

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
and)	
)	Civil Action
TOBACCO-FREE KIDS ACTION FUND, <i>et al.</i> ,)	No. 99-CV-02496 (GK)
)	
Plaintiff-Intervenors,)	Next scheduled appearance:
)	None Scheduled
v.)	
)	
PHILIP MORRIS USA INC.,)	
f/k/a PHILIP MORRIS INC., <i>et al.</i> ,)	
Defendants.)	
_____)	

DECLARATION OF DEAN KRUGMAN, Ph.D

DEAN KRUGMAN, hereby declares as follows:

1. I am a Professor in the Department of Advertising and Public Relations at the Henry W. Grady College of Journalism and Mass Communication, the University of Georgia. My educational background, credentials and experience are set forth in my Written Direct Testimony filed in this Court on November 29, 2004 at pages 1-16 ("WD"). Dkt. No. 4387. The Court referenced some of my credentials in its August 17, 2006 Final Opinion ("Final Opinion") at 992 (¶ 2681) and 995 (¶2687). Dkt. No. 5732.
2. I testified during the trial of this matter, and was accepted by the Court as an expert in the field of mass communication and marketing communication. Trial Tr. 8458:18 – 8459:3; Final Opinion at 992-93, 995-96.
3. I have reviewed this Court's August 17, 2006 Final Judgment and Remedial Order # 1015 ("Order 1015"), and particularly the provisions regarding

“Corrective Statements” found at pages 4-9, ¶¶ 5-7.

4. I believe that certain of my opinions expressed at trial are important to consider when creating and disseminating corrective statements under Order 1015.

5. Specifically, my testimony concerning my research and opinions on strategic research, found at page 10, and “Warnings”, found at pages 187-197, are relevant. WD: 10:3-9; 187:13-197:4.

6. I testified that the current mandated rotated warning labels are inadequate to convey important information to prospective consumers, including the nature and extent of the health risk of smoking, how harmful the consequences of smoking are, and what type of harm could ensue from smoking. WD: 188:17-21. To be considered effective, within the context of the advertising and promotion for cigarettes, warnings must be of sufficient conceptualization and execution to convey the hazards of smoking. The warnings must be visible, readable, and must convey the seriousness of the hazard in a manner that realistically allows consumers to process and understand the information. WD: 188:21-25.

7. One fundamental point should be underscored. It is not enough to mandate messages and expect them to work. My research indicates there is a genuine difference between having warning information available and the impact of such information. Strategic planning and research are needed to help ensure the success of mandated messages. WD: 189:8-191:22.

8. Through my research I concluded that the existing, mandated warnings are not particularly effective. WD: 190:20-191:22. The failure of these warnings is in

part due to the fact that they have not been implemented in ways consistent with effective planning and research. While many people can tell you that a warning is present, they do not understand the specific dangers conveyed in the warning. It is my opinion, based on this data that people have learned not to look at the existing warnings. This outcome is completely understandable when we recognize that the basic format of the warnings has not changed since their inception. The current warnings are a small, rectangular box with black letters on a white background. It is extraordinarily difficult for this warning message to compete with the more carefully crafted messages employed by the tobacco companies in their cigarette marketing communication. WD: 191:11-22.

9. Our research group implemented a more strategic approach to developing warnings. We employed marketing communication professionals to design alternative warnings that were more visually appealing than the original government mandated messages. Pre-testing included an initial set of focus groups during which adolescents were investigated to examine teenage smoking, existing warnings and ideas for new warnings. Information from this set of focus groups was utilized by the designers to develop new warnings within the context of existing advertisements. These new warnings were tested against the existing warnings in a second set of focus groups among adolescents. Information from the second set of focus groups allowed the designers to develop new warnings which could be tested against existing warnings. WD: 192:22 – 193:21.

10. Employing various research techniques, we found that adolescents exposed to the newly designed warnings generally focused on those warnings more

quickly than adolescents exposed to the existing warnings. The ability to quickly focus on a message is very important in a competitive information environment. The new warnings resulted in a much better understanding of what actually was stated in the warnings themselves as indicated by better recognition and recall of their actual contents. We concluded that strategically developed mandated disclosures are significantly more effective than mandated warnings. WD: 193:19-195:11.


11. My experiences using strategic research and my findings related to warning labels are applicable to health messages in the context of a corrective statement. It is important that marketing communication research techniques be used to examine target markets, assist in the development of objectives, inform the development of creative concepts, and assess the effectiveness of the communication. Using marketing communication research techniques reduces uncertainty and increases potential impact of messages.

12. In addition to applying strategic research, I conclude that a number of considerations are needed to maximize the effectiveness of corrective statements. 1) Take a consumer perspective in order to understand how consumers think about risk and how to communicate risk. 2) Consider that corrective statements can work in concert with one another. Corrective statements on Web pages, cigarette packages, in retail stores, newspapers and television can work together rather than as isolated entities. By working together in different vehicles, corrective statements have the opportunity to create a synergy and provide greater impact. 3) Understand target groups. For example, messages that resonate with younger consumers may not be meaningful to older consumers. 4) Understand that people attend to only a fraction of

the mass mediated/computer mediated messages they encounter. Therefore, good design characteristics, creativity, and imagination count when it comes to the development of informative and influential corrective statements. 5) Corrective statements can wear out and require maintenance. Therefore, post-testing should be considered to insure ongoing effectiveness.

I declare under penalty of perjury that the foregoing is true and correct .

Executed on this 10 day of October, 2006, in Athens, Georgia.



Dean Krugman