

The Dangerous Anti-Smoking Lobby

How Its “Quit-or-Die” Hostility to All Tobacco Products Harms Public Health

By John K. Carlisle

Summary: The “Quit-or-Die” strategy that the anti-tobacco movement has used for decades is increasingly ineffective in deterring smoking. A more promising approach is to advocate safer tobacco alternatives that will reduce the incidence of cancer and tobacco-related diseases among hardcore smokers.

For four decades the anti-tobacco lobby has been on a crusade against cigarette smoking. Groups like the American Cancer Society, the American Heart Association and the American Lung Association have been waging intensive education campaigns on the hazards of smoking and they have lobbied government agencies and private employers to join them in issuing public appeals and warnings. This campaign has been largely successful. In 1965, the year the federal government first ordered health warning labels on cigarette packs, more than 42 percent of U.S. adults smoked. By 2000, the number had been cut to about 25 percent.

Health groups can take credit for helping reduce smoking rates and improving public health. But their “quit-or-die” strategy has about run its course. One-quarter of U.S. adults—46 million people—still smoke despite the well-known health risks. It is estimated that 400,000 Americans die each year from lung cancer and other smoking-related diseases. These committed smokers present a major policy challenge to public health authorities and advocacy groups.

In recent years, scientists have discovered an accumulating body of evidence suggesting that not all forms of tobacco



Matt Myers, left, is president of the Campaign for Tobacco-Free Kids. Sportscaster Joe Garagiola is a spokesman for Oral Health America.



use are equally lethal. For instance, studies show that smokeless tobacco – popularly known as snuff tobacco – is safer than smoking tobacco. If attempts were made to convert smokers to smokeless tobacco use there is an increasing likelihood that major public health benefits will result. Scientific research suggests that rates of lung and oral cancer, emphysema and heart disease can be dramatically reduced.

Why don't we hear anything about this? The main reason is that the anti-tobacco lobby rejects all efforts to educate smokers about safer tobacco alternatives. In 2002, the U.S. Smokeless Tobacco Company (USSTC), a major manufacturer of smokeless tobacco, petitioned the federal government, requesting that it be allowed to advertise the *relative* health benefits of smokeless tobacco use.

The anti-tobacco lobby would have none of it. Blinded by a zealous adherence

to a “quit-or-die” scare strategy, two groups that represent a new generation of anti-smoking activists spearheaded a lobbying campaign to have the Federal Trade Commission (FTC) reject the petition request.

The groups—the Campaign for Tobacco-Free Kids and Oral Health America—

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CONTENTS

The Dangerous Anti-Smoking Lobby
page 1

More Than Good Friends: Trial Lawyers and Nonprofits
page 7

Briefly Noted: page 8

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ignore the nearly 50 million consumers who have made a decision to disregard “quit-or-die” warnings. These tobacco consumers have a right to know the relative risks posed by different kinds of tobacco products on the market. But for the sake of their own unyielding policy preferences, Campaign for Tobacco-Free Kids and Oral Health America have chosen to endanger lives that could be saved if only smokers had access to more information.

New research in Europe shows that alternative tobacco use can make a difference. A study sponsored by the European Union found that in Sweden a switch from smoking to smokeless tobacco use has sharply reduced tobacco-related diseases. Scientists and public health advocates in the U.S. believe a similar change in the habits of U.S. tobacco consumers could yield equally impressive results.

The Anti-Smoking Lobby

Today there are dozens of nonprofits that have enlisted in the war

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on tobacco. One current campaign is the battle to thwart information about the relative benefits of smokeless tobacco. In February 2002, 39 public health groups signed a letter to the FTC asking it to reject USSTC’s petition to tout the less harmful effects of smokeless tobacco. The groups included the American Cancer Society, American Heart Association, American Lung Association, American Dental Association, American Academy of Family Physicians, Partnership for Prevention, Pharmacy Council on Tobacco Dependence and a number of lesser-known anti-smoking groups.

