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**A National Legal-Action Antismoking Organization**

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**CONGRESS CAVES TO TOBACCO INDUSTRY [8.1.3] Shows Danger of Proceeding with Global Settlement**

Not only did Congress pass a cigarette tax increase that is too little too late, but they have given the tobacco industry a 50 billion dollar windfall. Most significantly, the language giving the tobacco industry the windfall was snuck into the budget agreement behind closed doors. Essentially, it's 24 billion for children's health and 50 billion for the tobacco industry. This is outrageous.

If Congress can't even pass a simple cigarette tax increase, how can they possibly be trusted to enact a complex global tobacco settlement? The tobacco settlement is seriously flawed and needs major repair. If Congress tries to move a bill forward like the one being prepared in the Senate Judiciary based on the settlement, we can expect a bad bill to get worse. Sneak provisions in the dead of night are a tobacco industry specialty.

Congress should let the Court's and agencies do their job. If not, Congress needs to follow Koop-Kessler's advice and start with the public health not a tobacco agreement that already favors the industry.

Following are excerpts from the New York Timesan Associate Press reports of this egregious deal:

In a potential windfall for cigarette producers, new taxes paid by smokers will save the tobacco industry billions of dollars by reducing the amount of money companies would owe if the proposed tobacco settlement plan became law.

Under a last-minute addition to the new budget deal, revenue generated by the added tobacco taxes will be counted as credits toward payments by cigarette companies if the \$368.5 billion plan reached in June between tobacco producers and state attorneys general takes effect.

Several lawmakers expressed anger yesterday on seeing its exact language. In a final effort to derail it, Senator Richard J. Durbin, Democrat of Illinois, introduced language to strike the provision, but fellow lawmakers voted 78 to 22 to defeat the motion.

Under the budget agreement, Federal taxes on a pack of cigarettes, which now stand at 24 cents, would rise 10 cents in the year 2000 and 5 cents more in 2002. That would produce \$5.2 billion in new revenue over five years and \$16.7 billion over the next 10 years, which is currently scheduled to be used to pay for health coverage for uninsured children.

Cigarette industry officials had initially fought an increase in cigarette taxes but then supported the tax rise so long as the money was used as a credit against payments they would make under the settlement plan.

The Senate upheld the provision Thursday, 78 to 22, after Sen. Richard Durbin (D-Ill.) moved to strip it from the bill. He said over 25 years the cigarette tax would raise \$ 50 billion, which tobacco companies would not have to spend on the anti-smoking initiatives they have promised under the agreement.

"It just gave them a \$ 50-billion windfall," Durbin said.

"This is a clear indication that the tobacco lobby is strong. It's powerful," said Sen. Edward M. Kennedy (D-Mass.), who said the provision was slipped into the massive tax bill behind closed doors. "The tobacco lobby cannot stand the light of day."



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## Tax Bill Provision Helps Tobacco

*By Laura Meckler*

Associated Press Writer

Friday, August 1, 1997; 2:34 a.m. EDT

WASHINGTON (AP) -- A new cigarette tax will not just pay for children's health care. It will offset anything tobacco companies might have to pay to settle health claims against the industry.

The tax bill that the House and Senate finished Thursday included a gradual increase of 15 cents a pack in the federal cigarette levy and, in a last-minute revision, directed that the extra revenue be credited toward whatever overall tobacco settlement comes out of Congress.

The proposed agreement Congress is considering calls for the tobacco industry to pay \$368 billion over 25 years to settle 40 state lawsuits.

Sen. Dick Durbin, D-Ill., who led an unsuccessful attempt to strip the tobacco credit provision from the tax bill before it passed the Senate, said that over 25 years the higher cigarette tax would raise \$50 billion.

"It just gave them a \$50 billion windfall," Durbin said.

"This is a clear indication that tobacco lobby is strong," said Sen. Edward Kennedy, D-Mass., who said the provision was slipped into the massive tax bill behind closed doors. "The tobacco lobby cannot stand the light of day."

The tobacco industry's spokesman on the settlement had no immediate comment. White House spokesman Mike McCurry said he was not familiar with the matter, and officials at the Treasury and Health and Human Services departments had no comment.

Sen. William Roth, R-Del., chairman of the Senate Finance Committee, said removing the provision would have

created problems because the Senate version then would have differed from the version the House passed on Thursday. That would have caused further House action on the bill.

"I do not believe we should delay this historic opportunity that is within our grasp," Roth said. Durbin allowed that most senators "want to go home" for their August recess.

Sen. Daniel Patrick Moynihan, D-N.Y., voted against removing the measure, calling it "a meaningless provision with no binding effect."

But Durbin said the tobacco companies would argue that Congress was on record in support of the credit.

Kennedy originally pushed for a 43 cent tobacco tax to finance a new children's health program. That was cut in half by a Senate committee and cut again in the final bill to a 10 cent increase in 2000 and 5 cents more in 2002.

It is expected to raise about \$5 billion over five years. The children's health program will cost \$24 billion over that same period, with some \$21 billion coming from the general treasury.

Kennedy said he would work to overturn the provision, possibly as the Senate debates the tobacco settlement itself.

Senate Majority Leader Trent Lott, R-Miss., has said that a tobacco tax was inappropriate given that the settlement was on the table. His spokeswoman, Susan Irby, said she did not know if he was involved in getting the credit provision added.

But she noted that the White House signed off on the entire bill after reading the final language.

"Everything is in there because it's been agreed to by all parties," she said.

Meanwhile, the American Medical Association said Thursday that it would support the proposed tobacco settlement if Congress toughened the deal.

Under the deal, the tobacco industry would pay \$368 billion over 25 years, curb their advertising and oppose teen smoking. In return, they won restrictions on Food and Drug Administration nicotine control, a ban on class-action lawsuits and protection against heavy jury verdicts.

The AMA said Congress must strengthen FDA control over nicotine and the fines the industry would pay if teen smoking didn't drop.

But the AMA broke from other health organizations to back one industry requirement: That the FDA not be allowed to ban nicotine for 12 years.

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## The Business of Tobacco

### Sales

Cigarette sales in the U.S. are a \$45 billion business.

Tobacco industry sales



### Revenue

Big tobacco firms have diversified their portfolios to protect themselves against uncertainties of the future. Tobacco production is now only a part of the company business. Revenue from tobacco compared to total revenue in 1996:

	<b>TOBACCO REVENUE</b>	<b>TOTAL REVENUE</b>	<b>TOBACCO AS PERCENT OF TOTAL</b>
<b>Philip Morris</b>	\$36.5 billion	\$69.2 billion	53%
<b>R.J. Reynolds</b>	\$8.2 billion	\$17.0 billion	48%
<b>Lorillard</b>	\$40.4 million	\$20.4 billion	2%
<b>Liggett</b>	\$447.5 million	\$452.7 million	99%

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**THE NEWS & OBSERVER**

Friday

August 1, 1997

## Liggett debt pay delayed

DURHAM -- Liggett Group Inc. has postponed debt payments that were due today and is still in negotiations with its bondholders.

BUSINESS | NEXT STORY

The troubled cigarette manufacturer, based in Durham, was scheduled to make interest payments on two notes. Liggett's parent, Brooke Group Ltd. in Miami, announced Thursday that it would not make those payments as scheduled.

Under terms of the notes, Liggett has a 30-day grace period before it is in default, Brooke Group said.

Negotiations are continuing. In June, Liggett said it entered talks with bondholders to try to restructure its debt. The company has \$145 million in balloon payments due early next year and in 1999, but it hopes to put off payments until 2004.

