

THE ANTI-SMOKING CAMPAIGN:

ENOUGH IS ENOUGH

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On March 10, 1987, Waterford Township, Minnesota, banned smoking on public property.

Thirty of Waterford's 488 residents voted for a ban and so no-smoking signs were erected in the one-picnic-table park alongside city hall, in the six-stall parking lot and in the roadside park two blocks up the street.

At least two national television networks arrived to film stories on the rural hamlet's new outdoor smoking ban.

"That's when people started to get fed up and the supervisors started to hear from people who didn't attend the annual meeting," said one news report. "Two dozen residents told the supervisors that the ban was an unwarranted invasion of privacy."

The chairman of the town's board of supervisors said, "Most of them didn't want all the publicity and they told us loud and clear they didn't want the ban." As a Canadian television camera rolled, the board in May declared the ordinance invalid because it was put in place without a public hearing.

Just another episode of small-town democracy? Perhaps. But the episode also is symptomatic of where this nation has come with a growing national obsession against smoking -- a pastime that is chosen by one-third of American adults and that predates America itself.

A ban on smoking out of doors?

Enough Is Enough!

Today the city of San Diego is split over whether smoking should be forbidden altogether in the outdoor Jack Murphy Stadium, although its major tenants -- the baseball Padres and the football Chargers -- already set aside no-smoking sections.

Kansas and Massachusetts legislatures were asked to consider measures prohibiting smoking throughout their states. Wording of a smoking restriction law in Watsonville, California, left unclear whether city fathers meant to limit smoking at drive-in movies. And on the indoor front, the Atlanta city council considered a workplace measure permitting smoking in private offices of government employees only if doors remained closed for at least five minutes thereafter.

Today smokers are forced to deal with harassment and other excesses from a vocal minority. In their adamant refusal to accept even reasonable accommodation, anti-smoking extremists are leading society down dangerous paths.

Smokers and fair-minded nonsmokers alike are saying "Enough is enough!" We've reached the limit.

According to a poll completed in December 1988, a large majority of respondents support stricter regulation on a number of fronts, including government inspection of food processing plants and transportation and disposal of toxic chemicals.

In contrast, an overwhelming majority of respondents oppose further anti-smoking efforts -- and are satisfied with the current levels of restrictions on smoking in workplaces and in restaurants.

The random poll of 1,500 adult Americans age 18 and over was conducted by the Washington, D.C., polling firm of Hamilton, Frederick & Schneiders for The Tobacco Institute. Among the poll's findings:

- o Almost 8 out of 10 respondents believe the current policy of allowing employees and employers to determine workplace smoking policies should continue. Even among nonsmokers, better than 70 percent support the current system.
- o Seventy four percent support current arrangements that allow restaurants to offer smoking and nonsmoking sections to customers. Among nonsmokers, more than 60 percent support the current system.
- o A majority of Americans (57 percent) say they believe cigarette advertising restrictions should either remain as they are (34 percent), or be eliminated entirely (23 percent), with cigarette advertising being treated as any other product advertising.
- o Most Americans do not support an increase in the cigarette excise tax. In fact, 53 percent said they believe that excise taxes -- amounting to about a third of the price of a pack of cigarettes -- should stay the same (38 percent) or be significantly reduced (15 percent).

Meanwhile, Larger Issues Are Ignored

The single-minded focus on smoking has come at the expense of addressing important public issues, and threatens key Constitutional and other rights. Anti-smokers, for example, would:

- o Encourage smoking bans that leave unregulated the most important factors contributing to dirty office air.
- o Ban cigarette advertising despite the impact on our First Amendment rights.
- o Impose regressive, moralistic tax increases on those who can least afford to pay.
- o Have employers unilaterally adopt smoking restrictions, trampling workers' legal rights to bargain collectively over such conditions of employment.
- o Discriminate against groups of individuals -- minority and women workers -- society protects in other ways.

- o Cause smokers to be fired or lose promotions or job opportunities.
- o Deny important commissary and exchange benefits to traditionally low-paid U.S. service men and women.
- o Suggest to smokers and nonsmokers alike that the only solution to the accidental fire problem is altering cigarette design.
- o Restrict overseas sales of tobacco and tobacco products despite the already enormous U.S. trade deficit.

Is it any wonder that Professor Albert Hirsch, one of France's leading anti-smoking advocates, has cautioned his nation to "resist the kind of ... witch hunt that can be observed in some of the excesses of the anti-tobacco campaign in the United States"?

Breeding a Nation of Informers

Most threatening of all in the excesses of the anti-smoking movement is the erosion of personal freedoms.

Take, for example, the employer who is allowed to say, "Quit smoking or lose your job." Such efforts by employers to control employee behavior off the job -- extending even into the privacy of the employee's own home -- raise issues that are both fundamental and deeply troubling.

"We have a snitch in our office," one Manhattan worker told a wire service reporter even before New York City's paternalistic workplace smoking law took effect. "When someone lights up in the ladies' room, she tells the boss who did it. It's just like high school."

Or take the New Jersey chemist who now boasts sales of \$2 million annually with a urine test device that purports to tell Big Brother whether an individual smokes.

