

Just Between Us

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Torah, Truth and Tobacco

By Dr. Eugene Korn

Talk about tobacco is heating up again. Three recent events have brought the debate about tobacco back into the center of American public discourse. Last September, the federal government announced that it would seek a civil suit against the industry for the staggering figure of \$25 billion — the administration's estimate of the annual cost of treating patients suffering from smoking-related diseases. In October, Philip Morris and Brown and Williamson admitted openly — after 40 years of adamant refusal — what every informed person knew all along: scientific evidence proves conclusively that smoking causes cancer and other fatal diseases, and that nicotine is addictive. Finally, the recent movie, “The Insider,” graphically portrayed how the tobacco industry advertises deceptively and ruthlessly uses its power to suppress internal data indicating that cigarettes are lethal and addictive. Though aware of these findings, the CEOs of the seven largest tobacco companies each testified, before Congress, in 1994 that he did not believe nicotine to be addictive.

The debate over tobacco touches on basic American values: health and truthful speech — values fundamental to our

Jewish world view as well. The Torah teaches us that God endows all human life with sanctity, creating each person in the Divine Image, *btzelem Elokim*. The Talmud tells us that Truth is the Holy One's personal seal. These are religious ideals for Jews. It would be odd, therefore, if the Torah offered no guidance on specific questions that the tobacco debate raises:

- Is smoking, and hence marketing and distributing tobacco products, prohibited by Jewish law?
- If not *halachically* prohibited, do we have an obligation to insist on standards of truthful advertising and marketing in regard to cigarettes?

Is smoking forbidden by Jewish law? Numerous *poskim* have addressed this old question. Of course, the Torah demands that we carefully guard our lives (Deuteronomy 4:9) and forbids endangering the lives of others. Yet everything we do — even walking across the street — entails risk and has some statistical probability of resulting in death. Since most people are willing to accept the risk of routine activities, *halachah* deems them permissible. Is smoking in the category of acceptable risk (like driving a car) and therefore permitted, or unacceptable risk (like playing Russian roulette) and hence prohibited?

In 1964, Rav Moshe Feinstein wrote a responsum stating: “One should cer-

tainly take care not to start smoking. But... since the multitude are accustomed to smoking...and ‘the Lord preserves the simple,’ and some of the greatest Torah scholars in the previous generations did smoke, [there is no prohibition]” (*Iggerot Moshe, Yoreh Deah, 2:49*). Later, in the 1970s, Rabbi David Halevi, the former Chief Rabbi of Tel Aviv, ruled that smoking is forbidden. The former *Rishon LeTzion*, Rav Yitzchak Nissim, ruled conditionally in 1978, that “If smoking definitely damages one's health, then it is forbidden.” More recently, Rabbi Ovadia Yosef, another former Sephardic Chief Rabbi and current spiritual leader of Shas, reiterated his earlier ruling that smoking violates *halachah*.

As Rav Nissim implies, the question deserves periodic *halachic* review. The formal prohibition of a substance depends on both, (1) its deleterious effect on health, and (2) *our knowledge* of this causal link. Today we know much more about the lethal effects of smoking than did Rav Moshe in 1964. According to the data cited earlier, you have a greater chance of killing yourself by habitual smoking than by playing Russian roulette with a three-chambered gun! Moreover, every additional discovery of evidence correlating smoking with poor health and fatal disease strengthens the argument that smoking causes death and should be prohibited.

In the Ashkenazic community, Rav Moshe's contention that one may decide to risk one's own health by smoking apparently still holds. Interestingly, Rav Moshe did not address the danger caused to others by “second-hand smoke.” That was a relatively unstudied phenomenon in his day. Today we know that one's health is significantly compromised when near a smoker. Even if a smoker has halachic license to decide to risk his own health, he does not have the right to endanger anyone else's health. This is an additional reason for *poskim* to re-analyze smoking in light of recent medical knowledge. Despite all these considerations, until a universally accepted Ashkenazic Torah authority pronounces a formal *issur*, it appears that smoking for *Ashkenazim* remains permit-

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ted. According to Ashkenazic *poskim*, if you smoke you are not a sinner — you are just a fool.

If smoking is not halachically forbidden to Jews, it stands to reason that we should tolerate the tobacco companies' providing the means to smoke by manufacturing, advertising and distributing cigarettes. But surely Jews faithful to Torah values should press for high standards of honesty in the tobacco industry and truth in its advertising. An example of the high halachic standards to which Jews are held was summed up by the Rambam:

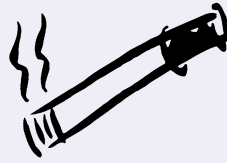
It is forbidden to mislead people in business or to "steal their mind." This is equally true regarding gentiles or Jews. Thus if one knows of a defect in one's product, one must inform the purchaser. It is even forbidden to deceive people in words only [i.e. where no loss of money results]. (Laws of Selling 18:1)

Since it is undeniable that people derive pleasure from smoking, it seems perfectly permissible for tobacco manufacturers to portray people enjoying themselves while smoking. A fine line must be drawn here, however, for any implication that smoking is consistent with a healthful life is deception. Printing the Surgeon General's warning on all cigarette packages helps — yet it is not sufficient. Now that the lethal characteristics of tobacco products are universally acknowledged, all advertising as well as places where these products are purchased should prominently display similar warnings. Imagine how effective a deterrent it would be if ads were designed according to *our* Jewish standards of honesty in marketing: tobacco manufacturers would have to refrain from depicting only young, beautiful and energetic smokers in their advertisements. Honest advertising would demand that all pictures of "beautiful people" enjoying cigarettes be balanced by graphic displays of patients who have lung cancer, throat cancer, and emphysema.

