



Department of Justice Racketeering Case: The Road to the Corrective Statements

Dennis Henigan

Vice President, Legal and Regulatory Affairs

CAMPAIGN
for
TOBACCO-FREE
Kids

STARTRIBUNE
5005



**ISN'T THAT ADORABLE, HOW HE JUST ROLLS RIGHT OVER AND
PLAYS DEAD? SORT OF REMINDS ME OF OUR CUSTOMERS!!!....**

Minneapolis-St. Paul Star Tribune, June 24, 2001



Why Intervention?

- Political interference by Bush Administration
- Concerns DOJ will not seek strong remedies
- Judge Kessler finds intervenors have a protected interest in scope of remedies and “the federal government no longer adequately represents those interests.”



The Public Health Intervenorers

- American Cancer Society
- American Heart Association
- American Lung Association
- Americans for Nonsmokers Rights
- National African American Tobacco Prevention Network
- Tobacco-Free Kids Action Fund (affiliate of Campaign for Tobacco-Free Kids)



The Washington Post

Big Tobacco Lied to Public, Judge Says Industry Avoids Huge Penalties but Is Ordered to Correct False Advertising

August 18, 2006 – Henri E. Cauvin and Rob Stein

A federal judge ruled yesterday that tobacco companies have violated civil racketeering laws, concluding that cigarette makers conspired for decades to deceive the public about the dangers of their product and ordering the companies to make landmark changes in the way cigarettes are marketed.

But U.S. District Judge Gladys Kessler said that under a 2005 appellate court ruling, she could not impose billions of dollars in penalties that had been sought by the Justice Department in its civil racketeering suit against the eight defendant tobacco companies.

All she could do, she said, was try to deter future illegal acts by the companies, and to that end, she ordered them to stop using terms such as "low tar," "light" and "mild" and to undertake a massive media campaign in an effort to correct years of misrepresentations.

It is a penalty that will cost the industry millions of dollars -- a fraction of the cost of sanctions the companies faced at the outset of the case, when the Justice Department sought \$280 billion from the industry.

In the opinion, which runs 1,742 pages and was more than a year in the drafting, Kessler wrote that there is "overwhelming evidence" of most of the charges leveled at the industry -- that it conspired to violate, and indeed violated, federal racketeering laws.



The Corrective Statements Remedy

Defendants ordered to make corrective statement about five topics that were subjects of defendants' fraud:

- Adverse health effects of smoking
- Addictiveness of smoking and nicotine
- Lack of significant health benefit from smoking "low tar," "light," "ultra light," "mild," and "natural" cigarettes
- Manipulation of cigarette design to ensure optimum nicotine delivery
- Adverse health effects of exposure to secondhand smoke



Corrective Statements: Final Version

A Federal Court has ordered Altria, R.J. Reynolds Tobacco, Lorillard, and Philip Morris USA to make this statement about the health effects of smoking.

- Smoking kills, on average, 1200 Americans. Every day.
- More people die every year from smoking than from murder, AIDS, suicide, drugs, car crashes, and alcohol, **combined**.
- Smoking causes heart disease, emphysema, acute myeloid leukemia, and cancer of the mouth, esophagus, larynx, lung, stomach, kidney, bladder, and pancreas.
- Smoking also causes reduced fertility, low birth weight in newborns, and cancer of the cervix.



Corrective Statements: With Changes After Appeals

A Federal Court has ~~ruled that~~ **ordered** Altria, R.J. Reynolds Tobacco, Lorillard, and Philip Morris USA ~~deliberately deceived the American public about the health effects of smoking, and has ordered those companies to make this statement~~ **about the health effects of smoking.** ~~Here is the truth:~~

- Smoking kills, on average, 1200 Americans. Every day.
- More people die every year from smoking than from murder, AIDS, suicide, drugs, car crashes, and alcohol, **combined**.
- Smoking causes heart disease, emphysema, acute myeloid leukemia, and cancer of the mouth, esophagus, larynx, lung, stomach, kidney, bladder, and pancreas.
- Smoking also causes reduced fertility, low birth weight in newborns, and cancer of the cervix.



Summary of Court-Ordered Corrective Statements Remedy: *United States v. Philip Morris USA Inc.*

Television: Tobacco companies must purchase ads with text and voice-over containing one of the five corrective statements that must:

