

need to discuss
revisited

Just if
activity is
all state
3-4 examples

draft. 3/2/94 JGR/EFI. EM Board 3/30/94#2 Outline for
Issues presentation to Management Committee for 3/30/94
breakfast before Board Meeting.

Ruffly has given you an overview of the Adrenal issues, while we need to develop support papers and today to work w/WHO on all federal issues, relating to tobacco, from grassroots support to Consumer Investigators to Communications Plans, etc. to help to

I. The social/political environment for smokers and the tobacco industry has become even more hostile due to:

focus today on state issues

A. The stridently anti-tobacco mood of the current administration in Washington, D.C. This attitude prompts federal agencies to be aggressively anti-smoking, thereby making anti-smoking activists more aggressive and bold in pursuit of their agendas.

*1. Budget
state calls
2. EPA Report
1. Anti Smokers
Smokers at
local level*

1. Following the EPA's January 1993 report branding ETS a group A carcinogen, we have seen a sharp increase in the number of smoking bans proposed on the state and local level.

2. Following the Surgeon General's recent report on smoking and youth, there have been more calls for restrictions on tobacco advertising and marketing.

2. Additional focus on the smoking and youth issue has been provided by an HHS report released on [Date tk].

3. The federal government is directly funding anti-smoker activity through Project ASSIST and by withholding ADAMHA funds from those states that do not aggressively pursue anti-smoking activities.

*3. Health
goals -
Adapt to tapes
at home &
spread
2. ~~Advertising~~
3. ~~Advertising~~
- Advertising
Bans*

C. Members of Congress who use the issue to increase their recognition level, such as Ted Kennedy, Bill Bradley, Mike Synar and Henry Waxman.

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D. An organized anti-smoker movement that has become very influential with legislators and the media, and increasingly sophisticated in its techniques.

1. Because of our success over the past several years at the state level, the antis have recently elected to pursue a "PAC MAN" strategy at the local level. This is effective, as we do not have the resources to be everywhere at once.

2. Our response is pre-emption -- the passage of state level legislation that pre-empts and precludes the passage of any more punitive legislation at the local level. I'll have more to say about pre-emption in a moment.

~~E. In summary, the environment is increasingly hostile for the tobacco consumer and for our industry.~~

II. Our Core Objectives Are To:

A. Minimize the impact of Federal and State taxes on our products, with the defeat of the administration's proposed 75 cent FET increase our first priority.

B. Protect the rights of adult consumers to smoke.

C. Preserve PM USA's ability to market our products.

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D. Provide a point of contact for consumers who wish to ~~communicate with the company.~~ *express their views on the topic (NSA),*

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III. Pro-active tools.

A. We believe that a good offense is the best defense against those who want to put us out of business. We must be pro-active as well as reactive. Following are some of the programs we've implemented to advance our core objectives.

1. Geo-political studies -- Our ammunition, without which we cannot fight. These studies generate hard data relevant at the local political level. We are able to inform state and federal legislators exactly how a tax or restriction could affect the people in their districts.

2. Coalition building -- coalitions are assembled on every issue, but their components vary with the issue and venue in question. Some of our allies include, on the excise tax issue, tobacco retailers, wholesalers, labor unions, the companies who supply Philip Morris with goods and services and our own employees. On issues such as advertising and the right to commercial free speech, we have worked with newspapers publishers, advertising trade associations and the American Civil Liberties Union.

3. Pro-active programs to address the youth smoking issue. Recently, the Department of Health and Human Services has intensified the pressure on the youth issue. HHS proposes to threaten states with loss of funding for alcohol, drug abuse and mental health programs unless the states license tobacco retailers, conduct unannounced inspections, and encourage sting operations on retail locations by local health groups. The latter involves employing teenagers to make illegal cigarette purchases and then videotaping the

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transaction. HHS suggests that states use tobacco licensing fees to finance additional sting operations.

