children enter liquor stores, they could be "singled out" as places where children should not be allowed. *There must be a disclosure of all information related to marketing, including opinion and behavioral research; the targeting of children, women and racial and ethnic minorities.*
Ban direct and indirect payments for tobacco product placement in movies, television programs and video games.	*This is a very important provision that we support.*
Prohibit direct and indirect payments to "glamorize" tobacco use in media appealing to minors, including recorded and live music performances.	This is also a gain for minority communities
Without limiting the FDA's normal rule-making authority in this area, require that words currently used as product descriptors (e.g., "light" or "low tar") be accompanied by a mandatory disclaimer in advertisements of brand styles (e.g., "Brand X not shown to be less hazardous than other cigarettes").	This is a good provision
B. Warnings, Labeling and Packaging	
The settlement mandates that new rotating warnings be introduced concurrently into the distribution chain on all tobacco product packages and cartons, as well as in advertisements.	Some minority groups believe that these warnings need to be distributed in languages which reach ethnic population groups (i.e., Spanish, Chinese, Korean and other frequently spoken Asian languages). There is no consideration of this in the settlement. These warnings should be placed on cigarettes made for domestic use as well as export purposes.
The FDA would be required to test, report, and disclose tobacco smoke constituents, including tar, nicotine and carbon monoxide.	*This is an important provision.*
C. Restrictions on Access to Tobacco Products	
The legislation would build upon the FDA Rule by	Minority communities may be disproportionately

banning the sale of tobacco through vending machines and banning self-service displays of tobacco products except in adult-only facilities.

affected due to the "adult only facilities" wording. Furthermore, small shop owners may face a decrease in revenue if tobacco products and products associated with tobacco may no longer be sold there.

"Tobacco Shops" in Native American reservations will be disproportionately affected by the agreement. Provisions need to be made to compensate for the loss of revenue from the reservations as well as to protect Native Americans' right to use tobacco for traditional and religious means, while at the same time discouraging abuse of manufactured addictive tobacco.

D. Licensing of Retail Tobacco Product Sellers

Any entity that sells tobacco directly to consumers, whether manufacturer, wholesaler, importer, distributor or retailer, would require a license.

Small retail owners will have to sacrifice financially in order to comply with license requirements.

More funds and/or personnel will be needed to ensure compliance with this licensing regulation. Density of these establishments needs to be considered when assigning those funds. Inner cities have more small "mom & pop" stores, requiring more compliance checks.

LCAT thinks this will benefit minority communities since they will be able to address merchants who break the law. It may even have a positive "spill over" effect on curtailing the sale of alcoholic beverages to underage kids, making ID card checking the norm.

E. Regulation of Tobacco Product Development and Manufacturing

Tobacco products will continue to be categorized as a drug, and the FDA will have permit to require product modification including nicotine content. The FDA would have to approve all health claims made by tobacco manufacturers of reduced risk products. Manufacturers will be required to notify the FDA of any technology they develop or acquire that reduces the risk of tobacco products. The FDA will also have the authority to hold tobacco manufacturers to performance standards to promote the production of "reduced risk" tobacco products, including the gradual reduction, but not elimination of nicotine yields and the possible elimination of other constituents or other harmful components of the tobacco product over a twelve year period based on the finding that the modification: (a) will result in a significant reduction of the health risks associated with such products to consumers thereof, (b) is technologically feasible, and (c) will not result in the creation of a black market.

The FDA should have full protection to have the authority to regulate nicotine and eliminate any clauses that may directly or indirectly interfere with this authority.

"Reduced risk" products need to be made affordable in order to treat nicotine addiction in poor communities.

The "performance standards" provision has caused concern from some tobacco control advocates because of the supposed of other restrictions it places on the FDA. However, it is important that nicotine be gradually reduced, due to the potential creation of a black market upon the immediate elimination of nicotine yields, and its potentially immediate and harmful effects on minority communities.

Legislation would also subject tobacco product manufacturers to good manufacturing practice standards including the implementation of a quality control system, inspection of tobacco product materials, requirements for proper handling of finished product, and tolerances for pesticide chemical residues in or on commodities in the possession of the manufacturer. The Act would also ensure that previously non-public or confidential documents from the files of the tobacco industry are disclosed to FDA, private litigants, and the public.

According to the settlement, tobacco jurisdiction does not specifically cover cigars. Cigar use is on rise among young people and in minority communities, and are sometimes used as "blunts" (to smoke marijuana, crack, PCP). The same regulations required for cigarette content should also apply for cigars, not just "short" or blunt cigarillos, "fine cut" or "roll your own" tobacco products.

In terms of nicotine regulation, the addictive nature of cigarettes and other tobacco products requires further research before final regulation. The creation of a "Scientific Advisory Panel is very important, so a determination is made of what are the dangers of use and abuse among adults of various ethnic, racial and gender groups. American Indian communities are particularly affected, as are Cuban-Americans who have used tobacco in a traditional as well as cultural way for centuries. Members of these communities need to be consulted and *special provisions need to be made in order to research all communities of color.*

Both prevention and treatment research needs to be conducted for each minority sub-group, since the patterns of use/abuse differ.

The new required practicing standards may adversely affect small tobacco farmers (Cuban American Floridians), who would have to make costly changes in order to meet new regulations. Thus, an economic assistance and development fund should be established (and funded by the tobacco industry) to assist tobacco farmers and their communities in developing alternatives to tobacco farming. Economic conversion funds should also be provided to assist tobacco manufacturing workers and related non-farm workers.

F. Non-Tobacco Ingredients

Under the legislation, tobacco companies would be required to provide the FDA on a confidential basis a list of all ingredients, substances, and other compounds which are added by the manufacturer to tobacco, paper or filter of the tobacco product by brand and by quantity in each brand, as well as scientific assessment proving the safety of each ingredient.

This provision benefits all communities.

G. Compliance and Corporate Culture

The Act will provide for means to ensure that the industry will not only comply with the letter of the law

but will also have powerful incentives to prevent underage usage of tobacco products and to strive to develop and market less hazardous tobacco products.

