Pending Legislation and Tobacco Industry Deception

Scott Ballin, JD, and Jennifer Johnson

In 1964, the first Surgeon General’s Report on Smoking and Health, establishing the link between cigarette smoking and several debilitating or deadly diseases, caused instant worldwide reaction. The report revealed that cigarette smoking is a direct cause of lung cancer and laryngeal cancer and the most important cause of chronic bronchitis. Over the years, the surgeon general has issued numerous reports on tobacco products. Each report unveils daunting facts and statistics on the dangers of cigarette and tobacco use. For example, in 1986, the surgeon general published The Health Consequences of Involuntary Smoking: in 1988, The Health Consequences of Smoking: Nicotine Addiction, and in 1990, The Health Benefits of Smoking Cessation. All of the surgeon general’s reports plus more than 50,000 government and private studies have clearly established the link between tobacco use and illness or death. More than 434,000 people a year die from tobacco-related illnesses, making tobacco use the single most preventable cause of death and disability in the United States. Yet, year after year, the tobacco industry has repeatedly denied any link between its products and illness or death. The tobacco industry has also used scientific conclusions and studies to deceive the American public and the US Congress about the dangers of its products.

The deceptions can be traced back to January 4, 1954, before the first surgeon general’s report was released. The Tobacco Industry Research Committee (TIRC) ran a paid advertisement in The New York Times as well as more than 600 other national newspapers that said, “We accept an interest in people’s health as a basic responsibility, paramount to every other consideration in our business. We believe the products we make are not injurious to health.”

In a continuing effort to cast doubt on the many studies that link tobacco use and illness or death, the tobacco industry constructed a research arm, the Council for Tobacco Research (CTR), a stronger and revised entity of the TIRC. In February 1993, the Wall Street Journal released a detailed news article on the CTR. The CTR has proven to be the tobacco industry’s greatest public relations scam. The industry has funneled millions of dollars into the CTR, and the industry’s laboratories have been able to attract an illustrious scientific advisory board. All of this effort has been made to counter the charges that tobacco use is deadly. The CTR has worked to undermine government studies and to protect the industry in congress and in court. To this day, tobacco companies have never paid a dime in product liability claims.

In 1982, 20 years after the first surgeon general’s report on smoking and health was distributed worldwide, Edward A. Horrigan, Jr, on behalf of the Tobacco Institute, stated before the House Energy and Commerce Committee, “After three decades of investigation and millions of dollars invested... the smoking and health controversy remains unresolved. The net result of all of this effort has been that no causal link between smoking and disease has been established. This is a scientific fact readily available to anyone willing to make an objective unemotional study of the existing evidence.”

In January 1993, the Environmental Protection Agency (EPA) released a risk assessment that classified second-hand smoke as a “group A” carcinogen—a substance known to cause cancer in humans. This powerful report by the EPA has been termed the newest breakthrough report since the first surgeon general’s report in 1964. The EPA report has been used by many state and local ordinances as a very powerful tool to limit or ban smoking in restaurants or state buildings. In June, Postmaster General Marvin Runyon cited the EPA report when he declared the nation’s 40,000 post offices smoke free. He even went so far as to give local postal managers the option of banning smoking on postal property outside postal buildings. One of Los Angeles Mayor Tom Bradley’s final acts before he left office was to sign into law a bill that would ban smoking in the city’s 7000 restaurants. Los Angeles has become the largest city to ban smoking altogether in restaurants. Scores of private employers, states, and cities are following Los Angeles’ lead and have toughened their antismoking restrictions. Moreover, in July, the Journal of the American Medical Association included an article on environmental tobacco smoke in restaurants. This report, entitled “Smoking and Restaurants: A Guide for Policy Makers,” will serve as a comprehensive guide for restaurant owners who wish to limit smoking.

Even Capitol Hill lawmakers have cited the EPA report to support their stand on the dangers of second-hand tobacco smoke. Congressman James Traficant, a democrat from Ohio, introduced H.R. 881. This legislation would prohibit smoking in federally owned or leased buildings. Similar legislation has been introduced in the Senate by Senator Frank Lautenberg (D-New Jersey). Senator Lautenberg’s legislation, S. 262, would require the administrator of the EPA to promulgate guidelines for instituting a nonsmoking policy in buildings owned or leased by Federal agencies. H.R. 881 easily passed the House Committee on Public Works and Transportation. But even before the bill passed the House committee, Speaker of the House Thomas Foley (D-Washington) signed a no-smok-
ing policy that restricts smoking in all House office buildings and in the House side of the Capitol building.

To counter what the tobacco companies call "damage" to their industry, Philip Morris, R.J. Reynolds, and four other tobacco companies filed a suit in June that said the EPA study cannot conclusively link second-hand smoke to cancer. The tobacco industry giants said that the EPA has resorted to "manipulating and cherry-picking" data to "falsely disparage" cigarettes. The tobacco industry complaint seeks to overturn the EPA decision and require the EPA to withdraw both its classification of environmental tobacco smoke as a group A carcinogen and the ETS risk assessment on which that decision was based. In years past, the tobacco industry has consistently used public relations campaigns, litigation, and misleading science to deceive the public about the dangers of smoking. The tobacco industry's newest lawsuit is again a ploy to deceive the public. The industry fears that the public and policymakers will continue to respond to the medical evidence by restricting smoking in the workplace and public places. The tobacco industry continues to spend an inexhaustible supply of money on lawsuits and public relations blitzes to attack the credibility of scientists. Ultimately, if this suit is pursued, the EPA will be forced to defend itself with public dollars, making the suit a waste of taxpayers' money.

