

July 15, 1995

The Honorable Newt Gingrich
Speaker of the House of Representatives
2428 Rayburn House Office Building
S. Capital Street & Independence Avenue, S.E.
Washington, DC 20515

Dear Mr. Speaker:

We are a group of Republican physicians and scientists who are quite concerned that our party is not taking a proactive stance in addressing the number-one cause of premature disease and death in America today: cigarette smoking.

We have taken the liberty of putting our thoughts, concerns and recommendations in the attached open letter. We submit it herewith to you.

Later this week we hope to share these documents with selected members of the media.

Thank you for your consideration of our thoughts on this most serious matter.

Sincerely,

Dr. Elizabeth Whelan
Coordinator

July 17, 1995

Dear Speaker Gingrich:

We, a group of independent Republican physicians and scientists, are writing to ask that you and your Congressional colleagues consider more seriously the grave impact that cigarette smoking now has on the health of Americans and that you work together to formulate a long-term solution to the current threat of cigarette-related diseases. We are deeply concerned that the Republican party has no strategy for dealing with our nation's pandemic of cigarette-related diseases. Worse, we have observed instances where public health efforts to discourage smoking have been ridiculed by a number of your colleagues—and we fear the Republican party is increasingly viewed as a friend to the tobacco industry.

Everyone says it, and for once everyone is right: Now is the conservative moment. For the first time in decades, on issues from taxes and regulation to welfare and the environment, conservatives dictate the terms of the important public-policy debates.

With one exception. The conservative hegemony of ideas founders disappointingly whenever discussion turns to cigarettes, smoking and health. Then the embarrassing dynamic of an earlier era is resurrected. Conservatives define their position not by what they stand for, but by what they reject. Antismoking activists, many with a liberal political agenda, propose unpalatable measures such as extortionate tobacco taxes and universal cigarette advertising bans. Conservatives and libertarians indignantly object. The proposals are toned down, repackaged in more attractive garb and relaunched into the political marketplace. As some proceed to rally support, conservatives renew their fulminations, sounding at times for all the world as if they rather appreciated the fact that 50 million Americans regularly resort to a dangerous product that prematurely kills at least 400,000 of them each year.

As physicians and scientists and as Republicans ourselves, we believe this purely rejectionist attitude is a formula for slow-motion defeat. It also guarantees that liberals alone will benefit from growing antitobacco sentiment. It raises questions about the sincerity of those of us who denounce junk science, trumpet such newly ascendant requirements as risk assessment and cost-benefit analysis in regulatory schemes and labor to expose public health scares lacking empirical foundations.

Smoking is not a public health scare. It is a public health scythe. There are only a few other risk factors even worth mentioning in relation to premature death, including alcohol abuse and untreated high blood pressure. Yet, compared with smoking, these others are not even in the race.

Does the conservative movement wish to be known as the tobacco industry's friend? If so, why? Commerce is generally noble, but not always so. Sometimes it is tawdry or even noxious. We do not honor Bob Guccione, however much we might oppose an attempt to abridge his right to publish *Penthouse* magazine. It is impossible to imagine the Speaker of the U.S. House of Representatives giving an assembly of skin-magazine moguls a rare preview of his plans for the second hundred days of a new Republican Congress. Yet you provided precisely such a privilege in February to a gathering of tobacco industry executives in West Palm Beach. It is inconceivable, for that matter, that your chief spokesman, Tony Blankley, would insult members of the Christian Coalition; yet last year he casually smeared the tobacco industry's critics as "health Nazis."

Respected conservative pundits from Rush Limbaugh to Walter Williams pound on antismoking activists with similar gusto, targeting not just their methods but also their motives, as if indifference were the only legitimate attitude toward the still widespread use of cigarettes.

Isn't it curious that although it is considered a duty for engaged citizens to decry some varieties of behavior, such as peddling violence-laden entertainment or fathering babies out of wedlock, it somehow is seen as nannylike interference when an engaged citizen speaks out against the most destructive personal habit in America.

How destructive? Let's count the ways tobacco hastens death. There's lung cancer (85% of all cases), esophageal cancer (80%), oral cavity cancer (92%) and even cervical cancer (30%). There's emphysema, bronchitis, pneumonia and other chronic lung diseases (85,000 or so deaths a year). And, of course, there's the cardiovascular megatoll—from heart attacks, aneurysms, strokes, and so forth—of at least 150,000 deaths annually. Nor are all of these deaths occurring to octogenarians about to shuffle off from other causes anyway. According to the U.S. Office of Technology Assessment, more than one fourth of the deaths among Americans 35 to 64 years of age are related to smoking.

