

# THE TOBACCO INSTITUTE

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## MEMORANDUM

April 18, 1990

TO: Samuel D. Chilcote, Jr.  
FROM: Kurt L. Malmgren   
SUBJECT: California's Anti-Tobacco Advertising Campaign

We developed the following strategies to meet our goal of eliminating Prop 99 media money:

- 1) Encourage the California legislature to intervene;
- 2) Cooperate with minority, business and other groups in developing their opposition to the advertising program;
- 3) Convince Health Services Director Kizer to pull or modify the current advertisements;
- 4) Encourage the Governor to intercede against the campaign.

After analysis from our California team, it is clear that our efforts should center on the first two strategies, with the hope that these efforts can have some effect on the other two strategies.

The reasons for this approach are (1) Dr. Kizer is not likely to pull or modify the ads without strong pressure from the Administration; (2) as a "lame duck," the Governor is not likely to get into a public sparring match with Dr. Kizer, even though he disagrees with the Department of Health Services attack approach with the anti-tobacco advertisements.

Nevertheless, sentiment from several California publics -- while not favoring tobacco -- is not favorable to the approach taken in the advertising campaign. Editorials against the campaign have already been published in Orange County, the minority press in San Francisco and Sacramento, and elsewhere.

Television stations in Los Angeles (KABC) and San Francisco (KPIX) have rejected all or part of the Department's campaign as "inflammatory." And as Advertising Age noted in an April 16 editorial on the "Industry Spokesman" ad, "Who's sponsoring this ad? The state of California or the Rev. Louis Farrakhan.... There is something foul on their air [read: California airways]."

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The Institute is proceeding in the following manner.

**Coalition Efforts**

We continue to work to energize and organize those other individuals and associations with negative feelings about the campaign into a focused coalition willing to take the lead in an effort to end funding for media from Prop 99 taxes and redirect it elsewhere. This would most feasibly be accomplished through legislation amending AB 75, the Prop 99 enabling legislation.

With more than 100 legislative, administrative, community and media contacts already made on the issue, the following groups and subgroups will be encouraged to join this leadership coalition:

- **Black Community**
  - owners of black-owned publications
  - California Legislative Black Caucus
  - Black Health Network
  - Urban League
  - NAACP
- **Hispanic Community**
  - Mexican-American Legal Defense and Education Fund
  - Western Center for Law and Poverty
  - Mexican-American Political Association
  - Hispanic Chambers of Commerce
- **Asian Community**
- **County Supervisors Association**
- **Hospital Groups**
- **California Medical Association**
- **Business groups**
  - California State Chamber of Commerce
  - California Manufacturers Association

Intelligence to date shows a range of reasons why these groups are ill at ease and concerned with the advertising campaign. Black concerns, for example, vary from resentment at the denigrating nature of the ads, to concern that Prop 99 dollars are not being channeled to pressing health care needs for minority groups, to the fact that Prop 99 media dollars are not being funneled to black-owned media.

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Hispanic concerns, although not fully inventoried since Hispanic-targeted ads are not scheduled to run until May, appear to be similar to those expressed by the black community.

In the case of cities and counties, supervisors and others would like to see media money redirected to local services.

The doctor and hospital segment appears to believe the media funds would be better spent to pay medical costs.

The state's leading business groups have two basic objections to the direction of the advertising campaign: (1) they view the attack on tobacco as the first step down a very slippery slope, and (2) see the campaign as an abuse of the power of state government.

We are attempting to encourage elements of the black community to take the lead against the ad campaign, thereby providing an incentive for other groups to join the fight. Since they are uneasy about the ads for different reasons, it is essential that we work with political, medical, community and media leaders within the black community to organize this effort.

The key tactic in this battle is to encourage legislation to amend AB 75, the Prop 99 enabling legislation. As a matter of information, a four-fifths vote would be required to amend Prop 99 itself, while a two-thirds vote in the Legislature is necessary to amend AB 75. We are working with lawmakers and allies to identify suitable vehicle bills.

As previously reported, Covington & Burling and California legal counsel have been reviewing possible grounds for a legal attack on the ad program. Among the possible bases for suit that have been reviewed are that the ad campaign is an improper expenditure of funds under Prop 99 and AB 75, that it is defamatory, that it is deceptive advertising, and presents First Amendment concerns.

Aside from tactical questions as to the desirability of pursuing any legal action, the considered judgment of counsel here and on the ground in California is that there is no basis for suit which would have a realistic chance of success.

It is also our considered opinion that the industry should not attempt a "dollar-for-dollar" response in the media. Our goal is to keep the advertisements -- not the tobacco industry -- at the center of the controversy. If the industry attempts to meet the Department of Health Services head on in the media, the controversy is likely to shift from the ads to the industry.

Though we do not recommend an industry ad campaign, The Institute is developing plans to facilitate highly targeted efforts to opinion leaders and, if appropriate, to support media activities of the coalition group.

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### Member Company Support

In addition to energizing other interested parties, there is no doubt that the companies should address the ad campaign in their mailings to California smokers. If our members' customers are properly motivated, they can be encouraged to remind their lawmakers how Prop 99 money was intended to be used.

### Business Opposition

To heighten business opposition to the campaign -- and to keep the Governor warm to the issue -- contacts continue with the state chamber and manufacturers association. We hope to encourage business leaders and associations to support an alternative use of Prop 99 media funds and to ask the Governor to support such a change in funding direction.

### Public Affairs

Among other support activities, our Public Affairs Division is set to conduct (and share with audiences we deem appropriate) market research and focus panel tests on the effectiveness of the ads as "educational" materials.

Public Affairs also is prepared to conduct a poll to gauge reaction to the ad campaign and use of government funds for such an endeavor. If the results are as we expect, we will attempt to follow this up with a more detailed Field poll.

In conjunction with State Activities, Public Affairs is working to enlist coalition support through its network of contacts in minority communities and with organized labor.

Economists in California also are being consulted to test their willingness to place ads drawing attention to this questionable use of the taxpayers' dollars. We are prepared, too, to counter the ETS and "social cost" messages stated or implied in the anti-tobacco advertisements.

### Industry Contact with Lawmakers

An overt industry legislative lobbying campaign to encourage a redirection of Prop 99 media monies would not be the most effective approach. That job should be spearheaded by other parties. However, it is essential that the industry maintain close contact with legislative allies, reminding them of the Department of Health Services' abuse of power and wrongheaded, political use of Prop 99 educational funds.

I will keep you apprised as events warrant.

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