

# RE89

## TO MEMBERS OF THE COMMITTEE ON FINANCE:

### ACTION ITEM

*For Meeting of January 18, 2007*

#### **ADOPTION OF POLICY RESTRICTING UNIVERSITY ACCEPTANCE OF FUNDING FROM THE TOBACCO INDUSTRY**

Regent Moores recommends that the Committee on Finance recommend that The Regents adopt the following policy:

"The freedom of our academic community to pursue research and educational activities is vital to the University's mission and to its success as a world-class institution, and should be affected by University mandate only in rare and compelling circumstance. The collective use of sponsored research by the manufacturers and distributors of tobacco products as an industry to support a public deception about its products is unique, unprecedented and represents just such rare and compelling circumstance. Accordingly, the Regents of the University of California shall accept no funds from the manufacturers or distributors of tobacco products, their affiliates, or any entity controlling or controlled by such companies, that are to be used to study tobacco-related diseases, the use of tobacco products or the individual or societal impacts of such use."

This policy will apply only to awards made in response to new proposals submitted after the date this policy becomes effective. Awards active as of the effective date of the policy will be allowed to continue, and acceptance of funds that may be awarded in response to proposals submitted prior to the effective date of the policy will be allowed.

### **BACKGROUND**

To recap and update information that was provided previously to The Regents, the following is provided as background:

Research at the University of California is funded by a variety of sources, including federal, State, foundation, individual, and corporate/industry support. Under current University policy, individual researchers are free to accept funding from any source, as long as the funds are otherwise in compliance with applicable University policy (for example, as long as the award does not give the sponsor the ability to control or restrict publication of research results). Individuals, foundations, and corporate/industry sources also provide funding to the University for purposes other than research (e.g., in the form of gifts to support arts and education programs, buildings, endowed chairs and

professorships, student support, etc.). There are no restrictions on the University's ability to accept gift or endowment funding from any source, as long as the awards comply with University policies.

Over the years, critics of tobacco and of the tobacco industry have raised serious concerns about the University's acceptance of funding from sponsors with ties to the tobacco industry. While the amount of such funding received by the University is quite small in proportion to the University's total research funding, the concerns raised about acceptance of such funds center not on the amounts but on underlying principles and on the belief that such acceptance is inconsistent with the University's missions. Since 1995, UC researchers have received approximately 108 awards totaling about \$37 million from tobacco-related companies<sup>1</sup> for research, training, and public service. By comparison, the University received more than \$4 billion in total contracts and grants revenue in FY2006 alone.

Currently, there are approximately 19 active grants at UC from sponsors with known ties to the tobacco industry.<sup>2</sup> These grants, supporting research and related activities on the Berkeley, Davis, Los Angeles, and San Diego campuses, were all awarded by Philip Morris USA, and total approximately \$15.8 million.<sup>3</sup>

The University also has received gift funds from tobacco companies and sources related to tobacco companies. While comprehensive systemwide information is not currently available in the University's corporate databases, consultation with campus development offices identified gifts from a number of tobacco companies. Responding campus development offices reported receiving gifts from corporate donors such as RJR Nabisco, Kraft Foods, Brown and Williamson Tobacco Corporation, and Philip Morris, with approximately 11 gifts made since fiscal year 2005, totaling about \$485,000. This is an extremely small proportion of the University's total receipt of gifts and pledge payments, which for FY 2006 alone totaled \$1.29 billion.

A number of individuals and organizations have encouraged the University to adopt a policy prohibiting acceptance of tobacco industry funds. Proponents of such a ban have expressed the strong view that the tobacco industry has exerted a corrupting influence on research and that even though the tobacco industry does fund some meritorious basic

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<sup>1</sup> In addition to tobacco companies like Philip Morris, there are other companies, like Kraft Foods, that are either parent companies or subsidiaries of tobacco companies. While UC does not maintain a comprehensive list of "tobacco companies," there are companies known to UC that have in the past been identified with the tobacco industry; this data shows funding that UC has received from companies that are known to be, or to have been, tobacco-related.

