

# Commentary

## Who's Afraid of the Truth?

Cheryl Healtton, DrPH, MPA

### ABSTRACT

The November 1998 Master Settlement Agreement between tobacco manufacturers and state attorneys general significantly restricted the marketing of tobacco products, made possible markedly expanded tobacco control programs in the states, and provided for the creation of a new foundation whose primary purpose is to combat tobacco use in the United States. This commentary describes the American Legacy Foundation, with particular emphasis on one of its efforts—the “truth” Campaign, a counter-marketing effort to reduce smoking among youths.

The “truth” Campaign has been well received by the public and has been effective in reducing smoking among youths. The only negative reaction to the campaign has been, predictably, from the tobacco industry. (*Am J Public Health*. 2001;91:554–558)

The November 1998 Master Settlement Agreement (MSA) between tobacco manufacturers and attorneys general from 46 states and 5 territories was a landmark event for public health in the United States. The agreement established 3 groundbreaking initiatives: it significantly restricted the marketing of tobacco products; it made possible markedly expanded tobacco control programs in the states; and it provided for the creation of a new foundation—the American Legacy Foundation—whose primary purpose is to combat tobacco use in the United States.<sup>1</sup>

The MSA directed that \$206 billion be paid to settling states and territories over 25 years. Some of these funds have been applied to tobacco control efforts at the state and local level. A recent report of the National Conference of State Legislatures indicates that since the settlement, 35 of the 46 states have allocated funds from the settlement for this purpose, representing \$754 million in fiscal years 2000 and 2001 (9.2% of settlement funds). The balance has been allocated for a variety of other purposes—for example, health insurance, child health and education funds, tax abatement, and debt reduction—or has not yet been appropriated.<sup>2</sup>

### *The American Legacy Foundation*

The organization created by the MSA has 4 primary goals: (1) to reduce tobacco use among youths; (2) to reduce exposure to secondhand smoke among all populations; (3) to increase the successful quit rate among all ages and populations; and (4) to reduce disparities in access to prevention and cessation services and in exposure to secondhand smoke. The foundation's 5-year agenda is supported and shaped through the direction of its board and senior staff and the advice of a broad range of communities, including the traditional medical and public health communities; numerous tobacco

control experts; and policy and legal advisors and individuals representing the interests of diverse social, ethnic, and racial communities.

The foundation is described in the MSA as an entity that, once established by the National Association of Attorneys General, should operate independently as a 501(c)(3) organization under the leadership of its board of directors. Unlike typical health-related foundations, whose boards are generally composed solely of health experts and business and community leaders, the American Legacy Foundation has an 11-member board of which 6—that is, a majority of the members—are elected officials: 2 attorneys general, 2 governors, and 2 members of state legislatures. Four of the additional members are experts in medicine, public health, and tobacco research, and the board took the bold step of naming a youth—an activist from the Florida tobacco countermarketing campaign—as the eleventh member.

The MSA provides for annual payments of \$300 million a year (adjusted upward for inflation and downward for sales) through 2003 to the American Legacy Foundation's National Public Education Fund and annual payments of about \$32 million through 2008. Payments to the fund after 2003 are dependent on the collective market share of the participating tobacco companies. If their collective share of the market is 99.05% or greater in a given year, the National Public Education Fund will continue to be funded. If the companies' market share falls below 99.05%, the foundation receives nothing. The American Legacy Foundation board has established a reserve fund to

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The author is with the Mailman School of Public Health, Columbia University, New York, NY, and with the American Legacy Foundation, Washington, DC.

Requests for reprints should be sent to Cheryl Healtton, DrPH, MPA, Mailman School of Public Health, Columbia University, 600 W 168th St, 7th Floor, New York, NY 10032 (e-mail: chealtton@americanlegacy.org).

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extend the life of the foundation if future payments do not in fact occur.

## ***Campaigns to Reduce Tobacco Use***

The primary goals and purposes of the foundation are addressed through a multi-pronged program that includes program grants, training and technical assistance, and applied research. Among the foundation's many activities is a unique nationwide countermarketing effort focused on the primary prevention of smoking among at-risk youths aged 12 to 17 years. The centerpiece of this countermarketing effort is the "truth" Campaign, which is informed by the advice of youths from all 50 states.

The last program of mass public education on the hazards of smoking to be broadcast nationwide was made possible by the Fairness Doctrine, which gave anti-tobacco groups free air time to present the case against smoking because television at that time was replete with tobacco advertising. The anti-tobacco ads aired from 1968 through 1970 were credited with producing a 5% decline in per capita consumption and reductions in both adult and youth smoking.<sup>3-5</sup> When Congress ended broadcast cigarette advertising (with the agreement of the tobacco industry), health groups lost the free time they had been granted under the Fairness Doctrine, and for all intents and purposes countermarketing against tobacco on a national level ended. Not since then has the opportunity presented itself for a broad-based national countermarketing campaign to reduce the toll of tobacco, which currently stands at nearly 500 000 premature deaths (480 000 smokers and 53 000 nonsmokers) per year in the United States alone.<sup>6,7</sup>

A similar campaign in Florida was associated with a decline in tobacco use of 40% among middle school students and 18% among high school students.<sup>8</sup> Although the decline was partially attributable to other aspects of the Florida Tobacco Control Program and to price increases, most observers believe the countermarketing campaign played a significant part.