Unlike any other legal product, from prescription drugs to applesauce, tobacco has also been shielded from any type of regulation. While claiming through public relations campaigns that it was seeking scientific answers as to whether cigarette smoking causes disease, the tobacco industry has worked diligently to ensure that its products were exempted from all federal health and safety laws.

The American Heart Association, with the American Cancer Society and the American Lung Association, has been at the forefront of tobacco regulation legislation. Congressman Mike Synar (D-Oklahoma) introduced in May H.R. 2147, The Fairness in Tobacco and Nicotine Regulation Act of 1993. This legislation would require that tobacco products comply with regulations governing the manufacture, labeling, sale, distribution, and advertising and promotion of tobacco products in a manner consistent with the way the Food and Drug Administration regulates other products. More than 60 health, consumer, and religious groups and well over 30 members of Congress support this legislative effort. But more needs to be done to curb the tobacco industry's political and economical clout on Capitol Hill. Researchers, cardiologists, and other medical professionals need to be more active in speaking out on this issue.

Specifically, the Synar legislation would:

- Establish and enforce a federal minimum age of sale of 18 years of age.
- Require the tobacco companies to label their products with information presently kept from the public.
- Establish a separate chapter in the Federal Food, Drug and Cosmetic Act authorizing the FDA regulation of tobacco products while specifying that they cannot be banned.
- Require tobacco manufacturers to fully disclose all chemical additives in tobacco products.
- Require tobacco companies to label their products with information presently kept from the public.
- Give the FDA authority to reduce the level of harmful additives or to prohibit the use of those additives.
- Regulate the advertising and promotion of tobacco products consistent with the way in which other legal drugs are regulated.
- Establish and enforce a federal minimum age of sale of 18 years of age.

The tobacco industry does not have to disclose to the public what chemicals or additives are dumped into cigarettes. In fact, many of the flavorings used in cigarettes, like licorice or caramel, are hazardous if burned and ingested into the body. There are well over 4000 known hazardous compounds in cigarette smoke, including benzene and arsenic. Both of these chemicals are highly regulated by the government, except in the case of cigarettes.

The tobacco industry is even able to make implied or direct health claims in its advertising, simply because the government has accepted the industry's 1964 advertising code. Part of the code states, "Cigarette advertising may use attractive, healthy looking models, or illustrations or drawings of persons who appear to be attractive and healthy, provided that there is no suggestion that their attractive appearance or good health is due to cigarette smoking." All aspects of the code have been repeatedly ignored by the tobacco industry, with no recourse by the government.

Although most states have a minimum age of 18 to buy tobacco products, none of the states enforce this law. Children are freely allowed to buy cigarettes from store clerks or vending machines. The tobacco industry has constantly reinforced its claim that cigarettes are not intended for children and that smoking is an adult habit. But statistics tell otherwise — 50% of the current smokers had started before 15 years of age, and 40% had started between 15 and 20 years of age. Brennan M. Dawson, vice president of the Tobacco Institute, said in a December 11, 1990, statement, "The Tobacco Institute is today announcing a series of new initiatives. These broad based, new programs are designed to discourage youth . . . to reduce youth access to products and to address concerns that have been expressed recently about cigarette advertising and promotion. In announcing these initiatives, I feel it's important to first point out that they expand and reaffirm this industry's long standing commitment and a history of positive actions against youth smoking." Despite their affirmation that smoking is an adult habit, the industry has insisted on using cartoon characters, like Old Joe Camel, to promote their products. A 1991 study published in the Journal of the American Medical Association indicated that young children recognized Old Joe as often as the Mickey Mouse ears logo used on the Disney Channel. There has been a dramatic rise in the use of Camel cigarettes among teenagers that directly parallels the introduction and pursuit of the Old Joe advertising campaign by the industry.

Tobacco use is the single most preventable cause of death, and involuntary smoking is the third leading cause of preventable death behind active alcohol use. Every year, 434 000 people die of cigarette smoking and environmental tobacco smoke. Annually, 53 000 people die from second-hand tobacco smoke with 37 000 from heart disease, 3700 from lung cancer, and 12 000 from other cancers. Tobacco-related illness costs the United States $65 billion a year. More than 50 000 studies have linked tobacco use with death and disability. Yet, despite the facts, the tobacco industry continues to deny these charges.

The American Heart Association, along with the American Cancer Society and the American Lung Association, united as the Coalition on Smoking or Health, will continue to battle the tobacco industry.
Pending legislation and tobacco industry deception.
S Ballin and J Johnson

_Circulation_. 1993;88:1410-1411
doi: 10.1161/01.CIR.88.4.1410
_Circulation_ is published by the American Heart Association, 7272 Greenville Avenue, Dallas, TX 75231
Copyright © 1993 American Heart Association, Inc. All rights reserved.
Print ISSN: 0009-7322. Online ISSN: 1524-4539

The online version of this article, along with updated information and services, is located on the World Wide Web at:
http://circ.ahajournals.org/content/88/4/1410.citation

Permissions: Requests for permissions to reproduce figures, tables, or portions of articles originally published in _Circulation_ can be obtained via RightsLink, a service of the Copyright Clearance Center, not the Editorial Office. Once the online version of the published article for which permission is being requested is located, click Request Permissions in the middle column of the Web page under Services. Further information about this process is available in the Permissions and Rights Question and Answer document.

Reprints: Information about reprints can be found online at:
http://www.lww.com/reprints

Subscriptions: Information about subscribing to _Circulation_ is online at:
http://circ.ahajournals.org/subscriptions/