

December 4, 1979

FURTHER COMMENTS ON THE SO-CALLED
"SELF-EXTINGUISHING" CIGARETTE

Several recent developments should be taken into account in responding, on behalf of the tobacco industry, to inquiries concerning the so-called "self-extinguishing" cigarette. On November 28, 1979, the Consumer Product Safety Commission ("CPSC") formally approved a voluntary standard on upholstered furniture flammability and deferred for one year any further action on the mandatory standard that had been proposed. This action by the CPSC followed by several weeks the introduction by Representative Andrew Jacobs (D-Ind.) of a bill that would prohibit the addition to a cigarette of any substance that would aid the cigarette's burning if the cigarette were left unattended. A separate bill, introduced by Representative John Moakley (D-Mass.), would require the CPSC to develop "processing standards" that would ensure that cigarettes, after having been ignited, would stop burning within five minutes if not being smoked.^{1/}

The following points, responsive to these developments, may be made in connection with inquiries concerning "self-extinguishing" cigarettes.

1/ Copies of the Jacobs and Moakley bills are attached.

I.

The Voluntary Action Program Endorsed by
the CPSC Should Eliminate the Need for
Governmental Regulation To Deal With Fires
Involving New Upholstered Furniture

The voluntary action program that has been developed by the Upholstered Furniture Action Council ("UFAC") and endorsed by the CPSC, should eliminate the need for governmental regulation to deal with fires involving new upholstered furniture. The essence of this voluntary program is to regulate "the use of components in upholstered furniture by means of pass/fail tests for each components" with regard to flammability and to eliminate from new upholstered furniture "the perhaps most troublesome component, untreated cotton batting."^{2/} The CPSC staff briefing paper assessing the voluntary program concluded that the program "appears to have a strong potential for significantly increasing the safety (cigarette ignition resistance) of upholstered furniture for consumers in all price ranges."^{3/}

^{2/} CPSC Staff Comparison of the UFAC and Proposed CPSC Approaches to Reduction of the Frequency of Cigarette Ignition of Upholstered Furniture (September 1979), p. 1.

^{3/} CPSC Staff Briefing Paper on Upholstered Furniture Flammability (September 1979), p. 3.

II.

There Is No Evidence That Cigarettes Meeting the Specifications of the Moakley Bill Would Significantly Reduce the Number of Accidental Household Fires Involving Old Furniture

The Moakley bill is based on a variety of untested, and highly questionable, assumptions. The bill assumes, without any supporting evidence, that cigarettes could be developed that would extinguish in five minutes if not being smoked without increasing by more than five percent "the levels of tar, nicotine, and carbon monoxide * * *." Of equal importance, the Moakley bill assumes -- again, without any supporting evidence -- that cigarettes designed to "self-extinguish" within five minutes would significantly reduce the number of accidental household fires.

The most extensive study of the ignition potential of cigarettes was conducted by Guilford Laboratories under contract with the Upholstered Furniture Action Council. In describing the results of that study to the CPSC in 1974, James Rayburn of Guilford Laboratories stated that "[w]e have quite a few data in which we indicate ignitions in two minutes or less."^{4/} Other studies reported to the CPSC in connection with the CPSC's development of a flammability standard for mattresses have indicated an even shorter

^{4/} Official Transcript of Proceedings Before the CPSC. In the Matter of Flammability of Upholstered Furniture (September 5, 1974), pp. 44-45.

ignition time (90 seconds or less).^{5/} In the case of the Guilford study of upholstered furniture, the instances of rapid ignition occurred with fabrics in wide use, such as cotton and rayon (in constructions such as those with untreated cotton batting), comprising a majority of the upholstered furniture manufactured before adoption of the recent voluntary action program.^{6/} Thus, there is considerable reason to doubt that cigarettes designed to "self-extinguish" within five minutes would significantly reduce the number of accidental household fires.^{7/}

There is a further reason why the Guilford data do not support the approach taken in the Moakley bill. Testimony before the CPSC in 1974 confirmed numerous defects in the Guilford methodology, most of which had the effect of lengthening the period between contact of the lighted cigarette and the test fabrics, and the time of ignition. For example, ignition was defined in the Guilford tests as

5/ Id. at 44.

6/ Id. at 46.

7/ There was considerable uncertainty as to whether this argument should be included in this paper. There is an obvious response to the argument, namely that if five minutes is too long, why not go to a three or two minute self-extinguishing cigarette. Certainly at some point the length of time becomes too short to be reasonable. Yet public perceptions may be different. Therefore, very careful consideration should be given to the wisdom of advancing this argument.

having occurred when smoke or flames became visible to the naked eye.^{8/} This procedure, focusing on "obvious ignition," was thus dependent upon "the subjective judgments by the technician" and did not preclude the possibility of actual ignition occurring much earlier.^{9/} In addition, Guilford failed to control relevant variables in a way that would have made the tests reproducible.^{10/}

A further defect in the Moakley bill is that it ignores a variety of factors influencing the ignition potential of cigarettes. The way in which cigarettes burn is a complex matter, involving a number of interdependent factors such as the rate of burning and the temperature of the cigarette ember. The Moakley bill focuses simplistically on only one factor that may affect ignition potential, the length of time the cigarette will continue to burn if left unattended.

III.

The Jacobs Bill Is Based on a Fundamental Misconception of the Role of Additives in the Manufacture of Cigarettes

The Jacobs bill appears to assume that the cigarettes presently being manufactured would have self-extinguishing characteristics if manufacturers were prohibited from adding any substance that aids the cigarette's burning. In fact,

^{8/} Id. at 42-43.

^{9/} CPSC Staff Briefing Paper on Upholstered Furniture Flammability (September 1979), p. 23.

^{10/} Ibid.

the burn rate of cigarettes is influenced by a variety of factors, such as the density of the tobacco and the porosity of the cigarette paper. Depending upon the porosity of the paper, for example, substances may be added to the paper to ensure that the cigarette paper and the tobacco burn at a complimentary rate. Moreover, burn rate, if significant at all, is only one of the factors that could influence ignition potential.

In short, the approach taken in the Jacobs bill suffers from many of same defects identified with respect to the Moakley bill -- and, in addition, is based on a fundamental misconception of the role of additives, if any, in the cigarette manufacturing process.

IV.

Legislation That Would Require Drastic
Changes in the Burn Characteristics of
Cigarettes Is, at Best, Premature

The Moakley and Jacobs bills would require fundamental changes in the manufacture of cigarettes without the slightest evidence that those changes are either feasible from a technical standpoint or would reduce in a significant way the ignition potential of cigarettes. In addition, both bills ignore recent developments with regard to upholstered furniture flammability.