Americans today are given more information about smoking than virtually any other product. Still, large numbers choose to smoke.

"The American people are literally bombarded with health warnings about smoking," a communications expert told a Congressional subcommittee in June 1988. "The message has been consistent, it has come from numerous credible sources (including [the warning labels mandated by] the U.S. Congress), and it has been received."

"If, notwithstanding the health warnings, people nonetheless choose to smoke, that is their right in a free society," wrote Gerald M. Goldhaber, chairman of the communications department of the State University of New York at Buffalo. "Even absolute legal prohibition will not change people's behavior in areas they associate with basic personal liberties. That was the case with alcohol, and it can be seen again today in the case of automobile safety belts."

Tobacco Already Is Highly Regulated

Tobacco and tobacco products are among the most highly regulated products offered to consumers. Their overseers at the federal level read like a bowl of alphabet soup.

Tobacco leaf is watched over by the U.S. Department of Agriculture (USDA) -- regulated from seedbed to auction floor and leaving or entering the country.

Cigarette ingredient lists are required to be submitted annually to the Department of Health and Human Services (HHS). The Office on Smoking and Health (OSH) is required to submit to Congress "information pertaining to any such ingredient which in the judgment of the Secretary poses a health risk."

HHS is required by law to conduct and support research and to inform the public of any relationship between tobacco products and health and to recommend legislative or administrative action.

Cigarette packaging and advertising must by law carry four rotating warning messages: broadcast advertising of cigarettes is forbidden. Cigarette brand advertising is monitored and regulated by the Federal Trade Commission (FTC), which is required by law to report annually to Congress on that subject. The FTC has for many years required cigarette manufacturers to submit detailed information annually on advertising and promotional expenditures.

Law require: an interagency committee (ICSH), headed by the Surgeon General and including HHS, FTC, and the Departments of Labor (DOL) and Education (DOE), to review both public and private sector activities on smoking and health and to recommend policy initiatives.

A second interagency committee that included the Consumer Product Safety Commission (CPSC), the U.S. Fire Administration (USFA) and HHS directed the efforts of a technical study group (TSG) focusing on ways to alter cigarettes and little cigars to reduce ignition propensity. The first phase of this federal study effort was completed at the end of 1987.

Regulations of the Bureau of Alcohol, Tobacco and Firearms (BATF) of the Department of the Treasury (DOT) require certain information to appear on every tobacco product carton or package.

The Federal Aviation Administration (FAA) of the Department of Transportation (DOT) oversees the current two-year ban on smoking on short-haul airline flights.

General Services Administration (GSA) regulation has restricted smoking in most federal buildings.

In addition, state and local governments have enacted more than 900 laws or ordinances in recent years restricting smoking of tobacco products in public places and/or the workplace, and some have attempted to regulate advertising and promotional activities. Almost every state prohibits the sale and/or possession of tobacco products by minors.

That taxation is a form of regulation is demonstrated by the demands of anti-smokers for increased taxes to stifle demand. The 16-cent federal excise tax, excises imposed by 50 states and the District of Columbia, plus those of 392 cities, towns and counties accounted for almost a third of the average retail price of cigarettes in 1988.

Enough is enough?

Not to smoking control advocates.

In the 100th Congress, some 145 additional restrictions were offered --

- o Banning cigarette advertising in all media
- o Banning all promotion of cigarettes
- o Requiring additional warning labels on cigarette packages and advertising
- o Doubling the cigarette excise tax
- o Banning the sale of cigarettes in vending machines
- o Requiring the CPSC or Food and Drug Administration to regulate cigarettes in new but largely unspecified ways
- o Eliminating the tax deductions for cigarette advertising
- o Banning smoking in all public conveyances

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Reaching the Limits

"Anti-smoking advocates see tougher government restrictions as a way of ostracizing smokers and intimidating them into stopping," economist and social commentator Robert J. Samuelson has written. "The goal is to breed intolerance and to alter behavior," he says.

Smokers and fair-minded nonsmokers agree with Samuelson: There are limits to what government can -- and should -- do to control lawful personal behavior.

"Anti-smoking crusaders," he maintains, "are reaching those limits."

WHERE DO WE GO FROM HERE?

THE ISSUES ... AND THE FACTS

Indoor Air Quality and Smoking Restrictions

Since the late 1970s the anti-smoking lobby, frustrated in its efforts to have smoking banned, has sought to make smoking and smokers socially unacceptable, to exert new pressure by disturbing the relative equilibrium between smokers and nonsmokers. They have relied increasingly upon the claim that the cigarette smoke of others -- environmental tobacco smoke (ETS) -- poses a health hazard to the nonsmoker.

In painting the smoker as a threat to society -- and the nonsmoker as the innocent victim -- the ETS issue is designed to make smokers feel guilty about the alleged effects of their smoking on family and friends, while inciting fear and hostility among nonsmokers.

The goal is to make nonsmokers feel they have a right -- even a moral duty -- to harass smokers.

