Congress of the United States
Washington, DC 20515

June 9, 2005

The Honorable Glenn A. Fine
Inspector General
U. S. Department of Justice
Office of the Inspector General
950 Pennsylvania Avenue, NW, Suite 4322
Washington, DC 20530-0001

Dear Mr. Fine:

Yesterday, we asked you to investigate the recent reversal by the Justice Department in the tobacco case and the role of Associate Attorney General Robert D. McCallum in this reversal. In light of recent developments, we are writing again to ask you to extend this investigation to cover several new matters.

ABC News reported yesterday that during the trial, the Justice Department asked a witness to soften the remedies that he had recommended in earlier written testimony.[1] President and CEO of the Campaign for Tobacco-Free Kids Matthew Myers stated, "I was taken aback when I was told that the political level people, the people who were not involved in the day-to-day trial, were demanding that I change my testimony."[2] The *Washington Post* reported today that a second witness received a similar request to change his testimony.[3] These are significant allegations of political interference in the litigation, and we urge you to investigate them.

Our letter yesterday asked you to investigate the role of Mr. McCallum, a political appointee who was alleged to have pressed for the shift in the Department's position. As the *Los Angeles Times* reported, Mr. McCallum has previous connections to the tobacco industry. He was a partner at a law firm that has represented R.J. Reynolds, and he signed an amicus brief for the Justice Department in 2002 that supported the position of R.J. Reynolds in litigation on cigarette smuggling before the Supreme Court.[4]

We have since learned that two other senior political appointees in the Justice Department also have connections to the tobacco industry. These are:

- Senior Counselor to the Attorney General Raul Yanes, whose clients previously included Philip Morris and R.J. Reynolds Tobacco Company;[5] and

- Chief-of-Staff Theodore Ullyot, a former partner at Kirkland & Ellis. This firm represents Brown & Williamson Tobacco Company in the Justice Department litigation.[6]

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[1] *Government Seeks Reduced Damages in Lawsuit,* ABC News (June 8, 2005)
[2] *Id.*
[3] *Tobacco Witnesses Were Told to Ease Up,* Washington Post (June 9, 2005).
[4] *U.S. Eases Demands on Tobacco Companies*, Los Angeles Times (June 8, 2005).
[5] *Gonzales Tapes White House Lawyers As Aides*, Associated Press (Feb. 14, 2005).
[6] *Id.*

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Given these new disclosures, we urge you to expand your investigation to consider whether Mr. Yanes or Mr. Ullyot or any other Justice Department officials with ties to the tobacco industry played any role in the change in the Department's legal position.

At today's closing arguments in the case, Justice Department attorneys appeared to depart even further from the testimony of its expert that the tobacco industry should fund a $130 billion nationwide cessation program for all current smokers. Yesterday we learned that the Department is seeking only a small fraction of the funding needed for cessation. Today's testimony indicates that the Department may also be seeking to severely limit eligibility for the program, possibly excluding most existing smokers from coverage. While it is immensely difficult to ascertain exactly what the Department's new position actually is, this appears to be yet another instance of inappropriate political interference, which your investigation should examine.

Once again, thank you for your consideration of this important matter.

Sincerely,

Henry A. Waxman
Ranking Minority Member
Committee on Government Reform

Martin T. Meehan
Democratic Co-Chairman
Congressional Task Force on
Tobacco and Health