

Search ACSH Site



Search!

Volume 3 Number 1 1991

ACSH PUBLICATIONS & ARTICLES

- Press Releases & Editorials
- News from ACSH
- Alcohol
- Diseases
- Environmental Health
- Food Safety
- Lifestyle
- Medical Care
- Nutrition & Fitness
- Tobacco

ACSH INFORMATION

- About ACSH
- ACSH Classics
- ACSH in the Media
- Reach Us
- Membership
- Offsite Links
- Publications
- Publication Order Form
- Scientific Employment Opportunities
- Sign ACSH Guestbook

Philip Morris and the Bill of Rights

by Howard Wolinsky

What comes to mind when you read these names: James Madison, Thomas Jefferson, George Mason and Philip Morris? If you thought tobacco, you'd be right. If you thought the Bill of Rights, right again.

Jefferson, Madison, and Mason, all tobacco planters, were among those 200 years ago who originated the concept of the Bill of Rights, which today guarantees our rights to free speech, freedom of religion, due process, protection against unreasonable searches and seizures, a speedy and public trial, and so on.

Philip Morris also links tobacco and the Bill of Rights.

Philip Morris, the largest U.S. purveyor of cigarettes, the maker of Marlboro, Virginia Slims and other brands, also happens to be the largest purveyor of the Bill of Rights in history. More than two million copies of one of our nation's most cherished documents have been distributed by Philip Morris as part of the Bicentennial celebration of the Bill of Rights which concludes on Dec. 15, 1991, the 200th anniversary of the document. Philip Morris is sending a traveling exhibit with one of the original copies of the Bill of Rights to all 50 states.

The campaign would seem to be just another good work of a corporate citizen that has sponsored art shows, ballets and many other events. In what ultimately will be a \$60 million program to celebrate our freedoms in TV commercials and print ads, Philip Morris has enlisted leading figures, from Polish Solidarity leader Lech Walesa to civil rights activist Benjamin L. Hooks, from actor Charlton Heston to The Reverend Theodore Hesburgh, former president of the University of Notre Dame.

It all seems high-minded and responsible, wrapping the corporate logo in the parchment of the Bill of Rights. Yet, a cloud of smoke has swirled around Philip Morris' apparently patriotic gesture.

As a result of the campaign, Philip Morris' corporate name has appeared in TV advertising for the first time since 1971 when the cigarette ad ban went into effect — a ban agreed to by the tobacco barons because it also resulted in highly effective "equal-time" counter-advertising going off the air.

At the same time, the Philip Morris campaign has allowed the company's distinctive coat-of-arms logo to appear in print ads without the Surgeon General warnings.

The antismoking movement condemned Philip Morris for a sneak attack. Ohio Congressman Thomas Luken, chairman of the Subcommittee on Transportation and Hazardous Materials, conducted hearings on the matter and asked the Justice

Department to look into possible illegalities involving the ads as well as the \$600,000 deal between Morris and the National Archives, the keeper of the documents important to our national heritage, including the Declaration of Independence and the Constitution.

Philip Morris, for its part, pleaded it merely was trying to be a responsible citizen. It contended it wasn't promoting cigarettes. The ads used the name of the parent corporation, over the names of Miller Brewing, Kraft/General Foods, which make a wide variety of packaged foods, and Philip Morris U.S.A., the cigarette makers. Heck, the company told the Congressional committee, Philip Morris didn't even make Philip Morris cigarettes anymore.

So whom do you believe? Is this a nefarious plot to sell coffin nails, or is it simply a promotion of the Bill of Rights? When it comes to Philip Morris, a bit of skepticism is always in order.

The scientific evidence is overwhelming that tobacco products made by Philip Morris and its competitors are responsible for widespread disability and death. With 40 percent of the U.S. cigarette market, Philip Morris is playing a major role in causing the premature, preventable deaths of perhaps 156,000 Americans a year.

Philip Morris presents itself as the largest manufacturer of packaged goods in the country. Hence, it argues that its trade name stands not only for Marlboros, but also Jell-O, Kool-Aid, Velveeta, Maxwell House coffee, Oscar Mayer wieners, Breyer's Ice Cream, Post cereals and a host of other common household goods. Though about half its revenue is derived from products other than cigarettes, 80 percent of Philip Morris' profits come from cigarettes. Let's call a cigarette company a cigarette company.

Philip Morris portrays itself as a high-minded citizen, the patron of the arts and sports. But the firm, awash in cash, reminds me of a person who merits being an outcast for heinous deeds, but instead buys himself respectability. It's like the gangster who guns down people in the course of business and then is feted for his good works at charity balls for the hospitals where his victims are treated.

Because of the history of tobacco and the politics that surround it to this day, tobacco makers have been able to continue to sell their deadly product in the face of tens of thousands of studies linking the golden leaf to a rogue's gallery of killers and cripples. And because of our country's experience with the failure of the Prohibition of alcohol, as well as the difficulty of stamping out cocaine, heroin and the like, there is a strong reluctance to ban tobacco.