Smoking has its more exotic, less appreciated fallout, too: miscarriages, for example, and sudden infant death syndrome among the babies of smokers. Higher incidences of infections, respiratory illness and bowel disease among the young children of smokers. Greater male impotence under age 60. Hearing loss and blindness. All in all, the harvest of ailments is truly breathtaking.

Yes, yes, tobacco's conservative friends impatiently reply, we suspected as much. Still, smokers are not exactly

being transported off to their fate in tumbrels. They are, as it were, volunteers. Or, as *Chicago Tribune* columnist Stephen Chapman puts it: “‘We’ don’t smoke; individuals do. If individuals decide of their own free will that they would rather keep smoking than stop, or start smoking than not, ‘we’ don’t get cancer or emphysema; they do. ‘We’ could save lives by deterring smokers from their habit; the trouble is that the lives are not ours to save.”

True enough, except that there is a fairly important point missing from the judgment of Chapman and others. “We” don’t generally start smoking, either; children do.

Now, nannies can be irritating when they lecture adults about virtue and vice. When nannies look after the welfare of children, however, they are only doing their jobs. It is overwhelmingly *children and teenagers*, not adults, who take up smoking. An estimated 90 percent of new smokers are under 19, 80 percent under 18, and one third under 14. Significantly, the rates at which 18- to 20-year-old girls take up smoking has declined steadily for three decades, while quite the opposite trend is visible in the younger years. Thirteen-year-old girls, for example, are far more likely to smoke than their counterparts 30 years ago. One result: Smoking rates among high school seniors and college freshmen have actually increased of late, in defiance of the slow growth of adult abstention.

Suppose conservatives discovered that 10 percent of all 13-year-olds were illiterate. Would they shrug their shoulders and blandly imply that these children had made an informed choice about their future? Would they dare suggest the problem was tolerable because, after all, these kids could learn to read once they grew up and realized the implications of their ignorance? Of course not. Yet an analogous attitude toward teenage smokers prevails among too many right-of-center luminaries who regularly remind us that adults are free to quit. As indeed they are. Many have and many will, but many who want to quit will simply never muster the fortitude to succeed. They are addicted.

To be sure, the word “addiction” is a red flag in some quarters, since it is now applied promiscuously to a host of merely strong desires. Stanton Peele, in a January 14, 1990, article in *Reason*, the libertarian magazine, impatiently notes that “there are now AA-type support groups organized around several hundred types of activities,” including shopping, sex, love and “just about anything people can do to excess.” Very true. *National Review* contributing editor Ernest Van Den Haag goes one step further, explicitly denying addiction applies to smoking at all. Van Den Haag doubts whether most people “suffer physical difficulties when they stop smoking,” and suspects most “smoke regardless of, and some even despite, nicotine.”

Yet that is not what most smokers themselves acknowledge, let alone what researchers observe. Nicotine is profoundly addictive in the scientific sense that smokers usually suffer severe psychological distress and physical symptoms when cigarettes are withdrawn. This is not merely the conclusion of antismoking activists, but the mainstream medical view. As *The Lancet* has editorialized, “It is nicotine that people cannot easily do without, not tobacco.” Peele himself acknowledged as much in his *Reason* article, pointing out that cigarettes are harder for most people to give up than crack cocaine. The contrary view—that smoking is a pleasurable habit on the order of taking a regular evening walk—is a fringe position held primarily by tobacco industry executives. If they were correct, most smokers would abandon cigarettes tomorrow.

In short, *smoking is a physically addictive, life-shortening habit taken up primarily by kids*. Sounds like a habit conservatives would be loathe to defend and against which they might even willingly campaign—as we would campaign—against child pornography. Instead, antismoking efforts rarely involve conservatives; they are substantially dominated by well-meaning social engineers and safety alarmists whose expansive agendas all but guarantee that many on the right reflexively gravitate to the opposite camp. Consider the company they might otherwise keep:

Item: Hillary Clinton is asked during House testimony on the administration’s desire to hike tobacco taxes if she would also like to tax substances such as caffeine, cholesterol, salt and sugar. Replies the First Lady: “If there is a way that you can ever come up with a way to tax substances like the ones you’ve just named, we’ll be glad to look at it.”

In this way antismoking enthusiasts poison the waters for the political right. Yet just because some people cannot distinguish between serious and ambiguous risks, or between reasonable and coercive attempts to discourage smoking, hardly means the rest of us cannot muster the necessary discernment—especially when the alternative is to side with tobacco company executives who manufacture and market the only consumer product that is hazardous when used as intended. *Why not seize the initiative and craft an antismoking agenda consistent with personal freedom, commercial free speech, and minimal government?* Impossible? Not at all.

