

WHOLESALE TOBACCO DISTRIBUTORS OF NEW YORK, Inc.

ORGANIZED IN 1935

415 LEXINGTON AVENUE, NEW YORK, N. Y. 10017 212 682-3576

September 25, 1969

STATEMENT OF MILTON BLOOMROSEN, PRESIDENT,
WHOLESALE TOBACCO DISTRIBUTORS OF NEW YORK,
INC. IN OPPOSITION TO PROPOSED BILL NO. 987
INT. NO. 834 BANNING CIGARETTE ADVERTISING
IN PUBLIC PLACES AND ON PUBLIC CONVEYANCES.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

My name is Milton Bloomrosen. I am president of William Bloomrosen & Son, 195 Grand Street, Brooklyn, a tobacco wholesaling firm that has been distributing tobacco products in New York City for more than a quarter of a century.

I am also president of the Wholesale Tobacco Distributors of New York, Inc., a trade association which for thirty years has represented the tobacco distributors in New York. It is in this capacity that I come here today to speak - on behalf of my own company and the 80 some other tobacco wholesaling firms in the city - to oppose this proposed bill to ban cigarette advertising in public places and conveyances.

Our opposition to this proposed bill can be summed up in six major points:

1. This bill, if enacted, would fail to accomplish its apparent purpose of discouraging smoking.
2. The bill would deprive the City of New York of sorely-needed revenue from advertising of approx-

1005098873

OFFICERS

MILTON BLOOMROSEN - PRESIDENT
WM. BLOOMROSEN & SON
ANN ROSENBERG - VICE PRESIDENT
J. ROSENBERG & SONS
SAM GRANOFF - SECRETARY
BOROUGH HALL OXFORD TOBACCO CORP.
HYMAN A. ORIEL - TREASURER
A. ORIEL CO.

DIRECTORS

DANNY DAVIDSON
NASSAU COUNTY TOBACCO & CANDY WHOLESALE, INC.
HAROLD LEVINE
FRANK LANGSAM CO., INC.
MORTON G. MEYER
METROPOLITAN TOBACCO CO.
ED PACKER
MODERN TOBACCO CO.

JACK SCHNEIDMAN
VALLEY STREAM DISTRIBUTORS INC.
LEONARD SCHWARTZ
GLOBE WHOLESALE CO.
MORRIS SPECTOR
PARKCHESTER TOBACCO & CANDY CO.
MANAGING DIRECTOR
MORRIS WEINTRAUB

September 25, 1969

^{3/4}
imately \$1. million per year.

3. The bill would -- improperly and punitively -- discriminate against one type of product and one type of advertising.
4. The bill would set a dangerous and unfair precedent.
5. The bill would represent an improper intrusion by the City Council in an area which - as the United States Congress itself has recognized - requires uniform national regulation.
6. The bill would violate Constitutional guarantees of freedom of speech and of the press -- guarantees the Supreme Court has found applicable to commercial advertising.

Like other tobacco wholesalers, I am primarily a businessman, and know little about the law. Thus, my points opposing this bill that involve legal knowledge, I will leave mostly to our legal counsel, Mr. Mervin C. Pollak, who is present. He will state our opposition on these grounds. What I would like to discuss on behalf of our Wholesale Tobacco Distributors' association are points one through four.

In regard to point one - namely, that this bill could never accomplish its apparent purpose of discouraging smoking - we feel that those who propose it possess a basic misunderstanding of cigarette advertising. Contrary to what most people believe, cigarette advertising is not intended to convince non-smokers to become smokers. Rather, it is to persuade men and women who already smoke - either to retain their brand loyalty or to switch to another brand. Thus, advertising is the principal

1005098874

September 25, 1969

method that cigarette manufacturers use to compete with each other for the business of current cigarette smokers.

Available statistics bear out the lack of connection between advertising and the conversion of non-smokers. In both England and Italy, certain types of cigarette advertising are prohibited. Yet there is no indication that any reduction in cigarette smoking has occurred.

So whatever view one may personally have about cigarette smoking, banning certain types of cigarette advertising is impractical -- simply because such banning cannot produce the apparent objective. Instead, the only result would be to deprive the manufacturers of cigarettes - a commodity recognized by Congress and fifty states as a legitimate article of commerce - of a perfectly proper method of competition.

Our second point in opposition - that this bill would deprive the City of New York of advertising revenue of approximately \$1. million per year - is particularly timely now that talk has circulated of raising the subway fare. According to our estimates, the City would lose approximately 10% or \$1 million annually if cigarette advertising is prohibited from subway system, bus lines, and outdoor advertising. This revenue would be most difficult to replace, since commercial advertising space in these media is presently only 70 to 80% subscribed. The result here would be that city taxpayers and/or the riding public would probably have to replace these lost funds. Such an additional burden would tax even more an already tax-harrassed citizenry.