<sup>2</sup> As of the date this item was prepared, corporate data systems maintained by the Office of the President showed only those awards processed prior to the close of FY2006 – campuses may have accepted additional awards since that time. Though an effort has been made to obtain updated data from individual campus Contract & Grant offices, it is possible that there are awards not reflected in the above summary.

<sup>3</sup> Please see [attached "Tobacco Industry Sponsored Projects at the University of California: Known Active Awards as of December 22, 2006."](#)

scientific research, it also funds scientifically inferior proposals and uses the more meritorious research to lend credibility to its funding program while minimizing the risks of tobacco. Adoption of a policy banning such funding is seen as a way for The Regents to make a strong statement and to dissociate the University from an industry that has been deemed to engage in corporate actions antithetical to the University's core missions. Proponents of a ban on acceptance of tobacco funding argue that the University should dissociate itself from an industry known to make a product harmful to human health and that has a history of attempting improperly to influence or misrepresent research results. A number of other highly regarded institutions have already adopted policies declining tobacco industry funding. These include Johns Hopkins School of Public Health, University of Arizona School of Public Health, Emory University School of Medicine, Harvard School of Public Health, Harvard Medical School, and Ohio State University School of Public Health.

Most recently, proponents of a ban have pointed to the August 17, 2006 federal district court ruling (*U.S. v. Philip Morris USA, Inc.*, U.S.D.C.D.C. Civ. No. 99-2496)<sup>4</sup> that found defendant tobacco companies guilty of violating the Federal Racketeer Influenced and Corrupt Organizations (RICO) Act as evidence of the tobacco industry's fraudulent corporate actions and disingenuous relationship with academic research institutions. They particularly point to a concern that defendant Philip Morris, found to have engaged in fraudulent actions, funds research at the University of California. This decision is currently on appeal.

Opponents argue that an institutional policy prohibiting researchers from accepting tobacco funding would violate the academic freedom of individual faculty members. They argue that the University should reject the idea that accepting funding from a corporate sponsor connotes an endorsement of the corporate sponsor's products or corporate actions. They also argue that while the use (or *misuse*) of research results by tobacco companies may be objectionable, individual investigators are expected to ensure the integrity of the conduct of their research regardless of the source of its funding. The University's policy on Integrity in Research provides in part that "all persons engaged in research at the University are responsible for adhering to the highest standards of intellectual honesty and integrity in research."<sup>5</sup> The University's Statement of Ethical Values, adopted by The Regents in May 2005, restates the University's expectation that all members of the University community engaged in research are to conduct their research with integrity and honesty at all times, and to meet the highest standards of honesty, accuracy, and objectivity.<sup>6</sup> Opponents of a policy argue that restricting investigators' funding to ensure research integrity may be unnecessary and may

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<sup>4</sup> The full text of the ruling is available online at: <http://www.dcd.uscourts.gov/opinions/2006/99-2496-082006a.pdf>.

<sup>5</sup> The University's Policy on Integrity in Research can be found online at: <http://www.ucop.edu/ucophome/coordrev/policy/6-19-90.html>

<sup>6</sup> The full text of the University's Statement of Ethical Values can be found online at: [http://www.ucop.edu/ucophome/coordrev/policy/Stmt\\_Std Ethics.pdf](http://www.ucop.edu/ucophome/coordrev/policy/Stmt_Std Ethics.pdf)

undermine the ability of researchers to explore promising avenues of inquiry independent of political and moral judgments about the source of that funding.

Finally, opponents of a ban note that it is a dangerous “slippery slope” to adopt a policy of rejecting funding from certain types of industry sponsors whose products or corporate behaviors are objectionable to some, and caution that there are a number of other industries that some would argue should fall under such a policy. While acknowledging the legitimacy of concerns about tobacco and about the corporate behavior of some companies, opponents of a funding ban express the opinion that as long as a grant has no conditions that would prevent researchers from adhering to their obligation to engage in intellectually honest research and to release the results of such research, the sponsor’s motivations should not preclude acceptance of funding.

The President wishes to advise The Regents that the University’s Academic Senate has considered this issue a number of times. Further information about the Academic Assembly’s resolutions is included below.

