UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, Plaintiff, and TOBACCO-FREE KIDS ACTION FUND, *et al.* Plaintiff-Intervenors v. PHILIP MORRIS USA INC., *et al.*, Defendants, *and* ITG BRANDS, LLC, *et al.*, Post-Judgment Parties Regarding Remedies.	Civil Action No. 99-CV-2496 (GK) Next scheduled court appearance: NONE

(Proposed)
ORDER # 64 -Remand

SUPERSEDING CONSENT ORDER IMPLEMENTING THE CORRECTIVE STATEMENTS REMEDY

Upon consideration of the Joint Motion for Superseding Consent Order Implementing the Corrective Statements Remedy, and the entire record herein, it is hereby ORDERED that:

The corrective statements remedy under Order #1015 (Dkt. No. 5733; issued Aug. 17, 2006), published as *United States v. Philip Morris USA Inc.*, 449 F. Supp. 2d 1, 938-41 (D.D.C. 2006), *aff'd in part & vacated in part*, 566 F.3d 1095 (D.C. Cir. 2009) (*per curiam*), *cert. denied*, 561 U.S. 1025 (2010), is hereby MODIFIED as set forth below:

PART 1: REVISED TEXT FOR CORRECTIVE STATEMENTS

As required by the Court of Appeals in *United States v. Philip Morris USA, Inc.*, 801 F.3d 250 (D.C. Cir. 2015), and the memorandum opinion accompanying Order #62-Remand, the text of the Corrective Statements shall be as follows for Altria, R.J. Reynolds Tobacco, Lorillard, and Philip Morris USA:

A. Adverse Health Effects of Smoking

A Federal Court has ordered Altria, R.J. Reynolds Tobacco, Lorillard, and Philip Morris USA[1] to make this statement about the health effects of smoking.

Here is the truth:

- 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.

B. 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.

Here is the truth:

- 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.

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[1] For all statements, wherever the company names are listed they will appear in the sequence detailed in the substantive specifications below.

- When you smoke, the nicotine actually changes the brain – that's why quitting is so hard.

C. 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 selling and advertising low tar and light cigarettes as less harmful than regular cigarettes.

Here is the truth:

- 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.

D. 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.

Here is the truth:

- 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.

E. 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.

Here is the truth:

- 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.

PART 2: REVISED IMPLEMENTATION SPECIFICATIONS FOR CORRECTIVE STATEMENTS

I. Definitions

A. "Above the Fold" means:

1. For websites other than mobile websites, the text that begins on the first screen of the home page for the web address, without scrolling, or
2. For mobile websites that do not use responsive design, the text that begins on the first screen in portrait orientation, without scrolling.

B. "Acquired Brands" means the Winston, Salem, Kool, and Maverick brands.

C. "April 2014 Joint Praecipe" means the Joint Praecipe Regarding Issues Raised at the January 22, 2014 Status Conference (Dkt. No. 6081; filed Apr. 22, 2014), which included as attachments exemplars for the Corrective Statements executions in (as pertinent here) websites.

D. "Benchmark timeslot" for a particular month means the timeslot that received the fewest average impressions (18-99+) among CBS, ABC, and NBC, Monday through Thursday, between 7:00 p.m. and 9:59 p.m., during the most recent three-month period that ended a full month before the month in question.

E. "Corrective Statements" or "Statements" mean the text of the statements set forth in Part 1 above.

F. "Covered Websites" refers to the websites listed on **Exhibit A** in the April 2014 Joint Praecipe, and any successor or replacement websites and any additional Defendant websites that promote or advertise cigarettes, and any websites on which Corrective Statements must be included as provided by Order #56-Remand, ¶ 9(b); provided, however, that the term "Covered Websites" does not include (i) log in and age verification pages, if any, for the Covered Websites, or (ii) websites advertising only products other than cigarettes, including but not limited to smokeless tobacco, e-cigarettes, and other tobacco-derived nicotine products.

G. "Defendants" means Altria, R.J. Reynolds Tobacco Company, Lorillard Tobacco Company, and Philip Morris USA. To the extent any obligations under this Superseding Consent Order pertaining to Lorillard Tobacco Company have been transferred to R.J. Reynolds Tobacco Company, as contemplated by the Notice of Transaction Involving Defs. R.J. Reynolds Tobacco Company and Lorillard Tobacco Company (Dkt. No. 6141; filed Apr. 7, 2015), such obligations shall apply to R.J. Reynolds Tobacco Company. The obligations of the Remedies Parties as a result of that transaction and Order #56-Remand (Dkt. No. 6151; issued June 8, 2015), are set out in Order #56-Remand, as modified by this Order.

H. "Defendant" means the individual company that is making the Corrective Statement.

I. "Exhibit," unless the context indicates otherwise, will refer to exhibits filed with the Joint Motion (filed Apr. 8, 2016) to Enter Joint Superseding Consent Order Implementing Corrective Statements.

J. "Remedies Parties" refers to ITG Brands, LLC ("ITG Brands"), Commonwealth Brands, Inc. ("Commonwealth"), and Commonwealth-Altadis, Inc. ("Commonwealth-Altadis").

K. "No Sunday exception rule" refers to the concept that for any newspaper that does not publish on the Sunday for which Corrective Statements are required, the Corrective Statement will instead appear in that newspaper in the first section of the Friday edition immediately preceding that Sunday.

L. "Preamble Text" refers to the text of each Corrective Statement that begins with the words "A Federal Court" and ends with the words "Here is the truth."

M. "Remedial Order" refers to Order #1015 in *United States v. Philip Morris USA Inc. et al.*

N. "Social media" refers to web pages and internet-connected applications that enable users to create and share content or otherwise to participate in social networking, excluding web addresses that fall within the definition of "Covered Websites."

