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REPORT ON POLICY ASPECTS OF THE SMOKING  
AND HEALTH SITUATION IN U.S.A.

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G.F.T.

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I  
INTRODUCTION

We were in U.S.A. from 10th September to 15th October, 1964, and had discussions with:-

The Presidents of the six main cigarette firms in U.S.A., one ex-President and several Directors,

The Legal Advisors of four of the firms and another lawyer advising two of the firms,

The Directors of Research and other scientists of five of the firms,

Mr. J.M. Gregory and Mr. D.A. Coulson of the Imperial Tobacco Co. (of Great Britain and Ireland) Ltd.,

The Administrator of the U.S. Cigarette Advertising Code (Governor Robert B. Meyner),

Senator J. Sherman Cooper (Republican, Ky.).

The American Medical Association - Senior Executives, and the Chairman and two other members of the A.M.A. Committee for Research on Tobacco and Health,

The Council for Tobacco Research - U.S.A. and its Scientific Advisory Board,

Mr. George Allen and Mr. DeHart of the Tobacco Institute. Hill and Knowlton, New York,

Two senior members of the National Cancer Institute and two of the National Heart Institute,

Dr. E.L. Wynder and his senior staff; Dr. E.C. Hammond; Dr. W. Weiss, Dr. J. Berkson, Dr. P. Bernfeld, Dr. C.C. Seltzer,

The complete list of people with whom we had discussions is given in Appendix I.

This report deals only with policy aspects of smoking and health problems in U.S.A. A separate report on research aspects has been prepared.

This report may be clearer if we record at the outset that Mr. Bowman Gray (Reynolds), Mr. Walker (A.T.Co.) and Mr. Finch (B.& W.) firmly and sincerely believe that it has not been proved that smoking is harmful to health. On this important point, however, Mr. Cullman (Philip Morris), Mr. Harrington (L. & M.) and Mr. Cramer (Lorillard) would hedge a little.

Of the six Presidents, Mr. Gray, by virtue of his personality, experience and his Company's share of the trade, is undoubtedly the leading personality. Mr. Walker is primarily a salesman and an advocate of the "hit-back", aggressive type of policy in smoking and health. Mr. Cullman has stopped assuring his stockholders annually that he is confident that smoking will eventually be exonerated. Mr. Cramer is distinguished among the Presidents by thinking highly of Dr. Wynder. Mr. Harrington has come up on the leaf side of Liggett & Myers, and ~~has~~ learnt about the smoking and health side of the business only after he had become President. Mr. Finch, like Messrs. Walker, Harrington & Cramer, has only recently been appointed President, but Mr. Bowman Gray has already appreciated Mr. Finch's contributions to discussions of smoking and health problems.

Our reception everywhere was most friendly. Mr. Bowman Gray, in particular, expressed appreciation that we had taken the trouble to go to Winston-Salem to see him.

LEGAL MATTERSDifferences between U.S. and U.K.

We should perhaps first emphasise that, despite the obvious similarities between the smoking and health situations in U.S.A. and U.K., there are major fundamental differences which prevent the two countries ever having anything like a complete identity of view. We emphasise this point because we found these differences under-appreciated by the cigarette manufacturers in U.S.A.

In the U.S., by far the most important factor conditioning action by the manufacturers is the law suit situation and the danger of costly damages being awarded against the manufacturers in a flood of cases. Not so long ago the drug industry was faced with some 300 law suits with claims totalling \$50-60,000,000, almost all of which in the end were settled out of Court, so this type of danger is real. The leadership in the U.S. smoking and health situation therefore lies with the powerful Policy Committee of senior lawyers advising the industry, and their policy, very understandably, in effect is "don't take any chances." It is a situation that does not encourage constructive or bold approaches to smoking and health problems, and it also means that the Policy Committee of lawyers exercises close control over all aspects of the problems.

Law suits can be brought against the U.S. manufacturers by smokers developing one of the diseases associated with smoking (or by their widows, by substitution) on the basis of breach of express warranty (e.g. manufacturer advertised the cigarettes to be free from harm), breach of implied warranty (e.g. failure to meet standards implied by State laws) or negligence. It is relatively difficult to base a case on negligence so that the U.S. law suits are usually based primarily on breach of warranty. In addition, they are usually financed on a contingency fee basis, the plaintiff's counsel financing the case for an agreed percentage of the damages (e.g. 40% or 60%) if successful. The cases in U.S.A. are usually heard before juries, to whom highly emotional appeals can be directed and full use made of the convenience to plaintiffs of the U.S. rules regarding introduction of evidence.

By contrast, we understand that in the U.K., any suit against a manufacturer would almost have to be based on alleged negligence by the manufacturer (as long as the manufacturer's advertising was free from expressing a warranty), would most likely be heard before a judge and not a jury, and would have to be financed by the plaintiff, with the risk of costs being awarded against him if he lost. It would therefore be very much more difficult for a plaintiff to win a suit against a manufacturer in Britain, and of course TRC's research programme takes into account the need for the manufacturers not being negligent in research.

In the U.K., the prime need is for objective and effective research and the most important factor external to TRC's research policy that conditions their action in smoking and health matters is the necessity of avoiding clashes with the "medical establishment" - i.e. the Ministry of Health, The Medical Research Council, the Royal College of Physicians, leaders of medical opinion, etc. The power of the medical establishment in the U.K. was particularly seen in the incident of Sir Cecil Wakely and the humiliating recantation forced on him. In U.S.A. by contrast, the Department of Health, Education and Welfare has much less public status than the Ministry of Health; the equivalent in U.S.A. of the Medical Research Council (viz. the National Institutes of Health) has much less power and standing; there are a number of doctors who dissent from the conclusions of the Surgeon General's Advisory Committee and are prepared to say so; the A.M.A. appears more concerned with safeguarding the financial interests of doctors through political lobbying than with the doctor's patients; and there are hundreds of thousands of tobacco growers whose future votes silently influence the outcome of smoking and health issues with political aspects. The U.S. manufacturers naturally do not disregard medical opinion, but this opinion has relatively less weight in smoking and health matters than U.K. medical opinion.

#### Law Suits Pending

Some 30-35 law suits have been moving recently, including some which have been dismissed. Of these 30-35, 15 have been filed since publication of the S.G.A.C. report. Reynolds have been served with 9 suits in 8 months; A.T. Co. have had about the same. The future of the law suits largely depends on the outcome of the Green case, the re-hearing of which is due to start in Florida on 9th November and which we discuss below.

The cases pending are mainly based on lung cancer, though there are now two cases in which the plaintiff has emphysema. Emphysema and heart disease cases could become worse than lung cancer; for one thing they are more common, and for another the plaintiff does not die so soon, and death of the plaintiff limits the maximum damages in some states. Lorillard had a case against them in Illinois, where the maximum damages for causing unlawful death are \$30,000. When the plaintiff in this case died and the lawyer financing it saw what the expenses were likely to be, he dropped the case.

The first case due to come up is a case against Lorillard in Mississippi but it is likely to be postponed. The first major case will therefore be the re-hearing of the Green case against A.T.Co. in Miami, Florida. This is regarded by all the lawyers with great seriousness. In the original hearing of the case in Florida, the judge of the District Court had put certain questions to the jury and these, with the verdicts

by the jury, were:

1. Did Green have lung cancer? - Yes
2. Did lung cancer cause Green's death? - Yes
3. Was Green's lung cancer caused by the smoking of Lucky Strike cigarettes? - Yes
4. Could the manufacturer, at the time it sold the cigarettes which Green smoked, have known by the exercise of reasonable skill and foresight that its Lucky Strike cigarettes might cause cancer - No.

