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Keep FDA away from tobacco

Regulatory bill pending in Senate would not serve public health.

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Handing tobacco regulation over to the FDA, as Congress is poised to do, is an epic public health mistake. It is tantamount to giving the keys of the regulatory store to the nation's largest cigarette manufacturer, Philip Morris.

The legislation that will be voted on shortly in the Senate was cooked up out of public sight by Philip Morris, Sen. Ted Kennedy, D-Mass, Rep. Henry Waxman, D-Los Angeles, and anti-tobacco lobbyists. During years of covert negotiation, Philip Morris outwitted this coalition of "useful idiots" at every turn. Philip Morris staffers even wrote large portions of the bill.

Philip Morris was ruthlessly successful in pursuing its interests, but the Useful Idiot Coalition consistently failed to further its own. That is why Food and Drug Administration regulation of tobacco serves Philip Morris' corporate interest, not the public interest.

There are significant, and numerous, problems with the FDA regulating tobacco, and virtually no benefits to public health. Kennedy, Waxman, and the public health establishment present their legislation as a masterful regulatory stroke that will end tobacco marketing, prevent kids from starting to smoke, make cigarettes less enjoyable to smoke and reduce adult smoking. But FDA regulation of tobacco will do none of these things.

The bill fails to correctly identify the reasons why young people begin to smoke and concentrates almost exclusively on restricting tobacco marketing, while leaving the other risk factors for adolescent smoking unaddressed. There is nothing in the proposed legislation that shows the FDA understands the well-documented connections between education, poverty and smoking status, connections that provide the key to helping adults stop smoking.

It will not provide Americans with scientifically accurate information about the risks of smoking. Instead of providing accurate information about the risks of low-tar cigarettes, the current legislation requires the FDA to ban the descriptor completely, leaving smokers without any information about how to understand the risks of smoking.

Moreover, in its requirements for graphic warnings, the current legislation commits to fear-based messages that are not only often inaccurate through their overstatement of the risks of smoking, but substantially ineffective in both preventing and reducing smoking.

The process of validating new reduced-risk products appears to be designed to prevent such products from ever reaching the marketplace, thus giving smokers the stark, and for many the impossible, choice of "quit smoking or die."

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Rather than making smoking safer for those who continue to smoke, it will deny smokers access to new products that might literally save their lives. That is hardly a sterling prescription for good public health.

Even if the idea of FDA regulation were good in theory, in practice several things, including the FDA's competence in tobacco policy and science, its public image, its fit with the tobacco file, its available resources and its overall current competence, argue strongly against giving it regulatory responsibility for the nation's tobacco policy.

Equally important is the fact that, based on past failures, most of the FDA's problems in terms of science, staff and administrative prowess appear to be largely beyond easy repair. Why, indeed, would anyone who cared about effective tobacco control policy want to hand over the responsibility for such policy to such an organization?

FDA regulation of tobacco need not be a public health tragedy, however. By bringing the crafting of tobacco policy out into the light of day, by taking it out of the hands of the special interests and, most importantly, by keeping it away from the FDA, there is every opportunity to begin to create a policy that not only serves the interests of nonsmokers and smokers, but a policy that might really work.

Constructive recommendations about the scope, administrative home and content of tobacco policy would stand in sharp contrast to what is currently being rushed through the Congress under the guise of serving the interests of the American public.