CAMPAIGN for TOBACCO-FREE Kids

NATIONAL CENTER FOR TOBACCO-FREE KIDS

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TO: Tom Freedman

FROM: Scott Ballin

DATE:

SUBJECT:

Tob. farmers Phase II

Worth reading if you haven't seen this.

1707 L Street, NW Suite 800 Washington, DC 20036
Phone (202) 296-5469 Fax (202) 296-5427

PHILIP MORRIS

[illegible]
[illegible]

Steven C. Parrish
[illegible] [illegible]

January 14, 1999

The Honorable J. Phil Carlton
Carlton Law Firm
P. O. Box 67
Pinetops, North Carolina 27864

Dear Judge Carlton:

As I stated at our December 18, meeting in Raleigh, Philip Morris is proud of its tradition of support of American tobacco growers and we have no intention of breaking with that tradition. We have always met our purchase intentions and, in fact, we have often purchased more than our submitted intentions. Excluding a small amount of Oriental tobacco, our domestic brands contain 90% or more of American grown tobacco. As I also said in Raleigh, we intend to continue to maximize our use of domestic tobacco.

As you know, for years there has been a steady decline in cigarette consumption in this country. This trend will be accelerated as a result of the recent settlement agreement between the industry and the states. In addition, our export business suffered in 1998 because of significant economic problems in Russia, Asia, and other overseas markets.

These are difficult times for all of us in the tobacco family, particularly for tobacco growers and quota holders, and something obviously needs to be done to address their plight. In crafting the right solution for this very real problem, it is imperative that we be honest and realistic about the situation. The fact is, as a result of the recent settlement, there will be a significant reduction in the demand for tobacco in this country. Whatever is done to address the financial problem of growers and quota holders must take this into account. It is in no one's best long term interest to devise a system which merely makes a bad situation worse by encouraging growers to produce tobacco for which there is no demand. We believe growers should be encouraged to grow as much tobacco as can be sold, and that both growers and quota holders should be compensated for the economic harm they suffer as a result of the state settlement.

Philip Morris believes the best way to solve this very real problem is for the four major U.S. cigarette manufacturers to create a trust fund to be administered by the tobacco growing states to compensate tobacco growers and quota holders for this economic harm

We believe this is the best approach for a number of reasons. First, it gives each state flexibility in determining what is best for its growers and quota holders. Second, it is legally binding on the companies and, therefore, enforceable by the states. As a result, it protects the states against changes in management or future financial problems at the companies. Third, it is a verifiable way of guaranteeing that the money is equitably collected and distributed. Fourth, it is legally within our power to do. Finally, it provides states, growers and quota holders with an economic safety net for the future.

At one time, it was our understanding that all four companies you represent on this issue agreed to this approach and were willing to fund their market share of a trust fund that would require a total of $5,150,000,000 in company contributions, over a period of ten years. These payments would be $600,000,000 in year one, $550,000,000 in year two, and $500,000,000 each year for the remainder of the ten year period. The payments would be indexed to inflation and U.S. cigarette consumption.

Philip Morris remains committed to the grower community, our partners in the tobacco industry, and continue to believe that a trust fund is the best long term approach to help stabilize the economic future of the tobacco community. Accordingly, this letter is to direct you, on behalf of Philip Morris, to proceed to establish such a trust. To insure compliance with all applicable laws and regulations, you should continue to work with the other law firms who have been assisting with this matter and with our company attorneys.

By the end of the first quarter in 1999, Philip Morris will transfer its first annual payment to the $5,150,000,000 trust fund based on its market share of approximately 50%. This first annual payment of approximately $300,000,000 should be sufficient to provide deficiency income payments for the loss in domestic quota between 1998 and 1999. It is our intention that these funds be distributed to growers and quota owners as determined by the trustees, as soon as possible. Subsequent annual payments by Philip Morris are contingent upon full participation in the 10 year trust fund by Brown & Williamson, Lorillard and R.J. Reynolds.

