SMOKING

AT ISSUE

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SMOKING

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Introduction

In February 1994 David A. Kessler, commissioner of the Food and Drug Administration, testified before Congress that the FDA might decide to regulate nicotine as a drug. This declaration was one part of a current three-pronged attempt by the federal government to reduce smoking and the latest effort in a decades-long push to regulate tobacco. Since the surgeon general first declared smoking a health risk in 1964, many doctors and other public health experts have been involved in this antitobacco push. The tobacco industry, however, along with many smokers who believe their rights are being threatened, is actively opposing the antismoking drive.

Many private and governmental factions have opposed smoking as a health risk since the 1964 surgeon general's report on smoking and health linked smoking to cancer. Health experts, antismoking activists, and legislators have worked to pass a variety of regulations designed to reduce smoking. Many efforts have focused on the labeling of cigarette packages and on cigarette advertising. The first labeling law, the Cigarette Labeling and Advertising Act, took effect in 1966. It required cigarette packages and advertisements to warn that cigarette smoking "may be hazardous to your health." Another early legislative restriction was the 1969 Public Health Cigarette Smoking Act, which bans cigarette advertising on television and radio, leaving the tobacco industry only the print media and billboards on which to advertise. The Supreme Court upheld this ban one year later in the face of a challenge by the tobacco industry. The warning label was also strengthened to read, "Warning: The Surgeon General has determined that cigarette smoking is dangerous to your health." In 1984 the Comprehensive Smoking Education Act required the use of several different warning labels, which are rotated sequentially.

Government agencies also began to ban smoking in public spaces. In 1973, the Civil Aeronautics Board began requiring commercial airlines to offer nonsmoking sections. Later, smoking was banned on domestic flights of under two hours, and, in 1990, it was banned on all domestic flights of six hours or less. Also in 1973, the state of Arizona banned smoking in some public places. Other states followed suit, including Minnesota, which for many years had the most restrictive public smoking laws in the country. The Department of Health and Human Services in 1987 became the first federal agency to ban smoking in its offices. In 1993, the Environmental Protection Agency (EPA) released a report that linked environmental, or secondhand, tobacco smoke with cancer and other diseases among nonsmokers. The EPA report provided the necessary grounds for some congresspeople to propose a ban on smoking in all nonresidential buildings and also provided justification for other proposed regulations.

These past efforts provide a background for the current attack on smoking and tobacco by antismoking activists, health care experts, legislators, and government agencies. These partisans argue that smoking endangers health and thus costs the United States billions of dollars both in lost productivity and in health care treatment, and they contend that restricting smoking would significantly reduce these costs. The enemies of smoking are attacking it in three ways. First, they propose comprehensive, federal bans on smoking. Second, they propose tax increases on tobacco products. Finally, the FDA, for the first time, is considering regulating tobacco as a drug.

Many antismoking activists support regulatory measures such as the Smoke-Free Environment Act, initiated by Congressman Henry Waxman of California. The basis for this act was the EPA's 1993 report on environmental tobacco smoke. If passed, the act would outlaw smoking in virtually all nonresidential buildings. Supporters maintain that restrictions like those in the Smoke-Free Environment Act would reduce the health problems and other costs that result from environmental tobacco smoke. According to Waxman, the bill has a "simple, far-reaching goal: to protect the public from involuntary exposure to environmental tobacco smoke." The EPA contends that if the bill passes, the United States would save between $5 billion and $10 billion in building maintenance, between $6.5 billion and $19 billion in lost medical costs and productivity, and between 38,000 and 108,000 lives valued at $177 billion to $513 billion.