O. "Spanish version" of the Statements refers to the text of the Statements translated into Spanish, as set forth in **Exhibits 1** and **2**.

P. "Trigger date" means the date on which appeals are exhausted in the appeal noticed from Order-#62 Remand and in any timely appeals noticed from this Consent Order. If Defendants do not file a petition for certiorari within the time prescribed in Section VI(6), appeals will be deemed exhausted for this purpose on the last day of that prescribed time.

Q. "Website Corrective Statements" refers to the versions of the Corrective Statements described in Section IV below, under the heading "Corrective Statements on Websites."

R. "Website Mock ups" refers, for Defendants, to the mock ups filed as Exhibit F to the April 2014 Praecipe. For the Remedies Parties, "Website Mock ups" refers to **Exhibit 3**.

II. Corrective Statements In Newspapers

1. The Defendants will purchase a full newspaper page in the first section of the Sunday edition of the following newspapers, on the schedule listed in Paragraph 6 below:

Atlanta Journal-Constitution; Boston Globe; Charlotte Observer; Chicago Sun-Times; Chicago Tribune; Dallas Morning News; Houston Chronicle; Los Angeles Times; Miami Herald; New York Daily News; New York Times; Philadelphia Inquirer; Richmond Times-Dispatch; San Francisco Chronicle; Tampa Bay Times (formerly St. Petersburg Times); USA Today; Wall Street Journal; Washington Post; the newspapers published by Eastern Group Publications; San Francisco La Oferta Review/El Vistazo-Combo (NAHP); Chicago Lawndale News (NAHP); Houston – Que Onda!; Newark Star-Ledger; Detroit Free Press; Commercial Appeal (Memphis, TN); Baltimore Sun; New Orleans Times-Picayune; Clarion-Ledger (Jackson, MS); Birmingham News; News Journal (Wilmington, DE); Charleston Post & Courier; Arizona Informant; Little Rock Sun Community Newspaper; Denver Weekly News; Inner City News (CT); Gary Crusader; Louisville Defender; Insight News (MN); St. Louis American; Omaha Star; City News (Cleveland, Akron, Columbus); Black Chronicle (OK); Portland Skanner (OR); Seattle Skanner; and Milwaukee Courier.

2. In the event any newspaper listed in this Section is no longer in print or online, Defendants will notify Plaintiffs. The parties will jointly select an alternative newspaper in approximately the same market.

3. Each newspaper placement will contain one of the five Corrective Statements in its entirety. Altria, R.J. Reynolds Tobacco Company, Lorillard, and Philip Morris USA will each be listed first on one date. As to the remaining date, Defendants will decide which of them is listed first. This listing of the companies will satisfy the requirement to identify the Defendant making the Corrective Statement.

4. Each Corrective Statement will be substantially similar to and meet the specifications depicted in **Exhibit 4**. The font family shall be Univers LT Std. For a newspaper of 11.55 inches wide by 21 inches tall, the preamble shall be Univers Light, 40 point font size, and 68 point leading, except "Here is the truth," which shall be Univers Light, 40 point and have between 82 and 84 points of white space above and below, as shown in the **Exhibit 4** mock ups. The bullet list shall be Roman, 30 point with .50 stroke, 40 point leading, and have between 48 and 58 points of white space after each bulleted phrase, with additional emphasized words in Univers Black font, as shown in the **Exhibit 4** mock ups. The bulleted text shall be indented one 1-inch tab-stop, with the bullets positioned 0.25 inches to the left of the indented text. Corrective Statements in newspaper pages of other sizes shall be adjusted proportionately. The Corrective Statements will use black text on a white background. To the extent a newspaper requires it, the word "advertisement" shall appear in Univers Light, 10 point font size, at the top center of the page. The text of each Corrective Statement will be centered vertically on the page, leaving equal white space above the first line of the preamble and after the last line of the bulleted text.

5. The Corrective Statements published in Spanish-language newspapers will be the same, but will use the Spanish version of the Corrective Statements in **Exhibit 1**.

6. Defendants will purchase the placement of the Corrective Statements to occur on the following schedule, applying the No Sunday exception rule:

a. The publication of the Adverse Health Effects of Smoking Statement (Statement A) in the Sunday editions of the 8th Sunday following the Trigger Date.

b. The publication of the Addictiveness of Smoking and Nicotine Statement (Statement B) in the Sunday editions of the 10th Sunday following the Trigger Date.

c. The publication of the Lack of Significant Health Benefit from Lights Statement (Statement C) in the Sunday editions of the 14th Sunday following the Trigger Date.

d. The publication of the Manipulation of Cigarette Design Statement (Statement D) in the Sunday editions of the 18th Sunday following the Trigger Date.

e. The publication of the Secondhand Smoke Statement (Statement E) in the Sunday editions of the 22nd Sunday following the Trigger Date.

7. Defendants will also run the Corrective Statements in the online versions of each newspaper in which they are placed. Each such Corrective Statement will be substantially similar to and meet the specifications depicted in **Exhibit 5**. Defendants will purchase the online space in a size of at least 300 x 250 pixels (if horizontal) or 300 x 600 pixels (if vertical). Defendants will purchase the space with preference for the highest available location on the home page that can accommodate such size, and if no such space is available, the next most visited location on the website. Defendants will purchase the online space for a duration that will be equivalent to a day run, based on the highest typical daily number of home page impressions for the online publication year, and, if that information is not available, then the average daily number of home page impressions for the online publication year. Defendants will use best efforts to have the online

placement appear on the same weekend (Friday through Sunday) the print Corrective Statement appears. The online placement will stop appearing when the total number of impressions are achieved.

