

NYT 7/27/95

2 House Democrats Offer a Compromise on Tobacco Regulation

By PHILIP J. HILTS

WASHINGTON, July 26 — Two Democratic Congressmen, one from a tobacco state, have proposed a plan that they say could curtail teenage smoking without additional Federal regulation of tobacco.

But one of the men warned that tobacco companies might not go along with the plan unless the industry received a guarantee that the Food and Drug Administration would never regulate tobacco as a drug.

Earlier this month, the agency asserted that it had the right to declare tobacco an addictive drug and regulate it as such.

Representative Charlie Rose, a North Carolina Democrat who has been a stalwart supporter of tobacco interests, drew up the plan with Representative Ron Wyden of Oregon and presented it to White House aides this week. Mr. Rose said the plan would require the tobacco industry to contribute \$100 million or more a year to help the Department of Health and Human Services enforce anti-smoking laws. Among other steps, the industry would also help enforce rules prohibiting companies from advertising in a way intended to reach children.

Tobacco opponents have said they are leery of any proposal short of mandatory Federal regulation, for fear that the tobacco companies will find a way to circumvent it.

Mr. Wyden said today that he "strongly opposed" any effort to give the F.D.A. the authority to regulate tobacco. "That's what keeps the heat on the tobacco companies to do the right thing in this proposal," he said.

But Mr. Rose said that if the tobacco companies went along, the Clinton Administration could avoid a nasty political fight over tobacco.

Mr. Rose said the tobacco industry had many supporters among the new Republican majority in Congress, adding: "Some Republicans here are licking their chops for that one. They want to go head-to-head with the White House."

Nonetheless, Mr. Rose said that while both sides might have trouble with his plan, it would be worthwhile to try it.

The plan might also allow the Administration and the tobacco industry to avoid the deep and long-lasting legal entanglements that would re-

sult if the agency did begin regulating tobacco as a drug.

Mr. Wyden said that the only reason he was willing to explore this proposal instead of F.D.A. regulation was "I don't want to lose another generation of children to tobacco while we have endless litigation and political infighting."

Presumably, given tobacco's record as a cause of disease, regulation would mean strict controls or even outright bans. But when Dr. David A. Kessler, the Commissioner of Food and Drugs, asserted the authority to regulate tobacco, he threw the politically dangerous question of

how to proceed to the White House.

The debate comes as the Justice Department is convening grand jury inquiries into whether tobacco company executives lied to Congress or Federal regulators about the con-

tents of cigarettes and their effects. One grand jury investigation has already started in New York, and another is expected to start in the next few weeks in Washington, department spokesmen said.

Several White House officials said today that the Administration was weighing whether the F.D.A. declaration that tobacco was a drug meant that regulation by the agency was required or whether the Administration could use the threat of such regulation to prod the industry to make voluntary concessions.

In any event, officials said the Rose-Wyden proposal was one of

several voluntary options under study by the White House.

Another is a plan offered by the F.D.A. involving a coordinated strategy to attack teen-age smoking, akin to the marketing strategies of corporations. Research would be done to find the most effective messages and actions, and those would be linked in a single, national campaign.

Some elements of the campaign would include banning vending machines and improving enforcement of laws that bar sales to minors. It would also include educational campaigns combined with rules that would prohibit tobacco companies from advertising to children.

The Rose-Wyden proposal, reported today by The Wall Street Journal, would put off F.D.A. regulation for the time being, in return for commitments of cash from tobacco companies — totaling more than \$100 million per year, including money to the states to finance enforcement and education programs — and a willingness to go along with new restrictions on advertising, a ban on vending machines and a ban on promotional material.

One guarantee in the proposal is that the F.D.A. would again be able to assert its regulatory power if the agreement, which would be a "memorandum of understanding" signed by President Clinton and every tobacco chief executive, was violated.

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