

MEMORANDUM

**TO: BRUCE REED
ELENA KAGAN
TOM FREEDMAN
MARY SMITH
CYNTHIA RICE
CYNTHIA DAILARD**

FROM: AMY BLOCK

RE: TOBACCO COMMENTS

DATE: APRIL 13, 1998

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- quotes

This list includes comments, following the McCain markup, from:

1. Representative Archer (R-TX)
2. Senator Ashcroft (R-MO)
3. Representative Bliley (R-VA)
4. Senator Breaux (D-LA)
5. Senator Chafee (R-RI)
6. Senator Conrad (D-ND)
7. Senator Dorgan (D-ND)
8. Senator Ford (D-KY)
9. House Minority Leader Gephardt (D-MO)
10. House Speaker Gingrich (R-GA)
11. Senator Gorton (R-WA)
12. Senator Graham (D-FL)
13. Senator Gregg (R-NH)
14. Senator Hollings (D-SC)
15. Senator Hutchison (R-TX)
16. Senator Kerry (D-MA)
17. Senator Lautenberg (D-NJ)
18. Senator Lott (R-MS)
19. Senator Lugar (R-IN)
20. Senator McCain (R-AZ)
21. Representative Pelosi (D-CA)
22. Senator Rockefeller (D-WV)
23. Representative Waxman (D-CA)
24. Senator Wyden (D-OR)

ADVERTISING

<p>Rep. Bliley</p>	<p>The Washington Post 4/8/98</p> <p>The New York Times 4/9/98</p> <p>The Wall Street Journal 4/9/98</p> <p>The Washington Times 4/9/98</p> <p>Knight Ridder 4/9/98</p>	<p>Representative Bliley said the McCain bill was flawed because it raised First Amendment questions about the “free speech” of tobacco advertising.</p> <p>Representative Bliley said at a news conference in Richmond on Tuesday that the Senate bill might throw some cigarette manufacturers into bankruptcy. Today, he seemed to pull back a bit, saying, “I hope Congress will ultimately agree on a tough bipartisan plan to reduce teen smoking.”</p> <p>Representative Bliley said that the industry’s withdrawal is “unfortunate, but not a reason for inaction. Congressional efforts to reduce underage smoking are not dead.”</p> <p>Tuesday, Rep. Bliley said he thought the McCain bill would force cigarette makers to seek bankruptcy-law protection. He raised questions about provisions in the bill that restrict industry advertising and penalize tobacco companies for failures to reduce youth smoking. How do you hold the companies responsible if an underage person illegally purchases tobacco and consumes it?</p> <p>Representative Bliley rejected the industry’s dismal assessment about prospects for passing a bill. “Efforts in Congress to reduce teen-age smoking are not dead.”</p> <p>Tuesday, Bliley said, “If it’s not dead, it’s on life support. It’s in a heap of trouble.”</p>
<p>Sen. Breaux</p>	<p>The Richmond Times Dispatch 4/2/98</p> <p>The Washington Post 4/2/98</p> <p>NPR Morning Edition 4/2/98</p>	<p>“Raising cigarette prices by \$1.10 is not going to change smoking habits. But advertising restrictions will. Tobacco companies can waive their rights, but they have to agree to it.”</p> <p>Senator Breaux said that he has “no sympathy for the people that sell these products” but that the ad restrictions are unconstitutional and can only be attained through deal-making with the industry. “We should not push them so far we lose these very important portions of the bill.”</p> <p>“If [tobacco companies] are not part of this agreement, I am very, very concerned that we are on very shaky ground.”</p>
<p>Sen. Conrad</p>	<p>The New York Times 4/9/98</p> <p>The Washington Post 4/9/98</p>	<p>Senator Conrad speculated that the strong stance taken by the cigarette companies was comparable to Br’er Rabbit’s pleading with his captors not to throw him in the briar patch.</p> <p>“Poor babies. We don’t need their blessing to pass tough tobacco legislation. In many ways this is liberating -- do it right, and not try to dance around their approval. They weren’t going to approve of anything that was any good anyway.”</p>
<p>Sen. Dorgan</p>	<p>The Dallas Morning News 4/2/98</p>	<p>“This committee does not need the approval of the tobacco industry.”</p>
<p>Rep. Gephardt</p>	<p>The Dallas Morning News 4/9/98</p>	<p>“If the industry walks away from their commitment of June 20th to stop tobacco marketing to children, Congress will have to take even tougher measures to accomplish those goals.”</p>
<p>Sen. Gregg</p>	<p>The Washington Post 4/2/98</p>	<p>“We don’t need the tobacco companies at the table.”</p>