8. Each online Corrective Statement will appear as an animation in Flash or JavaScript, with two screens (the first screen for the preamble before the phrase "Here is the truth"; the second screen for the phrase "Here is the truth" and sub-bullets). Upon the initial view, the first screen will appear for 15 seconds (or as close as reasonably practicable), followed by the second screen, which will appear for 15 seconds (or as close as reasonably practicable). The screens will not rotate beyond any animation time limit established by the website, except to the extent re-initiated by a viewer (who may play or stop the animation at the viewer's discretion). If the website establishes any animation time limit, the loop will end on the second screen. Defendants will submit animated GIFs with two screens capturing the entire Corrective Statement to websites that do not support Flash or JavaScript, as a default for viewing by users who cannot view animated Corrective Statements in Flash, JavaScript, or other animated formats. The format of the online Corrective Statements is subject to the approval of the website owners, and adjustments to the online format may from time to time be necessary to meet the website owner requirements.

9. For online-placements, the font family shall be Arial Regular. For a placement 300 x 250 pixels, the preamble in frame 1 shall be 21 pixels Arial Regular and have between 25 and 31 pixels leading (as reflected in the **Exhibit 5** mock ups), except for Statement C (Lack of Significant Health Benefit from Lights), which shall be 19.5 pixels Arial Regular with 25 pixels leading. Frame 2, "Here is the truth," shall be 15 pixels Arial Regular with 12 pixels of white

space below. The bullet list shall be 13 pixels Arial Regular with 13 pixels leading, with 10.5 pixels of white space after each bulleted phrase, with additional emphasized words in Arial Bold font, as shown in **Exhibit 5**. The Corrective Statements will use black text on a white background. The copy for frame 1 and frame 2 shall be centered vertically in the frame leaving equal white space above the first line and below the last line of text. Corrective Statements in online placements of other sizes shall be adjusted proportionately.

10. For online-placements, Paragraph 3 above will govern the order in which the Defendants are identified.

III. Corrective Statements on Television

1. Each Defendant will place the Corrective Statements ("spots") on its choice of the three major television networks – CBS, ABC, or NBC. During each month, Defendants may also place up to one-third of the spots on programs on other channels and networks that, during the most recent three-month period that ended a full month before the month in question, had an overall audience (18-99+) at least as large as the benchmark timeslot, so long as Defendants use their best efforts to ensure that each such selected program has more African American viewers than the benchmark timeslot. The TV spots will run a total of five times per week, subject to the availability of network time and upon approval of the network(s) on which the spots will air.

2. The five TV spots to be run each week will be run by each Defendant at its choice between 7:00 p.m. and 10:00 p.m. in the time zone in which the spot airs, between Monday and Thursday, for one year.

3. The spots will run for 52 weeks. In the event that lack of availability of network time precludes Defendants from purchasing all spots within the one-year period, Defendants will

continue to purchase spots until they have run each Corrective Statement at least 50 times and have run a total of 260 spots.

4. On a bi-weekly basis during the time period in which the TV spots will run, Defendants will notify Plaintiffs at least one week in advance of the programs, channels/networks, and timeslots of their placements for the forthcoming two weeks. If any of those placements will be made on a program allowed under the second sentence of paragraph 1 in this Section, Defendants will also provide all viewership data, including referencing the source of the data, from which they determined the program meets all the requirements of the benchmark timeslot and allowed in calculating its overall and African American audience sizes (18-99+).

5. The TV spots will be those in **Exhibit 6**, other than as required to alter the sequence of company names in the copy and in the "paid for by" footer. The following statements will be placed in 45-second spots: "Adverse Health Effects of Smoking," "Lack of Significant Health Benefit from Lights," "Manipulation of Cigarette Design" and "Secondhand Smoke." The following Statement will be placed in a 30-second spot: "Addictiveness of Smoking and Nicotine."

6. The TV spots will contain the words "Under court order, paid for by Altria, R.J. Reynolds Tobacco, Lorillard, and Philip Morris USA." In both the text of the Corrective Statement and the "paid for" footer, Altria, R.J. Reynolds Tobacco Company, Lorillard, and Philip Morris USA will each be listed first on at least one spot per week. For the final spot each week, R.J. Reynolds Tobacco Company will be listed first.

7. Defendants shall commence airing the TV spots, if feasible, the week immediately following the 8th Sunday following the Trigger Date.

IV. Corrective Statements On Websites

1. The Website Corrective Statements will be published as described in this Section.

a. Defendants and the Remedies Parties will not interfere with or impede a user's ability to print or copy the Website Corrective Statements. The full-text display (as defined below) will not be an image, and will be in a format that allows a user to print or copy all or part of its text.

b. The specifications below assume a website viewed on a monitor screen with a resolution of 72 DPI.

c. The specifications for non-mobile-device presentations assume a 17 inch monitor with an overall screen width of 1024 pixels and a height of 768 pixels; and for mobile-device presentations, assume an overall screen width of 320 pixels and a height of 480 pixels. For clarity, mobile device specifications may be measured on a 17 inch monitor with a viewable area that is 320 pixels wide and 480 pixels high.

d. With respect to any new or redesigned Covered Website, the comparative prominence of the website preamble and the full-text display (as defined below) in relation to the other elements on the screen will be at least as great as in any of the mock ups in the relevant phase and section (*i.e.*, non-mobile, responsive design mobile, and non-responsive design mobile) of the **Website Mock ups**.

