



MASTER SETTLEMENT AGREEMENT

Provisions Relating to Cigarette Company “Anti-Youth-Smoking” Efforts

Some people believe that the Master Settlement Agreement (MSA) between the states and the cigarette companies requires the companies to run anti-youth-smoking advertising, to fund youth anti-smoking programs, and to do related research re youth smoking. There are also reports that some major cigarette companies are promoting this myth as part of their efforts to convince various organizations to accept tobacco-company funding or to persuade magazines and other media outlets to publish company-sponsored “anti-youth-smoking” ads (even if they have policies against accepting any tobacco industry advertising). In fact, nothing in the MSA requires any of the more than 25 cigarette companies that have signed it to sponsor any anti-youth-smoking ads or youth programs, and the vast majority of these cigarette companies do not. Moreover, as a private contract between the cigarette companies and the states the MSA also does not have any legal authority over any unrelated third parties. So it cannot be used to force any magazine or other media outlet to accept tobacco company ads, or to force any school or organization to take cigarette company funding for any anti-smoking programs.¹

Besides requiring annual payments to the states, most of the provisions in the MSA stop the cigarette companies from doing certain things (e.g., advertising on billboards that are not at retail outlets). There are only two sections of the MSA that require the cigarette companies to take any positive action to reduce youth smoking. The most significant requires that the companies make annual payments of about \$325 million to a new, completely independent National Foundation directed at reducing youth tobacco use (these payments are scheduled to decline to \$25 million after 2003 and to terminate in 2008). The MSA also includes the following provisions that require direct cigarette-company action related to reducing youth tobacco use.

- **Section III (I). Corporate Culture Commitments.** Requires the companies to:
 - Establish corporate principles that explain their commitment to comply with the MSA and otherwise reduce tobacco use among youth;
 - Regularly communicate their commitment to reduce tobacco use among youth to their employees and customers;
 - Designate executive level managers to identify ways to reduce youth access to tobacco products and reduce youth tobacco use;
 - Encourage their employees to identify additional methods to reduce youth access and youth tobacco use.

None of these provisions requires the cigarette companies to sponsor anti-youth-smoking ads or programs or to do their own research on youth smoking.

Moreover, there is evidence that “anti-youth-smoking” ads sponsored by Philip Morris are less effective at reducing youth smoking than ads run by state tobacco control programs.² Advertising experts have also attacked the Philip Morris ads as “too tepid and generic,” and a “jaded attempt at PR.”³ Another referred to Philip Morris’s ad campaign as an example of “unmitigated gall and hypocrisy; incredible and disheartening.”⁴ As one of the advertising experts summarized, “Philip Morris says it wants kids to stop smoking. Right. Just like Bill Gates wants kids to stop staring at computer screens.”⁵

It is also clear that the “anti-youth-smoking” ads being run by cigarette companies are designed primarily for self-serving public relations purposes. Sponsoring “anti-youth-smoking” efforts is a well-established cigarette company strategy for enhancing their public image and blocking more aggressive government efforts to reduce youth smoking. As early as 1979, the executive vice president of the cigarette-company-sponsored Tobacco Institute privately recommended that the companies consider a “pre-adult education”

program, stating "It seems to me our objective is . . . a 'media event' which in itself promises a lot but produces little."⁶ In a 1995 internal company document, Philip Morris executive Ellen Merlo stated that the cigarette companies must address the youth smoking problem because "If we don't seize the initiative the government and the antis will take it away from us."⁷ As another Philip Morris executive put it in another 1995 internal communication, "If we can frame proactive legislation or other kinds of action on the Youth Access issue... we will be protecting our industry for decades to come."⁸

If Philip Morris and the other cigarette companies sponsoring "anti-youth-smoking" ads or funding related school or community-based programs were really serious about reducing youth smoking, they would be taking some of the simpler, less expensive, and more effective anti-youth-smoking steps that are readily available to them. For example, they could:

- Eliminate tobacco advertising and marketing practices that directly reach and influence kids – e.g., permanently stop advertising in magazines with large youth readerships; stop placing externally visible ads at retail outlets near schools and playgrounds; stop brand-name sponsorships of auto racing; and never advertise or sell cigarettes on the internet.
- Reduce youth access to tobacco products – e.g., by requiring tobacco retailers to place tobacco products behind the counter and out of reach so that kids have to ask to get them; supporting (rather than opposing) efforts to ban cigarette vending machines; and agreeing never to market cigarettes in "kiddie packs" of less than 20.

Instead, several studies have shown that since the MSA was signed the cigarette companies have actually increased their marketing that reaches kids.⁹

Campaign for Tobacco-Free Kids, December 8, 2000

More information on tobacco companies' fake tobacco prevention programs is available at http://www.tobaccofreekids.org/facts_issues/fact_sheets/industry/prevention/.

¹ For more on the MSA, see Campaign for Tobacco-Free Kids Factsheets at http://www.tobaccofreekids.org/facts_issues/fact_sheets/industry/prevention/ or the National Association of Attorneys General tobacco page at <http://www.naag.org/tobacco.php>.

² Teenage Research Unlimited, *Counter-Tobacco Advertising Exploratory Summary Report January – March, 1999*, March 1999.

³ Lippert, B, "Smoke and Mirrors," *ADWEEK Eastern Edition* 39(50):34, December 14, 1998; Horovitz, B, "Ad Experts Best & Worst of 1998: Bug Spots Rock; Philip Morris' Ads Blow Smoke," *USA Today*, December 21, 1998.

⁴ Goldberg, F, "Is PM Blowing smoke in Anti-Tobacco Ads? Looking Behind Philip Morris' \$100M Campaign, Ad Agency CEO Sees Hypocrisy," *Advertising Age*, January 18, 1999.

⁵ Horovitz, B, December 21, 1998.

⁶ Memo from Frank Dryden to Bill Kloepfer, "August 1 'Pre-Adult Education' Memo," August 3, 1979, Bates No. TIFL0525654.

⁷ Merlo, E, "JJM Speech," Philip Morris memo, February 9, 1995, Bates No. 2044046016.

⁸ Philip Morris, "JJM to PM Invitational Importance of Youth Issue," February 10, 1995, Bates No. 2044046017/6022.

⁹ Bowker, DT & Hamilton, M, *Cigarette Advertising Expenditures before and After the Master Settlement Agreement: Preliminary Findings*, Massachusetts Department of Health, May 15, 2000; Wakefield, M, et al., *Changes at the Point of Purchase for Tobacco Following the 1999 Tobacco Billboard Advertising Ban*, University of Illinois at Chicago Research Paper Series, No. 4, July 2000.