



STATE OF NEW YORK
DEPARTMENT OF HEALTH

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Richard F. Daines, M.D.
Commissioner

Wendy E. Saunders
Executive Deputy Commissioner

March 6, 2009

Jeffrey L. Bewkes, President and CEO
Time Warner
1 Time Warner Center
New York, NY 10019

Dear Mr. Bewkes:

I am writing to request a personal meeting to discuss the urgent problem of smoking in your company's youth-rated films. Last February, I wrote to you and shared the health community's urgent concerns about this issue. The public consensus has only grown stronger since then.

In August 2008, the National Cancer Institute formally concluded, after a multi-year review, that exposure to on-screen smoking *causes* young people to smoke. Given this finding, smoking on screen clearly meets the standard for an "R" rating. According to the Motion Picture Association of America (MPAA), "Parents are strongly urged to find out more about R-rated motion pictures in determining their suitability for their children." Unfortunately, the MPAA's continuing failure to appropriately rate films with smoking means that parents have no meaningful warning before allowing their children to view youth-rated movies with tobacco content. Even the MPAA's announced policy of including a "tobacco descriptor" on films with smoking has been arbitrarily applied, allowing parents to assume incorrectly that films without such MPAA labels are safe for their families.

Research indicates that on-screen smoking accounts for half of new teen smoking initiation. If current smoking patterns continue, I estimate that 389,000 New York kids now under age 18 will die prematurely from smoking. Unless industry practices change, films produced and distributed by subsidiaries of mainly New York-based companies will cause the smoking deaths of 190,000 New York children and teens. This is not inevitable.

Last year when I wrote to you, I requested that you use your leadership position to advocate for the adoption and implementation of four widely-endorsed policy goals (described below), which were initially outlined to the MPAA in October 2003. By adopting these policies, which will permanently, substantially and verifiably reduce youth exposure to tobacco imagery in future films, your company and the motion picture industry can help protect an entire generation.

In response to my letter, the MPAA contacted my office and asked for a meeting. Unfortunately, the subsequent meeting with representatives of the MPAA did not resolve the issues I outlined. While I am pleased that Time Warner has implemented the "no pay-off" policy, there has been unsatisfactory progress with adopting the remaining three policy goals:

1) **Rate new smoking movies “R.”** Smoking has not yet qualified any film for the “R” rating and most MPAA-member, youth-rated films with smoking in wide release do not even carry tobacco descriptors; the policy recommendation is that any film that shows or implies tobacco use should be rated “R.” The only exceptions should be when the presentation of tobacco use clearly and unambiguously reflects the dangers and consequences of tobacco use or is necessary to represent the smoking of a real historical figure.

2) **Certify no “pay-offs.”** I applaud Time Warner for making good faith efforts to implement a no-payoffs certification. However, your leadership is needed to encourage other studios to follow your example; the policy recommendation is that producers should post a certificate in the closing credits of any film with tobacco presence declaring that nobody on the production received anything of value in exchange for tobacco depictions in the film.

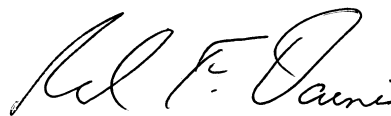
3) **Require strong anti-smoking ads.** MPAA member studios have agreed to license State of California-produced anti-tobacco spots for their youth-rated DVDs with tobacco imagery, but not for films with smoking of all ratings in all distribution channels; the policy recommendation is that studios and theaters should require a genuinely strong anti-smoking ad (not one produced by a tobacco company) to run before *any* film with any tobacco presence, in *any* distribution channel, regardless of its MPAA rating.

4) **Stop identifying tobacco brands.** Tobacco brand display continues despite the policy recommendation to stop identifying tobacco brands and eliminate brand imagery from the background of any movie scene.

This industry-wide lack of action strongly suggests that there is, as yet, no confirmed commitment among the media companies to reduce youth exposure to smoking in movies. Because of the enormous threat to the health of our youth, my Department is obliged to inform the public about the hazards of smoking on screen; plans are in place for such educational activities through the spring of 2009 and ongoing until non-intrusive measures such as the ones outlined in this letter are adopted by the industry. Adopting the policy solutions outlined in this letter will cost your company almost nothing – especially when compared to the \$8.17 billion that tobacco costs New York State each year.

As public awareness of the risks posed to young people by films with tobacco imagery continues to grow, I invite you to take advantage of this opportunity to discuss solutions to this public health threat. I will contact you in the near future to schedule a meeting at your earliest convenience.

Sincerely,



Richard F. Daines, M.D.
Commissioner of Health