We don't market our products to minors and don't want them to smoke. We have developed several pro-active programs to address this issue:

a. It's the Law -- this is an educational program designed to increase the awareness of retailers of the minimum age laws prevailing in their states. It's the Law was developed in cooperation with the National Association of Convenience Stores and has been implemented by more than 50,000 retail stores nationwide.

b. PM sponsored crime prevention seminars -- through these seminars we have been successful in linking the issue of illegal sales to minors to an issue that is of great concern to retailers -- the prevention of crime in their stores.

c. The Philip Morris Code of Marketing Practices.

d. Support for minimum age laws.

4. Pre-emptive Legislation -- Our strategy is to support legislation at the state level that pre-empts smoking ordinances at the local level. There are two basic reasons why the local arena is advantageous to anti-smoking groups:

a. They have us outnumbered.

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b. They have access to federal Project ASSIST funds. Short for American Stop Smoking Intervention Study, ASSIST has provided local and state anti-smoker group with a pool of \$115 million over seven years, with an additional \$35 million being kicked in by the American Cancer Society. In addition, some states, such as California and Massachusetts, have laws that funnel excise tax money directly to anti-smoking groups. California and Massachusetts serve as incubators for anti-smoking tactics and strategies nationwide.

We have already been successful in passing pre-emptive legislation in 14 states and we have targeted 22 additional states for 1994. We expect this kind of legislation to become an increasingly important tool as our opponents attempt to engage us on ever smaller fields of battle.

5. The National Smokers Alliance -- this program extends coalition-building to what is potentially the most powerful constituency of all-- the nation's nearly 50 million smokers. Philip Morris and four industry-related companies have provided the NSA with development grants, and it is hoped that all segments of the industry will provide financial support to the organization. NSA membership is open to all adults who support freedom of choice for smokers and non-smokers alike.

6. The Accommodation Program -- The premise of the Accommodation Program is that it makes good business sense to honor the preferences of both non-smokers and smokers in businesses that serve the public. Businesses participating in the program display a colorful Accommodation logo, assuring potential customers that

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the establishment honors the preferences of both groups. Today the program comprises more than 9,000 participants.

B. Now that I've filled you in on some of the tools we are using to implement our proactive strategy, let's take a look at some of the actual battles we are facing around the country. I'll begin with a review of our fight against the federal excise tax, then I'll ask Tina to bring you up to date on how we are meeting challenges at the state level.

IV. Federal Excise Tax

A. Situation Analysis

In addition to the Sedentary we have developed a Grass roots program

1. The Clinton Administration has proposed a 75-cent increase in the federal excise tax on cigarettes to help foot the bill for health care reform -- an increase of more than 300 percent.

2. The Administration has tried to portray this exorbitant increase as a "compromise" since it was earlier considering increases of as high as two dollars. Although we believe pressure from smokers and others contributed to this reduction, 75 cents is not a compromise; we do not support any FET increase.

3. The proposed increase would have a major adverse impact on Philip Morris' cigarette business. If enacted the price of cigarettes would rise dramatically overnight. According to our estimates, Philip Morris U.S.A. would lose more than 31 billion units in sales in the first year alone.

B. Objectives -- to defeat all proposals for any increase in the federal tobacco excise tax.

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C. Strategy

1. Separate the excise tax from the issue of health care.
2. Mobilize our natural constituencies -- tobacco state legislators, growers, retailers, consumers and employees of all the Philip Morris Companies, then broaden our base to include those companies that supply Philip Morris with goods and services.
3. Raise awareness of alternatives to the President's plan. The Administration's plan is only one of six proposals, and some of these proposals call for no tax increases of any kind.

D. Tools -- to have an impact at the national level, coalition building is clearly our most important tool. Data on adverse economic impact provided by our geopolitical studies help us to mobilize allies and provide us with ammunition.

1. Coalition Building -- we have adopted a three-pronged approach to mobilizing a coalition against the proposed tax increase.

- a. First, we are encouraging the governors from tobacco growing states and friendly legislators in Congress to discuss the issue with the Clinton Administration. Every tobacco-state governor has called the President personally to express their opposition.

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D. TN B. B. C.