Campaigns that have included increasing consumer awareness about tobacco industry practices, such as those in Massachusetts and California, have also resulted in declines in smoking. The California Tobacco Control Program, which focused on both adults and youths, was associated with the largest decline in per capita cigarette consumption in the United States from 1988 to the present. Recent evidence suggests that earlier efforts to cut back the program and shift its focus to youths led to a significant loss of effectiveness.<sup>9</sup> In a longitudinal study of Massachusetts youths, ex-

posure to a countermarketing campaign that included raising teenagers' awareness about industry marketing practices was associated with decreased onset of smoking among young adolescents.<sup>10</sup>

## ***Foundation Activities Proscribed by the Master Settlement Agreement***

Immediately after setting forth the multi-task agenda for the foundation, the MSA enumerates the constraints under which the foundation must operate:

*Foundation Activities.* The Foundation shall not engage in, nor shall any of the Foundation's money be used to engage in, any political activities or lobbying, including, but not limited to, support of or opposition to candidates, ballot initiatives, referenda or other similar activities. The National Public Education Fund shall be used only for public education and advertising regarding the addictiveness, health effects, and social costs related to the use of tobacco products and shall not be used for any personal attack on, or vilification of, any person (whether by name or business affiliation), company, or governmental agency, whether individually or collectively.<sup>1(\$6b)</sup>

### *Vilification*

No existing countermarketing effort other than that of the American Legacy Foundation is required to operate under a clause proscribing vilification. Of the states that settled prior to the MSA, only one, Florida, was subject to such a vilification clause. The Florida vilification clause was rendered null and void when in a subsequent agreement reached in Texas, the clause did not appear.

But a substantial portion of the foundation's funds are subject to a prohibition from engaging in any "personal attack" or "vilification." The foundation may not use these funds to personally attack or vilify any person, company, or government agency. There has been much discussion of the meaning and breadth of this clause, though it is a narrow prohibition that should not impede the foundation's efforts to run an effective, hard-hitting countermarketing campaign that speaks the truth to teens and exposes the deceptive marketing strategies of the tobacco industry.

The MSA must be read as a whole. Its most significant provisions with respect to the foundation are those that set forth the foundation's primary objectives. Because the MSA must be construed in a manner that permits the foundation to meet these goals, the vilification clause may not be interpreted so broadly as to hinder the foundation's efforts to meet its most important goal—to reduce youth smoking. It therefore cannot operate as a significant re-

straint on advertising that has been proven to work with teens.

The foundation fully expects the tobacco companies to argue otherwise. We expect the industry to vigorously object any time we produce an ad that is effective. We expect them to be "concerned" whenever we teach teens to question the companies' marketing methods, whenever we publicize the deadly effects of tobacco in a way that resonates with youths, and whenever we succeed in reducing youth smoking. And we fully expect the tobacco companies to try to use the vilification clause inappropriately, as a gag on effective—and thus, in their view, dangerous—speech.

The tobacco companies have already suggested that some of our ads run afoul of the clause. In our view, the ads they have criticized do not come close to violating the vilification restriction.

### *Lobbying and Political Activity*

The restriction on political activity and lobbying, if interpreted as usually applied to a health or educational foundation, would not inhibit the foundation from undertaking the broad health education and policy analysis implied by the importance of the problem it is mandated to address and the breadth of activities it is expected to undertake—notably, program delivery and research with regard to the social costs, addictiveness, and health effects of tobacco. Recent evidence, however, suggests that the tobacco industry will work hard to broaden the definitions of "political activity" and "lobbying" in the interest of restricting the extent to which policies and public health practices of known efficacy can be communicated to the public and implemented. Public policies that restrict indoor smoking have been a particular industry target because of the effect they have on social norms surrounding placing others at health risk by smoking in public.

A report by the now defunct Tobacco Institute—the former policy think tank for the tobacco industry—described the secondhand smoke issue as follows: "This we see as the most dangerous development to the viability of the tobacco industry that has occurred."<sup>11</sup> It is most likely because of this that the industry has invested so heavily in efforts to obstruct clean indoor air laws, going to the extent of actively advocating state bills that preclude indoor air laws at the local level.

