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INTERNATIONAL
TRADE

Advertising and
Promoting U.S.
Cigarettes in Selected
Asian Countries



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United States
General Accounting Office
Washington, D.C. 20548

General Government Division

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December 31, 1992

Congressional Requesters

This report responds to requests received from the members of the Senate Committee on Labor and Human Resources and from individual members of the House of Representatives listed at the end of this letter.

As agreed, we have reviewed issues associated with the advertisement and promotion of U.S. cigarettes in Japan, Taiwan, South Korea, Thailand, Hong Kong, Malaysia, and Indonesia. This report provides information on (1) the continuation of the conflicting U.S. government policies of pursuing antismoking initiatives domestically while assisting U.S. cigarette companies in selling their products abroad, and U.S. government regulation of cigarette exports compared with exports of other potentially harmful products or substances; (2) the restrictions on cigarette advertising and promotion imposed in the reviewed countries, and any alleged violations by U.S. cigarette companies as reported by the foreign governments; and (3) the advertising and promotional practices of U.S. cigarette companies in these countries.

As you requested, we plan no further distribution of this report until 2 days after its issue date, unless you publicly announce its contents. At that time, we will send copies to the Secretaries of the Departments of State, Health and Human Services, Commerce, and Agriculture; the U.S. Trade Representative; and consular officials from the governments of Japan, Taiwan, South Korea, Thailand, Hong Kong, Malaysia, and Indonesia. Copies will also be made available to other interested parties on request.

Please contact me on (202) 275-4812 if you or your staff have any questions concerning this report. The major contributors to this report are listed in appendix IV.

Allan I. Mendelowitz, Director
International Trade and Finance Issues

B-235805

List of Requesters

The Honorable Edward M. Kennedy, Chairman
The Honorable Jeff Bingaman, Member
The Honorable Howard M. Metzenbaum, Member
The Honorable Paul Simon, Member
The Honorable Paul D. Wellstone, Member
Committee on Labor and Human Resources
United States Senate

The Honorable Chester G. Atkins
The Honorable Michael Andrews
The Honorable Jim Bates
The Honorable Barbara Boxer
The Honorable Richard Durbin
The Honorable Lane Evans
The Honorable Harris Fawell
The Honorable James Hansen
The Honorable John LaFalce
The Honorable Sander Levin
The Honorable Mel Levine
The Honorable Ed Markey
The Honorable Jim McDermott
The Honorable Bruce Morrison
The Honorable Norman Shumway
The Honorable Pete Stark
The Honorable Mike Synar
The Honorable Peter Visclosky
The Honorable Ted Weiss (deceased)
The Honorable Bob Whittaker
House of Representatives

Executive Summary

Purpose

In recent years, cigarette advertising and promotional activities have become increasingly controversial in the United States and abroad. In numerous countries, cigarettes may be advertised in the broadcast and print media, outside on billboards and posters, and in retail outlets. Cigarettes are frequently promoted through cigarette companies' sponsorship of cultural or sporting activities. However, health proponents view these activities as contrary to efforts by governments and international health organizations to decrease cigarette consumption because of the adverse health consequences associated with smoking.

Based on requests by the Chairman and 4 other members of the Senate Committee on Labor and Human Resources and by 20 members of the House of Representatives, GAO agreed to (1) elaborate on the continuation of the conflicting U.S. government policies of pursuing antismoking initiatives domestically while assisting U.S. cigarette companies in selling their products abroad, and compare U.S. government regulation of cigarette exports with exports of other potentially harmful products or substances; (2) summarize the cigarette advertising and promotional restrictions in Japan, Taiwan, South Korea, Thailand, Hong Kong, Malaysia, and Indonesia and describe any alleged violations of the restrictions by U.S. cigarette companies as reported by the foreign governments; and (3) review certain advertising and promotional practices of U.S. cigarette companies in the six reviewed Asian countries that allow these activities (Thailand has banned all cigarette advertising and promotional activities) and attempt to determine whether the companies specifically target children and nonsmokers. GAO previously reported on the first issue in Trade and Health Issues: Dichotomy Between U.S. Tobacco Export Policy and Antismoking Initiatives (GAO/NSIAD-90-190, May 15, 1990).

Background

With the assistance of the Office of the U.S. Trade Representative, U.S. cigarette companies beginning in 1986 gained access to the previously closed Asian cigarette markets of Japan, South Korea, Taiwan, and Thailand.

The major U.S.-based cigarette exporting companies are Philip Morris International Incorporated; R.J. Reynolds Tobacco International, Incorporated; and Brown & Williamson Tobacco Corporation. Together, these three companies account for about 99 percent of cigarette exports from the United States. With reductions in trade barriers, the U.S. cigarette companies have extended their advertising and promotional campaigns to

Japan, Taiwan, and South Korea. They also advertise and promote their products in Hong Kong, Malaysia, and Indonesia—countries that have permitted the sale of U.S.-brand cigarettes for several years.

The cigarette companies argue that advertising is a legitimate tool for increasing consumer awareness of their products and increasing market share by encouraging brand switching by current smokers. Critics argue, however, that the cigarette companies also advertise and promote their products to attract nonsmokers, such as children, and to discourage people from stopping smoking.

Results in Brief

The dichotomy between U.S. trade goals and health policy objectives that GAO reported in its May 1990 review continues to exist. The Department of Health and Human Services still says that its mandate does not extend to international affairs and thus does not include cigarette trade issues despite its many international activities advocating smoking cessation. However, based on an invitation from the U.S. Trade Representative, the Department of Health and Human Services did participate in a September 1992 round of cigarette trade talks with Taiwan. The Office of the U.S. Trade Representative told GAO that from its perspective the Department is free to participate in any trade negotiations in which it may have an interest, including those dealing with tobacco products.

U.S. cigarettes are generally exempt from major federal laws and regulations controlling the export of potentially harmful products or substances.

Cigarette advertising and promotional activities in the seven Asian countries GAO reviewed are restricted through various laws, regulations, ordinances, and self-regulatory codes that apply to both domestic and foreign cigarette companies marketing their products in these countries. The Taiwan and South Korean governments informed GAO that U.S. cigarette companies have violated certain of their restrictions. The Thai government said that U.S. cigarette companies continue to violate the country's complete ban on cigarette advertising and promotional sponsorships. Hong Kong provided GAO with pictorial examples of advertisements that it alleges target nonsmokers and children. Malaysia did not provide information on this issue. The governments of Japan and Indonesia told GAO that they do not have records of any violations of their cigarette advertising restrictions.

GAO's examination of U.S. cigarette company advertising materials for the reviewed countries indicated that cigarette brands were frequently associated with American or western culture, relaxation and leisure, or fashionable lifestyles. These brand images were substantially consistent from country to country. The vast majority of promotional activities sponsored by the U.S. cigarette companies could be classified as sporting events or musical concerts. More brands were associated with sporting activities than musical concerts or other entertainment.

However, based on the limited material available for GAO's review, GAO was unable to determine whether U.S. cigarette companies intended to target or to appeal specifically to children or nonsmokers through their advertising and promotional campaigns.

GAO's Analysis

Conflicting U.S. Health and Trade Policies

The Department of Health and Human Services told GAO that, until recently, it has not become involved in issues dealing with U.S. cigarette exports because it continues to perceive its jurisdiction to be domestic policy and not trade policy. Consistent with its policy, the Department of Health and Human Services did not participate in the 1989-90 U.S. cigarette trade talks with Thailand. However, based on an invitation from the U.S. Trade Representative, the Director of the Health and Human Services Department's Office on Smoking and Health was a member of the U.S. delegation in a September 1992 round of cigarette trade talks with Taiwan. His role was to contribute to the discussions from a health and scientific perspective, according to the Office of the U.S. Trade Representative. In a letter to the Secretary of Health and Human Services, the U.S. Trade Representative said that she looks forward to the continued work of this representative with her staff "... on the health aspects of this and other trade policy issues."

The Department of Health and Human Services has provided assistance to Asian antismoking groups and has staunchly supported the antismoking programs of international health organizations.

U.S. exports of certain potentially harmful products and substances are subject to various federal laws and regulations. However, U.S. cigarette exports are specifically exempt from many of these controls and

consequently are not subject to any special federal regulation such as including health warnings on the cigarette packages.

Alleged U.S. Violations of Asian Cigarette Advertising Restrictions

GAO reviewed the cigarette advertising and promotional restrictions imposed by each of the seven Asian countries and requested the foreign governments to report any violations of these codes. Three of these countries—Taiwan, South Korea, and Thailand—reported alleged violations: Taiwan said U.S. cigarette brand posters were placed in areas where they are prohibited (e.g., on outside walls and on street vendors' kiosks); South Korea said the U.S. cigarette companies conducted promotional activities at locations far from licensed retail outlets and supplied cigarettes to nonlicensed retail outlets (e.g., bars and discotheques); and Thailand said the U.S. cigarette companies placed cigarette logos or symbols on TV programs and on nontobacco products such as clothing items, activities prohibited by the government. The countries did not report the extent of the violations or provide GAO with evidence of U.S. cigarette company involvement in the alleged infractions. GAO did not independently verify whether these allegations are valid.

The Japanese government informed GAO that there have been no reported infractions by the U.S. cigarette companies. The Malaysian government did not give GAO information on whether U.S. cigarette companies had violated its advertising restrictions. The government of Hong Kong provided GAO with pictorial examples of U.S. brand cigarette advertisements, which it alleges target nonsmokers and children. (These advertisements are substantially the same as those provided to GAO by the U.S. cigarette companies and are included in GAO's analysis.) Finally, the government of Indonesia told GAO that its cigarette advertising restrictions are minimal and not aggressively enforced. The Indonesian government could not provide any records of alleged infractions.

Advertising and Promotional Practices of U.S. Cigarette Companies

GAO examined U.S. cigarette advertising and promotional expenditure data that were provided by the three major U.S. cigarette companies doing business in the seven Asian countries. Cross-country comparisons of the expenditures indicate that in 1990, in aggregate, the three U.S. cigarette companies spent in Japan more than two-thirds of their combined advertising and promotional budgets allocated for the countries GAO reviewed. After Japan, in descending order of expenditures, were Hong Kong, Malaysia, South Korea, Taiwan, and Indonesia.

Also in 1990 these companies spent more money on TV advertising in Japan, Hong Kong, and Malaysia than on any other advertising category. (Hong Kong banned TV advertising in December 1990.) In South Korea, Taiwan, and Indonesia the companies spent more money on point-of-sale advertising (i.e., advertising at the retail outlet) than on any other type.

GAO reviewed 1990 U.S. cigarette brand advertising materials (primarily magazine advertisements and video tapes of television commercials) for the six reviewed Asian countries where cigarette advertising was allowed. The name-brand advertising campaigns were substantially consistent from country to country, with most important differences appearing to be adaptations to local advertising restrictions.

As for promotional sponsorships by the U.S. cigarette companies in the six reviewed countries allowing cigarette promotions, most of them could be categorized as either sporting activities or musical events. In each of these countries more money was spent on sponsoring sporting events, such as auto races and tennis tournaments, than cultural events—either musical events, such as jazz, pop, and rock concerts, or any other activities (e.g., art exhibits).

GAO could not determine whether specific population segments, such as children or nonsmokers, were being targeted by U.S. cigarette companies. Cigarette advertising and promotional activities cannot be isolated as specific factors or major factors encouraging the initiation of smoking.

Recommendations

This report does not contain any recommendations.

Agency Comments

GAO discussed the results of this review with cognizant officials from the Department of Health and Human Services, the Office of the U.S. Trade Representative, and the U.S. cigarette industry. The officials did not dispute GAO's findings. The Department of Health and Human Services and the U.S. Trade Representative clarified and updated certain information provided to GAO earlier and explained the basis for recent U.S. cigarette trade talks with Taiwan. The Department also discussed its role in these negotiations. U.S. cigarette industry officials told GAO that this report should highlight the benefits derived by the U.S. economy from tobacco and tobacco product exports. They said, in general, that alleged infractions of cigarette advertising restrictions by U.S. cigarette companies, reported

to GAO by the Asian governments, are unsubstantiated and are not the result of actions taken by the U.S. cigarette companies.

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Abbreviations

AID	Agency for International Development
CPSC	Consumer Product Safety Commission
EPA	Environmental Protection Agency
FDA	Food and Drug Administration
GAO	General Accounting Office
GATT	General Agreement on Tariffs and Trade
HHS	Department of Health and Human Services
USCEA	U.S. Cigarette Export Association
USTR	U.S. Trade Representative
WHO	World Health Organization
YSL	Yves Saint Laurent

Introduction

Background

In recent years, cigarette advertising and promotional activities have become increasingly controversial in the United States and abroad.¹ Health proponents view these activities as contrary to efforts by governments, international health organizations, and health advocacy groups to decrease cigarette consumption because of the adverse health consequences associated with smoking. Cigarette companies argue that advertising is a legitimate tool for making their products known and increasing market share by encouraging brand switching by current smokers. Health proponents counter, however, that the cigarette companies also advertise and promote their products to attract nonsmokers, such as children, and to discourage smoking cessation.

The major U.S.-based cigarette exporting companies are Philip Morris, R.J. Reynolds, and Brown & Williamson. Together, these three companies account for about 99 percent of cigarette exports from the United States. Also, about 99 percent of U.S.-brand cigarettes marketed in Hong Kong, Malaysia, and Indonesia, whether imported from the United States or produced locally by affiliates of the U.S.-based companies, are Philip Morris, R.J. Reynolds, or Brown & Williamson brands. To enhance their competitive position abroad, these three companies formed and are the sole members of the U.S. Cigarette Export Association (USCEA).²

As we reported in May 1990,³ U.S. trade policy for tobacco and tobacco products is the same as that for any other legal product that is traded between countries. A U.S. exporter of such legal products, including tobacco, faced with unfair foreign trade barriers, can petition the U.S. Trade Representative (USTR), under Section 301 of the Trade Act of 1974, as amended,⁴ for assistance in removing those barriers. Also, under the direction of the President, USTR can self-initiate Section 301 trade actions. There have been four Section 301 trade cases dealing with cigarettes. USTR self-initiated cigarette trade actions under Section 301 against Japan in

¹For example, in 1988 the Canadian government passed the Tobacco Products Control Act, which prohibited the advertising of tobacco products. The act is currently being challenged in court.

²The U.S. Cigarette Export Association was formed in 1981 by Philip Morris, Inc., R.J. Reynolds Tobacco Company, and Brown & Williamson Tobacco Corporation. The association was formed under provisions of the Webb-Pomerene Act of 1919, which permits U.S. companies to form associations to compete more effectively in foreign markets. The act provides qualified exemptions from prosecution under U.S. antitrust laws for associations formed for the purpose of, and actually engaging in, export trade when these associations do not interfere with domestic commerce.

³Trade and Health Issues: Dichotomy Between U.S. Tobacco Export Policy and Antismoking Initiatives (NSIAD-90-190, May 15, 1990).

⁴A Section 301 action provides the mechanism for a U.S. exporter to enlist USTR to negotiate for the removal of unfair foreign trade barriers.

1985 and Taiwan in 1986, and USCEA petitioned USTR for initiation of such Section 301 actions against South Korea in 1988 and Thailand in 1989.

The markets in all four of these countries had been substantially closed to cigarette imports by government-controlled tobacco monopolies, which largely prevented the import of foreign cigarettes.⁵ To maintain their monopolies, these governments had imposed import barriers that included high tariffs, discriminatory taxes, and discriminatory marketing and distribution restrictions, according to USTR. Largely as a result of the Section 301 actions, the U.S. government signed trade agreements with Japan and Taiwan in 1986, South Korea in 1988, and Thailand in 1990 allowing U.S. cigarette companies market access to those countries.

U.S.-brand cigarettes have been marketed, advertised, and promoted in Hong Kong, Malaysia, and Indonesia for several years. The cigarettes are either imported from the United States or produced locally by manufacturers affiliated with USCEA member companies through licensing or other business arrangements. With reductions in trade barriers, USCEA member companies have extended their advertising and promotional campaigns to Japan, Taiwan, and South Korea. (Thailand prohibits all cigarette advertising and promotional activities.) Other foreign-based cigarette companies, indigenous domestic cigarette companies, and government-controlled tobacco monopolies also advertise and promote their own cigarette brands in these countries.

Recent Developments in U.S. Cigarette Trade With Thailand and Taiwan

Thailand

On April 10, 1989, USCEA filed a petition with USTR alleging that the Thai government was engaging in practices that were unreasonable or discriminated against the import of U.S. cigarettes. The petition requested the removal of all restrictions on the importation and sale of cigarettes; the removal of discriminatory cigarette import duties and taxes; and the right to distribute, advertise, and promote cigarettes in Thailand. USTR initiated an investigation on May 25, 1989. Consultations with the Thai government

⁵These monopolies had controlled the manufacture, and to varying degrees the supply and distribution, of cigarettes in Japan, South Korea, Taiwan, and Thailand.

were begun on July 31, 1989, and a public hearing was held in Washington, D.C., on September 19, 1989. At this hearing health emerged as an issue in the case, with the appearance of witnesses who represented U.S. and Thai health advocacy groups.

On December 22, 1989, USTR submitted the import prohibition and discriminatory taxation issues to a General Agreement on Tariffs and Trade (GATT) panel for formal dispute resolution.⁶ Consultations were held with the Thais in Geneva in February 1990. On September 21, 1990, a GATT panel concluded that Thailand's import restrictions on cigarettes were contrary to provisions of the GATT agreement. The panel recommended that Thailand bring its cigarette import restrictions into conformity with its obligations under GATT. Through an exchange of letters with USTR in November 1990, the Thai government agreed to take measures to allow foreign cigarettes to be sold in Thailand on the basis of nondiscrimination, national treatment,⁷ and normal commercial practices and considerations.

