

US judge blocks graphic warnings on cigarettes

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A US judge on Monday blocked the government's attempt to place graphic warning labels on cigarette packs, saying big tobacco was likely to succeed in arguing it was a violation of free speech.

The full-color warning labels, including diseased lungs and a cancerous mouth lesion, would serve as "mini billboards" for the US government's "obvious anti-smoking agenda," said the ruling by US District Judge Richard Leon.

The warnings would take up about half the space on the front of each cigarette pack, located on the upper portion so as to be visible in most store displays.

A lawsuit was filed by Lorillard, R.J. Reynolds Tobacco Co., Commonwealth Brands, Inc., Liggett Group LLC, and Sante Fe Natural Tobacco Company to prevent the US Food and Drug Administration and the Department of Health and Human Services from mandating the new labels in 2012.

Their case was likely to succeed because of the First Amendment to the Constitution which guarantees freedom of speech, press, religion and assembly.

Previous court cases have found that the First Amendment not only protects free speech of the individual but also protects consumers against "compelled commercial speech," the judge said.

"The court concludes that plaintiffs have demonstrated a substantial likelihood that they will prevail on the merits of their position that these mandatory graphic images unconstitutionally compel speech, and that they will suffer irreparable harm," said Leon in his ruling.

"Accordingly, the plaintiffs' motion for preliminary injunction is granted."

The label changes, announced by the US government last year, were called for in a 2009 law signed by President Barack Obama that required new and larger warnings on cigarettes to depict the negative health consequences of smoking.

The 2009 law gave the FDA the power to regulate manufacturing, marketing and sale of tobacco products.

Nine images were picked from a group of 36 proposals after health authorities analyzed results on their effectiveness from an 18,000-person study and took into account about 1,700 public comments, the FDA said.

The color images included a man exhaling cigarette smoke through a tracheotomy hole in his throat, a baby shrouded in cigarette smoke, and a bare-chested male cadaver lying on a table.

Each warning label also contained a phone number to call for help in quitting.

Democratic Congressman Henry Waxman called the district court's decision "extremely regrettable," and said the small, text-only warnings on most US cigarette packs are not effective and should be replaced.

"Congress carefully considered the First Amendment issues involved and carefully tailored the legislation to ensure the FDA could act as it has

proposed with graphic warning labels for tobacco products," Waxman said in a statement.

"I believe that, on further judicial review, these public health protections will be affirmed and permitted to go into effect next year."

The number of smokers in America has been declining in recent years.

According to the latest data from the Centers for Disease Control and Prevention, 19.3 percent of American adults -- or 45.3 million people over the age of 18 -- are smoking cigarettes, down from 20.9 percent in 2005.

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