The company's independent auditor warned in March that Liggett was not generating enough cash to pay its debts. Liggett's cigarette market share has been declining for years.

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August 1, 1997

## Producers of Tobacco Get Windfall in Tax Deal

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  - [For Tobacco Companies, Budget News Is Mixed \(July 30, 1997\)](#)
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By **BARRY MEIER**

**I**n a potential windfall for cigarette producers, new taxes paid by smokers will save the tobacco industry billions of dollars by reducing the amount of money companies would owe if the proposed tobacco settlement plan became law.

Under a last-minute addition to the new budget deal, revenues generated by the added tobacco taxes will be counted as credits toward payments by cigarette companies if the \$368.5 billion plan reached in June between tobacco producers and state attorneys general takes effect.

It was known that industry lobbyists had been aggressively seeking such a provision, but several lawmakers expressed anger Thursday on seeing its exact language. In a final effort to derail it, Sen. Richard Durbin, D-Ill., introduced language to strike the provision, but fellow lawmakers voted 78-22 to defeat the motion.

"They are going to make \$50 billion," Durbin said, "and it is a very smooth move on their part."

The senator and others said the settlement's price tag would probably have to be increased to reflect the effect of the new tax on the company's payments.

Under the budget agreement, Federal taxes on a pack of cigarettes, which

currently stand at 24 cents, would rise 10 cents in the year 2000 and 5 cents more in 2002. That would produce \$5.2 billion in new revenue over five years and \$16.7 billion over the next 10 years, which is currently scheduled to be used to pay for health coverage for uninsured children.

Durbin said his \$50 billion figure represented the amount of revenue generated by the added taxes over the first 25 years of the tobacco settlement proposal.

Cigarette industry officials had initially fought an increase in cigarette taxes but then supported the tax rise so long as the money was used as a credit against payments they would make under the settlement plan. The industry's ability to get the revenue proposal enacted into law had been viewed as a crucial test of its political strength.

Industry lobbyists had argued privately that any new cigarette taxes should offset additional contributions they should have made to federal healthcare programs like Medicare. But if the proposal's \$365.8 billion pricetag is not increased to reflect the new budget provision, it will likely save the companies billions of dollars.

Susan Irby, a spokeswoman for Sen. Trent Lott, the majority leader, said Clinton administration officials had been involved in discussions about the provision.

"To describe this as something that was done in the dead of night is poppycock," Ms. Irby said.

Barry Toiv, a White House spokesman, acknowledged that the provision had been discussed by Clinton administration officials during budget talks. But Toiv added that the provision was not considered meaningful for the moment because the amount of money the industry would pay has not been set.

"I don't think that the administration is going to be inclined to let this provision reduce the industry's contribution in any way," Toiv said.

Separately, jury selection was scheduled to begin Friday in the state of Florida's lawsuit against the tobacco industry. The state is seeking to recover billions of dollars in Medicaid costs spent treating smoking-related illnesses. Jury selection, which is taking place in Palm Beach, is expected to take at least a month.

Last month, Mississippi, the first state scheduled to go trial against producers, settled its case for over \$3 billion. But while negotiators for the Florida and the tobacco industry have been in talks to settle that case they have run into stumbling blocks. Along with money, Florida is demanding that the industry make certain public health concessions and release confidential documents.

In a ruling on Wednesday, Judge Harold Cohen of Palm Beach Circuit Court removed a crucial industry position by holding that tobacco companies could

not use a smoker's knowledge about the product's dangers as a defense. Tobacco company lawyers said they would appeal the ruling.

Though tobacco companies and state attorneys general reached an agreement in June on a tentative settlement plan, states can choose to press their lawsuits while Congress considers turning the proposal into legislation.

Under the proposal, tobacco producers agreed to pay billions of dollars to settle claims by states and smokers, agreed to marketing restrictions and agreed to pay fines if youth smoking does not drop. In return, they would receive protection against lawsuits and punitive damages.

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The tobacco industry's spokesman on the settlement had no immediate comment. White House spokesman Mike McCurry said he was not familiar with the matter, and officials at the Treasury and Health and Human Services departments had no comment.

Sen. William Roth, R-Del., chairman of the Senate Finance Committee, said removing the provision would have created problems because the Senate version then would have differed from the version the House passed on Thursday. That would have caused further House action on the bill.

"I do not believe we should delay this historic opportunity that is within our grasp," Roth said. Durbin allowed that most senators "want to go home" for their August recess.

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## **Big Tobacco swings a deal in Senate on how proposed cigarette tax is used**

*Friday, August 1, 1997*

**THE ASSOCIATED PRESS**

WASHINGTON

The money raised by a new cigarette tax would offset anything tobacco companies would otherwise have to pay to settle health claims against the industry, under a provision inserted into the tax bill at the last minute.

The tax money, designed to pay for children's health, would be credited toward any settlement of claims. The agreement Congress is considering calls for the industry to pay \$368 billion over 25 years to settle 40 state lawsuits.

The Senate upheld the provision yesterday, 78-22, after Sen. Richard Durbin, D-Ill., moved to strip it from the bill. He said that over 25 years, the cigarette tax would raise \$50 billion, which tobacco companies would not have to spend on the anti-smoking initiatives they have promised under the agreement.

"It just gave them a \$50 billion windfall," Durbin said.

"This is a clear indication that tobacco lobby is strong. It's powerful," said Sen. Edward Kennedy, D-Mass., who said that the provision was slipped into the tax bill behind closed doors. "The tobacco lobby cannot stand the light of day."

The tobacco industry's spokesman on the settlement had no immediate comment.

Mike McCurry, the White House spokesman, said yesterday that he was not familiar with the issue, and officials at the Treasury and Health and Human Services departments had no comment.

Sen. William Roth, R-Del., the chairman of the Senate Finance Committee, said that removing the provision would create problems because the Senate version would differ from the House version. Congress was finishing its work yesterday.

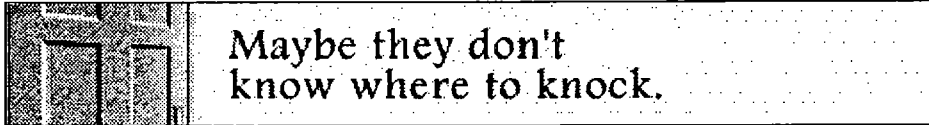
"I do not believe we should delay this historic opportunity that is within our grasp," Roth said. Durbin noted that most senators "want to go home" for their August recess.

The bill calls for a 10-cent increase in 2000 and 5 cents more in 2002.

It is expected to raise about \$5 billion over five years. The children's health program will cost \$24 billion over that period.

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# B.A.T will hold its dividend for first time in 21 years

- It anticipates paying more than expected in U.S. tobacco settlement

Thursday, July 31, 1997

BLOOMBERG NEWS

LONDON

B.A.T Industries Plc will leave its dividend unchanged for the first time in at least 21 years and warned that it may have to pay more than it expected in the U.S. tobacco industry's settlement of health-related lawsuits.

The move came as the tobacco and financial services company, based in London, said that net income fell 15 percent in the second quarter, held back by the stronger pound and lower tobacco profit in key markets in the United States and Asia.

B.A.T shares fell 3.8 percent. The decision to hold the first-half dividend at 10 pence broke a pledge to keep raising the payout above the rate of inflation. It also comes a week after B.A.T agreed to buy Mexican cigarette-maker CLM for \$1.7 billion, which will further stretch its balance sheet.

