

NLWJC - KAGAN

EMAILS CREATED

ARMS - BOX 005 - FOLDER 003

[2/24/1998 - 3/8/1998]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:24-FEB-1998 14:38:33.00

SUBJECT: Voice mail for job seekers

TO: Julie A. Fernandes (CN=Julie A. Fernandes/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

sounds good

----- Forwarded by Elena Kagan/OPD/EOP on 02/24/98 02:37
PM -----

Julie A. Fernandes
02/24/98 12:02:17 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
cc:
Subject: Voice mail for job seekers

Bruce/Elena:

FYI. I have had a preliminary discussion with Tom Kalil about looking into the idea of providing voice mail services to those seeking work (either welfare recipients or a larger group of poor job-seekers without phones). On Wed. and Thurs. of this week, there is a conference (unsure who is the sponsor) on telecommunications access for the poor. According to Tom, the VP will attend part of it. Once that is over, I will try to follow up with them on ideas/strategies for this. Also, there is a group in Seattle that is working on a project to provide voice mail to the homeless who may be helpful in thinking about this.

Julie

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:24-FEB-1998 14:36:47.00

SUBJECT: Voice mail for job seekers

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP [OPD])

READ:UNKNOWN

TEXT:

I'm glad she did, but how did she end up with this?

----- Forwarded by Elena Kagan/OPD/EOP on 02/24/98 02:36 PM -----

Julie A. Fernandes
02/24/98 12:02:17 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP

cc:

Subject: Voice mail for job seekers

Bruce/Elena:

FYI. I have had a preliminary discussion with Tom Kalil about looking into the idea of providing voice mail services to those seeking work (either welfare recipients or a larger group of poor job-seekers without phones). On Wed. and Thurs. of this week, there is a conference (unsure who is the sponsor) on telecommunications access for the poor. According to Tom, the VP will attend part of it. Once that is over, I will try to follow up with them on ideas/strategies for this. Also, there is a group in Seattle that is working on a project to provide voice mail to the homeless who may be helpful in thinking about this.

Julie

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:24-FEB-1998 14:42:40.00

SUBJECT: Shalala's comment re: McCain

TO: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

TEXT:

ignore

----- Forwarded by Elena Kagan/OPD/EOP on 02/24/98 02:42
PM -----

Cynthia A. Rice
02/24/98 02:37:10 PM
Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Thomas L.
Freedman/OPD/EOP, Mary L. Smith/OPD/EOP
CC:
Subject: Shalala's comment re: McCain

I assume Shalala misspoke or was misinformed when she said today that "we don't want to give McCain a list of 97 answers." Do you think I need to call over there and check? Clearly her staff have already prepared suggested answers for us.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:24-FEB-1998 14:40:35.00

SUBJECT: Re: Gil Gallegos

TO: Karen Tramontano (CN=Karen Tramontano/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

i"m viewless. is this just on hold right now?

----- Forwarded by Elena Kagan/OPD/EOP on 02/24/98 02:40
PM -----

Karen Tramontano
02/24/98 01:06:20 PM
Record Type: Record

To: Carole A. Parmelee/WHO/EOP
cc: Elena Kagan/OPD/EOP, Christa Robinson/OPD/EOP, Michelle Crisci/WHO/EOP
Subject: Re: Gil Gallegos

I don't think a meeting is a good idea -- Erskine has nothing to tell him
-- I am going to talk w/ Elena to get her views. thanks

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:25-FEB-1998 15:47:49.00

SUBJECT: Jeffords tobacco bill

TO: Jerold R. Mande (CN=Jerold R. Mande/OU=OSTP/O=EOP @ EOP [OSTP])
READ:UNKNOWN

TEXT:

for those of us who are computer illiterate, could you get me a copy of the jeffords bill? thanks.

----- Forwarded by Elena Kagan/OPD/EOP on 02/25/98 03:47 PM -----

Jerold R. Mande

02/18/98 04:18:17 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
cc:
Subject: Jeffords tobacco bill

Senators Collins and Enzi cosponsored the Jeffords bill. You can call up the text of the Jeffords and Conrad bills at Congress's web site: <http://thomas.loc.gov> The Jeffords bill is S. 1648; Conrad is S. 1638. You can find the bill text by starting at the Thomas home page, and clicking under "Bills" either "Bill Summary and Status" or "Bill Text" for the 105th Congress. From there it is self explanatory. Happy hunting.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 25-FEB-1998 15:34:02.00

SUBJECT: Re: Tobacco Communications Agenda

TO: Thomas L. Freedman (CN=Thomas L. Freedman/OU=OPD/O=EOP @ EOP [OPD])

READ: UNKNOWN

TEXT:

i disagree pretty strongly.

----- Forwarded by Elena Kagan/OPD/EOP on 02/25/98 03:33 PM -----

Thomas L. Freedman

02/25/98 02:58:20 PM

Record Type: Record

To: Elena Kagan/OPD/EOP, Bruce N. Reed/OPD/EOP, Cynthia A. Rice/OPD/EOP

cc: Mary L. Smith/OPD/EOP

Subject: Re: Tobacco Communications Agenda

We can reconfigure the theme. I'd argue for keeping second-hand smoke in our list because it is the largest single bump in increasing support for legislation -- above youth smoking, advertising, and more money for research and anti-cessation programs. Of course, they are all popular. But seems very popular and is the only one that appeals directly to non-smokers w/o children.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:25-FEB-1998 19:10:59.00

SUBJECT: Not to belabor McCain..but did I add the new caveats in the right places in the

TO: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:
looks great

----- Forwarded by Elena Kagan/OPD/EOP on 02/25/98 07:11
PM -----

Cynthia A. Rice
02/25/98 07:03:57 PM
Record Type: Record

To: Elena Kagan/OPD/EOP
cc:
Subject: Not to belabor McCain..but did I add the new caveats in the right
places in the Q&A?

Here's the Q&A -- look at this

Here's the letter fyi

===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:
Unable to convert ARMS_EXT:[ATTACH.D1]MAIL46770855Y.026 to ASCII,
The following is a HEX DUMP:

FF575043DA0D0000010A02010000000205000000021F800000002000035EDFE26E7092DFAF5C642
D833C5E389425DD98E84A56D719AEA4A66C5F8A7458B7FF677E24DFF4FB1CB940B466BBB82C39C
934BEDEC4FB6BB41C870AC59402EDB1501FA6A83A9C8A644FF792BE7C17C182D61CD437001556C
9F7BF7CA8F9DD3DF84ECE22B78369AF0BB2CAA67059D081B2138D574CED58D68DE5BCE1FC7FC1C
BE38A032184A5D54317C48D7B0F3827EC15B6468073AA90CE9914A33D88E0DA0FCC299C3291F05
134D76D72D7BA2D47E4A59C9A2661ADD77332ABD8811125F96D422A7FAFF03D51A437310FBF173
D3383AB1ED0BC13B52F7CDF26D1F4D2FB9FD55FD26EA825AC00506A5E1B8CFB502A475432C4AF5
3CF0D631697F8F4B7884B95CE4FDCBCE956FB6C57EC661CBF17DB11BE458D2E082370FA4DDFEED
DAF39CDC845C36CF260A46CBA8F1B2A2F204811E97E8AF83B28920BD1CB92EAA4DEECF381E3713
6E24E230386658BB274E876E0B05D9C62BF9E1A1FC11388084F6E80A2331BA2C137FBA1A1D6449
8089C6E6C443A3A400792D99B785146D4A969E82F901F7FF2C5E0BD543326FF2B7F4BA6D2C71F9
327382DE2FB7CB0831C465321E0CF4558E1DDA4BB6B255C6C40FACD7CC82D8D2678A4424319A7D
3E4570C74C523D7D342CCA11779511349BA6E2957CC0558F149808B04D629BC68C3DFF6652932E
6B73428D580200220000000000000000000000000823010000000B010000DC030000005531000200
4E000000E704000009250100000006000000350500000B3004000000280000003B050000081106
000000C6000000630500000B30040000006500000029060000087701000000400000008E060000
08340100000014000000CE060000080201000000F000000E206000008100100000002000000F1
060000096D0100000017000000F306000008113C000000C60000000A0700000B304C0000006500
0000D0070000081105000000C6000000350800000B300400000065000000FB0800000608010000
002D00000060090000080501000000080000008D09000008050100000008000000950900000055
0A0001004E0000009D0900000B30010000006C000000EB0900000B300100000044000000570A00
000208010000006E0000009B0A000000550100000040000000090B00000055010000004E000000

I. BAN ON OUTDOOR ADVERTISING, INCLUDING IN STADIA AND ARENAS

1. What data does the Administration have to substantiate that a ban on outdoor advertising, including stadia and arenas, will reduce smoking and, in particular, youth smoking?

The FDA tobacco rule prohibits outdoor advertising within 1,000 feet of public playgrounds and elementary and secondary schools. All other outdoor advertising is restricted to black text on a white background, devoid of color and imagery. FDA's regulations are based on the agency's finding that children and adolescents spend a great deal of time in areas around schools and playgrounds and these areas, therefore, should be free of tobacco product advertising. All other outdoor advertising should be restricted to text information only, which generally is not appealing to young people. (See response to question II, below.) Data supporting this conclusion are detailed at 61 Fed. Reg. 44501-08.

2. To what extent do you believe such restrictions can be expected to reduce smoking?

FDA's advertising restrictions are based on quantitative and qualitative studies of cigarette advertising that show that a causal relationship exists between tobacco advertising and tobacco use by young people and that stringent advertising restrictions, when combined with a comprehensive program designed to reduce initiation and use among young people, will have a positive effect on reducing smoking rates and youth tobacco use.

FDA's findings regarding the ability of advertising restrictions to reduce youth tobacco use are summarized at 60 Fed. Reg. 41330-34 and 61 Fed. Reg. 44466-500.

3. **Does the Administration support such a ban. If so, why? If not, why not?**

The Administration supports appropriate restrictions on outdoor advertising, as evidenced by the FDA tobacco rule (21 C.F.R. 897.30(b)) which prohibits outdoor advertising for cigarettes and smokeless tobacco, including billboards, posters, or placards, from being placed within 1,000 feet of the perimeter of any public playground or playground area in a public park, elementary or secondary school. All other outdoor advertising is limited to black text on a white background (21 C.F.R. 897.32(a)).

The prohibition set forth in Section 101(a)(1), however, would prohibit "any form of outdoor tobacco product advertising, including bill boards, posters, or placards." It does not contain the exception for tombstone advertising in certain locations that is included in the FDA regulation. Because that exception ensures that the FDA regulations are appropriately tailored to serve the government's substantial interest in reducing teenage smoking, Section 101(a)(1)'s broader restriction on all outdoor tobacco advertising raises significant constitutional concerns

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that are not presented by the FDA regulations. We believe, however, that ~~voluntary~~ limits of this kind would be of significant value to the public health and the Administration would like to work with you and others to minimize constitutional difficulties.

4. **What specific changes, if any, in the legislative language implementing the ban would the Administration propose? Please provide specifics.**

As discussed above, the Administration's efforts have been focused on supporting the restrictions now codified in FDA regulations. The Administration urges Congress to provide statutory confirmation of the existing authority of the FDA to regulate the outdoor advertising of tobacco products. The resources of the Administration are available to assist the Committee in determining whether further restrictions are constitutional and otherwise appropriate.

II. BAN ON HUMAN FIGURES AND CARTOON FIGURES IN ADVERTISING

1. What data does the Administration have to substantiate that barring the use of human figures and cartoon advertising will reduce smoking, in particular youth smoking?