H. Effective Dates

Different requirements will become effective at separate intervals after the Act is signed by the President.

TITLE II: "LOOK BACK" PROVISIONS/STATE ENFORCEMENT INCENTIVES

In order to achieve dramatic results from the proposed legislation, the "look-back" provision sets targets for reducing current levels of underage tobacco use. For example, underage use of cigarette products must decline by at least 30% from estimated levels over the last decade by the fifth year after the legislation takes effect, by at least 50% from estimated levels over the last decade by the seventh year after the legislation takes effect, by at least 60% from estimated levels over the last decade by the tenth year after the legislation takes effect, and remain at such reduced levels or below thereafter.

If a target has not been met, FDA will impose a mandatory surcharge on the relevant industry based upon an approximation of the present value of the profit the industry would earn over the lives of all underage users in excess of the target, capped at $2 billion.

The "look-back" provision should focus on specific ethnic and gender groups. Because certain populations experience higher rates of nicotine addiction, they should be targeted for greater assistance and expect substantial results. Teen rates for whites are greater than that of Latinos or African Americans. Thereby, cigarette companies can increase sales to the Latino and African American community while conceivably remaining within the concessions proposed by the settlement.

According to the settlement, cigarette companies will save on advertising. Thus, they will retain a large amount of money. This fact should be taken into account when determining penalties. For example, the Greenlining Institute recommends that the annual penalty for failing to meet the smoking reduction goals be raised from $80 million to $400 million per percentage point, and making such penalties non-tax deductible (Such information about reduction requirements, the surcharge, use of the surcharge, and abatement procedures are found in Appendix V of the settlement.)

TITLE III: PENALTIES AND ENFORCEMENT; CONSENT DECREES; NON-PARTICIPATING COMPANIES

A. Penalties and Enforcement

The legislation would be enforceable by the federal government and several states. The industry faces civil penalties of up to $10 million per violation for any violations of the obligations to disclose to the FDA research about tobacco-product health effects and information regarding the toxicity of non-tobacco ingredients and constituents used in their products.

B. Consent Decrees

Certain terms of the agreement will also be reiterated in consent decrees between the tobacco

industry and the states that will not take effect until after enactment of the Act. The consent decrees will not contain provisions as to: (1) product design, performance or modification; (2) manufacturing standards and good manufacturing practices; (3) testing and regulation with respect to toxicity and ingredients approval; and (4) the national FDA "look back" provisions.

C. Non-participating companies

Non-participating manufacturers would receive none of receive none of the civil liability protections described in Title VIII. Their product would be subject to a user fee equal to the portion of the payments by participating manufacturers allocated to fund public health programs and federal and state enforcement of the access restrictions. Non-participating manufacturers will also be required to place 150% of its share of the annual payment required of participating manufacturers. Furthermore, the exemption from civil liability applicable to distributors and retailers of the products of participating manufacturers will not apply to distributors and retailers who handle tobacco products of non-participating manufacturers.

Small specialty manufacturers may be affected by these provisions. LCAT does not have data if/or minority companies or Native American Indian reservations would be affected.

TITLE IV: NATIONWIDE STANDARDS TO MINIMIZE INVOLUNTARY EXPOSURE TO ENVIRONMENTAL TOBACCO SMOKE

Smoking in "public facilities" would be restricted to ventilated areas with systems that exhaust the air directly to the outside, maintain the smoking area at "negative pressure" compared to adjoining areas, and do not recirculate the air inside the public facility. The legislation would exempt restaurants (but not "fast food" restaurants) and bars, private clubs, casinos, bingo parlors, tobacco merchants and prisons. Regulations to enforce the standards would be paid out of the Industry Payments. The legislation would not preempt or otherwise affect any other state or local law or regulation that restricts smoking in public facilities in an equal or stricter manner.

As aforementioned, facilities such as restaurants, bars and casinos are disproportionately located in minority communities. Additional efforts should be undertaken to determine the additional risks that environmental smoke places on those who work in these areas.

The prison population is largely minority and is affected by second hand smoke. Effective cessation programs should be instituted in conjunction with mandatory "smoke free zones" in our nation's prisons.

TITLE V: SCOPE AND EFFECT

A. Scope of FDA Authority

Applies to all product sold in U.S. commerce; covers new entrants, imports, U.S. duty free, etc.

B. State Authority

This is the most controversial provision in the entire settlement. In 1995, the United States' market only accounts for 9% of the world's tobacco consumption, while China consumes 32% of all cigarettes produced,

States, Indian tribes, military facilities, other federal agencies, and local governments preserve their legal authority to enact measures that further restrict or eliminate employee and general public exposure to smoking in workplaces and in other public and private places and facilities, and to further regulate, restrict or eliminate the sale or distribution of tobacco products, and to impose state or local taxes on such products.

Federal law currently provides for national uniformity of warning labels, packaging, labeling, other advertising requirements, and manufacturing requirements.

Japan 6%, Europe 12%, other Asian countries 13%, while other countries account for the remaining 28%.[•] Therefore, the large U.S tobacco magnates, who are gaining even greater control over the world market, will continue to practice misleading advertising claims, control their own nicotine levels, and peddle their deadly product to the vast majority of their current customers. As a result, the settlement fails to damage "big tobacco" or even protect the millions of children around the globe who are confronted with these deadly products every day.

This is especially an affront to the minority community because of the large rise in cigarette addiction in Asia, Africa, and Latin America. Minority tobacco control advocates are deeply concerned with "double targeting" conducted by American companies in both the United States and their country of origin.

The mandate is that no cigarette shall be sold in the United States which exceeds a 12 mg "tar" yield, this should apply to all cigarettes manufactured by U.S. companies and sold abroad. All U.S. cigarettes sold abroad should conform to U.S. standards and regulations in packaging, warnings and content, including "tar" and nicotine yields.

These are "American" products.

Koop/Kessler proposes:

The U.S. should actively promote tobacco control worldwide.