"Shareholders are getting a bit of a raw deal," said Martin Ayres, a fund manager with AXA Equity & Law, which holds about 19.5 million B.A.T shares. "Obviously the management are extremely worried about what the cash flow of this company is going to look like."

B.A.T said it fears that opponents could force higher payments on tobacco companies before the U.S. Congress approves the

settlement, which was proposed last month and would see the companies pay \$368.5 billion over 25 years.

"The industry is clearly passing through a valley of uncertainty," Chairman Lord Cairns told analysts at a London briefing. "This is the moment to pause in our dividend policy and wait until the mist lifts."

He said that B.A.T is confident of paying a final dividend of at least 16 pence to match last year's total of 26p, adding that the persistent strength of the pound in the past year played a smaller role in the decision to hold the dividend.

"If there was another issue, it's the fact that earnings were down," said Martin Broughton, B.A.T's chief executive. "That was another cautionary element in the overall picture." He said that B.A.T had not held its dividend since at least 1976, when the holding company was formed.

B.A.T shares closed down 20.5 pence at 519.5 after earlier falling as much as 24p. About 15 million shares traded, compared with a three-month daily average of 6.4 million.

**B.A.T, with brands such as Lucky Strike and Pall Mall, is the world's second-biggest cigarette-maker after Philip Morris.**

**Some observers said that the decision to hold the dividend may be at least partly political, to help convince opponents of the settlement that it is causing real pain.**

**JournalNow**

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**LATEST NEWS**

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did not provide for the costs incurred by federal programs such as Medicare and the Veterans Administration.

Dr. Jeffrey E. Harris, a physician at Massachusetts General Hospital who teaches economics at the Massachusetts Institute of Technology, told the Senate Judiciary Committee that Medicare costs alone for smoking-related illnesses amount to an estimated \$9.3 billion a year, or \$192 billion over the next 25 years.

"That number vividly demonstrates the inadequacy of the dollar amount of the current settlement," said Senator Edward M. Kennedy.

Massachusetts Attorney General Scott Harshbarger, who helped broker the settlement, defended the proposal.

Responding to the study on the executives' stock options, Harshbarger spokesman Ed Calasso said: "If Congress were to approve this settlement today, the taxpayers of Massachusetts would receive up to \$500 million a year from big tobacco every year forever. That's not a stock option. It's like a tax cut for every person in the state forever."

The Senate panel also heard from the advertising and convenience store industries, whose spokesmen said they would suffer under the settlement.

Advertisers said the industry does more than \$3 billion a year in tobacco business, much of which would be eliminated under restrictions required by the settlement.

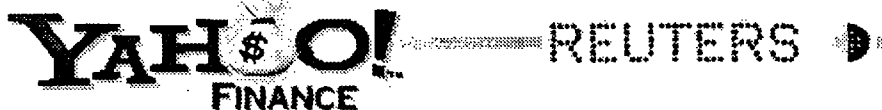
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Thursday July 31 10:57 PM EDT

## Cigarette tax could be part of overall deal

By Joanne Kenen

WASHINGTON, July 31 (Reuter) - In a move blasted by tobacco critics, the U.S. Congress voted on Thursday to include the new cigarette tax for children's health care in any eventual nationwide settlement for tobacco litigation.

The cigarette tax increase -- 10 cents a pack in the year 2000 and another five cents in the year 2002 -- was approved by the House of Representatives and Senate as part of a sweeping budget spending bill. The money is supposed to help cover children with no health insurance.

The provision about taking the tax out of any eventual tobacco settlement was later inserted under the "miscellaneous provisions" section of the companion tax-cut bill.

Oklahoma Sen. Don Nickles, the deputy Republican leader of the Senate, said he thought it had been "inadvertently left out" of the spending bill and therefore added to the tax bill. He said the idea of linking the tax to the settlement had been part of the budget negotiations with the White House.

Calling it a "dirty trick," Sen. Frank Lautenberg, a New Jersey Democrat, said, "This is yet another sign that we can't take what the tobacco lobby says or promises in good faith.

"There was nothing miscellaneous about this add-on," said Sen. Dick Durbin, an Illinois Democrat. "It was a calculated move by an industry which still has plenty of friends on Capitol Hill."

Tobacco foes said they would try to counter this move by raising the amount of money the industry would have to pay out in the overall settlement, now pegged at \$368 billion over 25 years. The current tax is 24 cents per pack.

The cigarette tax increase, backed by Republican Sen. Orrin Hatch of Utah and Democrat Sen. Edward Kennedy of Massachusetts, was not originally linked to a tobacco deal. The Senate backed a 20 cent hike, but it was scaled back in negotiations with the House.

Congress after its August recess is expected to begin hearings on the proposed tobacco settlement, which would settle 40 state lawsuits and a slew of class actions against the industry. The settlement would have to be enacted by Congress.

“One of our challenges we have before us is to determine whether we're going to have a tobacco bill, and we'll be working on that. But if we do and it has a tax component, this tax increase would be credited to it,” Nickles said.

One Democrat said, “I don't really understand why the Republicans did this, it shows they are doing the bidding of the tobacco lobby and makes them look like cretins.”

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July 30, 1997

## For Tobacco Companies, Budget News Is Mixed

By **BARRY MEIER**

**F**or tobacco companies, the 15 cent federal excise tax increase in the price of a pack of cigarettes may prove to be a mixed blessing.

Cigarette makers have traditionally fought any proposals to increase tobacco taxes, which currently stand at 24 cents a pack, and have been generally successful in beating back such efforts.

But this year, producers first faced a threat when Sens. Orrin Hatch of Utah, a Republican, and Edward Kennedy of Massachusetts, a Democrat, proposed raising cigarette taxes by 20 cents a pack to finance health coverage for uninsured children. That bill was defeated, and although House Speaker Newt Gingrich opposed a tax increase, the White House backed a 20 cent increase and the Senate passed legislation for it.

The tobacco industry was successful in knocking 5 cents off that proposal. The current plan would raise cigarette taxes by 10 cents a pack in the year 2000 and add 5 cents in 2002 -- meaning that a two-pack-a-day smoker would be paying about \$110 a year more than at present.

The critical question is whether the \$5.2 billion raised by the new cigarette taxes over the next five years will be credited against the \$368.5 billion proposed settlement reached last month between tobacco companies and state attorneys general.

Industry sources were uncertain Tuesday what the answer would be.

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*Perspective - The week in review*

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## **WARNING: TOBACCO PACT IS HAZARDOUS TO NATION'S HEALTH**

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**OPINION**  
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**By Haskel Benishay. Haskel Benishay teaches  
macroeconomics and management classes in the Kellogg  
Graduate School of Management**

*Web-posted Sunday, July 27, 1997; 6:11 a.m. CDT*

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[News](#)

I am an ex-smoker. I believe smoking is unhealthy and unattractive. I do not advocate smoking for anybody. I also am a professor of managerial economics at Northwestern University, and my abhorrence of smoking does not lead me to believe that severe punishment of the tobacco industry is sensible or good for the country.

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[Financial](#)

The recent pact between 40 state attorneys general and tobacco industry executives contains several extreme and harmful features, and it reflects incorrect assumptions.

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The pact imposes a fine on the industry of \$368.5 billion to be paid over 25 years, about \$14.7 billion per year. The industry earns about \$7 billion a year. Under current conditions, the industry will end up with a yearly shortfall of about \$7.7 billion. This is an untenable situation.