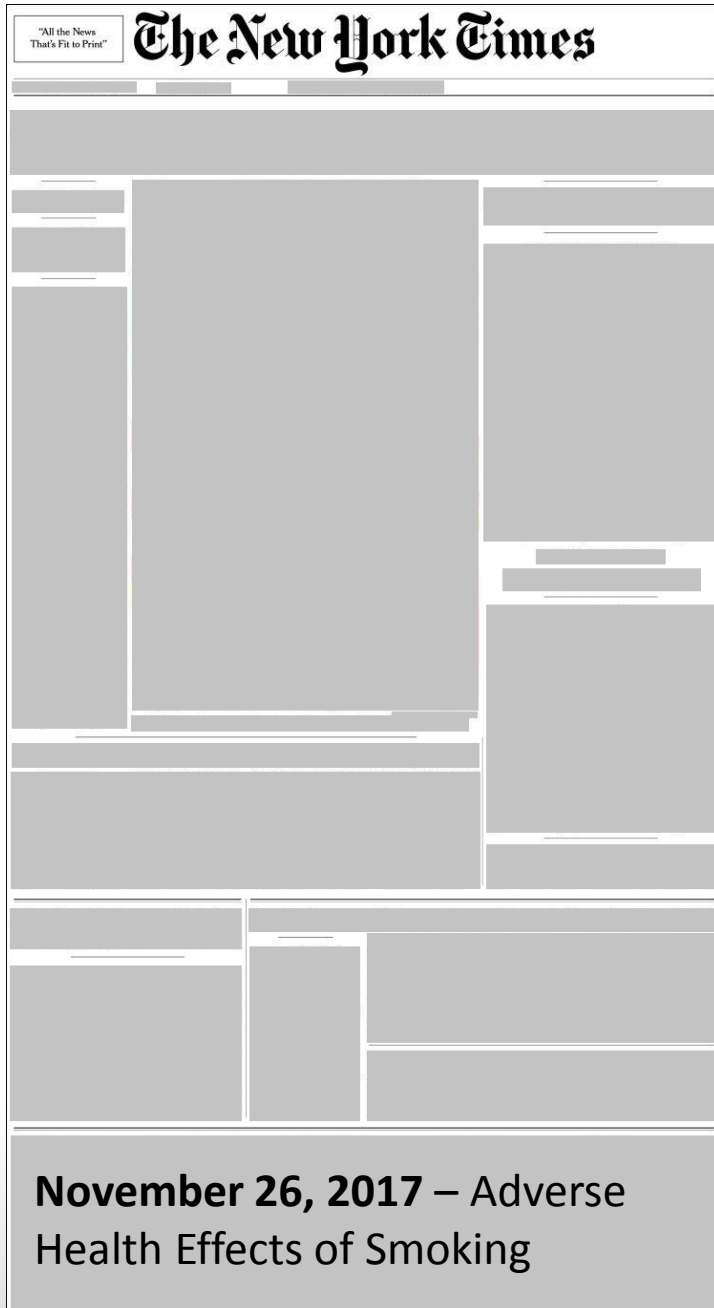
- Run five times per week for one year (52 weeks) for a total of 260 spots.
- Run Mon.-Thurs. between 7:00 p.m. and 10:00 p.m. on one of the three major networks (CBS, ABC or NBC).
- Four of the ads are 45-second spots and one is a 30-second spot.
- Began to air the week of November 26, 2017.



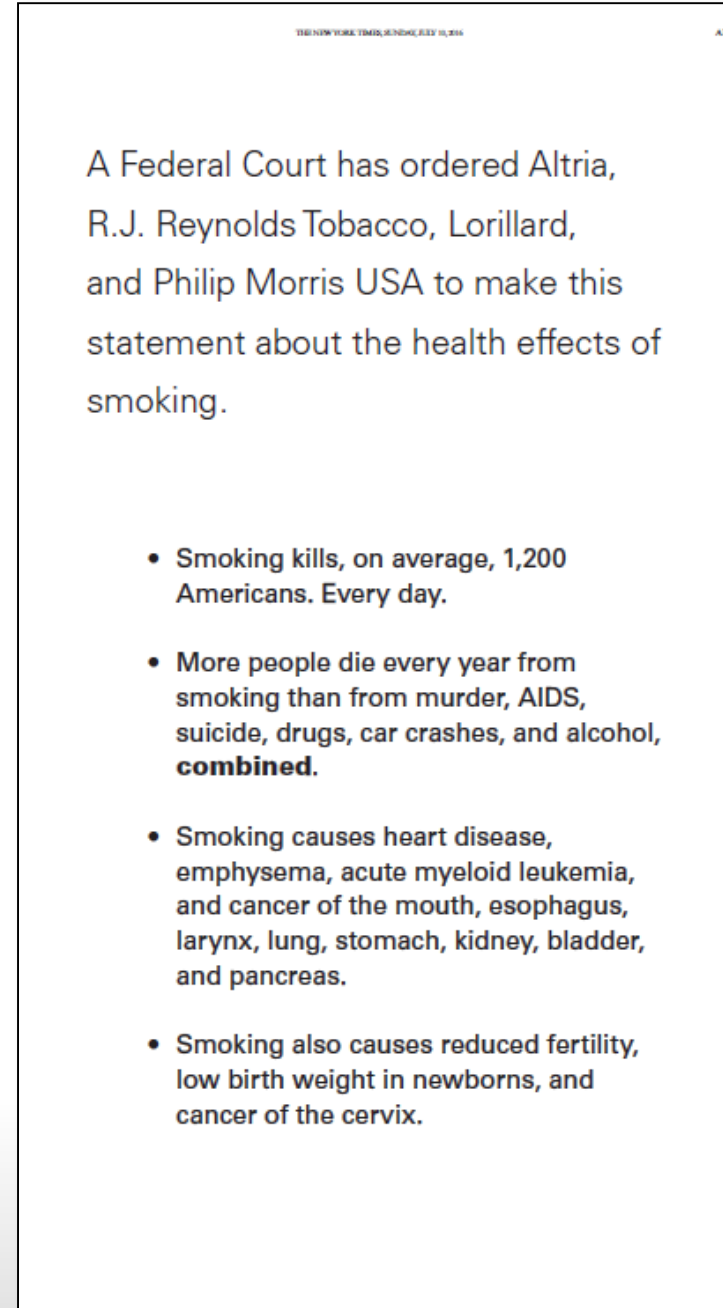
Summary of Court-Ordered Corrective Statements Remedy: *United States v. Philip Morris USA Inc.*

