



**Laura Emmett**

05/02/97 06:12:01 PM

Record Type: Record

To: Elizabeth Drye/OPD/EOP

cc:

Subject: STATEMENT RE: TOBACCO

----- Forwarded by Laura Emmett/WHO/EOP on 05/02/97 06:18 PM

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Record Type: Record

To: Laura Emmett/WHO/EOP

cc:

Subject: STATEMENT RE: TOBACCO

----- Forwarded by Darby E. Stott/WHO/EOP on 05/02/97 05:31 PM

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**STOTT\_D @ A1**

05/02/97 05:30:00 PM

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cc:

Subject: STATEMENT RE: TOBACCO

**THE WHITE HOUSE**

Office of the Press Secretary

For Immediate Release

May 2, 1997

**STATEMENT OF THE PRESIDENT**

Today the Department of Justice filed a notice in the

Greensboro U.S. District Court appealing the part of Judge Osteen's order that invalidated the Food and Drug Administration's tobacco advertising restrictions. The Department is asking for an expedited appeal, because every day of delay matters to our children's health. Each day, 3,000 children and young people become regular smokers, and 1,000 of them will have their lives cut short as a result of their smoking. And this problem of youth tobacco use is getting worse. The percentage of eighth and tenth graders who smoke has risen for four consecutive years. The FDA's common sense access and advertising restrictions would reverse this trend.

We will continue to work to protect our children from tobacco, and we will not stop until we succeed.

-30-30-30-

Message Sent To: \_\_\_\_\_

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We will continue to work to protect our children from tobacco, and we will not stop until we succeed.

**THE WHITE HOUSE**  
**Office of the Vice President**

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FOR IMMEDIATE RELEASE  
THURSDAY, March 20, 1997

CONTACT: 202-456-7035

**STATEMENT OF VICE PRESIDENT GORE**

The announcement today by the Liggett Group and 22 state Attorneys General is a historic victory for the American people. The Liggett Group, a major U.S. tobacco company, publicly acknowledged what we have all known for years: that nicotine is addictive, tobacco causes cancer, and the tobacco industry specifically markets to youth. It's about time the tobacco companies told the American people the truth.

Smoking is causing a national health epidemic in this country. Every day 3,000 teenagers become smokers and nearly 1,000 of those will have their lives shortened by tobacco-related illnesses. A person who begins smoking will do so, on average, at about 14 ½ years old. They quickly become addicted and eventually become sick. This is wrong. Tobacco products are hooking our children and cutting short their lives.

President Clinton and I have worked tirelessly to address this issue. We strongly support new Food and Drug Administration regulations that keep cigarette manufacturers from marketing to children and prohibit the sale of cigarettes to people under the age of 18. We must keep cigarettes away from children.

The effects of tobacco are deadly. The American people know it. The tobacco companies know it. The tobacco companies can no longer ignore the facts or the will of the American people. Today's announcement is an important step toward holding tobacco companies accountable for their products, an important step toward protecting our children.

##

## STATEMENT BY THE PRESIDENT

This is a landmark day for the nation's public health and for our children. With this ruling, we can regulate tobacco products and protect our children from a lifetime of addiction and the prospect of having their lives cut short by tobacco-related diseases.

