

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

_____)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil Action
)	No. 99-CV-02496 (GK)
PHILIP MORRIS USA INC.,)	
f/k/a PHILIP MORRIS INC., <u>et al.</u> ,)	
)	
Defendants.)	
_____)	

WRITTEN DIRECT EXAMINATION

OF

DEAN KRUGMAN, Ph.D.

SUBMITTED BY THE UNITED STATES PURSUANT TO ORDER #471

1 **Written Direct Testimony of Dean Krugman, Ph.D.**

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1 **I. EXPERTISE**

2 **Q. Please introduce yourself to the Court.**

3 A. My name is Dean Krugman.

4 **Q. Have you provided the Court with a copy of your curriculum vitae?**

5 A. Yes, my curriculum vitae is U.S. Exhibit 78,536.

6 **Q. What is your understanding of the expertise for which you are being offered in this**
7 **case?**

8 A. My expertise is in mass communication and marketing communication.

9 **Q. Your education and professional experience have been in those areas, is that**
10 **correct?**

11 A. Yes, that is correct. During my career I have continually researched, taught and
12 consulted in the areas of mass communication and marketing communication, including
13 advertising management, audiences, and markets. Primarily, my work has focused on the
14 way audiences react in a new media environment, the way advertising and promotion are
15 used in the persuasive process, and the area of health communication.

16 **Q. Please tell the Court about your educational background.**

17 A. I received a Bachelors degree in Communication from Southern Illinois University in
18 1970. In 1972, I received a Masters degree in Advertising from the University of Illinois
19 at Urbana. In 1977, I received a Ph.D. in Communication Research from The Institute of
20 Communications Research at the University of Illinois at Urbana.

21 **A. Academic Experience**

22 **Q. How long have you been teaching at the university level?**

23 A. Since 1973 – for 31 years.

1 **Q. What is your current position?**

2 A. Currently, I am a Professor and Associate Dean of Academic Affairs at the Henry W.
3 Grady College of Journalism and Mass Communication, The University of Georgia.

4 **Q. Does the College of Journalism and Mass Communication include various**
5 **departments?**

6 A. Yes, it includes the Department of Advertising and Public Relations, the
7 Telecommunication Department, and the Journalism Department.

8 **Q. Before I ask you about your teaching responsibilities, could you first explain your**
9 **responsibilities as the Associate Dean of Academic Affairs?**

10 A. I am responsible for academic programs of the College of Journalism and Mass
11 Communications which has approximately 50 faculty and 40 staff. I am responsible for
12 instruction and curriculum management, faculty and staff evaluations, working with
13 Department Heads on various matters, and assisting in faculty development.

14 **Q. When you say you are responsible for instruction and curriculum management,**
15 **what do you mean?**

16 A. Academic Affairs generally encompasses the learning and teaching experience. In my
17 position, I oversee the development of curriculum for the College, in particular the
18 undergraduate curriculum. I am responsible for ensuring that our undergraduates have a
19 good learning experience in our Journalism Department, Telecommunications
20 Department and the Department of Advertising and Public Relations. I am involved in
21 the education process for all seven majors that we offer in those three departments which
22 are: advertising; public relations; print journalism; magazines; publications management;
23 telecommunications; and broadcast news.

1 **Q. When were you appointed Associate Dean of Academic Affairs?**

2 A. In the winter of 2002.

3 **Q. Prior to the winter of 2002, what position did you hold at the University of Georgia?**

4 A. From 1996 to 2002, I was the Head of the Department of Advertising and Public
5 Relations.

6 **Q. What is the make up of the Department of Advertising and Public Relations?**

7 A. The Department has 20 full time faculty. It has separate advertising and public relations
8 majors with approximately 350 undergraduate, 30 masters, and 10 doctoral students each
9 year.

10 **Q. Is the Department of Advertising and Public Relations at the University of Georgia
11 nationally recognized?**

12 A. Yes. The most recent US News and World Report that ranked advertising and public
13 relations study separately evaluated both advertising and public relations graduate
14 programs. Each of these University of Georgia programs ranked in the top five
15 nationally as evaluated by academicians.

16 **Q. As Head of the Department of Advertising and Public Relations, what were your
17 responsibilities?**

18 A. I was responsible for daily and long range management of curriculum, leadership in
19 promotion decisions, evaluation of faculty teaching and research, teaching assignments,
20 and assessment and distribution of resources.

21 **Q. In your 31 years as a professor, have you taught both undergraduate and graduate
22 students?**

23 A. Yes, I have taught thousands of undergraduates and many hundreds of graduate students.

1 **Q. What graduate courses have you taught?**

2 A. My graduate courses include training both masters and doctoral students in mass
3 communication theory, audience analysis, and advertising and communication
4 management. For these same areas, I also regularly direct doctoral dissertations, direct
5 independent reading courses with Ph.D. students, and serve on doctoral committees.

6 **Q. What do you teach graduate students in your courses on mass communication
7 theory, audience analysis, and advertising and communication management?**

8 A. Generally, these courses cover how advertising and sales promotion efforts influence
9 audiences and consumers. In both communication theory and audience analysis I mentor
10 doctoral students in how persuasive communications, such as advertising and promotion,
11 work to influence consumers and the methods used to measure the effectiveness of such
12 communication. In advertising and communication management we examine how
13 objectives are translated into marketing communication plans and how those plans are
14 executed and evaluated. The courses often use a case approach that allows us to examine
15 how the concepts apply to practical business situations. Teaching these advanced
16 seminars requires an in-depth understanding of how advertising, sales promotion and
17 other forms of marketing communication work to influence markets and audiences.

18 **Q. What undergraduate courses have you taught?**

19 A. Over the years, I have taught a number of undergraduate courses including advertising
20 management, advertising campaigns, advertising and social responsibility, basic
21 advertising, and basic marketing. Most recently, I have been teaching advertising
22 management to seniors at the University of Georgia. I have recently taught a University

1 of Georgia freshman seminar, Media in American Life, as part of a University effort to
2 introduce freshmen to senior faculty.

