

Statement of Richard W. Mizerski
on behalf of
The Tobacco Institute
before the
Subcommittee on Health and the Environment
Committee on Energy and Commerce
U.S. House of Representatives

July 12, 1990

Mr. Chairman and distinguished members of the Subcommittee, I appreciate this opportunity to testify on the provisions of H.R. 5041 that address cigarette advertising and promotion.

I am a Professor of Marketing in the College of Business at Florida State University in Tallahassee, Florida. I have been a member of the faculty there since 1980 and have served as Director of the College of Business Behavioral Laboratories since 1985. I received my B.S. degree in Business Administration from the College of Business Administration of Northwestern University in 1968. I received my Ph.D. from the College of Business Administration at the University of Florida in 1974.

I teach or recently have taught courses in marketing, market research, consumer behavior, marketing strategy, promotion, media and campaign advertising at the undergraduate and graduate levels. In addition, I prepare commercial reports and have published scholarly articles on a variety of subjects in the fields of marketing and

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consumer behavior, including how advertising affects consumer purchasing decisions, the effectiveness of advertising and marketing strategies.

From 1979 to 1980, I worked for the Federal Trade Commission as a staff consultant on consumer behavior, advertising and marketing, and continued to work for the Commission as an outside consultant until 1982. While at the Commission, I assisted in the staff investigation of cigarette industry advertising and marketing practices and the effectiveness of the existing cigarette health warning and proposed new warnings. I also served as the contracting officer on the largest study ever undertaken of the effects of advertising on adolescent initiation of alcohol use, funded by the Commission, the Food and Drug Administration and the Bureau of Alcohol, Tobacco and Firearms, among others.

I most recently assisted the Commission as an outside consultant in an investigation of a consumer product promotion to determine whether the advertising and other materials associated with the promotion were false or misleading. I also recently assisted the State of Florida in an investigation of several consumer oriented promotions.

My complete curriculum vita is attached.

Mr. Chairman, I previously testified before your Subcommittee on cigarette advertising issues at a hearing on

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May 17. In connection with that hearing, I reviewed the literature on the effects of cigarette advertising and promotion. I have reviewed that literature once again in preparation for this hearing. In particular, I have studied the testimony of other experts who since 1986 have addressed advertising issues at hearings in Congress on various proposals to ban or restrict cigarette advertising.

In the course of those hearings, Mr. Chairman, both sides have stated and restated their data, articulated and rearticulated their arguments, asserted and reasserted their positions. Since Rep. Synar introduced his original advertising ban legislation in 1986, the debate has gone through several phases as the antitobacco side has struggled to find an approach that would attract support. I would like to review the development of this issue if I may, Mr. Chairman, from my perspective as an expert with regulatory experience in the area.

In the initial phase of the debate, the anti-smoking side proposed to ban cigarette advertising outright. That proposal encountered strong opposition -- basically because an outright ban was considered to be overbroad and unacceptably paternalistic and because whether such a ban in fact would result in reduced smoking seemed highly questionable. As former Surgeon General Koop stated at p. 516 of his 1989 Report:

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"There is no scientifically rigorous study available to the public that provides a definitive answer to the basic question whether advertising and promotion increase the level of tobacco consumption."

In the second phase of the debate, the antismoking side proposed to ban "only" those elements of cigarette advertising that supposedly influence youth -- pictures and colors in print advertisements and various promotional activities undertaken by the cigarette companies. These proposals also have met with strong resistance because they are the functional equivalent of an outright advertising ban -- especially when severe restrictions on advertising content are coupled with warning and information requirements of the kind set forth in H.R. 5041.

Mr. Chairman, the central issue for me -- as one who has spent his career in academia and government studying advertising -- is whether banning or restricting cigarette advertising would reduce smoking among young people or adults. Having reviewed the available evidence, I am convinced that banning or restricting cigarette advertising is unlikely to have any such effect.