*This is a monumental first step*

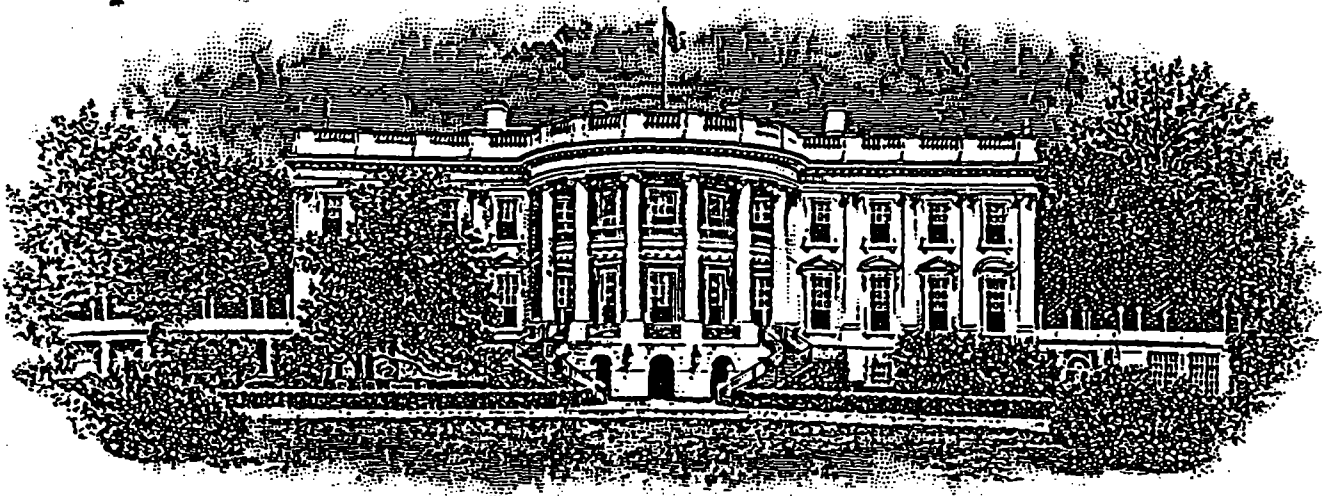
[*Option One - the Court upholds the advertising restrictions.*] We can put Joe Camel and the Marlboro Man out of our children's reach forever.

[*Option Two - the Court invalidates the advertising restrictions and no decision has been made about an appeal.*] The Department of Justice will review the Judge's decision where he questioned the FDA rule, but the bottom line is historic: the federal government can regulate tobacco products to protect our children's health.

[*Option Three - the Court invalidates the advertising restrictions and the decision is made to appeal the ruling.*] Senior Attorneys for the Department of Justice, the Department of Health and Human Services, and the Food and Drug Administration have carefully reviewed the District Court's opinion. On the basis of that review, I have directed the Justice Department to proceed with an appeal of the provisions of the rule that the judge did not uphold. But the historic nature of this decision should not be lost: the federal government can regulate tobacco products to protect our children's health.

Our children will live healthier and longer lives because of today's ruling.

# The White House



## DOMESTIC POLICY

### FACSIMILE TRANSMISSION COVER SHEET

TO: Bruce Reed

FAX NUMBER: 6-2878

TELEPHONE NUMBER: \_\_\_\_\_

FROM: Elizabeth

TELEPHONE NUMBER: \_\_\_\_\_

PAGES (INCLUDING COVER): \_\_\_\_\_

COMMENTS: Under's drafts w/ Speed writings  
Suggestions / edits

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## STATEMENT BY THE PRESIDENT

The President today expressed his disappointment with the District Court's ruling that the Food and Drug Administration exceeded its jurisdiction in issuing rules governing the access and marketing of tobacco products to teenagers. The President directed the Justice Department to file an appeal immediately. He further directed the Department to seek to expedite the appeal to the maximum extent possible.

The President's action followed a careful review of the District Court's opinion by the senior attorneys for the HHS, FDA, and the Department of Justice. <sup>has directed the DOJ</sup> On the basis of that review, ~~the Solicitor General informed the President that an appeal would be appropriate. The President directed that the appeal should go forward immediately.~~

"This is a fight for the health and lives of our children. Each day, 3,000 young people become regular smokers; 1,000 of these young people will have their lives cut short as a result of smoking. ~~Unless we and the states are allowed to protect our children with effective laws and rules now, five million children alive today will have their lives cut short by the deadly diseases caused by tobacco use.~~ This is a fight we cannot afford to lose. It is a fight we cannot afford to stop waging.

<sup>That is why</sup> <sup>The VP and I are so committed to protecting our young people from tobacco marketing that tempts them to smoke</sup> "Our children have the odds stacked against them. The industry spends more than \$5 billion a year promoting and marketing its products. Joe Camel tells our children smoking is cool. The Marlboro Man tells them smoking will make them independent. Virginia Slims and Merit promise them glamour.

<sup>as approp</sup> "Our common sense approach is aimed at limiting the appeal of these products and making it harder for children to buy them. Store clerks have a responsibility to make certain that they are not selling tobacco products to anyone under 18. Asking for a photo ID is just plain common sense. Keeping tobacco billboards away from schools and playgrounds is just plain common sense.

"We are not walking away from this fight with the tobacco companies. <sup>to</sup> We will protect our children and our children's children. We will not stop until we succeed."

