

Memo To: Ellen Merlo

cc: Vic Han

From: Tom Humber

Subject: ETS

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The purpose of this memo is to outline, quickly, for further discussion, topline, but unified and synergistic recommendations for dealing with the ongoing battle over ETS.

Several elements are critical to this effort:

**Speed** -- If for no other reason, the OSHA review of ETS as a discrete substance, separate and apart from the review of IAQ in general, should command this. But one must also add the certain escalation of all ETS activities, including the proposed Executive Order, local and state regulatory and legislative activity, unilateral employer smoking bans and lawsuits.

**Centralized project management** -- One of the major problems of the past, and one that appears to be growing again, is the lack of a true, coordinated, focused team effort, both within PM and within the industry. Any chance for "success" at this point will depend on synergistic efforts across a number of fronts simultaneously with strong, definitive leadership and

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clear and unmitigated direction.

**Political campaign mentality** -- This will insure movement that capitalizes on the momentum accomplished through D-Day and should instill flexibility and accountability. Vision leading to action tempered by acceptable risk become the operating principles.

Objectives

- o Protect the franchise
  
- o Hold the line against an escalation of smoking bans, whether instituted unilaterally by employers or by government action
  
- o Discredit the EPA report on ETS specifically and the EPA generally
  
- o Establish the strongest possible input into OSHA deliberations
  
- o Blunt the thrust of employer and manufacturer liability suits
  
- o Establish good IAQ overall, accommodation and responsible smoking as the solutions

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## RECOMMENDATIONS

### Litigation

Sue the Bastards!

Although already rejected more than once, there is simply no other action that will accomplish as much across all fronts as effectively. In it is defined the substance and the symbolism of our principal message: We are right! We shall fight!

It establishes focus and direction; it will inoculate all audiences for follow-up activity and it could, at the very least, delay or cloud precipitous actions against us. With appropriate communications overlays, it could regain some percentage of industry credibility and it could stimulate others, who have heretofore been too timid to fight back against the EPA, to summon up their own courage for their own battles.

I shall not belabor the point, but it is serious, and it should be seriously reconsidered. If that is possible, then I shall address more specific considerations in a subsequent memo.

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## Media

There are those who will maintain that the best -- perhaps the only -- media strategy is to have no more coverage whatsoever. Theoretically they are correct, but to pursue that theory is to ignore reality. There will continue to be considerable coverage generated at the national level and it will be supplemented by growing coverage at local levels. Against those certainties, the objective must be to respond, to influence and to maintain balance through a combination of company, industry and third-party spokespeople.

The pro-active strategy should build upon the efforts and accomplishments managed through D-Day, which were considerable. Thus, the only stories we should be seeking are those that:

- o Demonstrate the scientific weaknesses of the EPA conclusions in consequential terms
- o Put the risk in perspective
- o Point to EPA excesses and mistakes unrelated to tobacco
- o Demonstrate EPA "corruption"
- o Re-evaluate the risk assessment process

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- o Stimulate non-tobacco industries, anti-regulation groups and others to provide their own perspectives in order to portray EPA as an agency correctly under siege
- o Provide comfort and articulation to smokers
- o Provide a counterbalance against an employer stampede for smoking bans
- o Indicate the company's and industry's resolve on behalf of smokers and employers who wish to preserve the "rights of all"
- o Indicate the resolve of the company to defend litigation against the company and to provide aid and counsel to others who must defend against litigation
- o Point to separate sections, ventilation and accommodation as the only rational solutions of a democratic society

Against that long list, it is critical for people to understand that the thrust of such efforts would not be broadsides aimed at the herd of daily journalists, but a sophisticated and carefully targeted approach that will maximize the opportunities available from revisionist

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journalists and opinion leader publications to highly specialized media, such as labor and investment newsletters as well as scientific, legal and human resource journals.

For example, P.J. O'Rourke, the columnist for Rolling Stone and other publications, is the kind of voice that would appeal to smokers, Mike Royko the kind who would appeal to blue collar workers. Harpers' magazine generally and Rick MacArthur specifically should be approached, as representative of liberal thought leader publications. Victor Schwartz would be just one name suitable for a legal journal piece or possibly for publications aimed at employers. While there are sensitivities, Peter Huber is well positioned to categorize the junk science as parts of the EPA report. And, we should continue to try with the likes of John Crewdson, Nick Wade and Gregg Easterbrook, as they represent mainstream journalists with the ability to comprehend and investigate the scientific issues.