Another strategy favored by many antismoking activists is an increase in cigarette taxes. Currently federal and state taxes on cigarettes average 56 cents per pack. Proponents contend that if taxes were increased, many teenagers and lower-income smokers would be forced to cut down on the amount they smoke because they could not afford cigarettes at the higher price. Doctors Thomas D. MacKenzie, Carl E. Bartecchi, and Robert W. Schrier advocate such a tax in the *New England Journal of Medicine*. They write, "There are many potential benefits of increased tobacco taxes. First and most important, it is estimated that for every 10 percent increase in price, there will be a 4 percent reduction in tobacco consumption." Along with reducing tobacco consumption, advocates contend that increased taxes would also generate revenues to help cover the costs of health problems and lost productivity caused by smoking. According to Liberty Aldrich, a former program associate at the Advocacy Institute, a health and consumer advocacy organization in Washington, D.C., "Increasing tobacco taxes will cause a drop in consumption of cigarettes, promoting health and providing revenue to help cover the real costs of smoking." To this end, President Bill Clinton's 1993 health reform package included a proposed cigarette tax increase of 75 cents per pack.

A third strategy for reducing smoking is the potential FDA regulation of nicotine as a drug. The FDA can regulate a substance as a drug if its producer intends the product to "affect the structure or any function of the body." In his February 1994 testimony before Congress, FDA commissioner Kessler argued that the medical community has concluded that nicotine is addictive. He presented evidence indicating that cigarette manufacturers have long been aware of the addictive nature of nicotine, are able to manipulate nicotine levels in cigarettes, and may have done so to keep smokers addicted to their products. If so, according to Kessler, the actions of the tobacco industry constitute an intent to "affect the structure or any function of the body," and regulation of nicotine as a drug would be justified. If the FDA does eventually decide to regulate nicotine, one option would be to ban it as heroin and cocaine are banned. The FDA is more likely to recommend an incremental decrease in the nicotine level permitted in cigarettes until it reaches a level that would prevent addiction. Antismoking activists conclude that many smokers would then quit using cigarettes altogether.

These three strategies to reduce smoking have met with fierce resistance from several sources. In an effort to derail the federal government's push to reduce smoking, the tobacco industry and smokers' rights groups have been joined by organizations opposed to increasing government regulations. These various opponents reject the premise that the federal government should take responsibility for protecting smokers from any possible harms they may incur by smoking. They oppose most measures designed to reduce smoking.

Those who oppose bans on smoking argue that the alleged dangers of secondhand smoke are a false issue being exploited by politicians in their attack on smokers' individual rights. Many legislators, economists, and others argue that the EPA's conclusion that environmental tobacco smoke harms nonsmokers is erroneous. According to Jacob Sullum, a contributing editor of *Reason* magazine, "Even if exposure to ETS [environmental tobacco smoke] were analogous to smoking, the doses involved are so small that it's not clear they would have any effect." Critics maintain that the EPA's research is an example of the use of science for political purposes. Sullum writes, "The agency compromised science to support the political crusade against smoking." These opponents argue that rather than a legitimate attempt to protect public health, bans on smoking are an infringement on the individual rights of smokers. In the words of columnist Jeffery Hart, "Under our Constitution the federal government . . . has no jurisdiction whatever over the smoker."

Opponents of regulation also vehemently oppose any suggestion that cigarette taxes be increased. Many economists predict that while such a tax would in fact reduce the number of smokers, the financial disaster it would wreak on the tobacco industry in the rural South would counterbalance any economic benefits from reduced smoking. They predict that most tobacco growers—already fighting for shares of a decreasing market—would be forced out of business, especially since the land used for growing tobacco is suitable for little else. A representative of the Tobacco Growers Information Committee suggests, "Tobacco growers have to put up with so much attack, it seems to me if there were something else out there they could earn a living on, you can believe they would be looking into it." As one tobacco farmer in Sims, North Carolina, puts it, "A $1 increase in cigarette taxes would probably put half the tobacco farmers in this area out of business, and that's only a small minority of the people that would lose their jobs."

