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5/21/91

**Communications Committee Presentation on the
Public Smoking Issue**

May 22, 1991

Workplace/Public Place Accommodation Programs

Of the many issues we face, none is as difficult or complex as public smoking. Creating public fear of ETS has been the anti-smokers' top priority for more than a decade. They have been unrelenting -- pushing for restrictions at all levels of government and in all places of public and private accommodation.

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For all of their effort, they have failed to enact the type of laws they want most. Though virtually tens of thousands of state, county and local bills and ordinances have been introduced, just 17 states and about 300 localities -- out of more than 30,000 jurisdictions -- require private businesses to restrict smoking.

But, where the anti-smokers have failed to enact laws, they often have persuaded businesses to restrict smoking voluntarily.

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Page 3

**Our emphasis necessarily is on blocking unfair laws -
- since one law can restrict smoking in a thousand
establishments -- but the antis are moving toward
their goal business by business, and often without
legislation.**

**Tracking legislation has always been an Institute
strength. Tracking voluntary restrictions is far more
difficult.**

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**Businesses are not required to share the thinking of a
personnel director or to listen to our side of the story.
And yet by being persistent and creative, we have
had our successes.**

**Most of our successes have involved unionized
companies, where labor insists that smoking policies
be subject to collective bargaining. For example, in
the past year, workers at the Hoover Vacuum Cleaner
manufacturing facility in Ohio successfully obtained
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policy, pending arbitration.**

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Presentation to Communications Committee
Page 4

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**We also recently have provided assistance to a
machinists' local of Admiral Appliances in Illinois;
responded to a request for information from the steel
workers' union; and helped the Communications
Workers of America (CWA) in arbitration on a
smoking policy in C&P Telephone Company offices in
the Washington, DC, area.**

**We have been successful in persuading the AFL-CIO
to take positions favorable to our issues on
workplace smoking policies, indoor air quality and
privacy, and we work closely with the AFL in its
activities relating to OSHA.**

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The Coalition of Labor Union Women (CLUW) manual on workplace hazards (including IAQ) was enthusiastically received by the AFL-CIO. Targeted toward women in the workforce, the manual has been distributed to health and safety directors of the major unions, CLUW chapter presidents, union committees on Occupational Safety and Health and other union organizations.

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And yet we have had far more disappointments than successes. One of the toughest recently involved Procter & Gamble, which announced earlier this month that it was banning smoking by its administrative employees starting September 1. For years, we had pointed to Procter & Gamble's previous smoking policy, which allowed smoking in designated areas, as a model for other companies to follow. Several years back, P&G opposed local smoking ordinances, saying the company would handle the situation privately. We had worked with P&G officials over the years, but a new health and safety officer with strong anti-tobacco feelings pushed the matter far beyond our control. (GM and IBM also disappointments.)

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Presentation to Communications Committee
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Procter & Gamble's action illustrates all of the challenges we face with the voluntary restriction of smoking: the difficulty of monitoring, our lack of leverage in voluntary situations, the strength of the anti-smoking movement and -- at the bottom of it all -- concerns over the health effects of ETS.

Unfortunately, P&G also points to an unmistakable trend toward wholesale smoking bans in the workplace. According to The Institute's own research, bans have long been considered to be an extreme reaction to the demands of a vocal few. And we are still on high ground when we argue against total smoking bans and hiring and promotion discrimination.

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Presentation to Communications Committee
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**But when companies as well respected as P&G ban smoking, when thousands of hospitals ban smoking -
- as they will be required to at the end of this year --
when airlines ban smoking, as they have now for two years, bans threaten to become the norm.
As the challenges have become greater, our program has become more aggressive.**

Our objective has not changed in many years. It is to discourage unfair discrimination against smokers.

