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Starting this Week, Tobacco Companies Must Run Court-Ordered Ads Telling the Truth about Their Lethal Products

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)

November 20, 2017

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.

Court-Ordered Corrective Statements Remedy: Implementation Details

United States v. Philip Morris USA Inc.

In 2006, U.S. District Judge Gladys Kessler found the major tobacco companies guilty of violating civil racketeering laws (RICO) and engaging in a decades-long conspiracy to deceive the American public about the health effects of smoking and their marketing to children. Among her remedies, Judge Kessler ordered the tobacco companies to publish [corrective statements](#) about the adverse health effects of smoking and secondhand smoke and other topics. The companies must disseminate the corrective statements through television and newspaper advertising, their websites and cigarette packaging.

After 11 years of appeals by the tobacco companies to weaken and delay the corrective statements, a federal judge issued a final [order](#) directing them to begin running the corrective statement ads in newspapers on Sunday, November 26, 2017, with the television ads beginning the following day. Implementation details are still being finalized for the company websites and cigarette packs.

Television: The Defendant tobacco companies will purchase television ads with text and voice-over containing one of the five corrective statements.

- The ads will run five times per week for one year (52 weeks) for a total of 260 spots.
- The ads can run Monday through Thursday between 7:00 p.m. and 10:00 p.m. on one of the three major networks (CBS, ABC or NBC). Each month, up to one-third of the ads may be placed during programs on other networks or channels, provided that program has an overall audience at least as large as a program on one of the three major networks during the assigned time slots.
- To accommodate the length of the statements, four of the ads will be 45-second spots and one will be a 30-second spot.
- The spots will begin to air the week of November 26, 2017.

Newspapers: The Defendant tobacco companies will purchase five full-page ads in the first section of the Sunday edition of the 50+ newspapers specified by the Court. Each newspaper ad will contain one of the five corrective statements. The specific schedule is as follows:

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

For any newspaper that does not publish on a required Sunday, the corrective statement will appear in the first section of the Friday edition immediately preceding that Sunday. In Spanish language papers, the statements will appear in Spanish. The Defendants will also run the corrective statement as an advertisement on the website of each newspaper at approximately the same time as the print versions.

Newspapers for Corrective Statements Ads

National and regional papers

Atlanta Journal-Constitution
Boston Globe
Charlotte Observer
Chicago Sun-Times
Chicago Tribune
Dallas Morning News
Houston Chronicle
Los Angeles Times
Miami Herald
Daily News (N.Y.)
The New York Times
Philadelphia Inquirer
Richmond Times-Dispatch
San Francisco Chronicle
Tampa Bay Times
USA Today
Wall Street Journal
Washington Post
Star-Ledger (N.J.)
Detroit Free Press
Commercial Appeal (Memphis)
Baltimore Sun
Times-Picayune (New Orleans)
Clarion-Ledger (Jackson, MS)
Birmingham News
News Journal (Wilmington, DE)
Post & Courier (Charleston, SC)

Newspapers published by Eastern Group Publications (Hispanic-owned bilingual)—Los Angeles

Eastside Sun
Northeast Sun
Mexican American Sun
Bell Gardens Sun
Commerce Comet
Montebello Comet
Vernon Sun

Hispanic media

San Francisco La Oferta Review
Chicago Lawndale News
La Voz de Houston

African-American/community papers

Cincinnati Herald
The Northern Kentucky Herald

The Dayton Defender
Black Chronicle (OK)
Skanner (Portland, OR and Seattle)
Milwaukee Courier
Arizona Informant
Little Rock Sun Community Newspaper
Denver Weekly News
Inner City News (CT)
Gary Crusader (IN)
Louisville Defender
Insight News (MN)
St. Louis American
Omaha Star
Call & Post (OH)

Tobacco Companies to Begin Issuing Court-Ordered Statements in Tobacco Racketeering Suit

 [justice.gov/opa/pr/tobacco-companies-begin-issuing-court-ordered-statements-tobacco-racketeering-suit](https://www.justice.gov/opa/pr/tobacco-companies-begin-issuing-court-ordered-statements-tobacco-racketeering-suit)

Several of America's major cigarette manufacturers will begin issuing court-ordered "corrective statements" in major daily newspapers and on television beginning Friday, November 24, 2017. The statements will clarify for the public the effects of tobacco use and will appear in full-page print ads in the editions of more than 50 newspapers, including the Wall Street Journal, USA Today, New York Times, and Washington Post over four months. The same statements will also appear in television markets across the country beginning the following week for the next year.