The U.S. should actively promote the global adoption of U.S. domestic tobacco control policies through all international activities.

The U.S. should support the development and implementation of tobacco control activities by the World Health Organization and UNICEF, including the Framework Tobacco Control Convention.

The U.S. should support bilateral and multilateral treaties making the Framework Convention legally binding to all countries.

The U.S. should remove tobacco products from Section 301 of the 1974 Trade Act and should

[•] Swoboda, Frank and Martha M. Hamilton. "Two on Top of the World". The Washington Post. 7 July 1997. Washington Business, p. 10

prohibit Federal agency interference in international or national control activities.

The U.S. should support international research efforts to determine the most effective means of preventing the initiation of tobacco use and of smoking cessation.

The U.S. should provide financial support for WHO and UNICEF efforts to control tobacco use.

International exchange and scientific conferences on nicotine and other components of tobacco products should be convened among industry researchers and public researchers (such as those from the FDA, CDC, NIH, and WHO).

LCAT believes that international regulation of tobacco will benefit our nation's minorities as well as humanity as a whole. LCAT further suggests that tobacco companies should contribute 10% of their international tobacco sales profits to the World Health Organization or other agreed upon international agencies for tobacco-control programs.

TITLE VI: PROGRAMS/ FUNDING

A. Up Front Commitment-- Lump Sum Cash Payment -- $10 billion.

B. Base Annual Payments-- 25 year total face value is $358.5 billion.

C. Applicability-- Applicable to all sellers of tobacco Products.

D. Tax Treatment-- All payments pursuant to this Agreement shall be deemed ordinary and necessary business expenses to the year of payment.

There is a concern (as outlined by a statement by Communities of Color in the United States on private negotiations toward a proposed "settlement" with the tobacco industry) that "...a large monetary settlement will only shift the burden of payment from the general public to individual smokers. This has the potential to victimize low-income smokers disproportionately..." Therefore, necessary action must be taken to ensure that a significant rise in the price of cigarettes be balanced with effective and available cessation plans. *If an effective cessation plan can be maintained, a large tax should be enacted, as it has been shown that a price increase in cigarettes deters youth smoking.* Yet, if a successful cessation plan cannot be maintained, there will be a dangerous potential for a "black market", which, according to the Onyx Group, "is a real possibility for low-income, Black communities". The same is true for Latin, Asian and American Indian communities.

TITLE VII: PUBLIC HEALTH FUNDS FROM TOBACCO SETTLEMENT
As Recommended By the Attorneys General For Consideration By the President and the Congress

Based on the premise of $1 billion for the first year and gradually increasing to $1.5 billion thereafter, adjusted for inflation after the first year.

Based on the premise of $1 billion for smoking cessation for the first 4 years and $1.5 billion thereafter, adjusted for inflation.

This is a much-needed provision. Cessation programs have historically been Ineffective in treating minority smokers. *Culturally-appropriate plans need to be implemented in order for successful treatment.* Specific funds for affordable nicotine patches, nicotine gum, and counseling should be included.

A. Allocation of Grant Moneys Among Programs-
The use of moneys under this section shall be limited to programs established under this section, shall be adjusted for inflation annually from the effective date, and shall be allocated among such programs as follows:

(1) $125,000,000 for the first three years and $225,000,000 annually thereafter to the Secretary of HHS to accomplish the purposes described in Paragraph (B) of this Section.

(2) $300,000,000 annually for the FDA to carry out its obligations under the Act and to enforce the terms of this Act, including for grants to the states to assist in the enforcement of the Provisions of the Act.

Once again, the FDA must be granted full authority to regulate nicotine levels in cigarettes as a result of the settlement. FDA should be adequately funded to carry out its regulatory, enforcement, public education, and research activities.

(3) $75,000,000 for the first two years, $100,000,000 in the third year, and $125,000,000 annually thereafter to fund state and local tobacco control community based efforts Modeled on the ASSIST program, designed to encourage community involvement in reducing tobacco use and the enactment and implementation of policies designed to reduce the use of tobacco products

Steps must be taken to ensure that minority community needs be uniquely serviced.

(4) $100,000,000 annually to fund the research and development of methods to discourage individuals from starting to use tobacco and how to help individuals quit using tobacco.

Research work should be focused in the area of specific cessation programs for minority smokers, due to different trends in choice of brand (e.g. black smokers tend to smoke menthol cigarettes, Latinos smoke cigars, etc.).

The FDA should have the ability to test nicotine levels by brand, based on the best science.

(5) Beginning in the second year, $75,000,000 annually for a period of ten years to compensate events, teams or such events who lose sponsorship by the tobacco industry

A specific percentage of the $75 million assigned to compensate for loss of entries in sponsorship by the tobacco industry to minority cultural,

as a result of this Act, or who currently receive tobacco industry funding to sponsor events and elect to replace that funding, provided that the event, team, or entry is otherwise unable to replace its tobacco industry sponsorship during those given years. Funds used for this purpose shall be used as follows: 50% to supplement funding of the multimedia campaigns in paragraph (1) of this subsection; 25% to supplement the funding of the enforcement provisions of paragraph (2) of this subsection; and 25% to supplement the funding of community action programs in paragraph (3) of this subsection.

political, social, economic, arts, sports, education and health national and community groups should be provided for minority-led and related groups.

B. Establishment of Programs by the Secretary-
The Secretary shall establish programs to accomplish the following purposes-

(1) The reduction of tobacco product usage, both by seeking to discourage the initiation of tobacco use by persons under 18 and by encouraging current tobacco users to quit through media-based and non-media based education, prevention and cessation campaigns. The Secretary may make grants to health departments to assist in carrying out the purposes of this provision.

Cessation programs need to be promoted and targeted at specific ethnic/racial groups. Funds should be available to purchase nicotine patches, gum, and other products and/or make these products state affordable to low income smokers. *It should encourage maximum overall reduction in disease.* Funds should be allotted according to the ethnic and gender composition of each state, for use by minority entities to design and implement continuous, culturally sensitive and language appropriate cessation education and counseling programs.