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**Our strategies are assessed and refined periodically -
- through the Communications Committee and more
regularly by staff. They are matched to the political
and business realities we see.**

For example:

**There are millions of businesses, associations and
agencies in the United States. One of our strategies
is to focus on the largest, most prominent of them on
the notion that many organizations simply play "follow
the leader." We also have tried to reach as many
organizations as possible through mass mailings of
our resource guides, since it is hard to know when
companies will face the decision of whether to restrict
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Presentation to Communications Committee
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Private decision-making on smoking restrictions tends to be quick, with little basis in fact. Therefore, our strategy is to reach the individual executives who should be paying more attention to the problems caused by restrictions and encourage them to take a reasonable approach. We have well developed, substantive legal arguments for lawyers, economic and productivity arguments for financial officers and technical, health-related arguments for health and safety officers.

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Concerns over the health effects of ETS fuel this issue and so our strategy is to broaden the issue, to show executives that if they are truly concerned with workers' health, then they must deal with the entire issue of indoor air quality and improved ventilation.

Smokers often feel abandoned as restrictions are imposed, so our strategy is to provide resources that give a general overview of workplace issues and show them how they can influence the process.

In terms of activity, the program is aggressive.

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Presentation to Communications Committee
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In the past five years, media tours by Gray Robertson's Healthy Buildings International team of indoor air quality experts have resulted in nearly 500 television, radio, newspaper and magazine interviews in major media markets.

But that is just the tip of the iceberg.

In the past year, we have responded to more than 2,500 requests for help from employers (1/3) and employees (2/3) with workplace smoking concerns, and mailed over 2,300 information packets tailored to the unique situation of each requestor.

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In special cases, we provide ventilation, legal or labor relations assistance to businesses that request additional guidance. These are expensive resources, so we try to offer them only where we feel we can have an impact -- currently a couple of times a year. However, we are willing to increase our offers of this assistance as opportunities arise.

Since they were initiated in 1989, ETS "Truth Squad" tours have covered more than 70 cities. These tours have resulted in a total of nearly 350 television, radio and print interviews.

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Since they began just last month, post-Science Advisory Board Truth Squads have visited 9 cities and secured over 50 television, radio and print interviews.

A press kit on the McGill Conference was sent to health and science reporters in the top 100 media markets, resulting in 17 meetings and interviews with newspaper reporters. After the McGill Conference and subsequent media tour, a series of op-eds on the conference were written and placed in daily newspapers in major markets.

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**We currently are translating legal documents on
employers' obligations -- or lack thereof -- under
EPA's draft risk assessment into lay language to send
to legal columnists in key business publications.**

**Our work with the media gives us a powerful forum
for our arguments and a strong foundation from
which to build partnerships with allies.**

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**We think our most effective work has been done via
our business and labor contacts, largely through the
Business Council on Indoor Air and the Tobacco
Industry Labor Management Committee, which allow
our messages to reach key audiences that we
otherwise could not touch with our programs.**

**As you are aware, BCIA represents a wide spectrum
of industries interested in indoor air quality, including
manufacturers of chemicals, consumer products and
building materials; firms with expertise in monitoring,
controlling and improving the quality of indoor air;
and companies that own or are tenants in a wide
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BCIA's buildings systems approach, which includes design criteria, construction documentation and maintenance procedures to address IAQ problems, was applauded by Congressman Waxman during his IAQ hearings last month, and then by Energy and Commerce Committee Chairman Dingell. Since Waxman and Dingell so rarely agree, it is extremely significant that the two concur on the indoor air quality issue, which will be increasingly important to their respective committees over the 1990s.

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More recently, BCIA President Paul Cammer was one of four speakers to address about 50 congressional staffers at an indoor air quality briefing held by the Environmental and Energy Study Conference. The other three speakers were anti-smokers.

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Cammer also recently spoke on IAQ to a committee of the National Association of Manufacturers, and earlier this month he was the featured speaker at a meeting of the Council of Chemical Association Executives, which represents 40 associations of the chemical industry. IBM, many of whose corporate offices are implementing smoking bans, has asked Cammer to meet with its facilities managers and health and safety experts this fall to discuss office IAQ. He will be meeting with IBM informally in preparation for the fall meeting.