1005098875

September 25, 1969

Also, if cigarette advertising were banned in places of public assembly and on public conveyances, cigarette manufacturers would simply turn to other advertising media to reach their customers in New York City. They would spend the same amount of money in other media such as newspapers and magazines.

Thus, the proposed ban would have the effect of benefiting certain types of advertising at the expense of others - without, I must emphasize, significantly reducing the amount of cigarette advertising to which New York City residents are exposed.

Our third point - that the bill improperly discriminates against one type of product and one type of advertising - is one that should certainly be taken into consideration in today's climate when discriminatory practices against any group, religion, race or business are being carefully avoided.

In every state of the Union including our own, cigarettes are lawfully marketed and recognized - as they have been for decades - as a proper and legitimate article of commerce. Thus, there is no basis for arbitrarily removing this one type of product from one type of advertising. When other products are sold whose use may be thought to present a potential hazard, the common practice has been -- not to prohibit their sale or promotion - but rather to make sure that consumers are adequately informed about them. This, of course, is exactly what has happened in the case of cigarettes. Congress has required a warning statement on every cigarette package. At the same

1005098876

September 25, 1969

time, the Department of Health, Education and Welfare - as well as state and local agencies and numerous private organizations -- have informed the public in other ways that smoking may be hazardous. The objective has been to communicate enough information to consumers to enable them to make their own informed decisions about whether or not to smoke. According to the latest evidence, consumers are now fully aware of the asserted health hazards of smoking.

Thus, the proposed bill not only ignores the success of these informational efforts, but rejects the sound principle upon which they are based, namely, that consumers should be informed - and not coerced.

Our fourth point - that this proposed bill, if passed, would set an unfair and dangerous precedent - is also worthy of extra attention today when we are particularly sensitive about restrictions on our freedom and liberties.

If cigarette advertising were arbitrarily outlawed in public places and in public conveyances, there would be no basis on which to refuse similar proposals to restrict the advertising of other food products around which there is controversy, such as wines and spirits, sugar substitutes, fattening foods, or dozens of other products which, in the minds of some, raise questions of health and morals. Once one product has been singled out for discriminatory treatment, the dike has been opened, and no one can predict where the banning process will stop.

1005098877

September 25, 1969

We recognize that this proposal as well as other discriminatory attacks against the tobacco industry are probably based on the health charges made against cigarettes. However, the complicated medical questions involved in the smoking and health issues cannot and should not be resolved at this hearing. As you know, these questions have been under intensive and continuing review by the federal government and are also being extensively considered by Congress. Although I have no more than a layman's knowledge of medicine, I can say with authority that no matter how strongly some assert that cigarette smoking causes lung cancer and other diseases, the fact is that the causes of these diseases remain unknown. In addition, many extremely well qualified physicians and scientists disagree with the charge made against smoking.

In 1965 the United States Congress exhaustively reviewed the medical question relating to smoking and health. Dozens of outstanding scientists and physicians testified and Congress concluded at that time that on the basis of this exhaustive review - all that was warranted in the way of regulation was a statement in labeling, saying that cigarette smoking may be hazardous to one's health. In making this determination, Congress concluded that this label statement was a "fair and factual" caution notice which accurately reflected the state of medical knowledge on the subject.

This year, too, there was again extensive medical testimony before a House committee on the question of smoking and health. Here, too, after studying the testimony, the committee has concluded that

1005098878

September 25, 1969

"nothing new has been determined with respect to the relationship between cigarette smoking and human health since the 1965 hearings on the subject."

We do not question the good faith of the scientists who would indict cigarette smoking as a cause of disease. However, the points still must not be obscured that 1) the causes of diseases like lung cancer are unfortunately still unknown, and 2) many physicians and scientists do not believe cigarettes are involved. Thus, we respectfully urge that questions of smoking and health should not be approached by suggesting unwise and discriminatory legislation such as is proposed here. Rather, these questions should be properly considered as scientific and medical problems to which we still do not have the answers.

In conclusion, we want to reiterate our opposition to this bill as not being in the best interests of New York City. The proposed ban on cigarette advertising should be rejected because it would not in any way reduce smoking, it would eliminate a valuable source of revenue for the city, it would discriminate against a single type of product and a single type of advertising, and it would create an unfair and dangerous precedent.

Thank you.

1005098879