FDA's regulations restrict advertising, with certain exceptions, to black text on a white background. No color or imagery is permitted. These restrictions encompass a prohibition of human figures and cartoon characters. The restrictions apply to billboards, publications, in-store advertising, and direct mail advertisements. FDA's findings in this area are summarized at 60 Fed. Reg. 41335-36 and 61 Fed. Reg. 44466-68, 44508-13. FDA's *Federal Register* documents contain specific evidence and summaries of studies. See 60 Fed. Reg. 41333-34 and 61 Fed. Reg. 44475-82. A new study, published in the February 18th edition of The Journal of the American Medical Association (JAMA), found that tobacco industry advertising and promotional activities influence teens to start smoking and that 34 percent of teen smoking could be attributed to tobacco promotional activities.

2. To what extent do you believe such restrictions can be counted on to reduce youth smoking?

See response to I.2., above.

3. What entity would you propose to determine what constitutes a human image or cartoon character?

Under the FDA's regulations, the requirement that tobacco advertisements under most circumstances use black text on a white background is enforced by the Food and Drug Administration and the Department of Justice under the provisions of the Food, Drug, Cosmetic

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Act. That Act provides for the imposition of civil penalties, 21 U.S.C. § 333(f), injunctive relief, 21 U.S.C. § 332, and/or criminal prosecution, 21 U.S.C. § 333(a).

4. What penalty do you believe is appropriate and should accrue for a violation of the prohibition on material containing figures determined to be human or cartoon?

Under the FDA's regulations, the requirement that tobacco advertisements under most circumstances use black text on a white background is enforced by the Food and Drug Administration and the Department of Justice under the provisions of the Food, Drug, Cosmetic Act. That Act provides for the imposition of civil penalties, 21 U.S.C. § 333(f), injunctive relief, 21 U.S.C. § 332, and/or criminal prosecution, 21 U.S.C. § 333(a).

5. Does the Administration support this ban? If so, why? If not, why not?

The Administration supports appropriate advertising restrictions, as evidenced by the FDA tobacco rule. The Administration also supports enactment of legislation confirming the existing authority of the FDA to regulate the use of images in the advertising of tobacco products. This regulatory approach would ensure that the FDA would be authorized, based on existing and future research, to develop necessary and appropriately tailored supplements to its current restrictions, if and when such supplements are needed.

Section 101(b) of S. 1414 provides that "[n]o manufacturer, distributor, or retailer may use a human image or a cartoon character or cartoon-type character in its advertising, labeling, or promotional material with respect to a tobacco product." This restriction would go beyond the FDA regulation restricting the use of images in the advertising of tobacco products, which provides that, in general, tobacco advertising must take the form of tombstone advertising but permits images to be used without restriction in an "adult publication," one whose readership is at least 85 percent adult and includes less than two million children. 21 C.F.R. § 897.32(a)(2)(i)-(ii). The provision's broader restriction on the use of images in the advertising of tobacco products would raise significant constitutional concerns that the FDA regulation does not present. We believe a ~~voluntary~~ industrywide ban would be of significant value to the public health and the Administration would like to work with you and others to minimize constitutional difficulties.

6. What specific changes, if any, in the legislative language implementing the ban would the Administration propose? Please provide specifics.

As discussed above, the Administration's efforts have been focused on the restrictions now codified in FDA regulations. The resources of the Administration are available to assist the Committee in discussing how these restrictions will be implemented and the associated penalties, and whether further restrictions are constitutional and otherwise appropriate.

III. BAN ON INTERNET ADVERTISING

1. **Does the Administration support such a ban? If so, why? If not, why not?**
2. **How can and should a ban on Internet advertising of cigarettes be enforced?**
3. **What, if any, concerns does the Administration have regarding the constitutional free speech issues raised by any such ban?**
4. **What specific changes, if any, in the legislative language implementing the ban would the Administration propose?**

In response to III.1 - III.4, the Administration believes that, because there may be more narrowly tailored means of achieving the government's underlying interest in restricting the advertising of tobacco products on the Internet, the categorical prohibition that Section 101(c) of S.1414 would impose raises significant constitutional concerns. See Reno v. ACLU, 117 S.Ct. 2329,2348 (1997) (explaining that compelled tagging schemes are obvious less restrictive alternative to banning Internet transmission of content harmful to minors). While we would applaud a voluntary limit of this kind, we We therefore caution the Congress about adopting such a broad measure at this time and would like to work with you and others to minimize constitutional difficulties.

In order to ensure that the government retains necessary flexibility to regulate the advertising of tobacco products on the Internet, we recommend that the Congress provide express statutory confirmation of the FDA's existing authority to regulate such advertising. This regulatory approach will ensure that any future restrictions are targeted at the right forms of Internet advertising and are fashioned in a manner that is appropriately sensitive to First Amendment concerns. Alternatively, we are prepared to work with Congress to fashion a more narrowly focussed Internet restriction.

IV. BAN ON POINT-OF-SALE ADVERTISING

1. **What data does the Administration have to substantiate that a ban on point-of-sale advertising would reduce smoking, in particular, youth smoking?**

See responses to I.2. and II.1., above, regarding FDA's proposal restricting point-of-sale advertising. In its tobacco rulemaking, FDA found that young people get their information and product imagery from all types of advertising, including at the point of sale. See 61 Fed. Reg. 44509 - 44510. Point-of-sale advertising presents the child with an enticement at the time when purchase is immediately available.

Manufacturers and retailers limited to text- only advertising at point of sale will not be

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prohibited from promoting products at retail. Adult consumers looking for price and product information will be able to find that information even without imagery and colors, which are particularly attractive to children. While text-only advertising can still be effective with adults, it will have less allure and be less appealing to young people. Children and adolescents, who are less willing than adults to process print information in a leisurely setting (such as reading a magazine), will find textual material even less appealing in the few moments spent at the retail counter.

2. Does the Administration support such a ban? If so, why? If not, why not?

The Administration supports appropriate restrictions on point of sale advertising, as evidenced by the FDA tobacco rule. As discussed above, its efforts have been focused on supporting the restrictions now codified in FDA regulations. The resources of the Administration are available to assist the Committee in determining whether further restrictions are constitutional and otherwise appropriate.

3. Is the exemption of point-of-sale advertisement for adult stores and tobacco outlets appropriate?

The Administration's focus has been on preventing children and adolescents from using tobacco products. Restrictions on the advertising that makes these products appealing to young people is a vital component of these efforts. FDA's regulations exempt adult-only locations and publications read primarily by adults because the evidence then available showed that advertising in locations where children are never present, such as adult-only locations, or are rarely exposed, as is the case with publications with an insignificant youth readership, would not have a significant adverse effect on efforts to reduce youth tobacco use.

4. **Is it appropriate to grant companies with greater cigarette market share additional point-of-sale advertising rights? If so, why? If not, why not?**
5. **Does such a privilege constitute a statutorily granted competitive advantage? If so, why? If not, why not?**
6. **Does the Administration support this grant? If so, why? If not, why not?**
7. **What specific changes, if any, in the legislative language implementing the ban would the Administration propose? Please provide specifics.**

Section 101(d) would impose a general prohibition on the use of what is termed "point-of-sale advertising" of tobacco products but would include a significant exception for "adult-only stores and tobacco outlets." Sec. 101(d)(2). The FDA regulations contain restrictions that are targeted at point-of-sale advertising, however, they are not as broad as those set forth in S.1414

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primarily because they do not prohibit tombstone advertising. See 21 C.F.R. §§ 897.32, 897.16. The resources of the Administration are available to assist the Committee in crafting restrictions on point-of-sale advertising that avoid any significant constitutional concerns that the restrictions on point-of-sale advertising in S.1414 would raise.

Section 101(d)'s exception permitting manufacturers with a greater market share to engage in more point of sale advertising than their competitors appears inconsistent with the government's asserted interest in restricting such advertising. Granting manufacturers point-of-sale advertising opportunities consonant with market share is unrelated to the objective of reducing youth tobacco use; indeed, it may run counter to that goal. Moreover, the proposal presents constitutional and anti-competitive concerns that should be addressed. The resources of the Administration are available to assist the Committee in exploring those concerns.

V. LIMITATIONS ON POINT-OF-SALE ADVERTISING

1. What data does the Administration possess to suggest that such limitations will reduce smoking, particularly among youth?

See response to IV.1., above.

2. Does the Administration support this provision? If so, why? If not, why not?

The Administration supports appropriate restrictions on point of sale advertising, as evidenced by the FDA Tobacco Rule. As discussed above, its efforts have been focused on supporting the restrictions now codified in FDA regulations. The resources of the Administration are available to assist the Committee in determining whether further restrictions are constitutional and otherwise appropriate.

VI. BAN ON ADVERTISING RESTRICTION AGREEMENTS

1. **Are such agreements currently against federal or state law? If so, is such a provision necessary?**

Ordinarily, under the free market system, retailers are permitted to decide from whom and to whom they will buy and sell, and on what terms. While an agreement of the sort described -- between a manufacturer and a retailer to limit the ability of a competing manufacturer to display advertising on the retailer's premises -- might be anticompetitive under certain circumstances, such agreements are usually not condemned under the federal antitrust laws. The Administration has not undertaken a review of state laws to determine whether such an arrangement would violate the law of any state.

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- 2. Does the Administration support such a provision? If so, why? If not, why not?**

The Administration's primary concern is not the relationship of retailers, manufacturers, and distributors between or among one another with respect to advertising. Rather, the Administration wants to ensure that point-of-sale advertising and promotional material, whatever their source, consist only of black text on a white background.

- 3. Does the Administration support the limitation. If so, why? If not, why not?**

See answer to question 2 above.

- 4. What specific changes, if any, in the legislative language implement the ban would the Administration propose? Please provide specifics.**

See answer to question 2 above.

VII. GLAMORIZATION OF TOBACCO

- 1. What data does the Administration possess to indicate whether and to what extent this provision will reduce smoking, particularly among youth?**

A number of studies (Tye 1990; Terre, Drabman, and Speer 1991; Hazan, Lipton, and Glantz 1994; Thumbs Up! Thumbs Down! 1997) show that depictions of tobacco use in the entertainment media, particularly feature films, are on the increase and exaggerate greatly the actual prevalence of tobacco use in the U.S. population. Research also suggests that adolescents are highly susceptible to pro-smoking messages and images conveyed in entertainment media (Signorielli 1993; Davies 1993; Basil 1997). Focus group research found that young people are able to recall virtually no anti-smoking messages on TV or in the movies, yet they are able quite readily to recall specific movies that portray smoking and to identify actors and actresses who smoke in their entertainment roles (Mermelstein 1997). Deglamorizing tobacco use in the entertainment media can be achieved both by decreasing pro-smoking cues and by increasing anti-smoking cues. A study by researchers at the University of California at Irvine suggests that anti-smoking ads before movies can help inoculate young people against the positive images of smoking that appear in movies. Ninth graders who watched the movie "Reality Bites" (in which the cast smokes in about one-third of the scenes) preceded by a California Department of Health Services anti-smoking ad were much less likely to find smoking exciting compared with teens who watched the movie without the counter-advertisement (Pechmann, 1996).

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- 2. What entity does the Administration propose will determine what activity constitutes promoting the image or use of a tobacco product?**
- 3. How does the Administration envision such a ban will be enforced?**
- 4. Does the Administration support such limitations?**
- 5. What specific changes, if any, in the legislative language would the Administration propose? Please provide specifics.**

In response to Questions VII.2 - VII.5, the Administration believes that the scope of the restriction on glamorization in S. 1414 is unclear. For example, is the provision intended only to restrict attempts to promote certain brand names of tobacco products or is it intended to restrict the promotion of smoking generally? If the latter were the case, then the provision would appear to reach some noncommercial speech, raising significant constitutional concerns. It is also not clear what is meant by the use of the word "promoting." Finally, the phrase "appeals to individuals under 18 years of age" could be subject to challenge on vagueness grounds.