(pause)

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On the labor side, more than 100 LMC presentations on IAQ/ETS have been conducted on a regular basis over the past three years, reaching thousands of local union representatives, who in turn are involved with state and local legislation and private employer workplace policies.

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In the past two years, the National Energy Management Institute (NEMI) has conducted 15 contractor and instructor training seminars in major cities. Nearly 50 television, radio and print interviews have been scheduled around the local seminars. NEMI staff has testified on proposed legislation and participated in formal hearings on workplace smoking 9 times just in the past year. NEMI staff often accompany LMC representatives in their presentations to labor groups, and routinely appear before public organizations and ad hoc committees.

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We are now tapping NEMI's 12 regional offices to make legislative appearances, adding the credibility of a local organization in testimony at state and local hearings. Recently, the director of NEMI's New York regional office testified at New York state hearings on IAQ issues.

Since 1988, TI's employment law expert John Fox has given over 15 breakfast briefings sponsored by local chambers of commerce through the State Activities Division. Fox's briefings for employers cover employment law issues on "hot" topics, including smoking in the workplace and the Americans with Disabilities Act.

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Working with the State Activities Division, we have initiated cooperative efforts with nearly 20 state and local chambers of commerce and restaurant associations to sponsor and distribute guides to workplace smoking policies over the past three years. These guides are timed with the passage of laws requiring workplace smoking policies, and thus reach businesses when they are most likely to need assistance.

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Additionally, more than 255,000 of our resource guides have been mailed to businesses in regions targeted by State Activities over the last three years.

Our ongoing efforts to reach employers, employees, organized labor, public officials and the media have helped influence the political climate that allows legislative successes in this most difficult of issues. While about half of the 1,700 local smoking restriction ordinances introduced since 1984 have passed, we have been successful in defeating about 25 percent of them (25 percent are pending). In addition, 13 states have passed smokers' rights legislation since 1989, and another 12 states have bills pending.

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Because public smoking is such a dynamic issue, we continue to evaluate the direction and impact of our efforts and develop new programs to target specific situations where we can encourage fair treatment of smokers. At our last meeting, I described our plan for encouraging airports to accommodate their smoking customers. Karen Fernicola, who ably directs our Fire Issue, has recently begun working with our public smoking team. Karen will now describe additional new programs and activities which will use our resources and allies to supplement the ongoing efforts mentioned earlier.

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Presentation to Communications Committee
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SURVEY RESEARCH

Recent surveys of employers suggest that as many as 60 percent now have smoking policies. Anti-smokers are using this research to encourage companies to strengthen their policies ... or even ban smoking. It is our experience that most of these policies accommodate smokers. However, our most recent survey work on this issue is several years old. We believe it is time to commission new survey research to determine the nature and extent of workplace smoking policies ... to counter anti's suggestion that employers jump on the bandwagon to ban.

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Page 28**

Because of the changing workplace smoking policies and the need to update our information on those policies, a survey of current workplace smoking policies nationwide will be conducted. The results will include information on the nature of the policies (restrictions or bans), motivation behind a restrictive policy and when the policy was made.

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On the question of productivity of workers, we are reviewing proposals for survey research that would counter claims that smokers are less productive than nonsmokers. These would update survey research undertaken several years ago.

(A later phase of this research could study perceptions about employee productivity after smoking bans have been enforced)

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(A later phase of this research could study perceptions about employee productivity after smoking bans have been enforced)

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PRIVACY

We are working with the National Consumers League, the oldest consumer organization in the nation, to publish proceedings on a "Privacy in the 1990s" conference held by NCL last summer. This conference expanded and built upon a survey on workplace decisions and employee privacy sponsored last year by NCL with help from Philip Morris. The conference proceedings will be sent by NCL to national, state and local labor officials and legislators in states considering privacy legislation, with the AFL-CIO privacy statement incorporated into mailings to labor and liberal audiences.