Following a nine-month civil racketeering trial, the U.S. District Court for the District of Columbia ordered the tobacco companies, including Altria, its Philip Morris USA subsidiary, and R.J. Reynolds Tobacco, to issue the corrective statements as part of a permanent injunction in 2006 designed to "prevent and restrain" further deception of the American people regarding tobacco use. Multiple appeals following the 2006 permanent injunction delayed issuance of the statements until now.

In its 2006 permanent injunction, the district court found that "Defendants lied, misrepresented, and deceived the American public," on a host of topics. These topics included:

- Fraudulently distorting and minimizing the health effects of smoking;
- Falsely denying and minimizing the addictiveness of smoking and nicotine;
- Designing cigarettes to create addiction;
- Fraudulently presenting light/low-tar cigarettes as less dangerous;
- Falsely denying marketing to youth; and
- Falsely denying the hazards of secondhand smoke.

The court concluded that, absent court action, the tobacco companies were "reasonably likely" to continue engaging in this behavior and imposed a permanent injunction to prevent future violations. Among other things, this injunction requires the tobacco companies to issue these "corrective statements" in multiple mediums: newspaper, television, company websites, and package "onserts." Another placement for the statements, at retail point-of-sale, was set aside on appeal by the D.C. Circuit, and whether to reinstate it remains pending before the district court.

Numerous Justice Department attorneys have played a role in this case over the years. In the most recent phase of the litigation, the United States was represented by Trial Attorneys Daniel K. Crane-Hirsch and John (Josh) Burke of the Justice Department's Consumer Protection Branch; Linda McMahon of the Commercial Litigation Branch; and Melissa Patterson, Alisa Klein, Mark Stern, and Lewis Yelin of the Civil Appellate Staff.

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 – joined the Department of Justice case as intervenors in 2005.

Tobacco ads return to broadcast TV to warn consumers of cigarette risks

[journalnow.com/business/tobacco-ads-return-to-broadcast-tv-to-warn-consumers-of/article_5a89ce72-2a56-5a9f-b082-abd20cfe3c58.html](https://www.journalnow.com/business/tobacco-ads-return-to-broadcast-tv-to-warn-consumers-of/article_5a89ce72-2a56-5a9f-b082-abd20cfe3c58.html)

Richard
Craver

11/26/2017

Cigarette advertising returns to network television today for the first time in two generations.

Instead of marketing Marlboro, Newport or Winston, however, the 30- to 45-second spot ads on the ABC, CBS and NBC television networks feature [federal court-ordered corrective statements](#) about the dangers of smoking combustible cigarettes.

The five broadcast TV ads will run weekly for an entire year, with the manufacturers having the option of when the ads run between 7 and 10 p.m. and between Mondays and Thursdays.

Full-page newspaper ads will run in major U.S. metropolitan areas, including Charlotte in North Carolina. The newspaper ads will appear in the front section of the Sunday edition on four additional dates: Sunday, Dec. 10, Jan. 7, Feb. 4 and March 4.

The ads are projected to cost several millions of dollars for each manufacturer. R.J. Reynolds Tobacco Co. has said that compliance could cost \$20 million.

Each statement will begin: "A federal court has ordered Altria, R.J. Reynolds Tobacco, Lorillard and Philip Morris USA to make this statement ..." The manufacturers will take turns being the first listed in the statement.

The agreement settles an 18-year-old federal lawsuit about the marketing of the manufacturers and their various affiliates and acquisitions going back to the 1950s.

