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8 August 2002

Dear Paul

***Re: Proposed European Directive on Tobacco Advertising and Sponsorship – Inclusion of Cigarette Papers***

I am writing to you regarding the proposed directive by the European Union to ban tobacco advertising and related sponsorship. ASH welcomes the initiatives being taken at the European level to introduce restrictions on advertising and the marketing of tobacco, which remains the single biggest threat to public health. While we are generally supportive of the idea and welcome the Department's support for this initiative, we must raise several concerns about the practical implementation of this given the constraints of UK and EU tobacco advertising legislation.

To this end, I would like to make several comments in response to your consultation document:

**Consultation:** We welcome the consultation and opportunity to comment. As a general rule, we would like more opportunities to give the Department formal input before policy is determined, though we recognise this could, if carried to extremes, become too cumbersome.

**Tackling HRT:** We are very glad that the Department acknowledges the problem of the growth in the use of hand-rolling tobacco and seeks to address the means by which this form of tobacco use is promoted. This is consistent with the government's stated position on other forms of tobacco advertising and is justified by the same evidence base.

**Advertising for Rizla:** This brand poses a particularly serious problem. Its promotion is highly youth-focussed, extremely persuasive and obviously expensive. The marketing here is not of simply a cigarette paper but a whole "attitude" which aims to glamorise the use of the product as an alternative edgy lifestyle. There is no doubt that this is effective tobacco marketing.

**Precautionary approach:** The Department and EU should adopt a precautionary approach and place the onus on cigarette paper manufacturers such as Rizla to show that their advertising can have no impact on consumption. Extra consumption does kill, and therefore the government should err on the side of caution when balancing the need to protect human life with the commercial freedom of tobacco companies.

**Evidence:** We do not believe it will be possible to find evidence that isolates the

effect of cigarette paper advertising from other forms of advertising – just as it would be difficult to isolate the effect of a single cigarette brand. However, we do not believe this is necessary either – both because of the precautionary principle (above) and because of the government’s view of the impact of conventional tobacco advertising. The government, rightly, accepts that tobacco advertising does increase consumption as well as influence brand preferences, and there is no reason to assume that this would not apply to the branding effect that Rizla offers to hand-rolled tobacco. The question that the tobacco industry would have to argue is why would that not apply here? As they do not accept it applies in the case of mainstream tobacco advertising, I cannot see how they can make this argument in a manner that could convince the government. The advertising increases the desirability of the item advertised and that increases the overall consumption as well as influencing the brand preferences. The tobacco companies argue that advertising only shifts brand preferences between tobacco brands. But if advertising can change people's preferences between tobacco brands (from Marlboro to Embassy cigarettes) there is every reason to expect that advertising can re-align preferences between non-tobacco products and tobacco products (from Stella Artois lager to Marlboro cigarettes).

**Concern about indirect tobacco advertising:** The discussion of inclusion of cigarette papers throws a serious anomaly into sharp relief. We understand that the Department believed that the proposed directive as drafted does not apply to indirect advertising of tobacco brands – for example Marlboro clothing, Camel boots and other tobacco-branded merchandise or offerings. There seems little logic in banning advertising for Rizla papers when Marlboro clothing is outside the scope of the directive. This, rather than the exclusion of cigarette papers, is the most serious defect in the directive and should be the priority for rectifying in the Council. If banning cigarette paper advertising can be justified on public health grounds (as we believe it can) then it is also possible to justify banning indirect advertising of tobacco brands.

**Concern about domestic implementation of EU legislation on cigarette papers:** A further concern relates to the implementation of this measure in UK legislation. The current Tobacco Advertising and Promotion Bill, which is awaiting the completion of its passage through parliament, does not include cigarette papers. This would create an anomalous situation whereby the types of advertising covered by the EU directive (radio, internet, printed publication, international sponsorships) would be banned for cigarette papers, but not other types of promotions that are covered by UK legislation (billboards, direct marketing, promotions, events, domestic sponsorships etc).

**Concern about only tackling papers:** We have concerns about extending the directive to only one form of smokers’ paraphernalia. Other types could also become vehicles for promoting smoking – Zippo lighters, branded matches, cigarette rolling machines – but would not be covered by the directive. We prefer language that covers entire categories of promotion, rather than specific items.

**Alternative proposal:** We suggest three main approaches would help to address the concerns...

1. Modify the EU advertising directive to ensure that it includes indirect tobacco advertising. Without this, the directive will be ineffective and the discussion of whether or not cigarette paper included would be irrelevant.
2. Consider including a generic ban on the promotion of *tobacco use* well as tobacco products. In our submission to the Department in response to the earlier consultation we suggested a definition of tobacco advertising: *“Tobacco advertising means any commercial communication whose main, secondary or incidental aim or effect is to promote a tobacco brand or to promote tobacco use”*
3. Seek the means to include a ban on promotion of tobacco use within UK legislation – either by amendment if this does not cause undue delay, or new legislation if required.

I hope this input is useful – and that the government can find a way through the practical problems and achieve the worthwhile aim of banning promotion of cigarette papers. Please do not hesitate to contact me should you want to discuss these issues further.

Yours sincerely,

Clive Bates  
Director