- 1) **Acknowledge publicly and forcefully that cigarette smoking is the leading cause of preventable death in the United States**—and that Republicans join with concerned Americans of all political persuasions in drawing on all remedies within the context of a free society to reduce the use of cigarettes, particularly among young people.
- 2) **Stop smearing antismoking activists as “health Nazis” and “fascists,” grave terms now trivialized.** Stop spying

the specter of a slippery slope in every antismoking initiative (“today it’s cigarettes; tomorrow it will be alcohol, coffee, chocolate and Coca-Cola”). While the slippery slope may apply to a total advertising ban, it is for the most part a chimera. Cigarettes are unique among consumer products—they are hazardous *when used as intended*.

Quit portraying tobacco company executives as respectable corporate citizens. They began dissembling in the 1950s, and they have continued to dissemble ever since. As well as sit on their hands. Although they have the capability to extract most, and perhaps all, of the nicotine from cigarettes, they have done nothing. Indeed, the industry now stands accused of manipulating nicotine to keep smokers hooked.

- 3) Step up to the bully pulpit, as Senator Bob Dole did concerning Hollywood violence, and **denounce tobacco advertising when it clearly distorts reality about the devastating health consequences of cigarette smoking**, when it makes outrageous claims or suggestions or when it obviously targets children. As physicians and scientists, we find ALL cigarette advertising offensive. Yet we also understand that there is probably no way under our Constitution to banish factual advertising of a legal product, however dangerous, without setting an ominous precedent leading to the possible harassment of a host of other unpopular manufacturers. Were the Supreme Court to uphold such a measure, it would threaten the constitutional underpinnings of commercial free speech.

That said, however, we must note that we see a difference between product advertising (where, for example, a package of cigarettes is shown with the general message “buy me”) and the type of advertising that conveys an underlying message at total variance with the fact that a) there is no safe way of using cigarettes and b) cigarettes are inherently dangerous to health.

The appropriate authorities (in this case the Federal Trade Commission) should have the authority to act when a) cigarette advertising clearly targets children* (Joe Camel’s appeal to teens is not an antitobacco daydream; it is a well-documented fact.¹ Teens virtually ignored Camels until 1988 when the Old Joe cartoons were introduced; since then Camels have consistently been among teens’ top three brands) or b) cigarette ads make unjustified health claims or make utterly outrageous and particularly insidious recommendations on the use of their product. By means of example here, one Virginia Slims campaign offered a free “fashion collection” to young women who could produce a sufficient number of proofs of purchase, that number being equivalent to the consumption of more than five packs of cigarettes a day for the life of the promotion. Imagine a brewery pushing a similar deal: “Free bomber jacket to any guy who can buy at least a 12 six-packs a day.” Unthinkable? Precisely the point. Other advertisers do not get away with this totally irresponsible advertising and neither should the cigarette companies.

- 4) **Make tobacco companies play by the same liability rules as other industries.** The only way to do this, ironic as it may sound, is *to have Congress remove the government-mandated warning label from cigarettes*. Let tobacco companies put on whatever warnings they choose or none at all. The government label merely inoculates the industry from the need for truthful, responsible behavior, as the Supreme Court indicated in 1992. (Please see attached *New York Times* op ed.)

Indeed, the government warning label on cigarettes, placed there by an act of Congress in 1965, is the most valuable asset the tobacco industry has. Since 1965 the industry has successfully argued that the label “preempts” its responsibility to warn in detail about the health hazards of its products. Elsewhere in American commerce, manufacturers issue detailed, explicit, and even hyperbolic warnings about the risks of their products. They want to be sure no litigant can accuse them of deception. The tobacco industry, by contrast, not only downplays every potential risk, it even denies that nicotine is addictive.

It is time to put tobacco companies on the same legal turf as everyone else and force them into a choice: full, ongoing, detailed disclosure to consumers—or the likelihood of huge legal payouts to the victims of cigarette-related disease who successfully sue the tobacco companies. Republicans should support all efforts to strip the cigarette industry of any and all legal privileges and advantages over other corporations that they now enjoy.

* Actually, it can reasonably be argued that all cigarette advertising is ultimately focused on children and teenagers. The tobacco industry maintains that they advertise to get adult smokers to switch brands. But the marketing and consumer purchase data do not support this contention.

Each year approximately 4 million of the current estimated 50 million U.S. smokers switch brands—but only half of those, 2 million, switch outside the corporate “family”—that is, 2 million of the switchers choose, say, one Philip Morris brand over another.

