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Our Reference:

238/113/422117 - Sydney Office

Your Reference:

5 May 1987

Mr. W.R. McComas,
Chairman,
Trade Practices Commission,
P.O. Box 19,
BELCONNEN A.C.T. 2616

Dear Sir,

TOBACCO INSTITUTE OF AUSTRALIA LIMITED -
AUSTRALIAN COUNCIL ON SMOKING AND HEALTH ("ACOSH")

We act for the Tobacco Institute of Australia Limited.

Our client wishes to bring to the attention of the Commission certain statements made by ACOSH which have been published recently in various newspapers and journals. It is our client's view that these statements are misleading or deceptive or likely to mislead or deceive within the meaning of Section 52 of the Trade Practices Act and we request that the Commission take appropriate action in this regard.

We enclose copies of four articles where such misleading or deceptive statements have been made by members of ACOSH. Specifically our client objects to the following statements made in the articles:

(i) Medical Journal of Australia, Volume 145, July 7 1986:

"... smoking is the cause of at least one in every nine years of life that are lost through premature adult death, and causes the occupancy of at least 1 in 20 short-stay hospital beds." (page 10)

"Yet if 1700 people were killed and 7500 hospitalized as a result of spillage of a toxic chemical or an epidemic of a fulminating infectious disease, the public outcry and level of media coverage would be intense. As we have indicated, a disaster of this magnitude

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is occurring every year in Western Australia because of the smoking of tobacco." (page 11)

(ii) Canberra Times, 26 December 1986:

"Smoking kills more people in Australia than the total number killed by drink, drugs, murder, suicide, road accidents, rail accidents, air accidents, poisoning, drowning, fires, falls, lightning, electrocution, snakes, spiders and sharks, according to the Australian Council on Smoking and Health."

"But a recent study we have done shows that the number one preventable cause of death is not the much-maligned shark or spider but the common or garden cigarette." (page 3)

(iii) The Medical Journal of Australia Volume 146, January 19 1987:

"It may be seen that in 1984 approximately 23,000 Australians were killed by the harmful effects of tobacco, and that there were around 73,000 potential person-years of life that were lost prematurely." (page 117)

(iv) Sydney Morning Herald 20 April 1987:

"6,940 Australians had died this year from diseases caused by smoking ... " (page 3)

Each of these statements is misleading or deceptive in asserting that the number of deaths allegedly resulting from cigarette smoking can be calculated accurately or at all. The most commonly quoted figure in this regard is 16,169 deaths in 1980 which is derived from an article by L.R.H. Drew titled "Death and Drug Use in Australia, 1969 - 1980" (Technical Information Bulletin, No. 69, October 1982). A copy of that article is enclosed.

Article (i) above by D'Arcy, Holman & Shean refers to this study by Drew and "adapts" his methodology on the basis that the figure derived by Drew was overly conservative. The newspaper articles (ii) and (iv) above use and refer to Drew's figures or the updated version of those figures used in (i) above.

Our client wishes to draw the following points to the Commission's attention concerning the false and misleading nature and use of such figures.

(a) Association with does not prove causation

ACOSH continually contends that a certain number of deaths, whether it be 16,169 or a higher figure, is caused by smoking each year. This statement is simply false.

There is no evidence that smoking causes ill-health. The epidemiological evidence discloses only a statistical association between smoking and certain disorders. That statistical material can only be used to predict the chance of events occurring in the future;

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it cannot explain past events or individual events. Further, disorders with which smoking has been associated can in fact be statistically associated with many other types of exposures, such as those detailed at (b) below.

This means it is scientifically incorrect to say the deaths are caused by smoking.

Even Drew, on page 1 of his Article, admits:

"This paper deals with estimated drug-related deaths. The relationship between drug use and any specific death is always complex. Even where the association between drug use and drug-related problems is most obvious - such as a death from alcoholic cirrhosis - the death cannot be said to have been caused by the drug (alcohol). Although use of the drug may have played an important role in bringing about that death, in that way, at that time, many other factors must also have been important. This issue has been discussed at length by others. It should suffice to state that the data presently concerns a wide variety of drug-related deaths." (his emphasis).