The most prestigious groups on the list are among the richest: American Heart Association has \$502 million in revenues; \$852 million in assets (2001); American Cancer Society – \$322 million; \$359 million (2000); American Lung Association – \$24 million; \$33 million (2001). By lending their names to the FTC petition these major organizations provide credibility to the activists’ all-or-nothing fight against smokeless tobacco. However, two groups are the main enemies of smokeless tobacco.

Campaign For Tobacco-Free Kids

The Campaign for Tobacco-Free Kids was founded in 1996. It describes itself as “one of the nation’s largest non-governmental initiatives ever launched to protect children from tobacco addiction and exposure to secondhand smoke.” Its primary mission is to “de-glamorize” tobacco use by countering what it claims is tobacco company marketing aimed at children and by changing federal, state and local government policies. The Washington, DC-based group has 146 partner organizations, including the National Parent Teachers Association, National Council of Churches, Girl Scouts of the U.S.A., Children’s Defense Fund, Sierra Club, and the American Medical Association.

In 2001, Campaign for Tobacco-Free Kids reported \$5.3 million in income. Most of that funding comes from the Robert Wood Johnson Foundation,

which donated \$3.6 million in 2001. The Campaign also lists the American Cancer Society, the American Heart Association, and the Annie E. Casey Foundation as donors. Its board includes John Seffrin, CEO of the American Cancer Society; Cass Wheeler, CEO of the American Heart Association and Randolph Smoak, chairman of the American Medical Association board of trustees.

Matthew Myers is president of Campaign for Tobacco-Free Kids. A veteran anti-tobacco crusader, Myers worked for the Federal Trade Commission’s Division of Advertising Practices in the early 1980s. There he was responsible for the FTC’s tobacco-related activity. Before joining the Campaign in 1996, initially as its executive vice president and chief legal counsel, Myers was general counsel for the Coalition on Smoking OR Health, an advocacy group created by the American Cancer Society, American Lung Association, and American Heart Association. During his long career Myers has been credited with helping to ban TV ads for cigarettes, mandate more stringent cigarette health warnings, raise the federal tobacco excise tax, and eliminate smoking on domestic airline flights.

Myers maintains he doesn’t want to ban tobacco use. “No one thinks it’s realistic or good social policy to legally ban the manufacture or sale of tobacco products,” he says. “It will not work, and it will not accomplish public health goals.” Myers also says it is important “to reduce the harm that tobacco products cause.” Such comments seem to suggest that Myers would keep an open mind about encouraging smokeless tobacco use *among current smokers* to reduce smoking-related cancers and other diseases.

But Myers emphatically opposes letting companies advertise the less harmful effects of smokeless tobacco. He doesn’t deny that smokeless tobacco is safer than smoking. However, like many anti-tobacco crusaders, he insists that advertisement is a slippery slope.

Ads for smokeless tobacco will inevitably lead to smoking and thus negate any public health benefits.

Oral Health America

In 2000, Chicago-based Oral Health America (OHA) joined with former U.S. Surgeon General Dr. C. Everett Koop to launch a multi-year Oral Health Initiative. It follows on OHA's "National Spit Tobacco Education Program," which was launched in 1994. From 1997 to 2003 the program received \$6 million in grants from the Robert Wood Johnson Foundation. It directly challenges the proponents of smokeless tobacco and works in cooperation with Major League Baseball, the Major League Baseball Players Association and prominent sportscasters to undermine the appeal of chewing tobacco among young aspiring baseball players.

responsible citizen and certainly no health authority, would propose either."

"Harm Reduction" and the Science of Smokeless Tobacco

In 1995 two University of Alabama, Birmingham scientists published an article in *Priorities For Health*, the health journal of the American Council on Science and Health, which explained why Klaus is wrong. Their research argues that switching from cigarettes to smokeless tobacco will benefit public health.

