restrictions on other nonadvertising measures reduced cigarette smoking by 6.7 percent.¹⁸³

Canada's Tobacco Products Control Act, which became effective on January 1, 1989, banned most print advertising, restricted sponsorship, and forbade indirect advertising (e.g., use of trade names on non-tobacco items). Although advertising restrictions often take time to be fully effective, the study found that in only 2 years following the institution of government regulation, consumption was reduced 2.8 percent more than would have been expected had there been no advertising restrictions. 184

Another study looked at tobacco consumption per adult in the 22 countries of the Organization for Economic Cooperation and Development between 1960 and 1986. The report reaffirmed the New Zealand Board's conclusion that, as a group, countries prohibiting tobacco advertising in most or all media experienced more rapid percentage falls in consumption than the group of countries which permitted promotion. 186

Other studies try to measure the effect that advertising has on the general level of consumption in a country. Advertising can have an increased effect on consumption, even in those countries where the smoking rate has been falling. The analyses are able to determine whether consumption would have fallen at a greater rate but for the advertising, and ascribe that difference (the slowed rate of decline) to advertising.

One New Zealand study provides evidence that changes in advertising expenditures can have an effect on youth smoking behavior. The study analyzed the total sales of cigarettes sold by New Zealand supermarkets over a 42 week period. The study design included advertising that had recently been modified to contain newly-mandated, strong, varied disease warnings that occupied 15 percent of the advertisement. Moreover, no human form could be displayed in the advertising except a hand and forearm, and one color apart from black was usually used. The results indicated that advertising for upscale brands of cigarettes did not raise cigarette consumption, but that consumption of an inexpensive brand with a heavy youth appeal did increase with increased advertising. Moreover, the study found that the advertising for the new, inexpensive brand had the additional effect of recruiting young smokers and increasing the market base.187

Studies that assessed the response of large population groups to changes in advertising generally confirm a finding that advertising has a positive effect on consumption. The most recent comprehensive analysis of existing studies on the effect of advertising expenditures on consumption rates was done in the English study, discussed above. Among other things, the study looked at the effect of yearly fluctuations in advertising expenditures within several countries, but principally within the United States and United Kingdom. The result was that the "preponderance of positive results points to the conclusion that advertising does have a positive effect on consumption." 188 Individual, smaller studies ¹⁸⁹ have examined the same question and confirmed a finding of effect of advertising on consumption. 190

5. Summary of Evidence

The agency concludes that the preponderance of quantitative and qualitative studies of cigarette advertising suggests: (1) A causal relationship between advertising and youth smoking behavior, and (2) a positive effect of stringent advertising measures on smoking rates and on youth smoking. Moreover, industry statements indicate the importance of the youth market segment to the industry's continued success. Actions taken by industry members to attract young smokers have also resulted in attracting children and adolescents. Finally, examples of specific campaigns directed at young people support the hypothesis that cigarette advertising and promotion play an important role in encouraging young people to start smoking, to sustain their smoking habit, and to increase consumption. Therefore, the agency finds that stringent restrictions on advertising are essential if smoking by adolescents is to be reduced.

6. Proposed Subpart D—Labeling and Advertising

a. General overview. Proposed subpart D would establish regulations on the labeling and advertising of cigarettes and smokeless tobacco products. Proposed subpart D consists of four sections. Proposed § 897.30 would establish the scope of permissible forms of labeling and advertising. Proposed § 897.32 would set forth the format and content requirements. Proposed § 897.34(a) would prohibit the sale and distribution of non-tobacco items and services that are identified with a cigarette or smokeless tobacco product brand name or other identifying characteristics; proposed § 897.34(b)

would prohibit proof of purchase gifts and games of chance and contests; and § 897.34(c) would prohibit sponsorship of events that are identified with a cigarette or smokeless tobacco product brand name or other identifying characteristics. Proposed § 897.36 would address false and misleading labeling and advertising. These sections are discussed more fully below.

The proposed rule would establish different labeling and advertising requirements for cigarettes and smokeless tobacco products. These differences result from different Federal preemption provisions contained in the two Federal laws requiring warning labels on those products. Briefly, FDA believes that the Cigarette Act only preempts FDA's authority to require additional statements about smoking and health on cigarette packages, while the Smokeless Act prohibits FDA from requiring additional information about health and tobacco use in advertising as well as on the package of smokeless tobacco products. For a more complete discussion, see section IV.C. below.

b. Proposed § 897.30—permissible forms of labeling and advertising. Proposed § 897.30 would set forth the permissible forms of labeling and advertising for cigarettes and smokeless tobacco products. Labeling and advertising are used throughout this subpart to include all commercial uses of the brand name of a product (alone or in conjunction with other words), logo, symbol, motto, selling message, or any other indicia of product identification similar or identical to that used for any brand of cigarette or smokeless tobacco product. However, labeling and advertising would exclude package labels, which would be covered under proposed subpart C. In brief, § 897.30(a) of the proposed rule would define permissible outlets for labeling and advertising as newspapers, magazines, periodicals, billboards, posters, placards, entries and teams in sponsored events, promotional materials, audio and/or video formats, and delivered at the point of sale. Proposed § 897.30(b) would prohibit outdoor advertising of tobacco products from appearing outside of buildings within 1,000 feet of an elementary or secondary school or playground. These are places where children and adolescents spend a great deal of time and should therefore be free of advertising for these products. The agency believes that this a reasonable restriction and notes that the cigarette industry's voluntary "Cigarette Advertising and Promotion Code," revised in 1990, contains a similar