3 **Q. What do you teach students in your advertising management course?**

4 A. In this class, students are taught how to best manage the overall process of advertising.
5 Initially, we discuss environmental considerations, such as the social/cultural,
6 competitive, economic and regulatory environment. We then discuss advertising
7 organizations, such as advertisers, agencies, media, and suppliers. Next, we review
8 specific marketing communication considerations which include: strategic research input;
9 objective setting which includes target markets and buyer behavior; determining the
10 budget; message and media strategy; message and media tactics; the final budget; putting
11 the plan into action; and measuring campaign effectiveness. My class encourages
12 students to understand how advertising and other forms of marketing communications
13 build brand image and brand equity and serve as an investment. The development of
14 brand image and brand equity is an investment because, when done properly, they will
15 bring a return in the future.

16 **B. Scholarly Work and Research**

17 **Q. What is the focus of your scholarly work?**

18 A. As a scholar of mass communication and marketing communication, I study audiences
19 and target markets and investigate the potential for impact and the actual impact of
20 persuasion on consumers. I have studied, taught, and used multiple research methods to
21 investigate these topics.

22 **Q. As a scholar of mass communication, what do you study?**

1 A. I study the mass communication process whereby a message is delivered via technical
2 means to a large number of individuals at approximately the same time. Generally
3 speaking, mass communication is indirect in that the sender and the receiver are not
4 present in time and space; and it is one-way, in that feedback from the receiver is not
5 immediate. Mass communication messages are delivered over mass media vehicles such
6 as television, radio, newspapers, magazines, outdoor (billboards) and transit.

7 **Q. As a scholar of marketing communication, what do you study?**

8 A. I examine persuasive messages such as advertising and promotion -- marketing
9 communications -- developed by individuals, institutions, or organizations.

10 **Q. What types of research have you conducted?**

11 A. I have conducted marketing communications research including (1) audience research,
12 (2) strategic research, and (3) health communication research. I have both taught and
13 written about many techniques of marketing communications research. In a textbook I
14 co-authored entitled Advertising: Its Role In Modern Marketing, I authored the chapter
15 on the research process that discusses and explains many research techniques. In my
16 scholarly work, I often combine various types of research methods to examine problems
17 through more than one lens or using more than one approach. Using multiple methods
18 often allows the researcher to have a stronger understanding of the phenomenon under
19 investigation. If applicable, using multiple techniques can provide the researcher a
20 greater degree of assurance.

21 **Q. Could you briefly explain the research techniques you have employed?**

22 A. In my own research, I have employed focus groups, in-home observations, field tests, in-
23 depth interviews, surveys, recognition and recall tests, eye-tracking, and tachistoscopes.

1 A focus group is a small discussion group which has been specifically recruited to attend
2 a meeting to discuss how they feel about a specific topic such as an advertisement or
3 advertising campaign. In-home observations involve placing an individual observer
4 within a household to discover how individuals act within their own home environment
5 as related to the way they consume media. Field tests have been used to understand how
6 different types and/or levels of advertising influence consumption, affect, and purchase.
7 In-depth interviews are deep conversations that you have with individuals regarding some
8 aspect of product use, advertising or other forms of marketing communication. Surveys
9 are those practices either by person-to-person, mail, computer mediated, or similar
10 techniques during which respondents are asked questions regarding some aspect of their
11 awareness, attitudes, or behavior. Recognition and recall tests are more specific types of
12 surveys or testing which allow for understanding if an individual has paid attention to and
13 the degree to which they remember seeing a campaign. Eye-tracking determines how an
14 individual moves their eyes across a page or some other form of written communication.
15 Subjects wear a lightweight headset monitored by a computer/VCR system or sit in a
16 specific position where their gaze is measured toward an object on a screen in order to
17 determine the pattern of their eye movement and the length of viewing. The results of
18 eye-tracking research reveal where respondents choose to look, the sequence or pattern
19 they employ when seeing an advertisement, and the time spent on various portions of that
20 advertisement. A tachistoscope is a mechanical device used to measure perception that
21 allows the researcher to understand at what point the message, or a part of the message, is
22 perceived. The technique relies upon a shutter placed on a slide projector; the shutter
23 varies the amount of time the picture is shown on a screen. The tachistoscope allows you

1 to determine how long it takes for respondents to get the intended idea of the illustration
2 or copy, an important factor in print and outdoor advertising.

3 **Q. What type of audience research have you conducted?**

4 A. I have studied audiences, who are generally categorized as those individuals who
5 consume the products of mass media. I have also studied target markets, who are those
6 individuals who are the focus of a company's campaign. There are different types of
7 targeting strategies. Targeting strategies can include demographic factors such as age,
8 gender, occupation, race and religion. They can include geographic factors such as
9 defining the market into groups based on location, such as major metropolitan areas.
10 They can include psychographic and lifestyle factors, which acknowledge that people
11 have different attitudes and lifestyles. A fourth approach is benefit segmentation,
12 understanding the desired consumer benefit, which can be tangible or intangible. A
13 tangible benefit might be taste; an intangible benefit would be the desire to "Come to
14 Marlboro Country."

15 **Q. Why do companies have target markets?**

16 A. Common sense tells you that you can't reach everybody with your marketing
17 communications all the time. So companies try to match their resources with specific
18 segments of a market. These segments are often termed target markets.

19 **Q. Can you provide an example of audience research that you have conducted?**

20 A. I have studied and conducted marketing communications research to measure the impact
21 of commercial or non-profit communication on audiences and/or target audiences. For
22 example, I have been responsible for pre-testing potential advertising campaigns in order
23 to determine their likely success in the market. These have included campaigns for such

1 companies as Caterpillar and organizations such as the Centers for Disease Control
2 (CDC). On other occasions, I have been responsible for evaluating the outcome of such
3 campaigns to determine the effectiveness of advertising and other forms of marketing
4 communication. This research may include such measures as attention, awareness,
5 attitude development, attitude change, brand image, and behavioral changes.

