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Draft letter from F.E.R. to Mayor Koch

LONGER VERSION
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April 00, 1986

Dear Mayor Koch:

Thank you for your letter of April 3. While we at Philip Morris strongly question the need for government regulation of cigarette smoking, we do agree that any discussion of this issue should be conducted in a spirit of mutual respect and understanding. This is why I am concerned with your characterization of our position as "racially divisive."

As you know, Mr. Mayor, Philip Morris was a leader in New York City in supporting the cause of racial equality long before such a position was fashionable, and we continue to have a total commitment to this goal. This is reflected in our own employment policy as well as in our support of minority political, educational, professional, legal, cultural, philanthropic, informational and economic development organizations. Our support of the Martin Luther King, Jr. Center for Nonviolent Social Change and of the New York City Summer Jobs Youth program are exemplars of this commitment and there are literally hundreds of others.

It is because of this commitment that we have raised the issue of the discrimination that may occur under the pretext of enforcing government imposed smoking restrictions. By doing this, we have no intention of encouraging racial divisiveness. On the contrary, it is our intention to call attention to proposed legislation that has the potential for being divisive and discriminatory, not only racially, but also in terms of gender and economic status, and to stimulate an open discussion on how best to avoid such a troubling outcome.

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We are not alone in our concern. The Black press, the National Black Police Association, the ACLU, the AFL-CIO and a number of other organizations and individuals have expressed similar concerns.

We appreciate your stated desire to reach a balance between the interests of the concerned parties. You will recall that a week before the press conference where you announced the proposed anti-smoking legislation, you met with representatives from Philip Morris. They expressed to you precisely the same desire for balance.

We were, therefore, dismayed when, without further discussion, you held your press conference, surprising us as well as the City Council with the proposal. Reinforcing that dismay was your choice of Joseph Califano to head the Committee charged with evaluating public comment and drafting the law that would be sent to the City Council.

We see no balance in the choice of Mr. Califano, an avowed and zealous anti-smoking spokesperson and employer, nor in the composition of the rest of the committee. By any criteria, with the exception of the union representative, the committee appears to be little more than a rubber stamp; its ultimate support of the most stringent elements of the proposed legislation is a foregone conclusion.

At the meeting Philip Morris representatives had with you, mention was made of the potential for selective enforcement of anti-smoking ordinances. You dismissed the possibility rather abruptly. While we respect your confidence, I would bring to your attention an editorial in the March 6 Amsterdam News where it was noted that in New York City, "A check of citations for 1979 showed that about 14,000 whites were given summonses for smoking on subways and buses while more than 40,000 Blacks, Hispanics and what officials termed 'others' were cited for the same violations." The Amsterdam News goes on to cite selective enforcement in Chicago where "90 percent of Chicagoans hauled before the

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Cook County's 'Smokers Court' were Black." In an earlier editorial commenting on this figure, the paper said, "the ordinance is supposed to apply to everybody, but it just so 'happens' that Blacks are getting the worst of it -- unless, of course, you happen to think that Blacks are nine times more lawless than other people."

We appreciate your suggestion that representatives from Philip Morris and other industry representative would have much to contribute to an examination of the merits of the proposed legislation. In the interests of fairness, we would be very interested in sharing our thoughts and information with you and in suggesting others whose contribution to the debate might provide a more balanced perspective than presently exists on the Califano Committee.

Central to that perspective is the fact that, despite the pronouncements of professional anti-smoking spokespersons, the supposed negative effects of environmental tobacco smoke (ETS) on the health of non-smokers is open to debate and, indeed, to refutation. For example, a Consumer Reports article reviewing nonsmoker concerns about ETS concluded that "the evidence of risk from passive exposure is sparse and often conflicting," and added, "the presumed health consequences of 'passive smoke' rest on very few undisputed facts." A recent review of the scientific literature on ETS by Drs. Sorell Schwartz and Nancy Balter of the Center for Environmental Health and Human Toxicology, Georgetown University, concluded that there is nothing in the current research which would indicate that second-hand smoke is associated with a serious health hazard. And after a series of tests of indoor air quality on 125 buildings with more than 27 million square feet of space occupied by more than 135 thousand people, ACVA Atlantic, an indoor air quality research firm, concluded that ETS "rarely is the cause of indoor air pollution found in these buildings..." ACVA Atlantic and other

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researchers suggest that ETS is conveniently blamed for problems that are actually caused by airborne bacteria, noxious vapors and other contaminants. The hospitalization of more than 20 New York Times employees last year as a result of mold in the air circulation system is just one case in point.

Any balanced perspective must also take into account the economic impact of the proposed legislation. When Mr. Califano addresses this issue, he shapes it to suit his own biases and does not address the very real economic burden the proposed legislation will place on New York City taxpayers and businesses. A study conducted for the City Council's consideration gives a conservative estimate of \$163 million as the price tag for private business alone. We also suggest that it is important to ask those who pay taxes here whether they want that portion of their taxes which supports the criminal justice system to be spent on the pursuit of smoking violations, or whether they would prefer a set of priorities that focused on violent crime, drug dealing and offenses of similar magnitude.

I would like to suggest that it would be most productive if you and I sat down alone and had a frank discussion of the situation. It is my earnest hope that out of this discussion, we will be able to agree on the steps necessary to achieve the balance we both feel is necessary.

In this letter, I have stressed commitment. I know you to be a public official with a deep and abiding commitment to New York City and to New Yorkers. Philip Morris shares this commitment. I think that our shared feelings in this regard provide a starting point that will allow us to resolve the differences between us.

Sincerely,

Frank E. Resnik

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