Committee of Counsel
Ex officio of Lorillard
10. 26. 83

LG 2018737

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[10.26.83]

1. a) Self-Extinguishing

Kornegay met w/ Moakley on Thurs, 10.20.8

Report being Federal Expressed to each company. Tel memo of 10.24.83 distributed and reviewed. Discussion draft of 10.24.83 prepared by C & B.

? "Self-extinguishing bills," want under consideration, if all counted.

the principal 4
1) HR 1880 — Original Moakley/Heinz bill
2) S. 1935
3) Industry Study Bill
4) 10.24.83 "Discussion Draft"

Kornegay informs/advises that Moakley will not accept original industry study bill. If we can't reach accomodation with Moakley, Moakley will return to his original bill — & he will get the support of Waxman in full House. Kornegay does not think full Commerce Committee of House will act on self-extinguishing bill in '

Concessions by industry from its original study bill when considered against 10.24.83 "Discussion Draft"? C & B, then Rupp, to prepare a memo. Rupp:

1) Fundamental change in approach — no "ratings, criteria" sought in
2) orig. bill → In orig TI bill, CPSC representative on any 1 of 15; now 1 of 5. CPSC probably

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4) In orig. TI bill, a perpetual pre-emptive provision. New draft has a time limit.

Rupp of C & B to prepare & circulate comparison memo - comparing Moakley - Industry #1 - Heinz - Industry #2.

Kornegay: thinks time is ripe to reach a compromise with Moakley; delay possible but the ultimate outcome of delay will probably be a worse bill.

— Holtzman: thinks industry might be better served if no industry representative on Task Force or Technical Advisory Group. Reason: with participation, we will have to deliver-up all info & technical know-how — & will have to make self-extinguishing even tho not of acceptable smoking quality.

→ Stevens for Lu & Pebbles for B & W come down on sides on not wanting to go w/ Industry #2 — then this will pave way for massive state-by-state acts.

Conversation on subject terminated, w/ C & B to finish & distribute as soon as possible a comparison memo.

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5.44 : C & B memo of 10.25.83 distributed. No date for mark-ups set as yet.

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2. Addiction Task Force Recommendations

With reports as to current status of efforts of group (Witt - Bridge - Decker, et al). With thinks that the proper defensive posture is a "... common sense ..." approach — not a statistical/medical/scientific approach. Paper setting forth defensive posture to be distributed in near future. With states that the litigating attys have approved of same — that he will simply need individual companys' ~~pol~~ comments from a policy standpoint.

Tim Finnegan reports on the "literature review & bibliography ..." to use "... if, and ~~to~~ when ..." we have to use same. Also, a witness list ~~is~~ is being developed — with identification of available witnesses who will be prepared to take position that smoking is not addictive.

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1. b) Warning notice

Kornegay — no substantial development since 9/83 meeting — when 11-7 vote out of Waxman sub-committee.

* → 11/18/83 Adjournment date for Congress

Kornegay thinks no official action on Hatch bill (or Waxman bill) during 1983 session of Congress.

~~House Energy and Full~~ Commerce Committee = Kornegay thinks Sub is now divided 1/3 / 1/3 / 1/3 — For / Against / Undecided. (42 members

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Kornegay caveat: do not mention Dingell's name.

"Other"

1.(c) ① TAXES - total turmoil in Ways & Means Committee. no freeze on excise taxes is assured; also, nothing firm as to whether excise taxes might be increased.

Kornegay thinks the chance of getting a tax bill thru Congress this session is unlikely.

② Agriculture: Senate has passed one bill; House has disagreed with Senate bill, & requested that such be sent to committee for compromise - but vote on this was lost.

Status as of 10.26.83: effort being made to split off dairy portion.

* Tobacco / portion of Act
1) Phase out leasing arrangement
2) Freeze price for 1-2 yrs
3) amendment for inspecting & grading of imported tobacco, together with certification as to pesticides

Kornegay states Helms has accepted this - to surprise of Kornegay.

* → Kornegay thinks House conferees willing to "back-off" on pesticides ~~provisions~~ section. - either modified substantially or deleted.