The Thai government believes that it has fully implemented the GATT ruling as well as the cigarette trade agreement with the United States. A Thai embassy official told us that Thailand's policy in reference to cigarette trade remains the same despite recent political changes in Thailand.

Taiwan

Taiwan opened its market to U.S. cigarettes based on a December 12, 1986, trade agreement negotiated with USTR. In July 1991, through an exchange of letters, USTR and Taiwan authorities agreed, among other things, on requirements for rotating health warning labels with different caution statements to be placed on packs of cigarettes sold in Taiwan. In December 1991, Taiwan's Department of Health proposed a "Law Governing the Prevention & Control of Damage From Tobacco Use" (Tobacco Hazards Control Act) with the stipulated purpose of preventing and controlling damage from tobacco products and protecting the public's health. Among the draft law's provisions are a ban on the sale of tobacco products from automatic vending machines, a prohibition on the sale of chewing tobacco and snuff, a requirement for maximum tar and nicotine content to be prescribed by government authorities, and requirements that tobacco product containers have health warning labels in Chinese and

⁶GATT is a multilateral treaty subscribed to by more than 100 governments, which together account for more than four-fifths of world trade. Its basic aim is to liberalize world trade in order to contribute to world economic growth and development.

⁷In this context "national treatment" means that imported U.S. cigarettes will be treated the same as those marketed by the Thailand Tobacco Monopoly (i.e., the same marketing restrictions that apply to imported cigarettes will apply to those produced and sold in Thailand by the tobacco monopoly).

reveal nicotine and tar content. In addition, the proposed law bans the advertising of tobacco products and prohibits certain promotional practices regarding tobacco products.

In January, April, and September 1992, a U.S. delegation, led by USTR, held trade talks with Taiwan to clarify certain provisions of this proposed law, to negotiate for the adjustment of certain tariffs applied to imported U.S. cigarettes, and to request Taiwan authorities to discontinue the practice of reselling confiscated contraband cigarettes (these cigarettes allegedly compete unfairly for market share with legally imported U.S. cigarettes). USTR and Department of Health and Human Services (HHS) officials told us that the Director of HHS' Office on Smoking and Health was a participating member of the U.S. delegation during the September round of negotiations (his role is discussed in chap. 2, p. 26). In a September 18, 1992, press release issued by the American Institute in Taiwan at the completion of the last round of cigarette trade talks, the USTR's chief negotiator was quoted as saying that the latest proposal from Taiwan's delegation was not sufficient to reach an agreement on the key issues. He identified these issues as the promulgation of effective antismoking public health measures; the interdiction, confiscation, and destruction of contraband cigarettes; and the low tax levels currently applied to domestic cigarettes in Taiwan.

The U.S. position in reference to the provisions of the proposed Tobacco Hazards Control Act that would ban cigarette advertising was also addressed in the September 18 press release. The press release states that "[T]he United States fully supports legitimate initiatives to safeguard the health of the people on Taiwan. It is the policy of the United States to discourage smoking at home and abroad." However, the press release goes on to say that the 1986 cigarette trade agreement with Taiwan granted U.S. cigarette companies the right to advertise and that the proposed termination of "this principal element of the 1986 agreement will unilaterally violate this understanding." According to the press release, "[U]nder international trade law and practice this abrogation of the agreement requires a rebalancing of the rights and benefits which were granted to the United States in the original agreement." Nevertheless, the USTR's chief negotiator for the September 1992 round of trade talks told us that the U.S. delegation did not challenge the right of Taiwan to prohibit cigarette advertising and promotional activities.

USTR officials informed us that no agreement was reached and that dates for the next round of trade talks have not yet been determined.

Conflicting U.S. Government Policies

For almost 3 decades HHS, and its predecessor, the Department of Health, Education, and Welfare, has determined that cigarette smoking is hazardous to health and has pursued a domestic policy of discouraging smoking. It has also supported international antismoking efforts. On the other hand, the government is committed to help U.S. exporters overcome foreign market barriers to the export of legal products. Thus USTR has continued to provide assistance to U.S. cigarette companies wishing to market their products abroad. Moreover, U.S. tobacco exports are assisted by foreign market development programs that are federally funded.

In our May 1990 report, we suggested that Congress consider the following three alternatives in order to reconcile this conflicting policy:

- If Congress believes that trade concerns should predominate, then it may choose to do nothing to alter the current trade policy process. The U.S. government can simultaneously continue to actively help U.S. cigarette exporters overcome foreign trade barriers while promoting awareness (domestically and internationally) of the dangers of smoking and further restricting the circumstances in which smoking may take place.
- If Congress believes that health considerations should have primacy, Congress may choose to grant HHS the responsibility to decide whether to pursue trade initiatives involving products with substantial adverse health consequences.
- Alternatively, rather than having one policy dominate, Congress may specifically require that health matters be included in the interagency trade policy process so that health issues receive some consideration on a case-by-case basis. Such a change would require HHS to participate in the decision-making process regarding trade policy.

These alternatives remain under consideration. Congressional hearings have been held, and related legislation has been proposed. As mentioned earlier in this chapter and detailed in chapter 2, pp. 25-27, the Director of HHS' Office on Smoking and Health has participated in recent USTR-led trade negotiations with Taiwan over certain contested provisions of Taiwan's proposed Tobacco Hazards Control Act and other cigarette trade issues.

U.S. Antismoking Laws

Responding to growing health concerns over smoking, Congress has passed a number of laws that have restricted the marketing and use of tobacco products. In 1965 Congress enacted the Cigarette Act, which required all cigarette packages to include a health caution statement. This

statement was later strengthened by the 1970 Cigarette Labeling Act to read: "Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous To Your Health." In January 1971 Congress banned all cigarette advertising on television and radio.

In 1982 Congress increased the excise tax on cigarette products for the first time in over 30 years. Two years later Congress enacted the Comprehensive Smoking Education Act, which required stronger health warning labels, created a statutory mandate for a federal office on smoking and health, and required HHS to be informed of all chemicals and other ingredients added to cigarettes during the manufacturing process. In 1987 Congress banned all smoking aboard commercial aircraft on flights of 2 hours or less. And in 1989 Congress extended the ban on smoking aboard commercial aircraft to include all domestic flights, except those to Alaska and Hawaii, regardless of the length of the flight.

Objectives, Scope, and Methodology

Based on requests by the Chairman and 4 other members of the Senate Committee on Labor and Human Resources and by 20 members of the House of Representatives, we agreed to (1) elaborate on the continuation of the conflicting U.S. government policies of pursuing antismoking initiatives domestically while assisting U.S. cigarette companies in selling their products abroad, and compare U.S. government regulation of cigarette exports with exports of other potentially harmful products or substances; (2) summarize the cigarette advertising and promotional restrictions in Japan, Taiwan, South Korea, Thailand, Hong Kong, Malaysia, and Indonesia and describe any violations by U.S. cigarette companies as reported by the foreign governments; and (3) review certain advertising and promotional practices of the U.S. cigarette companies in the six reviewed Asian countries that allow cigarettes to be advertised and promoted (Thailand has banned all cigarette advertising and promotional activities) and attempt to determine whether the companies specifically target children and nonsmokers.

Our requesters also asked us to compare the extent and sophistication of cigarette advertising in Japan, Taiwan, and South Korea before the removal of trade barriers to the import of U.S. cigarettes to the situation that developed after these markets were opened. We were unable to gather sufficient information on cigarette advertising practices in these countries prior to market opening to address this issue.

To elaborate on the continuation of the conflicting domestic and international policies of the U.S. government in reference to cigarette marketing, we interviewed officials and obtained information from senior HHS and USTR officials, including the HHS Assistant Secretaries for Health and Legislation, and the USTR's Associate General Counsel and the Director of Southeast Asian Affairs. We also interviewed and obtained information from former Surgeon General C. Everett Koop and from the Director of HHS' Office on Smoking and Health.

To compare U.S. regulation of cigarette exports with other potentially harmful products and substances, we identified and analyzed the applicable federal statutes and controls.

To summarize the cigarette advertising and promotional restrictions and report on alleged infractions by U.S. cigarette companies, we obtained information from the governments of the seven Asian countries through their embassies in Washington and from USCEA. Some of the foreign governments provided us with their cigarette advertising and promotional codes and reported on any alleged violations. USCEA provided us with copies of the applicable legal and self-regulatory codes for each of the reviewed countries, and member companies reported on the actions they have taken to counteract the "unauthorized use" of their trademarks on nontobacco products such as items of clothing.

To examine the advertising and promotional practices of the U.S. cigarette companies in the reviewed Asian countries, we obtained 1990 expenditure data and advertising materials from USCEA, and gathered other related materials and information from the foreign governments and antismoking proponents. USCEA provided us with the actual promotional and advertising expenditures by the three member companies combined, but requested us not to disseminate the information publicly. USCEA told us that the data consist of confidential commercial information that member companies do not want disclosed for competitive reasons. We agreed to this request. We did not verify these data. However, USCEA allowed us to use this information for various cross-country comparisons that are presented in chapter 4. USCEA members also provided us with lists and brief descriptions of promotional activities that they sponsored in 1990.

Most of the cigarette advertising materials that we used for our analysis (primarily magazine advertisements and video tapes of TV commercials) were provided by USCEA member companies because the other sources (foreign governments and health and antismoking proponents) gave us

only very limited materials. The U.S. cigarette companies told us that the advertising materials that they provided fairly represented their advertising campaigns in the reviewed countries. Although we did not attempt independently to confirm this assertion, the limited materials that we did receive from the other sources were substantively the same as or similar to those provided by the U.S. companies.

We gathered information to address these issues from sources in the United States and in the selected Asian countries without traveling abroad. We interviewed and requested information from leading Asian and U.S. antismoking advocates and advocacy groups, including representatives from the Asian Pacific Association for the Control of Tobacco. With assistance provided by the Department of State, we obtained information from the governments of Japan, South Korea, Taiwan, Thailand, Hong Kong, Indonesia, and Malaysia. USCEA; Philip Morris International Incorporated; R.J. Reynolds Tobacco International, Incorporated; and Brown & Williamson Tobacco Corporation also provided us with a great deal of information. We did not verify the information provided to us, including the countries' explanation of their laws and regulations or their contentions that the U.S. cigarette companies violated or circumvented the laws or regulations.

We interviewed prominent academicians who have done research on the relationship between cigarette advertising and smoking. We also interviewed officials from HHS, USTR, and the Federal Trade Commission. We conducted research at the Library of Congress, the Smithsonian Institution, and other foundations that maintain some limited collections of cigarette advertising materials. We also interviewed the President of the Advertising Council in New York and obtained information from the World Health Organization (WHO).

We did our review from January 1991 through May 1992 in accordance with generally accepted government auditing standards.

At your request, we did not obtain written agency or U.S. cigarette industry comments on a draft of this report, but we did discuss the results of our review in conferences held with officials from HHS, USTR, and USCEA. HHS and USTR officials did not dispute our findings. At our request, HHS and USTR officials clarified and updated information they had provided earlier and explained the basis for HHS' participation in the most recent round of cigarette trade talks with Taiwan. USTR clarified the U.S. negotiating position and discussed the inconclusive outcome of the Taiwan trade

talks. Officials from both USTR and HHS discussed the role played by the HHS delegate in the negotiations. USTR also told us that it does not have any new tobacco product trade actions on its agenda, but does not preclude taking such actions in the future.

Although USCEA did not dispute our findings, USCEA officials felt that our report should have emphasized the benefits to the U.S. economy attributable to the export of tobacco and tobacco products. They said that these benefits include a positive contribution to the U.S. trade balance, an increase in tax revenue, and a growth in opportunities for employment. Moreover, USCEA officials asserted that, with the exception of Japan, cigarettes are one of the least advertised products in the reviewed Asian countries and that we should stress this aspect in our report. We explained to USCEA that the objectives of our review did not include an analysis of the impact of cigarette exports on the U.S. economy or a comparison of cigarette advertising expenditures to advertising expenditures on other products.

We asked USCEA officials to comment on alleged infractions of cigarette advertising and promotional restrictions reported to us by some of the Asian governments. In general, USCEA attributed these allegations to a vested interest on the part of the foreign government-controlled tobacco monopolies to discredit their U.S. competitors in order to maintain market share and profitability. USCEA officials contended that many of the alleged infractions are unsubstantiated and that USCEA member companies were unaware of them. They told us that there is no proof that the alleged infractions are the result of any actions taken by the U.S. cigarette companies.

U.S. Government Role in Cigarette Export Issues

U.S. trade policy for tobacco products has not changed since we issued our May 1990 report. USTR officials told us that as long as cigarettes remain a legal commodity in the United States and abroad, there is no legal basis to deny cigarette manufacturers assistance in gaining market access. Thus, when USTR determines that unfair foreign trade barriers, such as import restrictions and discriminatory practices, hinder the import and marketing of U.S. cigarettes abroad, it negotiates for their removal. HHS maintains the position that its jurisdiction lies in the domestic realm and does not extend to trade policy. Because of this view, HHS has not become involved in tobacco-related trade issues until recently. For example, it did not participate in USTR-led cigarette trade negotiations with Thailand that concluded in a November 1990 market access agreement. USTR officials assert that HHS had been invited to be present at those negotiations but declined. However, based on an invitation from the U.S. Trade Representative, HHS did participate in recent U.S. cigarette trade talks with Taiwan dealing, in part, with certain contested provisions of a proposed Taiwan law to control tobacco use. Moreover, HHS officials told us that they discuss tobacco control issues with the White House at health policy meetings.

HHS feels that USTR has tempered its aggressive tobacco export stance based on tobacco-related health discussions that it has held with USTR.

HHS provides information to Asian antismoking groups and financial and technical support for international antitobacco-related health programs. For example, HHS supports the antismoking initiatives and projects of multinational health organizations such as the World Health Organization and the Pan American Health Organization. Although HHS continues to focus its efforts on domestic U.S. antismoking programs, it says that it is willing to provide assistance to foreign governments wishing to develop their own antismoking programs. According to the Assistant Secretary for Health, "If health officials of a foreign country came to the HHS to demonstrate that they want to put a vigorous antismoking effort in place, HHS would work with these countries to develop their smoking control programs."

HHS does not have funds specifically targeted for international applications, but is attempting to get more involved in the international health arena. Health assistance provided by HHS to developing countries may include support for tobacco control programs.

From a legal perspective, U.S. cigarette exports are treated differently from other exports. U.S. cigarettes are generally exempt from major federal laws regulating the export of potentially harmful products or substances.

HHS' Position in Recent Cigarette Trade Talks

According to the Assistant Secretary for Health, HHS maintains the position that its jurisdiction does not extend to trade policy—it does not have a foreign affairs mandate. Its clear responsibility lies in the domestic realm, not the international one, the official said. Consistent with this position, HHS did not participate in the 1989-90 USTR-led cigarette trade negotiations with Thailand; however, an HHS representative actively participated as a member of the U.S. delegation in a September 1992 round of cigarette trade talks with Taiwan.

The USTR's Associate General Counsel told us that HHS is aware that like any federal agency, it can participate in trade negotiations in which it may have an interest. Although agencies may not be formally invited to participate, notification of forthcoming negotiations is published in the Federal Register. According to this official, agencies, such as HHS, can define their own role in the negotiations based on their particular concerns, expertise, and resources. For example, the Federal Drug Administration has participated in trade negotiations dealing with issues related to pharmaceuticals. Moreover, several federal agencies, including the Departments of State, Energy, and Commerce; the International Trade Commission; and the Environmental Protection Agency, have representatives assigned to USTR who can participate in trade negotiations that concern them.

HHS officials maintain that they have continuous discussions with the White House on matters of health policy, including tobacco control, although they have not aggressively and openly opposed USTR in the White House and at other high levels of the government. The officials told us that HHS has not wavered in its position that tobacco poses a health hazard and that HHS has been a strong opponent of tobacco use.

The Assistant Secretary for Health told us that it is HHS' position that if foreign governments are fighting against tobacco use and cigarette advertising at home and applying certain standards to their domestically produced tobacco products, then they can apply the same standards to imported U.S. cigarettes and other tobacco products.

Thailand

The USTR's General Counsel invited HHS to participate in the 1989-90 Section 301 cigarette trade negotiations with Thailand, but HHS declined, according to the USTR's Associate General Counsel. She did not provide us with any documentary evidence of an invitation. She said that although USTR viewed the cigarette trade negotiations with Thailand as dealing primarily with trade issues, there were health concerns. Therefore USTR was not opposed to participation from HHS. In fact, according to the USTR's Associate General Counsel, USTR did not object to the participation of Thai health officials in the negotiating sessions. (Specific issues related to the Thailand cigarette trade case are discussed in chap. 1, pp. 15-16).

The U.S. Assistant Secretary for Health told us that he was unaware of the invitation to participate in the Thailand cigarette trade negotiations. However, he said that upon request HHS does provide USTR with technical assistance in certain trade cases.

Taiwan

In September 1992, based on an invitation from the U.S. Trade Representative, the Director of HHS' Office on Smoking and Health participated in USTR-led trade talks with Taiwan over contested provisions of a proposed Taiwan law to control tobacco use and other cigarette trade issues. (Specific issues related to Taiwan's proposed law and U.S. trade talks with Taiwan are discussed in chap. 1, pp. 16-17).

In a June 30, 1992, letter to the U.S. Trade Representative, the Secretary of Health and Human Services discusses HHS' position in reference to the Taiwan cigarette trade case. In the letter, the HHS Secretary says that consistent with WHO resolutions, HHS continues to encourage other countries, including Taiwan, to adopt measures to reduce tobacco use. He states that when tobacco and trade issues arise, HHS defers to USTR. However, the Secretary also says that when a country, such as Taiwan, is implementing public health measures to control smoking (as specified in Taiwan's proposed Tobacco Hazards Control Act) that apply equally to domestic and foreign products, this implementation should satisfy the USTR goal of ensuring national treatment or a level playing field for imported U.S. cigarettes.