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If the pact is approved by Congress and the president, the cigarette companies certainly will be compelled to increase the price of cigarettes substantially. In my judgment, even with a substantial price increase, the industry will not be able to pay the \$14.7 billion annually. An increase in price will cause a commensurate decrease in volume. Total revenue will remain the same or increase only slightly. The shortfall will remain and will bring about bankruptcies of the cigarette companies.

The projected increase in the price of cigarettes will encourage

illegal production of domestic cigarettes. It also is sure to foster cigarette smuggling into the U.S. from neighboring countries, as well as from distant countries where tobacco is grown and processed. We will face an increase in domestic law-breaking and in contraband imports.

The pact requires the industry to ensure that teen smoking is reduced over time. If teen smoking does not decrease, the industry will be punished. This is a strange and unrealistic requirement. The industry has only limited control over teen smoking, which spreads mostly because of psychological teenage factors. The tobacco companies committed a grave error by agreeing to such a requirement.

To a large extent teenage smoking is a way for teenagers to rebel and assert their autonomy. Reduced advertising and elimination of cigarette vending machines--changes that are part of the agreement--will make little difference. Ignoring these factors reflects ignorance on the part of cigarette-makers.

The agreement requires that the tobacco industry reduce its advertising drastically. This requirement is unconstitutional. It restricts commercial speech and therefore is on a slippery slope leading to a suppression of political speech.

The fact that cigarette-makers agreed to the Draconian terms of the agreement is puzzling. It is highly likely that cigarette company executives agreed to their own industry's death warrant because they felt psychologically defeated and exhausted. That's not a good reason to yield.

The projected bankruptcies of cigarette companies in turn will cause bankruptcies for hundreds of thousands of tobacco farmers. Very little has been said to date by the attorneys general, tobacco executives or elected federal officials about the future plight of the tobacco farmer.

The pact implies that smoking is the sole cause of various illnesses, although, in fact, smoking is one of several contributors to them. Medical research has shown that lack of exercise, the consumption of animal fat in milk and meat, excessive alcohol consumption, as well as air pollutants, also are contributors to health problems.

Because smoking is only one of several factors, it is unfair to single out the tobacco industry.

Cigarette companies are punished for contributing to an increase

in illnesses due to the nicotine component in their product. In the same vein it is logical to argue that because the milk and meat industries also contribute to illnesses due to the animal fat in their products, they should be punished--a first step in another slippery slope?

If one smokes more and eats less, one may reduce the risk of illnesses resulting from being overweight. Therefore, smoking is not all bad.

Addiction to hard drugs is far more harmful than smoking. Smokers do not rob and steal to maintain their habit. Hard-drug addicts do. The current zealous anti-smoking campaign removes the focus from the fight against hard drugs. It gives the politicians and the public a sense of doing good while the fight against hard drugs is neglected.

There is an implicit assumption in the recent agreement that cigarette companies are to blame for smoking and that smokers are innocent victims who do not have the responsibility to kick their habit. This point of view will justify continuation of smoking. Smokers will say, "The cigarette companies are to blame. They made me start and continue smoking. Not quitting is not my fault." Continuation of smoking is likely to be an undesirable consequence of the agreement.

The punishment meted out in the agreement is likely to result in dire consequences for employments and livelihoods in the tobacco industry and in industries directly and indirectly related to tobacco. My hope is that Congress will understand the harmful effects of the agreement and will not ratify it.

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# Columbia Directors Meet on Departure Of Chairman Scott

Continued From Page A3

1994, in the minds of most in Nashville the company has remained inextricably linked to the Frists. Even today the company is often referred to by many in Nashville, not as Columbia/HCA, but as "HCA/Columbia."

"It doesn't matter how many different companies Columbia acquires, you'll never be able to separate the Frist name from it," says Tom Perdue, who ran the winning U.S. Senate campaign of Bill Frist, the youngest of the Frist sons. "In Nashville you'll never be able to untie it. So when Columbia makes a mistake or is criticized, no one takes it harder than the Frists."

When Columbia's image began to tarnish, the Frist family took it personally, say those close to the family.

## Image Overrides Stock Price

"How the company behaves publicly and how it is perceived in Nashville is more important to the Frists than the stock price," says one former HCA director who is also close to the Frist family.

Dr. Frist was listed as owning more than 14 million shares, according to Columbia's latest proxy statement, dated April 14. Donald S. MacNaughton and R. Clayton McWhorter each were listed as owning more than 550,000 shares, while William T. Young was listed with about 950,000 shares, according to the proxy statement. Mr. Scott was listed as owning about nine million Columbia shares in the latest proxy material.

Neither Dr. Frist nor other Columbia directors could be reached for comment yesterday.

In composite trading yesterday on the New York Stock Exchange, Columbia, which has a market value of \$24 billion, closed at \$36.25, down 6.25 cents. Tenet closed at \$30, down 12.5 cents. The Santa Barbara, Calif., company is valued at \$9 billion.

While disclosure of the merger talks has boosted both companies' shares, the discussions appear unlikely to erase the investigation of Columbia, which is entering into full swing.

Some government officials are determined to take a hard line on any alleged violations of federal law by Columbia, according to people familiar with the investigation.

In a previous case against National Medical Enterprises Inc., which was renamed Tenet, the government collected \$380 million in fines and other payments. However, top officials of National Medical weren't subject to criminal prosecution.

Federal investigators now believe that the outcome in that case sent the wrong signal - that people are able to resolve fraud investigations by paying a substantial penalty. As a result, officials may well press for criminal prosecution of individuals, if they believe they have a strong enough case.

However, the Columbia investigation still has a long way to go. One top law-enforcement official observed: "The difficulty with major cases is that you never know how they're going to develop. It could be a joint national prosecution, it could be

# Jury Orders Dallas Diocese To Pay Almost \$120 Million

DALLAS (AP) - In what is believed to be the largest verdict of its kind, the Roman Catholic Diocese of Dallas was ordered to pay nearly \$120 million for allowing a priest to molest altar boys and then conspiring to cover it up.

The lawsuit was brought by 10 men the clergyman was accused of molesting and the family of an 11th alleged victim who committed suicide.

Their lawyers contended that the diocese had ignored evidence that the Rev. Rudolph Kos was molesting boys. The diocese didn't dispute the molestation claims but denied it was negligent or engaged in a coverup.

The state court jury awarded about \$101 million in compensatory damages and \$18 million in punitive damages. Church officials said they will appeal.

The jury agreed that the diocese was negligent in its handling of the priest, lied about him, inflicted emotional distress on the plaintiffs and committed fraud.

Diocesan lawyer Randal Mathis said Catholic officials were "good people" who wrongly concluded that Father Kos, who now lives in San Diego, wasn't engaged in sexual misconduct.

hospital administrators in big Columbia markets, such as Denver, quit en masse.

Mr. Scott also began to lose support among some Columbia doctors and executives, some of whom still had close ties to executives from HCA and HealthTrust, which Columbia acquired in 1994 and 1995, respectively. Word of those concerns sometimes filtered up to Columbia's three directors from those acquisitions: Dr. Frist, former chairman and chief executive of HCA; Mr. MacNaughton, HealthTrust's former chairman of the executive committee; and Mr. McWhorter, HealthTrust's former chairman and chief executive.

Meanwhile, Columbia and Tenet are trying to resolve how to take into account potential fines that Columbia would pay if it had to settle potential criminal or civil charges, say people familiar with the situation.