Chilcote - approx 20 hands on Hatch bill
Senate approx 45 willing to sign-on as

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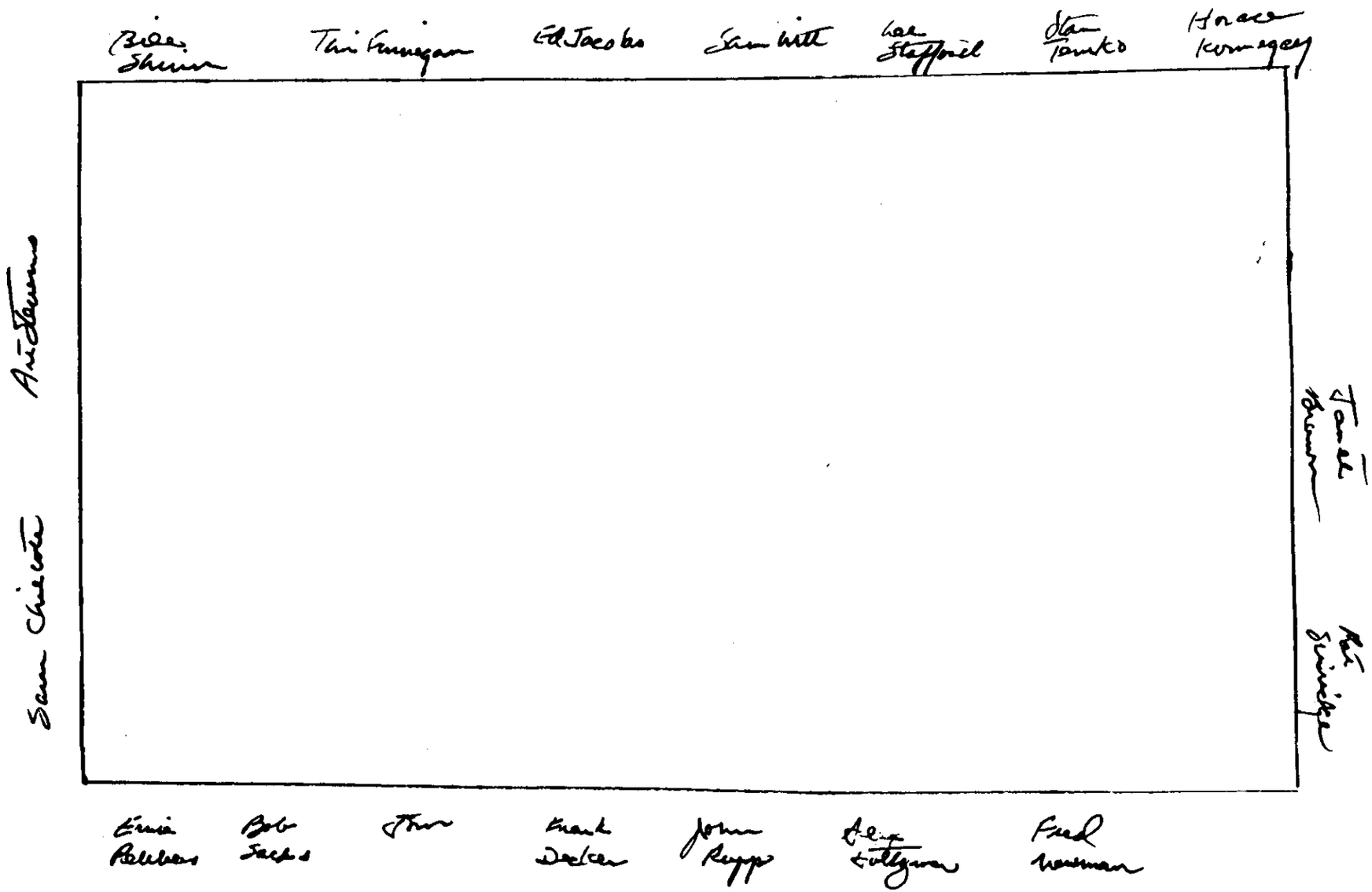
Bill Shinn
Tim Finnegan
Ed Jacobs
Sam Witt
Lee Stafford
Stan Temko
Horace Kornegay
Art Stevens
Sam Chiecote
Janet Brown
Pat Swinicke
Ernie Pellikers
Bob Sachs
John
Frank Decker
John Rupp
Alex Zoltzman
Fred Newman

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industry substitute bill in the House; this would essentially track the Senate End-Tubbs bill.

3. CAB : Temko wants comments from the companies which have not answered — if we have any comment.

CAB — some companies are very interested; a substantial amount of effort going on.

* → 11/2/83 Filing date deadline for filing response to proposed CAB rule change.

4. FTC Report — OTC Antacid Advertising
Temko distributes memo/report.

4.A. Public Communications Clearance Policy
Kupp reports as to meeting held on Tues, 10.25.83 — by Communications Committee operating under TI. Each company has a representative. (Steve Cohen is our representative)

Currency to be tested against:
Litigation
FTC
Science
Attitudes

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* → Consensus decision from Comm/Counsel: leave clearance policy "as is"; eg — require clearance

5. Dutch Association of Public Health & Smoking
Pebbles speaks - in response to Dutch publicity addressed to increase in smoking in Holland - & attributing such in part to Barclay - & the P.M. attack on same.

Pebbles addresses what he perceives as a potential litigation problem.
Hollyman attempts to answer - but not well.

6. Smoking in the workplace

10.10.83 Letter → Hurst Marshall of T.I.
Suggestion from Nelson-Padberg that industry come forward with a model ordinance to deal with future smoking in the workplace ordinances or proposed ordinances.