The plaintiff received no damages and appealed on the ground that the answer to question (4) ought not to affect his right under a law of Florida to recover damages. In considering the appeal, the Appeal Court put a question to the Supreme Court of Florida, as could be done under Florida law, asking for an interpretation of a law of Florida about the implied condition of goods marketed in Florida. The Florida Supreme Court gave an Opinion as requested but in effect said at the same time that the Appeal Court had asked them the wrong question. The Appeal Court has ordered a re-trial<sup>ic</sup> by the District Court of the question only of A.T. Co.'s liability for damages, but in view of the complications of the situation, no lawyer knows the precise wording of the question that has to be re-tried. Mr. Ramm (R.J.R.) expects the jury to be asked whether the cigarettes were "reasonably fit and wholesome" for their intended use, and a basic consideration in determining this is likely to be the proportion of smokers who develop lung cancer. It is also felt that an argument that the defence will use is that cases could be brought on a similar basis against many other things sold in Florida - whiskey, butter, cars, etc. The difficulty is that, under the relevant Florida State law it is no defence that, at the time the cigarettes were smoked, A.T. Co. could not have known they might be harmful; the warranty imposed by the Act is unqualified.

There is a general feeling that A.T. Co. may well lose the case: indeed, one lawyer thought A.T. Co. had handled it badly. Mr. Russell (Lorillard) was more optimistic than the others: he felt that while juries are anti-big business, they also feel that it is unreasonable of people to smoke recklessly and then seek damages. The case is expected to last about two weeks.

If A.T. Co. lose, the lawyers financing the law suits - e.g. Messrs. Belli, Bloomfield, McCardle - may feel re-encouraged, after they had been concluding that there were more profitable fields elsewhere for claims. There is then likely to be a flood of new cases, not only in Florida. On the other hand, A.T. Co. are almost certain to appeal against an adverse verdict - which will hold off some new cases - and the Green case may not do much damage as a precedent, because the legal issues are so narrow. The claim that smoking caused the disease has to be re-proved

in every case, because of course it has to be proved that the particular plaintiff's lung cancer (or other disease) was due to smoking. While previous verdicts on this point are a psychological advantage to the plaintiff, they are not a legal precedent.

It is impossible to guess what the damages would be if A.T. Co. lose the case. The damages can turn on many personal, emotional and irrelevant factors in the appeal to the jury. When pressed by us, one lawyer guessed \$120,000 and another \$250,000.

Two of the other cases pending have unusual variations. A.M. Fine of New York has accused Philip Morris of breach of express and implied warranty and negligence, and accused Hill & Knowlton and CTR of conspiracy. The plaintiff, however, may well not succeed in stating sufficient causes of action against H. & K. and CTR. Lorillard have a case against them in Michigan in which the plaintiff is claiming damages of \$9,999. A claim of \$10,000 would take it out of the jurisdiction of the State Courts into the Federal Courts.

Mr. Blunt told us that the defence of the Pritchard case in Pittsburgh, involving two trials, had cost Liggett & Myers over \$1,000,000. The plaintiff in the Lartigue case against Liggett & Myers and R.J. Reynolds in New Orleans has asked leave to appeal.

It is, of course, the practice of the defending companies to retain private agents to investigate the private lives and backgrounds of the plaintiffs. Mr. Ramm made the interesting point that quite a number of plaintiffs are alcoholics. The extent to which liver damage may affect metabolism of carcinogens and an individual's liability to develop lung cancer has not been studied, but some animal experiments by Kotin & Falk suggest that it may be worth investigating.

#### Visit of U.K. Observer to the Green Case

Mr. Jacob suggested that T.R.C. might find it worthwhile to send an observer to attend the Green case. He thought that in consequence of the narrowing of the issue to the reasonable fitness of the product - i.e. should the product not have been put on the market - the issue came closer to the issue of negligence likely to be important in any English case. We see no objection to Mr. Jacob's proposal but we are not in a position to judge the relevance of the Green case to possible law suits in the U.K.

#### Influence of the Lawyers

In consequence of the importance of the lawsuits, the main power in the smoking and health situation undoubtedly rests with the lawyers, and more particularly with the Policy Committee of lawyers. The members of

this Committee are:

Henry Ramm	(Reynolds) (Chairman)
Cy. Hetsko	(A.T.Co.)
Add. Yeaman	(Brown & Williamson)
Paul Smith	(P.M.)
Fred Haas	(L. & M.)
John Russell	(Lorillard)

This Committee is extremely powerful; it determines the high policy of the industry on all smoking and health matters - research and public relations matters, for example, as well as legal matters - and it reports directly to the Presidents. The Committee is particularly concerned with possible Congressional legislation and it drew up the Cigarette Advertising Code. We understand that the Code was largely the work of Mr. Ramm. As Chairman of this Committee and the representative of the largest manufacturer, Mr. Ramm is probably the most influential member of the U.S. tobacco industry, apart from the Presidents, in forming industry policy in the field of smoking and health.

The Policy Committee set up another Committee of lawyers, known as the Ad Hoc Group, to assist them. The members of the Ad Hoc Group are:-

Dave Hardy	(PM) (Chairman)
Janet Brown	(A.T. Co.)
Ed. Cook	(RJR)
Ed. Jacob	(RJR & B & W)
John Russell	(Lorillard)
Fred Haas	(L & M)
Alex Holzman	(PM)

The Ad Hoc Group is concerned with -

- (1) Medical - legal matters.
- (2) Scrutinizing proposed action by other tobacco organizations.
- (3) Clearing papers (e.g. Dr. Little's annual report).
- (4) Watching the Inter-State and Foreign Commerce Committee of the House of Representatives.
- (5) Making certain that no assurances of any kind relating to the safety of smoking are given by any manufacturers (e.g. in advertisements).

In addition, there are two other Committees of lawyers - one for dealing with Federal Trade Commission matters and a Litigation Committee

consisting of New York Counsels of the larger Companies - e.g. Mr. Chandler Cook (R.J.R.) Mr. Coleman, Mr. Jacob and about 14 others.

The lawyers are thus the most powerful group in the smoking and health situation. It is uncertain, however, whether the Presidents of the three smaller Companies are fully in agreement with this situation, considering the lawyers to be too restrictive and too dominant generally in the industry. They are, however, neither powerful enough nor sufficiently sure of themselves to do anything about it.

#### Implied Admissions

Implied admissions that cigarettes may be harmful, when made by any manufacturer, are immediately criticised by their competitors as capable of being damaging in law suits. Such admissions, we were told, may affect decisions by juries on whether smoking caused the disease of the plaintiff and whether the defending manufacturer was aware that his cigarettes might be harmful.

The main criticism of TRC's research programme was that the bio-assay research at Harrogate was an implied admission that cigarettes are harmful. This was the first point raised by Mr. Hetsko in our meeting with Mr. Walker. It was the main point made by Mr. Bowman Gray who referred to Mr. Ramm's discussion of the subject with us last year. B & W consider that TRC's research policy might be particularly prejudicial to them through their association with B.A.T.

We agreed that Harrogate bio-assay research could be represented as an implied admission, but we made the points that TRC constantly bore in mind the possible repercussions of its actions in U.S.A. and that T.R.C. research was based on the needs of the situation in the U.K., including a need from the legal point of view to give no grounds for an accusation of negligence against the manufacturers. PJR felt that Mr. Bowman Gray was less critical in this matter than he had been on his 1963 visit, and indeed Mr. Gray specifically stated at the end of the meeting that he was not trying to make us change our minds: the important thing, Mr. Gray felt, was that we were in touch with each other and could discuss these matters.