However, as the ads debut, it remains unclear whether the statements will have a significant impact on persuading smokers to quit and non-smokers to not begin. The question is whether the ads will carry little weight in a society where the dangers of smoking have been known and accepted by adult smokers for decades.

"This case and the corrective statements are timely reminders both that tobacco use remains an enormous public health problem in the United States," said a coalition of public-health and anti-tobacco advocacy groups.

"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."

A similar argument has been made against expectations of a game-changing impact coming from [proposed graphic warnings labels](#) on cigarette advertising, such as [cadavers and diseased lungs](#).

"The legal use of corrective advertising transcends its impact," said John Sweeney, a marketing professor at UNC Chapel Hill. "It holds advertisers to a standard of truth-in-advertising no matter the success or failure of a particular corrective campaign."

Sweeney said "the issue of tobacco has been largely decided in the court of public opinion. I believe smokers will tune out the campaign and the reputations of the tobacco companies are fixed."

That reality, Sweeney said, "does not make the corrective campaign a waste."

"There is always a new generation of young non-smokers who may be affected when they make the critical decision to smoke."

Legislative and legal background

In 1970, Congress banned cigarette advertising from radio and television, a ripple effect from the Surgeon General's warning about the public health risk of consuming combustible cigarettes.

The 1998 Master Settlement Agreement between 46 state attorneys general, including North Carolina, and the major U.S. tobacco manufacturers led to significant changes that included banning cigarette billboards, stadium advertisements and brand-name merchandise.

Those changes contributed to R.J. Reynolds Tobacco Co. exiting its 32-year sponsorship of NASCAR's Winston Cup after the 2003 season to reduce marketing expenses.

At that time, the Winston-Salem Journal cited several causes for the decision: the slumping economy in 2001-03; higher state excise taxes affecting profits; societal changes spurred by anti-tobacco groups; expensive legal battles that include the MSA's tighter restrictions on marketing options; a changing corporate culture; and NASCAR's expanding television package.

However, some critics said the [MSA did not have the overall impact](#) they envisioned because states diverted billions of dollars from covering smoking-related healthcare expenses to their general funds.

In 2006, U.S. District Judge Gladys Kessler ruled the manufacturers had concealed the dangers of smoking for decades. The U.S. Justice Department filed a civil case in 1999 under the federal Racketeer Influenced and Corrupt Organizations law, or RICO.

A federal appeals court ruled in May 2015 that proposed federal corrective statements on cigarette advertising exceeded their legal reach with some parts of their language, particularly that tobacco manufacturers lied to consumers.

In April 2017, a federal appeals court reaffirmed that the manufacturers are required to include corrective warning statements.

However, the U.S. Court of Appeals for the District of Columbia Circuit also ruled the statements cannot include the phrase that Kessler required: "Here is the truth."

Assessing the impact

Twenty percent of adult Americans, or nearly 49 million, used some form of tobacco product in 2015, federal health care officials said in a report Nov. 12.

However, the report from the Centers for Disease Control and Prevention and Food and Drug Administration also stirred again the public-health debate of what is a tobacco product, particularly when it comes to electronic cigarettes and vaporizers.

"I think that they serve as a reminder to users of cigarettes and the public that cigarettes are deadly and still the single most preventable cause of death," said Scott Ballin, past chairman of Coalition of Science or Health.

"Yet they tend to re-enforce the notion that nothing has changed when much has changed. What has changed is that we now have an FDA that is considering new strategies for dealing with how we approach the problem.

"This includes giving smokers significantly lower risk, regulated, alternative products to help them get off the deadly cigarette habit."

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

However, tobacco manufacturers continue to spend more than \$8 billion annually on the marketing avenues they are allowed to pursue, which include discounts to retailers.

The fact that tobacco manufacturers continue to spend billions of dollars on their products, as well as the

siphoning off of the MSA funding, remains a particularly prickly point for anti-tobacco advocates despite the appearance of the court-mandated statements.