Attached to the HHS Secretary's June 30 letter to the U.S. Trade Representative is information compiled by HHS' Office on Smoking and Health from scientific literature dealing with the effects on cigarette smoking of some of the key "interventions." These interventions include a ban on cigarette advertising and the required use of health warnings on

cigarette packages. (These requirements are both stated in the provisions of Taiwan's proposed Tobacco Hazards Control Act.) The Secretary concludes the letter by offering to provide additional scientific information to assist the U.S. Trade Representative with the Taiwan cigarette trade talks and with "future cases involving tobacco-related issues."

In a July 22, 1992, letter of response to the HHS Secretary, the U.S. Trade Representative agrees that "there is an important health issue surrounding cigarettes." She goes on to say that "[O]ur (U.S.) trade policy fully recognizes the right of each country to impose restrictions on the sale and use of all cigarettes to meet health-policy goals, including banning of cigarette advertising, as long as its laws and practices permit American businesses to compete on a completely equal basis with local and other foreign producers." The U.S. Trade Representative concludes her letter by saying that she appreciates the offer of additional information and would welcome the involvement of a representative from HHS to participate "... in strategy planning and negotiating with Taiwan and other countries on the issue of U.S. cigarette exports."

Based on this invitation, the HHS Secretary designated the Director of HHS' Office on Smoking and Health to represent the Department in the September 15-17, 1992, cigarette trade talks with Taiwan. The Director of the Office on Smoking and Health informed us that he participated in the trade talks as a full member of the U.S. delegation and that a significant proportion of the talks dealt with health issues. He said that some of the health-related issues discussed during the negotiating sessions included the impact of an advertising ban and increased taxes on cigarette consumption. He also feels that having a health official on the U.S. delegation made a difference—health issues became important. (HHS and USTR officials informed us that the Taiwan delegation included two members from the Ministry of Health who actively contributed to the negotiations from a health perspective.)

The USTR's chief negotiator for the Taiwan cigarette trade talks emphasized that USTR recognizes that there are health concerns and acknowledges the legitimate right of Taiwan to pursue issues of health and safety—USTR is not challenging these rights. He told us that the role of the HHS representative was to assist with the health and scientific aspects of the negotiations and that the representative was free to raise any issues he wished during the trade talks. In fact, the USTR official said that the HHS representative spoke often and made important contributions on scientific and health-related matters.

The USTR official went on to say that when formulating the USTR proposals to Taiwan to resolve the trade dispute, USTR has attempted to satisfy the health concerns of the HHS representative. He said that all of the USTR proposals to Taiwan are in line with the concerns expressed by the HHS representative. In a September 23, 1992, letter to the HHS Secretary, the U.S. Trade Representative expressed her appreciation for the participation of the HHS representative in the negotiations. She said that he made a significant contribution in terms of providing scientific health information and analysis and "... permitting a fuller discussion and more complete perspective of the health aspects of this trade issue with Taiwan." She concluded by saying that she looks forward to the continued work of the HHS representative with her staff "... on the health aspects of this and other trade policy issues."

Correspondence From Foreign Health Officials Opposing U.S. Tobacco Trade Actions

HHS officials informed us that over the years a number of foreign health officials have expressed concerns to HHS about the USTR's tobacco-related trade activities. The foreign officials have also requested the support of HHS or the President to prevent tobacco exports to their respective countries. The Assistant Secretary for Health told us that these communications are forwarded to USTR. HHS provided us with examples of letters from foreign health officials and antismoking groups to the Secretary of HHS and the President opposing U.S. cigarette trade actions against Thailand and Taiwan. One letter requested HHS assistance to "... stop the tobacco baron's war against Thailand." Another requested the HHS Secretary to assist with Thai efforts to persuade USTR that the cigarette trade issue "... is indeed a health issue." Still another letter asked the HHS Secretary to assist in gaining U.S. cigarette company compliance with Taiwan's new requirement for the rotation of different health warning labels on cigarette packs.

Finally, in a letter to the U.S. President, the President of an Asian tobacco control group called for the United States to "... adopt a new tobacco policy to prevent the expansion of tobacco marketing; assure that people, regardless of their country of origin, are adequately warned of the dangers of tobacco use; and encourage the worldwide adoption of measures that will curb tobacco consumption."

HHS Feels That USTR Has Toned Down Aggressive Tobacco Export Stance

In June 1990 the Assistant Secretary for Health and the Director for the Centers for Disease Control met with the U.S. Trade Representative. According to the Assistant Health Secretary, they discussed tobacco health issues as well as the level playing field concept as it relates to cigarettes.¹ The Assistant Health Secretary said that he told the U.S. Trade Representative that alleged U.S. cigarette company violations of Thai cigarette marketing restrictions went beyond the USTR's desire for "a level playing field." He said that there were no disagreements at the meeting, particularly in reference to the lethal effect of tobacco. The Assistant Secretary said that he was trying to clarify HHS' position for USTR. The U.S. Trade Representative said that she would look more closely at trade-related issues that went beyond a level playing field.

The Assistant Secretary for Health feels that, based on discussions between USTR and HHS officials about the health hazards of tobacco, USTR has tempered its aggressiveness in supporting tobacco exports. He said that for many years HHS officials have spoken out about the health implications of tobacco trade. For example, in 1987 the Surgeon General referred to tobacco exports as "exporting disease, disability, and death." HHS officials say they have told USTR officials that tobacco is "bad" for Americans and everyone else in the world—that we should not be "ugly Americans" and assist U.S. cigarette companies in their attempts to gain foreign market access. However, according to the Assistant Secretary for Health, HHS in concert with USTR maintains that a "level playing field" should exist when U.S. cigarettes are marketed abroad.

HHS Assistance Provided to Asian Antismoking Groups

A high-level official from HHS' Centers for Disease Control told us that voluntary antismoking groups in Asia have been put on the HHS mailing list. They now receive the Surgeon General's reports and other major HHS publications. She stated that HHS has not refused to participate in any Asian antismoking or tobacco control programs when solicited, although it has not gotten many requests. For example, HHS recently conducted a 1-day seminar for representatives from Thailand who were interested in tobacco control efforts in the United States. The seminar pertained solely to tobacco use and health and to how the United States and Thailand are addressing related issues.

¹By "level playing field," the Assistant Secretary meant that U.S. cigarette companies should conform to the advertising and labeling restrictions of the host country and that all tobacco companies should be subject to the same requirements.

HHS Support for International Health Organization Antismoking Programs

The Assistant Secretary for Health told us that HHS provides financial and technical support for international antitobacco-related health programs, such as those established by WHO and the Pan American Health Organization. He said that HHS has staunchly supported WHO's proposed antismoking resolutions and steadfastly upheld WHO resolutions advocating cessation of smoking. For example, at the May 1989 World Health Assembly, the Assistant Secretary for Health suggested that WHO sponsor an international meeting of government representatives from the health, agriculture, and labor sectors. The goal was to recommend alternative crops to tobacco and alternative livelihoods for those employed in the tobacco industry.

We asked WHO officials to provide us with the amount or proportion of WHO Tobacco or Health Program funds that was provided by the U.S. government. The officials were unable to determine the U.S. contribution, but did give us the following information: WHO's actual expenditures on tobacco or health programs for 1988-89 were \$1,041,654 (U.S.). Actual expenditures increased to \$2,702,080 (U.S.) for 1990-91 (an increase of 159.4 percent). WHO has budgeted \$2,386,500 (U.S.) for these programs for 1992-93 (a decrease of 11.7 percent from 1990-91).

Some additional actions taken by HHS to support international health programs opposing tobacco use include the following:

- The HHS Assistant Secretary for Health delivered a speech at the Seventh World Conference on Tobacco and Health held in Perth, Australia, in April 1990, in which he condemned the transnational cigarette companies for their marketing activities.
- The Secretary of HHS and the Assistant Secretary for Health, as the U.S. representatives to WHO, have participated in developing WHO action plans against tobacco use. In 1988, 1989, and 1990, the World Health Assembly adopted resolutions to promote global action against tobacco.
- The HHS Centers for Disease Control is a member of the WHO Technical Advisory Group on Tobacco or Health, and also participates on ad hoc WHO expert advisory panels. In this capacity, the Centers for Disease Control has assisted WHO in developing standardized, worldwide tobacco use surveillance systems; calculating smoking-attributable mortality, especially in developing countries; and identifying public health interventions against tobacco use.
- HHS and the Pan American Health Organization collaborated on a special report—Smoking and Health in the Americas. The recently released report focuses on issues dealing with tobacco use in the Americas, including the

extent of use, tobacco-related mortality, and tobacco control policies and programs.

HHS Provides Assistance to Countries Wishing to Establish Tobacco Control Programs

Even though HHS does not have a written policy to help Asian countries develop antismoking campaigns, the Assistant Health Secretary said that HHS willingly provides technical assistance to countries on how to implement tobacco control and smoking cessation programs. HHS' Assistant Secretary for Legislation told us that both the Secretary of HHS and the Assistant Secretary for Health have made it clear that if a foreign country wants to implement an antismoking program, HHS will assist. However, the HHS officials said that it is up to the foreign country to make that determination and take the initiative. HHS has participated in regional and country-specific events at the request of the host countries throughout the world. For example, it has held consultations in China regarding strategies to reduce tobacco use and has set up special seminars in Latin America focusing on the extent of tobacco use and its health impact.

HHS officials told us that although HHS international travel to assist other countries with their tobacco control programs is limited, HHS widely disseminates its tobacco-related scientific reports and publications throughout the world. The officials said that HHS receives numerous requests from other countries for information about tobacco use and health as well as public health strategies to reduce tobacco consumption.

HHS officials likewise informed us that representatives from many countries visit HHS to discuss tobacco and health issues and to "learn from the U.S.' experience." For example, the officials said that visitors have come from such diverse countries as Thailand, China, Japan, Hong Kong, Australia, New Zealand, Canada, the United Kingdom, Norway, France, Mexico, and Estonia.

Future HHS Role in International Antismoking Efforts

The Assistant Secretary for Health told us that the HHS budget for international health is minimal. Total HHS expenditures related to international antismoking efforts are not available. However, the Office on Smoking and Health, under HHS' Centers for Disease Control, is the focal point for all HHS activities related to smoking and health. The Office coordinates HHS smoking prevention education and research efforts both domestically and internationally. Its fiscal year 1992 budget increased to \$7.3 million from \$3.3 million in 1991. This was the first significant budget increase since 1984. The Office has requested that the budget be increased

to \$10.3 million for fiscal year 1993. The 1992 increase is for expanded efforts to reduce the health and economic burden of smoking among minorities, women, children, adolescents, and blue-collar workers. The 1993 increase will allow the Centers for Disease Control to further expand smoking information campaigns focused on minorities, pregnant women, and adolescents. The budget increases do not appear to be related to any expanded efforts in the international realm.

According to the Assistant Secretary for Health, HHS has not received many requests from foreign governments to assist with health-related tobacco programs—they usually go to the Agency for International Development (AID). He told us that HHS is working to beef up its ability to get more involved in the international health arena in general. HHS does not have funds specifically appropriated for international applications. Its efforts in this area are largely supported by AID funds. HHS is exploring ways to support expanded international health activities. Activities that are designed to assist developing countries build their health infrastructure will not be specifically targeted to smoking control programs, but could include them. The official went on to say that in fiscal year 1992, the Public Health Service, through the National Cancer Institute, awarded \$250,000 to WHO to enhance its “tobacco or health” activities, enabling WHO to hire staff to promote antitobacco programs.

U.S. Cigarette Exports Treated Differently From Other Potentially Harmful Exports

U.S. cigarette exports are generally exempt from major federal controls and regulations governing the export of potentially harmful products or substances.

As mentioned in chapter 1, pp. 18-19, the sale and advertising of cigarettes are subject to two principal forms of federal regulation, both related to the adverse health risks associated with smoking. First, it is unlawful for companies to sell or advertise any cigarettes within the United States unless the package and advertising contain certain warnings concerning the adverse health effects of smoking. Second, it is unlawful to advertise cigarettes on television and radio.

However, packages of cigarettes that are manufactured or packaged for export from the United States are generally exempt from these requirements. Consequently, tobacco companies are not subject to any special federal laws or regulations regarding the packaging or advertising of their exported cigarette products, such as including the health hazard warnings on the packages.

On the other hand, certain other products that present health hazards and that are intended for export are subject to various federal controls and regulation. Tobacco products are specifically exempt from most of this regulation. For example, the Federal Hazardous Substances Act, which requires persons who plan to export so-called misbranded or banned hazardous substances to file a statement with the Consumer Product Safety Commission, specifically exempts tobacco and tobacco products. (See app. I for a summary of federal controls imposed on hazardous, chemical, and controlled substances; and food and drugs.)

A USTR official told us that a special negotiator from the Environmental Protection Agency has been temporarily assigned to assist USTR with trade cases involving the export of goods that are banned in the United States. The official stated that to date she was not aware of any Section 301 trade cases involving products prohibited from the domestic U.S. market. She said that USTR has recently established a unit dealing with environmental concerns.

Cigarette Advertising and Promotional Restrictions in Selected Asian Countries

Through a variety of laws, regulations, and ordinances, Japan, Taiwan, South Korea, Thailand, Hong Kong, Malaysia, and Indonesia restrict cigarette advertising and promotional activities to differing degrees. Enforcement of these restrictions varies from country to country, as do foreign government allegations of violations of the restrictions by U.S. companies. The Japanese government told us that the U.S. cigarette companies have not violated Japan's advertising and promotional restrictions, while the governments of Taiwan, South Korea, and Thailand reported that certain restrictions have been violated. The Indonesian government informed us that it does not have any records of violations of its cigarette advertising restrictions by U.S. or foreign cigarette manufacturers, but that its cigarette advertising restrictions are not aggressively enforced. In its limited response, the government of Hong Kong provided pictorial examples of 1990 U.S.-brand cigarette advertisements, which it alleges target nonsmokers and children. Malaysia did not address this issue. The alleged infractions described later in this chapter were reported to us by the governments of Taiwan, South Korea, and Thailand. We did not independently verify these allegations.

USCEA officials told us that the governments of Taiwan, South Korea, and Thailand have a vested interest in maintaining the market shares and profitability of their government-controlled tobacco monopolies. Thus, USCEA contends that these governments have other motives in alleging violations of their cigarette advertising and promotional restrictions. By claiming U.S. violations, the governments have an opportunity to discredit their competitors—the U.S. cigarette companies—according to USCEA.

In several of these countries, voluntary self-regulatory associations have been formed to oversee cigarette marketing activities through the development and implementation of ethical codes. These codes attempt to establish uniform advertising and promotional standards. Many of these self-regulatory codes contain mechanisms for monitoring compliance and imposing sanctions for noncompliance. We were unable to gather information on the nature or extent of any self-regulatory code infractions or the degree of enforcement. The self-regulatory associations established in Japan and South Korea are comprised of USCEA member companies, other foreign cigarette companies, and the government-controlled tobacco monopolies. In Hong Kong, which does not have a tobacco monopoly, a self-regulatory cigarette industry association has been formed by the USCEA companies and other foreign and domestic cigarette companies doing business in Hong Kong.

USCEA informed us that its members, in conjunction with other foreign cigarette companies, have recently implemented two voluntary self-regulatory codes in Taiwan for marketing cigarettes and for sponsoring cultural events and sporting activities. The Taiwan government is not a signatory to these codes but does have observer status with the group monitoring implementation of the codes. In Indonesia a self-regulatory code was developed by the Association of Indonesian Advertising Agencies and was signed by various Indonesian media associations. Malaysia has a self-regulatory association, known as the "Advertising Standards Authority," that is comprised of those involved in advertising (i.e., advertisers, advertising agencies, and the media). The authority administers the Malaysian Code of Advertising Practices—a self-regulatory code of ethics dealing with all advertised products, including cigarettes. Thailand has banned cigarette advertising and promotional activities of all kinds and does not have a self-regulatory association for the cigarette industry.

For purposes of this report, we have defined "indirect" cigarette advertising as the appearance of U.S. cigarette company or cigarette brand trademarks, logos, or symbols on nontobacco products, such as items of clothing, school notebooks, and pencil boxes. Antismoking proponents have accused the U.S. cigarette companies of allowing their trademarks and symbols associated with their brands to appear on these nontobacco products in order to promote cigarettes to children. The U.S. cigarette companies view these practices as trademark infringement and have provided us with evidence of actions they have taken in the reviewed countries to control these "unauthorized" practices.

Japan

Cigarette advertising and promotional activities in Japan are regulated in accordance with various ordinances, regulations, and the tobacco industry's own self-regulatory codes. The self-regulatory codes were composed and adapted by the Tobacco Institute of Japan, a voluntary self-regulatory association comprised of the Japan tobacco monopoly and the foreign cigarette companies doing business in Japan. This association attempts to oversee cigarette marketing activities by promoting compliance by members with established cigarette marketing guidelines, codes, and regulations.

On October 3, 1986, Japan signed a cigarette trade agreement with the United States that included the elimination of the Japanese cigarette tariff and excise tax payment procedures and distribution practices that

discriminated against imported U.S. cigarettes. Japanese government officials told us that cigarette-related advertising and promotional activities were not on the agenda in the trade negotiations that resulted in the 1986 trade agreement. Moreover, the laws and regulations governing the cigarette industry were not changed as a result of the agreement.