The problem for Tenet is that giving Tenet shareholders "contingent" value dependent upon legal proceedings could make a pooling-of-interest accounting treatment difficult, analysts and experts say. Under Internal Revenue Service rules, stock issued in a pooling merger can't have "contingent" consideration such as extra value or stock whose value is tied to a particular event, according to Robert Willens, a tax and accounting expert at Lehman Brothers Inc.

So-called pooling is important because an acquirer avoids goodwill charges - the difference between book value and the prices paid - that would be deducted from earnings. Though largely cosmetic, purchase-accounting hurts reported earnings.

Tenet wants to protect its shareholders if the liability ends up in the billions of dollars. Mr. Barbakow has received high marks for navigating what had been National Medical Enterprises through a federal investigation a few years ago. Still, the investigations are continuing and there are no signs of settlement talks at this point

# UST Posts 2% Decline in Profit, Plans Marketing Push for Smokeless Tobacco

By SUEIN L. HWANG

Staff Reporter of THE WALL STREET JOURNAL

The big smokeless-tobacco maker UST Inc. reported a 2% drop in second-quarter earnings and unveiled several counter-punches against cheaper brands, including test-marketing of a new discount snuff called Red Seal and one-time price promotions for older products.

The Greenwich, Conn., company said quarterly net income fell to \$116.9 million, or 64 cents a share, from \$119.1 million, or 62 cents a share, a year earlier. Per-share earnings rose because of a 5% drop in the number of shares outstanding. Sales rose 4% to \$365.1 million.

Wall Street had been warned that UST's second quarter would be a difficult one. "There's been strong growth in the discount segment, which has really hurt the company," said Smith Barney's Martin Feldman, who estimates the discount segment of the market could grow to 11% by the end of next year from 9% today.

Yesterday, UST stock closed at \$28.625.

unchanged, in composite trading on the New York Stock Exchange.

UST also formally announced marketing and sales initiatives designed to beat back rivals who have been steadily eating away at its market share, which for many years topped the 80% mark. For years, UST easily dominated the market with such longtime favorites as Copenhagen and Skoal. But more recently, the company's user base has been eroding at the hands of far-cheaper discount brands as well as Conwood Co.'s Kodiak, a wintergreen-flavored snuff that's been stealing away younger dippers in droves.

"In the past, UST didn't give either volume or coupon discounts, but it has entered a new way of doing business," Mr. Feldman said. Added Oppenheimer's Roy Burry: "The cost of these programs relative to their volume benefits remains in question."

As previously reported, the company said it will begin test marketing a discount snuff called Red Seal, which will be launched in selected markets where discount brands are doing well, at a special list price below that of most discount brands. The company confirmed to analysts yesterday that in some of those select markets it will offer 50-cents-off coupons on Copenhagen and Skoal, which it says will prevent customer defections to the cheaper Red Seal product.

UST unveiled other strategies, including two special quarterly promotions in the rest of 1997 in which customers can buy four-can packs of Copenhagen and Skoal Wintergreen at a one-time reduced price. People familiar with the company say UST shelved consideration of across-the-board discounts because of sensitivities raised by the proposed tobacco-industry settlement. If enacted, the settlement is expected to raise prices of smokeless-tobacco brands by 15 cents a can - a move that would please critics who believe price increases are an effective way to keep children from experimenting with tobacco.

UST said it plans to launch a new marketing campaign focusing on the freshness of Copenhagen, a snuff brand still packaged in cardboard cans and stamped with a manufacture date. The company said it is considering test-marketing a sweeter, wintergreen-flavored snuff to compete with Kodiak later this year.

## ALLEGHENY POWER SYSTEM INC.

Allegheny Power System Inc. reported that second-quarter net income was down 3.9%, primarily because of cooler-than-normal spring weather, which reduced demand for electricity. The Hagerstown, Md., utility's net fell to \$51.7 million, or 42 cents a share, from \$53.8 million, or 44 cents a share, a year earlier. Per-share earnings reflect a larger number of shares outstanding in the recent quarter. The results were two cents below a First Call consensus of analysts' estimates. Allegheny shares were unchanged at \$28.50 in New York Stock Exchange composite trading. Revenue dropped 1.5% to \$542.8 million from \$550.9 million. For the six months, Allegheny's net rose 23% to \$129.3 million; revenue fell 3.4%.

# Today's Man to File New Repayment Plan Offering Stock, Cash

By a WALL STREET JOURNAL Staff Reporter

MOORESTOWN, N.J. - Menswear retailer Today's Man Inc., unable to finance an all-cash recovery to creditors in its bankruptcy proceedings, said it intends to file an amended plan of reorganization offering creditors some stock as well.

Today's Man has been operating under Chapter 11 of U.S. bankruptcy law since February 1996. In a previously filed plan, Today's Man had offered creditors \$68 million in cash, a 100% recovery on their claims. Yesterday, the company said it plans to offer cash plus an undisclosed equity stake that it said would be valued at \$15 million. The company said the total value would still be \$68 million.

The company said it would file an amended plan by Wednesday and expects to emerge from bankruptcy proceedings in time for the Christmas selling season.

The retailer said it will finance the plan with \$42.5 million in debt, \$10 million in cash on hand, and \$16 million raised through an equity rights offering to shareholders and an investment group led by the company's chairman, David Feld. Lawrence Gottlieb, an attorney for the creditors, said creditors will evaluate whether the equity offered to creditors is valued at the same rate as that offered to the shareholders and management group. Creditors still seek an additional \$9 million in interest on their claims.

Shares of Today's Man fell 8.2%, or 25 cents, to close at \$2.8125 in Nasdaq Stock Market trading.

A Today's Man spokeswoman yesterday said the amended recovery proposal would "give the company a healthier balance sheet, with not as much debt" when it emerges from bankruptcy-court proceedings.

R6 - Spit tobacco

WSJ 7/25/97 Fri  
A4

# Earnings at Philip Morris Were Strong in 2d Quarter

By GLENN COLLINS

The Philip Morris Companies announced strong second-quarter earnings yesterday, reflecting significant gains in domestic tobacco profits and market share as well as in international sales.

Net income rose 13.3 percent, to \$1.83 billion, or 76 cents a share, from \$1.62 billion, or 66 cents a share, in the corresponding quarter a year earlier. Sales grew 5.2 percent, to \$18.4 billion from \$17.5 billion.

Earnings for the second quarter matched the First Call consensus of 76 cents a share estimated by 16 analysts. Shares of Philip Morris rose \$2.125 each yesterday, closing at \$42.625 on the New York Stock Exchange.

The second-quarter results were "a remarkable performance, given an overall shrinking cigarette market," said Martin Feldman, a tobacco analyst at Smith Barney.

For the second consecutive quarter, retail-store data from the A. C. Nielsen Company showed that Philip Morris's share of cigarette sales in the United States exceeded 50 percent. In the second quarter the total was 51.1 percent. The share of retail sales for the company's Marlboro brand rose 1.8 percentage points, to 35.2 percent.

"Marlboro was the driving force of the company's cigarette business, amounting to more than 60 percent" of its volume in the United States, said Emanuel Goldman, a securities

analyst for Paine Webber.

Domestically, the company sold 5 percent more cigarettes in the second quarter than it had in the comparable quarter last year, amounting to 60.8 billion cigarettes. Operating income from tobacco in the United States was \$1.2 billion, 11.6 percent higher a year earlier.

Worldwide, the company sold 238 billion cigarettes in the second quarter, 6.8 percent more than a year earlier. Worldwide volume for the Marlboro brand was up 5.4 percent.