The addictive quality of cigarettes cannot be ignored. Internal tobacco company documents establish that nicotine is a central feature of product development and marketing strategy. Memoranda from RJ Reynolds, Philip Morris and

Brown & Williamson explicitly document this strategy. It appears that the tobacco industry has knowingly created and manipulated an addiction.* Cynically, tobacco manufacturers have based the right to market their products on the "right to choose": Consumers should have the freedom to decide whether to smoke or not, free from the

Facts about Smoking



- More than 1,000,000 Americans *start* the life-long habit of smoking every year.
- 90% of these new smokers are 18-years-old or younger.
- More than 400,000 of these new smokers will die prematurely (by an average of 15 years) from a smoking-related disease.
- More Americans die from smoking-related diseases each year than from homicides, suicides, automobile accidents, all other drugs, alcohol and AIDS *combined*.

Sources: "What the Warning Label Doesn't Tell You", American Council on Science and Health, pp.1-10; Executive Summary, "No Sale: Youth, Tobacco and Responsible Retailing," findings of States Attorneys General, December, 1994; Editorial, *The New York Times*, October 14, 1999.

interference of governmental authorities. The existence of marketing policies encouraging consumer addiction demonstrates the hypocrisy of this argument.

One might claim that the responsibility

for knowing the health risks of smoking falls upon the smoker. Normally *halachah* imposes a secondary responsibility upon the buyer.** However, tobacco is different. Because tobacco products are addictive, tobacco manufacturers bear a unique responsibility. Addiction means that the smoker has diminished ability to use his critical judgment concerning tobacco. He cannot objectively weigh relevant medical information from other sources (e.g. governmental agencies or health authorities), freely and knowledgeably accepting the risks that this information indicates. He is, therefore, incapable of fulfilling his responsibility to decide the matter critically. Thus the entire responsibility for product information falls squarely upon the manufacturer.

Even though *halachah* considers 12 and 13 to be the legal ages of majority, no halachic community leaves its teenagers unprotected from pernicious social influences and no Torah observant parent gives the same latitude to his 13-year-old as to his fully independent children. This is as it should be, for teenagers have not yet developed mature independent judgment. Although sale of cigarettes to minors is legally prohibited, we are all familiar with cigarette advertising targeted at teenagers. Tobacco manufacturers must be barred from utilizing "child friendly" advertisements, displaying advertisements near schools or areas of juvenile concentration, and designing marketing campaigns aimed at minors in any way — all elements that have been key to the tobacco industry's growth strategies.***

One may argue that imposing these constraints on tobacco advertising and marketing would undermine the objective of such advertising. Precisely. It must be remembered that 90 percent of smokers begin to smoke before age 19, a population unavailable to tobacco advertising under these guidelines. And what adult, after all, would be enticed to buy cigarettes by an ad projecting powerful images of both the fun *and* the devastating consequences of smoking? Yet that is exactly the point: No consumer exploitation should take place, and when an honest representation of tobacco

products occurs, few consumers would be persuaded to opt for the hazards of smoking.

Because the United States is now imposing controls on the domestic marketing of cigarettes, tobacco companies have begun targeting poor populations and third world countries as their growth opportunities. These unsuspecting people are easy prey to nicotine addiction and to deceptive marketing practices that hide the lethal consequences of smoking. These strategies lay waste to life on a massive level. Can Torah Jews be apathetic to this destruction of human life?

Closer to home, the smoking tradition of the *yeshivah* culture and the continued sophisticated marketing of tobacco companies render our own children susceptible. We cannot afford to be naïve about these influences on our sons and daughters. The price for inaction is incalculable. As the *mishnah* (Sanhedrin 4:5) reminds us, if even one Jewish child dies from the scourge of tobacco, it is the loss of an entire world!

Given the above, Torah observant Jews need to be vigilant in stopping the tobacco industry from preying on society and destroying human life. Here is a short list of what we can do:

- Educate our children about the medical and addictive consequences of smoking.
- Ban smoking in our homes, synagogues and *yeshivot*, requiring any violator to serve in a cancer ward.
- Support governmental actions that penalize the tobacco industry and ensure their honesty in marketing.
- Support FDA supervision of tobacco distribution.

If we take seriously the Torah's principle that human life reflects *tzelem Elokim*, we are obligated to curb the deception and devastation that the tobacco industry practices on us all.

* *The New York Times*, April 6, 1994, p. A6; February 23, 1998, pp. A1, A15.

** (*Chulin 94a, Iggerot Moshe, Yoreh Deah 30: 31*)

***RJ Reynolds memorandum #205, January 23, 1975, as reported in *The New York Times*, January 15, 1998, p. A12.