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Read Letter From Groups United Against Immunity [02/17-2]

As noted in the previous news items, all of the major groups making up the Koop-Kessler Advisory Committee on Tobacco Policy and Public Health have now united in a common front, including united opposition to any legal immunity for the tobacco industry.

This includes the Campaign for Tobacco Free Kids, American Cancer Society, American Heart Association, American Medical Association, and other groups which previously refused to speak out against special immunity for the tobacco industry.

Below is a copy of the complete text of the letter.

Reportedly, provisions will be made in the future for additional groups to sign on to the letter.

TEXT OF THE LETTER:

The Advisory Committee on Tobacco Policy and Public Health

Co-Chairs: C. Everett Koop, M.D., and David A. Kessler, M.D.

February 17, 1998

House Speaker Newt Gingrich
Senate Majority Leader Trent Lott
U.S. Congress
Washington, DC

Dear Sirs:

This year may be the most important moment in the history of the tobacco wars, a moment when America chooses between a path toward social repair or one toward irrevocable public loss. After years of growing public awareness of the addictiveness of nicotine, the adverse health effects of tobacco on users and non-smokers, and the tobacco industry's extensive efforts targeted at children and youths, the public is excited about the prospect that federal laws may be enacted that will bring about fundamental change in how the tobacco industry does business and that will save millions of lives. Conversely, there is the risk that the tobacco industry could further entrench its ability to stand outside the ordinary rules of commerce in society.

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Despite all of the disclosures of tobacco industry malfeasance during the last four years, tobacco use among children is up, the long term decline in tobacco use among African-American teenage boys has been reversed, and the decline in adult rates has stopped. The need for decisive action to protect the public's health has never been greater. No one should underestimate the importance of Congress acting now and acting decisively, nor the proven ability of the tobacco industry to make a mockery of its implied ethical and moral responsibilities to society.

We the undersigned are in agreement. Our first priority is to ensure the passage of comprehensive tobacco control legislation in this session of Congress. We would hate to see a watered-down version of the public health community's standards. We are committed to evaluating any legislation in its entirety based on its overall impact on the public health.

With evidence of tobacco industry misdeeds and mendacity on hand and growing, with sound public health proposals on the table, with broad popular support for action, Congress has the opportunity to make fundamental changes in tobacco policy based solely and exclusively on what is good for the public's health without making unnecessary concessions to the tobacco industry. Only a comprehensive approach that combines the best of what we know today with a process for making change as we learn more tomorrow should be enacted.

The recent disclosure of RJR-Lorillard, Philip Morris and BAT documents confirm what the public health community has said for years, namely, that the tobacco industry aggressively attempted to market cigarettes to children and youths. Additional evidence of renegade tobacco industry behavior is beginning to emerge in the case currently being brought against the industry by the state of Minnesota and Minnesota Blue Cross and Blue Shield, as well as from other cases. For this reason, it would not be responsible public stewardship to grant immunity to this industry, especially since it has diligently tried to hook children and youths on nicotine and deny their own research findings on the harmful effects of tobacco.

The public health community is united in the type of legislation that should be enacted.

It is a condensation of recommendations stated in the Final Report of the Advisory Committee on Tobacco Policy and Public Health, July 1997, a document that was developed by many of the cosigners of this letter. Essential public health goals include:

1) FDA: Reaffirm that the FDA has full authority to regulate all areas of nicotine and all other constituents and ingredients in tobacco. The FDA must have authority to increase its tobacco research and scientific communication abilities and be provided with adequate funds to implement all of its various regulatory, enforcement, public education and research activities. New, burdensome requirements placed on the FDA would be unfair and erode public health.

2) Youths: Protect children and youths from influences that create demand for or acceptance of tobacco use, and prevent their obtaining tobacco, an illegal substance for youth. Specific measures that reduce youth demand and access include:

a) Provide for a well-funded nationwide education campaign independent of tobacco industry interference.

b) Significantly increase the price of cigarettes and other tobacco products so that children and youths are discouraged from buying them. An increase of at least $1.50 per pack is a reasonable starting point.

