

FEDERAL TRADE COMMISSION
WASHINGTON, D. C. 20580

PAUL RAND DIXON
CHAIRMAN

MAY 13 1965

Honorable Warren G. Magnuson
Chairman, Committee on Commerce
United States Senate
Washington, D. C.

Dear Mr. Chairman:

This is in response to your letter of May 8, 1965, requesting the Commission's views on the amendments made by the Committee on Commerce to S. 559, 89th Congress, 1st Session, a bill "To regulate the labeling of cigarettes, and for other purposes".

As originally introduced, S. 559 contained a provision requiring the inclusion of a statement of the health hazards of cigarette smoking in all cigarette labeling but contained no provision with respect to the regulation of cigarette advertising. In its letter to you of March 23, 1965, the Commission expressed the view that S. 559 was an "effective remedial measure" which, "if enacted, would contribute to the protection of the consuming public against unfair and deceptive cigarette labeling and advertising", and urged "that it is desirable and in the public interest for Congress to enact such legislation since this would enable remedial action to become effective immediately." The letter also stated that "cigarette advertising, not labeling, has been the principal sales method employed in the marketing of cigarettes to the American public. We feel, therefore, that the public interest will be served if the Commission is left free by the Congress to take action, within its existing authority, to prevent unfair or deceptive advertising acts or practices in commerce as may be necessary and appropriate in the public interest."

The following are the principal amendments to S. 559 approved by the Committee on Commerce, and the Commission's comments thereon.

knowledge as to what specific factors create health hazards in cigarettes. The Surgeon General's Advisory Committee concluded that "the amount of known carcinogens in cigarette smoke is too small to account for their carcinogenic activity." (Smoking and Health, page 146) Dr. Luther L. Terry, Surgeon General, Public Health Service, Department of Health, Education, and Welfare, in his appearance before the Tobacco Subcommittee, House Committee on Agriculture, on January 29, 1964, stated:

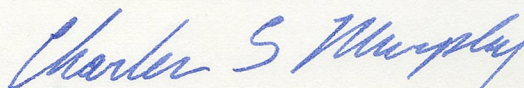
"We need to know much more about the substances in tobacco smoke which produce the health hazards. Until we know more in this area, we will be handicapped in our efforts to remove the hazard. It is difficult to design a method of removing something if you don't know what it is. For example, the known substances in tobacco smoke can account for only a small portion of its cancer producing power. We have no real clues as to what it is in tobacco smoke that influences coronary artery disease--if indeed it does."

In view of the uncertainties in the present state of knowledge, that part of the proposed labeling requirements which relates to tar and nicotine would not safeguard consumers. On the contrary, consumers could be misled.

The U.S. Department of Agriculture has stepped up its research to identify any constituents of tobacco smoke responsible for health problems and to find ways of reducing or eliminating them. This work is being coordinated with the Department of Health, Education, and Welfare. Until there is more explicit identification and a more complete understanding of the principal constituents which create health problems, legislation requiring the labeling for such constituents should not be enacted.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,



Charles S. Murphy
Acting Secretary

improvements in cigarette advertising. While we think that a health warning required by Congress and effective immediately with respect to cigarette labeling may have a salutary effect in eliminating unfairness and deception in the marketing of cigarettes, we adhere to the view that the efficacy of such a remedy and the need for any additional action can be determined within six months or one year after the labeling requirement becomes effective.

3. S. 559 has also been amended to include a new provision that the Federal Trade Commission, "with the cooperation of the Department of Health, Education, and Welfare, shall transmit a report to the Congress not later than 18 months after the effective date of this Act, and annually thereafter, concerning (1) the effectiveness of cigarette labeling, (2) current information on the health consequences of smoking, (3) current practices and methods of cigarette advertising, and promotion, and (4) such recommendations for legislation as it may deem appropriate." The Commission supports this amendment to S. 559, which would require it to maintain scrutiny of cigarette advertising and promotion and to study the effectiveness of the warning statement in labeling required by the Act, with a view toward advising the Congress as to what additional remedial measures with respect to the marketing of cigarettes may be appropriate and necessary for the protection of the public.

4. Finally, S. 559 provides that "Except as is otherwise provided [in the Act] * * * nothing in this Act shall be construed to limit, restrict, expand, or otherwise affect, the authority of the Federal Trade Commission with respect to unfair or deceptive acts or practices in the advertising of cigarettes." This provision expressly leaves undisturbed the Commission's authority under present law to stop such unfair or deceptive acts and practices in the advertising of cigarettes as may occur during the three-year period in which the Commission is precluded from affirmatively requiring the inclusion of a statement relating to smoking and health in cigarette advertising.

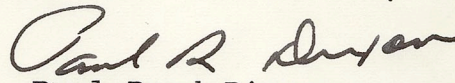
The Commission's Trade Regulation Rule lays down a broad affirmative requirement that a warning of the health

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hazards of smoking must be included in all cigarette advertisements, regardless of the nature and content of the advertisement. Even a bare institutional ad, stating only the name of the brand advertised, would be required under the Rule to contain a health warning. S. 559, if enacted in its amended form, would preclude, during the three-year period, an across-the-board affirmative requirement applicable to any and all cigarette advertisements. But the bill would allow the Commission to apply its existing procedures and remedial authority to prohibit representations in cigarette advertisements which, under the standards of present law, are found to be unfair or deceptive.

By direction of the Commission.


Paul Rand Dixon,
Chairman.