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b. Second, we are building coalitions with business and trade organizations, as well as with consumer, smoker and anti-tax groups to help generate opposition that is broad, deep and tightly-coordinated. In addition, we have broadened our base to include companies that supply Philip Morris U.S.A. with goods and services. Working with our allies, we are generating letters to Congress, opinion pieces and editorials pointing out that the proposed tax increase is an unfair and ineffective method of dealing with the health care crisis. We are making an all-out effort to mobilize all the employees of Philip Morris Companies Inc. To that end, Chairman Miles has declared the week of March 21 to be BEAT FET WEEK.

c. Third, we are educating and mobilizing our consumers. We make continual efforts through our two newsletters, Smokers Advocate and Caucus Notes, to get consumers across the country to write to the people who represent them in Washington. Each consumer who responds to one of our brand promotions receives an insert in the fulfillment package asking him or her to join the fight against the FET. So far, more than [300,000] consumers have responded, and the program has generated some [50,000] letters to Capitol Hill.

2. Geo-political studies -- We have generated analyses from research data compiled by Price Waterhouse. Our analysis of the data indicates that 275,000 jobs in tobacco and related industries could be lost nationwide as a result of a 75 cents tax increase.

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3. Crime prevention seminars -- although this tool is chiefly used to address the youth smoking issue, we take advantage of these seminars to alert retailers to the fact that high excise taxes make their cigarette inventory more attractive to thieves. We point to the steep increase in crime in Canada as an example of the consequences of punitive taxes on tobacco products.

E. Summary -- There is no doubt that the proposed federal tax increase on cigarettes is the most important political issue Philip Morris faces in 1994 and it is one of the most important we have faced in our history as a company. President Clinton has made it clear that he is willing to compromise on any aspect of his health plan except universal coverage. We are doing everything in our power to make sure that when all the dust settles, a fair health care plan emerges that does not include a financing mechanism that unfairly burdens one group of consumers. Now I'd like to turn things over to Tina Walls for a discussion of state issues.

V. State Excise Taxes

A. Situation Analysis

1. Until this year and the proposal for the federal tax increase, state government has been the arena most prone to exorbitant excise tax hikes. Unfortunately, the situation in the states has not changed simply because of the federal government proposal. In fact, many state legislators are attempting to rush increases of their own through before a federal increase goes into effect.

2. So far this year, excise tax increases have been proposed in [TK] states and there are [TK] more states where we believe an excise tax is likely to be proposed.

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3. Proposals for excise tax increases may be instigated by the Governor -- which makes them particularly hard to beat -- by members of the legislature, or via ballot referendum, as in the recent vote in Michigan. Fighting ballot proposals is a particularly expensive proposition.

~~B. Objectives~~

- ~~1. As with the federal tax, our core objective is to defeat all increases in state excise taxes.~~
- ~~2. Where an increase looks inevitable, our fallback objective is to limit the size of the increase as much as possible.~~
- ~~3. An additional objective is to prevent tax increase proposals from being placed as referendums on state ballots.~~

C. Strategies

- ~~1. Mobilize our natural allies in government, business and the community at large.~~
- ~~2. Point out the regressive nature and unfairness of excise taxes.~~
- ~~3. Stress that they are an inefficient means of raising revenue.~~
4. Advocate increased efficiency and fiscal responsibility in state government as an alternative to raising taxes.

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D. Tools

1. Coalition building -- one of the few advantages of being under attack at multiple levels of government is that the tools you develop to fight proposals at one level can be applied to the battle at other levels. Because of the many state excise tax battles we've fought, we've been better coalition builders at the federal level this year. And as we fight at the federal level, we're learning new tactics that may come in handy in our state battles -- for example, forging coalitions with Philip Morris suppliers.

2. Geopolitical studies -- our research studies have an added punch at the state level because we can document that if the state excises taxes rise to a level considerably higher than that of neighboring states, retail businesses will lose business across the border. These lost sales are not only confined to cigarettes, but include purchases of other goods and services in cross-border stores.