Phase 1

2. Beginning on the 8th Sunday following the Trigger Date, and continuing for five years thereafter (years 1 through 5) or for the duration of the Remedial Order, whichever is shorter, the format specified in this paragraph will be on each Covered Website. Any existing Covered

Website that is not redesigned shall meet the requirements of this Order as long as it is substantially similar to and meets the specifications depicted in its **Website Mock ups** (but using the specific words for each Statement as set forth in Part 1 above), whether or not the website conforms to the specifications contained in this paragraph. Any new or redesigned Covered Website must conform to the specifications of this paragraph.

a. The "Phase 1 website preamble" will appear on each of the Covered Websites, with the Defendant that operates the website being listed first (except for Remedies Parties, where the order is specified below):

i. For Defendants:

A Federal Court has ordered Altria, R.J. Reynolds Tobacco, Lorillard, and Philip Morris USA to make these statements. Here is the truth:

* Health effects of smoking
* Addictiveness of smoking and nicotine
* Selling and advertising low-tar and light cigarettes as less harmful than regular cigarettes
* Designing cigarettes to enhance the delivery of nicotine
* Health effects of secondhand smoke
* *Para información en español, clic aquí*

ii. For ITG Brands, with each Defendant's name appearing once:

A Federal Court has ordered [Lorillard (the previous maker of Maverick) *or* R.J. Reynolds Tobacco (the previous maker of Winston, Salem, and Kool)], Altria, Philip Morris USA, and [R.J. Reynolds Tobacco (the previous maker of Winston, Salem, and Kool), *or* Lorillard (the previous maker of Maverick)] to make these statements.[2] Here is the truth:

* Health effects of smoking
* Addictiveness of smoking and nicotine

[2] If ITG Brands establishes any publicly-accessible website that promotes or advertises a single Acquired Brand, or less than all Acquired Brands, it may modify the preamble language in every place it appears on any such website and in any phase to refer only to the brand or brands promoted or advertised. In such an instance, the name of the previous maker of the Acquired Brand to which the website relates (whether Lorillard or R.J. Reynolds) will appear last with the parenthetical, and the name of the other entity from which ITG Brands acquired the Acquired Brands (either R.J. Reynolds or Lorillard) will appear first without a parenthetical.

* Selling and advertising low-tar and light cigarettes as less harmful than regular cigarettes
* Designing cigarettes to enhance the delivery of nicotine
* Health effects of secondhand smoke
* *Para información en español, clic aquí*

b. The phrase "Here is the truth" will hyperlink to the "full-text display" that will open when clicked.

i. For Defendants, the full text display will contain the full text of the corrective statements.

ii. For Remedies Parties, the full text display for each Corrective Statement shall begin with the following preamble language, with each Defendant's name appearing once:

A. Adverse Health Effects of Smoking

A Federal Court has ordered [Lorillard (the previous maker of Maverick) *or* R.J. Reynolds Tobacco (the previous maker of Winston, Salem, and Kool)], Altria, Philip Morris USA, and [R.J. Reynolds Tobacco (the previous maker of Winston, Salem, and Kool) *or* Lorillard (the previous maker of Maverick)] to make this statement about the health effects of smoking.

Here is the truth:

B. Addictiveness of Smoking and Nicotine

A Federal Court has ordered [Lorillard (the previous maker of Maverick) *or* R.J. Reynolds Tobacco (the previous maker of Winston, Salem, and Kool)], Altria, Philip Morris USA, and [R.J. Reynolds Tobacco (the previous maker of Winston, Salem, and Kool) *or* Lorillard (the previous maker of Maverick)] to make this statement about the addictiveness of smoking and nicotine.

Here is the truth:

C. Lack of Significant Health Benefit from Smoking "Low Tar," "Light," "Ultra Light," "Mild," and "Natural" Cigarettes

A Federal Court has ordered [Lorillard (the previous maker of Maverick) *or* R.J. Reynolds Tobacco (the previous maker of Winston, Salem, and Kool)],

Altria, Philip Morris USA, and [R.J. Reynolds Tobacco (the previous maker of Winston, Salem, and Kool) *or* Lorillard (the previous maker of Maverick)] to make this statement about selling and advertising low tar and light cigarettes as less harmful than regular cigarettes.

Here is the truth:

D. Manipulation of Cigarette Design and Composition to Ensure Optimum Nicotine Delivery

A Federal Court has ordered [Lorillard (the previous maker of Maverick) *or* R.J. Reynolds Tobacco (the previous maker of Winston, Salem, and Kool)], Altria, Philip Morris USA, and [R.J. Reynolds Tobacco (the previous maker of Winston, Salem, and Kool) *or* Lorillard (the previous maker of Maverick)] to make this statement about designing cigarettes to enhance the delivery of nicotine.

Here is the truth:

E. Adverse Health Effects of Exposure to Secondhand Smoke

A Federal Court has ordered [Lorillard (the previous maker of Maverick) *or* R.J. Reynolds Tobacco (the previous maker of Winston, Salem, and Kool)], Altria, Philip Morris USA, and [R.J. Reynolds Tobacco (the previous maker of Winston, Salem, and Kool) *or* Lorillard (the previous maker of Maverick)] to make this statement about the health effects of secondhand smoke.

Here is the truth:

iii. The full-text display text will be black on a white background and contain the identifying headings in Part 1 to segregate the individual Corrective Statements. In the Phase 1 website preamble, each of the topic-specific bullet points will hyperlink to the same full-text display. The phrase "Here is the truth" and the topic-specific bullet points will be formatted as hyperlinks shown with an underline and/or in a color with a high contrast to the non-hyperlinked preamble text. Hyperlinked text must maintain readability against the background color. When one of those topics is clicked, the full-text display will open with the

particular Corrective Statement associated with that topic at the top. The user will be able to scroll through the rest of the full-text display to view the other Corrective Statements as well. The last bulleted hyperlink will open the portion of the full-text display containing the Spanish version of all five Corrective Statements, as shown in **Exhibits 1** and **2**. All of the above requirements apply to Spanish-language websites, which will display the Spanish version of the Corrective Statements, including the website preamble, in Spanish.

c. The website preamble text shall be black on white background, or white on a black background, or a similar text and contrasting background, and shall appear in a manner that contrasts, by typography, layout, or color, with all other material on that page of the website.

d. The following requirements apply to all Phase 1 presentations other than those designed for mobile devices:

(i) The website preamble must appear in a prominent position on the home page Above the Fold, such that the amount of text on the first screen of the home page includes the text of the website preamble through and including the first bulleted text ("Health effects of smoking"). The website preamble will occupy a minimum total area of 90,000 pixels, and be coded to a minimum font size of 11 pixels.