Alternatively, no such constitutional concerns would be raised if Congress enacted legislation that would confirm the authority of the FDA to regulate the advertising of tobacco products through such indirect means as the use of product placement agreements.

VIII. RESTRICTIONS ON COLOR ADVERTISEMENTS

- 1. What data does the Administration have to substantiate that a ban on color ads, except in publications with limited youth readership, will reduce smoking particularly youth smoking?**

See response to II.1., above.

- 2. Does the Administration believe that the threshold for the restriction of two million readers is the appropriate threshold?**

FDA's tobacco rule requires that advertising be restricted to black and white text, except in publications that are read primarily by adults or in adult-only facilities. The text-only requirement is intended to reduce the appeal of cigarettes and smokeless tobacco advertising on young people without unduly affecting the informational messages conveyed to adults. Therefore, FDA proposed in its rulemaking that advertising in publications that are read primarily by adults should be allowed to use imagery and color because the effect of such advertising on young people should be nominal. The agency set the definition of adult publication as those whose readers age 18 or older constitute 85 percent or more of the publication's total readership, or those which are read by two million or fewer people under age

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18, whichever method results in the lower number of young people. (Magazines with small readership numbers but which appeal to young people may not attract two million young readers but may still be primarily youth oriented; that is, 15 percent or more of their readers are under 18.) In addition, the agency noted that at some point, the number of underage readers is so great that the publication can no longer be considered to be of no interest to those under 18, regardless of the percentage of the readership. For example, a magazine with a large total readership base may attract as many as 5 million young people, or more, but those numbers would still not be 15 percent of the magazine's readership. See 60 Fed. Reg. 41335-36 and 61 Fed. Reg. 44513-19.

3. How does the Administration envision readership demographics being determined?

In its tobacco rulemaking, FDA explained that readership demographics would be determined by measuring the total number of people that read any given copy of a publication. Readership demographics would be measured according to industry standards and, at a minimum, would be based on a nationally projectable survey of people. Two examples of currently available surveys are Simmons's STARS and MediaMark Research Inc.'s (MRI's) TEENMARK. FDA also indicated that it would be willing to work with industry on this issue. See 61 Fed. Reg. 44516-19.

4. How would this restriction be enforced?

The restriction would be enforced by the Food and Drug Administration and the Department of Justice under the provisions of the Federal Food, Drug and Cosmetic Act which provides for the imposition of civil money penalties, 21 U.S.C. § 333(f), injunctive relief, 21 U.S.C. § 332, and/or criminal prosecution, 21 U.S.C. § 333(a).

5. Does the Administration support this restriction? If so, why? If not, why not?

The Administration supports the regulation in the FDA rule based upon the findings of the Food and Drug Administration regarding the role and attractiveness of images and color in advertising to young people. See, e.g., 61 Fed. Reg. 44467-68, 44509 (1996).

6. What specific changes, if any, in the legislative language implementing the restriction does the Administration propose? Please provide specifics.

As discussed above, the Administration supports effective restrictions on the use of color and imagery in tobacco advertising. The Administration urges Congress to provide statutory confirmation of the existing authority of the FDA to regulate the advertising of tobacco products.

IX. GENERAL QUESTION REGARDING MARKETING/ADVERTISING BAN

- 1. Can the marketing and advertising restrictions envisioned in the settlement be constitutionally imposed, with or without the industry's consent? Please discuss.**

The answers to Parts I-VIII above address the government's authority to impose restrictions on advertising and marketing without the industry's consent. As noted, we believe that certain of those restrictions raise significant constitutional concerns. We address here the degree to which "the industry's consent" may affect the constitutional analysis of the advertising restrictions.

Voluntary commitments to restrict advertising are of course constitutional. For this reason, we believe that the inclusion of such restrictions in state court consent decrees between states and tobacco manufacturers -- rather than in federal legislation -- would significantly increase the likelihood that the restrictions would be upheld if challenged in the future. However, the inclusion of such restrictions in a federal statute that made adherence to such restrictions a condition of the receipt of certain federal benefits would continue to raise substantial constitutional questions. Such a statute, depending on how it were framed, could be subject to substantial challenge under the unconstitutional conditions doctrine. The resources of the Administration are available to assist the Committee in crafting legislation designed to minimize this potential problem.

X. WARNING LABELS

1. Does the Administration believe that these are appropriate warning labels?

The Administration supports the concept of strengthening warning label statement requirements. Several recent studies (Health Canada 1996; Borland, Cappiello, and Hill 1996; Robinson and Killen 1997) and literature reviews (USDHHS 1994; IOM 1994) are available concerning the effectiveness of warning labels in conveying information to consumers. The Administration's resources are available to help the Committee evaluate possible improvements to warning label requirements.

2. Does the Administration possess data suggesting that these warnings will effectively reduce smoking, particularly youth smoking?

See response to X.1., above.

DRAFT 2-25-98 6:30 P.M.

3. What data suggests that the various new warnings will be as or more effective than the current warning requirements?

See response to X.1., above.

4. Does the Administration support the provisions authorizing specific new labels? If so, why? If not, why not?
5. What specific changes, if any, in the legislative language implementing this provision would the Administration propose? Please provide specifics?

As stated above, the Administration is available to work with the Committee in determining whether changes to the warning statement requirements are appropriate.

IX. WARNING LABEL SIZE AND LOCATION REQUIREMENTS

1. What data does the Administration have to suggest that these specifications will reduce smoking, particularly youth smoking?

See response to X.1., above.

2. Does the Administration support these particular specification? If so, why? If not, why not?
3. Does the Administration support the exception provided for flip-top cigarette packages? If so, why? If not, why not?
4. What specific changes, if any, in the legislative language to implement these restrictions would the Administration propose? Please provide specifics.

The Administration, as discussed above, has focused its efforts on supporting the restrictions now codified in FDA regulations. The resources of the Administration are available to assist the Committee in determining whether further restrictions are appropriate.

X. SMOKELESS TOBACCO ALTERNATIVE LABELS

1. What data does the Administration have to suggest that the various new warning labels will effectively reduce the use of smokeless tobacco, particularly among youth?

See response to X.1., above.

2. Does the Administration support the use of these alternative labels?
3. What changes, if any, to the legislative language implementing this provision would the Administration propose? Please provide specifics.

The Administration, as discussed above, has focused its efforts on supporting the restrictions now codified in FDA regulations. The resources of the Administration are available to assist the Committee in determining whether further restrictions are appropriate.

XI. ENFORCEMENT OF ADVERTISING, MARKETING AND LABELING RESTRICTIONS

1. **Does the Administration support the enforcement provisions regarding advertising, marketing and labeling? If so why? If not, why not?**

Section 114 of the bill provides FTC with the authority to enforce sections 111 and 112, the provisions relating to warning statement requirements. Section 114 also contains a penalty provision for violations of section 113, the requirement that companies provide ingredient information to the Secretary of HHS pursuant to a new provision of the Federal Food, Drug, and Cosmetic Act, and authorizes the FTC to bring actions to enforce that provision. With respect to sections 111 and 112, section 114 appears to maintain the status quo with respect to warning label enforcement issues. Some other proposed bills would shift that authority to FDA. The Administration is available to assist in the Committee in considering these differing approaches. With regard to section 113, which relates to a provision of FDA law, the Administration would be pleased to assist the Committee in evaluating whether enforcement authority for the ingredient disclosure requirements may be more appropriately vested entirely in FDA.

2. **What changes in legislative language, if any, does the Administration recommend regarding these provisions? Please provide specific language.**

As discussed above, the Administration would be pleased to assist the Committee in evaluating issues related to the enforcement of advertising, marketing, and labeling restrictions, and in developing modifications, if appropriate, to legislative language.

XII. PREEMPTION OF STATE AND LOCAL ACTION

- 1. Does the Administration support such preemption? If so, why? If not, why not?**
- 2. What changes in legislative language, if any, does the Administration recommend regarding this provision? Please provide specific language?**

The Administration generally supports the limited preemption of state and local requirements related to the packaging of cigarettes or smokeless tobacco, but does not support the preemption of state and local restrictions on advertising. FDA's current regulations address advertising. Although the regulations are preemptive, the Federal Food, Drug and Cosmetic Act allows states and localities to apply for waivers to be exempted from federal thresholds. This would allow states and localities to enact or retain existing advertising restrictions that would be more stringent.

The Administration is available to work with the Committee with respect to the broader issues of preemption raised by other provisions of the bill. The Administration is committed to allowing states and localities the maximum flexibility practicable to develop strong public health policies to prevent and reduce youth tobacco use.

XIII. EXEMPTION OF EXPORTS

- 1. Does the Administration support this exemption? If so, why? If not, why not?**

The Administration strongly believes that comprehensive tobacco legislation should strengthen international efforts to control tobacco. The President indicated his support for this effort in his statement of September 17, 1997. This month the Administration also issued guidance to American posts abroad encouraging them to assist and promote tobacco-control efforts in host countries. The Administration looks forward to working with the Committee on this issue.

- 2. What ramifications does this provision have in the area of foreign relations?**

See response to XIII.1. above.

3. What changes in legislative language, if any, does the Administration recommend regarding this provision? Please provide specifics.

See response to XIII.1. above.

XIV. RESTRICTIONS ON ACCESS TO TOBACCO PRODUCTS

1. Does the Administration support these provisions? If so, why? If not, why not?

The Administration supports access restrictions based upon FDA's findings regarding the ability of persons under 18 to purchase tobacco products in the absence of a photo identification requirement. See, e.g., 61 Fed. Reg. 44437-39 (1996).

2. How does the Administration envision that this provision will be enforced, and can it be enforced effectively?

FDA currently is enforcing aspects of its restrictions on youth access to tobacco products embodied in the FDA tobacco rule (21 C.F.R. §§ 897.14, 897.16). FDA is enforcing the age and photo ID provisions cooperatively with state and local officials. Because of the enormous number of retailers that sell tobacco, FDA has adopted a cooperative model. By way of comparison, this is how FDA regulations are enforced for dairy farm and retail food inspections in communities across the country—by commissioning the services of state and local officials.

In its initial enforcement efforts, FDA contracted with 10 states. Under these contracts, states are conducting between 200 and 330 unannounced retail compliance checks each month over a period of eight months. Information about the compliance checks is sent to FDA, which issues a warning for the first violation to retailers found selling to the adolescents. These retailers will be subject to repeat inspections. FDA will seek a fine of \$250 for the second violation and greater fines for subsequent violations. FDA is in the process of contracting with additional states.

FDA anticipates that state and local contracts will provide effective mechanisms to check compliance with other access restrictions, such as the requirement that all transactions be face-to-face, without the assistance of any electronic device. Commissioned state and local officials will be able to determine compliance with these and similar provisions by visiting facilities, and appropriately documenting observations.

XV. PROHIBITION ON SALE OF LESS THAN A FULL PACK OF CIGARETTES

- 1. Does the Administration support this prohibition? If so, why? If not, why not?**

The Administration supports this prohibition based upon FDA's findings regarding the ability of persons under 18 to obtain cigarettes when they are sold in units of less than a full pack. See, e.g., 61 Fed. Reg. 44443, 44445-48.

- 2. What change in legislative language, if any, does the Administration recommend regarding this provision? Please provide specifics.**

The Administration does not recommend any changes in the legislative language.