Dr. Brad Rodu and Dr. Philip Cole noted that smoke was the most obvious difference between the two tobacco products. Smoke is why cigarettes, pipes and cigars are dangerous. Nicotine is addictive, but it is not the source of cancer and other diseases. In their article, "Would a Switch from Cigarettes to Smokeless Tobacco Benefit Public

sible for 40,000 U.S. deaths each year.

Anti-smoking advocates have countered that smokeless tobacco produces its own ills. For example, it leads to a higher incidence of oral cancer. A 1981 study in *The New England Journal of Medicine* concluded that smokeless tobacco users are four times more likely to develop oral cancer than nonusers. Says Dr. David Connolly, head of tobacco control programs for the Massachusetts Department of Health, "It's like trying to play God – trading oral cancer for lung cancer."

But Rodu and Cole respond that smokers are still far more likely to develop oral cancer than smokeless users. Indeed, using smokeless tobacco instead of smoking tobacco reduces the risk of developing oral cancer by about 50 percent. Because smokeless tobacco poses no danger of lung cancer, lung disease, and heart disease, and because the threat of oral cancer is sharply reduced, Rodu and Cole estimate that it is 98 percent safer than cigarette smoking. They note: "The number of deaths from smoking is almost 70 times higher than the number from smokeless tobacco use. In terms of life expectancy, the smokeless-tobacco user loses only about 15 days on average, compared with the eight years lost by the smoker."

"The data contrasting mortality figures between smoking and chewing are so staggering – over 400,000 tobacco deaths from cigarettes, an estimated 6,000 if all current smokers eventually switched to smokeless – that I do not see how in good conscience we can forbid the manufacturers of smokeless brands to make that point."

Dr. Elizabeth Whelan, President,
American Council on Science and Health

In 2001, OHA reported income of \$6.9 million. Like Campaign for Tobacco-Free Kids, the Robert Wood Johnson Foundation is the primary donor, contributing \$5.1 million in 2001.

Like the Campaign, OHA mobilizes opposition to any smokeless tobacco advertising. OHA President Robert Klaus calls the FTC petition "ludicrous and dangerous." He says, "It is less dangerous to jump out of a 3rd floor window than a 10th floor window, but no

Health? – Yes," Rodu, a professor of anatomic pathology and senior scientist at the University's Comprehensive Cancer Center, and Cole, a professor of epidemiology at UAB's school of public health, noted that smokeless tobacco does not cause lung cancer, emphysema or other diseases of the lung, and it doesn't pose excessive heart attack risks. Moreover, they observed that smokeless tobacco obviously causes no second-hand smoke, which the American Heart Association claims is respon-

The dispute about whether to switch from smoking to smokeless tobacco goes to the heart of a larger public policy debate over what's known as "harm reduction" theory. "Harm reduction" is a claim that says it is sometimes impractical to eliminate health risks entirely or that trying to eliminate a health risk will produce an undesirable social side effect. In these cases, other steps should be taken to ameliorate the problem. In other words, a "harm reduction" approach to disease looks at the "next-best step." If consumers will not voluntarily abandon tobacco products entirely, or if banning tobacco use is not feasible, then it is worthwhile to consider a next best step: promoting *safer* alternatives that can benefit public health.

“Switch-to-Smokeless”

Instead of “quit-or-die,” many supporters of a harm reduction policy approach to the hazards of smoking favor a “switch-to-smokeless” strategy. This has major implications for improving public health.

If 46 million smokers were to switch to smokeless tobacco, Rodu and Cole estimate that the number of people who die annually from tobacco-related cancer would drop from 151,000 to 6,000. The 6,000 smokeless-related deaths would be almost exclusively due to oral cancer. But this still represents a significant decrease from the 11,500 smokers who currently die from oral cancer.

