23

C of C NYC SEPT. 5, 1981
WED.

Committee of Council Meeting September 20, 1981 at Lorillard, NYC. at 9:00 AM.

Attendance:
RJR. Sam Watt
LYM Joe Lee
HBI Hanson & Janet
LL Arthur Stevens & Jaime Cherry.
PM Fred & Alex Voltzgen
CYB Rupp.
SHYB Northrup
CYB Taylor
JYM Jacob
TI Chillcote & Horace.
BYW Sam Wells

I Response to FTC Staff Report:
Draft to be circulated on Oct 1, 1981
Have suggestions in by then. Concerns of input.
Send in marked up copy. Brief or lobbying document.
Chillcote: The Hill-Conoy is the primary object-
lay everything out & not just legal. First
amendment argument. Hillboard people have
trouble. If something is deceptive in the
health field then no fact amendment protection.
Horace: [illegible] of awareness & belief. Wants

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FTC only to report on effectiveness of evaluating notice. Formal denial in consent judgments. Tenko revised portion on smoking & health. (see attachment marked "II The Staff's Review of the Smoking & Health Controversy as Misleading & Deceptive - Revised 9/22/81"). Just: "Causes of lung cancer are not known" & "no ingredient in a cigarette causes cancer". The whole document is too long - we took lawyers point of view - Stevens. We want a precise documents. The staff has misconstrued its mandate. Must be effective tool on the hill - congress. Chellacate - a lot of overkill and name calling of FTC staff. Health is "overwhelming". Swings & hint picking should be put in appendix. Henson - Warning notice only to make them aware & they are aware - a high level of awareness. PH - Haltigman: He likes to keep the section in tacks - He disagrees with others. LL - Stevens - the FTC staff report did not get that much attention. FTC is talking about belief & not awareness. Henson: too much time on our surveys (C of C data only) buying reputation. Response due Oct 1, 1981 Tenko. Tenko - could expand introduction. Do executive summary. Wells B&W - wait till the last moment. We have too [illegible]

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but do both. Jimbo: Mitt: Let Stan draft cover letter. then attach report. also expand introduction. & be more statesman like get into "awareness & belief." Consensus on "summary + conclusion." * Janet: legal analysis consider all doctor + holding on cigarettes + health - Benzoff case FCC case. Ct of Appeals. Ct of App says cigarette adv conveys the view that cigarettes are a good thing or desirable. HBI has trouble with 35. 9th Cir. - "don't have to adv negative aspects. material consequences of normal use." Simeon case - 9th Cir. We can argue about "misapprehension". Gross: the law - ① FTC just settled with us. clear + conspicuous. ② law put out by cong & to change it must have congressional amendment. (Aberti case). Finessed Simeon case. Bazel - before Warning Notice. The law is more than (FTC's) way than ours. Have American write out your points. Jimbo: Get rid of Kindness expert. Jerry Wind of W Hatton hired by C+B. - "awareness How to buy of arguments." Wind suggests - Law to attack methodology + studies are more helpful to us. Don't waste time on methodology says Wind. Jacobs: on behavior - FTC is looking not to regulate advertising for looking for prohibition.

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II

On the behavioral side. The other side of the coin is they are not seeking to inform. So we add behavioral to legal. Collaborate enough on brand advertising.

II Multiple Mayor Meeting - set up next week's Horace & Sam

III Sam talked to Outdoor Adv people. Eric Rubin now works for them (formerly (Hand Pell) with FTC. Also 4 AAAA - & AAF. Magazine Publishers. Meeting set soon. Some of these groups could make the economic arguments at a hearing. HCW may be interested. Metromedia. Newspapers. NAPA -. No approach to Nat. Chamber of Commerce. Business Roundtable. Nat. Retail Mgt. Association. June, Life & Newsweek. Get them to file statements on "freedom to advertise" commercial advertising

IV Bush Committee - on Anti Regulation. appropriate sub Committee.

V Additives :. Jenko's request. Responses. Three Co's responded all from Liggett & partial from 2 other Co's. Heard nothing from 3 Co's. Questions on Calculation. All 6 agree.

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Additives Continued: Flavor Co. Some of the flavors are only known to the flavor Co. PM has Definitions. Draft leads to the common ground. Tenko – 1965 cut off date used by PM. Only interested in things after 1965. Remember "Exactly added." Question of carriers – alcohol. Weight of paper + filter. 1965 is when low tar cigarette started.

Flavoring Co's will give certificate. Supplied chemicals on premises previously used required by State of Va + supplied by PM + ABI.

Horace tele Brandt as to new meeting + will meet in couple of weeks. Tele after labor day.

DEFINITIONS: "Casing, flavoring + Top Dressing + Carriers" "Dry Weight" basis. "Currently used additives.

Lunch

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Additives: Meeting of TI Executive Committee special meeting on Additives.

Horace: ① provide list under confidentiality conditions (no little FDA). List of commonly used additives - List conditions. John Kupp's letter of July 20, 1981. also Whaltyman conditions. Dave Conditions: ① Coming, flooring, ("substances commonly added") use FTC language. We say what we are willing to give. "Tell us what you are willing to give them." "90% by weight suggestion."

"Substances commonly added to commercially manufactured cigarettes" $ toy language." Joan Liotta - of HHS wants to know what is used in each cigarette.

Question of real confidentiality. Ad some substances for confidentiality.

Sam: Juan De Bal - Gen Counsel HHS Can we cut a reasonable deal with Dean? who is not concentrating on smoking. Tenho - we doesn't have to be done overnite.

We want out our people to look at it

Watch out for little FDA.

VP Dusk - anti regulations.

* PRODUCT LIABILITY ISSUE - See Cohen + Kocher, There is a real risk in giving them anything.

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Horace: Select Toxicologist. Confidential conditions. Methods of insuring confidentiality.
Stevens: Owens & Epstein. Usual way to raise money.

Assessment of the risks:
① Product Liability: Our own Toxicologist admission against interest if suspect or otherwise. Question as to independent Toxicologist.
② NO: not if he only reviews the literature.

Science 81 article on additives.

X Pts to be made at TI Meeting 1981
① Little FDA
② Product Liability.
③ No need to give list.
④ Confidentiality.
⑤ Independent Toxicologist - admission again
⑥ How much have we tested.
⑦ Forces we don't control
⑧ get them into testing.
⑨ Confusion.
⑩ Don't raise expressed staff.
⑪ Package Deal.
⑫ Where not yes approved or firm approved
⑬ No good solution - between a rock + or

consumer can get anything by subpoena.

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