In reply to Mr. Hetsko's criticism, GFT suggested that publication of tar and nicotine contents on the packet of Carlton was an implied admission that these constituents of smoke were harmful. Mr. Hetsko replied that publication of tar and nicotine figures was "a bridge they had to cross". A.T. Co. had done it because publication of tar and nicotine figures by Readers' Digest, etc., had created a public demand for cigarettes low in these. A.T. Co. did not claim health advantages for Carlton, and a disclaimer, such as Reynolds had on Tempo packets, would probably be printed on the packet when the Cigarette Advertising Code came into effect. (Governor Moyner's remarks later to us on the subject of disclaimers were interesting).

Mr. Hetsko also said that the A.T.Co. did not go along with experiments that the U.S. Department of Agriculture was proposing that might lead to modified cigarettes.

There was some difference of opinion among the lawyers as to whether what TRC was doing in bio-assay research could actually be introduced in evidence in a case against a U.S. manufacturer, under U.S. rules about evidence.

Mr. Russell (Lorillard) said it would help considerably to offset the implied admission involved in TRC's bio-assay programme if TRC also supported some research projects designed to answer the basic question; "Does smoking cause lung cancer?"

To put these comments on TRC's research programme into perspective, it should be added that every one of the six main U.S. cigarette manufacturers has been accused by his competitors of making implied admissions and/or implied health claims. Advertisements by B & W for Life cigarettes, on its re-introduction as a low tar and low nicotine cigarette five years ago, were an implied admission. More recently, Lorillard issued a press release that Kent's reduced phenols reduced the ciliastatic effect of cigarette smoke. A.T.Co. have made implied admissions and implied health claims by publishing tar and nicotine figures on the packets of Carlton and Montclair. Mr. Cullman had quoted to Philip Morris stockholders the beneficial effects of smoking described in the SGAC report, leaving uncertain how far he accepted the rest of the report. Liggett & Myers are considered to have made implied admissions and health claims for Lark in the paper in The New England Journal of Medicine by Kensler and Battista, and the subsequent local publicity and canvassing campaigns to exploit the statement about Lark made by Dr. Kisser at the Press conference on the Surgeon General's report. Reynolds so-called "disclaimer" on Tempo packets is regarded as a major health claim by Mr. Cramer, Mr. Harrington and others. The Administrator of the Cigarette Advertising Code also criticised this disclaimer to us. Indeed, as Mr. Yeaman put it, a disclaimer cannot purge a claim. We understand that all members of the Policy Committee which prepared the Cigarette Advertising Code were dissatisfied with the provision about health disclaimers in the Code but it was the best they could do. Mr. Bowman Gray told us that, in addition to his competitors, some of his own colleagues had objected to the disclaimer on the Tempo packet.

Liggett & Myers have also contracted with A.D. Little in the past to carry out mouse skin painting experiments, and Bio-Research Inc. have carried out a similar type of experiment for The Council for Tobacco Research - U.S.A.

Mr. Bowman Gray was reported as having said that if a cigarette smoke could be developed whose condensate did not cause skin cancer in mice, Reynolds would adopt it. Mr. Finch said the same, though Mr. Yeaman expressed doubts.

Indices of Scientific Literature for Litigation Purposes

Mr. Jacob keeps an index of medical and scientific literature for litigation purposes by subject and author. A supervisor and three girls are required for abstracting and cataloguing current literature.

Mr. Ramm keeps a similar index, perhaps on an even larger scale. A review of all the relevant literature, running into 7 or 8 volumes, was prepared for Reynold's defence in the Lartigue case. They have over 20,000 papers in their records.

Litigation indices are also kept by Miss Brown (A.T.Co.) and Mr. Holzmann (P.M.). In addition, there is the index kept by C.T.R. The C.T.R. staff for this purpose consists of Mr. Austin, an assistant, and about three others. They also produce the "Current Digest" of CTR. Health Claims in U.K.

The informal agreement between TRC members not to make health claims was explained to Philip Morris. Mr. Weissman said that he was not prepared to bind himself and had to reserve freedom of action as there was no definition of what constituted a "health claim". He would not agree, for example, that a reference to a filter was a health claim. Assuming a reasonable definition of health claims, he would subscribe to the spirit of not making health claims in the U.K. As a summary of the position, Mr. Cullman said that Philip Morris stood on their past record of not making health claims.

III

WARNINGS ON PACKETS AND IN ADVERTISEMENTS

It will be recalled that on January 18th, 1964, the Federal Trade Commission issued a proposed set of Trade Regulation Rules as follows:-

Rule 1 Every cigarette advertisement and pack, box, carton or other container to carry a warning, such as "Caution: cigarette smoking is dangerous to health. It may cause death from cancer and other diseases."

Rule 2 Ban on use of certain themes in advertisements.

Rule 3 Statements as to quantity of any cigarette smoke ingredients prohibited if not verified in accordance with a procedure approved by the F.T.C.

On June 22nd, 1964, the F.T.C. directed that the warning on packets, etc., should become effective on January 1st, 1965, (later changed to July 1st, 1965) and the warning in advertisements on July 1st, 1965. The F.T.C. dropped Rules 2 and 3 in view of the industry's announced intention to draw up its own Cigarette Advertising Code but stated that they would watch to see if the Code operated effectively. The dangers to the industry in the present situation are not only the damage that the warnings will do to trade - and the advertising warning is likely to make spot TV advertisements impossible - but the danger that States and even municipalities will start prescribing their own warnings. About 20 States are expected to pass their own laws on the subject, if free to do so, and the Commissioner of Health for New York State (Mr. James) has already been agitating for New York to require all cigarette packets marketed in the State to have a skull and crossbones printed on them.

To prevent this chaos, the only hope for the tobacco industry is, as Senator Cooper and all Company Presidents informed us, for Congress to pass a bill requiring packets to be labelled with a formula decided by Congress and pre-empting legislation by States or municipalities. In order to pre-empt legislation by others, the Act passed by Congress has specifically to forbid legislation on the subject by any other legislature. If another legislature feels sufficiently strongly on the subject, it can ignore the pre-empting clause, and then it would be up to the Supreme Court to decide whether the subject was one in which Congress could pre-empt legislation by States. It is generally expected, however, that a pre-empting clause in a Congressional Act would prove effective.

Similarly, if warnings in advertisements are thought by Congress to be unnecessary, it would have to say so specifically in the Act and also prohibit warning legislation being passed by States. Congress, however, is not likely to do this: it is being asked, for example, why should the

tobacco industry be given a blanket protection like this for an indefinite future period? The industry's hope, in regard to the threat of having to include warnings in advertisements, is that Congress will decide, though not passing pre-empting legislation, that such warnings are not necessary and that State legislatures and the Federal Trade Commission will be guided accordingly. The industry has the support of advertising organisations and even of Printer's Ink (hitherto anti-smoking) in their opposition to warnings in cigarette advertisements.

Some representatives of the tobacco industry were confident that they could get Congress to pass an Act requiring warnings on packets in terms that the industry could accept. The formulae for packet warnings that the industry felt they could accept were along the lines:

1. "Excessive use of this product may be harmful (or dangerous to health) (or a hazard to health)"
2. "Excessive use may be harmful to some people, *(or susceptible persons)*"

At a recent meeting, however, the lawyers felt that both suggestions were unrealistic. "Excessive" was difficult to define and apparently had dangerous implications for law suits. The phrase "to susceptible persons" was discarded by the lawyers for the sake of simplicity. The American Cancer Society has argued that it is not a question of susceptibility but of the product being inherently capable of causing lung cancer.