Model Proposals - Isotin dangerous, especially Employer.

a) Legislature
or
b) Employer

Problem w/ a model ordinance is that it assures passage of at least that ordinance - if not more.

Decision: C & B to draft "model ordinance" for use only by Comm/Counsel - not even for publication to State Authorities Committee

(7)

San Francisco
Temko discusses the Radio-TV problem & the existing controversy over one TV station refusing to run ad w/o identification of tobacco industry involvement.

Loveday - header of anti-smoking group in Calif; brought FCC Complaint

7. Special Projects - Dan Birridge would like to hear from companies on recent requests -
a) Meckler 10.19.83 S, H letter
b) Columbus Laboratories 10.20.83 S, H letter

8. Rylander Symposium -
Shinn reports generally. Trotting reportage which requires tickets.

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[illegible]

Thursday 12.1.83 [illegible] [illegible]

Attending: Lee Stafford / Newman
John Rupp / Kanegay
Don Hall / Chilcote
Alex Holtzman
Tom Ehringhaus
Steve Tamko
Arthur Stevens
Sam Witt
Ed Jacobs
James Chapin
Bob Eccles
Tom IN

1(b)(i) Self-Extinguishing
Report by Rupp; Tamko recommends that all counsel read the 12.1.83 Deliberate paper forwarded by Kanegay to all counsel under date of 12.1.83.

1(b)(ii) Testing Methodologies: Will companies co-operate?

** → Q: would hgt co-operate in inter-company effort on self-extinguishing?
→ eg: "... to determine a uniform methodology for testing self-extinguishing ..."

Get Answers

Specific Q: would we approve our scientific personnel meeting w/ other company's scientific personnel to settle on a "... uniform methodology for testing [illegible]

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"... a uniform methodology for testing ignition propensity ..."

1. Federal Legislation Update by Rupp. Carlton Cuneus - a member of Moakley's staff - is the main problem.

A meeting scheduled for Mon, 12.12.83 w/ Moakley in Boston. ~~Q they~~ The August, 1983 "Industry Bill" to be submitted to Moakley - w/ hope that Moakley will focus on such item by item.

2 problems w/ industry bill, according to Rupp -

1) Our perpetual "pre-emption" clause, &

2) Industry "trade secrets" section

Q: Would we yield on this to extent of allowing some "trade secret" info in the trade secret area to be submitted to Congressional Committees under policing protections?

** Q → Get answer for Rupp on these 2 points.

(c) Other "S44" - Temple thinks another mark-up on this unlikely until March '84, or Feb '84. Kasten Bill. ~~eg~~ eg: Federal Product Liability Act. American Trial Lawyer Assoc. opposes S.44 - & enthusiasm for such is waning somewhat.

1. (a) Warning Notice : Kennedy reports. Gore of Tenn apparently is "out". Attention of TI is focusing on Sgnar of Oklahoma.

On Senate bill, Ford-Tribble have been informed of our efforts to get support in full House for a substitute to the Waxman bill.

Latest draft is that of 11.18.83 which was distributed in NY at Executive Committee call ~~for~~ meeting. Tenko to distribute & forward another copy which will incorporate Janet Brown's requested revisions.

5. CAB : Chilcote reports. Filing ~~the~~ date for comments to CAB now 12.2.7.83. Efforts continuing by TI. Problem is with the 5 committee members.

Sec. Dole of Transportation endorses proposed ban except for pilots.

HR 4395 — a new smoking on aircraft bill

Taxes — Chilcote reports. No specific prognosis at this time.

Farm bill ("Rose Amendment"). Pesticides deleted; grading in — but will be controlled by Regulations to be ~~to~~ drafted by Sec of Agriculture. Companies

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

2. (a) Smoking In The Workplace : Temko reports. A model ordinance to be drafted by C & B & circulated.

(b) San Francisco : Chilcote reports / Temko reports.

(c) Los Angeles - Meeting scheduled for today, 12.7.83. Will be time for written statements to be presented.

(d) Swedish Workmen's Compensation Matter : Don Hoel reports on the allowance of compensation to relatives of a decedent who died allegedly as a result of jidestream smoke.

(e) Lee vs. Massachusetts — Temko reports on proposed settlement — which Temko thinks is a good result.

Also, a settlement imminent in the Board of Directors of the Orange County (California) Water District.

3. Surgeon General's Report : Kornegay reports. Seems to be less enthusiasm in the popular press relative to reporting on this.

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4. Batteller - Phase II Study.

This study deals with impact/consequences of smoking in the work-place.

(A) In favor of going forward:
Lorillard
B & W

(B) No decision - RJR (leaning against)
PM (leaning against)

(C) Against American

Lgt - (?)

→ No decision made on this. Develop information as to Lgt's past participation, if any.