In addition, a switch to smokeless tobacco would yield even more dramatic reductions in tobacco-related diseases:

- The number of people dying from heart and circulatory disease would drop from 180,000 to 0
- Number dying from respiratory disease would drop from 85,000 to 0
- Number dying from miscellaneous causes would drop from 3,000 to 0

Thus, if 46 million U.S. smokers switched to smokeless tobacco, the number dying annually from tobacco-related diseases would drop from 419,000 to 6,000.

Dr. Rodu asks, “Do we withhold this information from those smokers who are desperate to quit and have tried all conventional approaches that require abstinence from tobacco?”

It’s noteworthy that no one has challenged the legitimacy of Rodu and Cole’s findings – including Matthew Myers and the Campaign for Tobacco-Free Kids.

Rodu and Cole also are receiving important institutional support from the American Council on Science and Health (ACSH). With a board of 350 doctors, scientists and policy advisors, ACSH addresses consumer health issues involving

food, nutrition, chemicals, pharmaceuticals, the environment, and smoking. No one has ever accused ACSH of being a friend of the tobacco industry. Indeed, in a 1997 article in *Priorities For Health*, ACSH president Dr. Elizabeth Whelan wrote: “We will not be able truly to realign our health priorities until Congress strips the cigarette industry of its privileged legal status and levels the playing field so that the manufacturers of the leading cause of death are forced to scrimmage on the same legal and regulatory turf as the rest of corporate America.”

Yet, ACSH endorses the smokeless tobacco alternative. In a February 14, 2002 article, “The Case for Chaw,” Dr. Whelan reviewed the results of Rodu and Cole’s study and agreed with their recommenda-

research was funded by a tobacco company. Dr. Rodu answers, “The research to which Dr. Whelan referred...was developed in a series of epidemiologic research papers appearing in peer-reviewed scientific literature and supported solely by university funds.”

The Swedish Example

The Rodu and Cole research as well as subsequent studies make a theoretical case for the relative health benefits of smokeless tobacco. But nothing speaks louder than an actual demonstration that smokeless tobacco is improving public health. Sweden offers just this example.

In February 2003, the European Union issued a statement, which unequivocally announced: “Smokeless tobacco is sub-

“Sweden has the lowest rate of male smoking in Europe, combined with high [smokeless tobacco] use. There is no other credible explanation for such low male smoking prevalence than the displacement and cessation of smoking through smokeless tobacco use.”

European Union Policy on Smokeless Tobacco, February 2003

tion on “harm reduction” grounds. Smokeless tobacco is a safer alternative to a failing “quit-or-die” approach. Said Whelan, “While those of us in public health would like a tobacco-free society in our future, any improvement is welcome.”

When other anti-smoking advocates criticized her position, Whelan responded: “The data contrasting mortality figures between smoking and chewing are so staggering – over 400,000 tobacco deaths from cigarettes, an estimated 6,000 if all current smokers eventually switched to smokeless – that I do not see how in good conscience we can forbid the manufacturers of smokeless brands to make that point.”

Whelan’s endorsement prompted false accusations that Rodu and Cole’s

stantially less harmful than smoking.” Moreover, according to the EU: “Evidence from Sweden suggests it is used as a substitute for smoking and smoking cessation.” This is a stunning finding by the study’s authors, Clive Bates, director of Action on Smoking and Health; Dr. Lars Ramstrom, director of the Institute for Tobacco Studies in Stockholm; Marvin Harris, a cancer researcher at the University of London; and several other physicians and medical researchers. None of the authors received money from the tobacco industry. Indeed, Bates and Harris are well-known anti-tobacco activists.

The study recommends that the European Union end its partial ban on the sale of smokeless tobacco. It also offers one additional finding in a discussion of the

alleged “gateway effect” of smokeless tobacco. The “gateway effect” is the assertion that even though smokeless tobacco may be safer than smoking, it is still addictive and only encourages people to smoke. The EU study finds no such effect. It refutes the claims of the Campaign For Tobacco-Free Kids, Oral Health America and the other U.S. anti-tobacco lobby groups that anticipate a “gateway effect” if smokeless tobacco’s relative health benefits are advertised.

