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The future is at Roswell.

August 15, 2002

Jay Howard Beales, III
Director
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: US Smokeless Tobacco Company's Request for an Advisory Opinion

Dear Mr. Beales,

I feel compelled to respond to a recent letter that was sent to you on behalf of the United States Smokeless Tobacco Company (USSTC) by attorney Daniel Schwartz in connection with USSTC's request for an advisory opinion regarding the inclusion of comparative health information on smokeless tobacco and cigarettes in USSTC advertising.

In his letter to you, Mr. Schwartz paraphrases materials from a recent commentary I published in the journal *Addiction* on the subject of competition for the marketing of safer nicotine products. Mr. Schwartz also sent you a copy of a presentation I gave at a recent scientific meeting where I pointed out the research that I've done has shown that many cigarette smokers incorrectly believe the risk of cancer from smoking cigarettes is equivalent to that from using smokeless tobacco.

While my research clearly shows that smokers are confused about the relative health danger of different nicotine delivery products this confusion is the direct result of tobacco product manufactures failing to provide consumers with sufficient information to allow them to make informed judgements about the products they sell. In the case of USSTC, they have failed to inform consumers about the addictive nature of the products they sell. USSTC has also failed to inform its consumers about how they manipulate pH level in their product and how this relates to nicotine delivery and nicotine addiction. USSTC has also failed to inform consumers about tobacco specific nitrosamines and the cancer risk these chemical agents may pose in their products. Of greater concern is the failure of USSTC to take reasonable actions to reduce tobacco specific nitrosamines from the products they sell. For one thing, it is clear that tobacco specific nitrosamines can be reduced and controlled by proper storage of the product. For reasons that remain unclear to me, USSTC has failed to post online any of their internal research that they have

conducted on the health risks associated with using smokeless tobacco products. Documents from the Smokeless Tobacco Research Council have also not been posted online for public access as have documents from the Council for Tobacco Research.

Unlike drug companies that are required to provide a package insert to inform consumers of the range of potential side effects associated with using their drugs, USSTC has not provided such information along with its smokeless tobacco products.

While I am pleased that USSTC is in favor of competition to promote safer tobacco products the situation that now exists is a far cry from a free and open marketplace. As it stands, the FTC is not in a position to judge the relative health claims of smokeless tobacco products and cigarettes. Such a comparison should be left to an appropriate regulatory agency like the FDA. I am very concerned that until Congress is willing to pass strong FDA regulation, at this point it would be inappropriate for the FTC to grant USSTC's request for an advisory opinion regarding advertising about the relative health dangers of smokeless tobacco products and conventional cigarette products.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Cummings", with a stylized flourish at the end.

K. Michael Cummings, Ph.D., MPH
Chairman, Department of Cancer Prevention,
Epidemiology and Biostatistics

cc: Richard H. Verheij, Executive Vice President and General Counsel, UST
Lydia B. Parnes, Deputy Director, Bureau of Consumer Protection
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