In the end, we simply must inventory all reasonable publications and writers, matching approaches as appropriate, as we successfully did with the Forbes cover story (see attached). By the same token, we must be defensively prepared to deal with contingencies such as a Larry King Live which, given his posture toward smoking, would be assumed to be negative. Clearly, the cellular telephone example demonstrates the power of that specific

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show and implies the power of others.

The key to all media will be a combination of message and messengers -- meticulously prepared, consistent and credible. Absolutely critical will be the ability to build upon the precedent established by the D-Day plan to call upon the scientific experts for public service and to expand their number along a variety of fronts, some of which will not necessarily require discussions of smoking or ETS.

Whether for media, legislative testimony or coalition building purposes, the recruitment, education and training of a variety of experts must be an integral part of any effort that hopes to advance credibility -- or, conversely, successfully diminish that of the other side. Thus far, with ETS, that effort has been conducted under industry aegis, and the results -- from a public relations perspective -- have been less than successful.

I believe such efforts must be given renewed emphasis, and I would like to discuss my qualifications, which I think are unique, to participate in that effort.

We should specifically discuss the potential for EPA Watch as a part of media and other efforts. I have previously discussed with Tom Borelli several ideas for expanding the impact of EPA Watch and the reputation of Bonner Cohen as an

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expert on EPA matters. At a minimum, a series of radio actualities with Bonner commenting on EPA matters could reach an extremely wide audience, and we can tailor geographically for maximum appeal. We think it also possible to establish a standard format that could give Bonner presence as an expert commentator, but that requires further investigation. As a part of the D-Day operation, Bonner's name was provided to several Colorado journalists as an outside resource on EPA transgressions.

#### Coalition Development and Mobilization/Third Party Activity

For the purpose of this memo, and, I believe, in the interests of overall strategy, all activities that require the recruitment of outside organizations or individuals, against ETS specifics or more general objectives, are being lumped together. While one could exhaustively catalog many more potentials, and we should as we go, the concentration here is on those that, because of existing relationships, past activities and similar or mutual interests can provide the most immediate operational benefits.

#### The Institute for Regulatory Policy

Started specifically to address the panoply of problems in the risk assessment and regulatory process identified by OMB in August 1990, IRP is an existing mechanism that currently

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is in the best position to assemble and mobilize a wide variety of business groups, corporations, local governments and other parties concerned about or victimized by EPA excesses.

Burson-Marsteller has worked with IRP, and its Director, former OSHA Administrator Thorne Auchter, since its inception, and has several clients who are among IRP's key supporters.

In September, 1992, B-M mounted an intensive grass-roots effort on behalf of IRP to solicit quality signatures for a petition to President Bush asking him to add risk assessment to the moratorium on regulatory activity. That effort produced a total of 349 letters, the signers of which now represent an important base for a number of activities. Attached is a list of signers.

Citizens for a Sensible Environment (Citizens for a Sound Economy)

This group is well-known to Philip Morris, and, like IRP, already has a track record of activity and is well-positioned to undertake a number of coalition-building activities. Burson-Marsteller has provided support to several previous activities, most notably in August 1992, with regard to a CSE-sponsored conference in Columbus, Ohio, featuring Vice

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President Quayle. Working with the office of the VP, the staff of the Competitiveness Council, CSE and IRP, B-M was involved in both concept and execution of a strategy that made sure that media coverage of the discrete message regarding over-regulation superseded the political noise surrounding the VP's appearance.

The U.S. Conference of Mayors

Burson-Marsteller was responsible for the broadening of a resolution (attached) adopted at the last annual meeting to include EPA-specific language and to request specific research regarding the mayors' concerns about "unfunded federal mandates."

More recently, leadership of the Conference has asked B-M to develop strategies and implementation support to put selected big-city mayors and the Mayors Conference front and center in the battle. The potential for this activity is considerable: for the immediate objective; for building relationships for local initiatives; and, for increased media attention to highly credible and newsworthy opponents to EPA excesses. Conference leadership has stressed to us in recent weeks that this is among the hottest topics with their membership. We should immediately discuss next options from PM's perspective.

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The Agriculture/Supplier Community

For several years, B-M has been urging (to virtually all divisions of PM) more pro-active programs to stimulate the potential of those who are closest to tobacco and, in fact, have their own financial stake in the well-being of the industry. Although we recognize that grower sensitivities have delayed or stymied even normal outreach efforts, we would argue that ETS is so important that it begs for renewed efforts. It also argues for expansion to, at the very least, those who benefit directly from the tobacco economy, such as equipment suppliers, etc.

If, in fact, those groups are brought together, along with PM's direct suppliers, that combined group should provide, in addition to their "coalition" potential, a good cross-section to begin testing approaches to employers.