Sen. Hollings	The Washington Post 4/2/98	"Whether some up here like it or not, the tobacco companies are part of this process."
Sen. McCain	<p>AP 4/2/98</p> <p>The Dallas Morning News 4/2/98</p> <p>AP 4/3/98</p> <p>The Chicago Tribune 4/3/98</p> <p>The New York Times 4/9/98</p> <p>The Washington Post 4/9/98</p> <p>The Dallas Morning News 4/9/98</p>	<p>"We have one obligation, and that is to fashion a package that would be the most effective way of preventing kids from starting smoking. There are many other actions that Congress can take without the consent of the tobacco companies."</p> <p>"The scenario that the tobacco companies face if they do opt out of this agreement is certainly a less-than-pleasant one."</p> <p>"I don't think [the tobacco industry's objection to the tobacco bill] matters. They've been saying all along that they couldn't support this bill... I expected a negative reaction from the tobacco industry. So if one tobacco company can't go along, then I'm sorry."</p> <p>"We have one obligation and that is to fashion a package that would... (impose) the most effective way of preventing kids from starting smoking. If that is not acceptable to the tobacco companies, then we go back and find other ways to try and prevent kids from starting smoking." McCain acknowledged the bill is not worth passing unless the industry goes along. "If the tobacco companies opt out of it, then obviously we don't have a viable proposal."</p> <p>"If we allowed them to veto the proposal, then we would be diverted from our primary goal in the legislation. If the legislation doesn't effectively prevent kids from smoking, then the legislation isn't worth having."</p> <p>"The public demands action, with or without the industry's support."</p> <p>"Senator McCain said Congress must go forward "with or without the industry's support," adding that "we could never be placed in a position where the terms of this agreement are dictated."</p> <p>"That ostensibly was the purpose of the so-called Tobacco Institute, which in fact did the opposite -- helped encourage kids to smoke," Senator McCain replied to Steven Goldstone's statement that the industry would take 'voluntary' efforts to reduce sales to minors.</p>
Rep. Waxman	<p>The LA Times 4/3/98</p> <p>The Wall Street Journal 4/3/98</p> <p>The Wall Street Journal 4/9/98</p>	<p>"I'm optimistic we'll get legislation, since there is a great deal of public concern about the tobacco companies going after our kids. What worries me is that we've got to be sure the law is a strong one that changes the way the tobacco companies do business."</p> <p>"The industry is simply no longer in a position to dictate to us terms of legislation."</p> <p>"The only way legislation will fail is if the Republican leadership does the bidding of the tobacco industry, and I don't think they're about to do that in an election year with the country watching."</p>
Sen. Wyden	The LA Times 4/3/98	Senator Wyden favors tough restrictions on tobacco companies and called the CDC report "a painful reminder of the marketing power of the tobacco industry and the need to pass tough, flexible legislation to keep the closest possible tabs on their efforts."

DOCUMENT DISCLOSURE

Speaker Gingrich	The New York Times 4/10/98	"I thought that the documents that came out that proved that the tobacco companies had tried to addict 14 year-olds and that proved they have been lying to us for the last 40 years totally left the tobacco companies without any defense. I don't think any serious person is going to take the tobacco claim seriously about anything for a long, long time."
Sen. Lautenberg	The New York Times 4/7/98 The LA Times 4/7/98	"Once we in Congress start reading these documents, whatever little support the industry has on Capitol Hill will vaporize in a puff." "This disclosure of these 39,000 documents will be like 39,000 new lobbyists against the tobacco industry in Washington."
Sen. Lugar	The LA Times 4/9/98	"The bald assertions they were making over the years that nicotine was not addictive and they weren't marketing to kids were vastly untrue... It's tougher and tougher for a member of Congress to be seen as making peace with the tobacco companies."