Newspapers: Tobacco companies must purchase five full-page ads in the first section of the Sunday edition of 50+ newspapers specified by the court. Each newspaper ad contained one of the five corrective statements according to the following schedule:

- **November 26, 2017** – Adverse Health Effects of Smoking
- **December 10, 2017** – Addictiveness of Smoking and Nicotine
- **January 7, 2018** – Lack of Significant Health Benefit from Smoking “Low Tar,” “Light,” “Ultra Light,” “Mild,” and “Natural” Cigarettes
- **February 4, 2018** – Manipulation of Cigarette Design and Composition to Ensure Optimum Nicotine Delivery
- **March 4, 2018** – Adverse Health Effects of Exposure to Secondhand Smoke



November 26, 2017 – Adverse Health Effects of Smoking



A Federal Court has ordered Altria, R.J. Reynolds Tobacco, Lorillard, and Philip Morris USA to make this statement about the health effects of smoking.

- Smoking kills, on average, 1,200 Americans. Every day.
- More people die every year from smoking than from murder, AIDS, suicide, drugs, car crashes, and alcohol, **combined**.
- Smoking causes heart disease, emphysema, acute myeloid leukemia, and cancer of the mouth, esophagus, larynx, lung, stomach, kidney, bladder, and pancreas.
- Smoking also causes reduced fertility, low birth weight in newborns, and cancer of the cervix.

Tobacco Companies' Messaging on Corrective Statements



R.J. Reynolds Tobacco Company statement on court-ordered corrective statements

On Oct. 5, 2017, the U.S. District Court ordered the corrective statements about cigarettes and smoking to be published on television and newspapers starting on Nov. 26, 2017.

"R.J. Reynolds is committed to working to address and resolve many of the controversial issues relating to the use of tobacco," said Martin L. Holton, executive vice president of legal and external affairs and general counsel of Reynolds American Inc., R.J. Reynolds's indirect parent company. "R.J. Reynolds will fully meet its obligations under this order as part of its commitment of being a responsible company operating in a controversial industry.

The tobacco industry today is very different than it was when this lawsuit was filed in 1999. More than a decade ago, Reynolds American and its operating companies began a journey to transform the tobacco industry. Today, the industry is working with the FDA, other regulators and some in the public health community more than ever before to create a regulated marketplace that encourages innovation while reducing the harm from smoking.

Inc. earlier this year. Neither company is a party to the litigation or has any obligations under the order.

###



Press Release

Companies Look to the Future as Long-Running Federal Lawsuit Nears End

RICHMOND, Va.--(BUSINESS WIRE)--Oct. 2, 2017-- Altria Group, Inc. ("Altria") and Philip Morris USA, Inc. announced today that they and other companies have agreed on the timing of court-ordered communications about cigarettes and smoking on television and in newspapers. The

Companies Look to the Future as Long-Running Federal Lawsuit Nears End

markedly since the lawsuit was filed.

The 1998 tobacco settlement agreements with the state Attorneys General led to significant industry changes. For example, the settlement agreement banned cigarette billboards, stadium advertisements and brand-name merchandise.

Restrictions became more extensive in 2009 when Congress gave the U.S. Food and Drug Administration broad regulatory authority over nearly every aspect of tobacco product manufacturing and marketing.

This industry has changed dramatically over the last twenty years, including becoming regulated by the FDA, which we supported. We're focused on the future and, with FDA in place, working to develop less risky tobacco products.

In August 2006, the court entered judgment in favor of the government on its remaining claim. The court issued findings related to the companies' conduct and a permanent injunction that is in place today.

As part of the injunction, the court ordered the defendants to make certain "corrective statements" related to issues raised in the litigation. Since 2006, the parties have vigorously litigated aspects of the injunction, including the content of the corrective statements.

As part of the injunction, the court ordered the defendants to make certain "corrective statements" related to issues raised in the litigation. Since 2006, the parties have vigorously litigated aspects of the injunction, including the content of the corrective statements.

Altria Client Services
Investor Relations
804-484-8222
or
Media Relations
804-484-8897



Dennis Henigan
dhenigan@tobaccofreekids.org