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INSURANCE

Health care costs and health insurance premiums continue to skyrocket in spite of sustained public and private efforts to restrain those costs. To deflect public criticism, health insurance companies look for scapegoats that they regard as "high risks." Smokers are at the top of every list.

Businesses often discriminate against smokers in an effort to contain uncontrolled increases in premiums, but insurance companies continue to report healthy profits.

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**Consumers in general, as well as key interest groups
and organized labor, are fed up with the insurance
industry.**

**Our plan to discourage unfair health insurance
industry practices against smokers takes advantage
of this groundswell of anti-insurance sentiment.**

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We are employing two basic strategies:

First, to support consumer, legislative and regulatory efforts to require the insurance industry to fulfill its fundamental purpose -- to provide protection from loss through fair and broad-based pooling of risks.

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Our second strategy is to demonstrate through third parties that the insurance industry:

- is responsible for escalating costs that force business to take discriminatory action against workers who smoke;**
- is abandoning its customers at a time when the problem of the "medically uninsured" is becoming acute; and**
- is one of this country's most profitable businesses, though it claims it must penalize consumers through increased premiums and restricted coverage to remain solvent.**

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By identifying and establishing relationships with prominent insurance reform groups, we will provide support for research, articles and op-eds, information kits, media tours, seminars and model legislation highlighting the insurance industry's discriminatory practices and calling for insurance reform. Our target audiences include state insurance regulators and their associations, federal and state legislators on insurance-related committees, insurance company marketing, government relations and marketing officials and consumer and business groups that could weigh in on the issue.

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RESTAURANTS

Currently, 26 states and more than 400 localities restrict smoking in restaurants. Many of these laws and ordinances require set percentages of seats to be set aside for smoking and nonsmoking sections.

However, the antis are also pushing restaurants in the direction of bans. You are probably aware that the new president of the National Restaurant Association advocates smoking bans in restaurants by the year 2000. We are attempting to meet NRA to discuss the new president's position.

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We have tried many approaches to counter the trend over the years, with varying success. Our latest efforts follow up on our own restaurant accommodation materials and RJR's work with the Charlotte-Mecklenberg Restaurant Association in North Carolina.

To attain our objective of encouraging restaurant owners to voluntarily provide smoking and nonsmoking sections in their establishments, we are employing four basic strategies:

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To attain our objective of encouraging restaurant owners to voluntarily provide smoking and nonsmoking sections in their establishments, we are employing four basic strategies:

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First, we will work with and through state and local restaurant associations, to encourage them to adopt the voluntary program.

Second, we will help these associations encourage their members to set aside nonsmoking sections of sufficient size to meet the changing smoking and nonsmoking needs of customers.

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Third, we will encourage and provide assistance for maintaining good ventilation in restaurants. ENV Services, a Philadelphia-based air assessment firm that does work for a great many universities, federal and state agencies and private businesses, has developed a protocol for testing indoor air quality in restaurants. The work will be directed by ENV's Dr. Ed Montz, former director of indoor air programs for the state of Delaware. Tests are about to be conducted in six California restaurants at the direction of State Activities.

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Borrowing from the materials and methods we developed in our previous work with the hospitality industry, we will provide resources to state and local restaurant associations describing how restaurants can participate, signage for implementing the program and promotional materials for publicizing the program to the media and legislators.

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HOSPITALS

Beginning next year, the Joint Commission on the Accreditation of Healthcare Organizations will require that hospitals enforce smoking bans.

As do most businesses thinking about banning smoking, the JCAH considered the bans privately. The decision was made public just a few months ago, and the American Hospital Association has organized a public relations campaign around the new requirement with materials bearing the slogan, "Smoking and hospitals are a bad match."

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While we cannot reverse the JCAH decision, we do see opportunities to discourage the AHA from promoting its campaign.