XVI. STATE LICENSURE TO SELL TOBACCO

- 1. What data, if any, does the Administration have to indicate that licensure will effectively reduce access to tobacco by minors?**

Licensure of retailers will give authorities the means of identify those retailers who sell tobacco. States that do not require licensure are having difficulty complying with the Synar amendment, because they have difficulty identifying outlets that sell tobacco products. In addition to providing a list of retailers, the threat of license revocation for noncompliance is extremely motivating to retailers. Furthermore, license fees can be used to cover the cost of enforcement, which is an important determinant of compliance.

- 2. What entity does the Administration envision would enforce the licensure requirement if a state should be unable or unwilling to implement the licensure program?**

The Administration supports a licensing program that primarily operates at the state or local levels. The Administration is available to work with the Committee on issues concerning the relationship of such programs to federal standards or registration activities.

- 3. Has the Administration developed or formulated the cost of the licensure program? If so, why? If not, why not?**

The Administration has not completed work regarding the cost of a licensure program.

- 4. Does the Administration support the licensure program? If so, why? If not, why not?**

The Administration supports an effective licensing program. Federal legislation that calls upon states to establish regulatory programs must be sensitive to federalism concerns. Section 131 would provide two incentives for states to establish licensing programs for retail distributors of tobacco products. States that establish satisfactory licensing programs (1) would avoid imposition of a federal ban on retail distribution of tobacco products within their borders; and (2) would qualify for block grants under section 502. Congress possesses authority, under principles discussed in New York v. United States, 505 U.S. 144, 173-74 (1992), to "offer States the choice of regulating that activity according to federal standards or having state law pre-empted by federal regulation." Congress also possesses authority, under Spending Clause principles discussed in South Dakota v. Dole, 483 U.S. 203 (1987); to condition the receipt of federal funds by states on their implementation of certain regulatory measures. Accordingly, although the section 131 incentives for state licensing may give rise to constitutional challenges, we believe that they are consistent with the Constitution.

- 5. What changes in legislative language, if any, does the Administration recommend regarding this provision? Please provide specifics.**

The resources of the Administration are available to work with the Committee in evaluating provisions for a licensing program.

XVII. ANTI-TRUST EXEMPTION

- 1. Does the Administration support such an exemption? If so, why? If not, why not?**

The antitrust laws are the most important protector of the free-market economy against anticompetitive actions that would undermine its integrity to the detriment of consumers. Accordingly, exceptions to the antitrust laws should be made only in rare instances, when the fundamental free market values underlying the antitrust laws are overwhelmed by a paramount policy objective; and a proposed exemption must be necessary to permit the paramount policy objective to be pursued. The proponents of broad antitrust exemptions -- for example, an exemption that allowed companies to set prices jointly -- have not yet met this heavy burden.

- 2. Could such an exemption be used to set prices beyond those necessary to deter youth smoking, but to increase profits for the industry?**

An antitrust exemption that allowed tobacco firms to set prices jointly could be used by firms to increase prices beyond what is necessary to deter youth smoking and thereby to increase

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profits at the expense of consumers. It would be very difficult to restrict use of the exemption to its intended purpose, because the tobacco companies would have both the opportunity and the incentive to effect unnecessary price increases and to conceal them under the guise of restrictions on youth smoking. While the resulting collusive price increase would be likely to reduce demand for tobacco products, it would also increase profits for the tobacco companies, at least to the point at which they are collectively charging the "monopoly price." The tobacco companies would thereby be able to use an antitrust exemption to enrich themselves at the expense of those confirmed with smoking habits.

3. What changes in legislative language, if any, does the Administration recommend regarding this provision? Please provide specifics.

Before any exemption is considered for enactment, the proponents of the exemption need to meet the burden of demonstrating that this is one of the rare instances in which the antitrust laws are incompatible with a clearly paramount policy objective. The Administration is extremely skeptical that the proponents of this case will be able to meet that burden, except perhaps to support agreements to restrict advertising to children.

Even in those rare instances in which that burden is met, any antitrust exemption should be carefully and narrowly crafted to address that objective in the least anticompetitive manner available. If Congress should decide to move forward with consideration of antitrust exemptions for the tobacco industry, the Administration would assist in crafting them as narrowly and precisely as possible to achieve their purpose without creating unnecessary anticompetitive effects.

XVIII. APPLICABILITY TO NEW ENTRANTS IN TOBACCO INDUSTRY

1. Under the agreement, and the implementing legislation, what is the assurance that new entrants into the tobacco industry will comply with the statute and any related consent agreements not to challenge the legality of the agreement implementation legislation?

The proposed settlement and legislation do not deal expressly with new entrants into the tobacco industry. It appears that new entrants would be treated similar to non-participating manufacturers under Title VI and thus would be subject to advertising and access restrictions, regulatory oversight, and the payment provisions, but would not receive the benefit of any limitations on liability. There are no provisions in the legislation that would prevent new entrants from challenging the constitutionality of the legislation.

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ADDITIONAL REFERENCES

VII. GLAMORIZATION

Basil MD. The danger of cigarette "special placements" in film and television. *Health Communication* 1997;9(2):191-198.

Davies J. The impact of the mass media upon the health of early adolescents. *Journal of Health Education* 1993 Supplement:S28-S35.

Mermelstein R. The CDC Tobacco Control Network: understanding factors that influence youth tobacco use. Progress Report October 1995 - September 1997. Chicago, IL: Prevention Research Center, University of Illinois at Chicago.

Pechmann C. Inoculation effect of tobacco counter-advertising. University of California-Irvine, 1997.

Signorielli N. Mass media images and impact on health: a sourcebook. Westport, CT: Greenwood Press, 1993.

Terre L, Drabman R, Speer P. Health-relevant behaviors in media. *Journal of Applied Social Psychology* 1991;21:1303-1319.

Thumbs Up! Thumbs Down! Teens take a look at tobacco use in the movies. American Lung Association of Sacramento-Emigrant Trails, 1997.

Tye JB. Tobacco and youth reporter. Longmeadow, MA: Stop Teenage Addiction to Tobacco, 1990.

X. WARNING LABELS

Borland R, Cappiello M, Hill D. Impact of the new Australian health warnings on tobacco products. Carlton South, Victoria: Anti-Cancer Council of Victoria, 1996.

Health Canada. Effectiveness of health warning messages. Toronto, Ontario: Tandemar Research Inc., 1996.

Institute of Medicine. Warnings and packaging. Growing up tobacco free: preventing nicotine addiction in children and youths. Washington, DC: National Academy Press, 1994:236-246.

Robinson TN, Killen JD. Do cigarette warning labels reduce smoking? Paradoxical effects among adolescents. *Archives of Pediatric and Adolescent Medicine* 1997;151:267-272.

DRAFT 2-25-98 6:30 P.M.

U.S. Department of Health and Human Services. Warning labels on tobacco products. In Preventing tobacco use among young people: a report of the Surgeon General. Atlanta, GA: Centers for Disease Control and Prevention, 1994:257-264.

Draft 2/25/98 -- 6:15 pm

January 26, 1998

Dear Mr. Chairman:

The Clinton Administration looks forward to working with you and others in Congress to develop comprehensive, bipartisan legislation that will reduce teen tobacco use. In addition to the enclosed responses to your questions, we are prepared to provide the appropriate staff to give the Committee the technical assistance you request. We also are providing you with a number of resource documents cited below that we hope will be of assistance as you work to develop comprehensive legislation to protect our nation's children from tobacco related disease and death.

As you know, the President has called on Congress to enact comprehensive legislation that raises the price of cigarettes by up to \$1.50 a pack over the next ten years, gives the FDA full authority to regulate tobacco products, gets tobacco companies out of the business of marketing to children, furthers public health research and goals, and protects tobacco farmers and their communities. A piecemeal approach will not meet our overriding goal, which is to cut teen smoking.

As part of such a comprehensive effort, the Administration has long recognized the importance of restricting the advertising and marketing of tobacco products to young people. Two recent studies underscore what we have said before -- that tobacco advertising aimed at young people is a significant factor in their decision to start smoking. Comprehensive tobacco legislation, ~~especially if combined with even further voluntary agreements to restrict advertising,~~ is an opportunity for Congress to reaffirm FDA's efforts in this area.

Many of the provisions included in S.1414 would codify the comprehensive regulations on nicotine-containing tobacco products that the FDA adopted in its final Tobacco Rule issued August 28, 1996. The FDA restrictions were carefully crafted on the basis of a multi-year investigation, and resulted from the analysis of myriad studies and research on the effects of advertising, specifically tobacco advertising, on young people and the consideration and analysis of more than 700,000 comments submitted in response to the proposed FDA rule. As you know, the Administration believes strongly that the FDA has jurisdiction and authority to issue such advertising restrictions and that comprehensive tobacco legislation should provide express statutory confirmation of this power.

The Administration also believes, as the Department of Justice has explained at length in the FDA litigation, that the FDA's regulations that restrict the advertising of tobacco products are consistent with the First Amendment, under the currently controlling framework for First Amendment review of restrictions on advertising, set out by the Supreme Court in Central Hudson Gas & Elec. Corp. v. Public Serv. Comm'n, 447 U.S. 557 (1980), and subsequent cases. The FDA restrictions would, if implemented, substantially advance the Government's wholly legitimate and compelling interest in curtailing minors' demand for and use of tobacco products by reducing minors' exposure to tobacco product advertising. Moreover, the FDA's regulations are tailored to serve this objective. For these reasons, we believe the advertising restrictions in S.1414 that track the FDA regulations are constitutional.

Other restrictions contained in S.1414 give rise to constitutional concerns that are not presented by the FDA regulations, such as whether such restrictions would be sufficiently tailored to serve the governmental interest in reducing teenage smoking. The enclosed responses detail these ~~concerns~~ constitutional issues. Such limits on advertising nonetheless may be extremely valuable in reducing youth smoking and protecting the public health, and the Administration ~~once again challenges the tobacco industry to adopt them voluntarily~~ would like to work with you and others to minimize constitutional difficulties.

To assist the committee in developing legislation regulating tobacco products, including legislation restricting the advertising of tobacco products, we have provided with this response copies of the two documents which detail the analysis and findings on which the FDA regulations are based: the FDA's proposed rule and preamble published in 60 Fed. Reg. 41314 (August 11, 1994); and the FDA's final rule and preamble published in 61 Fed. Reg. 44396 (August 28, 1996). Our answers to your questions include citations to these documents where appropriate. In addition, the FDA's administrative record contains the studies described in those documents as well as public comments received by the agency. That record is contained on 5 CD's, which are also provided with this response.

We hope this material is helpful and we look forward to providing you and the members of the Committee with any additional assistance that may be needed.

Sincerely,

Enclosure

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:25-FEB-1998 14:07:19.00

SUBJECT: Cloning update.

TO: Jerold R. Mande (CN=Jerold R. Mande/OU=OSTP/O=EOP @ EOP [OSTP])
READ:UNKNOWN

TEXT:

i'm all in favor of this as long as, but only as long as rich tarplin agrees. let me know.

----- Forwarded by Elena Kagan/OPD/EOP on 02/25/98 02:07 PM -----

Jerold R. Mande

02/24/98 03:30:28 PM

Record Type: Record

To: Elena Kagan/OPD/EOP
cc: Laura Emmett/WHO/EOP, Lucia A. Wyman/WHO/EOP
Subject: Cloning update.

I had sent this note while you were away.

----- Forwarded by Jerold R. Mande/OSTP/EOP on 02/24/98 03:24 PM -----

Jerold R. Mande

02/18/98 04:34:52 PM

Record Type: Record

To: Elena Kagan/OPD/EOP
cc:
Subject: Cloning update.