(2) The research, development and public dissemination of technologies and methods to reduce the risk of dependence and injury from tobacco product usage and exposure.

Public education and prevention campaigns should be in the appropriate language and have culturally sensitive and gender sensitive messages. Multimedia campaigns should be funded through minority-owned advertising agencies, newspapers, magazines, radio and television stations that focus on each of the ethnic minority populations. These funds should be appropriated according to the potential viewership and or readership at the community level. American Indian publications should be funded in order to incorporate appropriate messages.

(3) The identification, testing and evaluation of the health effects of both tobacco and non-tobacco constituents of tobacco products.

This should be by ethnic groups, since more African Americans smoke menthol cigarettes, more Cuban-Americans smoke cigars, etc. The effects are different, the illness and propensities to diabetes, high blood pressure, etc. are different by ethnic background.

(4) The promulgation of such other rules and regulations as are necessary and proper to carry out the provisions of this Act, as well as the development of such other programs as the Secretary determines are consistent with the goals of the Act.

C. Public Education Campaign- $500,000,000 shall be spent annually in such multimedia campaigns designed to discourage and de-glamorize the use of tobacco products. To carry out such efforts, an independent non-profit organization with a Board of prestigious individuals and leaders of major public health organizations shall be created to contract or make grants to non-profit private entities unaffiliated with tobacco manufacturers or importers, who have a demonstrated record of working effectively to reduce tobacco product use and expertise in multimedia communications campaigns. The independent body shall be authorized to contract with state health departments, where appropriate, to run campaigns for their states and communities. In creating the program the independent body shall also take into account the needs of particular populations. The goal shall be the reduction of tobacco product usage, both by seeking to discourage the initiation of tobacco use by persons under the age of 18 and by encouraging current tobacco users to quit.

See Section B (2), above, for minority stance on Public Education Campaign.

D. Tobacco Use Cessation- For the first 4 years, $1 billion, and thereafter, $1.5 billion of the total amount paid by the tobacco industry shall be paid into a Trust Fund to be used to assist individuals who want to quit using tobacco. Within 12 months the Secretary shall promulgate regulations to govern (1) the establishment of criteria and a procedure for the approval of cessation programs and devices for which payment may be made under the program, (2) the eligibility requirements for individuals seeking to use moneys from the trust to fund the tobacco cessation efforts, and (3) the procedures to govern the tobacco cessation program.

The goal of the tobacco cessation program shall be to enable the most tobacco users possible to receive assistance in their effort to quit using tobacco by providing financial assistance and identifying the programs, techniques, and devices that have been shown to be safe and effective. Benefits to individuals should not be limited to a single effort, but should be tailored to the needs of individual smokers according to standards established by the Secretary using the best available scientific guidelines.

E. Public Health Trust Fund Presidential Commission- A Presidential commission will be appointed to include representatives of the public health community, Attorneys General, Castano attorneys and others to determine the specific tobacco-related medical research for which the $25 billion Public Trust Fund will be used.

Women and all members of minority communities must be specifically represented on the commission.

TITLE VIII: CIVIL LIABILITY

A. General - Current Attorney General actions (or similar actions brought by or on behalf of any governmental entity), *parens patriae* and class actions are legislatively settled. No future prosecution of such actions. All "addiction" and dependence claims are settled and all other personal injury claims are reserved. As to signatory states, pending Congressional enactment, no stay applications will be made in pending actions, based upon the fact of this resolution, without mutual consent of the parties.

B. Provisions as to Civil Liability for Past Conduct: The following provisions apply to suits for relief arising from past conduct--i.e., suits by persons claiming injury or damage caused by conduct taking place prior to the effective date of the Act.

1. All punitive damages claims resolved as part of overall settlement. No punitive damages in individual tort actions.

2. Individual trials only: i.e., no class actions, joinder, aggregations, consolidations, extrapolations or other devices to resolve cases other than on the basis of individual trials, without defendant's consent.

This provision is especially harsh to the majority of minority communities where individuals do not have the funds to file suit against a tobacco company due to legal fees. Only allowing class action suits on condition of the defendant's consent is not good policy.

..... 9. Annual aggregate cap for judgments/settlements: 33% of annual industry base payment (including any reductions for volume decline). If aggregate judgments/ settlements for a year exceed annual aggregate cap, excess does not have to be paid that year and rolls over.

C. Provisions as to Civil Liability for Future Conduct

Paragraphs 2, 3, 5, 6, 7, 8, 9, 10, and 11 in Section B apply.

As in the Provisions as to Civil Liability for Past Conduct, these provisions are significantly flawed due to the restrictions of class action suits. The rich are the only people who could possibly benefit from this sort of policy. All avenues of litigation must be kept open.

TITLE X: BOARD APPROVAL

The terms of this resolution are subject to approval by the Boards of Directors of the participating tobacco companies.

This analysis was written by Jeannette Noltenius and John Walker of the Latino Council on Alcohol and Tobacco.

1015 15th Street NW, Suite 409
Washington, D.C. 20005
phone: (202) 371-1186
fax: (202) 371-0243

