

tions Act "so single-mindedly that it may wholly ignore other and equally important Congressional objectives. Frequently the entire scope of Congressional purpose calls for careful accommodation of one statutory scheme to another and it is not too much to demand of an administrative body that it undertake this accommodation without excessive emphasis upon its immediate task." *Southern S.S. Co. v. Labor Board*, 316 U.S. 31, 47.

31. One further contention of petitioners on this aspect warrants discussion. It is asserted that we are precluded from issuing our ruling because the Commission declined to make any recommendation to Congress in connection with the Labeling Act legislation on the ground that it had not yet studied the matter, and because the Commission still has not conducted any study or proceeding on the smoking hazard issue. The circumstances giving rise to the contention are as follows: Prior to the issuance of the Advisory Committee Report, the Commission stated in a "by direction" letter, concerning possible rule making with regard to advertising, promoting, or encouraging cigarette smoking among young people, that action would be inappropriate before the Advisory Committee's Report was available and (letter to Senator Magnuson, FCC 63-1033): "The Commission's concern is limited, of course, to advertising in the broadcast field. Other agencies may have authority to take comprehensive and effective action, if necessary or appropriate. It is, we think, obviously more desirable to treat such an important matter, if possible, on a broad, across-the-board basis rather than in piecemeal fashion." When the Advisory Committee's Report was issued and the FTC had announced its rule making proceeding concerning cigarette labeling and advertising (see App. A), the Commission on January 1964 initiated plans to coordinate its efforts with the comprehensive regulation which the FTC had proposed and with activities of other interested agencies. FCC Letter to FTC Chairman Dixon, FCC 64-29 (Jan. 15, 1964). On February 7, 1964, in "by direction" letters to Congressman Leonard Farbstein (FCC 64-100) and his constituent, Mr. Sidney Katz (FCC 64-99), then Chairman Henry answered a request to institute rule making proceedings to ban cigarette advertising by reiterating the policy statement quoted above and noting that the Commission would await the results of the FTC rule making proceeding before acting in this area. When asked to comment on S. 2429, 88th Cong., and S. 547 and S. 559, 89th Cong., the Commission reiterated its policy that it favored "across-the-board" treatment of the matter of regulating cigarette advertising and that since the FTC had undertaken a comprehensive remedial regulatory plan, the FCC had not held proceedings or undertaken studies to evaluate the various factors and considerations in this area. Comments on S. 2429, 88th Cong., FCC 64-730; comments on S. 559 and S. 547, FCC 65-96.

32. We do not believe that these facts preclude us, as a matter of law or of policy, from issuing our ruling in the present circumstances. First, as shown above, circumstances have changed. The FTC, while proceeding in other respects consistent with the 1965 Act, is not, of course, undertaking its comprehensive regulatory plan to require a health hazard announcement to accompany each cigarette commercial. Second, as also shown above, our ruling is consistent with and particularly suited to promoting the "across-the-board" objective of Congress to treat this matter through extensive campaigns to educate the public as to the hazards of smoking. Third, we did not defer to the FTC as a matter of legal authority but rather of policy. The Commission is not precluded from changing its policies so long as any new policy adopted is, like our ruling, reasonable in the circumstances. See *supra*, paragraph 14 and footnote 8. And, finally, studies by this Commission are clearly not required to evaluate the various factors and public interest considerations posed by the issue of smoking and health, particularly since Congress declared and pursued its policy of promoting smoking education campaigns. In this connection, see also the discussion below (pars. 33-34 and 60-62).

33. On July 12, 1967, HEW submitted its Report to Congress, which includes the Surgeon General's Report on Current Information on the Health Consequences of Smoking. Upon the basis of more than 2,000 research studies that have been completed and reported in the biomedical literature throughout the world in the intervening 3½ years since the Advisory Committee's Report, the Surgeon General states that there is no evidence calling into question the conclusions of the 1964 Report and, on the contrary, the research studies published since 1964 have strengthened those conclusions. The Surgeon General summarizes the present state of knowledge of these health consequences, in the judgment of the Public Health Service, as follows (Surgeon General's Report on the Health Consequences of Smoking—1967, p. 2):