6 **Q. Why would a company measure attitude development or attitude change?**

7 A. Attitude development and attitude change can be key variables in understanding if a
8 campaign has changed the way an individual feels about a product or service. Marketing
9 research measures whether marketing communications positively influences or negatively
10 affects a person's attitudes. For example, marketing research may measure whether a
11 person likes a product or service more after seeing a marketing communication.

12 **Q. Have you conducted other audience research?**

13 A. Yes, I have long focused on the way individuals consume or use existing and new media
14 as they enter the home. For example, initially I concerned myself with how audiences
15 changed as cable and pay cable product entered the home. This evolved into examining
16 other new media vehicles such as VCRs, DVDs, and computer mediated communication.
17 I have examined the way audiences view VCR programming compared to traditional
18 broadcast programming in terms of the activities in which they participate during viewing
19 and the amount of time their eyes are on the screen. I have also investigated the activities
20 people participate in and the amount of time their eyes are on the screen for television
21 commercials versus regular television programming. In the context of this work, I had to
22 first learn what was going on in the 1950s and 1960s with television viewing. I reviewed
23 the body of research and published work on television viewing from the 1960s through

1 the present day, and continue to keep up to date on research published on television
2 viewing.

3 **Q. You also testified that you have performed strategic research. What is strategic
4 research?**

5 A. Strategic research has been used to set initial goals for a campaign and to investigate the
6 overall effectiveness of a campaign. Initially, use pre-test measures to make a
7 determination regarding the potential impact of a campaign. This allows us to figure out
8 whether or not we are on the right track. Post-testing is used to evaluate if the campaign
9 met its objectives.

10 **Q. The third type of research you mentioned was health communication research.
11 What type of health communication research have you performed?**

12 A. Health communication is a fairly new field in our discipline that applies the techniques
13 we know in advertising and other forms of marketing communication to the field of
14 health. It has recently grown in status as professionals come to recognize that the same
15 techniques that have been applicable for commercial communication could be applied
16 effectively to health issues. I have examined the status of the existing mandated health
17 warnings which appear on cigarette packages and advertising. My studies have examined
18 both the status of existing warnings and existing warnings compared to new warnings in
19 order to see if we could design a more effective warning solution to alert teenagers to the
20 dangers of smoking.

21 **Q. Did you publish your research on warnings in a peer reviewed journal?**

22 A. Yes, it was published in five peer reviewed articles: (1) "Do Cigarette Warnings Warn?
23 Understanding What it Will Take to Develop More Effective Warnings," Dean M.

1 Krugman, Richard J. Fox and Paul M. Fischer, Journal of Health Communication,
2 Volume 4, pp. 95-104, 1999; (2) “Adolescents’ Attention to Beer and Cigarette Print
3 Ads and Associated Product Warnings,” Journal of Advertising, Fox, Richard J., Dean
4 M. Krugman and Paul M. Fischer, 1998, Vol. 27, No. 3, Fall; (3) “Do Adolescents Attend
5 to Warnings in Cigarette Advertising?,” Journal of Advertising Research, 1994, Vol. 24,
6 No. 6, November/December; (4) “An Evaluation of Health Warnings in Cigarette
7 Advertisements Using Standard Market Research Methods: What Does it Mean to
8 Warn?,” Tobacco Control, 1993, Vol. 2.; and (5) “Recall and Eye Tracking Study of
9 Adolescents Viewing Tobacco Advertisements,” Journal of the American Medical
10 Association, Fischer, Paul M., John W. Richards, Earl J. Berman and Dean M. Krugman
11 Vol. 261, Jan. 6, 1989. I also presented the work at major academic conferences in 1995,
12 1997, 1998, and 1999.

13 **Q. What did you learn from the research on warnings you have just described?**

14 A. Simply making the warnings available does not by any means ensure that they will be
15 effective. The information contained on the labels was available – it was there on the
16 page – but it was not accessed or utilized by readers. Within this process, I also came to
17 understand that by comparison, cigarette advertising was effective and more impactful.

18 **Q. Have you conducted any research related to cigarette advertising?**

19 A. Yes. I have researched how teenagers are reached with cigarette advertising in
20 magazines.

21 **Q. Was this research published?**

22 A. Yes. This peer reviewed research was published in an article in the Journal of Public
23 Policy and Marketing entitled “Teenage Exposure to Cigarette Advertising in Popular

1 Consumer Magazines.” (Krugman and King, 2000) (U.S. Exhibit 64,273). My co-author
2 and I found that even a very limited schedule of cigarette magazine advertisements would
3 potentially expose two thirds of teenagers ages 12 to 17 to such advertising.

4 **Q. Other than the research and publications you have just named, have you presented
5 or published your research?**

6 A. Yes. I have written and lectured extensively on advertising and other forms of marketing
7 communications research. I have presented my work at academic conferences. My work
8 has also been published in prominent, peer-reviewed academic journals.

9 **Q. Have you authored any books?**

10 A. Yes. I am a senior co-author of Advertising: Its Role In Modern Marketing which was
11 published in 1994. This was a popular textbook that was highly respected for its content
12 and was used at a number of leading universities. Among the chapters I wrote were the
13 advertising campaign planning sections including the overall planning research, objective
14 setting and budgeting chapters and the sales promotion and public relations chapter.

15 **Q. How many peer reviewed publications have you authored or co-authored?**

16 A. Thirty-two. This does not count a number of peer-reviewed conference presentations and
17 proceedings. I have published articles in a number of scholarly journals, including:
18 Journal of Advertising, Journal of Advertising Research, Journal of Broadcasting and
19 Electronic Media, Journalism Quarterly, Journal of Health Communication, Journal of
20 Public Policy and Marketing, Current Issues and Research in Advertising, and the
21 Journal of the American Medical Association.

22 **Q. Have you received any recognition or award for your published work?**

1 A. Yes. In 2002, I was fortunate to receive the American Academy of Advertising,
2 Outstanding Contribution to Advertising Research award. The award is given to scholars
3 who have made a long term contribution to scholarship in the field. The academy noted
4 my contribution to both audience research and health communication research. A 1998
5 study in the Journal of Advertising indicated that I have been and remain one of the most
6 productive scholars in the field of advertising research. (Henthorne, LaTour and Loraas,
7 1998) (U.S. Exhibit 64,278). Finally, one of my studies, “Visual Attention to
8 Programming and Commercials: The Use of In-Home Observations,” was selected as the
9 best article in the Journal of Advertising for 1995.

