

Japan's tobacco habit runs into court challenge

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In this photo taken July 17, 2009, Japanese businessman Kosuke Kishi takes a cigarette break at Cafe Tobacco, a Tokyo coffee-shop run by a major restaurant chain, in Tokyo. Cafe Tobacco has made its fame by billing itself as a haven for smokers. In Japan, 39.4 percent of adult males are smokers, according to the Health Ministry, although that number has come down gradually over the years. Japanese characters under a cigarette sign read: "All smoking seats." (AP Photo/Itsuo Inouye)

(AP) -- One plaintiff is a cancer patient. Another is represented by his widow. The third, has emphysema and rolls into the courtroom on a wheelchair with tubes trailing out of his nose. The three Japanese are waging a minnow-vs.-whale battle against Big Tobacco in one of the world's most smoker-friendly countries. But precedent suggests they're likely to lose, and they hope their suit will at least draw attention to the dangers of smoking.

Even if they win, they're unlikely to dent the finances of Japan Tobacco Inc., a former monopoly still half-owned by the government. The three are asking for a total of 30 million yen (\$320,000) from a company with 6.8 trillion yen (\$72.8 billion) a year in sales.

Their larger goal, they say, is to gain stronger curbs on tobacco, and legal and social acceptance of a notion that much of the world now takes for granted: that [smoking](#) makes you sick.

They have a long way to go. There's little of the concerted discouragement of smoking that has gained momentum in the West. Few bars and restaurants ban smoking. Only last year, to curb smoking among children, did a smart card become necessary to buy cigarettes from a vending machine.

A pack of 20 costs 300 yen (\$3), less than a third of New York prices, and about 60 percent of it is tax.

Other countries print dire health warnings in bold letters and add pictures of dead babies, gangrenous feet and crumbling teeth. Here, in small print, they say: "Smoking can be one of the causes for [lung cancer](#)."

[Secondhand smoke](#)? "[Tobacco smoke](#) has a harmful effect on people around you, especially infants, children and the elderly. When smoking, please be careful of those around you," the warnings say.

Japan Tobacco officials still flatly deny [passive smoking](#) is a problem, arguing that the dangers come from burning cigarettes left on an ashtray - not secondhand fumes.

The corporation has argued in Yokohama District Court that it has no case to answer because smokers are free to quit anytime, smoking is

legal and cancer has multiple causes. It's the same defense that gained it victory the last time it was taken to court, in 2003.

The current case began in January, 2005. Since then, co-plaintiff Kenichi Morishita has died of pneumonia and bacterial infection at age 75, leaving 67-year-old cancer patient Koreyoshi Takahashi who has one lung, and Masanobu Mizuno, the emphysema sufferer, a former mechanic who is also 67 and smoked from age 15 to 51.

With final arguments over, the judge has promised a ruling Jan. 20.

Although the case has attracted little media attention, there are signs that even Japan is beginning to kick the habit.

Among adult males, the number of smokers has been falling and now stands at 39.4 percent compared with about 24 percent in the U.S., according to the Japanese Health Ministry and the American Lung Association.

Cigarette ads no longer appear on TV, though Japan Tobacco gets on the air with ads that discourage tossing butts on the street or in trash cans.

There are more smoke-free cabs and areas on train platforms. Some communities have passed ordinances allowing small fines for smoking on streets.

Smoke-free bars and restaurants are enough of a novelty to have spawned a backlash against "smoker-bashing."

In April, a major restaurant chain opened Cafe Tobacco, a Tokyo coffee shop billing itself as a haven for smokers. It has proven popular among customers such as 28-year-old Kousuke Kishi, who takes his coffee with a Marlboro Light.

"I don't want to live an extra year or two by giving up what I love to do," said Kishi, 28, manager at a consultancy.

The lawsuit demands sterner warning labels on cigarettes, a ban on cigarette vending machines, and an acknowledgment that smoking is addictive and harmful.

"When I began smoking, about 80 percent of men were smokers," Mizuno said. "The advertising phrase was, 'You're healthy when a cigarette tastes so good.'"

In the U.S., President Barack Obama has signed a law empowering the Food and Drug Administration to regulate tobacco products, and while that too got little attention in the Japanese media, Obama's own struggle to quit smoking has been an inspiration to Mizuno.

"Times have really changed," he said. "The people's victory is near."

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