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FIRST DRAFT
July 16, 1997

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Restrict permissible tobacco product advertising to black text on a white background except for advertising in adult-only facilities and in adult publications.	
Require cigarette and smokeless tobacco product advertisements to carry the FDA-mandated statement of intended use ("Nicotine Delivery Device").	
Ban all non-tobacco merchandise, including caps, jackets or bags bearing the name, logo or selling of a tobacco brand.	There will be a loss of income for minority message advertisers. Provisions need to be made so that "counter-advertisements" must be bought from "minority" companies if it involves minority/and or targeted advertisements.
Ban offers of non-tobacco items or gifts based on proof of purchase of tobacco products.	
Ban sponsorships, including concerts and sporting events, in the name, logo or selling message of a tobacco brand.	Minority store owners will likely lose income due to these provisions since "in-store" promotions will be lost. They will react negatively to the regulations.
Ban the use of human images and cartoon characters, thereby eliminating Joe Camel and the Marlboro Man in all tobacco advertising and on tobacco product packages.	
Ban all outdoor tobacco product advertising, including in enclosed stadiums as well as brand advertising	*The provision that bans sponsorships*

directed outside from a retail establishment.	*is very important for the minority community.* (See Title VII, A, (5), [page 8] for replacement funds to minority groups.)
Prohibit tobacco product advertising on the internet unless designed to be inaccessible in or from the United States.	This is a gain for all communities.
Establish nationwide restrictions in non adult-only facilities on point of sale advertising to minimize the impact of such advertising on minors.	There are no provisions which specify types of advertising in communities of color. This is needed because of wording that exempts "adults-only facilities" from restrictions in the settlement (liquor stores, bars, casinos, etc.), are disproportionately located in minority communities. (Since children enter liquor stores, they could be "singled out" as places where children should not be allowed.
	There must be a disclosure of all information related to marketing, including opinion and behavioral research; the targeting of children, women and racial and ethnic minorities.
Ban direct and indirect payments for tobacco product placement in movies, television programs and video games.	*This is a very important provision that we support.*
Prohibit direct and indirect payments to "glamorize" tobacco use in media appealing to minors, including recorded and live music performances.	This is also a gain for minority communities
Without limiting the FDA's normal rule-making authority in this area, require that words currently used as product descriptors (e.g., "light" or "low tar") be accompanied by a mandatory disclaimer in advertisements of brand styles (e.g., "Brand X not shown to be less hazardous than other cigarettes").	This is a good provision
B. Warnings, Labeling and Packaging	
The settlement mandates that new rotating warnings be introduced concurrently into the distribution chain on all tobacco product packages and cartons, as well as in advertisements.	Some minority groups believe that these warnings need to be distributed in languages which reach ethnic population groups (i.e., Spanish, Chinese, Korean and other frequently spoken Asian languages). There is no consideration of this in the settlement. These warnings should be placed on cigarettes made for domestic use as well as export purposes.
The FDA would be required to test, report, and disclose tobacco smoke constituents, including tar, nicotine and carbon monoxide.	*This is an important provision.*
C. Restrictions on Access to Tobacco Products	
The legislation would build upon the FDA Rule by	Minority communities may be disproportionately

banning the sale of tobacco through vending machines and banning self-service displays of tobacco products except in adult-only facilities.

affected due to the "adult only facilities" wording. Furthermore, small shop owners may face a decrease in revenue if tobacco products and products associated with tobacco may no longer be sold there.

"Tobacco Shops" in Native American reservations will be disproportionately affected by the agreement. Provisions need to be made to compensate for the loss of revenue from the reservations as well as to protect Native Americans' right to use tobacco for traditional and religious means, while at the same time discouraging abuse of manufactured addictive tobacco.

D. Licensing of Retail Tobacco Product Sellers

Any entity that sells tobacco directly to consumers, whether manufacturer, wholesaler, importer, distributor or retailer, would require a license.

Small retail owners will have to sacrifice financially in order to comply with license requirements.

More funds and/or personnel will be needed to ensure compliance with this licensing regulation. Density of these establishments needs to be considered when assigning those funds. Inner cities have more small "mom & pop" stores, requiring more compliance checks.

LCAT thinks this will benefit minority communities since they will be able to address merchants who break the law. It may even have a positive "spill over" effect on curtailing the sale of alcoholic beverages to underage kids, making ID card checking the norm.

E. Regulation of Tobacco Product Development and Manufacturing

Tobacco products will continue to be categorized as a drug, and the FDA will have permit to require product modification including nicotine content. The FDA would have to approve all health claims made by tobacco manufacturers of reduced risk products. Manufacturers will be required to notify the FDA of any technology they develop or acquire that reduces the risk of tobacco products. The FDA will also have the authority to hold tobacco manufacturers to performance standards to promote the production of "reduced risk" tobacco products, including the gradual reduction, but not elimination of nicotine yields and the possible elimination of other constituents or other harmful components of the tobacco product over a twelve year period based on the finding that the modification: (a) will result in a significant reduction of the health risks associated with such products to consumers thereof, (b) is technologically feasible, and (c) will not result in the creation of a black market.

The FDA should have full protection to have the authority to regulate nicotine and eliminate any clauses that may directly or indirectly interfere with this authority.

"Reduced risk" products need to be made affordable in order to treat nicotine addiction in poor communities.

The "performance standards" provision has caused concern from some tobacco control advocates because of the supposed of other restrictions it places on the FDA. However, it is important that nicotine be gradually reduced, due to the potential creation of a black market upon the immediate elimination of nicotine yields, and its potentially immediate and harmful effects on minority communities.

Legislation would also subject tobacco product manufacturers to good manufacturing practice standards including the implementation of a quality control system, inspection of tobacco product materials, requirements for proper handling of finished product, and tolerances for pesticide chemical residues in or on commodities in the possession of the manufacturer. The Act would also ensure that previously non-public or confidential documents from the files of the tobacco industry are disclosed to FDA, private litigants, and the public.

According to the settlement, tobacco jurisdiction does not specifically cover cigars. Cigar use is on rise among young people and in minority communities, and are sometimes used as "blunts" (to smoke marijuana, crack, PCP). The same regulations required for cigarette content should also apply for cigars, not just "short" or blunt cigarillos, "fine cut" or "roll your own" tobacco products.

In terms of nicotine regulation, the addictive nature of cigarettes and other tobacco products requires further research before final regulation. The creation of a "Scientific Advisory Panel is very important, so a determination is made of what are the dangers of use and abuse among adults of various ethnic, racial and gender groups. American Indian communities are particularly affected, as are Cuban-Americans who have used tobacco in a traditional as well as cultural way for centuries. Members of these communities need to be consulted and *special provisions need to be made in order to research all communities of color.*

Both prevention and treatment research needs to be conducted for each minority sub-group, since the patterns of use/abuse differ.