10 **C. Consulting**

11 **Q. Have you served as a consultant on marketing communications?**

12 A. Yes. My research training and teaching background have led to a number of consulting
13 projects including research in the development, planning and evaluation of advertising
14 campaigns.

15 **Q. What was your first consulting position?**

16 A. After receiving my Masters degree, and during my Ph.D. studies, I consulted for the Ross
17 Advertising Agency where I worked on marketing communications research and
18 audience research for various companies who were clients of the agency. One company
19 that was a client of the advertising agency was Caterpillar and Company. After I
20 received my Ph.D., I continued to work as a consultant for Caterpillar and Ross
21 Advertising for seventeen years.

22 **Q. What type of consulting work did you do for Caterpillar during those seventeen**
23 **years?**

1 A. My responsibilities included advising on corporate marketing, advertising planning,
2 survey and focus group research for their products which included earth moving
3 machinery and other durable goods. I advised on marketing research procedures, assisted
4 in developing product advertising, and conducted executive development programs in the
5 area of advertising and promotion.

6 **Q. Was the consulting work you performed for Caterpillar similar to your other**
7 **research activities?**

8 A. Yes. It's important to understand that the application of concepts and research
9 procedures in the area of advertising and marketing communication basically remain the
10 same regardless of the particular product at hand. For example, we applied similar eye
11 tracking techniques and magazine reading testing techniques for Caterpillar catalogues to
12 the procedures used in our cigarette warnings program. The focus group work that I
13 employed during the cigarette warning research is extraordinarily similar to the work I
14 employed for Caterpillar when investigating their creative products for future campaigns.
15 I conducted media studies to determine which magazines and other forms of media were
16 read and used by Caterpillar customers. I also did executive training programs for
17 Caterpillar managers in advertising and promotion.

18 **Q. Have you served as a consultant for other companies?**

19 A. Yes, for Texas Instruments during the mid-1990s.

20 **Q. What consulting work did you do for Texas Instruments?**

21 A. I created and conducted executive development programs in the area of advertising
22 objectives, budgeting and brand equity for Texas Instruments. At Texas Instruments I
23 trained managers who were responsible for developing marketing programs for a wide

1 range of products including children's educational toys and computer chips. I trained
2 their managers in the advertisement management process which includes setting up
3 advertising goals for the company, developing budgets, and measuring advertising
4 effectiveness.

5 **Q. Have you consulted for any other companies or organizations?**

6 A. Yes. I have also performed consulting work for others such as Philips/Magnavox;
7 American Cancer Society and Centers for Disease Control; and clients of the University
8 of Georgia, Small Business Development Center. For the most part my consulting work
9 centered around an understanding of audiences or how advertising and other forms of
10 marketing communication can be effectively used by the business or organization.

11 **D. Editorial Boards and Reviewing**

12 **Q. Have you served on the editorial boards of any journals?**

13 A. Yes. I serve or have served on the editorial review board of the Journal of Advertising,
14 the International Journal of Advertising, and the Journal of Broadcasting & Electronic
15 Media.

16 **Q. Have you served as a reviewer for any journals or conferences?**

17 Yes. I continually review research studies for a number of peer-reviewed scholarly
18 journals and conferences. In addition to the above journals I have reviewed scholarly
19 articles for Journalism and Mass Communication Quarterly, the Journal of Marketing, the
20 Journal of Public Policy and Marketing, and the Journal of the Academy of Marketing
21 Sciences. I have also reviewed numerous conference papers for academic organizations.
22 I also received one of the inaugural "Outstanding Reviewer" awards from the Journal of
23 Advertising for my contribution to the journal's scholarship.

1 **E. Expert Reports and Testimony in Smoking & Health Related Cases**

2 **Q. Have you previously been retained as an expert witness in smoking and health**
3 **litigation?**

4 A. Yes.

5 **Q. In which cases?**

6 A. I have been retained as an expert witness in six state cases: Commonwealth of
7 Massachusetts v. Philip Morris, Inc., et al.; State of Texas v. American Tobacco Co., et
8 al.; In Re: Mike Moore, Attorney General ex rel State of Mississippi v. American
9 Tobacco Co., et al.; State of Florida v. American Tobacco Co., et al.; State of Washington
10 v. American Tobacco Co., Inc., et al.; and State of Maryland v. Philip Morris, Inc., et al.
11 I also served as an expert in: Seaborn v. R.J.Reynolds, et al.; Ezell Thomas, et al. v. R.J.
12 Reynolds; and Lorillard Tobacco Co., et al. v. T. O'Reilley.

13 **Q: Did you testify in those cases?**

14 A. Yes. I was deposed in all of these cases. I did not testify at trial.

15 **Q: What was your topic of expertise?**

16 A: Marketing communication and mass communication.

17 **II. SUMMARY OF CONCLUSIONS**

18 **Q. What topics do you address in this case?**

19 A. I address the tobacco companies' mass communication and marketing communication.
20 First, I address their cigarette brand marketing efforts. Second, I address the industry's
21 Advertising Code, and their public relations campaign, The Frank Statement. Third, I
22 respond to the tobacco companies' claim that warning labels on cigarette advertisements
23 provide health information.

1 A. *Conclusions About Defendants' Cigarette Brand Marketing Efforts*

2 **Q. What, if any, conclusions did you reach regarding Defendants' cigarette brand**
3 **marketing efforts?**

4 A. My overall conclusion is that the tobacco industry knowingly targeted adolescents under
5 18 years of age. The marketing strategies of the tobacco industry have been effective,
6 thorough and well-planned efforts to attract teenagers to cigarettes and contribute to the
7 continuance of teenage smoking. Contrary to the public statements and advertisements of
8 the tobacco industry claiming that they did not target teenagers or want teenagers to
9 smoke, cigarette companies have specifically targeted teenagers in their marketing
10 efforts.

