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FR Doc. 2013-07576  
Document Number: 2013-N-0305

We are responding to the Federal Register Notice of March 27, 2013, Document Number 2013-N-0305, requesting comments, including scientific and other information, concerning how and whether FDA should implement third-party governance of industry-sponsored tobacco product research. We have read the nine questions posed in the FR Notice and are familiar with the research governance issues addressed in the Institute of Medicine report *Scientific Standards for Studies on Modified Risk Tobacco Products*.

We are tobacco researchers and throughout our long careers we have encountered many of the issues cited in the nine questions and the IOM report and personally experienced the challenges associated with conducting tobacco product-related research. Both of us have conducted epidemiological, clinical and laboratory research on tobacco products and have consulted for Nicoventures and Nicinovum who are pharmaceutical companies funded by the tobacco industry.

There are barriers, both formal and informal, that limit the possibility of partnering with, or even interacting with many stakeholders, including of course the tobacco industry. We, and others (e.g. Mitch Zeller) have sought to address this difficult environment by communicating with our colleagues personally and through national organizations such as the Society for Research on Nicotine and Tobacco, but we have had limited success in overcoming the obstacles that continue to keep participation of scientists in the tobacco research enterprise controversial ( see Cohen, Zeller, et al, Tobacco Control 18:228-234, 2009) .

Passage and implementation of the Tobacco Control Act provides an opportunity for significant change to occur in the role of non-industry scientists in tobacco research. We applaud the Center for Tobacco Products for demonstrating the necessary leadership and providing opportunities for on-going dialogue through workshops and the public docket.

Change cannot happen without CTP leadership, but in order for significant reform to occur the entire tobacco enterprise (researchers, tobacco control and public health advocates, industry representatives and others) must be willing to act and be open to change. As “elders” in the tobacco research field we believe we have a special responsibility to act, to signify that times have changed. The message we want to communicate is that it is acceptable, and for us elders obligatory, to take progressive actions.

The progressive action we have taken is to work with a tobacco company to establish an independent body that can advise the company on research and other regulatory science

concerns. For the past several months we have been working with Swedish Match and its US subsidiary Swedish Match North America in the establishment of the company's Modified Risk Tobacco Product (MRTP) Advisory Panel. The company is in the process of preparing a MRTP application for its Swedish snus product and anticipates submittal during the first quarter of 2014. Therefore, the Advisory Panel's most immediate role is to provide advice regarding the MRTP application; but the Panel will continue to operate long after the application has been submitted and tobacco research governance will always be a priority concern.

The comments we submit today are based on our experiences to date with the MRTP Advisory Panel in the hope that our experiences can contribute to improving tobacco research governance in the future.

### **Establishment and Operation of the Swedish Match MRTP Advisory Panel**

In early 2013 Swedish Match approached one of us (KF) about the formation of an external advisory body. We were familiar with Swedish Match products, operations, relationship with governmental authorities in Sweden, and its commitment to research and product stewardship through our prior research on snus; e.g. . Dr. Fagerström provided research oversight services for two smoking cessation trials with snus funded by Swedish Match that occurred shortly before passage of the Tobacco Control Act. ([Fagerstrom K, Rutqvist LE, Hughes JR. Snus as a smoking cessation aid: a randomized placebo-controlled trial. Nicotine Tob Res. 2012 Mar;14\(3\):306-12. doi: 10.1093/ntr/ntr214. Epub 2011 Oct 12..Joksić G, Spasojević-Tišma V, Antić R, Nilsson R, Rutqvist LE. Randomized, placebo-controlled, double-blind trial of Swedish snus for smoking reduction and cessation. Harm Reduct J. 2011 Sep 13;8\(1\):25. doi: 10.1186/1477-7517-8-25.](#))

We believed that the timing was right for us to work directly with a tobacco company. In addition, we believed Swedish Match was the right company: they previously abandoned selling cigarettes, and our prior interactions with them were positive. In addition, they are openly and actively participating in the MRTP process in a cooperative manner. In addition, we believe the abundance of human health evidence support the contention that their primary product – Swedish snus -- is a harm reduction product.