FARMERS

Sen. Ford	The Washington Post 4/2/98 The Richmond Times Dispatch 4/2/98 The San Francisco Examiner 4/2/98 The Washington Times 4/2/98 The Wall Street Journal 4/10/98	Senator Ford warned that even though the bill contains \$28.5 billion to help ease the impact on tobacco farmers, he was not satisfied. "If my farmers are not taken care of, this carpet is going to turn red." Senator Ford said he wouldn't support a bill that "bankrupts an industry and makes any farmer [protection] provision a hollow victory for me - if there is no industry left to fund them." Senator Ford said he was "astonished at the price tag of the bill," saying it would hurt tobacco farmers and bankrupt the industry." "I'm not willing to support legislation that raises taxes unnecessarily and hurts my farmers. I'm not willing to endorse legislation that bankrupts the tobacco industry." But Ford voted for the bill after winning approval for amendments that would aid tobacco farmers and make sure the FDA has no power to regulate them. Tobacco legislation "must not bankrupt the industry, and it must not treat tobacco farmers as pawns in a much larger game."
Sen. Lugar	The New York Times 4/7/98	"The Government should not support the production of tobacco, while it spends billions of dollars on tobacco-related health care costs and anti-smoking campaigns. This dual course is simply contradictory and wrong, and it weakens the Government's message to the public about the dangers of smoking."

FDA AUTHORITY

Sen. Hutchison	The Houston Chronicle 4/2/98	Senator Hutchison voted for Senator McCain's bill and complimented his efforts, but said she had reservations about the bill, particularly the amount of authority it gives the FDA to regulate tobacco products.
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FEDERAL SHARE OF MEDICAID (CHILD CARE/CLASS SIZE)

Rep. Archer	The Dallas Morning News 4/9/98	Rep. Archer still wants to use the tobacco funds to pay for health-care-related tax cuts. Archer's staff is also examining three other nonhealth tax cuts: eliminating the marriage penalty, expanding the 15 percent tax bracket and excluding
Sen. Gorton	The LA Times 4/2/98	<p>"The committee did not say no to the White House, it did not say no to a stream of payments that bear no relation to the demand for tobacco. By saying no to almost nothing, they guaranteed that the tobacco companies would say, 'We can't settle.'"</p> <p>"Well, we've got our pound of flesh... but there will not be effective legislation in this field until the President and the tobacco companies sit down and reach an agreement."</p>
Sen. Graham	The Dallas Morning News 4/9/98	Senator Graham said Congress could pass a law making it easier for the federal government to sue tobacco firms to "recoup the billions of dollars that tobacco use has cost Medicaid, Medicare, the Department of Defense and veterans health programs."
Sen. Hollings	The Chicago Tribune 4/10/98	"You can take this bill and defeat it 100 to nothing because it is very complicated and not very pleasing to everybody. But, be that as it may, the money is spent. I've been up in the Budget Committee, and whether it's the Republican plan, the White House plan, the Democratic plan or what have you, this money is spent."
Sen. McCain	<p>The LA Times 4/2/98</p> <p>The Washington Post 4/2/98</p> <p>CNNFN 4/2/98</p> <p>The LA Times 4/9/98</p>	<p>"I really fear we could spend all day on this because everyone here has a different priority. The reality is this money will be divided when there is a final negotiation between the White House and leaders of Congress."</p> <p>"I fear that if we get into a food fight over distribution of funds, it might derail the measure and should instead be left for President Clinton and a handful of congressional leaders to work out."</p> <p>Q: What would be your preference in terms of how to spend the money. A: "My first priority, obviously, would be the issue of kids smoking. Second of all, the states need to be reimbursed for expenses they've incurred for tobacco-related illnesses. I think a lot more money on research - both NIH and other areas - and of course then we can get into a number of other aspects. Those are basically my priorities."</p> <p>"There is just so much money here that would be made available, we don't have to raise taxes... In some people's view it's almost painless."</p> <p>The companies "are saying they can't afford our bill. Maybe they can't, but where's the credibility?"</p>

INTERNATIONAL

Sen. Ford	The Courier-Journal (Louisville, KY) 4/3/98	Senator Ford thinks that Senator Wyden wants very restrictive overseas provisions and said, "I think think we can roll them back."
Sen. Ford Sen. Hollings	Time 4/13/98	Senators Ford and Hollings argue that America has no right to dictate to other countries and moved to strike language that would constrain exports.
Rep. Pelosi	Time 4/13/98	"How can we possibly say smoking is deadly for our kids but OK for foreign children?"