E. Summary -- State excise tax increases remain an extremely important issue for PM USA and we expect to see a large number of proposals this year. Although these fights are tough, we have good, effective arguments against high state taxes on cigarettes and we often prevail at the state level as a result. Last year, 38 state excise tax increases were proposed and only seven actually passed.

To give you an idea of how our core strategies and tools are adjusted for individual states, I will now discuss specific plans we are currently implementing to combat anti-smoking activity in California, Arizona and the District of Columbia. [Finally, I will discuss the recent

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referendum vote in Michigan.] -- [See NOTE preceding Michigan section.]

VI. California

A. Situation Analysis -- As mentioned earlier, California is an important battleground because anti-smoking initiatives often take root there first before spreading to other states. Local smoking restrictions are rife in the state and currently five major California cities have instituted sweeping workplace and public smoking bans: San Francisco, Los Angeles, San Jose, San Diego and Sacramento. Recent polls show that Californians do not favor outright bans. Two state bills are currently pending in the legislature. One would ban smoking in the workplace and all restaurants statewide. The other, which we support, would restrict smoking statewide but still allow smoking in public while pre-empting local smoking bans.

B. Objectives

1. Pass state-wide smoking legislation that would pre-empt local laws and allow smoking in restaurants, workplaces and other public venues, either in the legislature or through ballot initiative.
2. Seek to have one of the major city smoking bans overturned on legal or regulatory grounds.

C. Strategies

1. Legislative/State Level
 - a. support passage of state bill AB996, which would allow smoking and pre-empt local laws;

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- b. introduce accommodation legislation;
- c. seek pro-active marketing legislation

2. Legislative/Local Level

- a. introduce local accommodation laws in selected cities to demonstrate efficacy of accommodation.

3. Legal -- On February 1 Philip Morris joined with a group of other businesses in a lawsuit against the City of San Francisco, claiming that the city's smoking ban was pre-empted by state and federal occupational health and safety laws. The city lost a similar legal challenge in 1992 on a law regulating the use of video display terminals.

4. Regulatory -- We are seeking an acknowledgment from CAL-OSHA, the state's occupational safety and health administration, that it pre-empts localities on the subject of smoking in the workplace.

5. Ballot Initiative -- We have filed with the California Attorney General our plan to put a state-wide smoking restriction initiative -- one that we can live with -- on the November 1994 ballot.

D. Tools

1. Coalition building -- We have formed alliances with other businesses and business organizations such as the state's restaurant and hotel/motel associations. These groups are active supporters of our proposed accommodation bills.

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2. Geo-political studies -- Our polling shows strong support for accommodation and general opposition to smoking bans. Polls indicate that 65 percent of California voters would support a state-wide smoking law initiative on the ballot that allowed reasonable accommodation for smoking. Opposition to the measure is never more than 25 percent. In addition, we are conducting background research on eight California target cities where we plan to introduce local accommodation bills.

E. Summary -- California is one of our most hotly contested states politically and one of Philip Morris' most important markets. Anti-smoking sentiment is high in California, but so is a respect for tolerance and a willingness to support mutual accommodation. We have a good chance of getting the legislation we want passed at the state level in California. Preliminary signs are also good for the San Francisco lawsuit and the 1994 ballot initiative. By prevailing at the state level, we can bring some sanity and stability to the public smoking debate in California.

VII. Arizona.

A. Situation Analysis -- The Arizona Hospital Association in concert with the Lung, Heart and Cancer societies have filed a ballot initiative to raise the state's cigarette excise tax by 40 cents to pay for indigent health care, tobacco related education and research, and prisons.

B. Objective -- To defeat the initiative.

C. Strategy -- As it is very expensive to defeat an initiative once it's on the ballot, our strategy is to derail the initiative during the petition-signing stage. If

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the signature drive shows any sign of gaining steam, we plan to have someone at every site where signatures are being solicited handing out a brochure and asking potential signatories, "before you sign, please read this." The information in the brochure has been compiled from opinion research and focus groups and is tailored specifically to the Arizona market.