Is environmental tobacco smoke a proven health hazard to nonsmokers? Is ETS the major contributor to the growing problem of indoor air pollution? And do legislators, and businesses, have an obligation to "protect," at any cost, the public from ETS?

Fact: Environmental tobacco smoke has not been shown scientifically to be a health hazard to nonsmokers.

In 1985, the International Agency for Research on Cancer reviewed the quality of the evidence in the published reports then available on the ETS/lung cancer question. The report was critical of ETS, but concluded that "each is compatible either with an increase or with an absence of risk." In other words, none established risk with any certainty.

U.S. Surgeon General C. Everett Koop acknowledged in December 1986 that more than half the studies used in his 1986 report on "involuntary smoking" found no consistent, statistically significant relationship between ETS and lung cancer in nonsmokers.

In fact, a much higher percentage of the studies that have been done fail to find a statistically significant relationship between ETS exposure and lung cancer in nonsmokers who are married to smokers.

A National Academy of Sciences (NAS) committee charged with reviewing the literature related to ETS reported late in 1986 that there is nothing in the scientific literature to prove the conclusion that casual exposure to environmental tobacco smoke in public places -- including the workplace -- constitutes a health risk to nonsmokers.

Groups of eminent scientists have concluded that ETS has not been shown to cause or increase the risk of lung cancer among nonsmokers.

Refutations of the premise that exposure to ETS causes adverse health effects in nonsmokers were also recorded in a February 1986 report in Medical World News that stated that "[s]olid scientific evidence of passive smoking's health risks to nonsmokers is as elusive as the smoke itself."

Yet another study in the July 1986 edition of the British Journal of Cancer concludes that environmental tobacco smoke carries no significant increase in risk of lung cancer, bronchitis or heart disease.

Serious weaknesses in ETS investigations cited by the Surgeon General have been noted by prominent independent scientists. The scientific community continues to point up the flaws in interpretation as well as some research methodologies applied. Respected German biostatistician K. Uberla, in a 1987 review of the statistical evidence published in the International Archives of Occupational and Environmental Health, stated: "The volume of accumulated data is conflicting and inconclusive. The observations on nonsmokers that have been made so far are compatible with either an increased risk from passive smoking or an absence of risk. Applying the criteria proposed by IARC (International Agency for Research on Cancer) there is a state of inadequate evidence."

In a guest editorial in the June 1987 issue of American Review of Respiratory Disease, two noted Harvard Medical School professors, expressing their opinions against active smoking and in support of the Surgeon General's Report, stated: "The health impact of exposure to [ETS] at work, except for its irritation, is largely unknown. The report is on its weakest ground scientifically here."

Calling for more research on the issue, the NAS committee and the Surgeon General also acknowledged that there is insufficient evidence to prove claims that environmental tobacco smoke impairs respiratory function or causes heart disease or allergies in adult nonsmokers.

As a further matter of scientific fact, exposure to ETS in normal, everyday environments is extremely low. For example, a study using sampling methods developed by the Harvard School of Public Health and analysis established by the National Institute for Occupational Safety and Health (NIOSH), indicate that a nonsmoking employee in a typical New York City office would have to work nonstop for almost 24 days -- more than 550 uninterrupted hours -- to be exposed to the nicotine "equivalent" of one cigarette.

Fact: Visible tobacco smoke is a symptom, rather than a major cause, of indoor air quality problems.

When it comes to poor indoor air quality, tobacco smoke appears to be among the least of our worries. Reports by federal and private experts show that environmental tobacco smoke is a cause of discomfort by building occupants in just two to four percent of all cases. And even those cases, findings show, can be solved with improved ventilation.

That means lawmakers and business managers will accomplish little or nothing even if they succeed in removing every last wisp of tobacco smoke from the workplace. Complaints of health problems and irritations will persist.

Studies by the National Institute for Occupational Safety and Health (NIOSH), and by a leading private air quality analysis firm, have determined that just two to four percent of air quality complaints were attributable to ETS. On the other hand, air quality problems were traced directly to inadequate ventilation in 52 to 57 percent of the cases.

Under normal conditions with ventilation that is operating according to established building codes, tobacco smoke very quickly dissipates. This disappearing act confirms that the ventilation system in an indoor area is working properly. In those few cases where visible ETS persists, the ventilation must be suspect immediately.

Problems with cigarette smoke should be viewed as a "tip off" to the much more serious underlying problem of inadequate or improper ventilation. The good news is that once the underlying problem of poor air circulation is corrected, so too is any problem with ETS.

Fact: In an effort to ban smoking and smokers from public buildings, proponents of smoking restrictions ignore very real threats to workers' health caused by invisible pollutants that contribute to the growing problem of "sick building syndrome."

In recent years, scientists have discovered a great deal about the nature and causes of indoor air pollution. These findings, in research conducted by the federal government as well as private firms, exonerate ETS as the cause of the vast majority of indoor air quality problems. At the same time, the data reveal a hidden indoor air quality problem -- often called "sick building syndrome" -- reaching near-crisis proportions nationwide, caused by invisible contaminants that pose direct threats to the health of millions of American workers.

