

**Regarding the Tobacco Accountability Act**  
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By Henry A. Waxman

Today, I am releasing a report that describes previously secret documents from tobacco industry attorneys. These documents are evidence that the tobacco industry has engaged in potentially criminal or fraudulent conduct.

I am taking this action because I believe the public has the right to know the full truth about the tobacco industry. I am also taking this action because I want to call attention to an essential -- but overlooked -- element of any settlement with the tobacco industry: the public disclosure of internal tobacco company documents.

It is inconceivable to me that any deal with the tobacco industry would allow the tobacco companies to avoid having to disclose the internal attorney-client documents that contain evidence of criminal or fraudulent conduct by the companies. But if what I have heard is true, this is exactly what the tobacco companies are now seeking. They want a settlement that would be the biggest cover-up of all time -- one that would protect them from having to release attorney-client documents that five different courts have ruled show evidence of criminal or fraudulent conduct.

The report that I am releasing today describes attorney-client documents from Liggett & Myers Tobacco Company. These documents show that Liggett had by the late 1970s developed a cigarette with what the lawyers called "major health benefits." According to the lawyers, Liggett's new cigarette "achieved an effective reduction of up to 88% of non-cancerous tumors and up to 100% of cancerous tumors."

Nevertheless, despite recognizing the potential health benefits, Liggett's general counsel intervened to block the marketing of the new cigarette. According to a memorandum written by the general counsel, marketing the new cigarette could "incite accelerated cancer litigation which may, in turn, result in infinite liability." The general counsel also said that marketing the new cigarette by Liggett could "obliterate its defense" and create "enormous risks" and "vast amounts of monetary liability."

The documents also show that Liggett's lawyers censored Liggett's communication of health effects to doctors because such a communication could "knock the props from under us in future litigation." Moreover, the lawyers prevented Liggett managers from making public statements about health risks that would "contradict our position that there is no scientific proof of any cause and effect relationship between smoking and health."

These Liggett documents provide only a glimpse of the role of the tobacco lawyers. As significant as these documents appear to be, they are not the most important of the Liggett documents. Liggett has a log of over 3,500 attorney-client documents that describe Liggett's joint defense strategies with other tobacco companies. None of the Liggett documents that we have reviewed include any of these joint defense documents.

Moreover, the court in the Minnesota litigation has ruled that 150,000 tobacco company attorney-client documents must be reviewed for evidence of crime or fraud. The limited number of attorney-client documents that I am releasing today cannot begin to capture the full extent of tobacco industry deception contained in these still-secret documents.

The implications of the documents I am releasing are clear, however: we will never know the full truth about the tobacco industry's attempt to defraud the public until the attorney-client and other secret internal tobacco company documents are disclosed.

For this reason, I am also taking another step toward full disclosure. Today, I will introduce new legislation that would insure that there is no cover-up of past wrongdoing -- and that the tobacco industry can never again successfully deceive the American people.

The bill I am introducing is called the Tobacco Accountability Act. It would establish a 5-member Tobacco Accountability Board to be appointed by the Secretary of HHS. This Board will have no regulatory authority over tobacco products, but it will have subpoena powers and other investigative authorities. It will have three simple responsibilities. First, it will be directed to obtain and release to the public tobacco industry documents that contain evidence of criminal or fraudulent conduct by the tobacco companies -- including attorney-client documents.

Second, the Board will be charged with investigating the future conduct of the tobacco industry to insure that the companies

never again conceal health research or deceive the public.

Third, the Tobacco Accountability Board will designate a representative to attend and participate in all meetings of the board of directors of the tobacco manufacturers. The purpose of this provision is to insure that there is always a public health voice present in future company deliberations.

It is essential that any tobacco settlement provide for full disclosure by the tobacco companies -- including disclosure of attorney-client documents that contain evidence of criminal or fraudulent behavior. The legislation that I am introducing today is a model for insuring exactly the full disclosure that the public health community has called for.





