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SAMUEL D. CHILCOTE, JR.
President

October 8, 1987

MEMORANDUM

To: The Members of the Executive Committee
From: Samuel D. Chilcote, Jr. *Sa*

The Aviation Subcommittee of the House Committee on Public Works and Transportation had its first experience with a smoking hearing Wednesday, as the tobacco industry, the Administration, a litany of anti-smoking groups and Members of Congress packed themselves into an all-day session on legislation to ban smoking on airlines.

Committee Members Valentine (D-NC), Stangeland (R-MN), Ballenger (R-NC), Towns (D-NY), Rowland (D-GA), Perkins (D-KY) and Sundquist (R-TN), through their statements and questions, all made the case that any ban was premature and that more study is needed. Rep. Valentine was present throughout the eight-hour session.

At the end of the day, Chairman Mineta (D-CA) promised to ask the Department of Health and Human Services for all documents relating to the Surgeon General's 1986 report on ETS.

Press attendance at the hearing, although numerous, did not include network television. CNN and two radio networks did cover the morning's testimony. Because industry witnesses were scheduled to appear last, The Institute hosted a pre-hearing press briefing to give reporters an opportunity to hear our views. Among those attending the briefing were representatives from the Los Angeles Times, the Washington Times, Cox Broadcasting and the Raleigh News and Observer. Institute spokespersons also were available outside the hearing room, to facilitate additional interviews with industry witnesses.

A copy of the TI press package is attached, along with a witness list and testimony available at the hearing.

Seventeen of the 29 subcommittee members attended all or part of the eight-hour session. Chairman Mineta, who was present at the beginning and the end, indicated in his opening statement support for "some further regulation to limit

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smoking on aircraft." However, he took no position on any of the legislation that has been introduced to date.

In opening remarks from other subcommittee members, Reps. Stangeland and Valentine opposed legislation without sufficient evidence. On the other hand, Rep. Gingrich (R-GA) supported a ban unless the tobacco industry can prove no adverse health effects from ETS, and Rep. DeFazio (D-OR) criticized the Administration for failing to act more quickly. Rep. Packard (R-CA), indicated he would pay close attention to the hearing record, but admitted that his 25 years as a health professional would shape his views.

Eight Members of Congress comprised the first panel of witnesses. The seven who testified in support of some form of restriction included Sen. Lautenberg (D-NJ), and Reps. Scheuer (D-NY), Torricelli (D-NJ), Durbin (D-IL), Oberstar (D-MN), Dornan (R-CA), and Bates (D-CA). All have introduced legislation that restricts or bans smoking on commercial aircraft. All cited 1986 National Academy of Sciences and Surgeon General's reports on the claimed health effects of ETS on nonsmokers, and various polls that have been conducted by anti-smoking organizations that indicate public support for airline smoking bans. Although they were unanimous in their support for a total ban, all admitted that a two-hour ban was more feasible politically.

The eighth panel member, Rep. Lancaster (D-NC) opposed additional restrictions.

In questioning, Reps. Rowland and Valentine pressed their colleagues repeatedly for evidence indicating that ETS poses a health hazard to nonsmokers.

Matthew V. Scocozza, Assistant Secretary of Transportation for Policy and International Affairs, reviewed his agency's comments on the 1986 National Academy of Sciences report that called for a smoking ban on airlines, including DOT's recommendation that additional study be conducted before the department makes a definitive response.

"While we do not question that future regulatory action may be warranted concerning smoking aboard airliners, we cannot do this reasonably without being supported by more factual information," Scocozza concluded. "We believe that Congressional action should also await such information."

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Absent from the day's proceedings was Surgeon General C. Everett Koop, whose 1986 report on "involuntary smoking" was cited frequently by proponents of restrictions. Koop had been invited to testify, the subcommittee was informed, but his activities on AIDS prevented him from appearing. Also among the missing was John Banzhaf of ASH, who credits himself with the current restrictions. Although Banzhaf's name was included on a preliminary witness list, he did not appear. Other members of his panel indicated that he would submit written testimony for the record.

