



U.S. District Judge Gladys Kessler's Final Opinion: Summary of Findings Against the Tobacco Industry

This document includes excerpts from U.S. District Judge Gladys Kessler's opinion that briefly summarize the major findings and conclusions of the Court with respect to the evidence presented in the case against the tobacco industry by the Department of Justice.

GENERAL FINDINGS/CONCLUSIONS

- “[This case] is about an industry, and in particular these Defendants, that survives, and profits, from selling a highly addictive product which causes diseases that lead to 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. Defendants have known many of these facts for at least 50 years or more. Despite that knowledge, they have consistently, repeatedly and with enormous skill and sophistication, denied these facts to the public, the Government, and to the public health community.”
- “Defendants have marketed and sold their lethal products with zeal, with deception, with a single-minded focus on their financial success, and without regard for the human tragedy or social costs that success exacted.”
- “Over the course of more than 50 years, Defendants lied, misrepresented and deceived the American public, including smokers and the young people they avidly sought as ‘replacement’ smokers about the devastating health effects of smoking and environmental tobacco smoke.”
- “The evidence in this case clearly establishes that Defendants have not ceased engaging in unlawful activity.... For example, most Defendants continue to fraudulently deny the adverse health effects of secondhand smoke which they recognized internally; all Defendants continue to market “low tar” cigarettes to consumers seeking to reduce their health risks or quit; all Defendants continue to fraudulently deny that they manipulate the nicotine delivery of their cigarettes in order to create and sustain addiction; some Defendants continue to deny that they market to youth in publications with significant youth readership and with imagery that targets youth; and some Defendants continue to suppress and conceal information which might undermine their public or litigation position.... Their continuing conduct misleads consumers in order to maximize Defendants’ revenues by recruiting new smokers (the majority of whom are under the age of 18), preventing current smokers from quitting, and thereby sustaining the industry.”

SPECIFIC FINDINGS/CONCLUSIONS

Denial of Health Effects

- “Defendants Have Falsely Denied, Distorted and Minimized the Significant Adverse Health Consequences of Smoking for Decades”
- “In the 1950s, Defendants Began Their Joint Campaign to Falsely Deny and Distort the Existence of a Link Between Cigarette Smoking and Disease, Even Though Their Internal Documents Recognized Its Existence”
- “Defendants’ Internal Documents and Research from the 1960s, 1970s, and Beyond Reveal Their Continued Recognition that Smoking Causes Serious Adverse Health Effects and Their Fear of the Impact of Such Knowledge on Litigation”

- “Despite Their Internal Knowledge, Defendants Continued, From 1964 Onward, to Falsely Deny and Distort the Serious Health Effects of Smoking”
- “As of 2005, Defendants Still Do Not Admit the Serious Health Effects of Smoking Which They Recognized Internally Decades Ago”

Nicotine/Addiction

- “Defendants Were Well Aware that Smoking and Nicotine Are Addictive”
- “Defendants Publicly Denied that Nicotine Is Addictive and Continue to Do So”
- “Defendants Concealed and Suppressed Research Data and Other Evidence that Nicotine Is Addictive”
- “Defendants Have Falsely Denied that They Can and Do Control the Level of Nicotine Delivered In Order to Create and Sustain Addiction”
- “For Decades, Defendants Have Recognized that Controlling Nicotine Delivery, in Order to Create and Sustain Smokers’ Addiction, Was Necessary to Ensure Commercial Success”
- “Defendants Recognized the Need to Determine “Minimum” and “Optimum” Nicotine Delivery Levels in Order to Provide Sufficient “Impact” and “Satisfaction” to Cigarette Smokers”
- “Defendants Have Long Recognized that Controlling the Nicotine to Tar Ratio Would Enable Them to Meet Minimum and Optimum Nicotine Delivery Levels”
- “Defendants Understood the Correlation Between Nicotine Delivery and Cigarette Sales”
- “Defendants Researched, Developed, and Utilized Various Designs and Methods of Nicotine Control to Ensure that All Cigarettes Delivered Doses of Nicotine Adequate to Create and Sustain Addiction”
- “Defendants Recognized the Need to Design Cigarettes that Would Produce Low Nicotine and Tar Measurements under the FTC Method While Also Delivering the Minimum Nicotine Levels to Create and Sustain Addiction”
- “Defendants Controlled the Amount and Form of Nicotine Delivery in Their Commercial Products by Controlling the Physical and Chemical Make-Up of the Tobacco Blend and Filler”
- “Defendants Have Used Physical Design Parameters to Increase the Nicotine to Tar Ratio of Their Cigarettes”
- “Defendants Altered the Chemical Form of Nicotine Delivered in Mainstream Cigarette Smoke for the Purpose of Improving Nicotine Transfer Efficiency and Increasing the Speed with Which Nicotine Is Absorbed by Smokers”
- “Defendants Have Made False and Misleading Public Statements Regarding Their Control of the Nicotine Content and Delivery of Their Products”

