Government case exposed conspiracy of US tobacco giants

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Following pressure from Bush administration officials, government lawyers have argued US tobacco companies should pay only $10 billion over five years to fund a program to help addicted smokers quit. This is sharply down from what the government's own witnesses recommended, and a fraction of the estimated $130 billion over 25 years that would be required to target the 45 million existing smokers in the US. (See "Bush's gift to big tobacco")

The government case was filed against the six largest tobacco companies in the US, which control 99 percent of the market: Philip Morris (Marlboro and others), RJ Reynolds (Camel and others), Brown & Williamson (later acquired by RJ Reynolds), Lorillard Tobacco (Newport), The Liggett Group and the American Tobacco Company.

According to the government filing before the US District Court for the District of Columbia, in the case of *United States of America vs. Philip Morris, Inc., et al.*, the defendants engaged in a criminal conspiracy that sought to cover up the dangers of smoking; mislead the public on the dangers of secondhand smoke; cover up the addictiveness of nicotine; deceptively market "light" cigarettes as less harmful than regular cigarettes; deliberately target young people to recruit new smokers; and deliberately refrain from producing safer, less addictive cigarettes.

The government case states that in December 1953, the companies met at the Plaza Hotel in New York City to discuss a coordinated industry response to recent studies documenting the health hazards of smoking, including lung cancer. The companies allegedly conspired "to preserve and expand the market for cigarettes and to maximize the Cigarette Companies' profits. To achieve this goal, defendants' strategy was to respond to scientific evidence of the adverse health consequences of cigarette smoking with fraud and deception" by seeking "to deny that smoking caused disease and to maintain that whether smoking caused disease was an 'open question,' despite having actual knowledge that smoking did cause disease."

The next month, the companies issued a joint statement, published in newspapers across the country, seeking to discredit scientific studies that connected smoking to various health risks. According to the government, they continued to pursue a policy of deliberate deception for decades, despite mounting evidence of the dangers of smoking.

Much of the government's case is based on testimony from former researchers or executives of the tobacco companies who have since left their old employers and spoken out about their past activities. The government lawyers also exposed internal documents outlining the companies' policies on marketing and scientific research.

To support the claim that the companies deliberately covered up the dangers of smoking, the government cited the testimony of Jeffrey Wigand, the former vice president of research and development at Brown and Williamson (from 1989 to 1993), who testified that he was pressured by company lawyers to interpret scientific studies in a way that supported the company's public position on the harmlessness of smoking. "I was instructed that the evidence in the public health domain had not satisfactorily proven causation," he said. Wigand said that company lawyers "vetted" scientific documents to remove "contentious" information, including "anything that could be discovered during any kind of liability action and then used against the company in that litigation."

William Farone, Philip Morris's director of applied research from 1976 to 1984, testified, "The tobacco industry recognized, even during the time that the companies were publicly denying that the smoke from cigarettes caused disease, that the evidence linking smoking and disease was sufficient scientifically that inhaling cigarette smoke was a cause of disease." Farone

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said that the tobacco companies joined together to form the Tobacco Institute, which sought to amplify the industry's public relations presence by "not only failing to aid research into questions of smoking and disease, but also increasing the effort to simultaneously deny or distort legitimate science."

On the question of the addictiveness of nicotine, which the cigarette companies all denied for decades, Wigand said: "I had regular conversations with officers of the company [Brown & Williams].... They often stated at strategic planning meetings and product development review meetings that 'we are in the nicotine delivery business and tar is the negative baggage.' " He said that his company deliberately "manipulated nicotine levels to produce a cigarette that would consistently deliver the amount of nicotine necessary to keep smokers addicted."

Dr. Victor Noble, an associate senior scientist at Philip Morris from 1980 to 1984, said that the company sought to cover up his findings on the addictiveness of nicotine in rats. In 1984, according to Noble, Philip Morris shut down his lab one afternoon without notice. His supervisor told him "to shut the equipment off; terminate the experiments, even if they were ongoing—which they were; and to kill all the animals.... The response that we got was that the work we were doing was inconsistent with the industry's position in litigation." Within a week, he said, his entire lab had been cleared out, and all that was left "were sliced wires sticking out of the ceiling where they had been cut."

An RJ Reynolds document from 1973 outlines several methods by which nicotine content could be manipulated, presumably to allow for the manufacture of cigarettes with an optimal level of addictiveness.

In the 1960s, as more and more people became aware of the dangers of smoking, the cigarette companies began to market "light" or "low tar/low nicotine" cigarettes. The filing states that the companies "deliberately designed these cigarettes in a way that, as actually smoked by most cigarette smokers, they typically do not actually deliver less tar or nicotine."

Several different sources provide evidence that the companies designed filters with tiny ventilation holes. When used on standard smoking machine tests, the filters would allow additional air to mix with the cigarette smoke, yielding lower levels of nicotine in the test conclusions. However, these holes would be routinely covered up by the fingers of smokers, thus negating their effect and resulting in a cigarette equally toxic as regular cigarettes.

According to both Wigand and Farone, their respective companies were also aware that, due to the addictive properties of cigarettes, even if they did inhale less nicotine per cigarette with light cigarettes, smokers would simply compensate by smoking more or inhaling deeper.

Several internal documents suggest that the companies deliberately targeted young people. An RJ Reynolds document from 1973, written by Claude Teague, director of research and development for the company, noted, "Realistically, if our Company is to survive and prosper over the long term, we must get our share of the youth market.... We need new brands designed to be particularly attractive to the young smoker, while ideally at the same time being appealing to all smokers." He noted that the actual process of smoking can be "quite unpleasant or awkward" for someone who is just beginning to smoke (a "learner" in industry terminology). For this reason, other means of attracting new smokers were needed.

In the subsequent period, RJ Reynolds developed its Joe Camel advertising campaign, which included a cartoon depiction of the camel. According to the government filing, by the end of the 1980s, "the number of teenage smokers who smoked Camel cigarettes rose dramatically."

The complete text of the government's filing can be found at http://www.usdoj.gov/civil/cases/tobacco2/complain.pdf. *Some of the evidence cited in this article was contained in a report by the Tobacco Control Resource Center, available at* http://www.tobacco.neu.edu/litigation/cases/DOJ/doj_mid_trial_summary_2-4-05.pdf. *Many of the documents and testimony in the case are available at the government's web site* http://www.usdoj.gov/civil/cases/tobacco2/ *and at* http://www.tobaccodocuments.org.

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