11 My overall conclusion about the tobacco companies' cigarette brand marketing is
12 based upon six sub-conclusions. First, I concluded that the tobacco companies' cigarette
13 advertising and promotion expenditures, historically and currently, remain high on an
14 absolute basis and relative to other industries. Second, I concluded that the tobacco
15 companies' use of advertisement and promotion play an important role in selling
16 cigarettes. Third, I concluded that the monies spent by the tobacco companies on
17 advertising and promotion are inextricably linked and are coordinated for maximum
18 impact. Fourth, I concluded that the ubiquitous nature of the tobacco companies'
19 cigarette advertising and sales promotion normalizes and socially sanctions smoking
20 among teenagers. Fifth, I concluded that, contrary to the tobacco companies' public
21 statements, cigarette advertising and promotion stimulate primary demand by attracting
22 new users who are predominantly under the age of 18. Sixth, I concluded that contrary to

1 their public statements, the tobacco industry has been effective in the planning and
2 execution of cigarette advertising and promotion to teenagers.

3 **Q. Generally, what public statements have Defendants made about their marketing**
4 **efforts?**

5 A. The tobacco companies continually publicly state that their advertising and promotion
6 efforts are only geared toward adults who choose to smoke, not to getting anyone to start
7 smoking, smoke more, or re-start smoking after quitting.

8 **Q. Are those statements consistent with Defendants' actual marketing practices?**

9 A. No. The tobacco companies state plainly in numerous internal documents that they need
10 to market to teenagers, that they are researching and collecting research on teenagers, and
11 that they are designing their marketing to appeal to teenagers. Furthermore, you simply
12 cannot direct advertising and promotion at the level and consistency that the tobacco
13 companies have over the years and only confine your approaches to targeting adult
14 smokers who are continuing to smoke at their same rate. It defies logic and my
15 experience to believe that the cigarette industry has spent approximately \$12.5 billion on
16 advertising and promotion in 2002, and \$175 billion on well-crafted advertising and
17 promotion from 1964 to the present, only to market to their existing adult smokers. The
18 advertising and promotion employed by the tobacco companies is highly ubiquitous,
19 resulting in normalizing and socially sanctioning smoking among teenagers. Basically,
20 this marketing effort makes cigarette smoking acceptable and desirable to many
21 teenagers.

22 **Q. When you refer to "young people" or teenagers in your testimony, what age group**
23 **do you mean?**

1 A. Generally, I am referring to teenagers ages 12 to 17, unless I state otherwise.

2 **B. Conclusions About Defendants' Advertising Code and the Frank Statement**

3 **Q. What is Defendants' Advertising Code?**

4 A. The industry's Advertising Code was written in 1964 and revised in 1990; it is a self-
5 imposed set of rules about marketing and advertising that the tobacco companies have
6 publicly promoted as a supposed means to prevent them from marketing to youth.

7 **Q. What did you conclude about Defendants' Advertising Code?**

8 A. Major parts of the Advertising Code have been ignored by the industry. The Code has
9 not stopped the tobacco companies from marketing to teenagers.

10 **Q. What was the Frank Statement?**

11 A. It was a 1954 advertisement placed by the tobacco companies in 448 newspapers that
12 reached an estimated circulation of over 43 million Americans.

13 **Q. What did you conclude about the Frank Statement?**

14 A. The Frank Statement was an effective strategy in terms of allaying public concerns about
15 smoking and providing a rationale for continuing to smoke.

16 **C. Conclusions About Warning Labels on Cigarette Advertising**

17 **Q. What did you conclude about the cigarette warning labels?**

18 A. I examined the tobacco companies' claim that the warning labels on cigarettes provide an
19 effective health warning to cigarette smokers. My research has found that the current
20 government mandated rotated warning labels are ineffective because they are inadequate
21 to convey important information to prospective consumers, including the nature and
22 extent of the health risk, how harmful the consequences of smoking are, and what type of
23 harm could ensue.

1 **D. Basis for Conclusions**

2 **Q. What did you rely upon to reach these conclusions?**

3 A. I relied upon my educational background, my own research and peer reviewed
4 publications, my understanding of the academic research in these areas, and the tobacco
5 companies' internal marketing documents and advertising campaigns.

6 **Q. What types of academic research did you rely upon?**

7 A. I rely upon official government reports, namely Federal Trade Commission (FTC)
8 Reports and Reports of the Surgeon General, including the 1994 and 2000 Reports of the
9 Surgeon General, which have concluded that advertising and promotion are important
10 environmental risk factors in the initiation and maintenance of teenage smoking. (U.S.
11 Exhibit 64,693) (U.S. Exhibit 64,316). I also rely upon academic research including peer
12 reviewed, published journal articles and books on marketing communication and mass
13 communication.

14 **Q. Specifically, what types of Defendants' documents have you reviewed?**

15 A. I reviewed thousands of the tobacco companies' corporate documents, including
16 memoranda, research studies, and planning documents; marketing documents, including
17 marketing planning documents; correspondence; and documents related to media
18 placement.

19 **Q. Did you review Defendants' internal documents for the first time for this case?**

20 A. No. I have reviewed the tobacco companies' internal documents for at least ten years in
21 connection with my work as an expert witness in litigation as well as for my own
22 academic research into cigarette advertising and promotion.

23 **Q. What are corporate and marketing plans?**

1 A. These are plans that companies create on a regular basis. They can cover either a one
2 year period or a period of several years. Generally speaking, they provide a brief
3 historical perspective on what a company has recently done and then set forth a plan for
4 the upcoming year or future years. Plans of this magnitude and level typically are
5 reviewed by senior people within an organization. Marketing plans are customarily
6 presented to the most senior employees within a company. Before a marketing plan is
7 completed and finalized, it will be reviewed and edited numerous times.

8 **Q. In your experience, do most companies create such plans?**

9 A. Yes, most sophisticated companies, including the tobacco companies, prepare such plans.

10 **Q. Have you seen corporate plans from companies other than the tobacco companies?**

11 A. Yes, in one form or another I have reviewed the corporate plans, marketing plans, and/or
12 marketing documents for other companies with whom I have consulted. I would
13 routinely ask to see such plans to better understand the set of circumstances in which I
14 would be working. Like the tobacco companies' plans, these plans contained marketing
15 objectives and marketing communication objectives.

