



FEDERAL GOVERNMENT SUES TOBACCO INDUSTRY

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The federal government is accusing six companies in the tobacco industry of a conspiracy to mislead the public, including the marketing of cigarettes to youth.

If the government wins, the tobacco companies could be forced to pay an estimated \$280 billion, plus make changes to their marketing strategies.

Some say the tobacco companies would be put out of business.

“None of these companies have \$280 billion,” said William Ohlemeyer, vice president and associate general counsel for Altria, the parent company of Phillip Morris.

The lawsuit, initially filed in 1999, is scheduled to go to trial on Sept. 21 before U.S. District Court Judge Gladys Kessler in Washington, D.C.

And its history runs deep.

Tobacco lawsuits

In 1999, nearly every state filed lawsuits against the tobacco industry, saying companies committed fraud and therefore owe billions of dollars the state spent on medical bills for its citizens.

The tobacco industry and the 46 states settled the suit on Sept. 22, 1999 with the Master Settlement Agreement that forced the tobacco companies to pay the states roughly \$206 billion and to change their marketing practices.

Additionally, the settlement forced the tobacco companies to finance a \$1.5 billion anti-smoking campaign.

The Justice Department then decided to follow in the states' footsteps -- but this time it wanted to recover federal health care costs.

The government's case originally sought reimbursement for medical expenses caused by tobacco-related diseases. Judge Kessler dismissed those parts of the case but allowed the government to bring the lawsuit under RICO, the Racketeer Influenced Corrupt Organizations Act.

What is RICO?

RICO is a law that allows the government to seek civil penalties against organizations that are involved in a conspiracy that include violations of federal laws.

The government's case says that the six defendants (the tobacco companies) committed fraud starting in 1953, when the companies allegedly met in the Plaza Hotel in New York City and agreed to launch a public relations campaign to mislead the public.

The campaign's alleged goal was to counter the mounting scientific evidence that smoking had serious health consequences, despite the tobacco companies' research that proved otherwise.

The Justice Department specifically alleges that the tobacco companies decided not to compete against each other on health claims, misled the public on the health dangers of second hand smoke, manipulated nicotine levels, misled the public to believe light cigarettes are less dangerous, and targeted youth in their marketing and promotion campaigns.

Marketing to youth?

Youth-focused marketing is a large part of the case, which alleges that the tobacco companies continue to advertise in youth-targeted publications, market their product in highly populated youth areas, such as convenience stores, and use strategic pricing to attract younger customers.

The tobacco companies said "they would not target youth, at the same time, internal documents said they did target youth," said Robert Kline, director of the tobacco control legal clinic.

The tobacco companies, such as Altria and R.J. Reynolds, deny this claim. They say that not only do they not employ tactical youth marketing strategies, but they also promote and implement anti-smoking programs in schools across the country.

"Our company does not market our products to anybody underage. We do not want children to smoke," said Seth Moskowitz, a spokesman for R.J. Reynolds Tobacco Co. "All the allegations that we have marketed to people underage are untrue."

Those knowledgeable about the case say expert witnesses will testify that the tobacco companies do target youth smokers. The Justice Department currently has about 50 million pages to present at trial.

Possible outcomes

In its case, the Justice Department wants the tobacco companies to give up their "ill-gotten" profits of roughly \$280 billion dollars, a court remedy called disgorgement.

The government also wants major changes to be made in marketing, manufacturing, labeling and the sale of tobacco products. The tobacco industry says that these changes have already been made under the Master Settlement Agreement.

Nonprofit organizations, such as Campaign for Tobacco Free Kids, believe more can be done to improve the packaging and marketing of cigarettes.

Marketing changes could include limiting advertisements in retail stores, eliminating colors and images on the cigarette packages, requiring companies to adhere to ID checks and requiring health information on packages.

"The [Master Settlement Agreement] is considered to have reached about 20 percent of advertisement and promotional activity of the industry, but it was limited in its impact," said William Corr, executive director of Campaign for Tobacco Free Kids. "Young people have the greatest stake in this because they are the targets. They are, in the industry's own words, the replacement smokers" for those who have died from tobacco-related disease.

--By Deirdre Erin Murphy, Online NewsHour

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