So tobacco remains a legal product, one of the most widely promoted and advertised.

When there was a move in Congress, supported by medical organizations, to ban cigarette advertising, Philip Morris cried that its civil rights — as guaranteed by the First Amendment in the Bill of Rights — were being threatened.

And they won the support of the likes of the American Civil Liberties Union as well as those who profit from the largess of tobacco advertising, including the ad agencies and the magazine and newspaper publishers.

Legal scholars debate the extent that the First Amendment protects commercial speech. Limits have been recognized in some cases for ads for certain enterprises, such as casinos.

*any good analysis
of commercial
speech?*

Important principles were involved when lawmakers were considering extinguishing the right of a company to advertise a legal product. And Philip Morris masterfully told its side, either honestly believing it was a wronged party or cynically acting as a manipulator of truth.

But the company's honesty is clearly in question.

Philip Morris last year sued Dr. Alan Blum, founder of one to believe that it was an advocacy, perhaps of Doctors Ought to Care, a health promotion group, for making T-shirts that satirized PM's Miller Lite beer. The Shirts had a Miller-like logo referring to the product as "Killer Lite" and replaced Miller's "We're Having A Party" campaign with "We're Pushing A Drug."

Philip Morris, which has never gone after the makers of cigarette candies resembling its brand names for copyright violations, ended up settling out of court when it appeared that its reputation as a defender of the Bill of Rights would be tarnished.

A few years ago, Philip Morris also attacked the proposal to ban cigarette advertising by sending copies of Pravda, the daily diary of the Soviet dream, to American newspaper editors. Here's what a newspaper without advertising looks like, PM explained. The heavy-handed campaign in effect tagged those who opposed the advertising of a deadly product as Commies.

(Ironically enough, after last summer's protests over cigarette shortages in the Soviet Union, Philip Morris got a sweetheart deal to sell its cigarettes for the first time to the proletariat in the Russian Republic. Philip Morris even won concessions to promote Marlboro and other brands on Kioska.) In a few years, it is projected that Philip Morris could capture 20 percent of the market, a tempting target as the number of smokers in the United States continues to shrink. Will the Marlboro man trade his six-gallon Stetson and his guitar for a Russian fur hat and a balalaika? Could capitalism's final victory over Communism, a Chernobyl of heart disease and cancer, be achieved with a new American secret weapon: Marlboros and Virginia Slims?

In another slick move, Philip Morris established a magazine in its own name, thereby making itself a publisher with further claims to First Amendment protections should the day come when its ads are banned.

Even the National Archives, which the public records show as naive indeed in its dealings with Philip Morris, was leery about a relationship with a tobacco company.

When Philip Morris showed interest in the Bill of Rights program proposed by the National Archives in fall 1988, the governmental body suggested General Foods be the sponsor. Philip Morris insisted that the program be identified with the parent corporation.

The original Philip Morris proposal didn't sit right with the archivists. "It appeared to us from their presentation, that it was not well-defined as a factual depiction of the Bill of Rights, and therefore, could lead one to believe that it was an advocacy, perhaps of smoking or of smokers' rights. Therefore, we backed away," Claudine J. Weiher, deputy archivist, told a Congressional hearing.

Philip Morris — the only company approached by the National Archives that had been interested in promoting the document's Bicentennial — regrouped and came up with a plan that the archivists liked better because it gave a "factual depiction" of the Bill of Rights and gave the National Archives final say on content.

In the end, Philip Morris has had its way again. It dodged around the laws controlling advertising of cigarettes, mocking Congress and the Surgeon General. It used the United States government agency to promote the corporate name and ultimately cigarettes, tarnishing the good name of the National Archives.

But most important, Philip Morris has sullied our Bill of Rights. For years, it has cried out for its own rights to free speech in advertising, while depriving others of their rights by selling them a product that addicts, disables, and kills.

The Declaration of Independence, drafted by Thomas Jefferson, said people "are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness." These concepts are beyond the grasp of the dead.

Howard Wolinsky is a medical writer with the Chicago Sun Times and has written for many years on tobacco issues.

Publishers Note: As cigarette industry watchers know all too well, the tobacco business is rife with ironies and contradictions, not to mention regular denials of scientific and medical realities relating to the dangers of smoking.

As Mr. Wolinsky reminds us, the Bill of Rights, in which Philip Morris is now wrapping itself, guarantees our right to free speech. But, as the just completed ACSH survey on the coverage of cigarette dangers by U.S. magazines indicates, the advertising by companies such as Philip Morris clearly has chilled the right of free speech when it comes to discussing the health risks of smoking.

Contents: Volume 3 Number 1 | All Issues

[ACSH Home](#) | [ACSH in the Media](#) | [About ACSH](#)
[Reach Us](#) | [Membership](#) | [Press Releases](#)
[Publications](#) | [ACSH Classics](#) | [Publications Order Form](#)

advocacy
Critic copy & hearing?
The National Archives approached PM?
But more than that it manipulated the truth in defense of free speech
Tactic for shifting the issue by igniting smoking w/ free speech

X

X