The procedure is that any proposed legislation has to be passed by both the House of Representatives and the Senate. Bills are referred in each House to the appropriate Committee, and the Bill as reported out by each Committee is then considered by its House and passed as thought fit. If the versions of the Bill passed by the two Houses are not the same, a Joint Committee of both Houses meets to discuss the differences and to make a joint recommendation to the two Houses. The appropriate Committee to consider the labelling Bills in the House is the Committee on Interstate and Foreign Commerce (Chairman: Rep. Oren Harris), and the appropriate Committee of the Senate is the Committee on Health, Education and Welfare (Chairman: Sen. Hill of Alabama).

Some 10 or 11 bills dealing with aspects of the tobacco problem have been introduced into the House. Several Bills deal with labelling; two would give the F.T.C. authority to do what it wished to do. Others deal with other aspects of the problem, such as anti-smoking education. The ISFC Committee started to consider these Bills. Before it adjourned for the election (to be held on 3rd November) Rep. Harris, on the urging of Rep. Horace Kornegay (North Carolina), had persuaded the F.T.C. (reluctantly) to postpone the effective date of the packet labelling Rule to July 1st, 1965, in order to give Congress time to consider the subject.

The Tobacco Institute had encouraged the ISFC Committee to hold hearings on the Bills as it gave the Institute an opportunity to provide six witnesses

to present the case for the industry. Representatives of the industry felt that the evidence given by Dr. Burford on "why single out cigarettes?" before the Committee had made a favourable impression, and that this important Committee was now better disposed towards the industry. The ISFC Committee has now suspended its hearings and a new Committee will be formed in January from the new Congress. The Tobacco Institute hopes that the new Committee will make the proceedings of the old Committee (which have not yet been published) part of its record, so that the Institute will not have to ask its witnesses to appear again. It has in fact been reported that Rep. Harris proposes to reconvene the ISFC Committee as soon as possible and not later than 15th January. The membership of the Committee is not expected to be changed too much by the election on 3rd November. Rep. Harris also wishes to incorporate the first hearing in the record of the second hearings. The anti-smoking school are expected to improve the presentation of their case in the second hearings, but so will the industry.

The Senate H.E.W. Committee has not yet held any hearings on the Bills introduced into the Senate. Senator Neuberger (who has now re-married) has been written off by some of our informants as no longer a factor in the situation but Dr. Kotin, who is close to Sen. Neuberger, told us that she may well introduce a Bill requiring specification of substances in cigarette smoke, since Carlton and Montclair have shown that this can be done.

The Tobacco Institute is confident that favourable Bills will be reported out to their respective Houses by the two Committees and that they will be passed without any major amendment. It seemed to us however, that Senator Cooper was less optimistic, and he may well be right. The newly elected Congressmen and Senators may include new anti-smoking people. There is a widespread desire in USA by parents not to see their children starting to smoke, and attacks on smoking are good vote-getters. The tobacco trade has been over-optimistic in the past and may be again.

Mr. George Allen informed us that Dr. Cova of the Italian Monopoly had recently visited him and had told him that if U.S. Congress passed a packet warning law, he would have to introduce warnings on packets in Italy within 48 hours. From talks he had had with representatives of other countries, Mr. Allen had concluded that it was unlikely that Japan would introduce packet warnings but that Denmark probably would. We also understand that if Congress passes an Act requiring warnings on packets, Germany is expected to follow suit within 60 days.

Mr. Allen also told us that it was unlikely that the Committees would report out a Bill before 1st April 1965 or that Congress would pass it before 1st July 1965. Nevertheless, even if an Act is not passed by Congress by 1st July 1965, so long as the House has taken some action, it is likely to compel Dixon (Chairman of FTC) to postpone again the effective date of the FTC Rule. Dixon has already offended Congress by not offering voluntarily to stay the effective date of the FTC Rule: indeed he insisted on a formal

letter from Rep. Harris requesting a stay of the Order. If, however, the Rule should come into operation before an Act is passed, the manufacturers will move for an injunction.

We were told that a voluntary agreement by the industry on a packet warning would ~~be of no value~~. <sup>not solve the problem</sup> Firstly, it would be an admission by the industry that cigarettes were harmful. Secondly, if the warning was specific enough to give the industry protection in law suits, its wording would be most damaging to future trade. Thirdly, of course, a voluntary warning would not prevent separate legislation by States. An Act of Congress is essential to the industry. Mr. Russell (Lorillard) thought that a general warning on packets, though it would not be specific enough to safeguard the manufacturers against future law suits, would make it more difficult for plaintiffs to establish a claim for damages.

In her book on the cigarette "Smoke Screen", Senator Neuberger had recommended that the legislation should include a limit for damages in law suits against the manufacturers. Mr. Jacob informed us that fixing damages for torts was a matter for States: Congress could not interfere. (We also learned confidentially that Senator Neuberger had not written a line of her book: it had been written by Drs. Shubik, Kotin and another whose name we did not catch).

SMOKING AND HEALTH RESEARCH IN U.S.A.

Smoking and health research is carried out or supported in U.S.A. by tobacco manufacturers in their own laboratories and under contract with outside research firms, by The Council for Tobacco Research - U.S.A., by the American Medical Association, by the National Cancer Institute of the Department of Health, Education and Welfare, by the American Cancer Society, by Dr. E.L. Wynder and his Division of the Sloan-Kettering Institute, and by Drs. Bock and Moore at the Roswell Park Institute of New York State Department of Health.

A separate report on our discussions with U.S. research workers has been prepared. The purpose of this section of our report is to summarise -

- (a) The smoking and health research policy of the U.S. cigarette manufacturers.
- (b) Their comments on TRC research policy.
- (c) The position regarding a search in U.S.A. for a cigarette smoke with less long term activity.

A. Smoking and Health Research by U.S. Manufacturers

Smoking and health research by U.S. manufacturers is largely conditioned by two factors:

- 1. The personal beliefs of the Presidents that nothing against smoking has been proved, as mentioned in the Introduction to this report.
- 2. The dilemma posed by the law suits. The manufacturers have to choose between -
  - (a) Doing no smoking and health research and being represented in law suits as negligent (although "to meet public concern", they finance CTR and AMA research)
  - (b) Doing smoking and health research and being forced to admit in law suits that their experiments have caused cancer in animals and yet that they have made no changes in tobacco smoke to eliminate the tumours.

The manufacturers have chosen (a), except for L & M's research through A.D. Little Co., but competition has forced them to adopt some short term forms of health research.

All the manufacturers are doing chemical research. Most of it is for commercial and quality purposes. Nevertheless, some of it is for smoking and health purposes - e.g. to enable them to alter quickly the constituents of the smoke if this should be required.

All the manufacturers are also believed to be doing some biological research in relation to their own products. It must be added that no one actually knows of any such research by Reynolds, but it is generally believed that Reynolds must be doing some. The only positive evidence about this is a statement by Wynder to GFT that Reynolds use Battelle for biological research, but Wynder can frequently get such things wrong. While a remark made to us implied that one manufacturer might be doing some biological research in his own laboratory, the practice is to contract out this work. The following arrangements are believed to have been made:

American Tobacco Co.	Dr. Larson (Medical School of Virginia).
Philip Morris	Food & Drug Research Inc., of Long Island, and another firm.
Liggett & Myers	A.D. Little Co., Boston
Lorillard	Bio-Research Inc., Boston, and Dr. Dalhamn (Stockholm).

Dr. Wynder also informed GFT that the Armour Research Foundation was doing biological research for some cigarette manufacturer.

The basic point is, however, that the biological research, except possibly for some work by A.D. Little Co. for L & M, is short-term and not cancer research, primarily for the legal reasons mentioned above. The short term biological research is designed to produce a smoke that -

1. has minimum response in a test (e.g. for ciliastasis) that can be related in some theoretical way to a human reaction to smoking without actually involving cancer.
2. that will carry medical or scientific support from private individuals (e.g. Fieser, Kensler) in a form that can be exploited to build sales.