LIABILITY

Sen. Ashcroft	The New York Times 4/2/98 The Washington Times 4/2/98	The vote was 19 to 1. The only “no” vote came from Senator Ashcroft, who argued that other industries were entitled to the same annual limit on damage claims that the bill would give the tobacco companies. Senator Ashcroft sought to tie limits on tobacco lawsuits to a broader agenda of protecting charitable institutions, biotech firms and other industries from product-liability lawsuits. “If limiting liability is OK for merchants of death, it is better for merchants of life.”
Rep. Bliley	The Washington Post 4/8/98	Representative Bliley said that industry opposition to the bill is intense and that he doesn’t think the companies can agree to it without immunity. “Well, if it’s not dead, it’s on life support.” Representative Bliley said that the McCain bill unfairly held companies responsible for underage smoking. “How do you hold the companies responsible if an underage person illegally purchases tobacco and consumes it?”
Sen. Breaux	The New York Times 4/2/98 The Washington Post 4/4/98	Senator Breaux said that his mother died of lung cancer from smoking and that he had no tobacco interests in his state. But he said he worried that instead of concentrating on how to stop young people from starting to smoke, the committee was “engaging in a rush to see who can be the hardest on tobacco.” Breaux said that liability limits are the necessary trade-offs for extracting an industry concession to restrict its youth advertising. He said that Clinton should protect fellow Democrats by “signaling his willingness” to grant the industry those protections.
Speaker Gingrich	The Wall Street Journal 4/2/98	A few hours before Senator McCain unveiled his bill, an aide noted that House Speaker Newt Gingrich had criticized any liability protection for tobacco and had been quoted as saying he wasn’t going to let President Clinton “get to the left” of him.
Sen. Kerry	The Boston Herald 4/5/98	“I don’t want any liability limit and I favor a faster rate of payout.” Senator Kerry promised to revive his amendment, defeated in committee, to prevent “sham transactions” between parent companies and subsidiaries that “allow companies to escape liability.”
Sen. Lott	The Washington Times 4/9/98	“I’d like to stop class-action lawsuits, period.” On tobacco smoking, Lott said he takes a “libertarian” view, which is that if “a person smokes, it’s their choice.”
Sen. McCain	Knight Ridder 4/9/98	“The tobacco bill that was approved in the Senate Commerce Committee by a vote of 19 to 1 was ever intended to be a deal with the industry. Our mission was to pass a bill to stop kids from smoking.”
Sen. Rockefeller	The New York Times 4/2/98	Senator Rockefeller said that he had been prepared to vote against the bill on the grounds that it was too soft on the cigarette companies. But he said he had changed his mind. “We can only do the best we’re able to do.”

PRICE PER PACK

Sen. Chafee	The Washington Times 4/9/98	Senator Chafee said Congress should respond to the industry's retreat by simply imposing higher cigarette taxes. "The tobacco industry will take some hits for their announcement today. But no one ever claimed that the tobacco industry would win the charm contest."
Sen. Ford	The Courier-Journal (Louisville, KY) 4/3/98 The Washington Post 4/9/98	Senator Ford said that the total cost of the tobacco bill should be no higher than \$516 billion. If the sum goes any higher or if the farmer provisions are removed, he said, "I'm out. I'm way out. I'd fight it." Senator Ford said he understood the "frustration shared by tobacco companies." Yesterday's announcements, he said, would either "cause the legislative process to disintegrate" or "inject some needed fiscal responsibility into the debate."
Speaker Gingrich	The Washington Post 4/10/98	Gingrich said he expected the House would reduce youth smoking "by directly raising the cost of cigarettes through the federal government, rather than trying to have some kind of complex settlement that the tobacco companies have now withdrawn from."
Sen. Lott	The LA Times 4/9/98	"If you bankrupt them, you don't get the money."
Sen. McCain	AP 4/3/98 Time 4/13/98 USA Today 4/10/98	"All the objective observers say that RJR is not telling you the truth, that RJR and the other tobacco companies can remain viable (and) they're just choosing not to. There is a certain credibility problem as far as the tobacco companies are concerned, not only with the American people, but also with the Congress." "We've got to go with the President's numbers. Otherwise, we open ourselves up to the charge that all we care about is the tobacco companies." Even without a comprehensive settlement, McCain said Congress has an old-fashioned way to generate more revenue: Raise the cigarette tax.