



UNITED STATES OF AMERICA
 FEDERAL TRADE COMMISSION
 WASHINGTON, D.C. 20548

Office of
 Enforcement

July 20, 1994

Samuel Broder, M.D.
 Director
 National Cancer Institute
 Building 31, Room 11A48
 9000 Rockville Pike
 Bethesda, MD 20892

Dear Dr. Broder:

As you know, pursuant to a 1970 voluntary agreement among most of the major cigarette companies in this country, every cigarette advertisement disseminated by those companies contains a disclosure of the advertised brand's tar and nicotine ratings. The ratings used in these disclosures are obtained in smoking machine tests conducted by the tobacco companies pursuant to a methodology approved by the Federal Trade Commission ("Commission"). The Commission believes that many consumers consider these ratings in selecting the brand of cigarettes they smoke.

Over the past few years, public and private health groups and others have questioned the usefulness of these ratings and have suggested that they may mislead consumers with respect to the relative risks of continuing to smoke and of smoking cigarettes with various levels of tar and nicotine ratings. The Commission understands that, on June 7, 1994, Henry A. Waxman, Chairman of the Subcommittee on Health and the Environment of the House Committee on Energy and Commerce, asked the National Cancer Institute ("NCI") to "sponsor a scientific conference which would review and make recommendations on the accuracy and appropriateness of the Federal Trade Commission's method for determining the relative 'tar' and 'nicotine' content of cigarettes." We also understand that you informed Chairman Waxman by letter of June 22, 1994, of NCI's willingness to sponsor such a conference.

The Commission believes that there is substantial overlap between the issues identified by Chairman Waxman and issues that the Commission has been examining and that it seeks to explore further. With this in mind, the Commission requests that NCI convene a conference in the consensus conference format to study and report on specific issues pertaining to the Commission's cigarette testing methodology and rating system. Such a conference would provide a comprehensive review of the existing scientific evidence on issues relating to low-tar and ultra low-tar cigarettes, as well as data and recommendations on behavioral aspects of these issues. The Commission would find such data and

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recommendations invaluable in assessing possible alternatives to, or modifications of, the present system of ratings and in evaluating other available options for addressing tar and nicotine claims in future cigarette advertising and promotions.

Specifically, although the Commission's cigarette testing methodology has been used for more than 25 years, the Commission is aware of concerns that have been raised about limitations of the methodology. At least some of those limitations result from the fact that while the machines used in those tests smoke every cigarette in a uniform manner, people often vary their smoking techniques and do not necessarily smoke in the same way as the test machines. Consideration of possible alternatives to, or modifications of, the present rating system will require an evaluation of various scientific and public health issues. The Commission's decision-making would benefit from the assistance and expertise of impartial individuals trained in these areas.

In addition, if the proposed conference is convened, one foreseeable scenario is that a consensus may be reached by the panel that the current rating system is sufficiently flawed as to pose harm to consumers who rely on the ratings. In that event, the Commission may consider formally or publicly withdrawing its imprimatur from the rating system. Following such Commission action, the agency may need to consider whether cigarette advertising that continues to make use of the (hypothetically) discredited ratings is likely to mislead reasonable consumers regarding the health hazards associated with smoking cigarettes. A comprehensive review of the existing scientific evidence on the issues described below would greatly facilitate and enhance these efforts.

The Commission suggests that NCI consider the following:

1. With respect to compensation effects:
 - to what extent are the tar and nicotine ratings of cigarettes produced by the current testing protocol predictive of how much of those substances smokers actually get when smoking cigarettes?
 - do smokers of lower tar cigarettes engage in compensation behavior?
 - what are the compensation mechanisms (e.g., smoke more cigarettes, inhale deeper, block aeration holes)?
 - what is the overall magnitude of the compensation effect?

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- how much of the compensation effect is due to each mechanism?
 - do the estimates of the compensation effect vary according to the research method used to measure them? If so, in what way?
 - does the magnitude or existence of the compensation effect vary significantly according to the tar/nicotine levels of lower tar cigarettes (15 mg. or less)?
 - what is the nature of any such variation?
 - is there any evidence on the ability of smokers to modify their smoking technique after the effects of compensatory smoking are pointed out to them?
2. With respect to the FTC cigarette testing methodology:
- if the current cigarette testing protocol needs to be revised, can it be modified to reflect actual smoking more accurately (including the effects of compensatory smoking behavior)?
 - if so, what modifications could be made?
 - if modifications are not feasible, is there another, better test that could be substituted for the current methodology?
3. With respect to the potential health benefits of lower tar cigarettes:
- assuming no compensatory smoking behavior, is there a dose response relationship between FTC tar ratings and either specific smoking-related diseases or overall smoking-related morbidity and mortality? If so, does this relationship differ for the other principal components of cigarette smoke (e.g., carbon monoxide and nicotine)?
 - do compensation effects reduce or eliminate any health risk reduction benefits from lower tar cigarettes? If there is any remaining health risk reduction, is it significant?

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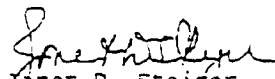
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- are low-tar cigarettes (cigarettes rated at 15 mg. or less of tar) less dangerous than high-tar cigarettes (those rated at more than 15 mg. of tar) and, if so, what is the extent of their health benefit?
- are ultra low-tar cigarettes (cigarettes rated at 6 mg. or less of tar) less dangerous than low-tar and/or high-tar cigarettes and, if so, what is the extent of their health benefit?

The Commission suggests that the goals of a conference such as the one we recommend be to analyze the available information on these issues and any related questions NCI may identify and to produce a report detailing the consensus of the group on each issue. That report would substantially assist the Commission's decision-making with respect to the future of the current cigarette testing system and the continued use of tar and nicotine ratings in cigarette advertising.

We hope that NCI will consider this request, and we look forward to receiving your response. The Commission, of course, would be pleased to assist NCI in any way possible in connection with the recommended conference. We suggest that your staff feel free to consult with the staff of the Commission on this matter and, in particular, with Judith Wilkenfeld, Assistant Director, Division of Advertising Practices, Bureau of Consumer Protection. She may be reached at (202) 326-3150.

By direction of the Commission.


Janet D. Steigler
Chairman

If the conferees determine that additional study is necessary on specific issues, the Commission would request that their report identify those areas and the estimated costs and duration of those studies.

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