Basically, therefore, the search is for a successor to Lark.

The different Companies have different ideas as to the broad characteristics of the successor to Lark that they are seeking. Mr. Harrington thought that the flavour of Lark had been an important factor in its success: he said that Lark also had relatively high tar and nicotine content, and he thought it important to keep the nicotine up. Mr. Walker, in Carlton, had followed Dr. Wynder's idea of a low tar, low nicotine cigarette. Dr. Seevers informed us that he had specifically told Dr. Hammer, Director of Research of A.T. Co., that it was important to keep up the nicotine content of the smoke, while reducing anything that ought to be reduced. Dr. Seevers' recommendation was that A.T. Co. should add nicotine to the cut tobacco and then reduce both nicotine and tar by filter and porous paper as in Carlton. Dr. Wakeham described Philip Morris' objective as a "high flavour/low delivery"

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cigarette, but it was low delivery of some smoke constituent that contributed largely to a biological reaction in some short term test. Mr. Galloway (RJR) thought that a reasonable amount of nicotine was necessary in a cigarette. Mr. Blunt firmly held the view that people smoked because of the nicotine.

B. U.S. Opinion of TRC Research

We outlined our research objectives and programme to all the Presidents and Directors of Research that we met. There should now be a much wider knowledge and understanding of our research.

RJR, A.T. Co. and B & W criticised our approach to bio-assay research on three grounds -

1. It constituted an implied admission that tobacco contained health hazards, and this could be damaging in law suits in U.S.A. This has been discussed in the earlier Section of our report on Law Suits.
2. Mouse skin painting with smoke condensate, according to Dr. Little, was scientifically unsound and based on a fallacy (though C.T.R. had contracted with <sup>Bio</sup>-Research Inc. for research of <sup>this</sup> type). Against this, both L & M and Lorillard scientists told us quite bluntly that they considered TRC research was on the correct basis and CTR largely without value. It is unlikely that Company scientists would speak so frankly unless they were pretty sure their principals held views not greatly dissimilar.
3. It could present the U.S. manufacturers in a bad light to the U.S. public since they could be represented by hostile writers as being negligent of public health in comparison with U.K. manufacturers.

We pointed out that we kept the possible reactions in U.S.A. continuously in mind, and further that Dr. Wynder had contended that U.K. manufacturers were dragging their feet compared with U.S. manufacturers.

There was particular interest in and approval by Messrs. Gray, Cullman and Cramer of research into the characteristics of the susceptible minorities being carried out for TRC by Prof. D.D. Reid and Dr. D.M. Kissen. Mr. Gray said that obviously there were some people who should not smoke - e.g. those with emphysema.

Mr. Cullman, Mr. Cramer and others remarked that there was much more firm direction and push behind TRC's research programme than CTR's.

The only criticisms in detail about TRC research were that TRC was years behind the U.S. manufacturers in research into mucus flow and ciliastasis, and that TRC was possibly neglecting virus research. Mr. Gray thought that "viral activity might well explain the statistics".

### C. The Search for a Cigarette with Less Long Term Activity

We were naturally interested, since so much of TRC biological research had long term objectives, to find out what research in U.S.A. was being carried out to reduce the long term activity of cigarette smoke.

Only Liggett & Myers, through A.D. Little Co., have worked on smoke carcinogenesis. Some of their past work in this field is detailed in our report on research aspects of smoking and health, but we do not know whether they are still carrying out work in this field. Dr. Darkis (L & M) believes (contrary to the views of Dr. Wynder and some others) that a large part of the mouse skin carcinogenic effect of cigarette smoke condensate can be found to be concentrated in the higher polynuclears. L & M would remove these polynuclears from cigarette smoke if they conveniently could. They have worked on this problem for a number of years without success and state that they have run out of ideas. They would like to find a precursor of the polycyclics in some particularly abundant compound in unsmoked leaf, but consider this very unlikely, as some polynuclears arise on pyrolysis of any organic material and are not specific to tobacco smoke. Dr. Darkis is not particularly optimistic about being able to produce a cigarette that is satisfactory to smoke and will not produce cancer on the back of a mouse.

In short, therefore, the U.S. cigarette manufacturers are not looking for means to reduce the long term activity of cigarettes.

### Council for Tobacco Research

Dr. A.B. Andervant of the National Cancer Institute, editor of the Institute's Journal, and a distinguished cancer research worker, had recently been persuaded by Dr. C.C. Little to join CTR's Scientific Advisory Board. He is the only person to have accepted an invitation to join the Board in recent years. Dr. Andervant told GFT that he had expected CTR to be seeking a "safer cigarette", as he described it, as a matter of first priority. As we know, CTR supports only fundamental research of little relevance to present day problems.

### American Medical Association

The Board of Trustees (which is the governing body) of the American Medical Association drew up a "Charge" to be used by the Scientific Activities Division of the AMA and by the Committee for Research on Tobacco and Health in administering the research fund of which the \$10,000,000 being contributed by the tobacco companies is the main part. Before being passed to the House of Delegates for approval, this Charge was considered on behalf of the House of Delegates by a Reference Committee. The Charge was amended by the Reference Committee and approved by the House of Delegates, and reads as follows:-

"The Board (of Trustees) envisions a study devoted primarily to determining which significant human ailments may be caused or

aggravated by smoking, how they may be caused, the particular element or elements in smoke that may be the causal or aggravating agent and methods for the elimination of such agent".

The phrase "and methods for the elimination of such agent" had not been included in the draft Charge prepared by the Board of Trustees but was added by the Reference Committee.

Dr. Blasingame (Executive Vice President of the AMA) and Dr. Seevers (Chairman of the Committee for Research on Tobacco and Health) object to the decision that the AMA should carry out a search for "methods for the elimination of such agent." Indeed, Dr. Seevers considers that his Committee should not support research in fields in which tobacco manufacturers have greater competence, such as the constituents of cigarette smoke, how to modify them, how to treat tobacco in the field or factory. To date, the AMA has not agreed to support any research project in the cancer field, but this is because the AMA Committee has not received any application that it considered worth supporting probably owing to the volume of funds already available in U.S.A. for cancer research. Whatever the House of Delegates may have resolved, the AMA is not supporting research aimed directly to result in cigarettes with less long term activity.

#### National Cancer Institute

Dr. Kotin informed us that the National Cancer Institute, as the appropriate division of the Department of H.E.W., was prepared to undertake research with a view to eliminating the long term activity of cigarette smoke. But he added that -

1. N.C.I. would not be rushed into early action. They would want time, for example, first to consider the recommendations for future research made by sub-committee that had recently visited Europe, including TRC.
2. Their programme would form part of a comprehensive programme by H.E.W. that would include anti-smoking education as well as research.
3. It would be a long term multi-million dollar programme.
4. Funds would have to be identified (so that other Government Departments could not appropriate any of them).
5. State laboratories would have no place in the programme

Until the time is ripe for this programme to go forward, Dr. Kotin is remaining aloof as far as possible from research in the field of long term activity of cigarette smoke. Indeed, he recently called off some projects planned in this field. The National Cancer Institute does not

view with favour the incurrence of the Department of Agriculture in the field of smoking and health research but this is something that the N.C.I. has to live and co-operate with for the time being.

Congress and the University of Kentucky

A recent report (Report No. 1387) by the Committee on Appropriations (Dept. of Agriculture Sub-Committee) of the House of Representatives contained the following paragraphs:

"The Tobacco Problem"

"Tobacco has been a major agricultural commodity through the years. It is produced in 21 States and is the fifth largest income-producing crop to farmers. It is an \$8 billion industry with growers receiving about \$1.2 billion per year. It pays some \$3.3 billion each year in taxes to our Federal, State and local governments.