Along with this impact on tobacco growers, opponents charge, increased taxes would also lead to a cigarette black market. As evidence, many experts point to Canada's experience with high cigarette taxes. Between 1984 and 1992, federal and provincial governments in Canada raised taxes on tobacco by more than 200 percent. Canadian studies estimate that after the increase, one-sixth of the cigarettes consumed there were smuggled in and there is now a thriving black market on the streets. Some believe that the United States would have the same problem if tobacco taxes increased. According to one California tax administrator, "We've already noticed an increase in illegal activity in California as a result of our [state] tax increase."

The tobacco industry, led by such corporate giants as Philip Morris and RJ Reynolds, continues to fight smoking bans and cigarette tax increases, but the prospect of federal regulation of nicotine has led to even greater opposition. In response to FDA commissioner Kessler's testimony to Congress, the top executives of the nation's six largest tobacco companies appeared before Congress to argue that nicotine was not addictive and that nicotine levels in cigarettes were adjusted solely to enhance flavor. William I. Campbell, president and CEO of Philip Morris U.S.A., declared, "Our customers enjoy smoking for many reasons. Smokers are not drug addicts." The tobacco industry has also charged that cigarette regulations are merely the first step in a government campaign to regulate caffeine, high-fat foods, and other products that pose health risks.

The general trend in America is away from smoking. The tobacco companies, pushing hard to recruit new customers and keep the markets they have, see further regulation as a threat to the survival of the industry. Those in favor of increasing regulations to reduce smoking continue to press for smoking bans, higher taxes, and more stringent regulations. The battle is sure to continue. In *At Issue: Smoking,* various commentators express their opinions on cigarettes and smoking.

1

Smoking Should Be Regulated

Thomas D. MacKenzie, Carl E. Bartecchi, and Robert W. Schrier

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In terms of mortality, health, and lost wages, the costs of smoking to American society are astronomical. The tobacco industry, through advertising and lobbying, has succeeded in keeping those costs high, translating human suffering into profits both in the United States and around the world. The United States must curtail the tobacco industry's activities by banning all cigarette advertising, cutting government subsidies to tobacco farmers, restricting cigarette exports, increasing taxes on smoking, and banning all indoor smoking in public places.

The per capita consumption of cigarettes has risen and fallen, depending on particular events (Fig. 1)[1] Deaths from smoking-related illnesses, however, have climbed, possibly reaching a peak or plateau in 1988.[2] Studies[3] have placed the costs of smoking for the United States as a whole at a staggering $65 billion in 1985 in terms of health care expenditures and lost productivity, a value that would surely exceed $100 billion in current dollars. The estimated average lifetime medical costs for a smoker exceed those for a nonsmoker by more than $6,000.[4] This excess is a weighted average of costs incurred by all smokers, whether or not smoking-related illnesses develop. For smokers in whom such illnesses do develop, the personal financial impact is much higher.[4] The economic effect of smoking has not been overlooked by the life insurance companies. *Time* magazine reported[5] that even three insurance firms owned by tobacco companies charge smokers nearly double for term life insurance, because smokers are about twice as likely as nonsmokers to die at a given age.

The Congressional Office of Technology Assessment estimated in its 1993 report[6] that the total financial cost of smoking to society in 1990 was $2.59 per pack of cigarettes. Some experts argue that this cost is actually much higher. One study,[7] however, suggested that smokers may

Thomas D. MacKenzie, Carl E. Bartecchi, and Robert W. Schrier, "The Human Costs of Tobacco Use," part 2, *The New England Journal of Medicine*, vol. 330, no. 14 (April 7, 1994), pp. 975-80. Reprinted by permission.

pay their own way at the current level of excise taxes mostly because they do not live long enough to enjoy their share of the Social Security and pension benefits for which they have paid. This conclusion is controversial; moreover, most would agree that premature deaths due to smoking are not a humane means of controlling health care costs.