16 **III. CONCLUSION REGARDING DEFENDANTS' CIGARETTE BRAND MARKETING**
17 **EFFORTS**

18 **A. First Conclusion: Cigarette Marketing Expenditures Are High**

19 **Q. Please remind the court of your first sub-conclusion regarding Defendants' cigarette**
20 **brand marketing efforts.**

21 A. My first conclusion is that cigarette advertising and promotion expenditures, historically
22 and currently, have traditionally been high and have recently been increasing.

23 **Q. Can you further explain your conclusion?**

1 A. Cigarettes have been and remain among the most heavily advertised and promoted
2 consumer products. The tobacco companies have recently shifted their expenditures from
3 traditional advertising to promotion. As I will explain later in my testimony, many of
4 these dollars have been spent on advertising and sales promotions that continually reach
5 teenagers and to promote cigarette brands smoked by teenagers.

6 **Q. Upon what do you base this conclusion?**

7 A. The Federal Trade Commission Annual Reports to Congress provide the most complete
8 data on advertising and promotion expenditures. These reports contain expenditure data
9 reported by the tobacco companies to the FTC and are available to the public. FTC
10 cigarette advertising and promotion information dates back to 1963. The most recent
11 FTC Report was issued in October 2004 and included data for the tobacco companies'
12 expenditures for 2002.

13 **Q. How does the Federal Trade Commission define advertising?**

14 A. Advertising is paid, non-personal communication through various media by business
15 firms, non-profit organizations, and individuals who are in some way identified in the
16 message and hope to inform or persuade members of a particular audience. When
17 discussing advertising expenditures, the FTC includes advertising placed in newspapers,
18 magazines, outdoor and at the point of sale. (U.S. Exhibit 60,663).

19 **Q. How does the Federal Trade Commission define promotion?**

20 A. Promotion or sales promotion includes all forms of communication other than
21 advertising, personal selling, publicity or public relations that call attention to the
22 promotional idea or reinforce the intended message. Companies use promotion with
23 advertising to create a synergy to promote a product. Promotion includes activities

1 directed both at consumers (consumer promotion) and at resellers (trade promotion).
2 Consumer promotions, such as “Buy One Get One Free” offers for cigarettes, are aimed
3 at potential customers or current customers who already use the product. Coupons,
4 rebates, and sweepstakes are also typical consumer promotions. Trade promotions are
5 directed to channel participants, such as retailers and distributors, in order to get them to
6 carry, display, and sell the product. When discussing promotion expenditures, the FTC
7 includes point of sale promotional materials, promotional allowances, sampling
8 distribution, specialty item distribution, public entertainment, direct mail, endorsements
9 and testimonials, internet, coupons, retail value added, and other. (U.S. Exhibit 60,663).

10 **Q. What does FTC data show?**

11 A. FTC data reveals that the tobacco companies’ advertising and promotion expenditures are
12 high and have been substantially increasing. Specifically, cigarette advertising and
13 promotion expenditures are high on a relative as well as absolute basis. Other data
14 supports this. For example, the Centers for Disease Control and Prevention (CDC) notes
15 that from 1975 to 1985 total cigarette and promotional expenditures increased more than
16 six times, or three times when adjusted by the consumer price index. (MMWR, April 27,
17 1990, p. 261) (U.S. Exhibit 64,306).

18 **Q. Have Defendants’ cigarette advertising and promotion expenditures been high**
19 **historically?**

20 A. Yes. A look at earlier decades clearly shows that the cigarette industry invested heavily
21 in advertising and promotion. The FTC used IRS data between 1950 and 1960 to review
22 advertising and promotion expenditures. From 1950 to 1960, the tobacco companies’
23 advertising and promotion expenditures for cigarettes increased 178.7%, from \$85

1 million to \$236 million. By comparison, advertising expenditures for all corporations
2 increased by 128.1%, a total dollar increase from \$2.3 billion in 1950 to \$5.2 billion in
3 1960. (FTC, 1965, pp. 7-8, 23) (U.S. Exhibit 23,731). The tobacco companies were
4 among the top advertisers in the 1950s, the 1960s, and the 1970s.

5 **Q. What evidence do you have that Defendants were among the top advertisers in the**
6 **United States in the 1950s?**

7 A. In 1950, American Tobacco Company, R.J. Reynolds Tobacco Company, Liggett &
8 Meyers Tobacco Company and Philip Morris & Company were all among the top
9 twenty national advertisers for time and space in five media (at the time defined as
10 general magazines and groups, farm magazines, magazine sections, network radio and
11 television), as measured by Leading National Advertisers Incorporated. (Advertising
12 Age, February 26, 1951) (U.S. Exhibit 64,310).

13 **Q. What evidence do you have that Defendants were among the top advertisers in the**
14 **United States in the 1960s?**

15 A. In 1960, the tobacco industry remained among the major advertisers in network
16 television, magazines and newspapers. As importantly, tobacco companies invested
17 heavily in major cigarette brands in 1960 and remained among the most visibly
18 dominant consumer brands. Winston, Salem and L&M filters were the second, third and
19 fourth most promoted brands in network television's fourth quarter. Four other brands,
20 Marlboro (16th), Kent (17th), Viceroy (20st) and Pall Mall (21st) also remained heavily
21 promoted on network television. (Advertising Age, March 20, 1961) (U.S. Exhibit
22 64,251).

1 **Q. What evidence do you have that Defendants were among the top advertisers in the**
2 **United States in the 1970s?**

3 A. In 1970, R.J. Reynolds, Philip Morris and Brown & Williamson remained among the top
4 twenty companies with respect to advertising in measured media, as reported by Leading
5 National Advertisers and Broadcast Advertiser Reports. (Advertising Age, May 17,
6 1971) (U.S. Exhibit 64,311).