Due to the implications of the Surgeon General's report, it is essential that we find the answers through research. In this effort we must have the co-operation of the Department of Agriculture, the Department of Health, Education, and Welfare, and private industry, to determine the properties of tobacco which may affect the health of smokers and to develop a means to eliminate any harmful substances found.

It is extremely important that this research begin immediately. The answers to this problem must be found just as rapidly as possible to prevent economic ruin for growers, substantial losses of revenue to the federal and local governments, and possible injury to the public health.

The Committee hearings disclose that the University of Kentucky has a Tobacco Research Laboratory built with \$4.5 million of State funds which is now available and has been offered to the Department of Agriculture by University and State officials for such research. It is located adjacent to the New Medical Research Center at this University and is ideally situated for a co-ordinated agricultural-medical research problem of this nature. Accordingly, the Committee has included \$1,500,000 of Section 32 funds in the bill for 1965 to enable the Department to immediately initiate tobacco research at this location in collaboration with the State University, State agencies, the Department of Health, Education and Welfare and other public and private organizations which can contribute to a concerted approach to this urgent research need."

The background to this is that Dr. Oswald, President of the University of Kentucky, Lexington, with the co-operation of the Governor of Kentucky and other politicians, saw an opportunity of obtaining some Federal funds.

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*at University*

The Department of Agriculture (Dean: Dr. W. Seay) had built a laboratory which was carrying out research into corn and other crops grown in Kentucky. It was planned to devote some space to tobacco but a start had not yet been made. Following the Surgeon General's Report, Dr. Oswald has offered to pledge the resources of the University to the smoking and health problem, including the facilities of the chemistry and physics departments and of a new \$12½ million Medical Centre, if Congress would foot the bill. The research would cover everything from seed bed to smoke, including product research, and some model biological assay systems have already been prepared by the Medical Faculty towards a solution of the problem.

In the meantime, a fight for control of the research programme of the laboratory and of any Federal money has developed:

- HEGGE STAT**
1. A section of the Dept. of Agriculture, with ~~Hagganstat~~ Hagganstat, Stedman and Moore, is trying to control the programme of the Lexington laboratory.
  2. A group from the American Cancer Society - Davies, Auerbach, Nelson - are around this particular honey pot, trying to influence its affairs, though in what precise direction is not clear.
  3. The Dept. of H.E.W., instructed by the Appropriations Committee to co-operate, has nominated Dr. Kotin, who is reluctantly obeying and hoping that the whole Kentucky project will fold up. As reported above, he believes that smoking and health research is a matter for H.E.W. alone.
  4. Representatives of the cigarette manufacturers attended an organising meeting, with their lawyers, on 6-7th October, to offer Dr. Oswald their co-operation if the research was to be limited to the question whether smoking caused lung cancer.
  5. Dr. Hockett of CTR was present at this meeting, to advise on the programme on the express invitation of the Governor of Kentucky, but Dr. Little intends that CTR should not be involved in the Kentucky project.
  6. Dr. Oswald intends that he and he alone will control the research programme.

*How true*

The odds are that, after much ado, the so-called Tobacco Research Laboratory at the University of Kentucky will achieve very little in the field of research into the long term activity of cigarette smoke.

#### Other U.S. Research

We know that Dr. Wynder is aiming to produce a cigarette whose smoke has minimum long term activity, though that is not how he would describe his objective. His research, however, is being carried out without regard to the appeal of the resulting product to smokers.

There is some research being carried out in U.S.A. on fundamental problems in the field of smoking and lung cancer, but nothing as far as we know, directly applicable to our problems.

#### Conclusion

The main conclusion that we draw is that the U.S. research will not achieve very much at least in the near future, in meeting the objective of the House Appropriations Committee "to determine the properties of tobacco which may affect the health of smokers and to develop means to eliminate any harmful substances found." On the other hand, this is a very powerful Committee. It was recently written by Mr. Frank Smith, in his autobiography, "Congressman from Mississippi" -

"The Appropriations Sub-committees of both Houses are good examples of subcommittee power. The reports of the sub-committees are often more important than statutory law, because the Agencies whose funds they appropriate often operate with those reports as a literal bible. The reports are not subject to amendment on the floor, and they frequently do not reflect majority opinion."

The objective expressed in the Appropriations Committee report quoted above reflects the interest of hundreds of thousands of tobacco growers, and the Senators and Representatives representing these interests in Congress are unlikely to be deflected in the long run from their research objective by law suits facing the tobacco manufacturers. If this objective holds, then the National Cancer Institute may come to have its way.

*Lung cancer task force.*

POOLING OF RESEARCH INFORMATION

Mr. Walker said that if A.T.Co. scientists found the cause of cancer, they would make it available to the other manufacturers: indeed, legal cases relating to other industries suggested that they could not keep information of this nature for themselves. But A.T. Co. were strongly opposed to pooling any discovery below this level.

Mr. Bowman Gray said that <sup>Research</sup> P.J.R. would pool the information if they found something in cigarette smoke that really caused cancer. Mr. Finch said that at a meeting of the manufacturers, Mr. Gray had made a remark to the effect that his Company would pool information of the type that would end the industry's problems as far as cancer was concerned, but there had not been any real response by the others. Mr. Finch did not think that information would come about in this way.

Mr. Cullman told us that Philip Morris would be willing to exchange "breakthrough information" with the other U.S. manufacturers, but not information about "normal product development". Mr. Cullman added that he could not say when breakthrough information would be pooled - e.g. they might want to use it first themselves in their markets including the U.K.

Mr. Cramer said that Lorillard was willing to exchange information about "important" developments with other U.S. manufacturers.

Mr. Harrington said that L. & M. had already shown willingness to pool information and referred to the paper by Kensler and Battista (New England Journal of Medicine) disclosing the effects of Lark cigarettes. (The real purpose of this paper, however, had been to show that scientists supported the charcoal filter used in Lark). Mr. Harrington added that whether L. & M. would disclose more detail, and if so, whether free or for a royalty, was uncertain.

Mr. Finch said that even if the A.N.A. required information from all the manufacturers for research purposes, they would probably supply it through an intermediary.

This means in effect that U.S. cigarette manufacturers are not going to pool research results, and that these will be published in the main only when there is expected to be a trading advantage in doing so - e.g. by showing that there is medical and scientific support for the new development. This is disappointing following the start that Mr. Bowman Gray seemed to be initiating when P.J.R. visited him last year.

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ADVERTISINGCigarette Advertising Code

Governor Robert B. Meyner, administrator of the Cigarette Advertising Code and already known as "the Tar Czar," has not yet decided when he will bring the Code into operation. The industry's expectation is 1st January.

Governor Meyner gave us the impression that he would administer the code firmly but fairly and in a consultative rather dictatorial manner. The main points that emerged in our discussion of the Code with him were:

1. The key word in the Code, Gov. Meyner emphasised, is "representation" - which we took to mean, all that can be said to be represented or implied by the advertisement.
2. Gov. Meyner gave us the impression that he might take a very much stronger line about Carlton's tar and nicotine figures and about Reynolds' health claims disclaimer on Tempo than these two companies expected. Meyner was critical of the disclaimer on the Tempo packet and he said that a disclaimer could in fact be a claim. Whether or not a disclaimer was required was up to him to decide, and he could also decide what the wording of any disclaimer should be.
3. Gov. Meyner was critical of the U.S. manufacturers for refusing to accept that smoking contributed to disease. He himself is a cigarette smoker but said that he held no brief for the industry, and added "I've got a contract." The industry may therefore receive some surprises.

We had a very friendly reception from Gov. Meyner, who asked many questions about the situation in the U.K. We agreed to keep in touch with each other.