The new required practicing standards may adversely affect small tobacco farmers (Cuban American Floridians), who would have to make costly changes in order to meet new regulations. Thus, an economic assistance and development fund should be established (and funded by the tobacco industry) to assist tobacco farmers and their communities in developing alternatives to tobacco farming. Economic conversion funds should also be provided to assist tobacco manufacturing workers and related non-farm workers.

F. Non-Tobacco Ingredients

Under the legislation, tobacco companies would be required to provide the FDA on a confidential basis a list of all ingredients, substances, and other compounds which are added by the manufacturer to tobacco, paper or filter of the tobacco product by brand and by quantity in each brand, as well as scientific assessment proving the safety of each ingredient.

This provision benefits all communities.

G. Compliance and Corporate Culture

The Act will provide for means to ensure that the industry will not only comply with the letter of the law

but will also have powerful incentives to prevent underage usage of tobacco products and to strive to develop and market less hazardous tobacco products.

H. Effective Dates

Different requirements will become effective at separate intervals after the Act is signed by the President.

TITLE II: "LOOK BACK" PROVISIONS/STATE ENFORCEMENT INCENTIVES

In order to achieve dramatic results from the proposed legislation, the "look-back" provision sets targets for reducing current levels of underage tobacco use. For example, underage use of cigarette products must decline by at least 30% from estimated levels over the last decade by the fifth year after the legislation takes effect, by at least 50% from estimated levels over the last decade by the seventh year after the legislation takes effect, by at least 60% from estimated levels over the last decade by the tenth year after the legislation takes effect, and remain at such reduced levels or below thereafter.

If a target has not been met, FDA will impose a mandatory surcharge on the relevant industry based upon an approximation of the present value of the profit the industry would earn over the lives of all underage users in excess of the target, capped at $2 billion.

The "look-back" provision should focus on specific ethnic and gender groups. Because certain populations experience higher rates of nicotine addiction, they should be targeted for greater assistance and expect substantial results. Teen rates for whites are greater than that of Latinos or African Americans. Thereby, cigarette companies can increase sales to the Latino and African American community while conceivably remaining within the concessions proposed by the settlement.

According to the settlement, cigarette companies will save on advertising. Thus, they will retain a large amount of money. This fact should be taken into account when determining penalties. For example, the Greenlining Institute recommends that the annual penalty for failing to meet the smoking reduction goals be raised from $80 million to $400 million per percentage point, and making such penalties non-tax deductible (Such information about reduction requirements, the surcharge, use of the surcharge, and abatement procedures are found in Appendix V of the settlement.)

TITLE III: PENALTIES AND ENFORCEMENT; CONSENT DECREES; NON-PARTICIPATING COMPANIES

A. Penalties and Enforcement

The legislation would be enforceable by the federal government and several states. The industry faces civil penalties of up to $10 million per violation for any violations of the obligations to disclose to the FDA research about tobacco-product health effects and information regarding the toxicity of non-tobacco ingredients and constituents used in their products.

B. Consent Decrees

Certain terms of the agreement will also be reiterated in consent decrees between the tobacco

industry and the states that will not take effect until after enactment of the Act. The consent decrees will not contain provisions as to: (1) product design, performance or modification; (2) manufacturing standards and good manufacturing practices; (3) testing and regulation with respect to toxicity and ingredients approval; and (4) the national FDA "look back" provisions.

C. Non-participating companies

Non-participating manufacturers would receive none of receive none of the civil liability protections described in Title VIII. Their product would be subject to a user fee equal to the portion of the payments by participating manufacturers allocated to fund public health programs and federal and state enforcement of the access restrictions. Non-participating manufacturers will also be required to place 150% of its share of the annual payment required of participating manufacturers. Furthermore, the exemption from civil liability applicable to distributors and retailers of the products of participating manufacturers will not apply to distributors and retailers who handle tobacco products of non-participating manufacturers.

Small specialty manufacturers may be affected by these provisions. LCAT does not have data if/or minority companies or Native American Indian reservations would be affected.

TITLE IV: NATIONWIDE STANDARDS TO MINIMIZE INVOLUNTARY EXPOSURE TO ENVIRONMENTAL TOBACCO SMOKE

Smoking in "public facilities" would be restricted to ventilated areas with systems that exhaust the air directly to the outside, maintain the smoking area at "negative pressure" compared to adjoining areas, and do not recirculate the air inside the public facility. The legislation would exempt restaurants (but not "fast food" restaurants) and bars, private clubs, casinos, bingo parlors, tobacco merchants and prisons. Regulations to enforce the standards would be paid out of the Industry Payments. The legislation would not preempt or otherwise affect any other state or local law or regulation that restricts smoking in public facilities in an equal or stricter manner.

As aforementioned, facilities such as restaurants, bars and casinos are disproportionately located in minority communities. Additional efforts should be undertaken to determine the additional risks that environmental smoke places on those who work in these areas.

The prison population is largely minority and is affected by second hand smoke. Effective cessation programs should be instituted in conjunction with mandatory "smoke free zones" in our nation's prisons.

TITLE V: SCOPE AND EFFECT

A. Scope of FDA Authority

Applies to all product sold in U.S. commerce; covers new entrants, imports, U.S. duty free, etc.

B. State Authority

This is the most controversial provision in the entire settlement. In 1995, the United States' market only accounts for 9% of the world's tobacco consumption, while China consumes 32% of all cigarettes produced,

States, Indian tribes, military facilities, other federal agencies, and local governments preserve their legal authority to enact measures that further restrict or eliminate employee and general public exposure to smoking in workplaces and in other public and private places and facilities, and to further regulate, restrict or eliminate the sale or distribution of tobacco products, and to impose state or local taxes on such products.

Federal law currently provides for national uniformity of warning labels, packaging, labeling, other advertising requirements, and manufacturing requirements.