7 **Q. Did Defendants continue their heavy advertising in the 1980s?**

8 A. Yes. During the 1980s, cigarettes remained one of the most heavily advertised products
9 in print media. The CDC found that in 1988, cigarettes were the most heavily advertised
10 product in “outdoor” (on billboards), the second most heavily advertised product in
11 magazines, and the sixth most heavily advertised product in newspapers. (MMWR,
12 April 27, 1990) (U.S. Exhibit 64,306).

13 **Q. What were the trends in expenditures in the 1980s and 1990s?**

14 A. Expenditures grew rapidly. During the 10 year period of 1981-1990, domestic cigarette
15 and advertising and promotion totaled \$25.6 billion (FTC, 1999) (U.S. Exhibit 76,080).
16 In the ten-year period from 1992-2001, domestic cigarette advertising and promotional
17 expenditures totaled \$67.5 billion – more than twice as much. (FTC, 2001) (U.S.
18 Exhibit 60,663). Spending in the years 1996-1998 was \$17.5 billion and spending in the
19 years 1999-2001 was \$29.1 billion, a 66% increase.

20 **Q. Have you prepared a demonstrative to show spending in these recent years?**

21 A. Yes, it is Demonstrative 17,495 below.
22
23

1 **Demonstrative 17,495: Total Cigarette Advertising and Promotional Spending by Year,**
 2 **1996-2001 (Dollars in Thousands)**
 3

Year	Percentage increase	Total Expenditures	3 Years Total Expenditures
1996	4.34%	\$5,107,702	\$17,500,871
1997	10.81%	\$5,660,014	
1998	18.96%	\$6,733,155	
Master Settlement Agreement (MSA)			66%
1999	22.34%	\$8,237,631	\$29,046,478
2000	16.45%	\$9,592,627	
2001	16.93%	\$11,216,220	

4
 5 **Q. Does the Master Settlement Agreement prevent Defendants from increasing their**
 6 **expenditures on advertising and promotion?**

7 A. No, in fact the tobacco companies increased their expenditures on advertising and
 8 promotion after entering the MSA in 1998.

9 **Q. What did Defendants spend in 2001?**

10 A. In 2001, the tobacco companies' expenditures for domestic cigarette advertising and
 11 promotion were \$11.2 billion, an increase of 16.9% over 2000. (U.S. Exhibit 60,663).
 12 The 16.9% increase is primarily driven by additional expenditures at the retail level
 13 which include retail value-added (e.g. buy one get one free) and promotional allowances
 14 for more prominent displays.

15 **Q. What did Defendants spend in 2002?**

1 A. In 2002, the tobacco companies' expenditures for domestic cigarette advertising and
2 promotion were approximately \$12.5 billion. This was an increase of 11.61% over 2001.

3 **Q. Have you had a chart prepared that shows Defendants' expenditures on**
4 **advertising and promotion in yearly increments?**

5 A. Yes, Demonstrative 17,496 shows this data (for the years for which FTC data is
6 available – 1963 to 2002).

7 **Demonstrative 17,496: The Tobacco Companies' Annual Expenditures**
8 **on Advertising and Promotion**
9

Year	Total Expenditures	Inflation Adjusted Total
1963	\$249.5	\$1,544.3
1964	\$261.3	\$1,596.5
1965	\$263.0	\$1,581.3
1966	\$297.5	\$1,739.1
1967	\$311.5	\$1,766.4
1968	\$310.7	\$1,691.0
1969	\$305.9	\$1,578.7
1970	\$314.7	\$1,536.2
1971	\$251.6	\$1,176.6
1972	\$257.6	\$1,167.2
1973	\$247.5	\$1,055.8
1974	\$306.8	\$1,178.7
1975	\$491.3	\$1,729.6
1976	\$639.1	\$2,127.3
1977	\$779.5	\$2,436.3
1978	\$875.0	\$2,541.8
1979	\$1,083.4	\$2,826.4
1980	\$1,242.3	\$2,855.5
1981	\$1,547.7	\$3,224.8
1982	\$1,793.8	\$3,520.7
1983	\$1,900.8	\$3,614.6
1984	\$2,095.2	\$3,819.4
1985	\$2,476.4	\$4,359.0
1986	\$2,382.4	\$4,117.0
1987	\$2,580.5	\$4,302.3
1988	\$3,274.9	\$5,243.2
1989	\$3,617.0	\$5,524.7
1990	\$3,992.0	\$5,784.9
1991	\$4,650.1	\$6,466.4
1992	\$5,231.9	\$7,062.9
1993	\$6,035.4	\$7,910.8

Year	Total Expenditures	Inflation Adjusted Total
1994	\$4,833.5	\$6,177.2
1995	\$4,895.2	\$6,083.7
1996	\$5,107.7	\$6,165.7
1997	\$5,660.0	\$6,679.2
1998	\$6,733.2	\$7,823.7
1999	\$8,237.6	\$9,365.0
2000	\$9,592.6	\$10,550.7
2001	\$11,216.2	\$11,995.2
2002	\$12,466.4	\$13,124.7
TOTAL	\$118,808.7	\$175,044.3

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Q. What does Demonstrative 17,496 show?

A. It shows the tobacco companies' expenditures in yearly increments on advertising and promotion as reported to the FTC from 1963 to 2002, both adjusted for inflation and unadjusted for inflation.

Q. How much in total have Defendants spent on advertising and promotion from 1963 to 2002?

A. From 1963-2002, the tobacco companies have spent almost \$118 billion on advertising and promotion, unadjusted for inflation, and \$175 billion adjusted for inflation.

Q. Have you had another chart prepared that shows Defendants' expenditures on advertising and promotion?

A. Yes, Demonstrative 17,497 shows the tobacco companies' expenditures on advertising and promotion in 10 year increments for the years for which FTC data is available – 1963 to 2002.