Advertising Expenditure

The latest Maxwell report (Printers Ink., Sept. 11th, 1964) estimated expenditure on cigarette advertising as follows for the first 6 months of 1964, with the percentage changes compared with the first 6 months of 1963:

	<u>General &amp; Farm magazines</u>		<u>Spot T.V.</u>		<u>Network T.V.</u>	
	£ Millions; % change					
A.T. Co.	2.8	-30%	4.0	+125%	8.6	+44%
B & W	1.2	+31%	2.5	+ 63%	7.0	+25%
L & M	3.1	+ 3%	3.0	+ 36%	6.1	+ 8%
Lor.	3.2	- 6%	3.1	- 48%	6.8	+ 4%
PM	1.2	-33%	1.6	-46%	6.6	+26%
RJR	5.0	+14%	4.2	+31%	10.4	-14%

In Spot T.V. billings for the second quarter of 1964, Reynolds was 9th highest spender in the U.S. and A.T. Co. 15th.

Reynolds is estimated to be currently spending on Tempo (all forms of advertising) at a rate of about \$25 million per year.

GFT was informed by the Advertising Manager of Hearst Magazine (Mr. R.K. Tilt) that Mr. Walker had discontinued some advertising, particularly in magazines, for Pall Mall. This had presumably been to offset the expense of launching Carlton. Sales of Pall Mall had dropped and Carlton had not taken on. Mr. Walker was now trying to get back Pall Mall's franchises for the best space, but these had already been sold to A.T. Co's competitors.

Advertising Themes on T.V., end-Sept. 1964

<u>Camel</u>	"Camel time is pleasure time for you"
<u>Lark</u>	"The charcoal filter cigarette with the natural taste of tobacco. Filtered through charcoal granules fortified for flavour."
<u>L &amp; M</u>	"Are you for a filter and a rich flavour too? - a Logical Move is L & M"
<u>Lucky Strike</u>	"With people who are big on taste nothing measures up to a Lucky."
<u>Marlboro</u>	"The flavour brand. Get smoothness through the selective filter."
<u>Multifilter</u>	"Uses the rare coconut charcoal filter exclusively."

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Old Gold

"Old Gold spun filters - spins the smoke - most taste in a filter cigarette."

Pall Mall

"Be particular. Buy famous Pall Mall."

Salem

"Salem softness freshens your taste. Salem special paper breathes in fresh air with every puff."

Tempo

"Far more charcoal. First bonded charcoal filter. No health claim is made for Tempo - only the promise of easier draw, smoother taste."

Viceroy

"The Deep-Weave Filter for the taste that's right."

Life Assurance

In an advertisement, the State Mutual Life Assurance Co. of America, Worcester, Mass., offered lower insurance rates to men and women who "haven't smoked a cigarette in a year (cigars and pipes are quite permissible)."

VII

- THE LEVEL OF THE CIGARETTE TRADE IN U.S.A.

The latest Maxwell report estimated the shares of the U.S. cigarette trade for the first half of 1964 as follows:

<u>Company</u>	<u>%</u>
R.J. Reynolds	34
American Tobacco Co.	25
Brown & Williamson	11
Liggett & Myers	10
P. Lorillard	10
Philip Morris	10
U.S. Tobacco Co.	} 0.3
Larus & Bro.	
Stephano Bros.	
	100

According to the Maxwell report, B & W were the only firm who had increased their share of the market in the last six months. Kool containing more menthol than any other cigarette, and Belair, a light menthol cigarette by B & W, were the fastest-growing cigarettes on the market. On the other hand, Dr. Wakeham (PM) told us that Philip Morris had recently crept into fourth place and were "going after" B & W.

All manufacturers agreed that the level of the cigarette trade was much higher at this time, about nine months after publication of the SGAC report, than they had expected. It was estimated generally that sales were currently about 2% down compared with the same period of 1964 (or about 5% down compared with forecasts on the basis of population increase) and that sales would be about back to pre-SGAC report level by the end of the year.

The trade was currently divided between the different types of cigarettes as follows:

Filters - non-menthol, non-charcoal	%
	38
" - menthol	17
" - charcoal	7
	62
Non-filter	38
	100

The main feature was the increase in the charcoal filters' share of the trade from 2-3% pre-SGAC report to 7% (and 10% in Los Angeles, but this is a freak area). Charcoal filters had now levelled off, if not started to decline. The leader was still Tarcyton, with 3 1/4% of the cigarette market, though it had never previously been considered as a charcoal filter cigarette and its charcoal had little effect on the smoke. Lark had about 2% of the market and its current sales, at a rate equivalent to 8 billion a year, had passed the minimum rate of 5 billion a year (=1% of the market) which had to be reached if a brand was going to be successfully established. Apart from these two, Multifilter (PM) was considered by several people in the industry to be the most pleasant charcoal filter cigarette to smoke. Tempo, whose sales are lower than those of any brand in the news except Carlton, has no added flavour and is said to be bitter after the first puff. One smoker said that smoking Tempo is the same as giving up smoking. The Lucky Strike filter is being test-marketed in two forms - a regular filter and a charcoal filter ("two way charcoal filter"). Both forms have almost identical dark red packets, with a ~~smaller~~ <sup>smaller</sup> circle in the centre than the regular Lucky Strike packet.

Almost every Company has its problems. Although Reynolds have one-third of the trade, they are mainly dependent on Winston, their largest brand. Their second largest brand, Camel, declines with the decline of non-filter cigarettes. Their last three introductions have been or look like being flops. These include two attempts to challenge Pall Mall (A.T. Co.), which is in the king-size non-filter market and is the largest seller in U.S.A. The failures were Cavalier and, more recently, Brandon. The third failure is likely to be Tempo, despite all its advertising.

American Tobacco Co. have no good standard filter-tipped cigarette. Hit Parade is still remembered as an expensive failure; Carlton is hardly selling. Their recent introduction, Half and Half, called after one of their pipe tobaccos, is an attempt to exploit the finding by the SGAC that pipe smokers have lower lung cancer rates (without saying so). The distribution pipe-line has now been filled but despite heavy advertising, sales of Half and Half have levelled off at a low level.

Philip Morris, if they are now in fourth place, owe their improvement to Marlboro, greatly helped by the flip-top box.

Thanks to Lark, L & M sales are about what they were a year ago, but the sales of Lark have now levelled off.

Lorillard have been worst hit by the public reaction to the SGAC report. Kent forms about 70% of their trade, but their customers are largely nervous smokers who switched to Kent on the basis of the low tar and nicotine figures published in the Readers' Digest. As a result of their nervousness about smoking and health, many Kent smokers have now given up cigarette smoking and many others have switched to other brands

especially Lark. Lorillard's other main brands - Newport and Old Gold filters - have declined in about equal proportion. Lorillard profits for the second quarter of 1964 were down by about 50% - not an easy time for their relatively new President.

There was more anti-smoking propaganda in the Schools but no sign of it being effective. The percentage of smokers in the 16-24 age group had not declined.

VIII

THE COUNCIL FOR TOBACCO RESEARCH - U.S.A.

C.T.R. continues, as before, to confine its research to the diseases with which smoking is statistically associated but not to support research into the product. Pharmacological research into the effects of nicotine is about as close as the research comes to a cigarette.

The Scientific Advisory Board of CTR continue to meet and decide on applications for grants to carry out research on what appeared to us to be projects of no more than remote relevance to current problems. (Members of the S.A.B. receive an honorarium and expenses). Applicants for grants are now asking for larger sums of money for longer periods, perhaps as a result of the increasing research funds available elsewhere, and the manufacturers are trying to limit CTR's expenditure.

