

# Tobacco Companies Must Run Court-Ordered Ads

## Statement of the American Cancer Society and other groups

*Statement of the American Cancer Society, American Heart Association, American Lung Association, Americans for Nonsmokers' Rights, National African American Tobacco Prevention Network and the Tobacco-Free Kids Action Fund (public health intervenors in the case)*

WASHINGTON, D.C. – Starting Nov. 26, the major U.S. tobacco companies must run court-ordered newspaper and television advertisements that tell the American public the truth about the deadly consequences of smoking and secondhand smoke, as well as the companies' intentional design of cigarettes to make them more addictive.

The ads are the culmination of a long-running lawsuit the U.S. Department of Justice filed against the tobacco companies in 1999. A federal court in 2006 ordered the tobacco companies to make these "corrective statements" after finding that they had violated civil racketeering laws (RICO) and engaged in a decades-long conspiracy to deceive the American public about the health effects of smoking and how they marketed to children. The ads will finally run after 11 years of appeals by the tobacco companies aimed at delaying and weakening them.

View the [full text of the corrective statements](#) and [details on when and where they will run](#).

Make no mistake: The tobacco companies are not running these ads voluntarily or because of a legal settlement. They were ordered to do so by a federal court that found they engaged in massive wrongdoing that has resulted in "a staggering number of deaths per year, an immeasurable amount of human suffering and economic loss, and a profound burden on our national health care system," as U.S. District Judge Gladys Kessler wrote in [her 2006 final opinion](#).

This case and the corrective statements are timely reminders both that tobacco use remains an enormous public health problem in the United States – it is the No. 1 cause of preventable disease and death – and that tobacco's horrific toll stems directly from the harmful practices of the tobacco industry.

## Tobacco Companies Haven't Changed

Despite their claims to the contrary, the tobacco companies have not changed. Their continuing aversion to the truth is clear from how hard they fought the corrective statements, going so far as to seek removal of the phrase "here is the truth." Their main business is still to sell cigarettes and other tobacco products, and [the Federal Trade Commission reports](#) they spend \$8.2 billion a year to market cigarettes in the U.S., the bulk of it spent on price discounts that research has found increases youth smoking. The tobacco company defendants in this case sell the three most popular cigarette brands among youth, which are Philip Morris' Marlboro and R.J. Reynolds' Newport and Camel.

The tobacco companies also continue to attack efforts to reduce smoking and other tobacco use. Last year, for example, Philip Morris and R.J. Reynolds spent more than \$90 million against three ballot initiatives to increase state cigarette taxes. As Judge Kessler concluded in her 2006 opinion, "Defendants could significantly reduce adolescent smoking by withdrawing their opposition to tax increases and stopping all price related marketing..." Instead, the tobacco companies have done the exact opposite. In her opinion, Judge Kessler found that "there is a likelihood of present and future violations of RICO." She added, "The evidence in this case clearly establishes that Defendants have not ceased engaging in unlawful activity."

## Bold Action Needed to Win Fight Against Tobacco

Despite tremendous progress in reducing smoking, tobacco use still kills more than 480,000 Americans and costs our nation about \$170 billion in health care expenses each year. The corrective statements are an important step forward, but we also need bold corrective action to accelerate progress and win the fight against tobacco.

At the federal level, the Food and Drug Administration (FDA) must fully utilize the authority it received under a 2009 law to regulate all tobacco products. In particular, the FDA should take several actions that can make an enormous difference in reducing smoking and other tobacco use. It should implement its plan to limit nicotine in cigarettes to minimally addictive or non-addictive levels, and it should include other combustible products. It should require graphic warnings covering at least half of cigarette packs, as the 2009 law mandated. And it should prohibit the use of menthol in cigarettes and flavors in other products, which have been shown to promote youth use of these products. In addition, Congress must reject pending proposals that would weaken FDA oversight of tobacco products and cut funding for the Centers for Disease Control and Prevention's critical tobacco prevention and cessation programs.

At the state and local levels, elected officials should support strong policies including: significant tobacco tax increases; comprehensive smoke-free laws; increasing the legal sale age for tobacco to 21; coverage for comprehensive quit-smoking benefits; well-funded prevention and cessation programs; and, in the absence of FDA action, prohibitions and restrictions on flavored tobacco products, including menthol-flavored cigarettes.

It is within our reach to win the fight against tobacco, but only if policymakers at all levels stand up to the tobacco industry and put the nation's kids and health first.

### **Background on the Case and Corrective Statements**

Judge Kessler issued her verdict against the major tobacco companies on August 17, 2006—a decision that has repeatedly been affirmed by the U.S. Court of Appeals, as recently as last year. In a 1,683-page opinion, she detailed how the tobacco companies “have marketed and sold their lethal products with zeal, with deception, with a singled-minded focus on their financial success, and without regard for the human tragedy or social costs that success exacted.”

Judge Kessler ordered the tobacco companies to publish corrective statements on five topics about which they had deliberately deceived the public:

- the adverse health effects of smoking;
- the addictiveness of smoking and nicotine;
- the lack of significant health benefit from smoking “low tar,” “light,” “ultra light,” “mild” and “natural” cigarettes (products that have been deceptively marketed as less harmful than regular cigarettes);
- the manipulation of cigarette design and composition to ensure optimum nicotine delivery; and
- the adverse health effects of exposure to secondhand smoke.

Starting November 26, the tobacco companies must place full-page print ads in the Sunday editions of [more than 50 newspapers](#) specified by the court (newspapers without a Sunday edition must run the ads on the previous Friday). Five ads – one on each of the corrective statements – will be published over a four-month period. The ads must also appear on the newspapers' websites.

The [TV ads](#) will air on the major networks for one year, Monday through Thursday, between 7 p.m. and 10 p.m. The tobacco companies must also publish the corrective statements on their websites and cigarette packs, but the implementation details are still being finalized.

Tobacco company defendants in the case include Altria, its Philip Morris USA subsidiary and R.J. Reynolds.

Our six public health organizations – the American Cancer Society, American Heart Association, American Lung Association, Americans for Nonsmokers' Rights, National African American Tobacco Prevention Network and the Tobacco-Free Kids Action Fund (a 501c4 affiliate of the Campaign for Tobacco-Free Kids) – joined the case as intervenors in 2005 to ensure the public health interests were effectively presented to the court.

The public health intervenors are represented by the Washington, D.C., public interest law firm of Meyer Glitzenstein & Eubanks.

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