I want to revisit a decision we made last week not to reach out to groups. I have heard that the Rs are hard at work. In meetings, they have made it clear they will bring cloning up again as soon as they can regroup. The Rs have also begun leaning on the groups that worked our side of the issue and reminding them who controls the fate of the rest of the groups' legislative agendas. I recommend that we convene a meeting of the groups to rally continued support and brief them on issues such as FDA jurisdiction. Let me know if you agree, and I will work with OPL to set this up. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:25-FEB-1998 12:32:13.00

SUBJECT: Cloning

TO: Lucia A. Wyman (CN=Lucia A. Wyman/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

CC: Rachel E. Levinson (CN=Rachel E. Levinson/OU=OSTP/O=EOP @ EOP [OSTP])
READ:UNKNOWN

CC: Thomas L. Freedman (CN=Thomas L. Freedman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Jerold R. Mande (CN=Jerold R. Mande/OU=OSTP/O=EOP @ EOP [OSTP])
READ:UNKNOWN

TEXT:

yes -- let's meet friday when rachel gets back. Jerry or tom -- could you set this up -- Laura isn't here for the rest of the week. thanks.

----- Forwarded by Elena Kagan/OPD/EOP on 02/25/98 12:31 PM -----

Lucia A. Wyman
02/24/98 06:44:34 PM
Record Type: Record

To: Elena Kagan/OPD/EOP, Thomas L. Freedman/OPD/EOP, Jerold R. Mande/OSTP/EOP, Rachel E. Levinson/OSTP/EOP
cc:
Subject: Cloning

concerns

if we receive a bill that impedes research but has a grandfather clause or someother type of softener, do we sign? this would be a frist/bond bill w/changes. in a war of words, what is an embryo, we lose. when is an embryo an embryo (we lose). i'm beginning to think, if there is no middle ground and i don't think there is, we should consider a clean fight.

i keep hearing from the hill that the repubs are trying to peel off the research community. if this is the case, we need to regroup.

rachel levinson will be back on friday. can we regroup then? elena, what's a good time?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:25-FEB-1998 14:17:20.00

SUBJECT: Re: Tobacco Communications Agenda

TO: Thomas L. Freedman (CN=Thomas L. Freedman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

CC: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

sounds good -- why don't you and Cynthia take a crack at (2) and (3). I don't think (1) is quite right, though it's close. We should make clear what the key goal is (reducing kids' smoking); stress the price increase the most; and stick with our five principles. Relatedly, we shouldn't so elevate second-hand smoke.

----- Forwarded by Elena Kagan/OPD/EOP on 02/25/98 02:10 PM -----

Thomas L. Freedman
02/25/98 12:29:49 PM
Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Cynthia A. Rice/OPD/EOP, Mary L. Smith/OPD/EOP
cc:
Subject: Re: Tobacco Communications Agenda

I think the agenda is good. I think we need a couple of tangible products that can be distributed to officials speaking for the Administration: (1) a common theme statement that everyone uses on why we need the bill -- like Medicare, Medicaid, Education, and the Environment (a crack at it is below); (2) uniform responses to common attacks on the bill that we know from polling works; and (3) being prepared for rapid response generally -- including creating lists of issues and target reporters to get materials and responders to.

1. Identify a common theme.

The most popular list of reasons for a bill I have is: ads, FDA, second hand smoke, and \$1.50 with net lives saved.

"We need strong comprehensive legislation that stops advertising to kids, regulates nicotine under the FDA like the drug it is, and restricts deadly second-hand smoke that kills non-smokers. If we do these things and raise the cost of cigarettes by \$1.50 a pack with tough penalties on companies we can save XX million kids over the next 5 years."

2. Need Defenses on Issues such as:

- Drugs
- Lawyers Fees
- Black market
- Immunity
- Medicare, tax cuts, other spending ideas
- skinny bill would work fine

3. Rapid Response-- monitoring, preparation of answers, and response to targeted reporters

4. Background to Communications

- * People want stern measures
- * Saying our bill does everything a skinny bill does and more, beats the skinny bill (simple but true).
- * Public believes we need more than a \$1 a pack increase.
- * Tying opposition to the tobacco industry controlling Congress or R's playing politics works but might cut against bipartisanship so should be used carefully.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:25-FEB-1998 14:43:03.00

SUBJECT: Today's Jeffords and McCain hearings

TO: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

TEXT:

yes, you're right. Laura's out, so can you set up a meeting on FDA jurisdiction for later this week? OHara will know who to bring from HHS. we should also make sure OVP, OMB, and DOJ are represented.

----- Forwarded by Elena Kagan/OPD/EOP on 02/25/98 02:40 PM -----

Cynthia A. Rice
02/24/98 04:05:21 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Today's Jeffords and McCain hearings

The news from today's hearings is that both chairmen said they will mark up their bills next week -- the dates weren't specific, but both implied next Tuesday.

I think we may need a meeting on the FDA jurisdiction issues Jeffords bill raises -- i.e., do we oppose/support creating a separate title for tobacco and switching jurisdiction from FDA to CDC? HHS seems to oppose both.

Message Sent

To: _____
Bruce N. Reed/OPD/EOP
Elena Kagan/OPD/EOP
Thomas L. Freedman/OPD/EOP
Mary L. Smith/OPD/EOP
Jerold R. Mande/OSTP/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:26-FEB-1998 18:57:28.00

SUBJECT: Re: H-1Bs and the Weekly Report

TO: Cecilia E. Rouse (CN=Cecilia E. Rouse/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

we're usually not organized enough to spare the president from reading the same thing twice. but you're right -- we should be. it would be great if you put it in your report.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:26-FEB-1998 13:05:56.00

SUBJECT: q&a

TO: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

Q: Would an indictment of tobacco industry executives decrease the chance of Congress passing comprehensive tobacco legislation?

A: It certainly shouldn't. The Administration can't comment on a pending criminal investigation, but efforts to hold the industry accountable for the harms it has caused should serve as still further impetus for comprehensive legislation. We need a substantial price increase, express confirmation of FDA jurisdiction, and access and advertising restrictions to reduce youth smoking. Disclosures of past industry misconduct make it all the more clear why we need such a comprehensive national solution, and why we must get it done soon.

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:26-FEB-1998 18:58:45.00

SUBJECT: RECEIVED: Reminder--comments on Labor report on H.R. 2888, the Sales Incentive Co

TO: Melissa N. Benton (CN=Melissa N. Benton/OU=OMB/O=EOP [OMB])

READ:UNKNOWN

TEXT:

RETURN RECEIPT

Your Document:

Reminder--comments on Labor report on H.R. 2888, the Sales Incentive Compensation Act (LRM was successfully received by:

CN=Elena Kagan/OU=OPD/O=EOP

at:

02/26/98 06:53:28 PM

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:26-FEB-1998 13:31:40.00

SUBJECT: RECEIVED: Final Change to the Justice Tobacco Antitrust Letter

TO: Ingrid M. Schroeder (CN=Ingrid M. Schroeder/OU=OMB/O=EOP [OMB])
READ:UNKNOWN

TEXT:
RETURN RECEIPT

Your Document:
Final Change to the Justice Tobacco Antitrust Letter
was successfully received by:
CN=Elena Kagan/OU=OPD/O=EOP
at:
02/26/98 01:28:35 PM

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:26-FEB-1998 14:19:57.00

SUBJECT: Re: letters

TO: Barry J. Toiv (CN=Barry J. Toiv/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

you bet

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:26-FEB-1998 08:44:39.00

SUBJECT: Re: meeting with John

TO: Dawn L. Smalls (CN=Dawn L. Smalls/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

11 is best; 1:30 is OK; 2:30 is impossible. (I'm answeing for Bruce also.)

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:26-FEB-1998 14:19:36.00

SUBJECT: Re: Phil Barnett request

TO: Thomas L. Freedman (CN=Thomas L. Freedman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Mary L. Smith (CN=Mary L. Smith/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

CC: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

what (if anything) have we done about this? my view is that we should never allow consultations on tobacco legislation to take place without white house participation.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:26-FEB-1998 10:51:33.00

SUBJECT: Re: Draft PIR / Phoenix Letter - Report

TO: Richard Socarides (CN=Richard Socarides/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

CC: Minyon Moore (CN=Minyon Moore/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

CC: Julie A. Fernandes (CN=Julie A. Fernandes/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

Richard: I would think that we need to check with OMB about the proposals to fund a study and to improve statistical data. Otherwise, it looks fine.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:26-FEB-1998 14:11:03.00

SUBJECT: Re: Cardin Amendment to HR 3130

TO: Julie A. Fernandes (CN=Julie A. Fernandes/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Diana Fortuna (CN=Diana Fortuna/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

CC: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

I don't see why we should have a problem with any of this. am i missing something?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:26-FEB-1998 14:20:23.00

SUBJECT: letters

TO: Ingrid M. Schroeder (CN=Ingrid M. Schroeder/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TEXT:

could you get the antitrust letter to barry when it's done? thanks.
----- Forwarded by Elena Kagan/OPD/EOP on 02/26/98 02:20
PM -----

Barry J. Toiv

02/26/98 02:18:07 PM

Record Type: Record

To: Laura Emmett/WHO/EOP
cc: Elena Kagan/OPD/EOP
Subject: letters

Please be sure to get me a copy of the DeWine and McCain tobacco letters
when they go out. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:26-FEB-1998 13:30:12.00

SUBJECT: Re: March 7th radio address

TO: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

TEXT:
you are so right. a way out of women's history!!

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:26-FEB-1998 09:05:11.00

SUBJECT: Re: meeting with John

TO: Dawn L. Smalls (CN=Dawn L. Smalls/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

rahm

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:26-FEB-1998 14:02:51.00

SUBJECT: Re: CoS Meeting

TO: Lisa J. Levin (CN=Lisa J. Levin/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

sure, anytime. i'm not sure what executive memorandums we've sent lately, but even if there's not one, maybe people would be interested to find out where we are on tobacco.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:27-FEB-1998 11:22:02.00

SUBJECT: Re: White House Immigration Working Group

TO: Steven M. Mertens (CN=Steven M. Mertens/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Julie A. Fernandes (CN=Julie A. Fernandes/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

sorry i didn't get to this before now. I strongly agree with you on the organization and agree, but don't care very much, on the format.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:27-FEB-1998 13:47:43.00

SUBJECT: Re: Cardin Amendment to HR 3130

TO: Julie A. Fernandes (CN=Julie A. Fernandes/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

just to check whether someone owes child support? why?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:27-FEB-1998 06:54:34.00

SUBJECT: Re: VP staff/meetings

TO: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

yes.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:27-FEB-1998 13:26:27.00

SUBJECT: Re: Phil Barnett request

TO: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

good.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:27-FEB-1998 13:24:27.00

SUBJECT: Re: Update from Tramantano on FICA/workfare

TO: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

CC: Diana Fortuna (CN=Diana Fortuna/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

TEXT:

yes, i think that's a good idea. but as you say, it should be carefully worded -- don't lean.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:27-FEB-1998 13:30:09.00

SUBJECT: letters

TO: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Ingrid M. Schroeder (CN=Ingrid M. Schroeder/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

Barry J. Toiv (CN=Barry J. Toiv/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TEXT:

ingrid -- did you send barry the dewine letter?
and cynthia -- could you send barry the mccain letter?
thanks.

----- Forwarded by Elena Kagan/OPD/EOP on 02/27/98 01:30
PM -----

Barry J. Toiv

02/27/98 10:46:18 AM

Record Type: Record

To: Laura Emmett/WHO/EOP
cc: Elena Kagan/OPD/EOP
Subject: letters

Could we get a copy of the DeWine letter, and, when it goes up, a copy of the McCain letter? It would be good for us to have them for the weekend. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:27-FEB-1998 13:30:59.00

SUBJECT: Scheduling request for disability executive order signing

TO: Maria Echaveste (CN=Maria Echaveste/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

i will if you will.