Recent suits and formal complaints brought by the tobacco industry against those who provide public information that scientifically supports indoor air laws suggest that the industry is capable of going to significant lengths to attempt to silence those who participate in the public policy discourse.<sup>12</sup>

## The “truth” Campaign

### *Informed Consumers and Corporate Responsibility*

The national “truth” Campaign ads appeared on a limited number of stations (a group of networks having rejected them) but caused a considerable amount of controversy. The center of the controversy—which was generated almost exclusively by the tobacco industry itself—focused on a group of ads known as “youth voice,” which were developed with substantial input from teenagers representative of the group the ads were intended to reach.

These ads built on the growing literature and scientific evidence suggesting that countermarketing efforts must increase consumers’ awareness of the inherent dangers of tobacco products and of the fact that the tobacco industry has been well aware of these dangers for years and has nevertheless continued to market the product to youths. Such increased consumer awareness is crucial to counteract the effect of the tobacco industry’s corporate propaganda campaign (e.g., the “new” Philip Morris and tobacco company programs providing food for the homeless and aid to battered women).

The ads that stirred the most outrage in the tobacco industry—exemplified by such statements as “We are considering all of our options. We are very disappointed that [the



Source. American Legacy Foundation /Arnold Communications Worldwide.

**FIGURE 1—The “truth” Campaign’s “Body Bags” ad.**

American Legacy Foundation] has taken this approach.”<sup>13</sup>—were shot at the New York offices of a major tobacco company that has by

far the largest segment of the youth market. One of the ads—part of a multi-ad campaign imparting information about the social costs, health effects, and addictiveness of tobacco—showed teenagers piling up 1200 body bags, equivalent to the daily toll of tobacco, around the building (Figure 1). In another ad, teenagers are seen asking to see the marketing department with a lie detector in hand (Figure 2), evoking the infamous moment when the leaders of every major tobacco company pledged their belief that tobacco is not addictive before a huge television audience.

### *Response to the Campaign*

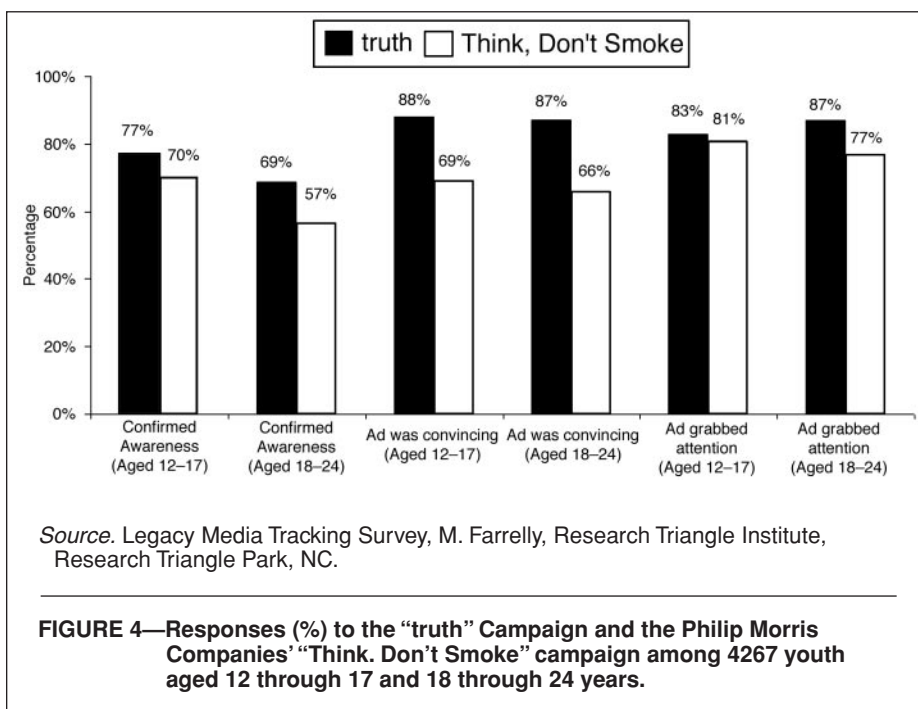
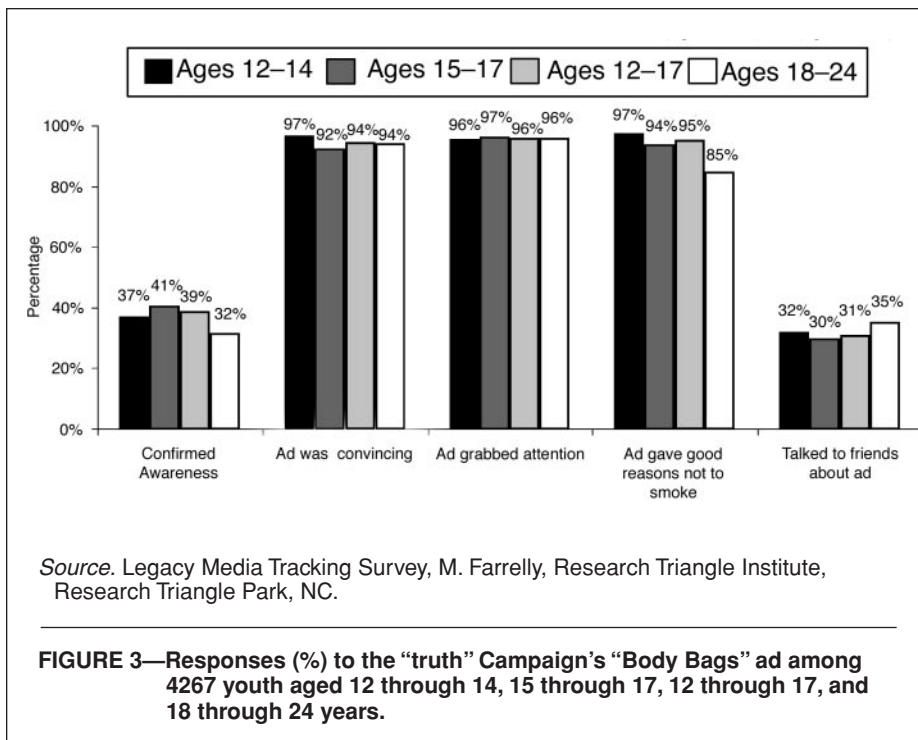
Figures 3 and 4 present some preliminary results from the “truth” Campaign media tracking survey conducted by Research Triangle Institute. This was a nationally representative survey conducted by random-digit dialing, with oversampling of African Americans, Asians, and Hispanics. The particular “truth” ad that sparked industry-initiated controversy, “Body Bags,” was the most highly rated ad targeted toward teenagers among all those tracked (the ads tracked included state-produced ads, “truth” ads, and ads produced by a major tobacco company). Overall, 92% to 97% of teenagers who knew of the ad found it convincing, 96% to 97% said it grabbed their attention, and 85% to 97% said it gave them good reasons not to smoke (Figure 3).