According to Japanese government officials, a law promulgated in 1900 and amended in 1947 forbids persons under 20 years of age from smoking. In addition, the 1984 Tobacco Enterprise Law requires a health warning statement on manufactured tobacco products. This same law also requires manufactured-tobacco advertisers to “. . .give due consideration to the prevention of smoking by minors . . .” and to the relation between manufactured-tobacco consumption and health. A 1989 Ministry of Finance ordinance specifies the wording for the health caution statement.

The Japanese government told us that there are 110 commercial TV stations, one national public TV station, and one University of the Air TV station in Japan. According to the Japanese government, the public broadcasting station does not permit any advertising, whether related to cigarettes or not. All of the commercial TV stations allow cigarette advertising. The government did not provide us with cigarette advertising information in reference to the University of the Air station and said that it does not have access to information about the many cable TV stations in Japan.

In 1990 Ministry of Finance guidelines for producing tobacco product advertisements became effective. The goal was to ensure that consideration is given to the prevention of smoking by minors and to the relationship between tobacco consumption and health. The guidelines also attempted to decrease any “excessive” broadcast advertising.

**Japanese Government Says
U.S. Cigarette Companies
Have Not Violated
Advertising and
Promotional Restrictions**

The Japanese government told us that there have been no allegations that U.S. cigarette companies have violated any of the advertising and promotional restrictions. They said that the applicable ordinances, regulations, and self-regulatory codes are functioning as intended. An independent agent has been selected by the Tobacco Institute of Japan to monitor cigarette advertisements on television. The Japanese government informed us that it has no records of past violations of TV advertising restrictions.

The Japanese government also said that there are no particular restrictions imposed on the use of cigarette company trademarks, logos, and symbols on nontobacco products.

Taiwan

Taiwan regulates the advertisement and promotion of imported cigarettes through provisions of the cigarette trade agreement signed with the United States on December 12, 1986, and through the general application rules for imports of foreign cigarettes, wine, and beer implemented in January 1987. In addition, USCEA officials told us that USCEA member companies and two other foreign cigarette companies have implemented a voluntary self-regulatory code for marketing cigarettes in Taiwan. Furthermore, the 1989 Teenagers' Welfare Law prohibits the sale of cigarettes to persons younger than 18 years old. Finally, in December 1991, Taiwan proposed a law that would prohibit all cigarette advertising activity by the tobacco monopoly and foreign cigarette companies and also ban certain promotional practices. This draft law was discussed in chapter 1, pp. 16-17.

On December 12, 1986, Taiwan and the United States signed a cigarette trade agreement providing U.S. cigarette companies with nondiscriminatory access to the Taiwan cigarette market. The agreement contains many provisions relating to cigarette advertising and promotional activities, including the following:

- Cigarette sampling is restricted to distribution of individual cigarettes.
- Point-of-sale promotions are permitted at wholesale, distribution, and retail establishments.
- Taiwan may not impose financial limits on the above activities.
- A specified health warning must appear on each pack of cigarettes.

The 1986 agreement permits cigarettes to be advertised in magazines, but does not indicate the type of magazines or the targeted readers. Taiwan authorities told us that they indicated their concern with this omission and its impact on national health before the cigarette trade agreement was signed. To rectify the situation, the authorities drafted regulations that would further restrict cigarette advertising and promotional activities. For example, the regulations would only allow placement of cigarette advertisements in magazines that are not aimed at women or youths.

Taiwan's general application rules for the importation of foreign cigarettes, wine, and beer include the following marketing restrictions on imported cigarettes:

- Cigarette samples are limited to stick-by-stick distribution.
- Cigarette promotional activities are limited to displays, signs, posters, sample or gift distribution, and leaflet distribution.

A USCEA official told us that two voluntary self-regulatory codes have recently been implemented in Taiwan for marketing cigarettes and for sponsoring cigarette brands. The codes were developed by the USCEA member companies and the two other foreign companies that import cigarettes into Taiwan—the British American Tobacco Company and Rothman. Taiwan's government-controlled tobacco monopoly is not a signatory to the agreement but, according to USCEA officials, is free to monitor implementation of the codes. Both codes attempt to establish uniform advertising and promotional standards. USCEA officials told us that, as in other markets, policing of the code is done by the industry itself. They said that any concerns about marketing activities are almost always raised by the competing companies. Complaints by the public at large, USCEA contends, are virtually nonexistent.

The marketing code states that advertising should be directed towards existing adult smokers and be only intended to affect brand change or brand loyalty. Cigarette advertising and sales promotions should not be directed intentionally towards those under 18 years of age.

The Taiwan Tobacco and Wine Monopoly Bureau said that before implementation of the U.S.-Taiwan cigarette trade agreement, and consistent with national health policy, it did not advertise or promote cigarettes. Its only activity along these lines was announcing new products and placing billboards in the bureau's branch offices and in cigarette distribution centers. The bureau also says that after the agreement was implemented, in order to prevent an increase in smoking, it restricted its advertising activities even further by removing some billboards and only retaining some posters.

**Taiwan Authorities Say
U.S. Cigarette Companies
Violated Advertising
Restrictions**

The 1986 Cigarette Trade Agreement restricts point-of-sale cigarette promotional activities to licensed wholesale, distribution, and retail establishments. Taiwan authorities told us that the term "retailer" in the agreement and in the Taiwan Tobacco and Wine Monopoly Bureau

regulations refers only to retailers with a permit registering them as profit-seeking enterprises. The authorities did not report the proportion of retailers who have these permits. The Taiwan authorities said that U.S. cigarette companies had deliberately distorted the interpretation of the term "retailer" to refer to all retailers selling their cigarettes. They said that this interpretation caused a "flooding" of the market with unauthorized cigarette sales and also led to the massive display of cigarette posters in prohibited places such as unregistered shops, on outside walls, and on street vendors' kiosks. The Taiwan authorities said that many of the posters advertised Marlboro and Kent brand cigarettes. The authorities did not tell us what action was taken to resolve this dispute. USCEA told us that this alleged violation was based on a difference of opinion on what constitutes licensed as opposed to unlicensed retailers and is being handled in the framework of trade negotiations.

The 1986 cigarette trade agreement does not restrict the use of "gifts" to promote cigarettes or the incorporation of cigarette company trademarks or brand logos on the "gifts." Taiwan authorities informed us that they have found cigarette lighters, T-shirts, hats, bath towels, and travel bags with U.S. cigarette company trademarks and logos. If the gifts were distributed in the authorized locations, the official said that it would be difficult to prove violation of the advertising regulations. Therefore, no action has been taken. However, the authorities asserted that if these activities were conducted outside the allowed locations, action would be taken. The authorities told us that they did find a violation in 1990 in which a watch advertisement incorporated a Marlboro "Formula I" race car in its theme. They did not indicate whether they had taken any action.

South Korea

The United States signed a Record of Understanding with South Korea on May 27, 1988, providing open, nondiscriminatory access to the Korean cigarette market. As we reported in May 1990, South Korea regulates the advertising and promotional practices of cigarette companies more heavily than does either Japan or Taiwan. The U.S. Record of Understanding with South Korea contains the most specific and comprehensive provisions on cigarette advertising and promotional activities, including prohibitions against targeting women and children in cigarette advertisements and promotions. The agreement also requires health warnings on cigarette packs and in cigarette advertisements in magazines. Before the Record of Understanding was signed, cigarette advertising and promotional activities, with some exceptions (e.g., ads in printed media expressed in

foreign languages), had been prohibited through the Tobacco Monopoly Law that became effective on April 1, 1987.

The South Korean government told us that before April 1987 cigarettes were not advertised or promoted in South Korea and thus there was no need for restrictions on cigarette advertising and promotional activities. The Tobacco Monopoly Law gave the government the authority to restrict cigarette advertising and to require health warning labels to be placed on cigarette packs. Some of the provisions of the law included a prohibition of cigarette advertising on TV and radio, in the printed media (except foreign language media), on buses and trains, and on outdoor placards and posters.

The South Korean government said that in accordance with current law, magazines that are primarily read by women or young people do not accept cigarette advertising. Minors under 20 years of age are prohibited from smoking by the provisions of the Minor Protection laws.

The South Korean government informed us that the current cigarette advertising and promotional restrictions are partly imposed by law and partly based on the cigarette industry's self-regulatory codes. The government told us that the December 1988 Tobacco Business Act (effective January 1, 1989), which was enacted after the Record of Understanding (effective July 1, 1988), generally allows cigarette advertising and promotional activities at retail outlets; to a limited extent in certain magazines; and by sponsoring social, cultural, musical, athletic, or other events. The law also requires all cigarette packs and advertising materials to include health warnings.

Also, according to the Tobacco Business Act, the cigarette advertisements can only inform smokers about the brand names, kinds, and characteristics of cigarettes: They cannot directly or indirectly suggest or induce nonsmokers to smoke. Moreover, they cannot contradict the spirit of the health warning, and "they shall not harm public order or morals."

Self-Regulatory Code for Marketing Cigarettes in South Korea

On January 12, 1991, Korea Tobacco Association members Brown & Williamson (Korea) Ltd.; the Korea Tobacco and Ginseng Corporation; Philip Morris Korea, Inc.; and R.J. Reynolds (Korea) Ltd. signed a voluntary (self-regulatory) code for marketing cigarettes in South Korea. The code was formulated in consonance with the provisions of the Tobacco Business Act and its enforcement decree and the provisions of

the U.S.-Korea Record of Understanding. Its stated purpose is to establish uniform standards for self-regulation and cooperation among the members of the Korea Tobacco Association with respect to the advertising and promotion of cigarettes within South Korea. Although the code contains a mechanism for ascertaining compliance and requires immediate corrective action by violators, it does not provide for the imposition of any sanctions.

**South Korean Government
Says U.S. Cigarette
Companies Violate
“Implicit” Advertising
Restrictions**

The South Korean government informed us that there are no applicable legal codes or other restrictions that clearly limit the use of cigarette company trademarks on nontobacco products; however, according to the South Korean government, their use on products, such as clothing items, children’s school notebooks, and kites, would be contrary to the spirit of the Tobacco Business Law. The government cited certain cases in which it claims that U.S. cigarette companies violated “implicit” advertising restrictions, but it did not provide us with sufficient information to determine the extent of the alleged infractions. It attributed such violations, in part, to “excessive competition among the three big U.S. cigarette companies.” Some examples cited by the South Korean government include the following:

- The cigarette companies circumvented legal requirements by conducting promotional activities (e.g., distributing cigarette samples) at locations far from licensed retail outlets and by supplying cigarettes to locations other than licensed retail outlets, such as bars and discotheques;
- The companies circumvented the intent of the TV advertising ban by sponsoring events that are televised and placing advertising materials in plain view of the TV cameras;
- The companies “induced smoking” by giving consumers gifts that exceeded the value limits imposed by the Korean Fair Trade Act.¹ For example, Philip Morris gave desk diaries (valued at 3,500 won) to consumers who bought Marlboro cigarettes, which cost 8,000 won. R.J. Reynolds gave “luxurious” cigarette lighters (valued at 2,400 won) to those who purchased More (brand) cigarettes, which cost 1,000 won. The Korean government told us that these activities were “punished” by the Korean authorities. The specific punishments were not designated.

The South Korean government told us that it did not pursue in court the previously mentioned violations, but “requested” that the cigarette companies refrain from conducting the activities.

¹The Korean government did not report the dates of the alleged violations. Therefore, because of fluctuating exchange rates, we were unable to convert Korean won to their U.S. dollar equivalents.

The South Korean government also said that U.S. cigarette companies have “unreasonably” demanded that cigarette advertising and promotional restrictions be reduced. For example, the Korean Fair Trade Act limits the period of time allowed for conducting promotional activities and the value of the items given away during the promotions. Although these limits are placed on all promoted products, the U.S. cigarette companies have requested the relaxation or removal of this limitation for cigarettes. USCEA contends that this request is merely part of an ongoing dialogue with the South Korean government in the context of trade negotiations.

Another case dealt with a dispute over the definition of “youth” for cigarette advertising and promotional purposes. The South Korean government said that this dispute had been the greatest obstacle in the development of the “voluntary” self-regulatory code for cigarette marketing. USCEA likewise told us that this “dispute” was simply part of the normal dialogue during trade negotiations. The self-regulatory code was signed in 1991 and states that no person under the age of 25 shall be depicted in cigarette advertisements. However, in reference to promotional activities, a specific age for “targeting” is not designated (i.e., the code states that sales promotions shall be directed at existing “adult” smokers).

Despite these difficulties, the Korean government believes that now that the self-regulatory code has been signed, any cigarette marketing problems will be resolved by code signatories without undesirable conflict.

Thailand

In April 1988 the Thai government ordered its tobacco monopoly to discontinue cigarette advertising and promotional activities. The Thai government said that despite this order foreign cigarette companies had continued to advertise, and so, in February 1989 the government totally banned cigarette advertising. Under the concept of national treatment, the November 1990 U.S.-Thailand cigarette trade agreement did not interfere with Thailand’s continuing right to ban cigarette advertising and promotional activities. The agreement specifically stated that “advertising as well as sales promotional activities must conform to Thai laws, regulations and practices.” Thailand does not have a cigarette industry self-regulatory association or self-regulatory code.

The Thai government told us that the cigarette advertising ban includes the use of indirect advertising—that is, restrictions on the use of cigarette company trademarks, logos, and symbols on nontobacco products or

merchandise—if it can be proven that the intended use of such products is for commercial purposes. According to Thailand's Consumer's Protection Act of 1979, the term "advertising" means any act that enables people to see or learn about the advertised items for "commercial purposes."

The Thai government informed us that despite the November 1990 cigarette trade agreement, U.S. cigarette companies continued to indirectly advertise their cigarette brands by attempting to sponsor sporting events, by placing cigarette logos or symbols on TV programs, and by using logos or symbols on nontobacco products such as clothing items. The Thai government did not provide us with evidence of direct involvement by the U.S. cigarette companies in any of the alleged violations listed in the text that follows. The Thai government informed us that there has been no direct U.S. cigarette advertising in Thailand since November 1990.

According to the Thai government, the following infractions occurred:

- On January 20, 1991, unidentified foreign cigarette companies offered to sponsor the Thai Olympic Committee by providing financial support. On February 10, based on opposition from the Minister of Public Health and antismoking groups, the Olympic Committee decided not to accept the offer.
- A leading actor wore a Marlboro cap in a popular TV series, "Wanalee."
- In the current popular drama, "Su-san Kon Pen" actors wore "Lucky Strike" T-shirts and rode "Lucky Strike" motorcycles.

The Thai government did not provide evidence of U.S. cigarette company involvement in the infractions listed above. A USCEA official said that the U.S. cigarette companies do not produce these sorts of "props" and did not hire actors to appear on these shows with these "props." He said that these allegations were unsubstantiated.

According to the Thai government, the following infractions occurred at the Bira International Motor Speedway in Pattaya:

- A billboard that read "Team Lucky Strike Suzuki" was erected at the speedway.
- Clothing and motorcycles with the phrase "Team Lucky Strike Suzuki" were found at the speedway.
- The Yamaha motorcycle racing team wore clothing and sunglasses with the Marlboro logo at the speedway.

The Thai government said that the Suzuki and Yamaha manufacturers were warned by the Secretary of the National Committee for the Control of Tobacco Use to stop these practices. If they did not comply, legal action would be taken against Suzuki and Yamaha and against the Bira International Motor Speedway, according to government officials. The Thai government did not tell us whether it had also issued warnings to the U.S. cigarette companies, nor did it provide evidence of involvement by the U.S. cigarette companies in the alleged violations. USCEA officials said that they are not aware of these alleged infractions and that there is nothing to indicate that these violations are the result of actions by the U.S. cigarette companies. Moreover, USCEA told us that the Thai government has not pursued any of these cases, they have not 'been raised to a "serious level," and they were unsubstantiated.

Hong Kong

The Hong Kong government did not respond to our specific questions, but did provide some pictorial examples of U.S.-brand cigarette advertisements that it alleges target nonsmokers and children and that appeared in Hong Kong newspapers and magazines in 1990. The ads were substantially the same as those we obtained from the USCEA and are included in our analysis that is presented in chapter 4. The Hong Kong cigarette marketing restrictions summarized in the following text were provided by USCEA.

Effective December 1, 1990, the Hong Kong Broadcasting Authority banned cigarette advertising from television and radio via the Television Advertising Standards Code of Practice II. These standards also forbid children and adolescents from participating in the presentation of advertisements for liquor or for tobacco-related products. We reviewed videos of TV advertisements aired in 1990 before the ban.

Cigarette advertising in other media is restricted by a series of public health smoking ordinances, regulations, orders, and standards. For example, the Smoking (Public Health) Ordinance requires cigarette advertisements that appear in publications to carry a prescribed health warning and a tar content designation. Cigarette advertisements produced for display purposes must also contain the prescribed health warning. The Cinema Advertising Standards include a clause that states that cigarette advertising should not seek to encourage nonsmokers to smoke and should only seek to persuade existing smokers to change their brands or

not to do so. It goes on to say that cigarette advertising should avoid any attempt to persuade smokers not to give up smoking.

As for other restrictions, the cigarette industry self-regulatory association—the Tobacco Institute of Hong Kong, Limited—has instituted codes for cigarette marketing and cigarette brand sponsorships. The marketing code specifically states that cigarette advertising is not to be directed towards increasing the number of smokers or increasing the consumption rates of existing adult smokers. Advertising should be directed towards existing adult smokers and be intended to effect a change of brand. The code further says that cigarette advertising is not to be directed intentionally towards those under 18 years of age.

The code regarding promotional sponsorships by the cigarette companies states that advertising and promotional materials exclusively designed for sponsorships will be limited to cigarette company names, brand names, trade marks, insignia, and information concerning the sponsoring company and details of its sponsorship. These materials cannot specifically advertise cigarettes or their properties.