In Central and Eastern Europe, volume was up 10.5 percent, to 47 billion cigarettes. And in France, sales were up two-tenths of 1 percent despite the successful introduction of a value-oriented new brand by Rothmans, a subsidiary of Financière Richemont A.G. of Switzerland.

Philip Morris's gains in international results came despite the strengthening of the American dollar against European currencies and the Japanese yen, which makes American goods relatively more expensive.

During the quarter, which ended June 30, the company agreed to be part of the tentative June 21 tobacco settlement agreement that is now being debated in Congress. The settlement would require cigarette companies to pay \$368.5 billion over the next 25 years to compensate states for the costs of treating smoking-related illness and to finance nationwide anti-smoking programs.

## Phillip Morris Cos. (MO,N)

Qtr. to June 30	1997	1996	%Ch
Rev.	18,413,000,000	17,509,000,000	+5.2
Net inc.	1,836,000,000	1,621,000,000	+13.3
Sh. earn	.76	.66	
Sh. out.	2,423,000,000	2,470,000,000	

The share earnings and shares outstanding were adjusted for a 3-for-1 stock split in 1997. Revenues are operating revenues. The results are for the second quarter.

Yesterday's closing price: **\$42.625**  
▲ **\$2.125**

Operating income at the company's Kraft Foods unit in North America grew 12.4 percent "due to the consolidation of the food business, volume growth and some pricing," Mr. Feldman said.

"The moves they've made over the last few years are paying off for Kraft," Mr. Goldman said, "including the way in which they've taken traditional, ho-hum brands and made them exciting."

But at the company's international food division, volume was down 1 percent, Mr. Feldman said, though operating profit margins improved to 10.9 percent in the second quarter from 10.3 percent a year earlier.

At the company's Miller Beer unit, sales, in volume terms, were up 3.1 percent, to 12.4 million barrels, "a very good performance," Mr. Feldman said.

Among key brands, shipments of Miller Lite rose 3.6 percent in volume, and Miller High Life shipments were up 10 percent. "The company's new advertising seems to be working," Mr. Feldman said.

# RJR Nabisco Results

By GLENN COLLINS

The RJR Nabisco Holdings Corporation reported strong international tobacco volumes yesterday for its second quarter, but its results were marred by continuing erosion of the company's domestic cigarette business.

Including after-tax restructuring charges of \$246 million, RJR Nabisco reported net income of \$243 million, or 71 cents a share, in the quarter, compared with a loss of \$27 million, or 11 cents a share, in the quarter a year earlier. The earnings matched the 71-cent consensus of 13 analysts polled by First Call.

In the quarter, RJR Nabisco sales rose nearly 2 percent, to \$4.286 billion from \$4.203 billion.

Steven F. Goldstone, RJR Nabisco's chairman and chief executive, said in a statement that the quarter "keeps the company on track for a solid 1997." He added that the problems for the quarter included "softness in Nabisco International and negative foreign currency impact in the overseas tobacco business."

RJR Nabisco shares rose \$1.0625 yesterday, to \$30.875, in trading on the New York Stock Exchange.

Overall tobacco volume rose 6 percent, with the bright spot in the quarter being the company's international tobacco volumes, which rose 13 percent, led by cigarette volume in the former Soviet Union, which was up 37 percent, and in Asia, where the Salem brand's volume grew 19 percent.

In France, RJR Nabisco's leading country in Western Europe, the com-

Nabisco	
Qtr. to June 30	1997
Sales	\$4,286 million
Net inc.	\$243 million
Sh. earn	71 cents
b-Net loss	\$27 million
at Nabisco	\$219 million
(Loss)	
The results are	
Yesterday's c	

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of Compag...  
A.G. of Sw...  
RJR Nabis...  
Domesti...  
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Philip E. V...  
chairman...  
Informix

NYT GIVE TO THE FRESH AIR FUND  
Wed 7/23/97 D2

# Looking to build your business?

TT 1

D2

# Philip Morris 2d Quarter

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Philip Morris's gains in international results came despite the strengthening of the American dollar against European currencies and the Japanese yen, which makes American goods relatively more expensive. During the quarter, which ended June 30, the company agreed to be part of the tentative June 21 tobacco settlement agreement that is now being debated in Congress. The settlement would require cigarette companies to pay \$368.5 billion over the next 25 years to compensate states for the costs of treating smoking-related illness and to finance nationwide anti-smoking programs.

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GIVE TO THE FRESH AIR FUND

# RJR Nabisco Results Meet Expectations

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RJR Nabisco Holdings Corp. (RN,N)			
Qtr. to June 30 1997	1996	%Ch	
Sales	4,286,000,000	4,203,000,000	+1.98
Net inc.	243,000,000	627,000,000	
Sh. earn	.71	(.11)	

b-Net loss, which included a charge of \$246 million from restructuring and related expenses at Nabisco. Excluding the charge, income was \$219 million.  
(Loss)  
The results are for the second quarter.

Yesterday's closing price: **\$30.875**  
▲ **\$1.0625**

pany's brands came under price-cutting pressure from a new brand introduced by Rothmans, a subsidiary of *Compagnie Financière Richemont A.G.* of Switzerland, which cut into RJR Nabisco's cigarette volume.

Domestically, RJR Nabisco's Camel and Doral brands were the best performers, up 8 percent and 4.3 percent, respectively. But Winston was down 11.8 percent, and the company's Salem brand was down 7 percent in volume.

Volume in the United States declined 4 percent despite sales that rose 4 percent, to \$1.22 billion, compared with the quarter a year earlier.

"There was marked weakness in the domestic tobacco business," said Martin Feldman, a tobacco analyst with Smith Barney, and "domestically, RJR Nabisco lost market share to Philip Morris."

Emanuel Goldman, a securities analyst with Paine Webber, agreed, saying that the problem in RJR Nabisco's domestic tobacco business "is primarily that Marlboro is going like a house afire." Marlboro is made by the Philip Morris Companies.

On July 10, after the end of the second quarter, the R. J. Reynolds Tobacco Company announced that it would discontinue its Joe Camel campaign, replacing the cartoon figure with stylized versions of Camel cigarettes' original camel trademark. The unexpected decision, which analysts said was related to the proposed tobacco settlement being debated in Congress, ended a nine-year run for Joe Camel on billboards, in print advertisements and on display signs.

Net income from RJR Nabisco's food business increased 13 percent, to \$102 million, in the quarter. The Nabisco business showed strength in its biscuit division, which makes Oreo and Snackwell's cookies, with a 22 percent increase in operating income, and strength in snack categories such as nuts and confections.

Domestic food sales increased by only 1 percent and international sales by only 2 percent. International earnings were reduced by poor results in Brazil and by the costs of expansion in Asian markets such as China and Indonesia.

"Over all, the food business was a bit of a hodgepodge," Mr. Goldman said.

## Struggling Informix Selects Chief Executive

By The New York Times

the company reported a loss of \$140.1

## to Automate Spur Trend

transit authority is building a new driverless subway line that will open next year. The Breuninger department store in Stuttgart uses a robot to help sell shoes, and a Danish dairy uses robots to automatically stack on pallets precise orders for milk and yogurt from dozens of supermarkets.

And at the Credit Agricole bank branch on Paris's boulevard Montmartre, there's not a single franc in the tellers' cash drawers. All deposits and withdrawals go through an array of seven specialized automated teller machines. Forget your bank card? A teller hands out a temporary one on the spot during a recent visit. The system saves employees from the tedious job of counting and locking up money and allows them to concentrate on selling stock funds, insurance and credit.