The industry spends nearly 4 billion dollars per year advertising cigarettes; thus, if we were to believe that they were making the advertising investment simply to get current smokers to switch, this would represent an industry investment of \$2,000 per “brand switcher”—clearly not a plausible scenario.

It is clear that cigarette advertisements are targeted at new, prospective smokers; and since the vast majority of new smokers are under age 19, we feel comfortable with our conclusion that cigarette advertising of all types basically is aimed at children and teenagers.

Along similar lines, Republicans should support efforts to apply laws regarding consumer fraud and deception to the tobacco industry just as these laws are applied to any other commercial endeavor. For example, if it is determined that the tobacco industry withheld information about health risks, manipulated nicotine levels to meet nicotine tolerance levels in smokers or otherwise acted in illegal manners, tobacco companies should be judged by the same standards as would any other corporation.

- 5) **Disassociate yourself, and encourage your fellow Republicans to disassociate themselves, from the tobacco industry.** Do not represent yourself as an ally to the industry. Do not accept funding from the tobacco industry, as this funding would only be given in anticipation of favors-favors that would result in more young people taking up smoking and in a continuation for decades to come of our current pandemic of cigarette-related disease.
- 6) **Support efforts to ban cigarette vending machines, at least in places where underage access is not restricted.** Most states have either minimal restrictions on cigarette vending machines or none at all. Americans don't tolerate vending machines for liquor, wine and beer, for the obvious reason that teens would find them irresistible. Why are we so passive concerning similar access to cigarettes?
- 7) **Push for state and local attempts to reduce cigarette sales to minors,** including active enforcement, heavy fines for retailers who flout the law, stricter licensing, and a ban on the free distribution of tobacco products to minors.
- 8) **Apply existing drug evaluation standard to new tobacco products** and brand names. Tobacco is here to stay as a consumer product. The question is, in what form? When cigarettes were invented, their health hazards were unknown or unconfirmed. Now the danger is understood, yet respect for social practice means we must not regulate cigarettes as if they were being introduced today.

Yet what about cigarettes that are introduced today? As Dr. John Slade of Robert Wood Johnson Medical School has noted, if cigarette innovation had been frozen in 1950 (roughly when science began to nail down smoking's risks), "the only cigarettes on the market today would be unfiltered 70 mm smokes, and far fewer people would be smoking." Tobacco companies innovate for the same reasons other industries do: not merely to improve the product and trump the competition but also to stimulate consumer interest. Today, only tobacco companies are, allowed to introduce new addictive drug products absent FDA approval. Let's abolish the exception.
- 9) **Ensure that tobacco taxes everywhere cover smoking's medical and social costs.** It is a virtual article of faith among many right-of-center pundits, from Ed Rubenstein of *National Review* to Peter Huber of *Forbes*, that tobacco taxes already cover smoking's "external costs," once pension, Social Security and other "savings" from shorter lives are factored into the equation. Alas for these optimists; even the principal author of the studies on which this claim was based repudiates such a take on his research. Willard G. Manning, Ph.D., of the Institute for Health Services Research at the School of Public Health at the University of Minnesota, points out that he never included the "substantial" costs associated with secondhand smoke or with smoking while pregnant, such as the costs associated with low-birth-weight babies.

Another recent calculation, by Duke University economist W. Kip Viscusi, does attempt to adjust for the costs of environmental tobacco smoke, although in an extremely conservative analysis. Even so, Viscusi sets the external costs for cigarettes at 43 cents a pack. So while combined federal and state tobacco taxes in many states probably more than cover smoking's external costs (per-pack taxes average 53 cents), that is almost certainly not the case everywhere. For example, in no fewer than a dozen states, tobacco taxes fall short of 43 cents. For that matter, new research regularly pushes up estimates of smoking's social burden.

Further, in addition to ensuring that tobacco taxes cover smoking's medical and social costs, it is essential to take measures to ensure that these revenues are not "hijacked" for other causes but, rather, are used solely for the purpose for which they were intended: to protect nonsmokers from assuming the medical and societal costs of smoking.

Notice that here our agenda is conspicuous not merely for what it includes, but also for what it does not include,**

** We choose not to address the issue of tobacco subsidies here, as the matter is too complex for this format. For while eliminating subsidies might be appealing to Republicans, such action could have unintended consequences; e.g., lower tobacco and cigarette prices facilitating access by children.

namely, two of the more prominent planks in the dominant anti-smoking platform. We contemplate neither a total ban on tobacco advertising nor the outlawing of smoking from all commercial establishments.