Two representatives from the Association of Flight Attendants supported a total ban, although President Susan Bianchi-Sand admitted during questioning that most passengers seem to be satisfied with the current arrangements. Bianchi-Sand's oral support of a complete ban was at odds with her written call for a two-hour restriction.

Geoffrey Lipman, executive director of the International Foundation of Airline Passengers Associations, submitted results of IFAP's three-month worldwide survey of passengers which indicated that 60 percent of U.S. passengers support a two-hour ban; 48 percent support a complete ban. He noted that support for bans appears to be stronger in foreign countries than in the U.S.

A panel of "citizens," most of them representing anti-smoking groups, urged the subcommittee to heed the National Academy of Sciences committee's recommendation for a ban. These included Patrick Reynolds, representing Americans for Nonsmokers' Rights; J.D. Lee, a Knoxville attorney representing the American Trial Lawyers Association Tobacco Litigation Group; Anne Morrow Donley, president of Virginia GASP; private citizen Joe Chernier; and pilot Hugh Fulton, Jr.

In Banzhaf's absence, Ahron Leichtman, president of Citizens Against Tobacco Smoke, dominated the "citizen" panel. "The benefits of a smoke-free environment are becoming increasingly apparent as the federal government, the military, most states, and many of the nation's top companies have limited smoking in various locations," he said. "The airlines are next in line and they are resisting it because they have been duped into believing the unbelievable."

Rep. Perkins debated at length with this panel, noting that the National Academy of Sciences airline report provided no support for proposals for additional restriction.

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A panel of representatives from health organizations also supported a ban, although all admitted during questioning that data do not currently exist to justify such a drastic measure. "Involuntary exposure to tobacco smoke poses a health hazard in any environment, including the cabin of an airplane," Jonathan Samet, editor of the 1987 Surgeon General's report, noted in his testimony for the Coalition on Smoking OR Health. However, when Mineta, noting DOT wanted more study, asked if the question was still open, Samet responded affirmatively. John J. McGrath of the American Medical Association agreed.

The current system of accommodating smoking and nonsmoking passengers continues to work well for the majority of American air travelers, Charles O. Whitley noted in his testimony on behalf of The Institute. "Proposals to reject this balanced approach in favor of a wholesale ban on airline smoking are simply not justified by the scientific evidence regarding health considerations," he added, noting that TI is prepared to assist or facilitate efforts by the Department of Transportation to conduct additional scientific study.

Included in The Institute's written testimony were copies of the April 1987 poll for the Air Line Pilots Association, in which 87 percent of respondents indicated support for the current system of separating smokers from nonsmokers, and a review of National Transportation Safety Board records of airline fires by TriData Corp., which notes that none of the 96 air carrier fires investigated by NTSB since 1970 has been determined to be smoking-related.

Proposed legislation to ban smoking on airlines "is not justified on public health grounds," environmental toxicologist Larry Holcomb told the committee. "The great weight of evidence does not support the conclusion that exposure to ETS in commercial aircraft causes adverse health effects in non-smoking passengers," he said.

William E. Crouse, senior research chemist at Lorillard, demonstrated the "portable air sampling system" (the briefcase), which, he noted, has been used to measure environmental tobacco smoke levels in aircraft. "Presently, the scientific literature contains surprisingly little concerning environmental tobacco smoke levels aboard aircraft. Additional studies will be required in order to truly understand the nature of air quality within aircraft cabins," Crouse said.

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Industry presentations were well received. During follow-up questioning, Rep. Sundquist queried Whitley and Holcomb on inconsistencies between the summaries and the bodies of the National Academy of Sciences and Surgeon General's reports. Whitley noted that industry efforts through the Freedom of Information Act to obtain peer review comments on the Surgeon General's report had been unsuccessful; Mineta accepted his challenge to seek those documents.

Mineta finished by saying that he intended to examine all the evidence very carefully and very deliberately. It is possible that he will ask the Surgeon General to appear before the subcommittee at a later date.

SDC/sdr

Attachments

cc: TI Senior Staff

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