This EU policy recommendation ought not to be surprising because evidence of the positive health effects of Sweden’s experiment in smokeless tobacco use has been accumulating for over thirty years. Swedish men began to shift from cigarettes to smokeless tobacco in the 1960s when the health hazards of smoking were first publicized. (Women did not switch, largely for reasons of social acceptance.) Today, Sweden has Europe’s highest per capita consumption of smokeless tobacco; half of all tobacco use is smokeless.

The EU study discovered a tremendously positive impact on tobacco-related mortality and disease:

- Sweden has the lowest level of tobacco-related mortality in the developed world
- Its tobacco-related mortality is half that of the rest of Europe
- Sweden has the lowest male smoking rate in Europe – 16 percent
- It has the lowest lung cancer mortality in Europe
- Its rate of cancer mortality is among the lowest in Europe

The data on smoking rates undermines Matthew Myers “gateway” argument that increased U.S. smokeless tobacco use will lead to increased smoking. The EU study instead comes to the conclusion that “the gateway is more likely to be an exit from smoking than an entrance.” Among Swedish males who regularly use smokeless tobacco, no more than 20 percent ever

start smoking vs. 45 percent of male non-users who eventually do become smokers. There is also impressive evidence that smokeless tobacco use has a cessation effect on smoking. The study found that 33 percent of ex-smokers use smokeless tobacco. Interestingly, this is almost twice the number – 17 percent – of ex-smokers who relied on pharmaceutical treatments to end smoking. The bottom line: There are many more ex-smokers among smokeless tobacco users than ex-smokeless users among smokers.

The authors conclude:

“Sweden has the lowest rate of male smoking in Europe, combined with high [smokeless tobacco] use. There is no other credible explanation for such low male smoking prevalence than the displacement and cessation of smoking through smokeless tobacco use. In total therefore, the Swedish data suggest that the uptake of [smokeless tobacco] prevents (emphasis added) rather than promotes smoking and therefore contributes a net public health benefit.”

Swedish anti-smoking groups agree. Karl Fagerstrom of the Heslingborg Smokers’ Information Centre, a smoking cessation clinic, says smokeless tobacco deserves credit for Swedish men having the lowest rate of cancer in Europe and the lowest risk of dying from smoking-related disease. “It’s very hard to argue that there are other factors responsible,” says Fagerstrom. “It’s very common to switch from smoking to snus [smokeless tobacco]. If they can’t give up smoking then I suggest snus because it’s much less dangerous than setting fire to tobacco.”

Anti-Tobacco Activists Oppose Information, Education

U.S. anti-tobacco crusaders have ignored the impressive evidence of smokeless tobacco’s positive health effects in Sweden and make no mention of the proposed EU policy change to promote smokeless tobacco

On February 5, 2002, the U.S. Smokeless Tobacco Company (USSTC) asked the Federal Trade Commission for permission to run ads touting the public health benefits of switching from smoking to smokeless tobacco. USSTC is the leading distributor of smokeless tobacco products in the U.S. Its popular brand names include Skoal and Copenhagen. The company did not ask that the current warning label on its products be diminished. However, it did want to add language publicizing the less harmful effects of smokeless tobacco compared to cigarette smoking. In its petition letter, the company recommended the following or similar language:

“The Surgeon General in 1986 concluded that smokeless tobacco ‘is not a safe substitute for smoking cigarettes.’ While not asserting that smokeless tobacco is ‘safe,’ many researchers in the public health community have expressed the opinion that the use of smokeless tobacco involves significantly less risk of adverse health effects than smoking cigarettes. For those smokers who do not quit, a growing number of researchers advocate switching to smokeless tobacco products.”