The Secretary of Health and Human Services has reported that 46.7 percent of current smokers and 41.3 percent of former smokers started smoking before the age of 18. Females tend to start smoking later than males and

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blacks tend to start smoking later than whites, as the following table shows:^{1/}

| <u>Current Smokers</u> | <u>Percent started before 18</u> |
|----------------------------|--------------------------------------|
| Males | 51.7 |
| Females | 41.0 |
| Whites | 49.1 |
| Blacks | 31.0 |

What accounts for such smoking initiation among juveniles? I doubt the answer lies in free T-shirts and posters. One finds a remarkably strong predictor in the smoking status of the parents, siblings and friends. Dr. Mortimer Lipsett of the NIH's National Institute of Child Health and Human Development, has reported that:

"If one parent smokes, the child is twice as likely to smoke as one reared in a nonsmoking household. If both parents or one parent and an older sibling smoke, the chances become four to one. If the child's best friend smokes, there is a 90 percent probability that the child will smoke too."^{2/}

These findings are not limited to this country, but reflect worldwide opinion. A four-country survey

^{1/} *Smoking and Health -- A National Status Report* 19 (1990).

^{2/} *Smoking Prevention Act: Hearings on H.R. 1824 before the Subcomm. on Health and the Environment of the House Comm. on Energy and Commerce, 98th Cong., 1st Sess. 53 (1983) (statement of Mortimer B. Lipsett, M.D.) (emphasis added).*

conducted in 1983-1984 by the World Health Organization

("WHO") reported:

"When young people start smoking, the most important predictor is the smoking behaviour and smoking-related activities of 'significant others'."^{3/}

According to the WHO survey, "[t]he strongest statistical relationships are found with the smoking habits of the best friend."^{4/} Smoking among schoolchildren was found to be "strongly related to the number of smokers in the family."^{5/}

Some have suggested that attributing smoking initiation by a juvenile to the influence of his or her friends begs the question because something, after all, made the friends start smoking. Mr. Chairman, the friends started smoking because their friends (and parents and siblings) smoked, and so on down the line. That is why the WHO researchers found "no systematic differences" between the smoking behavior of young people in countries where tobacco advertising is completely banned and in countries where it is not.^{6/}

Only the influence of "significant others" can explain why smoking prevalence among 15-year-olds remains so

^{3/} Aarø, Wold, Kannas & Rimpelä, "Health Behaviour in Schoolchildren: A WHO Cross-National Survey," *Health Promotion*, vol. 1, no. 1, pp. 17, 21 (May 1986).

^{4/} *Id.* at 21.

^{5/} *Id.* at 28.

^{6/} *Id.* at 32 (emphasis added).

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high (36 percent) in a country like Norway, where cigarette advertising was banned completely in 1975, as compared to smoking prevalence among juveniles in this country (19 percent of high school seniors in 1987) and why the prevalence of smoking among teenagers is increasing in Finland and Sweden even though cigarette advertising was banned or severely restricted in those countries in the late 1970s.^{7/} The experience in such countries seems to me a decisive refutation of those who insist, on the basis of "logic" or "intuition," that advertising is a significant influence on youth smoking.

The evidence, comparing countries that ban cigarette advertising with countries that permit cigarette advertising, is the same with respect to adult smoking. One researcher recently made the point in connection with the study of the effects of advertising restrictions in less developed countries ("LDC's").

^{7/} The relevant statistics, drawn from studies by government and antismoking researchers, as well as from studies supported by the tobacco industry, are set forth in the testimony of Professor Jean J. Boddewyn last summer before the Subcommittee on Transportation and Hazardous Materials. See *Tobacco Issues (Part 1): Hearings on H.R. 1250 before the Subcomm. on Transportation and Hazardous Materials of the House Comm. on Energy and Commerce, 101st Cong., 1st Sess. 129 (1990) ("1988 Hearings")*. See also *id.* at 162-84 (testimony of Professor Scott Ward).