Anti-smokers continue to ignore or dismiss the pertinent data. In doing so, they are not only perpetuating false assumptions about smokers and ETS, but also are turning attention away from the true causes of indoor air pollution and from the solutions that will protect the American people.

Building occupant complaints of eye irritation, headaches, fatigue, sore throats and nausea may suggest problems in the design, operation or maintenance of a building's ventilation or air handling system.

And in situations where ventilation is inadequate, serious health threats may exist from pollution sources such as office machine and furnishing contaminants, chemicals from photocopiers and carbon dioxide from the building's heating system. Furthermore, the lack of maintenance of ventilation systems allows microbes, fungi and bacteria to accumulate within the systems and to circulate throughout the building.

A dirty system also can keep indoor air from circulating properly, allowing abnormal buildup of gases and fumes. Often the problem is aggravated when the system is operated incorrectly, such as when outdoor air vents are closed to save energy, forcing building occupants to breathe recycled indoor air.

Fact: Businesses are capable of determining on their own appropriate responses to the smoking issue. Additional government regulation is unnecessary and may adversely affect these businesses.

Anti-smokers have used the myths about ETS to force stringent smoking restrictions on the hospitality industry. However, the effects of discriminatory smoking policies have already been felt directly at the cash register.

In a recent national survey of smokers' attitudes toward the hospitality industry, three out of four smokers who said they had experienced some form of anti-smoker discrimination said they would be less likely to revisit the establishment where it occurred.

The business community in Beverly Hills, California, is acutely aware of the perils of alienating smoking customers. In March 1987, the city council imposed a total smoking ban in most restaurants and shops. Press reports noted that tension and arguments between customers increased substantially.

Within one month, restaurants were reporting a drop in business of 12 to 30 percent with some even steeper. Workers were laid off and hours of operation were reduced.

Three and one-half months after it was enacted, the city council repealed the smoking ban and replaced it with language permitting smoking and nonsmoking areas, requiring special air filtration systems for smoking areas.

Finding the filtration requirements unreasonably stringent, the council eventually replaced them with reasonable ventilation standards for restaurants with smoking and nonsmoking areas.

Nevertheless, the damage was done. Published estimates of the revenues lost during enforcement of the smoking ban are as high as \$3 million.

Fact: Workplace restrictions mandated by law or imposed unilaterally by employers trample on workers' rights.

A growing number of smokers are facing a hostile workplace, with smoking bans or restrictions implemented by management or mandated by law. Even more ominous are policies that prohibit hiring people who smoke -- on or off the job.

Smoking restrictions on the job often are defended by anti-smokers as part of their "constitutional right" to a smoke-free environment. However, the courts have soundly rejected this notion.

Other claims fail under common law, based on the theory that employers have a duty to provide a reasonably safe and healthy work environment. With the exception of one lower court in New Jersey, the courts have refused to expand this concept to embrace workplace smoking.

So, it is clear that nonsmokers have no "fundamental right" to ban smoking by others at work. To the contrary, the imposition of smoking restrictions frequently violates the rights of others, including labor unions and minorities.

Under the National Labor Relations Act, employers cannot make unilateral changes in the terms and conditions of employment -- including smoking policies -- without bargaining with the relevant unions. In addition, imposing any rules that are unreasonable or discriminatory may violate applicable collective bargaining agreements.

The AFL-CIO has taken a position designed to protect the rights of its smoking members, opposing discrimination against smokers and calling for voluntary smoking policies devised cooperatively between labor and management.

Similarly, the League of United Latin American Citizens (LULAC), recognizing that smoking policies may disproportionately affect clerical and low-level employees, who tend to be assigned to group rather than private offices, opposes smoking restrictions that "create unnecessary divisions ... between employees" or discriminate against Hispanic workers.

Fact: Stringent public and workplace smoking restrictions and bans threaten employers' and employees' rights to determine collectively the conditions of employment; threaten proprietors' ability to maximize profit by determining individually the wishes of their clientele; and expose all building occupants to the growing problem of indoor air pollution, the risk from which cannot be solved by banning smoking.

Cigarette Advertising and Promotion

A major goal of the antismoking movement is to ban all cigarette advertising and promotion, overriding the protections of the First Amendment. In pursuit of the goal, anti-smoking advocates have proposed a variety of measures.

Some are pressing to ban all cigarette advertising and promotion -- forbidding cigarette advertising in newspapers or magazines or on billboards, and ending sponsorship of cultural or athletic events. Free distribution of new brands also would be prohibited, and retailers would not even be able to advertise that they sell cigarettes, or the brands and prices available.

Other anti-smoking advocates are trying to prevent manufacturers from deducting cigarette advertising as a business expense for tax purposes, and some even want to make the cigarette companies pay for anti-smoking advertising. There also are proposals to abolish the existing system of uniform national regulation of cigarette advertising, and to allow state and local authorities to set their own rules -- however conflicting or inconsistent.

How do the antismokers attempt to justify these measures?

They say that cigarette advertising influences young people to start smoking, and they claim that fewer people would smoke if cigarette advertising and promotion were banned. They also maintain that banning cigarette advertising and promotion would not violate the First Amendment.

Here's the real story.