The promotional sponsorship code only allows signs erected to advertise sponsored activities or events to depict cigarette products by company, insignia, or cigarette brand and requires removal of the signs as soon as practicable after the end of the event. It limits the content and positioning of cigarette brand advertisements in relation to advertisements for cigarette company-sponsored events when they both appear in the same publication. Also, the code forbids cigarette brands (e.g., Winston) from sponsoring activities, events, or programs where the audience is expected to be predominantly under the age of 18 years. The code does not specifically prohibit the cigarette companies (e.g., Philip Morris) from sponsoring events for audiences under the age of 18.

Malaysia

The Malaysian government responded only to selected questions in our information request. The government did not provide information on any alleged violations of its cigarette advertising and promotional restrictions. The Ministry of Health said that it has been concerned with the problem of smoking for a number of years. Officials said that as tobacco production, importation, and consumption have increased, the health hazards associated with smoking, such as lung cancers and cardiovascular disease, have also predictably risen. Over the years, the government has advocated antismoking campaigns and activities in order to prevent nonsmokers

from becoming smokers, to protect nonsmokers from tobacco smoke and its hazards, and to encourage smokers to stop smoking. Malaysian officials did not address the question of whether U.S. cigarette companies have abided by the existing advertising restrictions.

The Health Ministry said that certain measures have been taken to curtail smoking and its effects on the Malaysian population. These measures include

- the restriction of smoking in cinemas in many jurisdictions;
- the restriction of smoking on public transportation vehicles throughout Malaysia;
- the distribution of information to mothers on the dangers of passive smoking through lectures, pamphlets, and posters;
- the prevention of tobacco use among youth through antismoking campaigns organized by the Ministry of Health; nongovernment agencies, such as the Malaysian Medical Association and consumer associations; and schools;
- the prohibition through administrative directives of smoking in schools;
- the banning of smoking and cigarette marketing activities in all hospitals, medical institutions, health centers, and Ministry of Health offices;
- the prohibition of tobacco product advertising on TV and radio; and
- the placement of prominent health warning labels on cigarette packs.

The tobacco industry in Malaysia has not developed self-regulatory codes. However, a coalition of Malaysian advertisers known as the "Advertising Standards Authority" (comprised of representatives from the Malaysian Newspaper Publishers' Association, the Association of Accredited Advertising Agents Malaysia, and the Malaysian Advertisers' Association) has established and administers the "Malaysian Code of Advertising Practice." This self-regulatory code of ethics governs the advertising of all products, including cigarettes. It establishes certain standards of conformance that forbid cigarette advertising from encouraging young people to smoke; prohibits ads that include personal testimonials or recommendations by well-known persons; and prohibits advertisements from appearing in publications targeted at young people.

A separate "Advertising Code for Television and Radio" is administered by the Malaysian Ministry of Information. It allows nontobacco products bearing cigarette brand names to be advertised on TV and radio within certain guidelines. For example, it bans commercials that depict

undesirable western lifestyles or foreign cultures, and it prohibits the use of pictures of cigarettes or cigarette packs in the commercials.

The Censorship Board of Malaysia has issued "Guidelines to the Advertising of All Forms of Tobacco Products." These guidelines limit cigarette advertisements to a description of taste or fragrance, tobacco blend or production technique, physical qualities, effectiveness of filter, and price. Some of the other provisions include a prohibition of "disco" or "throbbing" music that has no relevance to the tobacco product and a prohibition on cigarette advertisements in sponsored events that display cigarettes, packs, cartons, or cigarette slogans.

Indonesia

Cigarette advertising in Indonesia is restricted by the 1981 "Code of Ethics and Code of Practices of Advertising in Indonesia." This self-regulatory code was pioneered by the Association of Indonesian Advertising Agencies and was signed by various Indonesian media associations. The code states that cigarette advertisements should not (1) influence or encourage the public to begin smoking; (2) suggest that smoking is natural; (3) suggest that smoking is conducive to health or free from health hazards; and (4) target children below the age of 16 or pregnant women, or portray them in any such advertisement.

There is no minimum legal age for the purchase and smoking of cigarettes in Indonesia.

Officials at the Indonesian government's Department of Information told us that direct cigarette advertising on television is prohibited, but televised cigarette advertisements consisting only of brand names with no additional information are permitted. Thus, the Indonesian government told us that U.S. cigarette brands are sometimes advertised by incorporating the brand names in the titles of television programs, such as "Marlboro Country Sounds" and "Marlboro Sports." As a result of the direct TV advertising ban, the government said that most tobacco manufacturers are involved in "sponsorship activities." According to the Indonesian government, the opportunity to sponsor major national and international sports events that are usually televised allows exposure before millions of viewers.

The officials said that all radio stations, movie theaters, and print media (with the exception of one leading Indonesian newspaper) accept cigarette advertising. This advertising includes women's magazines but, according

to the government, cigarette companies seldom advertise in publications targeted towards women.

According to the Indonesian Department of Information, advertising on Indonesian television (apparently only showing brand names) was reintroduced in mid-1989 with the emergence of private TV stations. According to Indonesian government estimates, probably less than 2 percent of total television advertising time has been allocated to cigarette advertising. There are four privately owned stations and one government-owned station in Indonesia. Three of the privately owned stations accept cigarette advertisements that show only the brand names. The fourth station is a privately owned educational station that does not allow cigarette advertising in any form. According to the Indonesian government, the cigarette companies primarily advertise on those TV stations that attract male audiences, such as "Formula I" racing, or the slightly younger audiences "captivated" by popular music. The government-owned station does not accept any advertising.

The Ministry of Information, through the Director General of Radio, Television, and Films, monitors cigarette advertising on television. The Indonesian government states that so far, no companies seem to have violated restrictions on TV cigarette advertising.

The Indonesian government told us that there are no restrictions on outdoor cigarette advertising and, thus, outdoor media, such as billboards, posters, and bus panels, are the major advertising modes used by cigarette advertisers. Cigarettes are also promoted through the distribution of free samples throughout Indonesia; Marlboros are particularly successful.

The Indonesian government said that cigarette companies heavily sponsor their products through rock concerts and other music shows, athletic events, bazaars, and seminars. Although U.S. market share in Indonesia was less than 1 percent in 1990, U.S. cigarette companies have sponsored some activities. For example, in 1990, Philip Morris sponsored the Marlboro Indonesian Masters tennis tournament and the Marlboro World of Sports spectacular (an exhibition of replicas of racing cars and a Grand Prix motorcycle), while Brown & Williamson sponsored the Lucky Strike Automotive Time-Quiz Rallies.

According to the Indonesian government, the cigarette advertising and promotional restrictions, which are very minimal, are not aggressively enforced. There are no penalties for infractions, only a request from either

the government or the Code of Ethics Board to have an advertisement revised to conform to the Code of Ethics. In one example recounted by the government, an Indonesian advertising association protested an alleged infraction of the advertising code by an unidentified cigarette company. The company introduced a cigarette brand targeted to the "younger generation" that included the word "teenager" in the brand name and used teenagers in its advertising campaign. The brand was withdrawn from the market. The government did not state whether the cigarette company was American.

**Indonesian Government
Has No Records of
Advertising Restriction
Violations**

To the "best of its knowledge" the government of Indonesia does not have any records of alleged violations of cigarette advertising and promotional restrictions by U.S. or other foreign cigarette manufacturers. In reference to indirect advertising, the Indonesian government told us that there do not appear to be any restrictions on the use of cigarette company trademarks, logos, and symbols on nontobacco products or merchandise. Also, there do not appear to be any indications that cigarette manufacturers have used this form of advertising in Indonesia.

**Allegations That U.S.
Cigarette Companies
Allowed Use of Their
Trademarks on
Nontobacco Products**

In these six Asian countries, there were many reported instances in which products were being sold using well-known trademarks of U.S. tobacco companies (i.e., indirect advertising). Some individuals and organizations have accused the tobacco companies of allowing or consenting to this type of promotional activity as a means of promoting the sale of cigarettes to children and thereby circumventing foreign advertising restrictions.

USCEA provided us with documents and other materials to support its position that member tobacco companies have not actively promoted or consented to others' use of the tobacco companies' well-known trademarks on goods intended for children's use. USCEA told us that the tobacco companies take aggressive action to stop unauthorized uses of their trademarks on collateral goods.

USCEA provided us with illustrative cases to support this view. We reviewed these cases but we did not verify either their accuracy or whether they truly reflect the nature of the companies' views regarding apparent trademark infringements. Almost all of these cases involved a tobacco company's sending a "cease and desist letter" to the infringing company. For example, in one case, R.J. Reynolds discovered the use of a mark substantially similar to its mark, "Winston," in connection with the sale of

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packages of candy cigarettes in Hong Kong. R.J. Reynolds sent letters to the stores involved, as well as to manufacturers, demanding that the infringing parties cease such use of the "Winston" mark. Virtually all of these cases never resulted in litigation, with most companies complying with the cigarette companies' letters. (See app. II for additional examples of U.S. cigarette company actions taken against alleged trademark infringement.)

U.S. Cigarette Advertising and Promotional Campaigns in Selected Asian Countries

In this chapter we discuss the advertising and promotional practices of the major U.S. cigarette companies marketing their products in Japan, Taiwan, South Korea, Hong Kong, Malaysia, and Indonesia. We address the following topics: (1) why U.S. cigarette companies say they advertise in Asia; (2) who retains control of U.S. cigarette brand advertising and promotional campaigns; (3) how large the 1990 market shares for U.S. cigarette brands were; (4) what the U.S. cigarette company advertising and promotional expenditure patterns were; (5) what the sponsorship of athletic and cultural activities by U.S. cigarette companies was; (6) how much the cigarette advertising and promotional expenditures by certain government-controlled tobacco monopolies in Asia amounted to; (7) what the nature of the U.S. cigarette advertising campaigns was; and (8) what our analysis of the U.S. cigarette advertisements found.

Philip Morris, R.J. Reynolds, and Brown & Williamson advertise and promote U.S.-brand cigarettes in Japan, Taiwan, South Korea, Hong Kong, Malaysia, and Indonesia—the six reviewed countries that allow these activities. The cigarette companies say that they advertise and promote their products to compete for market share, while critics argue that these activities also encourage smoking initiation and maintenance. Depending on local restrictions, which differ from country to country, and their advertising strategies, U.S. cigarette companies, as well as their foreign competitors, may advertise their products on television and radio, in newspapers and magazines, outside on posters and signs, and through the distribution of free samples. Also, based on their marketing strategies and local restrictions, U.S. cigarette companies may sponsor sporting events and cultural activities. The U.S. cigarette companies generally control the advertising campaigns for their brands in all six of these countries.

In 1990, with the exception of Hong Kong, U.S. cigarette brands did not have dominant market shares in any of the reviewed countries. Japan alone accounted for more than two-thirds of the combined advertising and promotional expenditures by Philip Morris, R.J. Reynolds, and Brown & Williamson in these countries. Ranked in descending order of expenditures after Japan were Hong Kong, Malaysia, South Korea, Taiwan, and Indonesia. In all six of the countries, the U.S. cigarette companies spent more money on advertising their brands than on providing promotional sponsorships. And in the category of promotional sponsorship, more money was spent on sponsoring sporting activities than on cultural events. Television advertising (where allowed) and point-of-sale advertising were generally major advertising expenditure categories.

As we reported in chapter 1, the cigarette markets of Japan, Taiwan, South Korea, and Thailand were substantially closed to foreign cigarettes until USTR negotiated cigarette trade agreements with each of these countries. Taiwan authorities reported that their tobacco monopoly advertising and promotional expenditures were less than \$100,000 (U.S.) per year before the U.S. cigarette companies gained market access late in 1986 and that the expenditures had remained unchanged through 1990. The South Korean government reported that its tobacco monopoly advertising and promotional expenditures increased from about \$425,000 (U.S.)—the year before market opening—to about \$3,148,000 (U.S.) in 1990. The Japanese government did not provide us with expenditure data. Thailand prohibits cigarette advertising and promotional activities. U.S. cigarette brands have been available in Hong Kong, Malaysia, and Indonesia for several years. These last three countries do not have government-controlled tobacco monopolies.

Our analysis of U.S. cigarette company advertising materials for the reviewed Asian countries indicated that the cigarette brands were frequently associated with recurring images or themes such as American or western culture, relaxation and leisure, and fashionable lifestyles. The name-brand advertising campaigns were substantially consistent from country to country, with most important differences appearing to be adaptations to local advertising restrictions.

The U.S. cigarette companies told us that they do not target their marketing campaigns at youth, but rather to men and women who already smoke. Based on the limited advertising material and related information available for our review, we were unable to determine whether the U.S. cigarette companies were targeting certain population groups, such as children or nonsmokers, with their advertising and promotional campaigns in the reviewed Asian countries.

Advertising and Promoting U.S. Cigarettes in Six Asian Countries

Based on the terms of the cigarette trade agreements, local marketing restrictions, and industry self-regulatory codes, Philip Morris, R.J. Reynolds, and Brown & Williamson have established advertising and promotional campaigns in the newly opened cigarette markets of Japan, Taiwan, and South Korea. They have also continued to advertise and promote their cigarette brands in Hong Kong, Indonesia, and Malaysia—countries that have permitted the sale of U.S.-brand cigarettes for several years.

Depending on local restrictions, U.S. cigarette brands may be advertised on television or radio; in newspapers and magazines; outside on posters and signs on billboards, taxis, trams, and trains; or at the point of sale (in retail outlets). Where permitted, free samples of U.S. cigarettes may be distributed to consumers. The U.S. cigarette companies may also sponsor sporting events and cultural activities—most frequently musical concerts. The sporting activities cover a variety of events, from auto and motorcycle races to soccer and tennis tournaments. The sponsored musical events are frequently jazz, pop, and rock concerts.

Why U.S. Cigarette Companies Say They Advertise in Asia

The cigarette companies argue that the function of cigarette advertising and promotional activities, whether domestic or international, is to allow various cigarette brands to compete for a share of the existing market. However, health proponents state that these activities also encourage the initiation and continuation of cigarette smoking.

USCEA asserts that advertising is a critical competitive tool in consumer products businesses. The association told us that advertising is by far the most effective means to communicate with consumers. USCEA contends that while advertising is useful for all consumer products, it is particularly essential for American cigarette companies in Japan, Taiwan, South Korea, Malaysia, and Indonesia. According to USCEA, these countries had government-controlled cigarette monopolies or "... other entrenched non-American companies against which the newly-arrived U.S. companies must compete." USCEA informed us that the smokers in those countries were not familiar with American cigarette brands and in some cases did not even know that they were available.

Control of U.S. Cigarette Advertising and Promotional Campaigns

USCEA officials told us that while in 1990 most of the U.S.-brand cigarettes sold in Japan, Taiwan, South Korea, and Hong Kong were imported from the United States, U.S.-brand cigarettes sold in Indonesia and Malaysia were usually produced by local affiliates of the U.S.-based cigarette companies under licensing or other business arrangements. According to their individual marketing strategies and in conjunction with local cigarette advertising and promotional restrictions, the three U.S. cigarette companies individually determine the amount and mix of their media advertisement and promotional expenditures.

USCEA officials told us that the major U.S. cigarette-exporting companies generally control the advertising and promotional campaigns for their

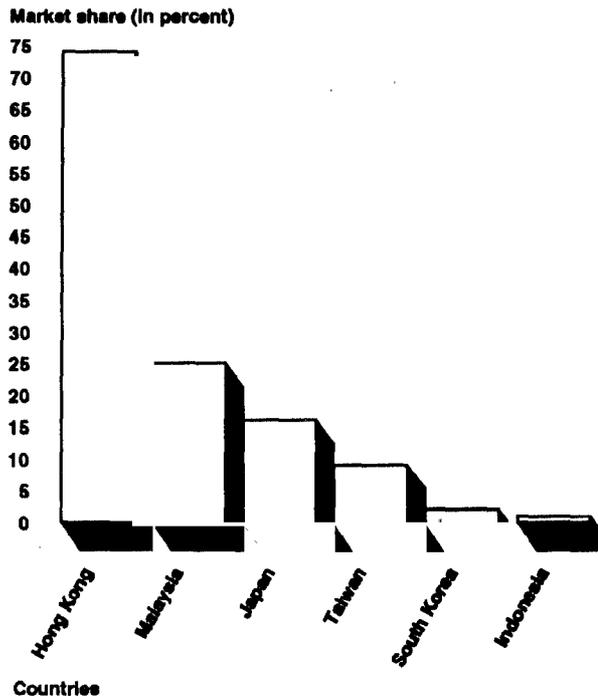
brands marketed in the six reviewed Asian countries that allow these marketing activities (i.e., Japan, South Korea, Taiwan, Hong Kong, Malaysia, and Indonesia). Most of the U.S.-brand cigarettes legally sold in Japan, South Korea, Taiwan, and, to a great extent, Hong Kong, are imported from the United States and are not manufactured locally. On the other hand, U.S.-brand cigarettes marketed in Indonesia and Malaysia are usually produced by local affiliates of Philip Morris and R.J. Reynolds through licensing and other business arrangements. All Brown & Williamson brand cigarettes marketed in Indonesia and Malaysia, however, are imported from the United States. A Brown & Williamson executive emphasized that while in certain cases promotional campaigns for Brown & Williamson cigarettes may be developed locally, they conform to the worldwide brand strategy that is established by Brown & Williamson for each of its licensed brands.

An R.J. Reynolds official told us that in Hong Kong and Malaysia the local R.J. Reynolds subsidiaries control the advertising and promotional campaigns for R.J. Reynolds' cigarette brands. Sometimes, these campaigns may be based on R.J. Reynolds' U.S. campaigns that have been adapted for Asia. At other times, the campaigns are specifically developed for the Asian market.

