use attractive imagery and do not rely on objective product claims. The industry's claims that this advertising exists solely to maintain brand loyalty or induce smokers to switch. However, as noted previously, tobacco advertising and promotion appear to have a more profound effect on brand choices by young people (86 percent of young people smoke the three most advertised brands) than on adults, whose choice is more often based on price (39 percent of the market is comprised of generic and discount products.) Furthermore, brand loyalty runs higher for cigarettes than for any other product. Thus, significant expenditures would not appear to be necessary to retain loyal consumers and would appear to be excessive and wasteful if they are expended merely to

get people to switch brands.

While a total ban on advertising, therefore, would likely be justified, FDA believes that limiting advertisements and labeling to which children are exposed to a text-only format is less burdensome and would effectively reduce the appeal of tobacco products to children and adolescents. Further, while some have suggested prohibiting only youth-oriented images, the agency has been unable to define the subset of advertising and labeling directed to young people based upon the media selected or the location of the advertising. For example, billboards are always visible to young people, and there are few, if any, publications that children and adolescents cannot see. Thus, the proposed text-only requirement would offer the most protection for children and adolescents while still enabling informative advertising to reach persons aged 18 and older. Given the complexities of this subject, however, FDA invites comment on other potential methods that may exist for curtailing advertising's appeal to young people.

ii. Non-tobacco items and sponsorship. Proposed § 897.34(a) would prohibit the sale or distribution of all non-tobacco items that are identified with a cigarette or smokeless tobacco product brand name or other identifying characteristic. As noted above, advertising expenditures have risen dramatically in the past two decades, and the distribution of the marketing expenditures represents a major shift in marketing trends. In 1970, the amounts spent on traditional advertising represented 82 percent of total spending, but, by 1991, this figure had fallen to approximately 17 percent. 197 The remaining funds devoted to marketing cigarettes are spent on a variety of promotional activities designed to assure

advantageous placement of products in retail outlets, get products into a prospective consumer's hand through the use of coupons and samples, and provide gifts, contests, and other nontobacco items and gifts to create special appeal and reduce real price. 198

Proposed § 897.34(a) would pertain to non-tobacco items and services (other than cigarettes or smokeless tobacco products) that the tobacco companies market, license, distribute, or sell. Manufacturers often provide branded, non-tobacco items as an inducement to purchase cigarettes or generate purchases through the use of proof-ofpurchase coupons. Both R.J. Reynolds and Philip Morris utilize this popular technique by providing either a coupon with each package (Camel cash) or indicating that each package was worth a number of credits towards a purchase (Marlboro miles). Each company also printed glossy catalogues with items and gifts that could be purchased using "cash" or credits. Either method creates an incentive to purchase the tobacco product by reducing the product's real price; the consumer gets the product and the non-tobacco "gift."

The IOM found that this form of advertising is particularly effective with young people. 199 Young people have relatively little disposable income, so promotions are appealing because they represent a means of "getting something for nothing." In many cases, the itemstee shirts, caps, and sporting goods—are particularly attractive to young people. Some items, when used or worn by young people, also create a new advertising medium—the "walking billboard"—which can come into schools or other locations where advertising is usually prohibited. A 1992 Gallup survey found that about half of adolescent smokers and one quarter of non-smokers owned at least one of these items.²⁰⁰ Similar data were reported for a group of ninth graders from New York State. Among these ninth-graders, 48 percent of occasional smokers and 28 percent of non-smokers reported owning branded clothing.201

A recent report found that tobacco companies spent \$600 million on programs that provide promotional items in exchange for proofs-ofpurchase (usually by catalogue). Although the tobacco industry states that these items are meant for individuals over the age of 20, many teens report participating in promotional activities, with participation ranging from 25.6 percent of 12- to 13-year-olds and 42.7 percent of 16- to 17-year-olds owning a promotional item. The report found that 68.2 percent of current smokers

participated, and 28.4 percent of nonsmokers participated. The report concluded that there is an association between participating in promotions and a person's susceptibility to tobacco use. It also noted that participation in promotions has the same ability to predict susceptibility to tobacco use as does use by a household member.²⁰² These proposed provisions would eliminate these items and therefore would prevent young people from wearing such items and becoming "walking advertisements." 203

Proposed § 897.34(b) would prohibit all proof of purchase sales or gifts of non-tobacco items as well as all contests, lotteries, or games of chance that are linked to the purchase of, or in consideration for the purchase of a tobacco product. Because contests and lotteries are usually conducted through the mail, the agency has not been able to devise regulations that would reduce a young person's access to contests or lotteries.

Proposed 897.34(c) would also prohibit a sponsored event from being identified with a cigarette or smokeless tobacco product brand name or any other brand identifying characteristic. Entries and teams in sponsored events are to be treated as labeling under § 897.30 and § 897.32 and would be required to be in text-only, black and white format. Any other athletic, musical, artistic, or other social or cultural event would be permitted to be sponsored in the name of the tobacco company. However, the event would not be permitted to include any brand name (alone or in conjunction with any other words), logo, symbols, motto, selling message, or any other indicia of product identification similar or identical to those used for any brand of cigarettes or smokeless tobacco products. The corporation in whose name the sponsorship would be permitted, would be required to have been in existence on January 1, 1995. This latter provision is intended to prevent manufacturers from circumventing this restriction by incorporating separately each brand that they manufacture for use in sponsorship.

Sponsorship by cigarette and smokeless tobacco companies associates tobacco use with exciting, glamorous, or fun events, such as car racing and rodeos. It provides an opportunity for what sponsorship experts call "embedded advertising" that actively creates a "friendly familiarity" between tobacco and sports enthusiasts, many of whom are children and adolescents. Those watching a sponsored event, including children and adolescents, repeatedly see the sponsor's brand or