Fact: The First Amendment protects not only political and artistic expression but commercial speech as well.

Over a decade ago, the Supreme Court held that commercial speech is protected by the First Amendment. As long as advertising concerns a legal product and is neither false nor misleading, it cannot be banned or restricted unless doing so would directly further a substantial governmental interest that cannot be pursued in any less restrictive way.

Cigarette advertising does not influence nonsmokers to start smoking, and an advertising ban therefore would not further the objective of reducing the number of people who smoke. Moreover, curtailing cigarette advertising cannot be defended as the "least restrictive means" of achieving this objective: more speech rather than less speech is the constitutionally preferred approach.

Any attempt by government to manipulate our behavior by censoring what we see and hear would strike at our most cherished values -- and set a most dangerous precedent.

Fact: The purpose and function of cigarette advertising is to maintain brand loyalty or promote brand switching among people who already smoke.

In mature product markets -- where the product category is long-established and awareness of the product category is universal -- advertising generally does not operate to increase overall demand. Advertising instead operates to maintain or expand the market share of the various brands within the product category -- to maintain the loyalty of consumers who already use the brand being advertised, or to convert consumers who use other brands.

Maintaining and expanding market share is crucial in any competitive industry. Shampoo manufacturers do not spend millions to get consumers to wash their hair more often, but to assure that consumers will buy their brand of shampoo and not some other brand. Similarly, each cigarette manufacturer strives to assure that smokers will smoke its brands -- and not those of a competitor. Keeping consumers loyal to the brand being advertised is just as important as winning consumers away from other brands.

Fact: Banning or restricting cigarette advertising would not reduce smoking among young people.

The cigarette manufacturers neither condone nor encourage smoking by young people, and their advertising is directed to adults who already smoke. Prominent anti-smoking advocates have long acknowledged that cigarette advertising does not influence young people to start smoking.

Former FTC Chairman Michael Pertschuk has stated unequivocally that "no one really pretends that advertising is a major determinant of smoking in this country or any other." As the director of the Institute of Child Health and Human Development told Congress in 1983, "the most forceful determinants of smoking [by young people] are parents, peers, and older siblings."

In many countries where cigarette advertising has been banned, smoking rates among young people are the same as -- or higher than -- smoking rates where advertising is permitted. In Finland, where cigarette advertising has been banned completely since 1978, a World Health Organization (WHO) survey found that 30 percent of 15-year-old schoolboys smoked weekly, while in Austria and the United Kingdom -- where cigarette advertising is allowed -- the figure was 17 percent and 23 percent, respectively. In Norway, where cigarette advertising has been completely banned since 1975, the figure was also 23 percent -- the same as in the U.K.

These and other statistics led the WHO researchers to conclude in a 1986 report that there are "no systematic differences" between juvenile smoking habits in ban and non-ban countries. A May 1987 report to the Finnish National Board of Health by University of Helsinki researchers disclosed that smoking among juveniles in Finland -- which had been declining sharply before cigarette advertising was banned -- increased after the ban was imposed.

Fact: Banning or restricting cigarette advertising would not reduce smoking among adults.

Anti-smoking advocates also have acknowledged that advertising bans do not operate to reduce the number of adults who smoke. Dr. James L. Hamilton told the 3rd World Conference on Smoking and Health in 1975 that advertising bans had "not been an effective policy for reducing smoking," while Karl Warnberg advised the conference that "there is no evidence to support the view that a ban on cigarette advertising would have a positive effect on smoking habits." In 1987, the President's Council of Economic Advisers reported that "evidence from other countries suggests that banning advertising has not discouraged consumption."

The evidence from free-market countries indicates that cigarette consumption by adults is unaffected by advertising controls. For the most part, the consumption trends before controls were imposed remained unchanged after controls were imposed. In some cases, the rate of decline in cigarette consumption slowed or stopped after advertising was banned. In the Eastern-bloc countries, where cigarette advertising is not allowed average annual per capita consumption steadily increased between 1970 and 1984, while falling in the U.S. and other countries where cigarette advertising is permitted.

Fact: Measures banning or restricting cigarette advertising and promotion would not reduce the number of people who smoke, but would gratuitously deprive consumers of information to which they are entitled under the First Amendment and cause severe economic hardship for those who depend on revenues from cigarette advertising and promotion.

Cigarette Excise Taxes

Since the U.S. was founded more than two centuries ago, the federal government has levied taxes to pay for needed goods and services.

As the tax code has evolved over the years, one of the most important principles governing that code is the idea that citizens should be taxed based on their actual income, that is, their ability to pay. The poor and the wealthy should not pay the same rates.

Another principle links tax to benefit. While it may be fair to tax a subgroup of the population to pay for a program or service benefitting only that subgroup, it is not fair to make one subgroup pay for a program or a service that benefits the entire population.

Today, anti-smokers advocate increased cigarette excise taxes -- to help reduce the deficit, to pay for programs and services benefiting the public as a whole and to discourage people from smoking.

What would be the effects of such an increase? Who would pay the tax? What would such a departure from tax policy principles mean as a legislative precedent?