1990 Market Shares for U.S. Cigarette Brands in Six Asian Countries

With the exception of Hong Kong, U.S. cigarette brands do not have dominant market shares in the reviewed Asian countries. USCEA officials told us that the only function of their advertising and promotional campaigns is to retain existing market share and to acquire new market share by convincing consumers of other brands to switch to their brands. As portrayed in figure 4.1, U.S. cigarette brands had the following market shares for 1990: Hong Kong (74 percent), Malaysia (25 percent), Japan (16 percent), Taiwan (9 percent), South Korea (2 percent), and Indonesia (0.9 percent). Until November 1990, Thailand's monopoly-controlled market was closed to sales of U.S. and other foreign cigarettes. These figures do indicate that U.S. cigarette brands have acquired at least some market share in the previously closed cigarette markets of Japan, Taiwan, and South Korea.

Figure 4.1: Market Shares for U.S. Cigarette Brands in Six Asian Countries, 1990



Source: USCEA.

Advertising and Promotional Expenditure Patterns by Major U.S.-Based Cigarette Companies

We examined cigarette advertising and promotional expenditure data provided by USCEA for the six reviewed Asian countries that allow such activities. We did not verify these data. USCEA requested us not to reveal the actual expenditures publicly because they consist of confidential commercial information. We agreed to this request, but USCEA allowed us to use the expenditure data to make certain cross-country comparisons in terms of percentages. Based on our analysis, we are able to report that in all six of the countries during 1990, Philip Morris, R.J. Reynolds, and Brown & Williamson spent far more money on advertising cigarettes than on providing promotional sponsorships. In Japan, Hong Kong, and Malaysia, the three U.S. cigarette companies spent more money on TV advertising than on any other type of advertising or promotional activity (Hong Kong banned cigarette advertising on TV in December 1990). In South Korea, Taiwan, and Indonesia, these three companies spent more money on point-of-sale advertising than on any other type. In each of the

six countries, the U.S. cigarette companies spent more money sponsoring the promotion of sporting activities than cultural events.

In 1990 Japan alone accounted for more than two-thirds of the total advertising and promotional expenditures reported by USCEA member companies for the reviewed Asian countries. In aggregate, advertising expenditures far outweighed promotional expenditures in all six countries. After Japan, in descending order of total advertising and promotional expenditures, were Hong Kong, Malaysia, South Korea, Taiwan, and Indonesia. When considering advertising expenditures separately, the same order holds true. However, the order changes when we only focus on promotional expenditures. In this case, in descending order, Japan is followed by Malaysia, Hong Kong, South Korea, Indonesia, and Taiwan.

Figure 4.2 expresses U.S. cigarette company advertising in terms of percentage expenditure ranges for various types of advertising. For example, in 1990 for five of the six reviewed countries, the U.S. cigarette companies spent more than 20 percent of their advertising funds on point-of-sale advertising. In Japan, Taiwan, South Korea, and Indonesia, the three U.S. cigarette companies, in aggregate, spent from 5 to 20 percent of their advertising expenditures in each country on magazine advertising.

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Figure 4.2: Ranges of Expenditures on Advertising by U.S. Cigarette Companies in Six Asian Countries, 1990

Advertising Expenditures	Countries					
	Japan	Taiwan	South Korea	Hong Kong	Malaysia	Indonesia
Television	▲	○	○	▲	▲	■
Radio	○	○	○	○	○	○
Newspapers	○	○	○	■	▲	■
Magazines	■	■	■	○	○	■
Outside	■	○	○	▲	■	▲
Point of sale	▲	▲	▲	▲	■	▲
Free samples	■	○	○	○	○	○
All other ^a	○	○	○	○	■	■

Legend
▲ > 20%
■ > 5% ≤ 20%
○ ≤ 5%

Note: Advertising expenditures vary considerably from country to country.

^aThis category includes cinema advertising; consumer promotion items, such as lighters and key chains; costs related to the use of local media; and charges related to currency exchanges.

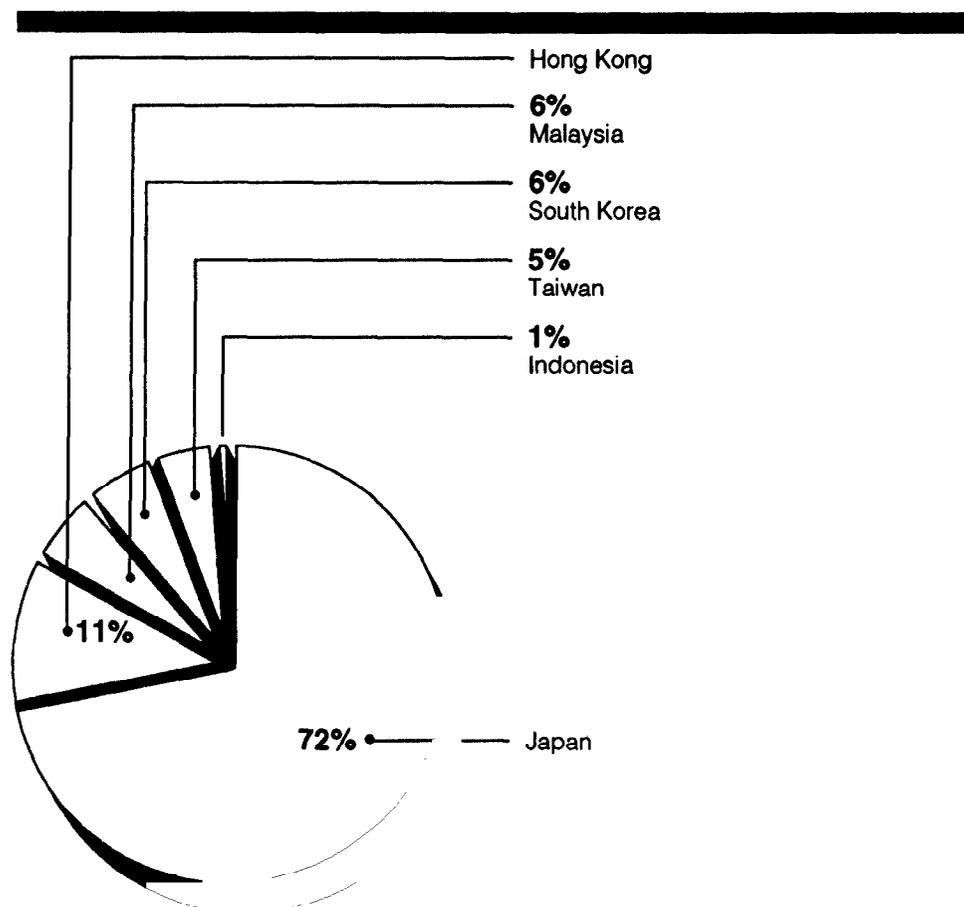
Source: USCEA.

Figure 4.3 shows that in 1990, 72 percent of advertising funds that U.S. cigarette companies budgeted for the six reviewed countries were spent in Japan. The percentages for the other five countries ranged from 1 percent in Indonesia to 11 percent in Hong Kong. Figure 4.4 shows that when we compared expenditures for promotional sponsorships by the U.S. cigarette companies in the six countries, Japan alone accounted for 45 percent of

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the money. However, Malaysia, Hong Kong, and South Korea also accounted for modest proportions of the total. Expenditure patterns by country are discussed in the following sections. Our computations are based on the expenditure data provided by USCEA.

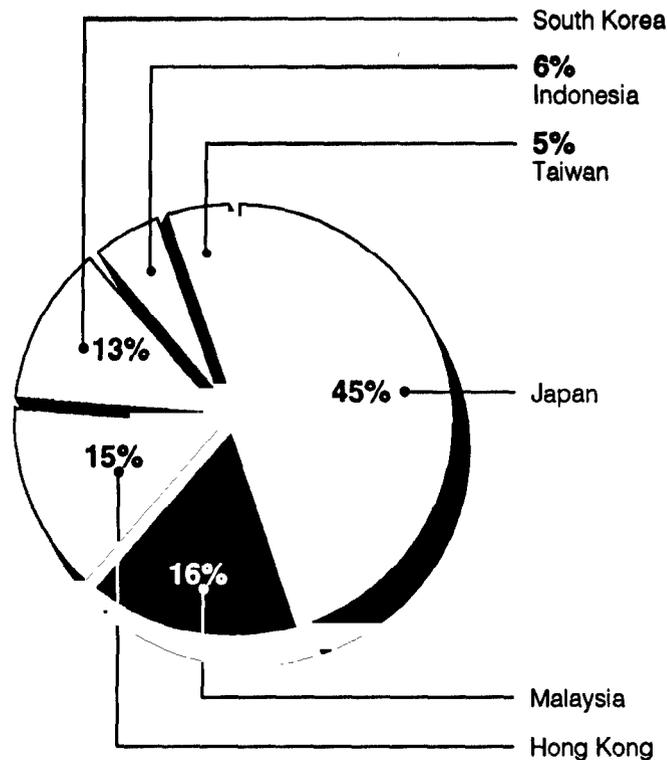
Figure 4.3: Relative Percentages of Aggregate Advertising Expenditures by U.S. Cigarette Companies in Six Asian Countries, 1990



Note: Depending on advertising strategies and local restrictions, U.S. cigarette brands may be advertised on television or radio; in newspapers and magazines; outside on posters and signs; at retail outlets; or through consumer sampling.

Source: USCEA.

Figure 4.4: Relative Percentages of Aggregate Promotional Expenditures by U.S. Cigarette Companies in Six Asian Countries, 1990.



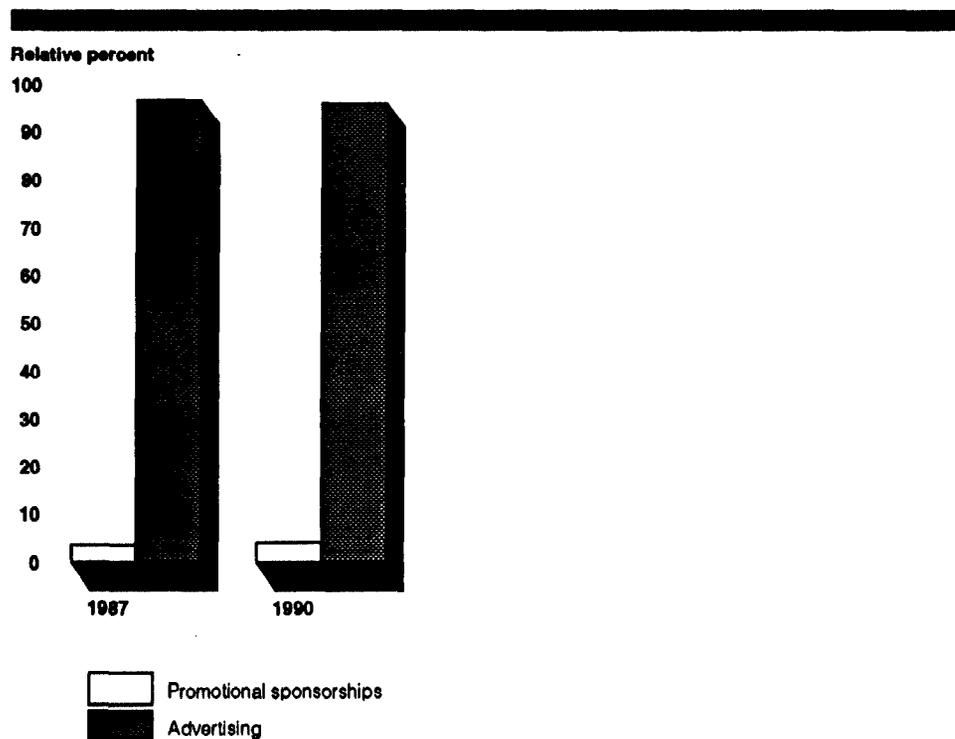
Note: Depending on advertising strategies and local restrictions, U.S. cigarette brands may be promoted through the sponsorship of sporting events, such as auto races and tennis tournaments, or through the sponsorship of cultural activities, such as jazz, pop, and rock concerts.

Source: USCEA.

Japan

From 1987 through 1990, combined advertising and promotional expenditures in Japan by the three U.S. cigarette companies increased by 99.5 percent. Figure 4.5 shows that the relative percentage of expenditures allocated to promotional sponsorships increased from 3.5 percent in 1987 to 4.1 percent in 1990. In 1990, the largest advertising expenditures were for TV, followed by point-of-sale advertising. Less significant sums, in descending order, were spent on outside advertising, free samples, magazines, newspapers, and radio.

Figure 4.5: Relative Percentages of U.S. Cigarette Company Advertising and Promotional Expenditures in Japan, 1987 and 1990



Note: 1987 was the first full year of advertising and promotional activities by U.S. cigarette companies in Japan.

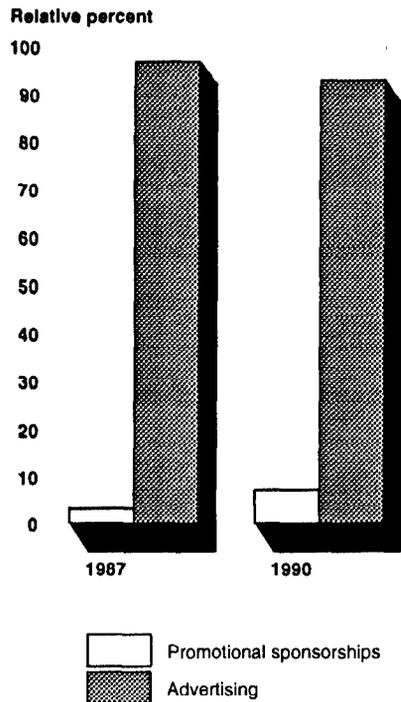
Source: USCEA.

Taiwan

Combined cigarette advertising and promotional expenditures in Taiwan by the three U.S. cigarette companies increased by 43.8 percent from 1987 through the end of 1990.¹ Figure 4.6 shows that the relative percentage of expenditures allocated to promotional sponsorships increased from 3.2 percent in 1987 to 7.2 percent in 1990. In Taiwan, point-of-sale advertising constituted the largest single advertising expenditure category by the major U.S. cigarette companies. Magazine advertising accounted for most of the remaining expenditures. A small percentage of the aggregate advertising and promotional funds was spent on free sample distribution and less than 1 percent on other types of advertising.

¹However, from 1988 to 1990 we note that the advertising and promotional expenditures actually decreased by 14.2 percent.

Figure 4.6: Relative Percentages of U.S. Cigarette Company Advertising and Promotional Expenditures in Taiwan, 1987 and 1990



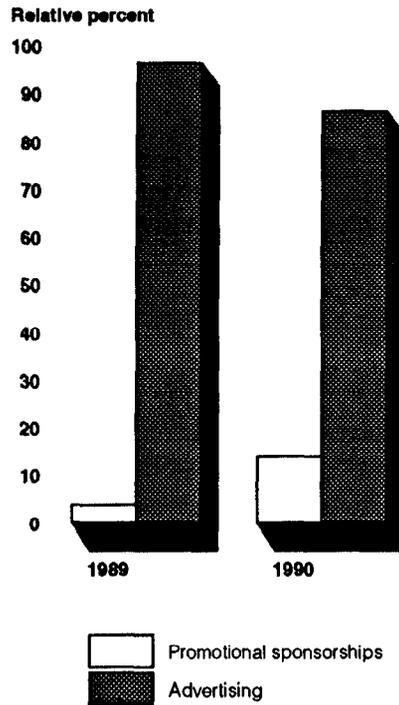
Note: 1987 was the first full year of advertising and promotional activities by U.S. cigarette companies in Taiwan.

Source: USCEA.

South Korea

From 1989 through 1990, aggregate advertising and promotional expenditures by the three U.S. cigarette companies decreased by 1.3 percent in South Korea. Figure 4.7 shows that the relative percentage of expenditures allocated to promotional sponsorships increased from 3.7 percent in 1989 to 13.7 percent in 1990. By far the largest expenditure category was point-of-sale advertising, followed in descending order by magazine advertising and free sample distribution.

Figure 4.7: Relative Percentages of U.S. Cigarette Company Advertising and Promotional Expenditures in South Korea, 1989 and 1990



Note: 1989 was the first full year of advertising and promotional activities by U.S. cigarette companies in South Korea.

Source: USCEA.

Hong Kong

In 1990, 91.6 percent of aggregate U.S. cigarette advertising and promotional expenditures by the three U.S. cigarette companies in Hong Kong was for advertising, while the remaining 8.4 percent was for sponsoring promotional activities. In 1990, before the ban on broadcast media cigarette advertising became effective on December 1 of that year, TV represented the largest expenditure category. It was closely followed by outside advertising and then point-of-sale advertising. After these modes came, in descending order, newspaper and magazine advertising. Cigarette advertising on radio (before the December 1990 ban) and free samples represented relatively insignificant expenditures by the U.S. companies.

Malaysia

In 1990, 83.2 percent of aggregate advertising and promotional expenditures by Philip Morris, R.J. Reynolds, and Brown & Williamson in Malaysia was for advertising; the remaining 16.8 percent was for sponsoring promotional activities. The largest advertising expenditure category was TV, followed by advertising in newspapers. In descending order of expenditures, less significant categories included point-of-sale advertising, outside advertising, and free sample distribution. Expenditures on magazine and radio advertising were relatively insignificant.