“Despite their claims to the contrary, the tobacco companies have not changed,” the public-health coalition said. “Their continuing aversion to the truth is clear from how hard they fought the corrective statements.

“Their main business is still to sell cigarettes and other tobacco products ... the bulk of it spent on price discounts that research has found increases youth smoking.”

Last week, the American Medical Association said the debut of the statements has spurred the group to set a new anti-tobacco policy that emphasizes “educating the public and policymakers” about the background for the need for the statements.

That includes encouraging state and medical specialty societies to work with public health organizations to help identify public policies that may have been directly or indirectly-influenced by tobacco companies, and encourage lawmakers to reject any potential tobacco industry influences on future policy.

“We will do everything we can to ensure the public is aware of the negative health consequences associated with tobacco products and help deter more people from using them,” said Dr. Albert Osbahr III, an association board member.

David Sweanor, an adjunct law professor at the University of Ottawa and the author of several electronic-cigarette studies, said “there is a recognition in social science that such messages (corrective statements) need to be paired with clear, actionable steps people can take to deal with the danger.”

“The scary messages on risks, like the ones about industry misbehavior, will likely increase dissonance among people who smoke,” Sweanor said.

“This situation is aggravated by the lack of other good information on issues of relative risk from government health bodies.”

For example, Sweanor said that “despite the ground-breaking announcement of FDA Commissioner Scott Gottlieb in late July on the importance of the continuum of risk (with tobacco products), there has been no follow-through; no concerted effort to inform people who smoke of the range of options for giving up cigarettes.”

“For instance, these agencies continue to demonize vaping and smokeless tobacco rather than point out to people who smoke that cigarettes are massively more hazardous.

“If the goal is to say, ‘tobacco companies misbehaved,’ these messages are fine,” Sweanor said.

“If the goal is to reduce the carnage resulting from that misbehavior, these messages and the overall approach of government health bodies comes up tragically short.”

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

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.

Addictiveness of Smoking and Nicotine

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

- Smoking is highly addictive. Nicotine is the addictive drug in tobacco.
- Cigarette companies intentionally designed cigarettes with enough nicotine to create and sustain addiction.
- It's not easy to quit.
- When you smoke, the nicotine actually changes the brain – that's why quitting is so hard.

Lack of Significant Health Benefit from Smoking “Low Tar,” “Light,” “Ultra Light,” “Mild,” and “Natural” Cigarettes

A Federal Court has ordered Altria, R.J. Reynolds Tobacco, Lorillard, and Philip Morris USA to make this statement about low tar and light cigarettes being as harmful as regular cigarettes.

- Many smokers switch to low tar and light cigarettes rather than quitting because they think low tar and light cigarettes are less harmful. They are **not**.
- “Low tar” and “light” cigarette smokers inhale essentially the same amount of tar and nicotine as they would from regular cigarettes.
- **All** cigarettes cause cancer, lung disease, heart attacks, and premature death – lights, low tar, ultra lights, and naturals. There is no safe cigarette.

Manipulation of Cigarette Design and Composition to Ensure Optimum Nicotine Delivery

A Federal Court has ordered Altria, R.J. Reynolds Tobacco, Lorillard, and Philip Morris USA to make this statement about designing cigarettes to enhance the delivery of nicotine.

- Altria, R.J. Reynolds Tobacco, Lorillard, and Philip Morris USA intentionally designed cigarettes to make them more addictive.
- Cigarette companies control the impact and delivery of nicotine in many ways, including designing filters and selecting cigarette paper to maximize the ingestion of nicotine, adding ammonia to make the cigarette taste less harsh, and controlling the physical and chemical make-up of the tobacco blend.
- When you smoke, the nicotine actually changes the brain – that’s why quitting is so hard.

Adverse Health Effects of Exposure to Secondhand Smoke

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

- Secondhand smoke kills over 38,000 Americans each year.
- Secondhand smoke causes lung cancer and coronary heart disease in adults who do **not** smoke.
- Children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory infections, ear problems, severe asthma, and reduced lung function.
- There is no safe level of exposure to secondhand smoke.