Fact: Cigarette excise taxes are regressive, taking proportionately more money from those least able to pay.

Excise taxes are flat taxes placed on selected products. They take the same amount from each purchaser, regardless of income. And tobacco excise taxes are regressive in the extreme.

Tobacco excise taxes are paid by smokers, who represent about a third of adult Americans, many of them members of low income and minority populations. Thus, the regressivity inherent in any consumption tax is exacerbated in the case of tobacco.

In a 1986 study, the Congressional Budget Office (CBO) examined the distributional effects of increasing selected excise taxes, including taxes on cigarettes. After careful analysis, the CBO found that a \$19 billion increase in these taxes, under consideration by Congress at that time, would fall 27 times more heavily on the poor than on the wealthy.

Specifically the CBO study reported that "an increase in the excise tax on tobacco would be the most regressive of all the tax increases" studied.

The CBO study is just one of many studies demonstrating the regressivity of excise taxes. For example:

- o Citizens for Tax Justice (CTJ), the nation's leading consumer tax advocacy group, found that in addition to the burden of federal excise taxes, state excise and sales taxes take up to five times more from the earnings of families making less than \$8,600 annually than from the earnings of the rich. The poorest 20 percent of four-member households paid 5.4 percent of their income in excise taxes in 1987.

o A study commissioned by Rep. Mervyn Dymally (D-CA), chairman of the Congressional Black Caucus, found that "for all poor families, even a modest increase in excise taxes will take more than all the tax relief afforded them in the 1986 Tax Reform Bill. This will considerably magnify the incidence, prevalence, and the enormity of poverty in the United States."

o A May 1987 study prepared by the Peat Marwick Economic Policy Group shows that "excise taxes are highly regressive and are borne disproportionately by low-income taxpayers."

Fact: Cigarette excise taxes are unfair.

Traditionally, the purpose of taxation has been to raise revenues in as equitable and as painless a way as possible. Taxation should not be the means through which one segment of the population regulates purchase decisions for another segment, particularly when the net result of such an attempt would be to shift the tax burden onto a segment of the population already paying more than its fair share.

A number of organizations -- from all sides of the political spectrum -- have pointed to the unfairness of excises. The AFL-CIO, Citizens for Tax Justice, the League of United Latin American Citizens and the Congressional Black Caucus, to name a few, all are vehemently opposed to excises.

The Coalition on Human Needs, a nationwide alliance of civil rights, labor, religious, grass roots and advocacy groups, has said, "if there is any tax that is more unfair to the poor than the excise tax, we hope Congress never discovers it."

And the American Agriculture Movement, an organization dedicated to protecting America's family farmers, noted, "Excise taxes are the most regressive form of taxation, hitting hardest those who can least afford to pay them."

Fact: Higher cigarette excise taxes will not significantly reduce consumption.

Supporters of higher cigarette excise taxes argue that increases will discourage smoking, particularly among America's youth. However, there is absolutely no convincing evidence to suggest that increasing excise taxes has any lasting effect on cigarette consumption.

According to a 1988 study by the Institute for Social Research at the University of Michigan, "cigarette smoking has not dropped among high school seniors since 1984." This is despite a doubling of the federal excise tax the previous year.

Fact: "Earmarked" cigarette excise taxes are an unreliable source of revenue.

Sometimes governments target specific products, and the people who buy them, for taxation, and "earmark" a set amount of the taxes collected to fund specific government services. Often, these services have little or nothing to do with the taxed product and benefit the general public, not just the people who pay those particular taxes.

Cigarette taxes have been used to finance police and fire departments, highways, water clean-up and health programs.

That's not logical -- it's not fair.

Earmarking encourages wasteful spending. When states earmark taxes, they can start and expand programs because funds are instantly available -- not necessarily because the programs are really needed.

When excise taxes instead go to the general fund, new programs must compete with other services for funding priority. This competition encourages review and streamlining of programs -- before tax dollars are committed.

Earmarking is unreliable because it forces the government to rely solely on one group of the population to accomplish a broad public goal. Lawmakers may establish programs, only to find that the projected earmarked revenue did not roll in as planned. What then?

Fact: Cigarette excise taxes are bad tax policy. If cigarette excise taxes were increased, they would hit hardest those least able to pay; young people would still experiment with smoking; and tens of thousands of jobs would be at stake within the tobacco industry and its suppliers.

LET'S SET THE RECORD STRAIGHT ...

... On "Social Costs" of Smoking

In recent years, anti-smoking advocates have added a new arrow to their quiver of attacks on smoking. The newest weapon is couched in economic terminology known as "social costs." To justify efforts to regulate and ultimately eliminate smoking, anti-smokers use social costs to claim that individuals who smoke "cost" society money.

Their calculations have become the foundation for much proposed government regulation of tobacco products, including large taxes on cigarettes, restrictions or bans on smoking in public places and bans on advertising.

Advocates of the "social cost" theory would have the public believe that smoking imposes a burden on society through lost productivity and health-related costs incurred by smokers.

The fact is that those promoting claims about the social costs of smoking have distorted an otherwise valid economic theory.