Source. American Legacy Foundation /Arnold Communications Worldwide.

**FIGURE 2—The “truth” Campaign’s “Lie Detector” ad.**





Substantially higher percentages of young respondents found “truth” Campaign ads more memorable, more convincing, and more likely to catch their attention than the Philip Morris Companies’ “Think. Don’t Smoke” ads (Figure 4). The more positive response to the “truth” Campaign is made especially noteworthy by the fact that the “Think. Don’t Smoke” campaign has been on the air for 2 years, compared with only 7 months for the “truth” Campaign.

Data on the credibility of the ads and the frequency with which teenagers talk to their peers about them suggest that when attitudinal and behavioral data are assessed in the future, the overall impact of the campaign will be found to be high. The “truth” Campaign recently won the grand prize at the London International Awards for Public Service TV, which drew 17 000 entrants worldwide.

The evidence is mounting that consumer awareness about tobacco industry manipulation

of consumers and of government (to obstruct tobacco regulation) is a powerful force in inducing consumers to stop using tobacco, or, in the case of youth, not to start. In their seminal analysis of the results of 180 focus groups including more than 1500 youth, Goldman and Glantz concluded:

Focus group participants indicated that industry manipulation and secondhand smoke are the most effective strategies for denormalizing smoking and reducing cigarette consumption. Addiction and cessation can be effective when used in conjunction with the industry manipulation and secondhand smoke strategies. Youth access, short-term effects, long-term health effects and romantic rejection are not effective strategies. More aggressive advertising strategies appear to be more effective at reducing consumption.<sup>14</sup>

Two waves of letters to the *Journal of the American Medical Association* took exception to various aspects of this analysis of advertising focus group data.<sup>15-19</sup> The most crucial objection was that the focus group responses were self-reported reactions to exposure to various ads, rather than actual behavioral outcomes in response to real-life exposure over time.<sup>17</sup> The behavioral results from the Florida countermarketing campaign support Goldman and Glantz’s conclusions,<sup>20</sup> as do the reported results from California, where consumer awareness of industry practices also figured prominently in the ad campaign that proved effective.<sup>7</sup>

The youth-inspired “truth” Campaign was developed not to goad the tobacco industry but rather to reduce youth smoking, and it is likely to succeed. No segment of the public has risen up against these ads—not even the “Body Bags” ad, which communicates the death toll of tobacco in a very graphic manner. Virtually no parents have objected to the ads, and the networks have not been bombarded with calls, even when NBC aired 100 ads during the 2000 Olympics (e-mail, William McOwen [bmcowen@arn.com], Arnold Communication, November 20, 2000). Media tracking surveys demonstrate that the nation’s youth love the ads. So to return to the title question, “Who’s afraid of the truth?”—Who’s left? □

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