

COURT RULES AGAINST GRAPHIC CIGARETTE WARNINGS: SAYS, MINI BILLBOARDS VIOLATE FREE SPEECH



The federal government's aggressive pitch to compel tobacco manufacturers to place graphic cigarette warning labels on cigarette packs, to show that smoking disfigures people and can be fatal, has come a cropper. The warnings were to be placed on the complete top half of cigarette packs, front and back, and include the phone number for a stop-smoking hotline, 1-800-QUIT-NOW. In a 2-1 decision, the U.S. Court of Appeals affirmed a lower court ruling that the requirement was in contravention of the First Amendment's free speech protections. Earlier this year, in March, a federal appeals court in Cincinnati had ruled that the requirement was constitutional. The opposing rulings mean that the Supreme Court, where the case is likely headed, will determine who wins. The graphics images of cadavers, people breathing through holes in their chest, blackened lungs and cadavers, were designed to scare people away from the habit. Judge Janice Rogers Brown wrote, "FDA failed to present any data...showing that enacting their proposed graphic warnings will accomplish the agency's stated objective of reducing smoking rates." The court has now asked the Food and Drug Administration to find another way to influence Americans to stop smoking. The nation's largest tobacco companies, amongst them R.J. Reynolds, Lorillard Tobacco Co., Commonwealth Brands, Liggett Group LLC and Santa Fe Natural Tobacco Co. argued that the labels violated their First Amendment rights because the labels had extended the truth and were not impartial. The DC appeals court agreed saying that it cannot be allowed to make 'every single pack of cigarettes in the country a mini billboard' for the government's anti-smoking message." The manufacturers cannot be forced to make disclosures that are commercially not fully factual and accurate and weaken their own economic interests. The outcome has delighted the tobacco companies, with Lorillard Tobacco's calling it "a significant vindication of First Amendment principles". Health groups criticized the ruling saying that the graphic labels were instructive in nature and would educate smokers, especially teens, about the drastic consequences of the habit. American CEO John R. Seffrin said that, tobacco causes the maximum number of deaths that can be prevented. "Larger, graphic warning labels on cigarette packs have the potential to encourage adults to quit smoking cigarettes and deter children from starting in the first place," he said. Matthew Myers, President of the Campaign for Tobacco-Free Kids, which has been vigorously advocating more stringent cigarette laws has urged the government to appeal, "Today's ruling is wrong on the science and law, and it is by no means the final word on the new cigarette warnings," he said. It is estimated that around 45 million American grown-ups are smokers. According to the World Health Organization, smoking could kill 8 million people each year by 2030, if the government does not do more to help people kick the habit. Earlier this year the U.S. Surgeon General cautioned that smoking amongst teenagers had reached "epidemic proportions." For most it could lead to a life time of addiction, he feared. The ruling is considered to be a major blow to one of President Obama's administration's foremost public health schemes, with the probability of it going to the Supreme Court certain. Buoyed by the verdict, affected companies are almost certain to challenge other of FDA's regulatory schemes.