There was either no interest in or indeed mention of CTR research amongst the Companies or active criticism of varying degrees. Although L & M have now joined CTR, this was solely in order to present a united front, and L & M's scientific staff are as highly critical of CTR's research policy as ever.

We were told that CTR was now prepared to try and stimulate research in desired fields, but this policy had not yet been widely pursued.

The recent Annual Report by Dr. Little was severely criticised by the U.S. Surgeon General at a Washington press conference. Dr. Kotin was also highly critical of it and talks privately of resigning from the S.A.B. if another report of the same nature is going to be published next year. Mr. Hoyt was very pleased with the press coverage, frequently with misleading headlines, that the report received.

While CTR is supposed to be relegated to a back room role, the lawyers' Policy Committee recently decided that Dr. Little should act on behalf of the industry in dealing with requests from the U.S. Dept. of Agriculture (Dr. Tso) for information about benzpyrene, etc., in cigarette smoke.

Dr. Little continues to be critical and rather bitter about TRC's skin painting experiments at Harrogate - "a bigger Wynder" is his typical comment. In fairness to Dr. Little, however, it has to be remembered that he has long been engaged in intensive in-fighting with Dr. Wynder and his skin painting experiments, on what he feels are genuine scientific grounds, so that he must regard the Harrogate experiments as a letting-down of his side. This of course, has not prevented C.T.R. commissioning Bio-Research Inc. to do mouse skin painting experiments.

IX

TOBACCO INSTITUTE

There is a need for a voice to speak on behalf of the industry on all matters - not merely those of health - and T.I. is that voice, but its activities are minimal. The impression that we obtained is that T.I. is largely a voice at the end of a telephone line from the lawyers, and speaks only when and as directed.

Mr. Allen recently gave evidence before a House Appropriations Sub-Committee. Surgeon General Terry had asked for a supplemental budget of \$1.9 million, presumed to be for anti-smoking activities, but the only detail available was that it included \$150,000 for a survey based on a 64 page questionnaire (drawn up by Dr. Horn at the National Health Institute) with "loaded questions". Mr. Allen opposed the supplemental budget on the grounds of insufficient information about its purpose and because other Departments, which had originally been described as going to participate in Phase II, had not been brought in. (The original Phase II idea is now dead.) There was also strong opposition by tobacco State Congressmen and the \$1.9 million was deleted. This, however, merely means postponement, as Dr. Terry will doubtless include the projects in his departmental budget for the fiscal year from 1st July, 1965. Mr. Allen said that this particular episode had led to more criticism of the tobacco industry and had not improved the Institute's public image; indeed, he was uncertain whether T.I. should have acted at all in this matter.

Mr. Allen is against the policy of the industry commenting on the research work of outside scientists.

X.

PUBLIC RELATIONS POLICY

There is a general feeling that the policy since the SGAC report of not making public statements, unless these are really necessary, has proved much more satisfactory than the previous policy. As Mr. Cramer said, TIRC had spoken far too much in the past, and this had merely stimulated adverse medical comment. Mr. Cullman also thought that TIRC's past public relations policy had done the industry great harm. There is no real regret that CTR did not publish a reply to the SGAC report, except by Mr. Walker. Mr. Walker wants the industry to take paid press space to advertise "the industry's case": he has to be repeatedly dissuaded by strong pressure from the other manufacturers.

In place of public statements on behalf of CTR, there has been an increase in the lobbying of members of Congress - a well established American principle. Despite strenuous efforts, we could not meet T.I.'s chief lobbyist, Senator Earle C. Clements. Nor were we able to meet Mr. Abe Fortis, the other lobbyist. Both were travelling in areas which we could not fit in with our itinerary. Senator Clements is really close to President Johnson; he was Deputy Leader of the Democratic party in the Senate when Pres. Johnson was Leader, and he is Chairman of the Kentucky delegation to the Democratic Convention for nominating the Democratic candidate for President. Nevertheless, Johnson would not hesitate to drop Clements if this ever became politically expedient. The lobbyists are opposed to campaigns by Hill and Knowlton on Congressional matters affecting the industry and want action left to them.

It is, of course, not difficult to reach or entertain Senators and Representatives from the tobacco States, and, as we have reported, we had the pleasure of meeting Sen. Cooper of Kentucky. It is <sup>considered</sup> important that Congress should not feel the industry is recalcitrant.

The direction of PR policy is essentially in the hands of the lawyers' Policy Committee. The lawyers are anxious to provide House and Senate Committees with witnesses favourable to their case, and generally to encourage statements by scientists attacking the SGAC report and its supporting evidence. Mr. Jacob is encouraging Dr. Sartori of Milan to hold a Conference in summer 1965 at which such statements can be made. Mr. Heaman (B & W) said that he did not quarrel with TRC's decision not to comment on causation, but this was not the right policy for U.S.A.

Hill and Knowlton have been sidetracked; they have very little to do and know little of what is going on. They have not seen a President of a Company for a long time and are now responsible to the Policy Committee of the lawyers.

AMERICAN MEDICAL ASSOCIATION

Research by the American Medical Association is being dealt with in more detail in our report on research. The policy adopted by the staff of the A.M.A. and the Committee for Research on Tobacco and Health, set up by the A.M.A. to operate the Research Fund to which the U.S. Cigarette manufacturers are contributing \$10 million, is as follows:

1. The A.M.A. has no intention of itself conducting research. It is building a Bio-medical Laboratory but no direct research will be done on tobacco.
2. The A.M.A. intends to act only as a fund-holding and disbursing centre. It aims to allocate funds to approved grantees, arrange research on a contract basis when this is necessary to get projects carried out that it wishes to see done, and will try to get more good workers to carry out research in the field of smoking and health.
3. The Committee for Research on Tobacco and Health has no intention of carrying out research in fields that it believes the industry should ~~do research~~ <sup>cover</sup>. This applies to means of eliminating harmful substances from cigarette smoke, and it may mean that support of research designed to identify harmful constituents may not be particularly comprehensive.
4. The A.M.A. will support research workers located anywhere, including the U.K. They have agreed to inform T.R.C. of any research work they support in the U.K., after their Committee has acted. They saw no reason why a research worker should not draw his funds from several sources.

APPENDIX I

LIST OF PEOPLE WITH WHOM WE HAD DISCUSSIONS

R. J. REYNOLDS

Mr. Bowman Gray	Chairman of the Board
Mr. Alex. Galloway	President
Mr. Henry H. Ramm	Counsel
Dr. Willard H. Bright	Director of Research
Dr. Murray Sincus	Associate Director of Research

AMERICAN TOBACCO CO.

Mr. Barney Walker	President
Mr. Cy. Hetsko	Counsel
Mr. R. K. Heimann	Vice-President, Sales & Marketing

BROWN & WILLIAMSON TOBACCO CO.

Mr. Ed. P. Finch	President
Mr. Addison Yeaman	Vice-President and General Counsel
Mr. T. M. Wade	Vice-President; Research & Development
Dr. R. B. Griffith	Director of Research

PHILIP MORRIS

Mr. Joe Cullman III	President
Mr. George Weissman	President, Philip Morris International
Mr. Jim Bowling	Vice President
Dr. Helmut H. Wakeham	Vice-President and Director of Research and Development
Dr. Baveley	Research Center
Mr. Harvey M. Wilkinson	Director (President of State Planters Bank, Richmond)

LIGGETT & MYERS

Mr. Milton Harrington	President
Mr. John Old	Vice-President & Asst. to President
Mr. Wm. Blunt	Ex-President
Dr. Fred R. Darkis	Scientific Consultant
Mr. Wm. W. Bates	Director of Research
Mr. Max Sanfield	i/c, Research Department
Mr. Jim Moore	i/c analytical work