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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

PHILIP MORRIS USA INC.,
f/k/a PHILIP MORRIS INCORPORATED, et al.,

Defendants.

Civil Action No. 99-CV-02496 (GK)

[PROPOSED] FINAL JUDGMENT AND ORDER

I. Definitions

Unless otherwise specified, the following definitions shall apply to the terms used in this Final Judgment and Order:

(1) “Countertop Display” means a free-standing display with a minimum height of 30 inches and a minimum width of 18 inches that is placed on the counter at retail within the line-of-sight of any customer who is standing in the line for the register.

(2) “Defendants” include Altria Group, Inc. f/k/a Philip Morris Companies, Inc. (“Altria”), American Tobacco Company (“American”), British American Tobacco (Investments) Ltd. (“BATCo”), Brown & Williamson Tobacco Company (“Brown & Williamson” or “B&W”), Council For Tobacco Research – U.S.A., Inc. (“CTR”), Liggett Group, Inc. (“Liggett”), Lorillard Tobacco Company (“Lorillard”), Philip Morris USA Inc. f/k/a Philip Morris Incorporated (“Philip Morris”), R.J. Reynolds Tobacco Company (“Reynolds” or “RJR”), and the Tobacco Institute, Inc. (“TI” or “Tobacco Institute”).

(3) “Defendant Cigarette Manufacturers” are Defendants BATCo, Brown & Williamson, Liggett, Lorillard, Philip Morris, and R.J. Reynolds.

(4) “Direct Mail Marketing Database” means a database within which Defendants maintain information about individuals to whom they have sent mail in the past or intend to send mail in the future. The information maintained includes, for example, name, age, mailings sent and dates of mailings, demographic information, smoking preference, and whether the individual has provided any proof of age, such as a signature or government issued identification. Any records of any individuals who are currently alive and are 21 years of age or older to whom

Defendants have sent mail at any point in time shall be deemed to be included in this definition, even if Defendants have since moved those records to a second database, to an archive, or have in some other way designated them as not to receive additional mail.

(5) “Disaggregated Marketing Data” means data disaggregated – or broken down – by type of marketing (including sales data), brand, geographical region (to the smallest level of geographic specificity maintained by each Defendant), type of promotion or marketing used, number of cigarettes sold, advertising in stores and any other category of data collected and/or maintained by or on behalf of each Defendant.

(6) “Distinguishing Flavor” means a distinguishable taste or aroma other than tobacco or menthol that a cigarette or its tobacco smoke imparts either prior to consumption or during consumption, if a cigarette or any component thereof is marketed or packaged as having or producing a flavor, taste or aroma other than tobacco or menthol.

(7) “Header Display” means the banner that is displayed by a retailer at the top of a cigarette display case, which may show a cigarette brand name, cigarette brand imagery, prices for cigarettes, or promotional offers to consumers.

(8) “Internet Document Website” means any website providing access to documents and other information required to be publicly accessible pursuant to Section IV.F of this Final Judgment and Order, either previously established or created and maintained pursuant to this Section IV.F of this Final Judgment and Order.

(9) “Less Hazardous Cigarette,” for purposes of this Final Judgment and Order only, refers to a cigarette product: (1) designed and intended by a Defendant to potentially reduce the adverse health effects of smoking or exposure to secondhand smoke; (2) designed and intended