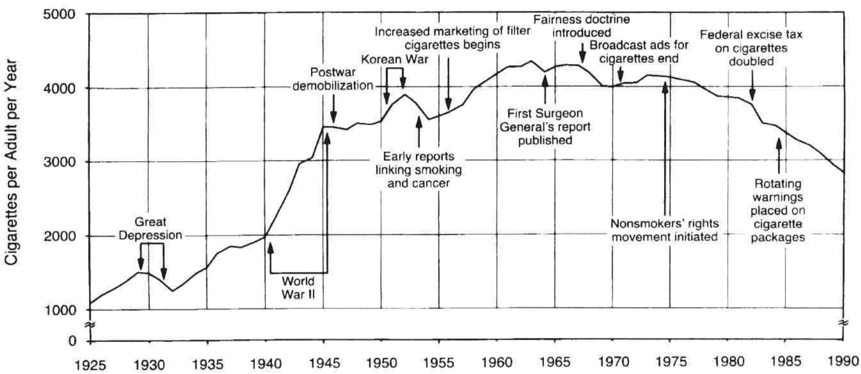

Figure 1. Per Capita Consumption of Cigarettes among Adults in the United States from 1925 to 1990, in Relation to Certain Historical Events.

Data were obtained from the Department of Health and Human Services.[1]

Another economic consideration is the cost associated with employees who smoke. Cigarette smokers are absent from work approximately 6.5 days more per year than nonsmokers. They make about six visits more to health care facilities per year than nonsmokers, and dependents of smokers make about four visits more per year than nonsmokers.[8] The cost to employers of workers who smoke is considerable and reflects costs due to work absences, health care claims, benefits not related to health care, and decreased productivity.[9] The Office of Technology Assessment[6] estimates the costs of lost productivity of persons disabled by diseases attributable to smoking and forfeited earnings of those dying prematurely of such diseases at $47 billion for 1990. With the use of 1985 figures, the costs of lost productivity due to passive smoking were estimated to be $8.6 billion annually.[10]

Fires related to cigarette smoking are the leading cause of civilian fire deaths in the United States. In 1983, the U.S. Fire Administration estimated that fires caused by cigarettes killed more than 2300 men, women, and children and burned more than 5000 others in the United States.[11] The health care costs related to the care of burn victims from such fires are also substantial. The most recent data (1991) from the National Fire Protection Association (unpublished data) list 187,100 fires caused by smoking materials, which caused an estimated $552 million in direct property damage.

The tobacco industry

Despite a 20-year trend of declining tobacco consumption in the United States, tobacco sales remain highly profitable. The U.S. tobacco industry is led by Philip Morris and RJR Nabisco, which together controlled 70 percent of the U.S. market in 1988.[12] In 1992, Philip Morris was the seventh largest industrial corporation in the United States, with $50 billion in sales. When these corporations were ranked according to profits, however, Philip Morris made more money in 1992—$4.9 billion—than any other company in the United States, reflecting the large profit margin of cigarette sales.[13] This economic success in the face of declining U.S. cigarette consumption involved pricing that more than compensated for both inflation and the decrease in domestic sales. Aggressive advertising and marketing, as well as expanding exportation of tobacco, were also important factors.

Tobacco advertising and marketing

Cigarette advertising and promotion, despite some government restrictions, have undergone unbridled expansion in the past 30 years. Three years after the publication of the 1964 Surgeon General's report on the ill effects of smoking, the Federal Communications Commission, according to the Fairness Doctrine, ruled that local television and radio stations that broadcast cigarette advertising must also broadcast a balance of tobacco counteradvertising. Cigarette consumption per capita subsequently declined (Fig. 1)[1, 14] With the Public Health Cigarette Smoking Act of 1969, Congress banned all cigarette advertising on electronic media.[15] The outcome of this regulation has been the subject of great discussion. Advertising against smoking in the electronic media ceased, and cigarette advertising in magazines and newspapers and on billboards increased dramatically.[16] Warner and Goldenhar have reported in a study of 39 magazines that carried cigarette advertisements before and after the electronic-media ban was enforced in 1971 that advertising revenue from the tobacco industry increased by $5.5 million per magazine per year in constant 1983 dollars.[17] Moreover, the coverage of smoking and health issues decreased by 65 percent in magazines that carried cigarette advertisements, as compared with a decrease of 29 percent in magazines that did not.[17] For three years after the ban, per capita tobacco consumption in the United States, which had been declining before the ban, actually increased (Fig. 1).[1]

Most would agree that premature deaths due to smoking are not a humane means of controlling health care costs.