The bank is expanding the automation program because it believes the productivity improvements are well worth the million-franc (\$165,000)-a-branch expense, but it is far from clear whether Europe's automation boom is having a similar impact on the economy as a whole. At first glance, the evidence would seem to suggest that it is. Labor productivity, although behind the U.S. level, grew at an annual rate of 2.2% in France, 1.1% in Germany and just 0.8% in the U.S. from 1979-1996, according to the Organization for Economic Cooperation and Development.

But some economists say that there's not much evidence that the automation boom is really increasing productivity. The McKinsey Global Institute found that despite huge automation advances in some key parts of retail banking in Europe, U.S. banks are still more labor-efficient overall. Why? Hotly competitive markets in the U.S. force banks to do the hard work of cutting down on labor costs, while European regulations and union agreements frequently limit competition and can prevent banks from laying off workers.

And yet, there's no doubt more and more European firms are turning to automation. The increase in demand is being spurred by growing minimum wages, which have more than doubled in real, or inflation-adjusted, terms in France and Germany over the past 25 years — while decreasing in the U.S. During the same time period, automation has grown more reliable and less costly. A basic ABB robot costs about \$45,000 today, down from \$90,000 in the late 1980s. If automation prices keep dropping, European business could ultimately reap real fruit from its investments.

## B.A.T Plans to Buy Cigarette Business Of Mexico's ELM

By CRAIG TORRES

Staff Reporter of THE WALL STREET JOURNAL  
MEXICO CITY—Britain's B.A.T Industries PLC agreed to acquire the cigarette subsidiary of Mexico's Empresas La Moderna SA in a two-step transaction valued at \$1.5 billion plus the assumption of debt.

While the purchase price is based on 100% of the company, B.A.T initially will acquire only 50% of the shares of Cigarrera La Moderna, or CLM, plus two voting shares, giving it control of the company. Within six months, B.A.T can exercise an option for the remaining stake. If B.A.T decides not to exercise the option, Empresas La Moderna will keep its minority stake, and the \$1.5 billion will be invested in CLM, a La Moderna official said.

CLM has 54% of the Mexican cigarette market year-to-date, an aggressive presence in midrange brands, underutilized capacity and relatively low operating costs. Analysts said B.A.T's interest may be not only in the Mexican market, which is growing at 2% a year, but also in a low-cost export base.

The sale gives Empresas La Moderna, or ELM, cash to plow into its other businesses. "My main objective is to grow strongly in the biotechnology area," said Alfonso Romo Garza, ELM's chairman. Mr. Romo also heads Pulsar International SA, a conglomerate with interests in insurance and investment banking.

B.A.T, the world's second-largest cigarette maker, said the price includes \$1 billion in cash, a \$500 million loan payable in three years and assumption of \$212 million in debt. ELM also said that to comply with bond agreements, it will prepay \$275 million of its Eurobonds from other proceeds.

Mr. Romo said the sale was motivated by concerns about competition in the Mexican market rather than by the current tobacco-liability situation. Philip Morris Cos. is increasing its stake in ELM's main competitor, Cigarros La Tabacalera Mexicana SA, to 50% from 29% in a deal valued at \$400 million.

ELM's American depository shares rose \$1.50, or 6.7%, to \$24 in New York Stock Exchange composite trading. The American depository receipts of B.A.T rose 37.5 cents to \$18.375 in American Stock Exchange composite trading.

—Ernest Beck in London  
contributed to this article.

## Chinese Outnegotiated

Continued From First Page

in Asia, according to KDD officials. (AT&T says it doesn't comment on its cable ownership by region.) On most of these big cables, AT&T had great influence over which companies could subscribe and how the lines were routed.

AT&T rivals say the company mobilized that clout when it first sensed that some competitors, Teleglobe and a partnership of Nynex and Cable & Wireless, had offered to link China directly with North America. AT&T responded, people involved in the negotiations say, by announcing it would accommodate China's growing traffic by increasing capacity on an existing cable and thereby avoid the need for a new line. As it turned out, technical limitations permitted only minimal expansion, and some telecommunications executives wondered whether AT&T's announcement was a tactical maneuver designed to scare away rivals. An AT&T spokesman denies any such ploy.

But competitors say the AT&T announcement did undermine rival proposals. It "opened so many potentialities that it effectively killed our plan," says Steve Bayliss, a Teleglobe official.

The only people who didn't react to the AT&T proposal were the Chinese, who continued to talk to various companies about ways to install new capacity that would link China directly to the U.S. "We decided to adopt a wait-and-see attitude," Mr. Wang says.

### The Guam Landing

AT&T also offered to connect China to the U.S. on an existing cable via a switching station in Guam, Mr. Li says. That, too, got a cool response; a Guam landing would have helped AT&T, which has a commitment to Manila to tie in the Philippines to U.S.-bound capacity via the tiny U.S. territory, but there was little in it for Beijing.

"We didn't give [those plans] much detailed consideration," Mr. Li says. "After all, there isn't much traffic between China and Guam." Even KDD, AT&T's partner, wasn't enthusiastic. "From our viewpoint, Guam wasn't that attractive," a KDD official says. "But AT&T persistently pushed it, and AT&T is our intimate friend." (Ultimately, a Guam connection was included in the plan, but only after all the consortium's members approved it.)

Nor did AT&T endear itself to the Chinese with what Mr. Li saw as its aggressive promotion of Submarine Systems Inc., a cable-manufacturing unit that it recently sold to Tyco International Ltd., of Exeter, N.H. At a meeting in Beijing late last year, Mr. Li says, an AT&T-SSI team urged that the unit get the supply contract for the network. According to a memo circulated among SBC officials after the meeting, the Chinese saw that maneuver as "a clear attempt to create a configuration that would allow AT&T/KDD to dominate the project management as well as ... operation of the system."

The Chinese were having none of it, according to Mr. Li, who describes AT&T's promotion of SSI as "a major dispute in the

competitors such same concept.

C&W and Nynex with SBC late the negotiations and its U.S. part of favor, particularly Richard Brown understanding as a member as a member in China, direct fiber-optic China and North C&W's media-rich Brown had chosen an SBC rephrase struck the Chinese.

Nynex's position a Baby Bell in little to offer in West Coast as in

However, through the C&W/Nynex leverage over now say: "This group," an

"And you can't

Ultimatum Iss

Mr. Wang is in January. He each competing AT&T and KDD pate in the partners. He an Communication and Nippon Tel Japan's giant which recently with KDD for tr The Chinese did of AT&T and KI bidding. All the consortium.

A few days later slew of other companies now totaling 14 China Telecom authority, Singapore Ltd., Hongkong Chung Hwa Tel Taiwan, Telekom esian Satellite Co.

An AT&T negotiating ceremony as "yet another r ing relationship

But industry thing different, complicated with Byung Sup, man Telecom. "Like the dominant can now there's more are always com else. It's good for headache for us. the same way."

AT&T fared will be represented indirectly by Hon. ate in the former months later, C&W enough of its con kong Telecom to be owned 20% stakes.



### WORLD WIRE

### LVMH INTENSIFIES MERGER FIGHT

LVMH Moët Hennessey Luis Vuitton SA, a French luxury-goods and spirits

to 2.15 billion kroner from 187 million kroner, but from trucks fell 43% to 688 million kroner.