We agreed to be the founding members of a MRTP Advisory panel provided the body was truly independent and we would develop our own mission statement and operating principles. A draft mission statement and background materials were prepared (Attachment A) and used to reach out to prospective members as well as to “test the waters” with our colleagues in the research and tobacco control communities. We wanted the Panel to consist of scientists and science policy experts, but not restricted to tobacco experts. It was important to us that a wide range of perspectives be represented, including toxicology, risk perception and communication, FDA regulatory, and research governance. The MRTP Advisory Panel currently consists of five members (Attachment B), all of whom have had long and accomplished careers in their scientific fields. Some of the panel members are reimbursed for their time and others (including us) are not.

The inaugural meeting of the Panel was a March 1 conference call and on March 14 we had a face to face meeting. During this time we finalized a mission statement and operating principles and discussed how best to communicate the work of the Panel to the tobacco community. It

was decided that we should wait until the Panel had been in operation for a while and have accomplished work worth discussing. The most recent meeting of the MRTP Advisory Panel was June 24-25 (where we focused on the tobacco research governance issue) and the next meeting will be November 13-14, 2013. Both of us have served on numerous advisory panels for pharmaceutical companies. We have found these meetings to be almost identical to those for pharmaceuticals.

### **Role of the MRTP Advisory Panel in Research Governance**

The Swedish Match MRTP Advisory Panel is not the third party research governance entity envisioned in the IOM report *Scientific Standards for Studies on Modified Risk Tobacco Products*. We will not be commenting directly on third party governance. However, we are concerned that focusing on third party governance will be interpreted by academic scientists as the ONLY way they should be involved in research relevant to the Tobacco Control Act. We believe a more efficient and transforming approach is to also have a model in which academic scientists can be employed by the tobacco industry to provide advice during the planning and conduct of initial studies, in a method similar to that of an advisory board for the pharmaceutical industry. Exactly how an advisory panel to the tobacco industry would need to differ from that of an advisory panel to a pharmaceutical industry is unclear and we hope that our experience can generate these issues and perhaps suggest some solutions. But we also believe the CTP needs to investigate the feasibility of such a model.

Our experiences in forming and operating the Advisory Panel are relevant to many of the nine questions posed in the FR Notice. Of particular significance are questions 3, 5, and 8, which relate to issues concerning the role of researchers and academic institutions, barriers that must be overcome, and aspects of product research that could be subject to third party governance.

**Question 3** asks what role “would various interested parties ...play in a third-party model...” We identify with two of the listed categories of interested parties: “individual researchers”, which we both are; and academic institutions, for which we both have worked and Dr. Hughes continues to work for the University of Vermont. As stated earlier, as seasoned researchers we believe involvement of academic researchers early on in tobacco industry research is essential to obtain quality and believable science to guide the Tobacco Control Act. Currently, given statements from scientific journals and federal and other sponsors, younger, less well established researchers have concerns about being associated with the tobacco industry, even when serving on an independent panel or a third-party governance body. They are rightfully concerned that their reputation as scientists could suffer.

We strongly urge CTP needs to be a vocal leader and publicly state that it is permissible and even desirable for academic researchers to advise or collaborate with the industry. We believe CTP stating advisory panels composed of non-industry scientists are encouraged would legitimize such panels and be the biggest single factor to encourage scientists to engage in such boards. Such relationships should be entered into with caution, and we would hope CTP would foster workshops, etc to investigate methods to set up and conduct such advisory panels in an ethical manner. There will likely be varying degrees of success of these panels, but

ultimately the quality of future of tobacco research depends on stakeholders working together in a safe and productive environment.

In summary, we suggest CTP work directly with academic institutions and encourage open discussion about current policies toward the tobacco industry and under what circumstances the policies could be changed and updated.

**Question 5** asks what “barriers” would have to be overcome to encourage the broader scientific community to participate in a third-party governance model. We have already referenced the negative perception of working with industry barrier. A primary reason for our deciding to work with Swedish Match was to contribute to the breaking down of this barrier. The MRTP Advisory Panel Mission Statement includes the clause “to serve as a model for the interaction between FDA, the scientific community, and tobacco companies.” We intend to reach out to our colleagues in one-on-one conversations and through national professional societies to communicate that we are part of a model that works, one that provides assurances of independence and respect.

**Question 8** asks what aspects of tobacco product research could be subject to third party governance? We have firsthand experience with this issue. During the first face-to-face meeting of the Advisory Panel we provided comments on the draft Swedish Match protocol for conducting pre-market consumer perception research. The Panel was not seeking a consensus, but we did want to be as transparent as possible and ensure that each member shared their comments with the entire group.