HVAC/IAQ Businesses and Groups

We have also previously outlined a potential approach to those businesses and groups whose economic interests would be furthered by the adoption of policies and regulations centered on total IAQ solutions rather than source control (see attached). Given the already identified activity of some of these businesses and groups, we believe the idea continues to merit consideration.

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One could go on and on, taking ideas down to very specific groups such as apple growers, labor and employee groups, restaurant and hospitality groups, conservative organizations, think tanks, etc., but some are already under cultivation, others are self-evident and, again, the premise of this strategy is to build from established bases to achieve a rapid start and broadscale umbrellas under which other specific operations can be unfolded.

One such operation, that should still be explored, is to exploit the NIOSH 800 number, as suggested in my October 13, 1992 memo (attached). Yet another is to revisit earlier suggestions we have made regarding raising consciousness about Legionnaire's Disease conditions as a way of demonstrating the urgency of dealing with the total IAQ issue.

It must be noted here that the term "coalitions" is used as a convenience, but given the particular toughness of this issue, expectations and approaches must be significantly different from those of and to other issues.

#### Legal

Recognizing the need not only to communicate with employers but also to provide aid and counsel regarding liability and

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litigation, we recommend the immediate institution of an ETS Defense Resources Council that would act as a clearinghouse for information, documentation, etc. While this activity will obviously not prevent new laws nor stop employers from imposing workplace smoking bans based on the threat of litigation, the rapid institutionalization of and communication about such a center would facilitate a dialogue with reasonable employers. It will also signal the antis and plaintiffs bar that there will be no free ride on this tobacco issue either.

We have participated in such an effort on behalf of another corporate client, and while the circumstances were much different, the effort was regarded as highly successful.

Direct Mail

With the cancellation of some of PM's consumer outreach programs, I am currently unsure as to which of the remaining vehicles would be appropriate for some type of ETS message to smokers, but given the combined size of PM's smoker lists, the direct mail avenue should be considered as the fastest, most efficient way of reaching smokers directly.

While the effort will be expensive because of direct mail costs, I believe a PM letter that moves from the bad science through accommodation and courteous smoking and closes with

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an 800 number that smokers can call in the face of employer initiated bans should be considered.

Issue and Media Training

In the course of a conversation with Clare Purcell about getting Harold Burnley ready for a presentation, we recognized that a lot of PM people, who are now going to be pressed into service of some type on behalf of ETS, have very little, if any, background on the issue. This will also be true of some allies (recall Fred Smith), who want to help, but must get up to speed. Just this week, we received an urgent call from PM's Texas lobbyist fighting critical timing on the Dallas airport smoking ban proposal. He could reach no one, he knew nothing, and he needed immediate help.

As you know, B-M has been conducting issue/media training sessions for PMI public affairs employees and company executives on ETS for over a year. Although such an effort for PM USA people would not immediately advance the external battle, it is certainly something that should be considered to be prudent and helpful.

Next Steps

The following steps, at a minimum, should be initiated to keep the ETS battle on track and build momentum.

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- o Establish ETS team and reporting/responsibility structure. This is critical to any kind of sustained, effective effort on ETS.
- o Determine overall plan elements, incorporating ETS, IAQ and accommodation.
- o Assess scientists' availability for public service. The D-Day precedent of making scientists available should be continued and expanded, with scientists playing not only a reactive role, but a pro-active one as well. This is our best bet for credibility.
- o Discuss additional scientific recruitment/inoculation. Explore a broader base of potential scientific allies, some of whom would speak to the issue of ETS, others who would address science, scientific methodologies, the science at EPA, and risk assessments in a broader sense. This is where we start to put the science of ETS into perspective.
- o Prepare plan for involving growers. Especially given grower sensitivities due to market and pricing conditions, it is important that they realize the efforts PM is making to help improve the market, and that they also have a role and responsibility in helping

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turn the tide.

- o Prepare employer/supplier letter and information kits, building on initial SHB work.
- o Prepare legislator information packets for dissemination on state and local levels.
- o Develop comprehensive media plan. This plan would cover where we've been, what has worked and where we need to go.
- o Brief SHB and B-M on OSHA plan so that this can be incorporated into overall strategy.
- o Develop ETS Defense Resources Council.
- o Develop "coalition/third-party" activity that builds from efforts and relationships already in place.

**SUMMARY**

As previously stated, this memo seeks only to outline for discussion purposes an initial plan for PM's continuing effort on ETS. We feel very strongly that the details flow from the general plan, and we need to agree on what that plan should encompass before mapping out a more specific agenda.

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