Anti-smoking activists have transformed social cost theory from an economic concept to a political tool -- twisting it to support their goal of a smoke-free society. To base real-world decisions on this distorted economic theory is to create bad public policy that has far-reaching adverse effects on society.

Anti-smoking activists have sponsored politically motivated and highly questionable studies to claim that smokers have higher rates of illness and are less productive than nonsmokers. They claim that lost productivity, absenteeism and medical bills result from smoking and impose large costs on society. These studies have not been validated or supported by independent, reputable economic data.

But even if the studies were credible, the social cost theory has been misapplied. If smokers really were absent more often and less productive than nonsmoking colleagues, it would be the individual smoker who would bear any resulting costs -- through lost pay, less job advancement, etc.

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Further, any medical costs that are incurred by smokers are costs paid solely by the smoker -- not "joint" or "societal" costs paid by both smokers and nonsmokers.

In past years, as noted earlier, anti-smoking activists have stepped up efforts to restrict smoking in public places asserting the "costs" smoking allegedly imposes on nonsmokers.

However, economic studies have found that there are greater costs resulting from blanket anti-smoking policies than any that might be attributable to environmental tobacco smoke. Owners of public facilities such as restaurants and hotels have an economic incentive to provide the kind of environment that satisfies all customers.

Legislative bans on smoking thus result in more economic inefficiencies and social costs than allowing the free marketplace to do its job. The marketplace will determine what types of policies, if any, are necessary. Government interference and regulation only hinder this process.

The theory of social costs is being used by anti-smoking activists for political rather than economic purposes. Because they are not based on substantive or even credible data, social costs should not be used to establish real-world policy.

In fact, if the anti-smokers' methodology of social costs were applied to other areas of everyday life, the results of such "studies" could inspire government regulation in a variety of other areas. For example, recent studies claim:

- o obesity has a "social cost" of \$27 billion per year
- o softball sliding injuries "cost" society \$2 billion per year

Government has not taken action to legislate the rules of softball or to control the diets of those who are overweight.

When government is given the power to "protect" people from themselves, there is no assurance that it will stop with smoking. If government is allowed to enact punitive or costly measures that arbitrarily restrict the liberties of smokers, where will the coercive misuse of power end?

... On Nicotine "Addiction"

More than 40 million Americans have quit smoking, according to the U.S. government. These adults have made a choice that they no longer wanted to smoke -- so they put out their cigarettes. Ninety percent -- more than 36 million people-- stopped smoking without formal programs or help.

Today, Americans are being told that cigarettes are like heroin or cocaine. Ironically, the government agency that has deemed cigarettes to be like these illegal drugs is the same agency that tells us that the vast majority of those who quit do so on their own. This is also the same federal government that wants to wage an extensive war on drugs. The unfortunate message to the public is one that trivializes the serious illegal drug problem -- that using illegal drugs, like crack or heroin, has the same risk of addiction as smoking.

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Some claim that cigarette smoking causes a physical dependence. This is no less than an unproven attempt to find some way to differentiate smoking from other behaviors. In fact, the feelings that may occur when someone gives up smoking are the same feelings to be expected by anyone who is frustrated by refraining from any desired activity. If one looks at the "scientific" basis of the addiction claims, the same could apply to other common things -- caffeine for example.

The fact is that there is nothing about smoking, or about the nicotine in cigarettes, that would prevent smokers from quitting. Unlike heroin, cocaine or even alcohol, cigarettes don't impair a smoker's ability to think clearly -- about smoking or about quitting. If a smoker wants to quit, it may take will power, but that's all it takes.

... On the Federal Tobacco Program

One of the more persistent myths of modern politics is that the federal government pays a subsidy to farmers to grow tobacco.

The fact is there is no tobacco subsidy. There never was. With passage of the "No Net Cost" Tobacco Act in 1982, there should be no quibble about any federal "subsidy" to tobacco farmers.

It all started more than a half century ago in response to the depression of the 1930s. Since then the Federal government has operated programs to stabilize sectors of the agricultural economy, including tobacco.

Here's how the tobacco program works.

Basically, it's designed to control production. Each year, the U.S. Department of Agriculture determines just how much tobacco will be purchased in domestic and export markets during the upcoming crop year. This total becomes the national quota, and production is limited to that amount.

The national quota is then allotted to individual growers based on their longtime crop history. No farmer can grow and sell more than his allotment.

The U.S. Department of Agriculture then establishes official support prices for the various grades of tobacco, based on realistic market expectations. When the crop is sold at federally-supervised auctions, tobacco which is not bid on by a commercial buyer for at least a cent a pound above the federal support price is taken in by a grower-owned cooperative, which pays the grower the federal support price.

The cooperative borrows money for this purpose from the Department of Agriculture, with tobacco taken in used as collateral to insure payment of the loan. The tobacco is processed, stored and eventually sold on the commercial market. The loan is then repaid with interest.

To insure that no losses are incurred by the government if sales do not cover loan and related costs, the law has a "loss reserve". Under this provision, the Secretary of Agriculture sets an annual "no net cost" assessment which is levied against every pound of tobacco sold through the federally supervised auction system. Half is paid by the grower and half by the commercial buyer who purchases the tobacco. The proceeds go into the co-op's "loss reserve," which is used to cover any deficiencies.