Light/Low Tar

- “Defendants Falsely Marketed and Promoted Low Tar/Light Cigarettes as Less Harmful than Full-Flavor Cigarettes in Order to Keep People Smoking and Sustain Corporate Revenues”
- “Low Tar/Light Cigarettes Offer No Clear Health Benefit over Regular Cigarettes”
- “Based on Their Sophisticated Understanding of Compensation, Defendants Internally Recognized that Low Tar/Light Cigarettes Offer No Clear Health Benefit”
- “Defendants Internally Recognized that Low Tar Cigarettes Are Not Less Harmful Than Full-Flavor Cigarettes”
- “Defendants Internally Recognized that Smokers Switch to Low Tar/Light Cigarettes, Rather than Quit Smoking, Because They Believe They Are Less Harmful”
- “Defendants Recognized that Smokers Choose Light/Low Tar Cigarettes for a Perceived Health Benefit Defendants Internally Recognized that Smokers Rely on the Claims Made for Low Tar/Light Cigarettes as an Excuse/ Rationale for Not Quitting Smoking”
- “Despite Their Internal Knowledge, Defendants Publicly Denied that Compensation Is Nearly Complete and that the FTC Method is Flawed”

- “Despite Their Internal Knowledge, Defendants’ Marketing and Public Statements About Low Tar Cigarettes Continue to Suggest that They Are Less Harmful than Full-Flavor Cigarettes”

Marketing to Kids

- “From the 1950s to the Present, Different Defendants, at Different Times and Using Different Methods, Have Intentionally Marketed to Young People Under the Age of Twenty-One in Order to Recruit “Replacement Smokers” to Ensure the Economic Future of the Tobacco Industry”
- “Defendants’ Marketing Is a Substantial Contributing Factor to Youth Smoking Initiation”
- “Defendants Track Youth Behavior and Preferences”
- “Defendants’ Marketing Employs Themes Which Resonate with Youth”
- “Defendants Continue Price Promotions for Premium Brands Which Are Most Popular with Teens”
- “Defendants’ Marketing Successfully Reaches Youth”
- “Defendants’ Spending on Marketing and Promotion Has Continually Increased
- “Defendants Advertise in Youth-Oriented Publications”
- “Defendants Market to Youth Through Direct Mail”
- “Defendants Market to Youth Through an Array of Retail Promotions”
- “Defendants’ Promotional Items, Events and Sponsorships Attract Youth”
- “Defendants’ Youth Smoking Prevention Programs Are Not Designed to Effectively Prevent Youth Smoking”
- “Despite the Overwhelming Evidence to the Contrary, Defendants’ Public Statements and Official or Internal Corporate Policies Deny that Their Marketing Targets Youth or Affects Youth Smoking Incidence”
- “Defendants Deny Their Marketing Influences Youth Smoking Initiation”
- “Defendants’ Explanation for Their Marketing Practices Is Not Credible”

Secondhand Smoke

- “Defendants Have Publicly Denied What They Internally Acknowledged: that ETS Is Hazardous to Nonsmokers”
- “Internally, Defendants Recognized that ETS Is Hazardous to Nonsmokers”
- “Internally, Defendants Expressed Concern that the Mounting Evidence on ETS Posed a Grave Threat to Their Industry”
- “Defendants Undertook Joint Efforts to Undermine and Discredit the Scientific Consensus that ETS Causes Disease”
- “Defendants Made False and Misleading Public Statements Denying that ETS Is Hazardous to Nonsmokers”
- “Defendants Continue to Obscure the Fact that ETS is Hazardous to Nonsmokers”