(ii) The full-text display will: (A) appear within a full-text display containing window that is a minimum of 500 pixels wide and 575 pixels high and be viewable in its entirety by scrolling only the full-text display scroll bar; (B) contain the text of the preambles and the bullet point lists coded to a minimum font size of 14 pixels using

Arial Regular font style; (C) contain a hard return between "Here is the truth" and the bulleted information; (D) contain an identifying heading for each Statement; and (E) contain horizontal lines between the last bullet point of each Statement and the identifying heading of the next Statement.

e. The following requirements apply to all Phase 1 presentations designed for mobile devices.

(i) There will be a paragraph return below "Here is the truth." The website preamble and full-text display will be the full width of the mobile screen. The remaining elements may use either an accordion or full-text format as follows:

(A) Accordion format. Each topic headline will be displayed using an accordion menu with the topic name as a headline and the full Corrective Statement programmed to hide and reveal upon tap. The full-text display will initially show all topic headlines with all topic headline accordion menus in the closed position. A right-pointing arrow indicator shall appear to the right of each Statement title, indicating that more content can be viewed by tapping the Statement title or right-pointing arrow.

(B) Full-text format. The full-text display will (I) contain the text of the preambles and the bullet point lists; (II) contain a hard return between "Here is the truth" and the bulleted information; (III) contain an identifying heading for each Statement; and (IV) contain horizontal lines between the last bullet point of each Statement and the identifying heading of the next Statement.

(ii) For websites that adjust to different screen sizes (such as sites using responsive design), the website preamble appearing on the home page of the Covered Websites should be resized, match the hierarchy of, utilize the same font style as, and utilize a font size no smaller than the format used for larger screens under paragraph 2(d) above. Such a website preamble is not required to appear Above the Fold, but must begin within 1111 pixels from the top of the screen. The **Phase 1 – Mobile Version for Responsive Design Website Mock ups** comply with the requirements of this subparagraph.

(iii) For mobile websites that do not adjust to different screen sizes, the text of the website preamble and the full-text display will be coded to a minimum font size of 11 pixels using Arial Regular font style or an alternative font that is at least as large and readable. The website preamble must appear Above the Fold, such that the amount of text on the first screen of the home page includes the text of the website preamble through the list of Defendants ("A Federal Court has ordered Altria, R.J. Reynolds Tobacco, Lorillard, and Philip Morris USA"). The **Mobile Version – Not Responsive Design Website Mock ups** comply with the requirements of this subparagraph.

Phase 2

3. During the six years following the expiration of year five (years 6 through the expiration of year 11) or for the duration of the Remedial Order, whichever is shorter, the format specified in this paragraph will be on each Covered Website. Any existing Covered Website that is not redesigned shall meet the requirements of this Order as long as it is substantially similar to and meets the specifications depicted in its **Phase 2 Website Mock ups**, whether or not the

website conforms to the specifications contained in this paragraph. Any new or redesigned Covered Website must conform to the specifications of this paragraph.

a. The "Phase 2 website preamble" will appear as follows on each of the home pages of the Covered Websites, with the Defendant on whose website the Corrective Statement appears listed first (except for Remedies Parties, where the order is specified below):

i. For Defendants: "A Federal Court has ordered Altria, R.J. Reynolds Tobacco, Lorillard, and Philip Morris USA to make these statements. Here is the truth."

ii. For ITG Brands, with each Defendant's name appearing once:

A Federal Court has ordered [Lorillard (the previous maker of Maverick) *or* R.J. Reynolds Tobacco (the previous maker of Winston, Salem, and Kool)], Altria, Philip Morris USA, and [R.J. Reynolds Tobacco (the previous maker of Winston, Salem, and Kool) *or* Lorillard (the previous maker of Maverick)] to make these statements. Here is the truth.

b. The phrase "Here is the truth" will hyperlink to a full-text display that will open when clicked. The phrase will be formatted in a manner to make it recognizable as a hyperlink. When a reader clicks on the link, a full-text display will appear containing the full-text of all of the Corrective Statements, in compliance with the full-text display for the Phase 1 executions above.

c. For Phase 2 website presentations other than those designed for mobile devices, the website preamble must appear entirely Above the Fold. For Phase 2 website presentations designed for mobile devices (whether or not they adjust to different screen sizes), the website preamble must begin Above the Fold, such that the amount of text on the first screen of the home page includes at least the following portion of the

preamble: "A Federal Court has ordered Altria, R.J. Reynolds Tobacco, Lorillard, and Philip Morris USA to make these statements."

d. The text of the website preamble for Phase 2 presentations will be coded to a minimum font size of 10 pixels using Arial Regular font style or an alternative font that is comparable in size and readability.

e. For the link on the home page and the Statements on the full-text display, each Defendant will utilize font styles and sizes, and text and background colors, that are consistent with those used for other links appearing on the company's home page.