Since the electronic-media ban, advertising expenditures by the tobacco industry have risen dramatically. From 1975 to 1990, annual expenditures on cigarette advertising and promotional events grew from $500 million to $3.9 billion. In constant 1975 dollars this represents more than a threefold increase.[18, 16] In 1989, Philip Morris had the largest advertising budget of any company in the United States, spending $2 billion to promote its products.[19] In 1988, cigarettes were the most advertised prod-

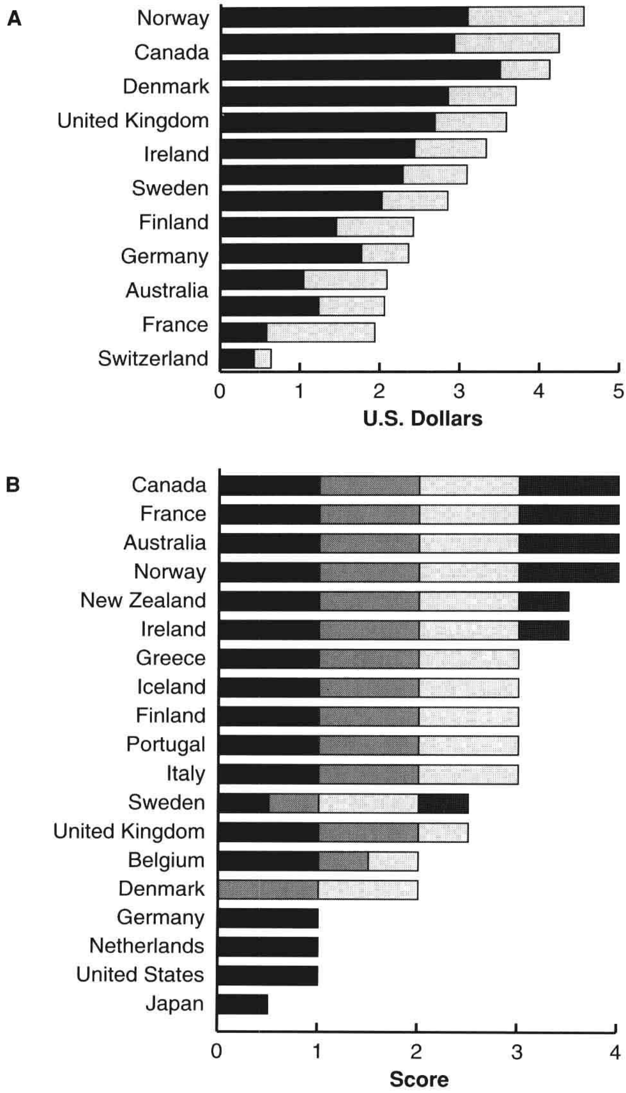

Figure 2. Average Retail Price of a Pack of 20 Cigarettes in Various Countries in 1993 (Panel A) and Regulations Governing Cigarette Advertising in Industrialized Nations (Panel B).

In Panel A, the average total tax per pack is shown in ■. The total tax as a percentage of the retail price is given to the right of each bar (Non-smokers Rights Association of Canada: unpublished data). In Panel B, countries were accorded 1 point for a ban and ½ point for restrictions on electronic (■), print (■), and billboard ( ) tobacco advertisements and event sponsorship (■). Data were adapted from Samuels et al.[30]

uct on billboards and the second most advertised product in print media.[16] Promotional expenditures, which include the sponsorship of sporting events and the distribution of free cigarettes and coupons, have grown from one quarter of the marketing budget in 1975 to two thirds in 1988.[16]