Thus, the program is designed to assure that, unlike many other crop programs, no taxpayer dollars are expended to subsidize tobacco production.

But, it is not enough to state that tobacco production is no drain on taxpayers or the U.S. economy. In addition, it is estimated that the tobacco core sectors in the U.S. economy generated \$40.8 billion of the Gross National Product in 1987 and employed 728,000 persons to produce and deliver tobacco products and associated goods and services. The tobacco industry's estimated spending-induced impact on America's GNP was \$65.3 billion -- far more than expenditures on tobacco products alone. This impact was generated by tobacco industry workers' expenditures on goods and services of other, non-tobacco, business sectors throughout the U.S.

Tobacco leaf and manufactured tobacco are important American exports. Sales abroad for the first 10 months of 1988 have already posted a \$2.9 billion trade surplus -- surpassing by 7 per cent the surplus generated for all the previous year. This economic plus benefit cannot be taken lightly in view of our huge national trade deficit.

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THE TOBACCO INDUSTRY ...
A RESPONSIBLE INDUSTRY

On Workplace Smoking ...

In an effort to accomodate smokers and nonsmokers alike, in 1985, The Tobacco Institute established a program to provide information and assistance to companies facing decisions concerning smoking in the workplace. Since then, The Institute has conducted on-site briefings or provided assistance to more than 3,500 companies and thousands of individuals seeking information on the issue.

... And Public Smoking

The Tobacco Institute, in conjunction with business and hospitality groups, has developed a variety of programs and materials designed to facilitate the accommodation of both smokers and non-smokers in public places, including restaurants. The use of these materials has demonstrated the ability of businesses to satisfy their customers without government regulation.

On Advertising ...

The industry's advertising and promotion practices scrupulously conform to all pertinent laws, agreements with government agencies and beyond that to its own voluntary standards.

Since 1954, when the industry began to advertise low "tar" and nicotine cigarettes in an effort to meet public demand, the industry has worked cooperatively with the Federal Trade Commission (FTC).

- o In 1960, when the FTC determined that mentioning "tar" and nicotine content could be construed as a health claim, the industry eliminated such references in its advertising.
- o When, in 1966, the FTC reversed its position, the industry began again to include "tar" and nicotine information in its advertising.

The industry has also worked cooperatively with the FTC in connection with display of the Surgeon General's health warning on all cigarette packages and advertising materials, to increase the size of the warning and on the addition of rotating warning labels.

... And Youth Smoking

Cigarette manufacturers have always believed that the decision to smoke or not is an adult choice. In line with that belief, the industry has taken a number of steps to help reduce the incidence of youth smoking.

Beginning in 1963, when the industry announced termination of brand advertising and promotion in college publications and campuses, through the late '60s, when it adopted advertising and promotion codes to avoid advertising aimed at young people and voluntarily offered to remove cigarette ads from television and radio, the industry has worked conscientiously to prevent young people from smoking.

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TIOK 0035580

Although youth smoking was -- and is -- on the decline, the industry decided in 1984 that more could be done. The Tobacco Institute therefore began offering a free parental guidebook, "Helping Youth Decide," prepared by the National Association of State Boards of Education. Another booklet, "Helping Youth Say No," followed. Both provide guidance on family communication to enable parents to help youngsters develop the decision-making skills needed to deal wisely with everyday choices and with lifestyle decisions, such as smoking.

As an adjunct to the booklets, The Institute provides unrestricted grants to fund Community Alliance Programs to provide the impetus for broad community-based efforts to improve parent-youth interaction. This popular program, which began in 1986, continues to have the commitment and support of The Institute.

On Tax Policies ...

Tobacco consumers have long paid more than their fair share of taxes in the form of federal, state and local excise taxes. In 1987 alone, federal, state and local governments collected more than \$9.6 billion in cigarette excise taxes.

These excise taxes, or "sin taxes," as they are sometimes called, seem perfectly fair to some, particularly those not affected by them.

In reality excise taxes are extremely regressive and take a much greater share of income from the poor than they do from the rich.

The tobacco industry understands the need for federal, state and local governments to secure an adequate revenue pool, but objects strenuously to the use of regressive and discriminatory excise taxes to do the job. The industry supports government efforts to provide for a progressive tax system that places a fair and equal burden on all of its citizens.

... And Fire Safety Education

Accidental fires attributed to careless cigarette smoking have long been a concern of the tobacco industry. The Tobacco Institute's Fire Safety Education Program -- one aspect of the industry's response to that concern -- is currently the chief source of private sector funding for fire prevention education in the United States.

The primary objective of The Institute's Fire Safety Education Program is to assist the fire service and others involved in public safety education in reducing the number and severity of accidental fires.

Fire departments, fire service organizations and public educators committed to fire prevention education in more than 300 communities throughout the United States have used Institute grants to purchase audio-visual equipment, production services, educational materials and other needed resources. The program also distributes fire safety education materials developed by the fire service and funded through the program.