The Campaign for Tobacco-Free Kids immediately opposed the petition. In a February 6 statement, Myers said, “In the guise of claiming it wants to reduce the harm caused by tobacco use, UST Inc. has embarked on a strategy that risks achieving the opposite result by addicting a new generation of smokeless tobacco users.” Myers never disputed that smokeless tobacco is less harmful than cigarette smoking. Furthermore, he claimed to favor truthful tobacco advertising and marketing safer tobacco products: “The debate is not about whether tobacco companies should be encouraged to reduce the harm caused by their products. They should be.” But Myers still charged that USSTC was undermining efforts to warn the public about the health risks of tobacco use.

Myers then organized a coalition of all the major anti-smoking groups. In a February 25 coalition letter to the FTC, Myers

claimed the petition amounted to a request that the agency “overturn the scientific conclusions of the U.S. Surgeon General, the National Cancer Institute and every other major scientific and public health agency that has examined the health effects of smokeless tobacco.” The charge was wildly inaccurate. USSTC proposed no change in the existing warning label: “Smokeless tobacco is not a safe substitute for smoking cigarettes.” It only proposed adding a scientifically accurate statement: Smokeless tobacco “involves significantly less risk of adverse health effects than smoking.”

The battle lines were drawn. Myers’ coalition consisted of 39 public health groups, including the American Heart Association, American Lung Association, American Cancer Society, American Dental Association, and Oral Health America. They would hammer home the claim that smokeless tobacco was a “gateway drug” luring more people into tobacco use, including cigarette smoking. During the ensuing months of debate, Myers repeatedly alleged: “[U.S. Smokeless Tobacco Co.] claims that it only wishes to promote its products as a ‘safer’ alternative...The result would not be few smokers, but more smokeless tobacco users and more addiction, disease and death.” The coalition’s “gateway” assertion gave politicians cover. In June, Rep. Henry Waxman (D-CA) and Senator Richard Durbin (D-IL) wrote the FTC asking that it deny the USSTC request.

Oral Health America launched a companion media campaign. OHA president Robert Klaus hosted a July press conference featuring Connecticut Attorney General Richard Blumenthal, baseball celebrity Joe Garagiola, and Guren Von Behrens, an oral cancer survivor. Garagiola, the chairman of OHA’s National Spit Tobacco Education Program, described how he chewed tobacco for years but stopped after his daughter wondered if he would die. Behrens, his face severely disfigured, made an especially compelling appeal. OHA later asked Dr. Richard Carmona, the new U.S. Surgeon General, to condemn USSTC’s petition.

USSTC withdrew the petition in Au-

gust, 2002. It argued for a delay in government action in view of new research coming from Europe that would shed more light on how smokeless tobacco was helping reduce tobacco-related cancer and other diseases. But Myers declared victory: “*The USSTC petition was a bad idea from the beginning and should not be resurrected. This petition was always about increasing the numbers of people who use smokeless tobacco rather than reducing the harm caused by tobacco.*”

Intransigence Costs Lives

Myers and Klaus show no sign that they will abandon the failing “quit-or-die” anti-smoking strategy that grows ever more shrill as its effectiveness dims. Unfortunately, U.S. Surgeon General Carmona is in agreement with the anti-tobacco lobby. At a June 3, 2003 congressional hearing, he erroneously stated that “there is no significant scientific evidence that suggests smokeless tobacco is a safer alternative to cigarettes.”

But smoking opponents like David Sweanor, a lawyer with the Toronto-based Nonsmokers Rights’ Association, say the public would benefit from advertising about the less adverse health effects of smokeless tobacco. “There is a huge difference in disease risk between combustion and noncombustion forms of tobacco,” says Sweanor.

U.S. public health spokesmen are beginning to break down the wall of silence on the smokeless tobacco option. Echoing European experts, academics like Kenneth C. Warner of the University of Michigan School of Public Health say, “Smokeless tobacco use, although definitely not without disease risks of its own, is unarguably less risky than smoking.”