Indonesia

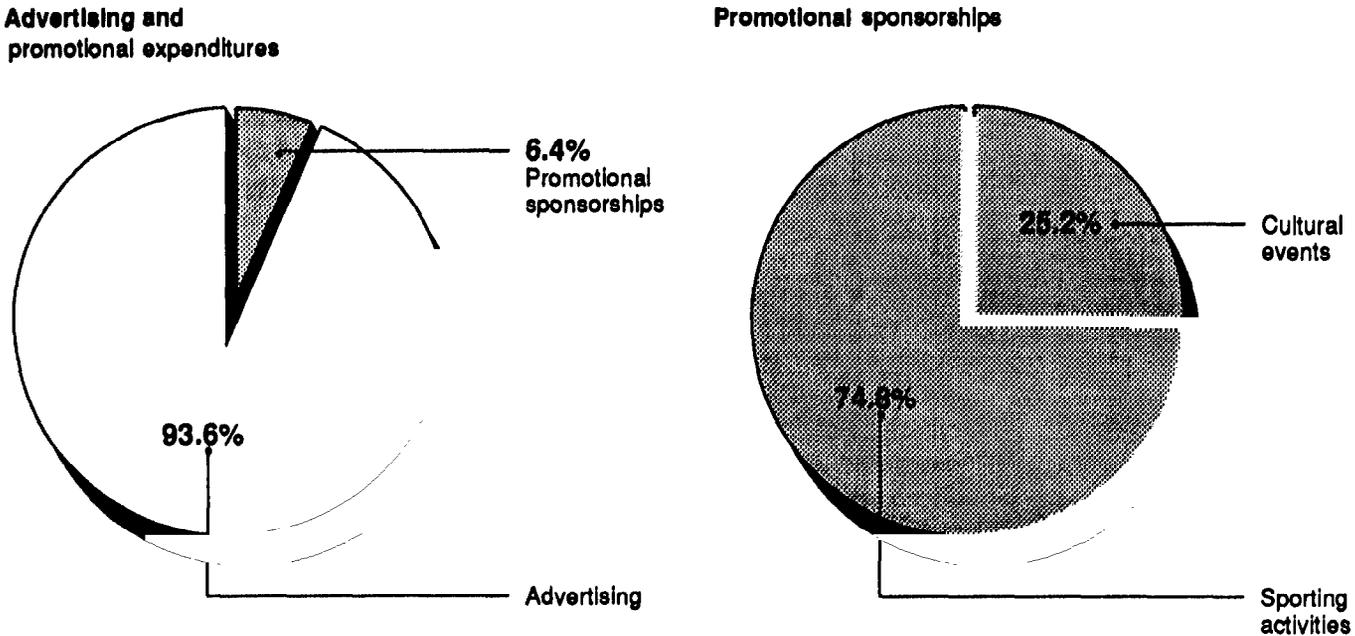
In Indonesia in 1990 cigarette advertising expenditures accounted for 75.3 percent of aggregate cigarette advertising and promotional expenditures by the three U.S. cigarette companies. The remaining 24.7 percent was for sponsoring promotional activities. The major expenditure category was point-of-sale advertising, followed by outside advertising. In descending order of expenditures, other important media categories included TV, newspaper, and magazine advertising. Relatively less significant sums were spent on free samples and radio advertising.

**Sponsorship of
Athletic and Cultural
Activities by
U.S.-Based Cigarette
Companies**

We examined lists and brief descriptions of 1990 promotional activities sponsored by Philip Morris, R.J. Reynolds, and Brown & Williamson² in the six reviewed Asian countries that allow cigarette promotional activities. The vast majority of these activities can be classified as sporting activities or cultural events (primarily musical concerts). Figure 4.8 shows that in aggregate for the six countries, the U.S. cigarette companies spent far more money advertising their cigarette brands than sponsoring promotional activities. Figure 4.8 further shows that almost 75 percent of the promotional expenditures were for sporting activities as opposed to cultural events.

²Brown & Williamson provided us with a list of its "major" cigarette promotional activities in the selected Asian countries. It did not provide us with the criteria used to select these activities.

Figure 4.8: Aggregate U.S. Cigarette Company Advertising Relative to Promotional Expenditures for Six Asian Countries, 1990



Source: USCEA.

In each of the six countries, although the percentages vary, more money was spent promoting cigarettes through sporting activities than musical and other events. The sporting events ran the gamut from auto and motorcycle races to soccer and tennis tournaments. For example, Brown & Williamson sponsored Team Lucky Strike Suzuki at three motorbike races in Japan, while Philip Morris sponsored the Hong Kong Marlboro Cup soccer tournament. The musical events sponsored by the companies were generally jazz, pop, and rock concerts. For instance, Philip Morris sponsored two jazz concerts in Taiwan by the Parliament Superband, while R.J. Reynolds sponsored the "Yves Saint Laurent [cigarette brand] Paul Anka Concert" in South Korea. To a much lesser degree, the U.S. cigarette companies also sponsored other types of events, such as an exhibition of motorcycles in Taiwan, a horse-of-the-year contest and an art exhibit in Hong Kong, and a TV game show in Malaysia.

The cigarette companies did not provide us with sufficient information to determine whether sporting activities were sponsored more or less frequently than musical concerts. However, we can say that on an aggregate basis for the reviewed Asian countries, based on a review of the provided information, more U.S. cigarette brands were associated with the sponsorship of sporting activities than with musical concerts and other entertainment. USCEA officials informed us that sponsorship by member companies of sporting events is extensive. The President of USCEA said that sports sponsorship is done as a business-related activity in sports such as tennis and auto racing. USCEA officials said that their member companies do not participate in collegiate advertising.

Tables 4.1 and 4.2 show the types of promotional activities sponsored by Philip Morris, R.J. Reynolds, and Brown & Williamson in the six Asian countries in 1990. Table 4.1 portrays the information by country and cigarette company, while table 4.2 shows the major U.S. cigarette brands marketed in one or more of the six countries and the types of promotional sponsorships associated with each brand. Table 4.1 shows that the three U.S. cigarette companies were more often associated with the sponsorship of sporting activities than cultural events. In Japan, Taiwan, Malaysia, and Indonesia, two of the three companies (not always the same two) did not sponsor cultural events. Table 4.1 also shows that Brown & Williamson did not sponsor any "major" cigarette promotional activities in Taiwan and South Korea, and R.J. Reynolds did not sponsor any of these activities in Indonesia.

Chapter 4
U.S. Cigarette Advertising and Promotional
Campaigns in Selected Asian Countries

Table 4.1: Types of Promotional Sponsorships by U.S. Cigarette Companies in Six Asian Countries, 1990

Country	U.S. cigarette company	Sporting activities	Cultural events	
			Musical concerts	Other entertainment ^a
Japan	PM	X	X	•
	RJR	X	•	•
	B&W	X	•	•
Taiwan	PM	•	X	X
	RJR	X	•	•
	B&W ^b	•	•	•
South Korea	PM	X	X	•
	RJR	X	X	•
	B&W ^b	•	•	•
Hong Kong	PM	X	X	X
	RJR	X	X	•
	B&W	X	•	•
Malaysia	PM	X	•	•
	RJR	X	X	X
	B&W	X	•	•
Indonesia	PM	X	•	X
	RJR ^b	•	•	•
	B&W	X	•	•

Legend
 PM = Philip Morris
 RJR = R.J. Reynolds
 B&W = Brown & Williamson
 X = Activity conducted
 • = No activity

^aThis category includes events such as Philip Morris' sponsorship through its Marlboro brand of a motorcycle exhibition in Taiwan and of an exhibition of work by local artists in Hong Kong. Another example is R.J. Reynolds' sponsorship through its "More" brand of a TV game show in Malaysia.

^bThis company did not sponsor any activities in this country.

Sources: Philip Morris International Inc.; R.J. Reynolds Tobacco International, Inc.; and Brown & Williamson Tobacco Corp.

Table 4.2 shows that most of the U.S. cigarette brands in the six countries are not associated with the sponsorship of both sporting and cultural events—the Salem, Yves Saint Laurent (YSL), and Marlboro brands are the exceptions. Table 4.2 also shows that Brown & Williamson brands were only associated with the promotion of sporting activities (see footnote 2).

Chapter 4
U.S. Cigarette Advertising and Promotional
Campaigns in Selected Asian Countries

Table 4.2: Types of Promotional Sponsorships by U.S. Cigarette Companies in Six Asian Countries by Major Cigarette Brands, 1990

Company	U.S. cigarette brand	Sporting activities	Cultural events	
			Musical concerts	Other entertainment ^a
Philip Morris				
	Marlboro	X	•	X
	Philip Morris (Super Lights)	•	X	•
	Lark	X	•	•
	Merit	X	•	•
	Parliament	•	X	•
R.J. Reynolds				
	Camel	X	•	•
	Salem	X	X	•
	Yves Saint Laurent	X	X	•
	More	•	•	X
Brown & Williamson				
	Lucky Strike	X	•	•
	Viceroy	X	•	•
	Kent	X	•	•

Legend
X = Activity conducted
• = No activity

^aThis category includes events such as Philip Morris' sponsorship through its Marlboro brand of a motorcycle exhibition in Taiwan and of an exhibition of work by local artists in Hong Kong. Another example is R.J. Reynolds' sponsorship through its "More" brand of a TV game show in Malaysia.

Sources: Philip Morris International Inc.; R.J. Reynolds Tobacco International, Inc.; and Brown & Williamson Tobacco Corp.

Cigarette Advertising and Promotional Expenditures by Certain Government-Controlled Tobacco Monopolies in Asia

Cigarette advertising and promotional activities in the reviewed Asian countries are not unique to the three U.S.-based cigarette companies. The government-controlled tobacco monopolies, indigenous cigarette manufacturers, and other foreign cigarette companies also advertise and promote their cigarette brands in these countries. As we reported in chapter 1, government-controlled tobacco monopolies in Japan, Taiwan, South Korea, and Thailand substantially prohibited the sale of foreign cigarettes.⁹ USTR negotiated trade agreements with each of these countries

⁹U.S.-brand cigarettes have been marketed in Hong Kong, Malaysia, and Indonesia for several years.

to gain market access for U.S.-produced cigarettes. We asked the governments of Japan, South Korea, and Taiwan to provide us with cigarette advertising and promotional expenditures by their tobacco monopolies for the year prior to market opening and for 1990. (Thailand bans cigarette advertising and promotional activities.) They responded as follows:

- The Japanese government said that it will not disclose this information because it is “classified as industrial secrets.”
- Taiwan authorities told us that their tobacco monopoly advertising and promotional expenditures were less than \$100,000 (U.S.) per year before the December 1986 U.S.-Taiwan cigarette trade agreement was implemented and have not changed since market “liberalization.”
- The South Korean government informed us that its government-controlled monopoly spent about \$425,000 (U.S.) on advertising and promoting its domestically produced cigarettes in 1987—the year before the market opened. In 1988 monopoly expenditures increased to \$1,043,000 (U.S.) (the U.S.-South Korean trade agreement removing cigarette trade barriers was signed in May 1988). During 1989, the first full year of trade agreement implementation, the Korean tobacco monopoly spent \$3,005,000 (U.S.) advertising and promoting its cigarettes (a 188-percent increase from 1988). In 1990 expenditures increased to \$3,148,000 (U.S.). This figure represents a 641-percent increase from 1987—the year before the market opened.

Nature of U.S. Cigarette Advertising Campaigns in Reviewed Asian Countries

According to USCEA, U.S. cigarette advertising campaigns can be categorized into three groups—thematic, local brand, and tactical campaigns. Thematic campaigns may be transnational in scope and focus on recurring images such as American culture, relaxation and leisure, or fashionable lifestyles. Local brand campaigns are developed and tailored for the country in which the brand is marketed. Tactical campaigns are time specific and are developed for special events such as the Chinese New Year. The goals of other cigarette advertising campaigns are to introduce brands into a new market or to publicize new prices. USCEA officials informed us that when advertising their international brands (e.g., Marlboros and Salems), Philip Morris, R.J. Reynolds, and Brown & Williamson generally use consistent per-brand advertising themes in all of the reviewed Asian countries (e.g., Philip Morris' Marlboro brand is almost always advertised with a western American cowboy image). USCEA officials told us, however, that local market adaptations are made to account for cultural differences and variations in the advertising codes and restrictions

in each country. Thus, USCEA officials cautioned that although their cross-country, per-brand advertising campaigns may resemble each other, it would be inaccurate to say that they are identical.

Another factor precludes viewing certain per-brand USCEA company cigarette advertising campaigns as international in theme or scope. Certain brands of cigarettes, such as Lark and Kent, are produced under license by Philip Morris and Brown & Williamson, respectively, for the export market, while these same brands are produced by different U.S.-based cigarette companies for domestic U.S. consumption. The advertising campaigns used by Philip Morris and Brown & Williamson for these brands overseas are separate from those used for the corresponding brands by the domestic U.S. producers in the United States. Thus, the overseas advertising campaigns for given brands may use different themes and images.

The three U.S. cigarette companies may also market cigarette brands that are only sold in one country. The advertising campaigns for these brands may be tailored to the local markets. For instance, Brown & Williamson's Hilton cigarettes are marketed exclusively in Hong Kong.

USCEA officials said that the initial cigarette ad campaigns by member companies in the newly opened cigarette markets of Japan, Taiwan, and South Korea generally focused on product recognition—simply making the consumer aware of the U.S. cigarette brands and their availability on the local market. We observed that these ads frequently only featured pictures of cigarette packs. The officials said that this practice was an attempt to show the newly opened markets what the U.S.-brand cigarette packages look like and to expose the people to the U.S. brands. For example, when U.S. cigarette companies gained access to the Japanese market, an R.J. Reynolds magazine advertisement pictured several of its brands that were newly available in Japan, including mild, light, menthol, and filtered cigarettes.

Analysis of U.S. Cigarette Advertisements in Reviewed Asian Countries

To help determine the nature of the U.S.-based cigarette company advertising campaigns in the reviewed Asian countries, we systematically examined U.S. cigarette advertising materials (primarily magazine ads and TV commercials) provided by Philip Morris, R.J. Reynolds, and Brown & Williamson, and the more limited materials submitted by the foreign governments and health or antismoking proponents. For the most part, the materials submitted by all of these sources were substantively the same.

None of the above sources provided us with either the frequency of appearance or the context in which the advertisements appeared. We do not know, for example, whether any particular advertisement was used in publications specifically targeted to any group with common interests. Therefore it was not possible to associate or identify the advertisement with any particular group or individual characteristics.

Most of the Asian advertising materials we examined from the U.S. cigarette companies' advertising campaigns were for the major U.S. name-brand cigarettes that are marketed in many countries. However, we also examined a limited number of country-specific advertisements and advertisements designed for special events. The U.S. cigarette companies advertised their products in a variety of ways, as follows:

- Philip Morris' Virginia Slims brand advertisements and TV commercials often appeared to contrast what is portrayed as the old-fashioned, less exciting, and more restrictive women's lifestyles (pictured in black and white) with today's spirited and liberated lifestyles (in vibrant colors). For example, a number of the TV commercials and magazine ads depicted women in modern, eye-catching, colorful fashions actively enjoying themselves, theatrically superimposed over what is pictured as the dull fashions and drab scenes of years gone by.
- R.J. Reynolds' Salem brand advertisements and TV commercials featured couples strolling, frolicking, or sitting in mountain meadows, or viewing scenic panoramas of forests or snow-capped mountains.
- Brown & Williamson's Kent brand TV commercials and advertisements frequently depicted groups or couples enjoying themselves in luxurious settings while smoking, often at what appears to be tropical seaside resorts. For example, the TV commercials that we reviewed portrayed groups socializing on yachts and rafts, playing golf, riding in motorboats, sailing, drinking, chatting at tables, waterskiing, and sailing.

(See app. III for descriptions of the other major U.S.-cigarette brand advertisements in the six Asian countries.)

USCEA officials told us that member companies do not use celebrity testimonials or endorsements for their cigarette brands marketed in the six Asian countries we reviewed. They may, however, use American entertainers, such as movie stars, in cigarette advertisements to project a "made in USA" theme (i.e., to show that it is a U.S. product). For example, James Coburn, Pierce Brosnan, and Robert Wagner starred in a series of

TV commercials (adventure vignettes) for Philip Morris' Lark brand cigarettes in Japan.

USCEA officials said that member companies do not direct their marketing campaigns at youth. Their position is that cigarette advertising is designed to appeal to both men and women who already smoke. They said that there is no worldwide marketing code that defines the demarcation between youth and adults. This age is usually established by regulatory codes on a country-by-country basis. However, USCEA informed us that it is generally industry policy not to appeal to anyone who is under 18 years of age. In fact, the President of USCEA asserted that member companies do not use models in their overseas advertisements who are under 25 or even look under that age.

Based on the limited advertising materials and related information available for our review, we were unable to determine whether specific population segments, such as children or nonsmokers, in the reviewed Asian countries were being targeted by the U.S. cigarette companies. For example, evidence suggesting intent to target children would be the appearance of cigarette advertisements on children's television shows or in children's magazines. Insufficient information was available for us to make such a determination. In fact, the advertising restrictions in the reviewed countries (including industry self-regulatory codes) usually restrict or prohibit such advertising. Finally, cigarette advertising and promotional activities cannot be isolated as specific factors or major factors encouraging the initiation of smoking. Several scientific studies have suggested that many other variables, such as peer pressure and parental smoking, may also influence an individual's decision to smoke.

Federal Regulation Over Potentially Harmful Substances and Products

U.S. cigarette exports are generally exempt from major federal controls and regulations governing the export of potentially harmful products or substances. On the other hand, certain other products that present health hazards and that are intended for export are subject to various federal controls and regulations. The following is a summary of federal regulations over potentially harmful substances and products:

1. Hazardous substances:¹ Hazardous substances are subject to regulation under the Federal Hazardous Substances Act (15 U.S.C. 1261). Persons who plan to export a so-called misbranded or banned hazardous substance² must file a statement with the Consumer Product Safety Commission (CPSC) 30 days before the export of the substance, notifying CPSC of such exportation (15 U.S.C. 1273(d)). The failure to notify CPSC is considered a prohibited act under section 1263 and is subject to applicable penalties.