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Once implemented, an independent National Academy of Science/ Institute of Medicine commission should be set to determine what additional increases will significantly reduce youth smoking.

c) Ban advertising and promotions that entice children and youths. This should be coupled with tough restrictions on youth access to tobacco products, large, strong and effective warning labels on cigarette packs and other tobacco products, necessary funds to monitor compliance, and other deterrents.

d) Levy substantial penalties for underage use. Assessments should be on a company-by-company basis if reduced youth smoking targets are not met soon, e.g., there must be specific fines at specific times for specific shortfalls from user target levels.

3) Cessation: Provide adequate funds for sound, scientifically established cessation programs to help nicotine-dependent adults and youths to quit smoking or using spit tobacco. Such programs should be integrated into health care financing systems, including managed care programs; accredited professional and public education programs; and support behavioral and cessation research.

4) ETS: Establish, refine and expand environmental tobacco smoke (ETS) laws and regulations. No Authorities and appropriations should fully enforce smoke- free public and work environments and fund risk assessment research, and public education.

5) Justice: Protect and administer the justice system so that evidence of tobacco industry misdeeds becomes public. All legal remedies should remain available and the opportunity for individuals and groups of individuals to recover should not be diminished. It is critical, for instance, to know how companies added certain ingredients to enhance the nicotine effect for children and youths and how they used sophisticated marketing techniques to reach those same children. Only when such things are public can we make sure they never happen again.

We oppose granting the tobacco industry immunity against liability for past, present, or future misdeeds. Congress should focus its efforts on public health, not on the concessions the tobacco industry seeks. Congress should not alter the legal system in any way that would weaken its ability to protect the public health, or permit the tobacco industry or others to engage in any behavior that otherwise would be condemned. Congress must make sure that any legislation does not make it more difficult for injured citizens to exercise their fundamental right to seek just compensation for their injuries.

6) Preemption: Protect state and local governments by shielding them from federal preemption clauses that weaken, incapacitate or make onerous the ability of states and local governments to develop novel public health approaches and pursue public health standards which are higher than federal standards. Federal laws designed to protect public health should always be a "floor" that state and local governments can add to and strengthen.

7) Farmers: Adequately compensate tobacco farmers as the opportunity to sell their domestic product to manufacturers declines.

8) International: Implement strong international trade policies that use the same public health standards applied to tobacco products marketed and sold here. U.S. trade policies should reflect U.S. domestic policy; no federal funds should be spent to promote the sale of tobacco products abroad; and the U.S. should take a leadership role in bringing the protections provided to Americans to all citizens of the world.

If public-health-based tobacco control measures are enacted, and the threat of litigation is not removed in

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the process, this nation will finally experience improvement in the public's health. Youth smoking will almost certainly begin to decline, individuals who wish to quit smoking will find the scientifically sound professional help they need (including benefiting from an increasing array of effective FDA-approved pharmacological agents) and the public will be healthier and nation stronger.

In the presence of a massive, ubiquitous, agonizing public burden -- including more than 1, I 00 deaths each day, strong anti- tobacco public health measures are long overdue. The public will approve of such measures and expects ethical, courageous, bold action. We urge you to heed its call.

Sincerely, [signatures of members of Koop-Kessler Committee]

cc: House Commerce Committee Chairman Tom Bliley
House Judiciary Committee Chairman Henry Hyde
Rep. Deborah Pryce
Senator Don Nickles Senate Commerce, Science and Transportation Committee
Chairman John McCain Senate Labor and Human Resources Committee
Chairman James Jeffords Senate Judiciary Committee
Chairman Orrin Hatch
House Democratic Leader Richard Gephardt
Senate Democratic Leader Thomas Daschle
House Commerce Committee Ranking Member John Dingell
House Judiciary Committee Ranking Member John Conyers
Senate Commerce, Science and Transportation Committee Ranking Member Ernest Hollings Senate Labor and Human Resources Committee Ranking Member Edward Kennedy
Senate Judiciary Committee Ranking Member Patrick Leahy

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