Japan 6%, Europe 12%, other Asian countries 13%, while other countries account for the remaining 28%.* Therefore, the large U.S tobacco magnates, who are gaining even greater control over the world market, will continue to practice misleading advertising claims, control their own nicotine levels, and peddle their deadly product to the vast majority of their current customers. As a result, the settlement fails to damage "big tobacco" or even protect the millions of children around the globe who are confronted with these deadly products every day.

This is especially an affront to the minority community because of the large rise in cigarette addiction in Asia, Africa, and Latin America. Minority tobacco control advocates are deeply concerned with "double targeting" conducted by American companies in both the United States and their country of origin.

The mandate is that no cigarette shall be sold in the United States which exceeds a 12 mg "tar" yield, this should apply to all cigarettes manufactured by U.S. companies and sold abroad. All U.S. cigarettes sold abroad should conform to U.S. standards and regulations in packaging, warnings and content, including "tar" and nicotine yields.

These are "American" products.

Koop/Kessler proposes:

The U.S. should actively promote tobacco control worldwide.

The U.S. should actively promote the global adoption of U.S. domestic tobacco control policies through all international activities.

The U.S. should support the development and implementation of tobacco control activities by the World Health Organization and UNICEF, including the Framework Tobacco Control Convention.

The U.S. should support bilateral and multilateral treaties making the Framework Convention legally binding to all countries.

The U.S. should remove tobacco products from Section 301 of the 1974 Trade Act and should

* Swoboda, Frank and Martha M. Hamilton. "Two on Top of the World". The Washington Post. 7 July 1997. Washington Business, p. 10

prohibit Federal agency interference in international or national control activities.

The U.S. should support international research efforts to determine the most effective means of preventing the initiation of tobacco use and of smoking cessation.

The U.S. should provide financial support for WHO and UNICEF efforts to control tobacco use.

International exchange and scientific conferences on nicotine and other components of tobacco products should be convened among industry researchers and public researchers (such as those from the FDA, CDC, NIH, and WHO).

LCAT believes that international regulation of tobacco will benefit our nation's minorities as well as humanity as a whole. LCAT further suggests that tobacco companies should contribute 10% of their international tobacco sales profits to the World Health Organization or other agreed upon international agencies for tobacco-control programs.

TITLE VI: PROGRAMS/ FUNDING

A. Up Front Commitment-- Lump Sum Cash Payment -- $10 billion.

B. Base Annual Payments-- 25 year total face value is $358.5 billion.

C. Applicability-- Applicable to all sellers of tobacco Products.

D. Tax Treatment-- All payments pursuant to this Agreement shall be deemed ordinary and necessary business expenses to the year of payment.

There is a concern (as outlined by a statement by Communities of Color in the United States on private negotiations toward a proposed "settlement" with the tobacco industry) that "...a large monetary settlement will only shift the burden of payment from the general public to individual smokers. This has the potential to victimize low-income smokers disproportionately..." Therefore, necessary action must be taken to ensure that a significant rise in the price of cigarettes be balanced with effective and available cessation plans. *If an effective cessation plan can be maintained, a large tax should be enacted, as it has been shown that a price increase in cigarettes deters youth smoking.* Yet, if a successful cessation plan cannot be maintained, there will be a dangerous potential for a "black market", which, according to the Onyx Group, "is a real possibility for low-income, Black communities". The same is true for Latin, Asian and American Indian communities.

TITLE VII: PUBLIC HEALTH FUNDS FROM TOBACCO SETTLEMENT
As Recommended By the Attorneys General For Consideration By the President and the Congress

Based on the premise of $1 billion for the first year and gradually increasing to $1.5 billion thereafter, adjusted for inflation after the first year.

Based on the premise of $1 billion for smoking cessation for the first 4 years and $1.5 billion thereafter, adjusted for inflation.

This is a much-needed provision. Cessation programs have historically been Ineffective in treating minority smokers. *Culturally-appropriate plans need to be implemented in order for successful treatment.* Specific funds for affordable nicotine patches, nicotine gum, and counseling should be included.

A. Allocation of Grant Moneys Among Programs-
The use of moneys under this section shall be limited to programs established under this section, shall be adjusted for inflation annually from the effective date, and shall be allocated among such programs as follows:

(1) $125,000,000 for the first three years and $225,000,000 annually thereafter to the Secretary of HHS to accomplish the purposes described in Paragraph (B) of this Section.

(2) $300,000,000 annually for the FDA to carry out its obligations under the Act and to enforce the terms of this Act, including for grants to the states to assist in the enforcement of the Provisions of the Act.

Once again, the FDA must be granted full authority to regulate nicotine levels in cigarettes as a result of the settlement. FDA should be adequately funded to carry out its regulatory, enforcement, public education, and research activities.

(3) $75,000,000 for the first two years, $100,000,000 in the third year, and $125,000,000 annually thereafter to fund state and local tobacco control community based efforts Modeled on the ASSIST program, designed to encourage community involvement in reducing tobacco use and the enactment and implementation of policies designed to reduce the use of tobacco products

Steps must be taken to ensure that minority community needs be uniquely serviced.

(4) $100,000,000 annually to fund the research and development of methods to discourage individuals from starting to use tobacco and how to help individuals quit using tobacco.

Research work should be focused in the area of specific cessation programs for minority smokers, due to different trends in choice of brand (e.g. black smokers tend to smoke menthol cigarettes, Latinos smoke cigars, etc.).

The FDA should have the ability to test nicotine levels by brand, based on the best science.

(5) Beginning in the second year, $75,000,000 annually for a period of ten years to compensate events, teams or such events who lose sponsorship by the tobacco industry

A specific percentage of the $75 million assigned to compensate for loss of entries in sponsorship by the tobacco industry to minority cultural,

as a result of this Act, or who currently receive tobacco industry funding to sponsor events and elect to replace that funding, provided that the event, team, or entry is otherwise unable to replace its tobacco industry sponsorship during those given years. Funds used for this purpose shall be used as follows: 50% to supplement funding of the multimedia campaigns in paragraph (1) of this subsection; 25% to supplement the funding of the enforcement provisions of paragraph (2) of this subsection; and 25% to supplement the funding of community action programs in paragraph (3) of this subsection.

political, social, economic, arts, sports, education and health national and community groups should be provided for minority-led and related groups.