Phase 3

4. During the year following the expiration of year 11 and thereafter (year 12 and thereafter) or for the duration of the Remedial Order, whichever is shorter, the format specified in this paragraph will be on each Covered Website. Any existing Covered Website that is not redesigned shall meet the requirements of this Order as long as it is substantially similar to and meets the specifications depicted in its **Phase 3 Website Mock ups**, whether or not the website conforms to the specifications contained in this paragraph. Any new or redesigned Covered Website must conform to the specifications of this paragraph. With the exception of mobile-device presentations that do not adjust to different screen sizes (which may place the text anywhere on the home page provided it is fully Above the Fold), the following text will appear Above the Fold at the top of each of the home pages of the Covered Websites: "Court Ordered Corrective Statements." That text will be coded to a minimum font size of 9 pixels using Arial Regular font style or an alternative font that is comparable in size and readability, and will be formatted in a manner to make it recognizable as a hyperlink. That text will hyperlink to a

full-text display that will open when clicked, in compliance with the full-text display for the Phase 1 execution above. When a reader clicks on the link, a full-text display will appear containing the full-text of the Corrective Statements. For the link on the home page and the full-text display, each Defendant will utilize font styles and sizes, and text and background colors, that are consistent with those used for other links appearing on the company's home page.

Social Media

5. Defendants and the Remedies Parties represent that they do not currently advertise or promote their cigarettes on social media. In the event a Defendant or ITG Brands chooses to launch any social media that promotes or advertises cigarettes (or for ITG Brands that promotes or advertises the Acquired Brands or cigarettes generally), the company will, where reasonably feasible, utilize the applicable website Corrective Statement requirement. That is, if the social media is launched in Year 2, the Defendant or ITG Brands will first attempt to utilize the Phase 1 website execution; if the social media is launched in Year 7, the Defendant or ITG Brands will first attempt to utilize the Phase 2 website execution. If it is not reasonably feasible to implement the applicable website execution, the Defendant or ITG Brands will attempt to implement the execution applicable to the next website phase. If that execution is not reasonably feasible, the Defendant or ITG Brands will utilize the next website execution phase.

If none of the website executions are reasonably feasible, the Defendant or ITG Brands shall implement an alternative Corrective Statement execution that follows the principles in this Order. In such a case, the Defendant or ITG Brands shall notify Plaintiffs of its alternative social media Corrective Statement execution at least 28 days prior to launch of the social media. At the conclusion of the 28 days, the Defendant or ITG Brands may launch the social media. If Plaintiffs

have a concern about an execution under this paragraph, they will meet and confer with the Defendant or ITG Brands before raising objections with the Special Master. The Defendant or ITG Brands will modify the social media Corrective Statement execution in the event any changes are subsequently agreed to by the parties or required by the Special Master. This paragraph does not give Plaintiffs any right of pre-approval over Defendants' or the Remedies Parties' ability to advertise or promote their products on social media.

V. Corrective Statements On Cigarette Pack Onserts

1. On the schedule provided in paragraphs 2-5 below, each Defendant or, for the Acquired Brands, ITG Brands, will affix to cigarette packaging, either to the outside of or within the outer cellophane wrapping around each package, an "onsert" containing one of the Corrective Statements. The order in which the companies are listed will be as reflected in the **Exhibit 7** Onsert Mock ups.

2. For each installment of onserts, and for each of the Defendant's cigarette brand styles and the Acquired Brands, each Defendant and ITG Brands will affix the onsert to two weeks' worth of estimated annual volume shipped to distributors in the United States, as defined in 15 U.S.C. § 1332(3), which determines the geographic scope of Surgeon General's warnings, including to distributors to duty-free locations in the United States; and all distributors of cigarettes for sale or distribution to members or units of the Armed Forces of the United States located outside of the United States, with the exception of Italy, for which R.J. Reynolds Tobacco Company has represented that a required tax stamp makes the onsert technologically infeasible for it.

3. Each Defendant and ITG Brands will ship the onserted product three times per year for two years, for a total of six installments, with the installments timed approximately four months apart based on target wholesale delivery dates (*e.g.*, March, June and October). Each Defendant and ITG Brands will begin shipping onserted product no later than thirty weeks after the Trigger Date.

4. Each Defendant and ITG Brands will include each of the five Corrective Statements in at least one two-weeks' worth shipment of each brand. Alternatively, a Defendant or ITG Brands may elect to include an approximately equal number of all five Corrective Statements in each shipment.

5. If a Defendant or ITG Brands elects to include a single Corrective Statement in each shipment, the Corrective Statements will be disseminated on onserts in this sequence: (1) Adverse Health Effects of Smoking; (2) Addictiveness of Smoking and Nicotine; (3) Lack of Significant Health Benefits from Lights; (4) Manipulation of Cigarette Design; and (5) Secondhand Smoke.

6. The Corrective Statements for the onserts shall be in black text on a white background, using the Univers family fonts. The onserts will look substantially similar to and meet the specifications depicted in the mock ups for each company contained in **Exhibit 7**. The first panel of each onsert will show "Here is the truth" as its own line. Based on the onsert parameters provided by the Defendants and ITG Brands, each company's specifications are as follows:

a. For Philip Morris's onserts, the preamble text will appear on the outside cover, visible on the face of the pack, and the rest of each Statement will be printed on the unfolded

back side of the onsert. The font size will vary slightly based on the length of the text of any given Statement. For Statement A (Adverse Health Effects), the preamble will be Univers Light, 12.5 point font size, 12.5 point leading. In addition to the bottom of the outside cover, "Here is the truth" will appear in Univers Light, 12 point font, 22 point leading, at the top of the unfolded back side. The bullet list will appear in Univers Light 10 point font size, 11.75 point leading. The Spanish version of that Statement will be printed on the remaining panels. The font sizes and leading for the panels of the remaining four Statements will be adjusted proportionately, depending on the length of the Statements, as shown in **Exhibit 7**.

b. For R.J. Reynolds Tobacco Company's and Lorillard's onserts and the onserts for the Acquired Brands, the preamble text will appear on the outside cover. The preamble text is as specified in Part 1 above for R.J. Reynolds Tobacco and Lorillard; and as specified in subparagraph (d) below for the Acquired Brands. "Here is the truth" will appear at the bottom of the outside cover. The back side of the onsert will be headed with "Here is the truth," followed by the bullet list.

c. The font size will vary slightly based on the length of the text of any given Statement:

i. For R.J. Reynolds Tobacco Company:

* for Statement A (Adverse Health Effects):

1. The preamble will be Univers Light, 11 point font size, 13 point leading.

2. In addition to the bottom of the outside cover, "Here is the truth" will appear in Univers Light Condensed, 9 point font size, 9 point leading, at the top of the rear.