----- Forwarded by Elena Kagan/OPD/EOP on 02/27/98 01:31
PM -----

Diana Fortuna

02/27/98 11:43:48 AM

Record Type: Record

To: Elena Kagan/OPD/EOP, Christa Robinson/OPD/EOP

cc: Laura Emmett/WHO/EOP

Subject: Scheduling request for disability executive order signing

Bill White of public liaison says that the scheduling request for the President to sign the executive order on people with disabilities has been tentatively OK'd for March 13, which is great. However, he was told it was to be a very short Oval Office signing with no remarks, no more than 10 people, and no press. We are a bit concerned that this will prompt complaints from the disability community that we aren't serious about it. Being able to do it in the Roosevelt with a few press present for 5 minutes of remarks by him would convey a much better message. Bill will push on this, but it would be good if we could too.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:27-FEB-1998 13:31:12.00

SUBJECT: Re: Scheduling request for disability executive order signing

TO: Diana Fortuna (CN=Diana Fortuna/OU=OPD/O=EOP.[OPD])

READ:UNKNOWN

TEXT:

yes, you're right.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:27-FEB-1998 13:28:46.00

SUBJECT: Re: Cardin Amendment to HR 3130

TO: Julie A. Fernandes (CN=Julie A. Fernandes/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

i don't see how we can object to something that will improve child support enforcement on "administrative burden" grounds.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 1-MAR-1998 16:04:47.00

SUBJECT: Re: letters

TO: Ingrid M. Schroeder (CN=Ingrid M. Schroeder/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TEXT:

i'd like to get it out of there. tell them that we're very sensitive to timing issues on all tobacco-related documents and they can't make changes in timing without informing us. i.e. tell them to get it up today.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 1-MAR-1998 17:31:53.00

SUBJECT: Re: Workforce preparation

TO: Andrea Kane (CN=Andrea Kane/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Diana Fortuna (CN=Diana Fortuna/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

CC: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

CC: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

Sally Katzen told me on thursday that nec is putting together a working group on workforce development issues, to be run by their new person, Cecilia. I told sally we would want to participate. andrea -- do you want to do this?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 1-MAR-1998 15:55:53.00

SUBJECT: Re: FTC tobacco testimony

TO: Jerold R. Mande (CN=Jerold R. Mande/OU=OSTP/O=EOP @ EOP [OSTP])
READ:UNKNOWN

CC: Thomas L. Freedman (CN=Thomas L. Freedman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

CC: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

yes. call the leg affs person that tom and i met with -- she told us to call her whenever we had any questions about anything. i forget her name, but perhaps tom doesn't.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 1-MAR-1998 15:53:18.00

SUBJECT: Re: Cardin Amendment to HR 3130

TO: Julie A. Fernandes (CN=Julie A. Fernandes/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

sounds right. it seems to me we should send up a generally supportive
sap. if necessary, we can include some language about working with
congress on specifics of implementation.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 1-MAR-1998 15:41:47.00

SUBJECT: child care

TO: Jennifer L. Klein (CN=Jennifer L. Klein/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 03/01/98 03:42
PM -----

Karen Tramontano
02/28/98 02:03:18 PM
Record Type: Record

To: Elena Kagan/OPD/EOP
cc:
Subject: child care

let me know when the mtg is scheduled --- i'll drop by. thanks

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 1-MAR-1998 17:36:45.00

SUBJECT: Re: Tradeable Work Opportunity Tax Credits

TO: Thomas L. Freedman (CN=Thomas L. Freedman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Mary L. Smith (CN=Mary L. Smith/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

whatever happened to this?

Thomas L. Freedman
01/12/98 08:44:52 PM
Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Cynthia A. Rice/OPD/EOP,
Mary L. Smith/OPD/EOP
cc:
Subject: Re: Tradeable Work Opportunity Tax Credits

You asked what the business would get for trading the credit to the intermediary: Essentially, it would give the hiring business the ability to increase the amount it would pay the intermediary for the finding and training of the new employee. If Company A would have been willing to hire WTW employee Ralph who had been through Intermediary B's training and placement but would have paid B only \$2,000, this would supplement the amount A would be able to pay B, making it more likely B would take a chance on Ralph in the first place because B can get more \$'s from A. Company A would pay B only after Ralph has stayed at Company A for 6 months.

It encourages intermediaries to train WTW employees. An economist would say except for lowering the transaction costs, this probably has no different effect than the employer tax credit, but I bet in the real world intermediaries would figure out the paperwork and be more efficient at using this tax credit.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 1-MAR-1998 17:22:56.00

SUBJECT: physical assisted suicide

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

TO: Jose Cerda III (CN=Jose Cerda III/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:
did you get my note on this? what do you think?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 1-MAR-1998 15:43:06.00

SUBJECT: Re: Scheduling request for disability executive order signing

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP [OPD])

READ: UNKNOWN

TEXT:

fyi

----- Forwarded by Elena Kagan/OPD/EOP on 03/01/98 03:44
PM -----

Maria Echaveste

03/01/98 11:46:59 AM

Record Type: Record

To: Elena Kagan/OPD/EOP

cc: Diana Fortuna/OPD/EOP, William H. White Jr./WHO/EOP

bcc:

Subject: Re: Scheduling request for disability executive order
signing

Let's both push. maybe our combined "influence" will have some effect.

Elena Kagan

02/27/98 01:31:46 PM

Record Type: Record

To: Maria Echaveste/WHO/EOP

cc:

Subject: Scheduling request for disability executive order signing

i will if you will.

----- Forwarded by Elena Kagan/OPD/EOP on 02/27/98 01:31
PM -----

Diana Fortuna

02/27/98 11:43:48 AM

Record Type: Record

To: Elena Kagan/OPD/EOP, Christa Robinson/OPD/EOP

cc: Laura Emmett/WHO/EOP

Subject: Scheduling request for disability executive order signing

Bill White of public liaison says that the scheduling request for the President to sign the executive order on people with disabilities has been tentatively OK'd for March 13, which is great. However, he was told it was to be a very short Oval Office signing with no remarks, no more than 10 people, and no press. We are a bit concerned that this will prompt complaints from the disability community that we aren't serious about it. Being able to do it in the Roosevelt with a few press present for 5

minutes of remarks by him would convey a much better message. Bill will push on this, but it would be good if we could too.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 1-MAR-1998 17:14:59.00

SUBJECT: re:welfare!!!

TO: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

when is dol going to be ready to issue welfare-to-work competitive grants?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 1-MAR-1998 16:01:13.00

SUBJECT: Re: Tobacco and minority communities

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP [OPD])

READ:UNKNOWN

TEXT:

fyi -- i asked him to head up this effort. speaking of things chris can do for us, have you had your meeting with westmoreland yet?

----- Forwarded by Elena Kagan/OPD/EOP on 03/01/98 04:01 PM -----

Christopher C. Jennings

02/27/98 10:05:01 AM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP

cc: See the distribution list at the bottom of this message

Subject: Re: Tobacco and minority communities

I'm semi on top of this. I get all the fun stuff, don't I?

I think there will be a meeting on Monday. Maria E. just called me up to and I think she will attend to make certain this process gets off to a good start.

Do you have any desire in attending? If not, I'll be sure to keep you apprised of developments on this issue.

If the process goes according to how I think it should, we will not immediately agree on a package of initiatives. We will set up some meetings with the appropriate groups to review options and to get them invested and trusting in us. We will also highlight investments that we believe already should be very attractive to minority representatives -- like the kids outreach stuff.

The goal will be for us to be sensitive to their needs while they become trusting enough in us to be flexible on their priorities as the larger package unfolds. Hopefully that will help Bruce, Elena and you have a little more room to operate. While it won't be easy and it might be time consuming, I think this is a better approach than immediately coming up with a package that could take on the same troubled waters that the school construction piece did last year. Hope that sounds ok to you?

cj

, while we become Rather, I think we should talk with them about options and have it will likely take a while to get folks invested and trusting in us.

Message Copied

To: _____
Sarah A. Bianchi/OPD/EOP
Jeanne Lambrew/OPD/EOP
Thomas L. Freedman/OPD/EOP
Mary L. Smith/OPD/EOP

Donna L. Geisbert/OPD/EOP
Sarah A. Bianchi/OPD/EOP
Jeanne Lambrew/OPD/EOP
Thomas L. Freedman/OPD/EOP
Mary L. Smith/OPD/EOP
Donna L. Geisbert/OPD/EOP
Sarah A. Bianchi/OPD/EOP
Jeanne Lambrew/OPD/EOP
Thomas L. Freedman/OPD/EOP
Mary L. Smith/OPD/EOP
Donna L. Geisbert/OPD/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 1-MAR-1998 17:41:08.00

SUBJECT: Re: FTC tobacco testimony

TO: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

you bet

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 2-MAR-1998 19:44:55.00

SUBJECT: Re: Update on Imported Foods

TO: Wendy A. Taylor (CN=Wendy A. Taylor/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

TEXT:

you're great. thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 2-MAR-1998 19:40:08.00

SUBJECT: Skills Shortages Meeting, Tues. 3/3 2pm

TO: Andrea Kane (CN=Andrea Kane/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 03/02/98 07:41 PM -----

Cecilia E. Rouse
03/02/98 11:00:19 AM
Record Type: Record

To: Elena Kagan/OPD/EOP, Julie A. Fernandes/OPD/EOP
CC:
Subject: Skills Shortages Meeting, Tues. 3/3 2pm

The Employment and Training Working Group will be discussing strategies for addressing skills shortages (in both the IT industry and more generally). It would be great if you were able to attend. It'll be tomorrow at 2pm in OEOB 239.

-- Ceci

P.S. Attached is a tentative agenda and I'll be sending around background papers later today.

===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D17]MAIL43488706H.026 to ASCII,
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MEMORANDUM

TO: EMPLOYMENT AND TRAINING WORKING GROUP
AND OTHERS CONCERNED WITH SKILLS SHORTAGES

FROM: ANNE LEWIS, TOM KALIL, JON ORSZAG, AND CECILIA ROUSE

RE: SKILLS SHORTAGES

DATE: February 27, 1998

At Tuesday's (3/3) meeting we plan to continue the discussion of skills shortages. We plan to discuss both potential long-term solutions as well as potential short-term strategies. In particular, the organization of the meeting will look something like:

- **Highlight current political and economic contexts**
 - Growth in demand for workers with IT skills
 - What's happening in health care? Other industries/occupations?
 - H1-B issue

- **Potential short-term solutions that would involve business**
 - What are we currently doing in partnership with companies? (DOL, Education, Commerce)
 - What can businesses potentially do?
 - Better employee outreach/improve partnerships with local colleges (both 2- and 4-year)
 - More outreach to under-represented groups (minorities, women, persons with disabilities)
 - What questions do we have for companies?
 - What is it they need? (What kinds of workers? How highly skilled? Do they need for them to complete 4-year, 2-year, 6-month programs?)
 - What sorts of programs might make sense?

- **Potential long-term solutions**
 - What is the current state of play?

- What are we currently doing to identify “growth” industries/occupations/regions of the country? (BLS)
- What are we currently doing to inform individuals about “growth” industries/occupations/regions of the country?
- What are we currently doing to train individuals for “growth” industries/occupations/regions of the country? (DOL, Education, Commerce)
- Where should we go from here?
 - Better training?
 - Better information? (Including should we consider an additional index to the BLS employment projections? Should we attempt to improve the BLS employment projections?)