The advertising issue is easy: As mentioned, there is simply no way to banish the factual advertising of a legal product, however dangerous, without setting an ominous precedent.

The issue of smoking bans, on the other hand, is far murkier. They can be selectively justified—but solely to the extent that smoking imposes involuntary risks on nonsmokers, not out of paternalistic concern for nicotine addicts. Yet how great are those secondhand risks? Perhaps not as great as some public health activists like to portray them, yet hardly as negligible as the fulminations of smoking's advocates suggest.

Among such advocates, journalist Jacob Sullum has practically made a business out of debunking the Environmental Protection Agency's finding that secondhand smoke causes lung cancer. In articles in *Reason*, *National Review*, *The Wall Street Journal* and elsewhere, he has underlined in great detail the fragility of existing evidence. Sullum is a good journalist and has effectively exposed reckless claims of some anti-smoking advocates, but he is also somewhat stingy when it comes to cataloguing evidence that secondhand smoke might be more than a mere annoyance. For example (and the research here is striking), secondhand smoke can produce (and aggravate) severe asthma in children and can boost their rates of respiratory illness, wheezing, bronchitis, and inflammatory bowel disease while increasing their trips to doctors, emergency rooms and hospital beds. The data here are still coming in, so stay tuned for more possible negative effects for nonsmokers.

With regard to cancer and heart disease, the long-term effects associated with secondhand smoke are less well established, although spousal studies do indicate that nonsmokers married to smokers have a somewhat elevated risk of lung cancer. To be sure, most casual exposure to tobacco smoke does not approach the levels experienced by nonsmoking spouses or children of smokers. Yet what about full-time employees working in smoke-filled rooms? Mr. Sullum, is unsympathetic. "In a free market," he assures us, "the smoking policies established by businesses will . . . reflect the preferences of customers and employees." By this logic, of course, virtually all workplace health and safety regulations might be deemed superfluous.

This much is clear: Some employees in some businesses are almost certainly subjected to a secondhand smoke hazard, even as the vast majority of customers, with their relatively transient exposures, are not. Carefully targeted smoking restrictions are certainly warranted, even if wholesale bans are not.

Those who defend the right of business owners to immerse their employees in any amount of smoke might sound more persuasive—or at least more consistent—if they did not castigate other business owners and public officials who ban or limit smoking in places they unarguably do control. Hillary Clinton was well within her rights to ban smoking in the White House yet was mocked for doing so in numerous publications, including *The American Spectator* and *Advertising Age*.

10) Appoint a blue-ribbon committee of scientists not associated with pro- or anti-tobacco activists to consider comprehensively the evidence regarding secondhand smoke and disease. Since the EPA's authority on this question has been tarnished beyond repair, it is imperative that an independent group review the existing data and evaluate and quantify the effect of secondhand smoke on nonsmokers.

If, after a thorough review of the literature on the relationship of secondhand smoke and disease (acute and chronic) in nonsmokers, this independent panel reaches the same conclusion that the EPA reached—namely, that secondhand smoke does contribute to a spectrum of illnesses in nonsmokers—you should reject the views of those who continue to maintain that the data on secondhand smoke is "junk science."

This is a time when conservatives are understandably eager to dismantle much of a governmental regulatory apparatus that most Americans agree is too large, too inefficient, and too disdainful of the rights and choices of individuals. Yet at the same time conservatives recognize the duty of government to protect its citizens, not only from physical violence but from fraud, and especially to protect America's children from such scourges as crime and illicit drugs, as well as from newly emerging dangers such as the recent reports of pedophiles and pornographers who stalk computer networks. The quantifiable harm done to our children when they begin what often becomes a lifelong addiction should be viewed as no less of a grave public danger.

Make no mistake: Some people will always smoke, given nicotine's attractions, and any attempt to outlaw tobacco would only create a huge illicit market marked by trails of violence and corruption. But there will be no need to count smoking's lingering survival as a colossal sorrow, either, so long as those who take up the habit are fully informed adults.

Longevity in itself is not a significant measure of an admirable life, but increased health and life spans are neverthe-

less among the prized assets of the modern age. As you yourself, Mr. Speaker, used to tell your students at Reinhardt College during a lecture on health and wellness, most of us surely do “want the longest life with the best possible health.” To the extent that we sit idly by while adolescents become addicted to nicotine, we are culpable in denying Millions of Americans the fulfillment of that wish.

Sincerely,
Concerned Republicans For Science and Public Health
Dr. Elizabeth M. Whelan, Coordinator

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