3. The bullet list will appear in Univers Light Condensed, 9 point font size, 9 point leading.

* for Statement C (Light/low tar):

1. The preamble will be Univers Light, 10 point font size, 11.75 point leading.

2. In addition to the bottom of the outside cover, "Here is the truth" will appear in Univers Light Condensed, 8.75 point font size, 8.75 point leading, at the top of the rear.

3. The bullet list will appear in Univers Light Condensed, 8.75 point font size, 8.75 point leading.

* The font size and leading for the remaining three Statements will be adjusted proportionately, depending on the length of the Statement, as shown in **Exhibit** 7.

* For all Corrective Statements, all emphasized words in the bullet list will appear in Univers Condensed, with the same font size and leading as the other bullet-list text for that Corrective Statement.

ii. For ITG Brands with respect to Winston, Salem, and Kool:

* for Statement A (Adverse Health Effects):

1. The preamble will be Univers Light, 11.5 point font size, 13 point leading.

2. In addition to the bottom of the outside cover, "Here is the truth" will appear in Univers Light Condensed, 9 point font size, 9 point leading, at the top of the rear.

3. The bullet list will appear in Univers Light Condensed, 9 point font size, 9 point leading.

* for Statement C (Light/low tar):

1. The preamble will be Univers Light, 10 point font size, 11.5 point leading.

2. In addition to the bottom of the outside cover, "Here is the truth" will appear in Univers Light Condensed, 8.75 point font size, 8.75 point leading, at the top of the rear.

3. The bullet list will appear in Univers Light Condensed, 8.75 point font size, 8.75 point leading.

* The font size and leading for the remaining three Statements will be adjusted proportionately, depending on the length of the Statement, as shown in **Exhibit 7.**

* For all Corrective Statements, all emphasized words in the bullet list will appear in Univers Condensed, with the same font size and leading as the other bullet-list text for that Corrective Statement.

ii. For ITG Brands with respect to Maverick, for Statement A (Adverse Health Effects), the preamble will be Univers Light, 10.5 point font size, 11.5 point leading. In addition to the bottom of the outside cover, "Here is the truth" will appear in Univers Light Condensed, 8 point font size, 8 point leading, at the top of the rear. The bullet list will appear in Univers Light Condensed, 8 point font size, 8 point leading. For Statement C (Light/low tar), the preamble will be Univers Light, 9.5 point font size, 9.75 point leading. In addition to the bottom of the outside cover, "Here is the truth" will appear in Univers Light Condensed, 8.5 point font size, 8.5 point leading, at the top of the rear. The bullet list will appear in Univers Light Condensed, 8.5 point font size, 8.5 point leading. The font size and leading for the remaining three Statements will be adjusted proportionately, depending on the length of the Statement, as shown in **Exhibit** 7. For all Corrective Statements, all emphasized words in the bullet list will appear in Univers Condensed, with the same font size and leading as the other bullet-list text for that Corrective Statement.

d. Preamble text for ITG Brands onserts

i. The preamble text for Winston, Salem, and Kool onserts will be as follows, with the relevant brand specified in place of the bracketed "[insert brand]" language below:

A. Adverse Health Effects of Smoking

A Federal Court has ordered Lorillard, Altria, Philip Morris USA, and R.J. Reynolds Tobacco (the previous maker of [insert brand]) to make this statement about the health effects of smoking.

Here is the truth:

B. Addictiveness of Smoking and Nicotine

A Federal Court has ordered Lorillard, Altria, Philip Morris USA, and R.J. Reynolds Tobacco (the previous maker of [insert brand]) to make this statement about the addictiveness of smoking and nicotine.

Here is the truth:

C. Lack of Significant Health Benefit from Smoking "Low Tar," "Light," "Ultra Light," "Mild," and "Natural" Cigarettes

A Federal Court has ordered Lorillard, Altria, Philip Morris USA, and R.J. Reynolds Tobacco (the previous maker of [insert brand]) to make this statement about selling and advertising low tar and light cigarettes as less harmful than regular cigarettes.

Here is the truth:

D. Manipulation of Cigarette Design and Composition to Ensure Optimum Nicotine Delivery

A Federal Court has ordered Lorillard, Altria, Philip Morris USA, and R.J. Reynolds Tobacco (the previous maker of [insert brand]) to make this statement about designing cigarettes to enhance the delivery of nicotine.

Here is the truth:

E. Adverse Health Effects of Exposure to Secondhand Smoke

A Federal Court has ordered Lorillard, Altria, Philip Morris USA, and R.J. Reynolds Tobacco (the previous maker of [insert brand]) to make this statement about the health effects of secondhand smoke.

Here is the truth:

ii. The preamble text for Maverick onserts will be as follows:

A. Adverse Health Effects of Smoking

A Federal Court has ordered R.J. Reynolds Tobacco, Altria, Philip Morris USA, and Lorillard (the previous maker of Maverick) to make this statement about the health effects of smoking.

