7 Counsel
Austern - Topol
Hardy - Shinn
Brooks George
Kornegay
Clements
Jerry

Yeaman - Bryant
Hatsby
Turbo Stevens
Kenn & Jack Roemer
Sonny
Kloepfer
Mills
Jim Chapin

T.1. Aug 18

F.T.C.

Discussed no reference to pending legislation
FPH - how let it go by default - bad precedent. Ad agrees - any alternative? Can be bargain with FTC to reach some accord. Can it be aborted?

Tommy - Can't be aborted; 1) new Gen Counsel 2 new people in tobacco area, new Chrm won't make waves & cancel hrg. Horace agrees. Sinatra is ready to sue Rule man [illegible]
- Won't venture whether they would accept agt in lieu of rule. Horace says our agt might abort a Rule (staff). Could try to take wind out of their sales by prior ann.

Ad - would include disclaimer if T/n required or agreed to.

Hardy - for litigation purposes, would prefer requirement to an agreement, even with disclaimer.

[Chemosol - smoking ~~painting~~ gathering condensate, going on since 7/[illegible]
Perry Hudson wants to visit Hazelton
Hazelton doesn't want him]

[CTR - have interviewed 16 prospects as Sc. Dir. 1) They don't want to leave what they are doing. 2) Don't want to be associated with the industry

possibility
Emil Fry - Anderson Hosp in Houston - expert in [illegible]
Dr Felix Wroblewski - has some interest
Colin McLeod - NYU Med School

LG 2015199

8/18

Dr. Shannon, formerly of NIH - not interested.

FTC again:

Query if going forward on basis of health, or existing confusion re adq - some now use t/n in adv. May be said to be misleading.

Tommy - if we litigate, all the more probable Congress will give it the authority. The best hope in Congress is to postpone consumer legislation & offense by us in litigation would help assure the result.

(Query if make deal, is there possibility that TRR on 7/1/71 could be stopped in Congress)

If make deal - query what happens next week on gas phase.

We should consider TRR in light of ATC's case - FTC has indicated that under §5, it requires high + low range, etc.

LG 2015200

8/18 (3

Earle: if fight this one, we will fortify FTC's desire to act 7/1/71.

Tommy & Jerry - no better than 50-50 chance of winning lit. (can't start before Rule issues + or possibly cease + desist order, by which time leg is tied)

Horace: a "deal" would make us look reasonable - leaving basis to fight what will happen July 1, 1970. And, counsel feel we may have 50/50 chance.

Earle: I agree. May be able to settle on print warning same as on pack - if ~~can't beat it politically~~ because FTC abusive in insisting on tougher warning.

On assumption FTC would settle w/ warn on 7/1/71.

Are we conceding T/N + present package ~~warn~~ warning in adv come 7/1/71? Earle says Congress wouldn't give them warning they wanted.

MARVIN KASTENBAUM

LG 2015201

4.

TRR - would prevent introducing new low T/N cig - because not tested 8/18

Testing - because of new brands, testing over our labs?

Per Cigarette - they now use average of 5 parts / 100 cigarettes

i.e., the TRR as drafted is impractical

"Deal" would affect 7/1/71 + Jan 1, '71 Rpts to Congress.

→ Do our people have any other practical suggestions as to operation of Rule in most place?

McIntyre, Wilson, Gen Counsel are only ones to see.

All but us ~~STAFF~~ authorized prelim discussions - no commitments. ATC may in the end want to fight.

→ Discussions could postpone hrgs.

LG 2015202

3

8/8

Nadeis request for temp injunction re smkg on aircraft — Fed Judge denied his application. "No emergency

CONSUMER BILLS

S.3201 - reported out of Commerce Committee, referred to Judiciary Committee. Eastland proposes to hold hearings & report no later than Sept 4.

Title I -

unfair or deceptive act now "affecting commerce"

Gives FTC power to seek preliminary injs - rules of equity. Inj stays despite no complaint issued.

§103. New powers to FTC. It can ask civil ct for inj, damages, refund, etc. (Took away its it to issue orders itself to this effect.) 103(c) - go into court for civil penalties if laundry list violated. $10,000 for each violation. Can only compromise penalties if only public hrg

8/18 6.

§104 - Same as present law ie violation cease & desist order, except penalty doubled. Also lets FTC get penalty, not Justice.

§105 - Tacked rule making power to FTC 6(g) as is today. Elmans amdt. Hrgs, but CX only if not appropriate. Not an adjudicatory or legislative hearing. If rule final + don't follow it - per se violation. Review - "on record as herein defined" - i.e. concise general st + no CX. Terrible! See Marlow Cook's dissent.

TITLE II

Laundry list - creates new unlawful acts. P - includes all TRRs. - so laundry list isn't all inclusive.

If violate Laundry List (i.e. any TRR)

§203 - if endangers health or safety of consumer - criminal $10M each act + 1 yr (See Bayer's speech)

§205 - Justice gets same authority FTC has under 103(B)

§205(b) - can tell you what to pay into ct + FTC can divvy it up.

§206 - Triggered + untriggered lawsuits

§209 - wide civil investigative demands - fishy expedition - as in anti Tru no lawsuit; no cst; no grand jury.

Only 2 votes against in Senate Committee 19 on Comm - query how many present.

T.I. concentrate on §105. Hope to get it over to next Congress.

Senate Report

Rule Maly – 5, 10, 10-11, 13.
~~[illegible]~~ 51, 59, 62 (Justice)
67 (Commerce), 74-5
(Cools)

MILT. → DATES MTGS EXECS NOV.

Nov 30 & Dec 1 ?
New York (T.I.) + CTR

(call Horace)

OK. (ATC RT
LOR
B+W

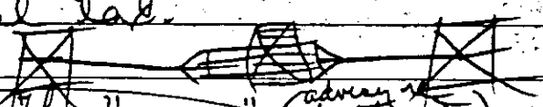
→ BEATTY

ATC – conditions
1) all others partic ?
2) blessed legally ?

Coord Bd of
Tob Trade Ass

To develop Tob.
vehicle for laundry political
action program
Wade – problems with Tob Tax
Council & T.I.
Ken – favors it.
Addit. function – NATD
to handle coordinating new discon
methods.

Vulnerable if found out an industry ar
(Kolodny said no - NATD). But
we'd be only supporters.
Who is Paul Prendergast - wh
Beatty wants to use?
Principal aim - prevent ↑
taxes, try to ↓ taxes, beat
↑ fed tax.



Tobacco Rd
Tables
Fixm project

The "cover" (advisory re descts, etc) is invitat
to anti-T problems & crazy. Raises
lobbying questions in 20 states (see
memo). Isn't deductible.
Crossed wires! Kolodny in D.C.
would be a disaster.
We ruled out using Beatty.
for the mfrs.

Obvious we are behind it.

on State Tax

Lor - needs legal scrutiny
BdW - reservation
ATC - legal review
RJR

all ~~going to~~ ma
talk with Beatty
8/27th