University of California
San Francisco
UCSF
Division of Clinical Pharmacology
and Experimental Therapeutics

Department of Medicine,
School of Medicine
Department of Biopharmaceutical
Sciences, School of Pharmacy

Neal L. Benowitz, MD
Chief, Division of Clinical
Pharmacology and Experimental
Therapeutics
tel: 415-206-8325
nbeno@itsa.ucsf.edu

Division Offices located at:
San Francisco General Hospital
1001 Potrero Avenue
Building 30, 3rd floor
San Francisco, CA 94110
tel: 415-206-8955
fax: 415-206-4956

Mailing Address:
UCSF Box 1220
San Francisco, CA 94143-1220

July 22, 2008

Federal Trade Commission
Office of the Secretary
Room H-135 (Annex L)
600 Pennsylvania Avenue, N.W.
Washington, DC 20580

Re: Proposal to rescind guidance on the Cigarette Test Method, [P944509]

We are the co-editors of the National Cancer Institute Tobacco Control Monograph 13 *Risks Associated with Smoking Cigarettes with Low Machine-Measured Yields of Tar and Nicotine.* That monograph was part of the scientific guidance on the cigarette test method requested of the Department of Health and Human Services by the FTC, and that review concluded that tar nicotine and CO measurements made using the FTC method did not offer useful information to smokers on the exposure they would receive from smoking or on the differences in exposure they would likely receive when switching brands of cigarettes. In addition, that review also concluded that there is no demonstrable benefit to public health from the design changes in cigarettes implemented over the past 50 years.

We strongly support the current proposal to rescind the guidance on the cigarette testing method and confirm for you our belief that the proposal to rescind the guidance is both scientifically consistent with, and a logical extension of, the evidence presented in Monograph 13.

While well intentioned and based on the best public health information available to the FTC at the time it was first implemented, the measurements made using the FTC machine-testing method have provided the foundation for an ongoing and tragic deception of the American public. In particular, smokers who might otherwise have quit smoking have been misled to believe that switching to cigarettes with low tar and nicotine measurements using the FTC method offered less risk of disease. In being deluded into switching brands, these smokers gave up a real opportunity to dramatically lower their risk by quitting smoking altogether. The tragic result is a greater current burden of death and disease than would have occurred in the absence of this deceptive distortion by cigarette manufacturers of the intended use of tar and nicotine measurements proposed in the original guidance.

At the time the FTC testing method was introduced, it was not anticipated that cigarette manufacturers would undertake a program of design changes which resulted in cigarettes that yielded very low values when tested by machine using the FTC method but which provided dramatically increased yields to the smoker as they were actually smoking these cigarettes. This engineering of cigarettes to distort the intent of the testing method provided the basis for a deceptive and fraudulent marketing campaign for some brands of cigarettes as "light, or low tar" bands which misled generations of U.S. consumers to the detriment of their health. We now know that these deceptively marketed brands do not deliver less smoke or less tobacco toxins to smokers and do not result in less risk to health because smokers compensate to maintain their nicotine intake when they switch from higher to lower yield brands.

Removal of the FTC guidance on a testing method will be an important first step in correcting the misrepresentation of these "low yield" brands as safer products and also removes the implied endorsement of these marketing claims by the FTC. Removal of this guidance will also clarify the FTC's current position on the legitimate uses of machine measured yields and allow a full and careful consideration of what further actions the FTC might take to prevent the ongoing misrepresentation of some brands of cigarettes as delivering less exposure to cigarette smoke than other brands for smokers who use them.

Once again we strongly endorse this proposal to rescind the guidance on the Cigarette Test Method and would be pleased to provide whatever other assistance the FTC may request.

Sincerely,

David M. Burns, M.D.
Professor Emeritus
UCSD School of Medicine

Neal L. Benowitz M.D.
Professor of Medicine and Biopharmaceutical Sciences
University of California San Francisco