To the uncompromising zealots at Campaign for Tobacco-Free Kids and the rest of the anti-smoking lobby, there can be no alternative that satisfies their purist principles. But don’t nearly 50 million Americans deserve information that could save their lives? Don’t they deserve a chance to make up their own minds?

John Carlisle is the Editor of Organization Trends.

More Than Good Friends: Trial Lawyers and Nonprofits

Neil Hrab

The Rule of Lawyers: How the New Litigation Elite Threatens America's Rule of Law

Walter Olson, (\$25.95, St. Martin's Press, 352 pages)

For more than a decade, Walter Olson, a Manhattan Institute scholar and frequent contributor to *Reason* magazine, has helped the public understand the power of one of America's most powerful political lobby groups—trial lawyers. Through his speeches and writings, as well as on his website (www.overlawyered.com), Olson has masterfully portrayed the sources and consequences of the trial bar's influence.

In his 1991 book, *The Litigation Explosion*, Olson noted how trial lawyers' power finds increasing expression among so-called public interest groups. The trial bar's influence, he wrote, is "felt strongly in the realm of ideas and ideologies. Plaintiffs' lawyers swarm into movements for social reform of all sorts, often outmaneuvering and easing aside nonlawyers whose preferred reform strategies do not emphasize the widening of litigation opportunities... Their sway is felt especially in the 'consumer movement,' which lacks a strongly based popular constituency to act as a counterweight to lawyers' counsels." The alliance of trial lawyers and consumer activist groups is not hard to understand; after all, both sides have something to gain by controlling "big business": consumer advocacy groups are driven by ideology to punish profit-seeking, and plaintiffs' lawyers win profits when they do the punishing.

Olson's new book, *The Rule of Lawyers: How the New Litigation Elite Threatens America's Rule of Law*, is a must read for anyone interested in learning more about the trial bar's newest targets and how it plans to stalk them. Using a case study approach, Olson documents how lawyers use product liability lawsuits to enrich themselves at the expense of cigarette manufacturers, chemical companies and gun makers. Each chapter presents startling and little known examples of how trial lawyers use their political smarts to crush one hapless corporate opponent after another.

The lawyers' attack on cigarettes is rightly the subject of Olson's first chapter because it demonstrates the extraordinary consequences of civil liability litigation run amuck. Olson describes how a tiny elite of well-connected attorneys who were deputized by politically ambitious state attorneys general carefully planned the attack on the tobacco companies. They re-wrote liability law, applied it retroactively, and benefited by collecting huge amounts of the \$246 billion settlement. The settlement had other unforetold consequences. It required the tobacco companies to shut down their own research and advocacy organizations, an ominous stifling of their right to free speech. And it encouraged fiscal irresponsibility by the states: they issued bonds against their future tobacco payments and then spent the proceeds on almost anything but anti-smoking health promotion. Ironically, many states are now trying to protect the tobacco companies from possible bankruptcy because they fear the collapse of the cash cows on whose survival their own bond ratings depend.

The Rule of Lawyers is also valuable for its description of how the trial bar counts on help from activist nonprofits to score its public relations and legal victories. When trial lawyers go after the gun industry, for example, nonprofits like Handgun Control Inc. and the Violence Policy Center stand ready to frame arguments showing why gunmakers should be held liable for the violence of criminals. When lawyers savage car manufacturers, the Ralph Nader-linked Center for Auto Safety sells them expensive document kits with forms and instructions for filing product-liability suits "which have been proven to be of use in earlier cases." And the attorneys who drove Dow-Corning, the maker of breast implants, into bankruptcy used the information clearinghouse services of another Nader creation, the Public Citizen Health Research Group, which provided Q & As, transcripts and documents and makes experts available for trial testimony.

Nonprofits are now searching for new industries to sue over and over. Fast-food and liquor companies: Be prepared. Olson quotes a spokesman for the Center for Science in the Public Interest who says, "Alcohol imposes enormous harms on society and on public expenditure." A class-action lawsuit can't be far away. As for gambling casinos—Nader's Public Citizen compares them to cigarette makers as one of America's leading "killer industries." Indeed, something called the National Coalition Against Legalized Gambling (NCALG) is ready to make gambling "the next target for trial lawyers."