A large portion of the marketing budget allocated for promotion supports sponsorship of events such as the Virginia Slims tennis tournament, the Marlboro Grand Prix, and Camel Motocross. The appeal of motor racing to the tobacco industry is not surprising, since it ranks as the second largest spectator sport in the United States behind football.[15] The economics of this high visibility are not lost on RJR Nabisco, which has become the leading sponsor of automobile and motorcycle racing in the United States. Far more important than the audience attending any such event, however, is the audience watching the event on television. For example, during the 93-minute broadcast of the 1989 Marlboro Grand Prix, the Marlboro name was mentioned 11 times and the logo was shown 5922 times, for a total of 46 minutes of exposure. Eighteen minutes of this exposure consisted of "clear, in-focus air time" estimated to have a commercial value of over $1 million.[15]

At what audience are the advertising and promotion by tobacco companies aimed? Recent data on the Camel-cigarette advertising campaign suggest that a principal target group is children. In 1988, with Camel sales declining, RJR Nabisco launched a marketing campaign featuring Old Joe Camel, a "smooth character" presumably modeled after James Bond.[20] In the advertisements, Old Joe rides motorcycles, shoots pool, and associates with attractive women while smoking Camel cigarettes. Three years into the campaign, Pierce et al. showed that 14 percent of adults over the age of 18 identified Camel as the most advertised cigarette brand, whereas 29 percent of teenagers 12 to 17 years of age and 34 percent of 12- to 13-year-olds believed Camel was the most advertised brand.[21] Even more striking are the data from Fischer et al. showing that 30 percent of 3-year-olds and over 80 percent of 6-year-olds are able to associate a picture of Old Joe Camel with a pack of cigarettes. Among 6-year-olds, the same percentage associated a package of cigarettes with Old Joe Camel as were able to associate a picture of the Disney Channel logo with Mickey Mouse.[22] Other evidence suggesting that children are a target market for cigarettes is RJR Nabisco's sponsorship of events such as the "Camel Mud and Monster Series," tobacco-company–sponsored promotion of brand-name cigarettes in movies aimed at teenage audiences,[23] and the appearance of cigarette advertisements in teen magazines. Currently, a pack of Camel cigarettes comes with a "C-note" that can be used to purchase Camel products with great appeal to teenagers, such as Camel charm earrings, a tropical shower curtain, or a watch with Old Joe Camel on the face.

Since the electronic-media ban, advertising expenditures by the tobacco industry have risen dramatically.

From a marketing standpoint, the Camel campaign has been very successful. DiFranza et al.[20] compared brand preference in 1988 and 1990 and reported that the proportion of smokers under the age of 18 who smoked Camels had increased from 0.5 percent to 32 percent since the start of the Old Joe campaign. These authors estimated that sales of

Camel cigarettes to smokers under the age of 18 had increased from $6 million to $476 million, accounting for one quarter of all Camel sales and one third of all illegal sales of cigarettes.[20]

Since 1992, the decline in per capita cigarette consumption, which had been uninterrupted since 1973, has ended.[18] This dramatic change has occurred simultaneously with the rapid growth of generic brands and low-priced brand-name cigarettes, which now control 36 percent of the market share.[24] This trend has decreased the average price of cigarettes and forced a landmark price cut in the spring of 1993, first by Philip Morris (Marlboro) and subsequently by its leading competitors. These events may have a lasting impact not only on industry profits but also on smoking prevalence rates, especially among populations that are sensitive to changes in prices, such as teenagers.