B. Establishment of Programs by the Secretary-
The Secretary shall establish programs to accomplish the following purposes-

(1) The reduction of tobacco product usage, both by seeking to discourage the initiation of tobacco use by persons under 18 and by encouraging current tobacco users to quit through media-based and non-media based education, prevention and cessation campaigns. The Secretary may make grants to health departments to assist in carrying out the purposes of this provision.

Cessation programs need to be promoted and targeted at specific ethnic/racial groups. Funds should be available to purchase nicotine patches, gum, and other products and/or make these products state affordable to low income smokers. *It should encourage maximum overall reduction in disease.* Funds should be allotted according to the ethnic and gender composition of each state, for use by minority entities to design and implement continuous, culturally sensitive and language appropriate cessation education and counseling programs.

(2) The research, development and public dissemination of technologies and methods to reduce the risk of dependence and injury from tobacco product usage and exposure.

Public education and prevention campaigns should be in the appropriate language and have culturally sensitive and gender sensitive messages. Multimedia campaigns should be funded through minority-owned advertising agencies, newspapers, magazines, radio and television stations that focus on each of the ethnic minority populations. These funds should be appropriated according to the potential viewership and or readership at the community level. American Indian publications should be funded in order to incorporate appropriate messages.

(3) The identification, testing and evaluation of the health effects of both tobacco and non-tobacco constituents of tobacco products.

This should be by ethnic groups, since more African Americans smoke menthol cigarettes, more Cuban-Americans smoke cigars, etc. The effects are different, the illness and propensities to diabetes, high blood pressure, etc. are different by ethnic background.

(4) The promulgation of such other rules and regulations as are necessary and proper to carry out the provisions of this Act, as well as the development of such other programs as the Secretary determines are consistent with the goals of the Act.

C. Public Education Campaign- $500,000,000 shall be spent annually in such multimedia campaigns designed to discourage and de-glamorize the use of tobacco products. To carry out such efforts, an independent non-profit organization with a Board of prestigious individuals and leaders of major public health organizations shall be created to contract or make grants to non-profit private entities unaffiliated with tobacco manufacturers or importers, who have a demonstrated record of working effectively to reduce tobacco product use and expertise in multimedia communications campaigns. The independent body shall be authorized to contract with state health departments, where appropriate, to run campaigns for their states and communities. In creating the program the independent body shall also take into account the needs of particular populations. The goal shall be the reduction of tobacco product usage, both by seeking to discourage the initiation of tobacco use by persons under the age of 18 and by encouraging current tobacco users to quit.

See Section B (2), above, for minority stance on Public Education Campaign.

D. Tobacco Use Cessation- For the first 4 years, $1 billion, and thereafter, $1.5 billion of the total amount paid by the tobacco industry shall be paid into a Trust Fund to be used to assist individuals who want to quit using tobacco. Within 12 months the Secretary shall promulgate regulations to govern (1) the establishment of criteria and a procedure for the approval of cessation programs and devices for which payment may be made under the program, (2) the eligibility requirements for individuals seeking to use moneys from the trust to fund the tobacco cessation efforts, and (3) the procedures to govern the tobacco cessation program.

The goal of the tobacco cessation program shall be to enable the most tobacco users possible to receive assistance in their effort to quit using tobacco by providing financial assistance and identifying the programs, techniques, and devices that have been shown to be safe and effective. Benefits to individuals should not be limited to a single effort, but should be tailored to the needs of individual smokers according to standards established by the Secretary using the best available scientific guidelines.

E. Public Health Trust Fund Presidential Commission- A Presidential commission will be appointed to include representatives of the public health community, Attorneys General, Castano attorneys and others to determine the specific tobacco-related medical research for which the $25 billion Public Trust Fund will be used.

Women and all members of minority communities must be specifically represented on the commission.

TITLE VIII: CIVIL LIABILITY

A. General - Current Attorney General actions (or similar actions brought by or on behalf of any governmental entity), *parens patriae* and class actions are legislatively settled. No future prosecution of such actions. All "addiction" and dependence claims are settled and all other personal injury claims are reserved. As to signatory states, pending Congressional enactment, no stay applications will be made in pending actions, based upon the fact of this resolution, without mutual consent of the parties.

B. Provisions as to Civil Liability for Past Conduct: The following provisions apply to suits for relief arising from past conduct--i.e., suits by persons claiming injury or damage caused by conduct taking place prior to the effective date of the Act.

1. All punitive damages claims resolved as part of overall settlement. No punitive damages in individual tort actions.

2. Individual trials only: i.e., no class actions, joinder, aggregations, consolidations, extrapolations or other devices to resolve cases other than on the basis of individual trials, without defendant's consent.

This provision is especially harsh to the majority of minority communities where individuals do not have the funds to file suit against a tobacco company due to legal fees. Only allowing class action suits on condition of the defendant's consent is not good policy.

..... 9. Annual aggregate cap for judgments/settlements: 33% of annual industry base payment (including any reductions for volume decline). If aggregate judgments/ settlements for a year exceed annual aggregate cap, excess does not have to be paid that year and rolls over.

C. Provisions as to Civil Liability for Future Conduct

Paragraphs 2, 3, 5, 6, 7, 8, 9, 10, and 11 in Section B apply.

As in the Provisions as to Civil Liability for Past Conduct, these provisions are significantly flawed due to the restrictions of class action suits. The rich are the only people who could possibly benefit from this sort of policy. All avenues of litigation must be kept open.

TITLE X: BOARD APPROVAL

The terms of this resolution are subject to approval by the Boards of Directors of the participating tobacco companies.

This analysis was written by Jeannette Noltenius and John Walker of the Latino Council on Alcohol and Tobacco.

1015 15th Street NW, Suite 409
Washington, D.C. 20005
phone: (202) 371-1186
fax: (202) 371-0243