We have all heard Gray Robertson's descriptions of the filth he found in the ventilation system of a major Northeastern hospital. Not only are patients particularly vulnerable to disease, but the air in hospitals is likely to contain high amounts of bacteria, fungus and other disease-causing contaminants. Except for operating suites and other such areas, most hospital space is served by air handling systems similar to those found in office buildings.

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Hospitals are acutely aware of the problem of cross-infections. Their three greatest concerns are:

- Litigation, for example, patients suffering needlessly from diseases caught while in the hospital;**
- Additional criticism and regulation of costs. Length of stay is a major element in hospital costs, and cross infections add to the time some patients stay in hospitals;**
- Worker safety. Hospital unions are militant and, in some places, growing.**

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Our strategies to discourage AHA's campaign touch each one of these concerns.

We plan to argue that the AHA campaign seeks to divert attention from the serious IAQ situation in hospitals, which contributes to problems with worker health and cross infections. Focusing on cities with AHA board members and Members of Congress who sit on key health subcommittees, we will place newspaper articles on hospital IAQ, and introduce the discussion of "sick hospitals" into Gray Robertson's HBI media tours.

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We also will continue to offer IAQ technical assistance to hospital workers through the LMC, and identify patients'-rights groups that may be willing to join the debate.

Our second strategy, still in the development stage, is to point out how the problem of cross-infections adds to hospital costs. Articles and op-eds on the impact of cross-infections on hospital costs will be placed in key publications. An information packet on the issue of IAQ in hospitals will be prepared for use by lobbyists to help offset new taxes earmarked for health-care services.

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Our third strategy is to explore the liability of hospitals whose poor IAQ contributes to high rates of cross infection. Health-care attorneys will write papers on the liability problems of this issue. These papers will be distributed to the trustees of liability insurance companies for hospital associations in key states as well as to appropriate patients'-rights groups -- some of which are kept alive by unions.

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We have identified two experts in the health care field who have expressed a strong interest in this subject. Dr. Frank Sloan, a professor of law at Vanderbilt University, is one of two unquestioned authorities on the legal aspects of health care. Dr. James Blumstein, a professor of economics at Vanderbilt, is a highly regarded health care economist. Both have have for many years played a major role in federal and state health policy and are constantly consulted by federal officials and federal agencies. In discreet discussions, we are further exploring their ability to assist us.

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AIRPORTS

Our airport strategy was discussed at the last meeting, so I will not repeat that. However, I can report that we have secured the cooperation of AAAE Vice President for Federal Affairs Linda Daschle, in getting entree to management in our target airports. Recently, the Washington Metropolitan Airport Authority, which has jurisdiction over National and Dulles International Airports -- both used daily by Members of Congress -- has asked our help in formulating a smoking policy in response to a request from Dulles Airport maintenance staff for a smoking ban. We are currently following up on that request.

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CONCLUSION

These new programs are designed to respond to changing political and business environments using our strongest arguments and resources. However, we are continually looking for new ways of addressing our three biggest challenges. They are:

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- **Monitoring voluntary smoking restriction activity.**
Regular conference calls between TI staff and member company staff have given a great boost to our collective efforts in gathering intelligence on companies considering voluntary restrictions. However, we still seek a thorough and reliable way to monitor the intentions of businesses before restrictions are announced.

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- **Reaching CEOs and decision-makers of industry leaders directly and personally with our message. We believe a peer-to-peer approach is most effective, and would like your thoughts on working with high-level executives to help us carry our message forward.**

- **Diffusing the ETS issue in a general discussion of indoor air quality. Try as we do to broaden the issue, ETS is still seen as a district and overriding threat rather than a part of the general question of IAQ.**

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**As always, this committee's suggestions are invited
and welcomed. With your guidance and the hard
work of our staff, consultants and allies, we will
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challenges with creativity and persistence.**

Thank you.

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