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According to Dr. Eugene M. Lewit of the New Jersey Medical School's National Bureau of Economic Research, "[e]vidence from a sample of LDC's suggests that the existence of advertising restrictions per se had little if any effect in trends in or on the level of cigarette consumption."^{8/} For example, Dr. Lewit noted that China had one of the highest rates of cigarette consumption per capita, but it had no cigarette advertising. By contrast, in Taiwan, where some cigarette advertising was permitted, the growth rate is less than half the rate of China, and in Hong Kong, where cigarette advertising was only marginally controlled, consumption was falling.^{9/}

A report by the Toxic Substances Board of New Zealand ("TSB"), discussed at last summer's hearing before the Subcommittee on Transportation and Hazardous Materials, claimed that data from 18 countries "shows that there is a relationship between legislation banning tobacco promotion and reduced uptake of the habit by young persons."^{10/} The

^{8/} Lewit, "Tobacco in Developing Countries," p. 45 (Harvard Institute for the Study of Smoking Behavior and Policy, Discussion Paper Series, March 1988).

^{9/} *Ibid.*

^{10/} *Tobacco or Health: An End to Tobacco Advertising or Promotion*, p. xvii ("TSB Report"). The summary of a draft version of this report is reprinted at pages 204-15 of the record of the 1988 Hearings.

TSB report was mentioned by my friend Professor Joel B. Cohen of the University of Florida. Dr. Cohen, testifying as a government witness in the Canada advertising ban litigation, has denied any suggestion that the advertising ban that is being implemented in Canada accelerated the rate of decline in tobacco consumption there last year. Tr. 9330 (April 18, 1990).

The TSB Report suffers from a variety of methodological and other flaws that invalidate its conclusions.^{11/} In many important respects, the TSB Report simply assumes its conclusions. For example, the TSB Report asserts that aggregate demand in countries like the United States *must* be affected by advertising expenditures, simply because such expenditures are as large as they are. Similarly, the methodology used by the TSB was to compare trends following imposition of a ban in the ban countries with trends in non-ban countries, but "[n]o account [was] taken of the trends in the ban countries before the ban took place, which is of course crucial information."^{12/} Many conclusions

^{11/} The TSB report was reviewed by three advertising experts at the request of The Tobacco Institute of New Zealand. See, Hagan, Martin & Waterson, *An Appraisal of the Advertising Analysis and Conclusions in the "Health or Tobacco" report from the Toxic Substances Board of New Zealand* (July 1989).

^{12/} *Id.* at 10.

therefore were based on misleading and, in some cases, self-contradictory data.^{13/}

The key conclusion of the report was that tobacco consumption has declined more rapidly in "total ban" countries than in non-ban countries. This conclusion hinged on (1) classifying a single country, Portugal, as a "total ban" country as of 1983 and (2) including a supposedly enormous decline in tobacco consumption in Portugal from 1983 to 1986 in the overall decline in consumption in "total ban" countries. But Portugal never was a "total ban" country and the substantial decline in consumption shown by TSB for the period 1983 to 1986 was based on data that are totally incorrect and were acknowledged to be erroneous by Dr. Jeffrey Harris testifying on behalf of the Canadian government in the Canadian advertizing ban litigation. If Portugal is not counted as a "total ban" country, that category does not show a more marked decline in tobacco consumption than non-ban countries, and the key conclusion of the TSB report is invalidated.

As I have previously testified before this Committee, cigarettes are a "mature" consumer product. They have been around for decades. People are universally aware of their existence. Cigarette advertising, like advertising for other "mature" consumer products, does not produce long

^{13/} *Id.* at 17-22.

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run increased consumption but is principally a vehicle for brand competition. The importance of cigarette advertising as a competitive tool has been questioned on the ground that relatively few smokers switch brands in a given year (compared to brand switching in other industries). But retaining customer loyalty is no less important than acquiring customers from competitors in an industry where a single market share is worth nearly \$360 million and the overall market itself appears to be shrinking.

In sum, given my review of the evidence, it is my opinion that cigarette advertising does not cause young people to begin smoking. Consequently, banning or severely restricting cigarette advertising would not reduce youth smoking.

I would be glad to answer any questions.

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