(b) Other factors ignored

Smoking is not distributed at random in the Australian population, and is itself associated with variables which are known to be separately associated with differing death rates. These factors include age, sex, genetic background, geographical location, socio-economic factors, occupation and nutrition. Drew's analysis adjusts only for sex, and adjustment for any or all these other factors would reduce the claimed relative risk between smokers and non-smokers. This would be reflected in lower estimated claims for the total number of tobacco-related deaths.

The existence of these other factors represents an insuperable obstacle to accurate analysis of deaths attributed to smoking. For example, studies by Australian actuaries, William M. Mercer Campbell Cook & Knight Pty. Limited, show that not taking into account the fact that death rates vary with age group overstates the estimated number of tobacco-related deaths by about 40 per cent. A copy of the May 1986 William M. Mercer Campbell Cook & Knight Newsletter is enclosed.

(c) Use of outdated, United States data

The figure of 16,169 deaths in 1980 was derived by Drew by extrapolating, using ABS mortality data, estimates from a United States study by Hammond in the early 1960s of the relative death rates of smokers and non-smokers in the United States and then attributing the result to the situation in Australia more than 20 years later.

The indiscriminate application of Hammond's estimates to a different country in a different era renders totally unreliable the figures derived by Drew.

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(d) Biased selection of persons for study

Apart from the problem of transposing results from one country and one time period to another, outlined in (c) above, there are also fundamental problems with the Hammond study itself. The selection of smokers and non-smokers for the study was conducted by volunteers of the American Cancer Society (ACS) who knew that the study was to be about the relative death rates of smokers and non-smokers. It is highly likely that those volunteers wanted the study to show that the rates were higher for smokers than non-smokers and, further, they had the means to influence the results through the selection of unhealthy smokers and healthy non-smokers. There was no element of statistically random selection of subjects for this study and the use of prejudiced volunteers compounds the problem of bias.

In this regard, we enclose a copy of an article by Professor T. Sterling titled "A Critical Reassessment of the Evidence Bearing on Smoking as the Cause of Lung Cancer" (American Journal of Public Health, 1975, Vol. 65, No. 9) and we would particularly draw your attention to pages 940 to 944 of that article.

The shortcomings of the Hammond Study preclude it deriving correct estimates of the relative death rates for the U.S. population in the early 1960s.

(e) Questionable reliability of death certificates

Another shortcoming results from incorrect ascribing of cause of death on death certificates. Cause of death recorded on a death certificate and that discovered at an autopsy often differ. For example, in the British Medical Journal, October 14, 1978, the Royal College of Physicians in London quotes a study in New York that showed major inaccuracies in death certificate information in 29% of cases. This study was carried out over 20 years ago, at approximately the same time as Hammond was collecting death certificate information for his study.

The cause of death recorded on a death certificate is often influenced by a knowledge of the deceased's personal habits, including smoking, and then ascribing a cause thought to be associated with those habits. This process, whereby associations reported in the medical literature are routinely ascribed to other patients, can lead to bias in favour of the original hypotheses.

(f) Unreliability of estimates for persons over 65 years

The unreliability of death certificates is especially marked for deaths of persons over the age of 65. The determination of the exact cause of death for such persons is often perceived by the doctor as being less important, and it is often considerably more difficult to identify given that multiple potential causes of death are more

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often present in the elderly than in the young.

Inaccuracies in death certification for the elderly mean that any number for alleged tobacco-related deaths for the elderly is impossible to estimate precisely. In their work on cancer research, institutions such as the Royal College of Physicians in London and the International Union against Cancer, as well as physicians such as Doll and Peto have all insisted that figures for adult cancer deaths should only be calculated for those who died between the ages of 35 and 64. (refer R. Doll & R. Peto "The Causes of Cancer: Quantitative Estimates of Avoidable Risks of Cancer in the United States Today.", Journal of National Cancer Institute, Volume 66, No. 6, June 1981).

By not paying heed to this procedure, Drew's final figure of 16,169 is inflated by approximately 70%. In other words, almost 12,000 of the 16,169 are persons in the 65 years and over category where, in the vast majority of cases, no accurate cause of death can be attributed.

Please let us know what action your Commission proposes to take in this matter.

Yours faithfully,
CLAYTON UTZ

B.T. Wilson

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