D. Tools

1. Coalition building -- We are creating a business coalition of retailers, tax-fairness organizations and other concerns groups called Arizonans for Accountability.
2. Geopolitical studies, surveys and focus groups -- Accountability is key to harnessing strong local opposition to the initiative. We will point out that the money to be collected from the tax will go directly to hospitals with little or no oversight.

E. Summary -- Surveys indicate we can defeat the initiative at the petition stage if we can successfully make our points to voters before they are asked to sign. The Hospital Association, which stands to reap a windfall from the tax, is also its primary sponsor. Former Senator Barry Goldwater is the Association's spokesperson. Survey data indicate that Arizonans are either neutral or negative towards the Senator.

VIII. The District of Columbia

A. Situation Analysis -- The District of Columbia has raised cigarette excise taxes by double-digits every year for the past three. Now the Mayor is proposing another tax increase of 25 cents per pack. If adopted, the D.C.

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cigarette tax will be \$9.00 a carton, the highest in the nation.

B. Objectives -- To not only defeat the tax increase, but to roll back the current tax by 15 cents per carton.

C. Strategies -- We are meeting with individual council members on the D.C. City Council to drive home the point that previous tax increase have already forced so much of the cigarette retail activity out of the District cigarette taxes are no longer a viable revenue source.

D. Tools

1. Coalition Building -- We are working with the District's wholesalers and retailers; their businesses have been devastated by the tax. Retailers have not only lost approximately \$44,000 per capita in cigarette sales since the last tax increase, they have also lost the ancillary purchases customers often make when buying cigarettes.

2. Geo-political Studies -- We can document that cigarette sales have fallen by nearly 23 percent in D.C. since 1990, while sales in neighboring Maryland and Virginia, both of which have lower taxes, have skyrocketed. We can also show convincingly that the District could actually lose money if it increases its cigarette tax to such an exorbitant level.

E. Summary -- We may not get the roll-back, but we think we can defeat the increase. One benefit of the roll-back proposal, win or lose, is that it focuses council members on the foolishness of yet another cigarette tax increase.

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IX. Michigan. [NOTE: Michigan will be decided before this presentation is given. If a victory, perhaps we can use it as a positive example. If a loss, it can be omitted, or used as an example of how vulnerable we are and how quickly events can move. The following language anticipates a victory.]

A. Situation Analysis -- The Michigan situation shows how vulnerable cigarettes are to tax increases, particularly in times of fiscal panic. The Michigan state legislature voted to repeal property taxes as a means of funding education, but failed to provide any alternative means of funding. Now Governor Engler, who had just signed a 15 cents per pack cigarette tax increase into law, forced a state ballot referendum to alternatively raise the tax 50 cents to fund education.

B. Objective -- to defeat the referendum at the polling booth.

C. Strategies -- With so little time to prepare, our strategies were reduced to a fast and furious campaign to mobilize our natural constituencies and educate voters to the unfair, regressive and economically destructive nature of cigarette tax increases.

D. Tools --

1. Coalition building -- We mobilized the 1.9 million Michigan smokers. In addition, we had vital support from the Michigan Chamber of Commerce, the retail community and the Michigan Coalition Against Regressive Taxes.

2. Geopolitical studies -- Voters polled initially indicated the measure would pass by 58 percent. But when arguments against the proposal were heard, results

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showed the measure being narrowly defeated by a 48-42 percent margin. When viable alternatives were added to the objections, the proposal only found support among 43-45 percent.

E. Summary -- The defeat of measure "A" in Michigan shows that state excise taxes can be defeated -- even against daunting odds -- when we have the right arguments and when we effectively use our allies to get our message heard.

X. Conclusion -- the forces arrayed against us are formidable, well-funded, sophisticated and committed to their cause. Nevertheless, polls continually indicate the average citizen is willing to give smokers and the industry a fair shake if they have a chance to hear our arguments. We have good arguments and strong allies. We may not win every battle we fight, but by keeping our core objectives firmly in mind and sticking to our game plan, we can successfully blunt the opposition more often than not. Thank you. [Back to EM? Questions?]

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