# Premiums From GOP

Republicans had proposed before making the Department of Human Services the... Recently, however, the Budget Office estimated that the budget cut projected savings... given the expense and... an HHS bureaucracy. Beneficiaries pay \$43.80 a month, deducted automatically from their Social Security... tested premiums were... the IRS, richer beneficiaries... compute their liability and... part of their annual tax...

...ise, trying to assuage... concerns, would in... income beneficiaries... ate form, also due by... instead to the Treasury... payment would be made... Fund."

...e this as a tax increase,"... Gramm of Texas. "It's... te this with a straight...

...otise, spokesman Mike... dged that the adminis... nted to "a cosmetic... tic problem."

...ate's plan would affect... incomes starting at \$50... individuals, the White... be pushing for a higher... \$70,000. Details haven't... so, premium payments... at the highest income... s steep as in the Senate... ally would have set the... r 100% of costs. Mr... that he supports recov-

# Net Up at RJR, Philip Morris, Boosting Stocks

By SUEIN-L. HWANG  
Staff Reporter of THE WALL STREET JOURNAL

NEW YORK — The U.S.'s two largest cigarette makers reported second-quarter earnings that met Wall Street's expectations. The reports boosted tobacco stocks that have been slumping amid investor fear the proposed landmark settlement might fall apart or be overhauled.

Philip Morris Cos. posted a 13% earnings gain, thanks largely to its powerhouse brand Marlboro. No. 2 RJR Nabisco Holdings Corp., had an 11% gain in profit before special items despite flagging sales of its Winston and Salem brands. Both companies posted strong results abroad.

The recent barrage of legal and regulatory attacks on the \$45 billion-a-year industry has had little impact on its success in the marketplace, and the second quarter was pretty much business as usual, investors concluded. Philip Morris ended the day at \$42.625, up \$2.125, while RJR closed at \$30.875, up 1.0625, in New York Stock Exchange composite trading.

In recent days, Philip Morris and RJR's shares had been hurt by concern that the proposed tobacco settlement, which would largely eliminate the industry's liability exposure, would be rejected by Congress or substantially changed in ways that would be unfavorable to the industry.

But the settlement isn't expected to affect the tobacco giants equally. Diana Temple at Salomon Brothers estimates that if the settlement was enacted into law, RJR would face a 15% drop in U.S. tobacco earnings next year, while Philip Morris would see a smaller 10% decline.

ahead, grabbing even more market share from its distant rivals. The company reported a 13% increase in net to \$1.84 billion, or 76 cents a share, from \$1.62 billion, or 66 cents a share, a year earlier. The results exclude several food businesses sold in 1996 and the first half of 1997. Sales increased 5.2% to \$18.41 billion.

Analysts say the credit for Philip Morris's results once again goes to Marlboro, although they add much of the U.S. sales increase reflects a change in the timing of a sales promotion. The U.S. cigarette unit saw a 12% increase in operating income to \$1.19 billion on a 10% jump in sales to \$3.46 billion. Philip Morris said data from A.C. Nielsen Co. showed its market share topped the 50% mark for the first time, reaching 51.1%, up 1.5 percentage points from a year earlier. Marlboro's share rose 1.8 points to 35.2%.

RJR Nabisco had earnings of \$243 million, or 71 cents a share, compared with \$219 million, or 64 cents a share. The results exclude the impact of a one-time restructuring charge taken in last year's quarter; including the charge, RJR had a year-ago net loss of \$27 million. Sales increased 2% to \$4.29 billion.

Although No. 2-ranked RJR met its earnings targets as well, the outlook there was less rosy. In a conference call, analysts said company officials suggested they lower estimates for the full year, which hovered around \$3 a share, to a \$2.90 to \$2.95 a share. Last year, the company earned \$2.62 a share.

Analysts blame RJR's revised estimates partly on unfavorable currency translations. While RJR's international tobacco business remains far smaller than Philip Morris's, it is performing strongly this year, posting big sales increases particularly in the former Soviet Union. But the bottom-line contribution was blunted by the stronger dollar. In the quarter, pretax operating profit of the business increased 10% to \$179 million; excluding the negative impact of currency translation, operating profits would have jumped

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Monday, July 21, 1997

## Proposed settlement may prove unsettling for Philip Morris investors

Chip Jones  
Tobacco

**T**he proposed \$368.5 billion tobacco settlement may be unsettling for Philip Morris investors.

A regulatory document filed by the company this month got the attention of industry analysts already concerned about the impact of the landmark settlement, which still must be passed by Congress and signed into law by the president.

In a July 2 filing with the Securities and Exchange Commission, Philip Morris Cos. Inc., one of Richmond's best-known investments, said it "may evaluate its share repurchase and dividend policies" in light of the financial obligations of the proposed settlement.

The deal "would likely materially adversely affect the volume, operating revenues, cash flows and/or operating income" of the company, the filing said.

The degree of the financial pain would depend, among other things, on the rate of decline in U.S. cigarette sales and the company's ability to hold on to its nearly 50 percent share of the domestic cigarette market.

Philip Morris would pay \$6.5 billion of the initial sum due in the proposed agreement, with a total payout of more than \$105 billion based on recent share prices.

As the company figured out how to pay this new debt -- probably through a combination of cash reserves and loans -- industry analysts and institutional investors said last week that it's too soon to say whether Philip Morris' much-vaunted dividend will take a hit.

But if the early reviews are any clue, Philip Morris may slow the rate of its dividend growth, but not cut the stock sweetener.

John C. Maxwell Jr., senior research analyst at Wheat First Butcher Singer, said the company might slow the rate of dividend growth, which typically has outpaced its earnings growth.

But Maxwell pooh-poohed the notion that the cigarette giant might disappoint Wall Street with a dividend cut.

Michael S. Beall, a stock analyst at Davenport & Co., said the company had to warn shareholders about any potential hits to their earnings and dividends.

"But my guess is they aren't planning on cutting" dividends, Beall said.

Even if the dividend doesn't keep pace with past increases, Beall said he doubted local shareholders would start baling out on the area's largest private employer.

"I think most people who own this stock are in it for good," he said. "I think they are disturbed somewhat by what's going on . . . but the people who own it aren't going to sell it."

Conversely, he said, few people who haven't already gotten into the volatile cigarette stocks are ready to take the plunge at this late stage.

Last year, Philip Morris' board raised the annual dividend by 20 percent to \$4.80 per share. Per-share earnings rose by 18 percent in 1996.

Those numbers gave Philip Morris the distinction of having the highest dividend yield last year of the 30 blue-chip stocks that make up the Dow Jones industrial average. The company's 4.2 percent yield was about double the average for a blue-chip stock.

The yield was calculated by dividing the \$4.80 dividend by the price of the stock at the close of trading on Dec. 31 -- \$113. (The company has since had a stock split that has lowered its price. The annual dividend is now \$1.60.)

Philip Morris' board typically makes dividend decisions at its meeting in late August.

The tobacco settlement is favored by up to 65 percent of Americans who hold an opinion about it, according to a recent Gallup poll.

Some analysts expect Clinton to make revisions but give his stamp of approval on the legislation by mid-August.

Bart Naylor, director of corporate affairs at the Teamsters, which holds more than 3 million shares of Philip Morris stock, said he'd be surprised to see the company change its dividend before its biggest political issue is settled.

"It would be too bold a statement," he said, "like taking possession of a house before a family moves out."

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*Chip Jones covers the tobacco industry. He can be reached at (804) 649-6726*

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