The President further wishes to advise The Regents that the University’s Vice Provost for Research, Lawrence Coleman, and the systemwide Council of Vice Chancellors for Research (COVCR), which includes all the campus Vice Chancellors for Research, also have discussed the issue of restricting acceptance of tobacco funding at length. They have repeatedly expressed their opposition to adoption of a University policy restricting faculty from accepting research funding from tobacco companies and have expressed the view that such a policy is likely significantly to undermine researchers’ academic freedom and would set a troubling precedent for future consideration of restrictions on funding from other industries that may also be the subject of moral or political debate or that may be involved in litigation regarding alleged corporate misdeeds involving fraud or other illegal actions. Given that existing University policies require researchers to adhere to the highest standards of honesty, accuracy, and objectivity in their work, there is concern that a funding ban may be unnecessary and might unfairly impugn the integrity of the University’s faculty.<sup>7</sup>

### ***Academic Senate Consideration***

Following discussion of *Research Funding: Acceptance of Funding from Corporate Sponsors Associated with the Tobacco Industry* at its September 20, 2006, meeting, The Regents asked the Academic Senate whether a policy banning funding from tobacco industry sources was justified in light of the August 17, 2006 federal district court ruling (U.S. v. Philip Morris USA, Inc., U.S.D.C.D.C. Civ. No. 99-2496) that found defendant

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<sup>7</sup> While the COVCR has consistently expressed its opposition to a policy restricting acceptance of research funding from a particular industry segment such as the tobacco industry, as of the preparation of this Regents item, the COVCR had not reviewed the specific text of the draft policy that is now being considered by The Regents.

tobacco companies guilty of violating the Federal Racketeer Influenced and Corrupt Organizations (RICO) Act.

In response to this request, the Assembly of the Academic Senate debated the issue on October 11, 2006. The Assembly's actions, described in a November 1, 2006 letter from Assembly Chair John Oakley to President Dynes,<sup>8</sup> which was also conveyed to The Regents, consisted of passage of three resolutions:

“The Academic Assembly instructs the Chair of the Assembly to advise the President that grave issues of academic freedom would be raised if The Regents were to deviate from the principle that no unit of the University, whether by faculty vote or administrative decision, has the authority to prevent a faculty member from accepting external research funding based solely on the source of funds. Policies such as the faculty code of conduct are already in place on all campuses to uphold the highest standards and integrity of research. The Academic Assembly believes that Regental intervention on the basis of assumptions about the moral or political standing of the donor is unwarranted.”

“The Assembly declares its deep disapproval of funding arrangements in which an appearance of academic freedom belies an actual suppression of academic freedom.”

and

“The Assembly asserts its conviction that past funding arrangements involving the tobacco industry have been shown to suppress academic freedom.”<sup>9</sup>

As background to this action of the Academic Assembly, the Call of the meeting at which the three resolutions were adopted, stated:

“At its July 21, 2004, meeting, the Academic Council adopted a Resolution on Restrictions on Research Funding Sources. Then, in October of 2004, the Academic Council, in response to concerns raised by some faculty members regarding both the content of the resolution and the need for broader consultation on the issues it addresses, sent the Resolution out for full Senate review and consideration of whether it should stand as written and adopted, or should be amended or rescinded. Formal responses from all nine Divisions and from six standing committees of the Assembly showed a preponderance of support for the resolution in principle. Based on those formal comments and recommendations,

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<sup>8</sup> The full text of [Chair Oakley's November 1, 2006 letter to President Dynes regarding "The Academic Senate's Resolutions on the Research Funding Issue"](http://www.universityofcalifornia.edu/senate/assembly/oct2006/research%20funding.11.06.pdf) is attached and available online at: <http://www.universityofcalifornia.edu/senate/assembly/oct2006/research%20funding.11.06.pdf>.

<sup>9</sup> The full text of the resolutions is included in Chair Oakley's November 1, 2006 letter that is attached (see above).

the Academic Council adopted an amended version of the Resolution on Restrictions on Research Funding Sources, which was, on May 11, 2005, adopted by the Academic Assembly as the Resolution of the Academic Senate on Research Funding Sources.”<sup>10</sup>

(Attachments)

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<sup>10</sup> The full text of the Call can be found at:  
<http://www.universityofcalifornia.edu/senate/committees/assembly.10.11.06agenda.pdf>