*Where our children's health & safety are concerned  
we cannot, and we will not rest,*

Partial or complete victory

## STATEMENT BY THE PRESIDENT

This is a landmark day for the nation's public health and for our children. With this ruling, we can regulate tobacco products and protect our children from a lifetime of addiction and the prospect of having their lives cut short by tobacco-related diseases.

[*Option One - the Court upholds the advertising restrictions:* We can kick Joe Camel and the Marlboro Man out of our children lives.] [*Option Two - the Court invalidates the advertising restrictions and no decision has been made about an appeal:* Obviously, the Department of Justice, HHS, and FDA will review the Judge's decision where he questioned the FDA rule, but the bottom line is historic: the federal government can regulate tobacco products to protect our children's health.] [*Option Three - the Court invalidates the advertising restrictions and the decision is made to appeal the ruling:* On the basis of a careful review of the District Court's opinion by senior attorneys for the Department of Justice, HHS and FDA, the Solicitor General has informed the President that an appeal with respect to those aspects of the FDA rule held invalid by the District Court would be appropriate and the President has directed the Justice Department to file an appeal. But the historic nature of this decision should not be lost: the federal government can regulate tobacco products to protect our children's health.]

Our children will live healthier and longer lives because of today's ruling.

Feel free to add some rhetoric  
from longer statement  
as appropriate.

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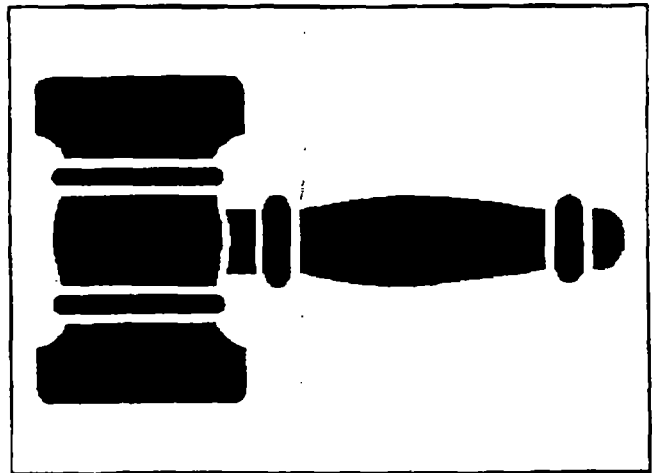
FACSIMILE TRANSMISSION

U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Room 713-F H.H. Humphrey Building  
Washington, DC 20201

TO: Elizabeth Dye

FROM: Andrew D. Hyman  
Office of the General Counsel  
Telephone: 202/690-6318  
Facsimile: 202/690-7998

FAX:



No. of pages: 2

MESSAGE:

I'm sure you have this, but just in case...

Bruce -- two points

1. People here wanted to have the Dept of Justice announce that the SG had made a decision to appeal since (1) the statute and regs require the SG's authorization for taking any appeal and such a decision (like an administrative agency action) should not be made by others and (2) it is important to make clear that any decision to appeal was made after a review of the merits of the District Cts decision. I responded that it was an non-starter to have anyone but the President be taking the active, visible role on this. My best quick shot had making the President the active decisionmaker while preserving the above considerations would go as follows. Share with McCurry if you think appropriate.

The President has directed that an appeal be filed immediately, {and has further directed [the Solicitor General] [the Department of Justice] to seek to expedite the appeal the maximum extent possible.}

The President's action followed a careful review of the District Court's opinion by the senior attorneys for the FDA, HHS and the Department of Justice. On the basis of that review the Solicitor General [authorized an appeal to the Court of Appeals] [informed the President that an appeal would be appropriate.] The President directed that the appeal should go forward [immediately] [promptly].

2. I have thought about the possibility of going directly to the Supreme Court. "Certiorari before judgement" is legally possible but very rare (Steel Seizure; the Iranian Claims Settlement) unless directed by Congress (Communications Decency Act; Line Item Veto).

**Advantage:** it would lead to the quickest final result

**Disadvantage:** the court would probably reject the request

fastest schedule would be an October argument and a Jan 98 decision  
we could win in the 4th circuit, and most importantly, we could possibly get a 4th circuit decision in time for the August 28 implementation date by successfully arguing for expedition: Gov Br on May 23, Plaintiff's Br on June 17, Govt Reply Brief on June 27, argument on or about July 10 to 15. On that schedule we could possible get a decision by August 28 lifting the stay and letting the rules go into effect. Or at least we could get one shortly thereafter. -- Walter