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 2-MAR-1998 19:46:07.00

SUBJECT: Re: hill meetings

TO: Virginia N. Rustique (CN=Virginia N. Rustique/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

looks fine, except that the meetings with conrad and fazio should be with their whole task forces.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 3-MAR-1998 12:48:58.00

SUBJECT: roll call

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP [OPD])

READ:UNKNOWN

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 03/03/98 12:50
PM -----

Barry J. Toiv

03/03/98 12:19:30 PM

Record Type: Record

To: Elena Kagan/OPD/EOP

cc:

Subject: roll call

This is obviously an opportunity. Please let me know how you want to mvoe ahead on it.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 3-MAR-1998 08:42:05:00

SUBJECT: Re: hill meetings

TO: Virginia N. Rustique (CN=Virginia N. Rustique/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:
good idea; we will.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 3-MAR-1998 12:48:50.00

SUBJECT: Re: roll call

TO: Barry J. Toiv (CN=Barry J. Toiv/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

yes, i will.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 3-MAR-1998 08:42:45.00

SUBJECT: hill meetings

TO: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

TEXT:

something to think about, once you get done with the memo for the president. thanks.

----- Forwarded by Elena Kagan/OPD/EOP on 03/03/98 08:43 AM -----

VIRGINIA N. RUSTIQUE
03/03/98 08:32:45 AM
Record Type: Record

To: Cathy R. Mays/OPD/EOP, Elena Kagan/OPD/EOP, Laura Emmett/WHO/EOP
cc:
Subject: hill meetings

is there a memo you're preparing for ebb that will detail the purpose of the meetings and what's expected from him? if so, lets include a list of the proposed member meetings.

i've already notified carole about the scheduling the meetings.

----- Forwarded by Virginia N. Rustique/WHO/EOP on 03/03/98 08:24 AM -----

VIRGINIA N. RUSTIQUE
03/03/98 08:22:38 AM
Record Type: Record

To: Cathy R. Mays/OPD/EOP, Bruce N. Reed/OPD/EOP
cc: Elena Kagan/OPD/EOP
Subject: hill meetings

here's what we came up with.

conrad and fazio includes their respective task forces. i start scheduling this morning

----- Forwarded by Virginia N. Rustique/WHO/EOP on 03/03/98 08:21 AM -----

VIRGINIA N. RUSTIQUE
03/02/98 07:32:04 PM
Record Type: Record

To: Elena Kagan/OPD/EOP
cc: Laura Emmett/WHO/EOP
Subject: hill meetings

how's this?:

mccain
bliley
chafee
hatch
conrad
fazio
domenici
mack

larry and ebb are already scheduled to meet with newt (thur) re: general issues and will raise tobacco.

larry wants to start the meetings after meeting w/ newt.

----- Forwarded by Virginia N. Rustique/WHO/EOP on
03/02/98 07:22 PM -----

VIRGINIA N. RUSTIQUE
03/02/98 07:01:37 PM
Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
cc: Cathy R. Mays/OPD/EOP, Laura Emmett/WHO/EOP
Subject: hill meetings

larry wants to schedule the following (in this order):

mccain
chafee
hatch
bliley

elena: is there a list off of which we should be working?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 3-MAR-1998 08:41:06.00

SUBJECT: Re: .08 of a favor

TO: Jose Cerda III (CN=Jose Cerda III/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

TEXT:
you're right; she does.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 3-MAR-1998 18:02:43.00

SUBJECT: Re: WH Conf. on Food Safety?

TO: Thomas L. Freedman (CN=Thomas L. Freedman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

TEXT:

I'm not in favor of a wh conference until we figure out to something to say there.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 4-MAR-1998 08:49:05.00

SUBJECT: Re: Food Safety

TO: Jeffrey A. Shesol (CN=Jeffrey A. Shesol/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

great job. my only suggestion: to make clear that the bill is being introduced in the Senate today (to try to give this event some semblance of news value). thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 5-MAR-1998 18:10:10.00

SUBJECT: Upcoming Congressional Tobacco Meeting

TO: Jason S. Goldberg (CN=Jason S. Goldberg/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

will do.

----- Forwarded by Elena Kagan/OPD/EOP on 03/05/98 06:11 PM -----

Jason S. Goldberg
03/05/98 04:23:54 PM
Record Type: Record

To: Cynthia A. Rice/OPD/EOP, Elena Kagan/OPD/EOP
cc: Laura Emmett/WHO/EOP, Cathy R. Mays/OPD/EOP, Virginia N. Rustique/WHO/EOP
Subject: Upcoming Congressional Tobacco Meeting

It is my understanding that we have the following meetings lined up for next week:

Monday
Chafee
Domenici

Tuesday
Bliley
House Tobacco Task Force
Tobacco Growers
Hatch

LET'S PLEASE TRY TO MAKE SURE WE HAVE SHORT BRIEFING PAPERS FOR ERSKINE FOR EACH OF THESE MEETINGS BY 5:00 P.M. FRIDAY EVENING.

THANKS!!!!

Jason

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 5-MAR-1998 18:06:55.00

SUBJECT: Ellen Lovell and Millenium project

TO: Diana Fortuna (CN=Diana Fortuna/OU=OPD/O=EOP [OPD])

READ:UNKNOWN

TEXT:

sounds as if you've done all you can for now. thanks much.

----- Forwarded by Elena Kagan/OPD/EOP on 03/05/98 06:07
PM -----

Diana Fortuna

03/05/98 04:49:53 PM

Record Type: Record

To: Elena Kagan/OPD/EOP

cc:

Subject: Ellen Lovell and Millenium project

FYI, I have reached out as requested to her to offer my services on behalf of DPC, but so far haven't heard anything beyond her request for ideas of WH people who could attend this philanthropy shindig in California in April. I supplied some names for her, including myself.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 5-MAR-1998 18:09:50.00

SUBJECT: Upcoming Congressional Tobacco Meeting

TO: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

you know you're in trouble when people say things like "let's please try" to you.

----- Forwarded by Elena Kagan/OPD/EOP on 03/05/98 06:10 PM -----

Jason S. Goldberg
03/05/98 04:23:54 PM
Record Type: Record

To: Cynthia A. Rice/OPD/EOP, Elena Kagan/OPD/EOP
cc: Laura Emmett/WHO/EOP, Cathy R. Mays/OPD/EOP, Virginia N. Rustique/WHO/EOP
Subject: Upcoming Congressional Tobacco Meeting

It is my understanding that we have the following meetings lined up for next week:

Monday
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Domenici

Tuesday
Bliley
House Tobacco Task Force
Tobacco Growers
Hatch

LET'S PLEASE TRY TO MAKE SURE WE HAVE SHORT BRIEFING PAPERS FOR ERSKINE FOR EACH OF THESE MEETINGS BY 5:00 P.M. FRIDAY EVENING.

THANKS!!!!

Jason

DRAFT 3/3

March 4, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed

SUBJECT: Tobacco Communications and Legislative Strategy

Over the past two weeks, we have met with Erskine, OVP, NEC, OMB, HHS, Treasury, and Justice to develop an aggressive communications plan to help turn up the heat on Congress to pass comprehensive bipartisan tobacco legislation this year. This memo presents you with our proposal, and provides an update on the legislative strategy we discussed with you last month.

Communications Strategy

We are organizing a series of events for you and others, including House and Senate Democrats, to begin a drumbeat that Congress should not go home without passing comprehensive tobacco legislation.

Our message is simple: Every day Congress fails to pass tobacco legislation, 3,000 kids start smoking and 1,000 will die early as a result. We can dramatically reduce teen smoking and save a million lives over the next 5 years if we pass our budget proposal now.

We must continue to stress that we need a comprehensive, not piecemeal, approach that raises the price of cigarettes by up to \$1.50 a pack over the next ten years, expressly confirms the FDA authority to regulate tobacco products, gets tobacco companies out of the business of marketing to children, furthers public health research and goals, and protects tobacco farmers and their communities.

In the next week, we plan to underscore our commitment to bipartisan, comprehensive legislation in several ways:

- Secretary Shalala will meet with editorial boards to explain our goals and priorities.
- In your March 7th radio address, we hope you will challenge the Congress not to go home this year without passing legislation that will dramatically reduce teen smoking, and

note that Congress has less than 70 work days left.

- On Sunday, March 8th, The Washington Post will begin a three day series chronicling the tobacco wars from the drafting of the FDA rule to present, hopefully underscoring our long commitment to this issue and the need for action.
- On March 9th, in your speech to the AMA on health care quality, we hope to have you laud the doctors' support for comprehensive tobacco legislation.
- When Senators Chafee, Harkin, Lugar and Graham announce their bipartisan plan -- probably the week of the 9th -- we are hoping to have the Vice President appear with them.
- Starting March 11th, the Democratic leadership will announce a countdown calendar, starting a daily drumbeat of how every day that passes without enacting tobacco legislation, 3,000 kids start smoking, causing 1,000 to die a premature death. Jeffords will mark up his FDA bill the same day, providing us with an opportunity to underscore the importance of the tough advertising and access restrictions in our FDA rule and the need for legislation which reaffirms the FDA's authority to regulate tobacco. Rep. Fazio will likely introduce a slightly revised version of Senator Conrad's bill the same day.
- In a March 12th speech to the attorneys' general, we hope to have you announce state-by-state numbers of how many lives will be saved by comprehensive tobacco legislation. This is the same day as the last Bliley hearing, when the industry is under subpoena to release more documents. It is also the first day of markup for the McCain's Senate Commerce Committee.
- On March 13th, we would like to leak a political memo by Geoff Garin and Mark Mellman on the popularity of tobacco legislation.
- On Saturday, March 14th, the Vice President will convene a regional tobacco roundtable in Boston, inviting key members of Congress (Kennedy, Chafee, Jeffords).

Legislative Strategy

As you know, we are using these remaining weeks before the Congressional recess in early April to lay the groundwork for a possible bipartisan summit to negotiate comprehensive tobacco legislation. We have been (1) attacking Republican plans to enact piecemeal legislation; (2) praising comprehensive bills, such as Senator Conrad's, which meet your principles; and, (3) in the next week, we will hold meetings with the Democratic Caucus and quite conversations (led by Erskine) with key Republicans in both the House and Senate.

There have been several significant developments over the last two weeks:

- Senator Conrad introduced his comprehensive legislation, and the Vice President appeared at his announcement to praise the bill. The bill has only Democratic co-sponsors. Rep. Fazio is planning to introduce a companion bill on March 11th.
- Senator McCain is planning to report a bill out of the Commerce Committee by March 18th, and his staff tells us they would like to produce a bill that we would support. They are starting with S. 1415, McCain's bill codifying the Attorneys' General settlement, and we are providing him with advice and technical assistance. As you know, we responded last week to 74 written questions posed by Senator McCain.
- Senators Chafee and Harkin are still working to forge a bipartisan bill that can attract other Republicans. They had hoped to be able to announce a plan this week, but now the week of March 9th seems more likely.
- Rep. Bliley plans to complete his hearings, and then may begin to draft legislation in the House Commerce Committee. We understand that while Bliley and Waxman have been talking, they are not drafting joint legislation.