Tobacco exportation

The U.S. tobacco industry, which is second only to China in tobacco production, has recently expanded its activity in foreign markets. Cigarette exportation has increased dramatically since 1984 and has offset declining consumption in the United States such that domestic cigarette production has been maintained.[25] In 1984, the United States exported 56 billion cigarettes, or 8 percent of its total production. In 1991, however, the United States exported 194 billion cigarettes, which accounted for over 25 percent of total production. The United States exports more than three times as many cigarettes as does any other country in the world.[26]

In some developing countries, little emphasis is placed on the hazards of smoking, and hence there is no legislation governing warning labels, advertising restrictions, or tar content. This has provided the powerful transnational tobacco companies with an opportunity to penetrate foreign markets rapidly. The U.S. government has not thwarted this expansion, and there are several possible reasons for its inaction. First of all, the United States realized a $3.5 billion trade surplus from tobacco exports in 1988, up from $2.5 billion in 1987.[27] The effect of this surplus on the trade deficit may have foiled any political efforts to limit the exportation or regulate the packaging (i.e., warning labels) of tobacco products. Furthermore, U.S. trade representatives, at the request of the tobacco industry (under section 301 of the 1974 Trade Act), have pressured foreign governments to open their markets to the transnational tobacco companies and to lift restrictions on cigarette advertising on television and in print.[27] Some have asked whether it is any less morally offensive for the United States to export cigarettes in the 1990s to lessen the trade deficit than it was for England to export opium to China in the 1830s to balance imports of silk and tea.[28]

With respect to the exportation of tobacco, Dr. James Mason, former assistant secretary for health in the Department of Health and Human Services, was quoted as saying:

> Cigarettes become a health problem only when you combine addiction with greed—greed on the part of the tobacco industry and the advertising industry, who are willing to exchange dollars for the lives of others. Our country has been known for its humanitarian and health-related projects worldwide. This is a hundred and eighty degrees opposite. We're talking about millions of lives—and that totally outweighs and overwhelms what we've accomplished in the humanitarian field. It's outrageous for the United States to allow this misery and suffering to occur.[29]

Cigarettes remain the only consumer product sold legally in the United States that is unequivocally carcinogenic when used as directed. Despite mountains of evidence on the health hazards of smoking cigarettes, the American public and government have tolerated the relatively unregulated advertisement, promotion, and sale of such a product. This passive tolerance is fueled in part by one of the most powerful political lobbies in government.

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During the 1992 presidential campaign, the tobacco industry gave $2.5 million to the political parties, which represents a fivefold increase in funds contributed in 1988. In addition, contributions to House and Senate candidates during the 1992 campaign by tobacco political action committees exceeded $2.2 million, nearly twice the amount contributed from 1989 through 1990[30, 31] (and Samuels B, et al.: personal communication).

Working at the level of the local, state, and federal governments, tobacco-company lobbyists are described by Representative Mike Synar (D-Okla.) as "the most pervasive group in politics today."[31] Their activities include the formation and financial support of so-called grass-roots smokers' rights groups and local business coalitions designed to fight local tobacco-control legislation.[32] The Tobacco Institute and the Council for Tobacco Research, which are funded by the tobacco industry, ostensibly support the study of questions about tobacco use and health and "remain committed to advancing scientific inquiry into the gaps of knowledge in the smoking controversy."[33] As late as 1986, however, a Tobacco Institute publication stated that "eminent scientists believe that questions relating to smoking and health are unresolved."[33] These statements raise doubt in the minds of the public and their government representatives over a scientific debate that has been settled for nearly 30 years—namely, that cigarettes cause lethal disease in humans.

The campaign to prevent tobacco use

Although cigarette smoking is the number-one preventable cause of premature death in our society, nearly 50 million Americans still smoke. There are several reasons for this tragic situation. First, the American public is reluctant to change a habit that is both culturally ingrained in their society and powerfully addictive, perhaps as addictive as the use of heroin and cocaine.[34] Second, recognition of the magnitude of this health hazard by U.S. citizens and their government has been hindered by the tobacco industry's expenditure of $4 billion per year for advertising and promotion. Third, the efforts of the tobacco industry to fight legislation on tobacco taxes have resulted in a lower excise tax on tobacco products, as a percentage of the retail price, in this country than in any of the other industrialized nations listed in Figure 2A (Non-smokers Rights Association of Canada: unpublished data); the United States also has among the least restrictive advertising regulations in the industrialized world (Fig. 2B).[30] Furthermore, tobacco products are not subject to regulation by the Food