During the review and comment period we realized that the Swedish Match marketing staff had a wealth of experience in conducting consumer marketing research but had limited awareness of academic research methods, an area the Advisory Panel could help with. In addition, given Swedish Match made a commitment to publish the results, the Panel could advise on what methods would be necessary for publication in a scientific journal. Working together we believe we developed a protocol –and ultimately a study that will be shared with other scientists and will be a useful contribution to a MRTP application.

Swedish Match science, policy and marketing staff presented the Advisory Panel input during a May 8, 2013 meeting with CTP that was focused solely on the pre-market consumer perception study protocol. We were told that CTP valued the Advisory Panel input and suggested Swedish Match have the Panel conduct a final review, which we did during the Panel’s most recent meeting on June 24-25, 2013. We had additional input during the meeting and requested a final review of the protocol before the research commenced.

We would not characterize our protocol review and comment experience as being the type of third-party governance suggested in the IOM report. However, our involvement did provide a form of governance; a model that could be duplicated by other companies and advisory bodies; provided the companies are sincere in their desire to have truly independent input and the advisory bodies know what they want to achieve and adamantly require total independence.

## **Path Forward**

The Swedish Match MRTP Advisory Panel is evolving and we anticipate we will have continued opportunities to provide research governance services to the company and more importantly to set examples of how industry and the research community can interact in ways that will benefit tobacco research. We plan to communicate the work of the Advisory Panel to a broad audience and to help establish a standard that is followed by other companies and is accepted by the tobacco control community. However, our work is just one of the many contributions that are necessary to achieve significant change in the tobacco research environment. Our hope is that CTP provides necessary leadership to contribute to overcoming the barriers that currently exist.

Sincerely,

Karl Fagerström

John Hughes

## **Attachment A**

### **Swedish Match Modified Risk Tobacco Product Advisory Panel**

#### Mission statement

To present advice on matters relating to the FDA Modified Risk Tobacco Product application and review process and to serve as a model for the interaction between FDA, the scientific community, and tobacco companies. The Advisory Panel's deliberations will be guided by public health interests and will advance tobacco regulatory science.

#### Operating Principles

- The Advisory Panel is an independent body that develops its own mission statement and operating procedures. Members do not have a contractual arrangement with Swedish Match and do not sign confidentiality agreements.
- The Advisory Panel does not offer a consensus position; rather the members express their individual views.
- Swedish Match staff provides administrative services to the Advisory Panel; including offering background information, arranging for calls and meetings, and providing meeting follow-up. Swedish Match staff and the Panel members work closely together in preparing meeting agendas and identifying work tasks with the Advisory Panel having the final decision.
- Advisory Panel members are informed of Swedish Match operations in the US and globally and are encouraged to ask questions regarding policies and performance.
- The Advisory Panel will serve as a model for how a tobacco company can interact with an external science-based group. Accordingly, it is essential that the operations of the Advisory Panel are as transparent as feasible and members continually seek opportunities to communicate its goals and operations. The Advisory Panel has an interest in informing the tobacco enterprise and the broader scientific and public health communities of its actions and principles.
- The Advisory Panel is a new and evolving body. The members are committed to the mission statement and operating principles but the approach used to accomplish the mission will continually evolve.

#### About The Advisory Panel Members

- The Advisory Panel members are scientists or science policy experts, but not necessarily tobacco experts. They provide a wide range of perspectives, including that of academic researchers, tobacco control community, risk perception and communication, and FDA regulatory.
- The members have had long and accomplished careers in their scientific fields and are seeking to apply their experiences and insights to improve the exchange of information and concepts in the tobacco regulatory science arena

## **Attachment B**

### **Swedish Match MRTP Advisory Panel**

Dr. Karl Fagerström

President, Fagerström Consulting

Dr. John Hughes

Professor of Psychology, Professor of Psychiatry, University of Vermont

Dr. Nancy Ostrove

Principal, EXPRE

Dr. Mark Frankel

Director, Scientific Responsibility, Human Rights and Law Program  
American Association for the Advancement of Science (AAAS)

Dr. Daniel Casciano

Science Advisor, Center for Integrative Nanotechnology Sciences  
University of Arkansas at Little Rock