The exporter's statement must specify the anticipated date of shipment, the country and port of destination, and the quantity that will be exported, together with other information that CPSC may require.

Upon receiving an exporter's statement, CPSC is required to promptly notify the foreign country concerned and inform that country of the reason why the substance is considered misbranded or banned in the United States.

2. Chemical substances:³ Potentially harmful chemical substances are also subject to federal regulation and control under the Toxic Substances Control Act (15 U.S.C. 2601). Chemical substances that are intended for export are generally exempt from the requirements of that act, unless the Environmental Protection Agency (EPA) has found that the substances present an unreasonable risk of injury to health or the environment within the United States (15 U.S.C. 2611).

¹These substances include anything that is toxic, corrosive, an irritant, or is flammable or combustible, if such substance may cause substantial personal injury or illness from a normal handling or use (15 U.S.C. 1261(f)). Tobacco and tobacco products are specifically exempted from this definition (1261(f)(2)).

²Briefly, a misbranded hazardous substance is one that does not have a label prominently warning of the particular health hazard. A banned hazardous substance is one that presents such a particular health hazard that it cannot be sold despite an appropriate warning.

³These substances are those chemicals and other mixtures that present an unreasonable risk of injury to health or the environment. Tobacco and tobacco products are specifically exempted from the definition of chemical substances (15 U.S.C. 2602(2)(B)).

**Appendix I
Federal Regulation Over Potentially Harmful
Substances and Products**

In certain instances, a person must notify EPA before chemical substances are exported (e.g., when EPA has taken some action regarding such substances). In these situations, EPA is required to provide certain information to the foreign country concerned.

3. Controlled substances:⁴ Controlled substances are subject to federal regulation under the Controlled Substances Act (21 U.S.C. 801). The act establishes certain requirements for the export of controlled substances, depending on which schedule (I, II, III, IV, or V) the substance falls under (21 U.S.C. 953).⁵

In the case of nonnarcotic controlled substances in schedule I or II, for example, the act states that it is unlawful for a person to export such substances unless the following factors are present:

- (1) The substances are exported to a country that has instituted and maintains a system that the Attorney General deems adequate for the control of imports of such substances.
- (2) The controlled substances are consigned to a holder of permits or licenses that may be required under the laws of the country of import.
- (3) The Attorney General is given substantial evidence that (a) the controlled substances are to be applied exclusively to medical, scientific, or other legitimate uses within the country to which they will be exported; (b) the substances will not be exported from such a country; and (c) the controlled substances are actually needed for medical, scientific, or other legitimate uses within the country; and
- (4) A permit to export the controlled substance has been issued by the Attorney General in each instance.

⁴These substances are those drugs and other substances whose improper use or abuse may have a substantial and detrimental effect on one's health. These substances are defined and regulated in detail in 21 U.S.C. 812 according to set schedules. Tobacco is specifically excluded from the definition of "controlled substance" (21 U.S.C. 802(6)).

⁵The criteria for each schedule are set forth in 21 U.S.C. 812. Schedule I consists of those drugs or other substances that (1) have a high potential for abuse, (2) have no currently accepted medical use in treatment in the United States, and (3) have no accepted safety standard for use under medical supervision.

**Appendix I
Federal Regulation Over Potentially Harmful
Substances and Products**

4. Food and drugs:⁶ The manufacture and sale of food and drugs are regulated under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301), as amended. This act provides for the exportation of food and drugs so long as any such product⁷

- (1) accords with the specifications of the foreign purchaser,
- (2) is not in conflict with the laws of the country to which it is intended for export,
- (3) is labeled on the outside of the shipping package that it is intended for export, and
- (4) is not sold or offered for sale in the United States.

The act also establishes detailed requirements for the export of certain unapproved food and drug products.

⁶Tobacco and tobacco products are not specifically exempted from this act. The Food and Drug Administration (FDA), however, has consistently maintained that tobacco products generally are not subject to the Federal Food, Drug and Cosmetic Act because such products are not considered drugs within the meaning of that act. See *Action on Smoking and Health v. Harris*, 655 F.2d 236 (D.C. Cir. 1980). On the other hand, FDA does assert jurisdiction over tobacco products if a vendor makes health claims regarding the use of such products. In this situation, FDA would consider the tobacco product to be a drug because it would be intended to affect the structure or function of the body of man (21 U.S.C. 321(g)(1)). Several health organizations have recently filed petitions with FDA requesting that cigarettes be classified as drugs under that act. FDA is now reviewing these petitions.

⁷21 U.S.C. 381.

U.S. Cigarette Company Actions and Other Responses to Alleged Trademark Infringement in Selected Asian Countries

Policies and Procedures

The U.S. Cigarette Export Association (USCEA) informed us that each of its member companies has adopted individual policies or practices to stop the unauthorized use of its trademarks on counterfeit and collateral goods.¹ Although the policies and practices may vary slightly, USCEA summarized them as follows:

If someone uses a tobacco trademark (either an exact copy or a close simulation) without authorization, whether the trademark be a word, device, or design, under circumstances in which the word, device, or design used can be recognized as the tobacco trademark, the USCEA member does the following:

(1) If the goods on which the use is made are intended principally for those under the age of 18, such informal and formal legal actions are taken as may be appropriate to bring the use to a halt or to convince the USCEA member that additional activity will not produce further positive results. Importantly, cost is not a determining or principal factor in the decision of whether to take action, or when to cease additional activity, or what action to take.

(2) If the goods on which the use is made are not intended principally for those under 18, the USCEA member performs an analysis to determine the extent to which the use damages its business and assets in the country involved and to balance that damage against the likelihood of being able to stop the offending activity and the costs of achieving the result.

USCEA stated that the principal reasons why its member firms adopted these policies and practices were because

(1) smoking is an adult practice and the firms disapprove of the use of their trademarks on goods that may promote smoking by minors and

(2) using unauthorized trademarks may result in dilution and/or loss of a firm's trademark rights if the firm does not take appropriate action to stop the unauthorized use.

Standard Procedure

USCEA also described the standard procedure when a member company receives information regarding a potential trademark infringement. If a product is purchased in a retail store, the retailer would be contacted to

¹The term "collateral goods" refers to those products that are not directly competing with the sale of tobacco products but that use the latter's trademarks as a marketing tool.

inform him or her of the infringement, demand that product sales stop, and insist on disclosure of the producer or source of the product. If the retailer cooperates in disclosing the source of supply, legal action is taken directly against that source to stop the infringing activity.

If the goods are uncovered through a street vendor or vagabond merchant, investigators are often retained to find the source of production. USCEA pointed out that finding the source, especially in the Asian markets, is one of the most difficult aspects of enforcing trademark rights in these situations.

Actions and Other Responses to Trademark Infringements

USCEA told us that in carrying out the previously described policies, USCEA companies take aggressive action to stop unauthorized uses of their trademarks on collateral goods, in general, and on all goods that may be purchased by or for children, in particular. In support of this statement, USCEA said that USCEA companies estimate the number of legal actions they initiated internationally approximates 542 cases since January 1, 1987.² In the Asian countries included in our review, USCEA stated that tobacco firms have initiated 207 proceedings since January 1, 1987.³

Difficulties in Enforcing Trademark Rights

USCEA described some of the difficulties that the tobacco companies have faced in enforcing their trademark right in Asian countries. USCEA indicated that most of these problems stem from the varying types of trademark protections that are available in foreign countries. USCEA told us that the Asian countries under review apply a narrow interpretation of trademark infringement.

According to USCEA, a trademark is not infringed in the Asian countries unless the owner has a registration for a trademark covering the infringing goods. For example, in Taiwan a trademark owner may enforce its rights against an infringer only if the trademark is used without authorization with the same goods or goods of the same class. If a tobacco company has registered its trademark in only one class of products (cigarette products), the company cannot enforce its rights against another company that is using the same trademark for products of another class (candy products).

²USCEA defined a "legal action" as action based on legal rights to stop unauthorized use, including a cease and desist letter, a civil law suit for trademark infringement or unfair competition, a court action for seizure of goods, or a criminal proceeding.

³USCEA included Singapore in this total.

USCEA said that even though a tobacco company may not have registered its trademark, in many instances tobacco companies still object to the unauthorized use of their trademarks. A company may send a letter to the infringer objecting to the use of its trademark and demanding that the other party stop.

Illustrative Cases

USCEA provided us with illustrative cases, as well as other documents and materials, as a means of illustrating how tobacco companies responded to unauthorized uses of their trademarks. We reviewed these cases but we did not verify either whether they are accurate or whether they truly reflect the nature of the views of the USCEA member companies regarding apparent trademark infringements. Almost all of these cases involved sending a "cease and desist letter" to the infringing company. According to USCEA, virtually all of these cases never resulted in litigation, with most companies complying with the tobacco companies' letters.

We briefly describe some of these cases on a country-by-country basis. Although these cases show that the tobacco companies have taken some action in certain cases, we are not in a position to agree or disagree with the USCEA's views. That is, we cannot say whether the tobacco companies were aggressive or indifferent in responding to apparent trademark infringements.

Hong Kong

USCEA said that Hong Kong has the largest number of infringing articles and the highest volume of legal actions by tobacco companies to enjoin such infringements.

Case I: R.J. Reynolds discovered the use of a mark substantially similar to its mark, "Winston," in connection with the sale of packages of candy cigarettes in Hong Kong. Reynolds sent letters to the stores involved, as well as to the manufacturers, demanding that the infringing parties stop using the "Winston" mark. The manufacturers agreed to discontinue production of the candy cigarettes. USCEA provided other similar cases involving the use of this mark.

Case II: Philip Morris objected to the use of its "Marlboro" trademark on toy cars that were sold by a major chain store. Philip Morris' representative contacted the owner of the store, who in turn disclosed the manufacturer that had sold the toy cars and made a commitment not to purchase any such cars in the future. The representative then sent a warning letter to the manufacturer, who subsequently complied with the letter.

Taiwan

USCEA described Taiwan as a major source of collateral goods infringements.

Case I: R.J. Reynolds tried to prevent a candy manufacturer from producing candy cigarettes with packaging bearing the trademarks "Winston" and "Camel Lights." Reynolds' legal counsel in Taiwan was doubtful that Reynolds could successfully maintain legal action because its trademark registration of Winston and Camel applied only to tobacco products and not candy products. Reynolds' subsequent application for trademark protection for candy products was denied.

Case II: Brown & Williamson sought to prevent a company from using the "Kent" trademark on flashlight keychain products. Brown & Williamson sent a warning letter urging the company to cease and desist from using any identical or similar trademarks. In response, the company said that it had used the trademark in its customers' product catalog only for reference but had never actually sold any flashlights bearing the trademark.

Thailand

USCEA said that Thailand was relatively inactive until about 1988 because the tobacco companies had no sales within the country. Therefore, unauthorized users had little profit incentive to infringe the tobacco trademarks.

Case I: R.J. Reynolds attempted to stop a company from using the "Camel" trademark on children's shorts and shirts. In response to a request from Reynolds' attorney in Thailand that the company stop manufacturing clothes with this trademark, the company withdrew the products from the market.

Case II: Philip Morris apparently prompted a police raid on several clothing factories and retail outlets to find clothing infringements against its "Marlboro" trademark. While the raid did not uncover any infringements of the "Marlboro" trademark, the police found other brand-name counterfeit products.

Japan

USCEA identified Japan as another country that requires registration for substantially the identical mark for substantially the identical goods before a trademark owner can obtain relief. USCEA said, however, that Japan is not a problem country with respect to collateral goods infringements. USCEA did not provide an example case.

**Appendix II
U.S. Cigarette Company Actions and Other
Responses to Alleged Trademark
Infringement in Selected Asian Countries**

South Korea

USCEA stated that the tobacco companies have not encountered many instances of collateral goods infringements in South Korea. USCEA provided one example.

Case: Philip Morris discovered the use of a design mark on a facial tissue package in Seoul that was similar to the "Marlboro" trademark. In response to a warning letter to the infringer, the Korean company sent a written oath pledging to stop selling tissues bearing the design mark.

Indonesia

USCEA told us that it found few collateral goods infringements in Indonesia but that many trademark registrations exist for the trademarks of U.S. tobacco companies. According to USCEA, the Indonesian government issues trademark registrations without searching for prior registrations for the same marks, relying on third parties to bring actions to cancel registrations in violation of their rights. U.S. tobacco companies have several pending cancellation actions against identical tobacco marks for numerous collateral goods. USCEA provided one example.

Case: Philip Morris filed a petition with the Indonesian government in 1990 to cancel a trademark registration that had been issued for the use of the "Marlboro" mark. This action is still pending.

Malaysia

USCEA stated that Malaysia is relatively inactive in collateral goods infringements of tobacco trademarks.

Major U.S. Cigarette Brand Magazine Advertisements and TV Commercials in Six Asian Countries in 1990

In this appendix we are providing descriptions of a sample of magazine advertisements and TV commercials for the major U.S. cigarette brands marketed in Japan, Taiwan, South Korea, Hong Kong, Malaysia, and Indonesia in 1990. Not all of the brands discussed are advertised or marketed in all six of the countries. For example, while R.J. Reynolds' Salem brand is sold in all six countries, Brown & Williamson's Viceroy's are sold only in Japan and Hong Kong.

In general, the cigarette brand images portrayed in the advertisements are fairly consistent in all of the reviewed Asian countries in which the particular brand is advertised. For instance, most of the Parliament ads we examined were part of the "American Blue" campaign and depicted people in formal dress against a silhouetted U.S. city skyline. Winstons were frequently associated with images of America. They featured pictures of U.S. landmarks, such as the Statue of Liberty and Mount Rushmore. Descriptions of the Virginia Slims, Salem, and Kent brand ads are included in chapter 4.

Philip Morris

Marlboro

Marlboro cigarettes were advertised using a western American cowboy image. The scenes took place outdoors, and the characters were always men attired in cowboy clothing. The backgrounds often included rough geological features like canyons, spires, mountains, and bluffs. Some of the activities portrayed in the ads included chasing, roping, and herding horses.

Parliament

Most of the Parliament cigarette advertisements and TV commercials we examined were part of the Parliament "American Blue" campaign. Formally dressed people were shown riding in horse-drawn carriages, dancing in ballrooms, and dining in restaurants with beautiful urban vistas. Also depicted in both the advertisements and TV commercials were aerial nighttime views of major U.S. cities that featured the contrast of lights on land or bridges to the darkness of the water.

Lark

TV commercials for Lark cigarettes were a series of adventure vignettes featuring celebrities such as James Coburn, Pierce Brosnan, and Robert Wagner. The vignettes portrayed characters who beat the odds in dangerous scenarios. In each of the commercials, the scene "freezes," and the celebrity holds up a pack of Lark cigarettes and says "Speak Lark."

Philip Morris (brand)

Philip Morris-brand cigarettes were advertised through a series of surreal "out of this world" vignettes and still pictures extracted from video-taped commercials. The materials contained the slogan "flavor out of this world." Abstract machines and devices were featured in a low-gravity environment.

R.J. Reynolds

Camel

"Camel" advertisements and TV commercials appeared to portray solitary adventures. For example, in one commercial, a man flew alone out into the country to go camping, while in another commercial, a man was shown white-water canoeing by himself near a waterfall.

Viceroy

An overriding theme in the Viceroy advertising campaign appeared to be urban living. Viceroy advertisements and TV commercials portrayed urban scenes, including city skylines, sleek modern sports cars, cellular phones, traffic police, and subways. Viceroy also advertised with cartoon collages of urban scenes. Many of the Viceroy commercials depicted humorous urban street scenes.

Winston

Winston cigarettes were frequently advertised with images of America, such as pictures of the Statue of Liberty, Mount Rushmore, the famous "Hollywood" hillside sign, and Niagara Falls.

Yves Saint Laurent (YSL)

The YSL advertising materials we examined often associated the cigarettes with famous French clothing designer Yves Saint Laurent. TV commercials and magazine ads claimed that YSL was the "first luxury class cigarette created by Yves Saint Laurent." YSL cigarette packs carried the inscription "the taste of luxury," or "Luxury 100's." They sometimes carried the line "a celebration of style and taste." They were called "the world's most prestigious cigarette."

Brown & Williamson

Barclay

Barclay advertisements and commercials seemed to portray an upscale lifestyle. The characters appeared in luxuriously appointed homes, were well dressed, drove expensive cars, dined in upscale restaurants, used cellular phones, and were depicted around sailing yachts.

**Appendix III
Major U.S. Cigarette Brand Magazine
Advertisements and TV Commercials in Six
Asian Countries in 1990**

Capri

Capri cigarettes magazine advertisements showed small packs of two Capri cigarette varieties in the foreground and a female model attired in a white, or white-and-blue, outfit in the background. The cigarette packs carried the inscription "Superslims—Made in U.S.A." The ads appeared in Japanese magazines, such as "The Television" and "Friday."

Finesse

Finesse cigarette advertisements merely carried an abstract logo associated with the brand, and in certain cases the English language text: "The Style That Shows" and "Elegant Taste—Finesse Style." Finesse carries the inscription "Superslims" on the pack.

Kool

Kool cigarettes were marketed in Hong Kong and Japan. The advertisements in Japan featured a woman, or a man and a woman, wading in blue-green water. In Hong Kong, the advertisements simply contained variations of the Kool logo.

Lucky Strike

Lucky Strike cigarettes were frequently advertised as "an American original" and carried this slogan on the pack. Lucky Strike had a series of advertisements and TV commercials featuring a leather-jacketed motorcyclist on the open road traveling through the countryside. In one TV commercial, the cyclist rode past foliage and hills, across a stream, and along a beach.

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