Here is the truth:

B. Addictiveness of Smoking and Nicotine

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

Here is the truth:

C. Lack of Significant Health Benefit from Smoking "Low Tar," "Light," "Ultra Light," "Mild," and "Natural" Cigarettes

A Federal Court has ordered R.J. Reynolds Tobacco, Altria, Philip Morris USA, and Lorillard (the previous maker of Maverick) to make this statement about selling and advertising low tar and light cigarettes as less harmful than regular cigarettes.

Here is the truth:

D. Manipulation of Cigarette Design and Composition to Ensure Optimum Nicotine Delivery

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

Here is the truth:

E. Adverse Health Effects of Exposure to Secondhand Smoke

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

Here is the truth:

VI. Additional Provisions

1. This Superseding Consent Order modifies certain provisions of Order #1015, but does not modify the deadline for Defendants' and (where applicable under Order #56-Remand, the Remedies Parties') document depository obligations, which will continue until September 1, 2021. *See* Order #1021 (Dkt. No. 5765; issued Sept. 20, 2006). Where the terms of this Superseding Consent Order differ from Order #1015, this Superseding Consent Order will govern. This

Superseding Consent Order does not resolve the outstanding issue of Corrective Statements in retail point-of-sale displays.

2. The Corrective Statement formats specified above are intended to be comprehensive. No Defendant or ITG Brands shall alter, modify, or add to the specified elements of these formats, and no additional text, images, voice-over or other elements may be included.

3. Defendants and, as applicable, ITG Brands shall be responsible for the placement of all Corrective Statements in the media described herein; and for the production of the Corrective Statements in all media described herein other than TV spots . Specific implementations of the Defendants' Website Corrective Statements, or sufficient exemplars where necessary, incorporated herein by reference, were filed with the Court as attachments to the April 2014 Joint Praecipe. Specific implementations for the other media, and for ITG Brands websites, were filed as Exhibits to the Joint Motion for Entry of this Superseding Consent Order.

4. No provision of this Superseding Consent Order waives either any R.J. Reynolds Tobacco Company challenge to the requirement that it publish Corrective Statements on television in its capacity as successor to Brown & Williamson Tobacco Co. or any response Plaintiffs may present to such a challenge.[3] The obligations regarding Corrective Statements on television will conform to the outcome of any such further litigation, such that, should R.J. Reynolds Tobacco Company prevail, there will be four sets of Corrective Statement spots on television.

5. Except as stated in this paragraph, no party waives or abandons any appeal or appellate rights or arguments; nor should anything herein be construed as a waiver or impairment of any such appellate right or argument. Defendants and the Remedies Parties reserve the right to

[3] The definition and use of the terms "Defendant" and "Defendants" in this Consent Order shall have no bearing on the Court's adjudication of any such motion.

challenge on appeal the content of the Court-ordered Corrective Statements and the requirement that the Court-ordered Corrective Statements appear in the multiple media referenced in the Remedial Order and herein, and Plaintiffs reserve the right to argue that such challenges are barred by law of the case and other applicable legal principles. Defendants and the Remedies Parties will not challenge on appeal the specific implementation executions in this Superseding Consent Order, and Plaintiffs will not invoke Defendants' or the Remedies Parties' agreement to the specific implementation executions in response to Defendants' or the Remedies Parties' appellate challenge to the Court-ordered Corrective Statements. Should the language of the Corrective Statements be changed as a result of further litigation, the parties reserve the right to seek different requirements than those stated herein.

6. Defendants and the Remedies Parties agree not to oppose Plaintiffs' motions to expedite, motions for extension of time, or proposed briefing schedules, if any, in any appeals noticed from this Superseding Consent Order, provided that the time Defendants and the Remedies Parties are allotted to file their briefs shall not be shorter than the time allowed by Federal Rule of Appellate Procedure 31, and provided further that any motion or proposed briefing schedule shall treat Plaintiffs and Defendants and the Remedies Parties proportionally relative to Federal Rule of Appellate Procedure 31. Defendants and the Remedies Parties agree that (unless Plaintiffs agree to the contrary), Defendants and the Remedies Parties will file any petitions for certiorari within 60 days after entry of the judgment or resolution of any petition for rehearing or rehearing en banc, whichever comes last; and that (unless Plaintiffs agree to the contrary) Defendants and the Remedies Parties will not seek any extensions of the time to file a petition for certiorari under Sup. Ct. R. 13.5.

7. Defendants and the Remedies Parties' agreement to these terms and to these executions of the language of the Corrective Statements shall not be deemed or construed as an admission of the Defendants or the Remedies Parties, collectively or individually.

8. Nothing in this Order precludes Plaintiffs from seeking further relief of any kind based on violations of the Remedial Order injunction not related to the requirements of this agreement, or from presenting any argument not based on this agreement in defense of the Court-ordered Corrective Statements or Remedial Order.

9. The United States' agreement to these terms does not constitute, and shall not be used as evidence of, permission or authorization to advertise cigarettes on websites or social media notwithstanding the Broadcast Ban, 15 U.S.C. § 1335.

10. This Superseding Consent Order is the complete agreement of the parties as to Corrective Statements and supersedes any prior negotiations, agreements, or understandings of the parties. The terms of this Order cannot be modified or amended without written consent by all parties.

DATED: April 19, 2016

Gladys Kessler
GLADYS KESSLER
U.S. District Judge

We consent to entry of the above superseding consent order:

Dated: April 8, 2016

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Exhibits to Joint Motion (filed Apr. 8, 2016) to Enter Joint Superseding Consent Order Implementing Corrective Statements

1. Spanish version of Corrective Statements (for Defendants)
2. Spanish version of Corrective Statements (for ITG brands)
3. ITG company website exemplars
4. Newspaper print exemplars
5. Online exemplars (for newspaper websites)
6. Television spots in MP4 or a similar format suitable for Court review using a standard desktop computer and software; and in high-resolution, large files to be transmitted to and aired by TV networks
7. Onsert exemplars