Erskine, Larry, and I will meet in the next week with Senator Conrad and the Senate Democratic Tobacco Task Force, Rep. Fazio and the House Democratic Tobacco Task Force, Senator McCain, Rep. Bliley, Senator Chafee, Senator Hatch, Senator Domenici, Senator Mack, and Representative Pryce.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 6-MAR-1998 13:04:57.00

SUBJECT: Greek Embassy Dinner

TO: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

please put on sxhedule

----- Forwarded by Elena Kagan/OPD/EOP on 03/06/98 01:06
PM -----

Richard Socarides 03/06/98 09:01:56 AM

Record Type: Record

To: Elena Kagan/OPD/EOP

cc:

Subject: Greek Embassy Dinner

is on Thursday, March 12th at 8. I'm glad your coming.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 6-MAR-1998 12:59:45.00

SUBJECT: 1-Pagers on Jobs Report and G.I. Bill for Workers

TO: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

please print

----- Forwarded by Elena Kagan/OPD/EOP on 03/06/98 01:01
PM -----

Russell W. Horwitz

03/06/98 09:31:11 AM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: 1-Pagers on Jobs Report and G.I. Bill for Workers

Message Sent

To:

Lori L. Anderson/WHO/EOP
Barry B. Anderson/OMB/EOP
Brenda M. Anders/WHO/EOP
Kris M Balderston/WHO/EOP
David S. Beaubaire/WHO/EOP
Marsha E. Berry/WHO/EOP
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Emily Bromberg/WHO/EOP
Rebecca A. Cameron/WHO/EOP
Phillip Caplan/WHO/EOP
Laura K. Capps/WHO/EOP
Cheryl M. Carter/WHO/EOP
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Peter O'Keefe/WHO/EOP
Peter R. Orszag/OPD/EOP
Kristen E. Panerali/OPD/EOP
John Podesta/WHO/EOP
Franklin D. Raines/OMB/EOP
Bruce N. Reed/OPD/EOP
Christa Robinson/OPD/EOP
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Steven J. Ronnel/WHO/EOP
Stacey L. Rubin/WHO/EOP
Laura D. Schwartz/WHO/EOP
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Barry J. Toiv/WHO/EOP
Michael Waldman/WHO/EOP
Paul J. Weinstein Jr./OPD/EOP
Lisa M. Kountoupes/OMB/EOP
Craig T. Smith/WHO/EOP
Sara M. Latham/WHO/EOP
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Minyon Moore/WHO/EOP
Craig T. Smith/WHO/EOP
Karen E. Skelton/WHO/EOP
Jeffrey A. Forbes/WHO/EOP
Virginia M. Terzano/OVP @ OVP

AMERICA'S ECONOMY IS ON THE RIGHT TRACK:

15 Million New Jobs, Wages Are Rising, and Unemployment Down To A 25-Year Low

March 6, 1998

Today's Report Shows That Wages Are Rising, Unemployment Is Down To A 25-Year Low, and 310,000 New Jobs Were Created Last Month Alone. In 1992, the American economy was barely creating jobs and the unemployment rate was 7.5 percent. Five years ago, President Clinton put in place a bold new three-part economic strategy of cutting the deficit to help reduce interest rates and spur business investment; investing in education, health care, science and technology so that America was prepared to meet the challenges of the 21st century; and opening markets abroad so that American workers would have a fair chance to compete and win across the globe. Today's report shows that this economic strategy is working for America's workers.

- ***Unemployment Down to 4.6 Percent -- its Lowest Level in 25 Years.*** In 1992, the unemployment rate was 7.5 percent. Today, the unemployment rate is 4.6 percent -- its lowest level since 1973. The unemployment rate has been below 6 percent for 42 consecutive months and at or below 5 percent for 11 months now with no signs of inflationary pressures.
- ***Over 15 Million New Jobs Under President Clinton.*** Since President Clinton took office, the economy has added more than 15 million new jobs -- a faster annual rate of job growth (2.6 percent per year) than *any* Republican Administration in 75 years.
- ***Fastest Real Wage Growth in Over 20 Years.*** Last month, average hourly earnings increased 0.6 percent, and over the past year, average hourly earnings have increased 4.1 percent -- far faster than the rate of inflation. In 1997, real average hourly earnings increased 2.3 percent -- that's the fastest real wage growth since 1976. After *falling* in the 12 years before President Clinton took office, real earnings are up since January 1993.
- ***Highest Share of New Jobs in Private Sector in 75 Years.*** Since President Clinton took office, the private sector of the economy has added nearly 14 million new jobs -- with more than 3.0 million jobs added in the past year. Under President Clinton, 93 percent of the 15 million new jobs have been in the private sector -- that's the highest percentage since Warren G. Harding was President in the early 1920s.
- ***Turning the Corner in Basic American Industries.*** Under President Clinton, basic American industries, such as construction and autos, are coming back and leading the world.
 - ***1.4 Million New Construction Jobs.*** After losing 667,000 jobs in construction during the previous four years, nearly 1.4 million new construction jobs have been added since January 1993 -- that's a faster annual rate than any other Administration since Harry S Truman was President.
 - ***149,000 New Automobile Jobs -- Leading The World Once Again.*** After losing 35,000 jobs in the auto industry during the Bush years, we have 149,000 new auto jobs under President Clinton. For the first time since the 1970s, America has led the world in auto production for four years in a row.
 - ***614,000 New Manufacturing Jobs.*** After losing 2.1 million manufacturing jobs during the 12 years before President Clinton took office, the economy has created 614,000 new manufacturing jobs since January 1993.
- ***Booming Job Growth Has Helped Lower Unemployment for African Americans and Hispanics.*** Under President Clinton, the African-American unemployment rate has fallen from 14.1 percent to 9.7 percent. And the Hispanic unemployment rate has dropped from 11.3 percent to 6.8 percent -- as low as it's ever been. But we still have more work to do, since these unemployment rates are above the national average.

- *With Low Unemployment, Core Inflation Is The Lowest In 32 Years.* In 1997, the core inflation rate, excluding the volatile food and energy components, was just 2.2 -- that's its lowest level since 1965.

A G.I. BILL FOR AMERICA'S WORKERS: REFORMING THE JOB TRAINING SYSTEM

March 6, 1998

"Again, I ask the Congress to continue its bipartisan work to consolidate the tangle of training programs we have today into one single G.I. Bill for Workers, a simple skills grant so people can, on their own, move quickly to new jobs, to higher incomes and brighter futures."

President Clinton
January 27, 1998

With A Vote Scheduled For The Week of March 16th, The President Calls on the Senate to Pass Job-Training Reform. In September 1997, the Senate Labor Committee unanimously approved the bill, S. 1186: Workforce Investment Partnership Act. This bill builds on the President's 1995 proposal for a G.I. Bill for America's workers to reform the web of job training and adult and vocational education programs and help prepare the American workforce for the 21st Century. Senator Lott has indicated that this bill will come to the floor the week of March 16th. Today, the President calls on the Senate to pass this important legislation organized around his four basic principles:

- **Empowering Individuals.** Through Skills Grants, report cards to inform consumers' choices, and universal access to core services like job-search assistance, job training reform will empower individuals, providing adults seeking training or retraining control over their own careers. This customer-driven system replaces the decades-old tradition of making job training decisions for adults through bureaucratic systems. This individual empowerment will make the job training system more responsive to the skill needs of the market.
- **Streamlining Services.** Through the consolidation of myriad individual training programs into a single system and through the nationwide implementation of One-Stop Career Centers (centers that consolidate multiple training and employment programs at the "street level"), this reform effort will streamline the job training system. Over the past few years, the Administration has entered into partnerships with over 40 states to build a One-Stop system, and today, there are over 500 in operation. This reform would expand One-Stops nationwide.
- **Enhancing Accountability.** Through tough performance standards — for both governors and localities — and by requiring training providers to be certified by, for example, the Higher Education Act (HEA), this reform enhances accountability. Performance measures will include rates of job retention, earnings, and job placement.
- **Increasing Flexibility.** Job training reform would provide additional flexibility. For example, the Secretary of Labor will have permanent authority to waive burdensome Federal job training rules in exchange for performance improvements. This will allow states and local areas to implement innovative job-training programs.

A Bill Incorporating These Principles Has Already Passed The House. In May 1997, the House — with overwhelming bipartisan support — passed a job training reform bill (H.R. 1385: The Employment, Training, and Literacy Enhancement Act) which incorporates these principles: it allows for individual empowerment through career grants; it establishes a "full-service" employment and training delivery system; it establishes indicators of performance to hold states and localities accountable; and it includes additional flexibility through waiver authority.

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 6-MAR-1998 17:56:08.00

SUBJECT: RECEIVED: Reminder--comments on PBGC testimony (LRM MNB120) ARE DUE

TO: Melissa N. Benton (CN=Melissa N. Benton/OU=OMB/O=EOP [OMB])
READ:UNKNOWN

TEXT:
RETURN RECEIPT

Your Document:
Reminder--comments on PBGC testimony (LRM MNB120) ARE DUE
was successfully received by:
CN=Elena Kagan/OU=OPD/O=EOP
at:
03/06/98 05:51:15 PM

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 6-MAR-1998 18:38:23.00

SUBJECT: Thank you

TO: Jason S. Goldberg (CN=Jason S. Goldberg/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

It sounds as if we should be thanking you. We really do appreciate your patience today.

----- Forwarded by Elena Kagan/OPD/EOP on 03/06/98 06:38 PM -----

Jason S. Goldberg
03/06/98 06:17:46 PM
Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Laura Emmett/WHO/EOP, Cynthia A. Rice/OPD/EOP
cc:
Subject: Thank you

The information for next week's meetings looks great. I talked to Erskine and he is pleased -- his #1 concern was getting out of here early tonight to go visit his son in NY.

I will Fed Ex to him tonight so he get's the memos tomorrow morning.

Thanks again.

Jason

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 8-MAR-1998 18:38:55.00

SUBJECT: Child Care

TO: Jennifer L. Klein (CN=Jennifer L. Klein/OU=OPD/O=EOP @ EOP [OPD])
 READ:UNKNOWN

CC: Maria Echaveste (CN=Maria Echaveste/OU=WHO/O=EOP @ EOP [WHO])
 READ:UNKNOWN

TEXT:

jen -- we should talk about doing a weekly or biweekly meeting that addresses legislative strategy, communications, outreach, and (least important) substance. elena

----- Forwarded by Elena Kagan/OPD/EOP on 03/08/98 06:45 PM -----

Maria Echaveste
 03/03/98 09:22:02 AM
 Record Type: Record

To: Elena Kagan/OPD/EOP, Jennifer L. Klein/OPD/EOP, Nicole R. Rabner/WHO/EOP
 cc: Audrey T. Haynes/WHO/EOP
 Subject: Child Care

What do you think our next step should be? (You have to love these groups--they always seem to find a way to lay fault at the White House and focus solely on the dc game and not in building public support out there in the country.) Audrey--who all did you meet with?

----- Forwarded by Maria Echaveste/WHO/EOP on 03/03/98 09:18 AM -----

Audrey T. Haynes
 03/03/98 08:59:03 AM
 Record Type: Record

To: Maria Echaveste/WHO/EOP, Barbara D. Woolley/WHO/EOP, Doris O. Matsui/WHO/EOP, Maureen T. Shea/WHO/EOP
 cc: Marjorie Tarmey/WHO/EOP, Robin Leeds/WHO/EOP
 Subject: Child Care

Yesterday we had our internal meeting with the key "thinkers and movers" on the child care initiative. Following is the summary:

1. Clearly Children's Defense Fund is the lead organization and they don't believe any other coalition/campaign is needed.....they are the coalition/campaign.
2. When asked how we could assist with outreach, the only group they don't feel is connected is business.
3. They want the White House to use events/opportunities to continue and

keep child care on the front of the agenda.

4. The bottom line for them is "what is our legislative strategy?" They had some thoughts, but really said the most confusion on this issue from WH is within the absence of a legislative strategy, with or without a bill although they much prefer a bill.

Suggestion: We need to convene an internal meeting with DPC and leg affairs and whoever else to discuss legislative strategy.....

As an FYI, Maureen and Doris were at the meeting as well....if either of you have something to add, feel free!

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 8-MAR-1998 14:13:04.00

SUBJECT: workplace freedom and pay equity

TO: Thomas L. Freedman (CN=Thomas L. Freedman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:
where are we on these?