It is our hope that the other companies will see fit to contribute their market share to the trust fund so all the goals discussed above can be accomplished. You should structure the trust to enable this and to permit contributions from any other entity, private or governmental. It is our intention, however, to proceed with the establishment of this trust and make the initial payment regardless of the actions of the other companies.

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You will recall that our previous discussions of the trust fund plan provided for each state to have maximum flexibility in administering its share of the trust. We remain committed to this principle. However, to expedite implementation of the trust-fund approach, you should prepare a detailed outline of a trust document that can be used in working with state officials as we refine the trust and the individual state agreements. We would appreciate it if you would have this document ready for distribution and discussion at the meeting between the companies and state officials on January 20-21 in Raleigh.

If you have any questions, please fee free to call.

Sincerely,

Tob. farmers
Phase II

Bruce N. Reed
01/21/99 04:06:02 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:
Subject: Tobacco farmers

Fund To Help Tobacco Farmers

By ESTES THOMPSON
Associated Press Writer

DURHAM, N.C. (AP) -- The nation's four largest cigarette companies agreed today to set up a $5.15 billion trust fund to help tobacco growers who face a shrinking market due to settlements of lawsuits that have sharply raised the price of smoking and stepped up anti-smoking initiatives.

The agreement climaxed two days of private meetings between company officials and representatives from 11 tobacco states. For a time, it appeared the trust fund was in jeopardy because R.J. Reynolds balked at participating. The company said a better way to help the farmers would be to buy more of their tobacco.

But during negotiations today, R.J. Reynolds relented and signed onto the trust fund, which was restructured. Previously, the four companies -- R.J. Reynolds, Philip Morris, Brown & Williamson and Lorillard -- would have paid into the fund over 10 years; the agreement extends that to 12 years.

``There are many, many details yet to be worked out,'' said Phil Carlton, the lawyer representing the tobacco companies. ``One of the concerns was one of the companies in particular had a problem with paying the money out that would have been its share in the first couple of years.''

Tobacco farmers have been worried about their future as the drive against smoking intensified.

Costly settlements of state claims against tobacco companies seeking reimbursement for the cost of treating sick smokers have sharply raised the price of cigarettes and that is expected to reduce demand.

The trust fund initially was proposed by Philip Morris after the major cigarette makers agreed to a $206 billion settlement with 46 states over health care costs last November. Part of that agreement required the companies to meet with state officials to discuss the trust fund for farmers.

Philip Morris announced last week it would deposit $300 million into the fund this year, even if other companies chose not to participate. But the No. 1 tobacco company said its future participation hinged on the other companies joining the fund.

During the fund's first year, the companies would put in $380 million, with Philip Morris' $300 million contribution making up the bulk of the payment.

The second year, the companies would deposit $280 million; the third year, $400 million; years four-10, $500 million a year; the 11th year, $440 million; and the 12th year, $150 million, the officials said.

North Carolina Gov. Jim Hunt said each state will receive a share of the fund equal to the amount of tobacco it grows.

States participating in the discussions are North Carolina, Ohio, South Carolina, Tennessee, Alabama, Florida, Georgia, Indiana, Kentucky, Virginia and West Virginia.

Hunt said the directors of the trust will determine the amount of the payments and when they are disbursed.

``We all leave here today winners with a positive outlook for a measure of financial assistance for our tobacco farmers,'' Hunt said.

During discussions Wednesday, R.J. Reynolds' senior vice president, Tommy Payne, said his company had concerns about how the trust fund money would be spent and whether it might raise antitrust issues. He said Reynolds' plan to buy more tobacco would not pose such problems because antitrust laws ``do not preclude companies from coming to independent decisions.''

Others, however, dismissed Reynolds' concerns and questioned whether they were the real reason for the company's reluctance to sign onto the fund.

Message Sent To:

Elena Kagan/OPD/EOP
Barry J. Toiv/WHO/EOP
Thomas L. Freedman/OPD/EOP
Cynthia A. Rice/OPD/EOP
Joshua Gotbaum/OMB/EOP