One wishes Olson had delved further into the interlock between philanthropic foundations and trial lawyers. He touches on the theme in his chapter on the attack on gun manufacturers, documenting how a pro-gun control think-tank, the Center on Crime, Communities and Culture, worked with the trial bar in the mid 1990s to shape a liability case. The Center is funded by George Soros, the billionaire currency trader who supports radical causes through his Open Society Institute. (See *Foundation Watch*, February and April 2003, for a review Soros' giving to advocacy groups.) Similarly, the links between small, state-level "consumer" groups and the trial-lawyer-backed Civil Justice Foundation deserve more exposure. (See *Foundation Watch*, January 2003 for more information.)

Neil Hrab, a freelance writer, works at the National Post in Toronto, Canada.

BrieflyNoted

Americans United for Separation of Church and State accuses the Bush Administration of “bullying” public schools into support for unconstitutional religious expression. At issue is a new set of guidelines known as “Zach’s Rules,” part of the “No Child Left Behind” education act. The guidelines allow students to express religious beliefs in class and in homework assignments and are named after Zachary Hood, a child who was not allowed to read his favorite Bible story in class because officials considered it inappropriate religious expression. Seamus Hasson of the **Beckett Fund for Religious Liberty** praises the new rules: “At last, we finally have ‘teeth’ in the guidelines that supposedly have governed school policies since the Clinton Administration.” (In 1995, the Clinton Education Department issued rules that ostensibly permitted students to voice religious views.) Says Barry Lynn, executive director of Americans United, “At a time when state revenues are dwindling and public schools are cash strapped, it’s unconscionable that the Bush Administration would bully schools in this manner.” Lynn says his legal team will assist any public school that feels it has been unjustly accused of violating the guidelines.

Major liberal activist groups are forming an unprecedented coalition to oppose President Bush’s 2004 reelection effort. The groups include the **Sierra Club, Emily’s List, NAACP, NARAL, League of Conservation Voters, Human Rights Campaign** and major labor unions like the **American Federation of State, County and Municipal Employees**. The groups say they are forced to pool resources because of massive Republican Party spending and restraints on Democratic Party fundraising caused by McCain-Feingold’s prohibition on large “soft money” contributions. Most are 501(c)4s or other types of lobby groups that generally are not restricted by campaign finance restrictions. The coalition, which will compete for large Democratic “soft money” donors, has the potential to spend \$40 to \$50 million in key states such as Florida and Pennsylvania. Says one organizer, “Organizations that agree they have to defeat a Republican president want to come together and figure out the best way to do it. This is an uncommon event in the history of Democratic organizational politics.”

Liberal activists blasted the influence of **conservative Talk Radio** at a June “Take Back America” seminar sponsored by **Campaign for America’s Future**, a liberal policy group that seeks to push the Democratic Party farther to the Left. During a panel discussion Jeff Faux of the **Economic Policy Institute** said, “I turn on the radio, and I hear these talk shows with right wing drunks calling in, and I ask myself, where are our drunks?” Kim Gandy, president of the **National Organization for Women**, charged that Fox News Channel owner Rupert Murdoch and “his cronies” are “stifling our messages and keep our messages from being heard, and when we get them out, they are drowned in a sea of lies.” Gandy praised the Dixie Chicks, the country music singing trio, which was harshly criticized for denouncing President Bush’s Iraq war decision.

Anti-war activists at the seminar also worried that the Democratic Party was moving to the political center on national security issues. Said Philippe Chabat of the **D.C. Anti-War Network**, “I am sick and tired, as a progressive American, of being totally taken for granted by the Democratic Party”—even though two-thirds of House Democrats voted against a congressional resolution authorizing President Bush to take military action against Iraq.