1 **Demonstrative 17,497: Defendants' Expenditures in Ten Year Increments on Advertising**
2 **and Promotion**
3

	Ten Year Totals Unadjusted for Inflation	Ten Year Totals Adjusted for Inflation
1963-1972	\$2,823.3	\$15,377.3
1973-1982	\$9,006.4	\$23,496.8
1983-1992	\$32,201.2	\$50,294.4
1993-2002	\$74,777.8	\$85,875.8
1963-2002	\$118,808.7	\$175,044.3

4
5 **Q. You testified that, since agreeing to the MSA, Defendants have increased their**
6 **expenditures including promotional allowances at retail. What are promotional**
7 **allowances?**

8 A. Promotional allowances are payments to retailers, wholesalers, or others to facilitate the
9 sale of cigarettes. For example, a tobacco company will often pay for a prominent spot
10 on the shelf which is highly visible to the customer.

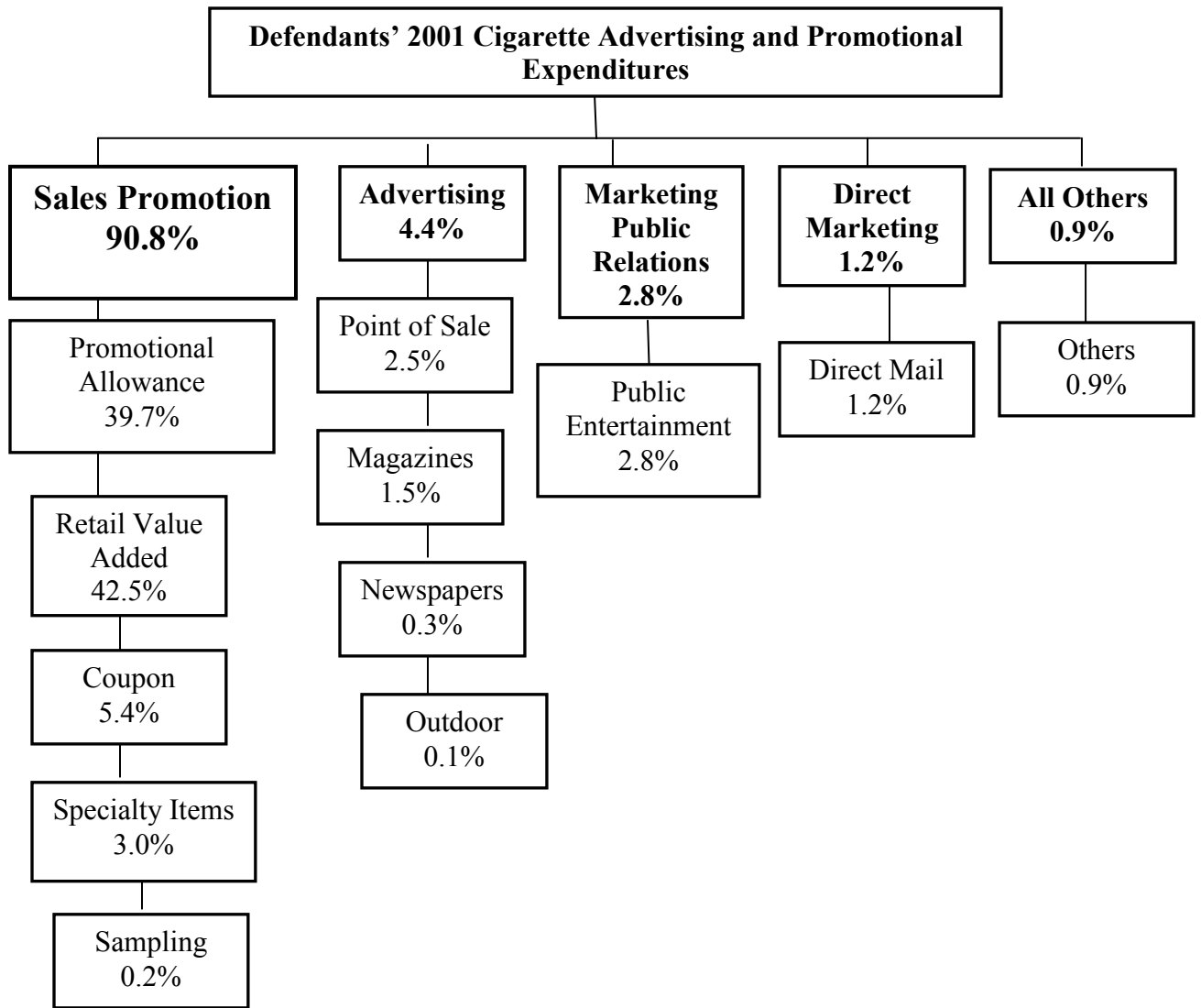
11 **Q. When did Defendants begin to spend more on promotions?**

12 A. From 1975 to 1985, the tobacco companies' expenditures for traditional print advertising
13 decreased, while promotional spending increased. (MMWR, April 27, 1990) (U.S.
14 Exhibit 64,306). The tobacco companies have continued to shift their allocation of
15 advertising and promotion dollars from 1986 to the present. From 1994 to 2000,
16 promotional allowances have been the single largest category of advertising and
17 promotional expenditures. (FTC 2001) (U.S. Exhibit 60,663). Demonstrative 17,498
18 demonstrates how the \$11.2 billion in 2001 were allocated across various forms of
19 promotion that I have categorized.

20 **Q. Recently, how much have Defendants spent on retail?**

1 A. In 2001, support mostly oriented to the retail level (retail value added and much of
 2 promotional allowances) constituted 82% of the total spending.

3 **Demonstrative 17,498: Cigarette Advertising and Promotional Expenditures**
 4 Source: Federal Trade Commission Cigarette Report for 2001, Issued 2003
 5



22 **Q. Is this shift from advertising to promotion unique to the tobacco industry?**

23 A. No, the cigarette industry's shift from traditional advertising to promotion is reflective of
 24 a shift of such expenditures in business in general. (Murphy & Cunningham, 1993, p.

1 380) (U.S. Exhibit 64,265); (Spethman, 2001, pp. 64-72) (U.S. Exhibit 64,254);
2 (MMWR, April 27, 1990, p. 264) (U.S. Exhibit 64,306). In general, there has been a
3 shift toward trade promotion by many companies not just the tobacco companies. Prior
4 to this shift, about 40% of most companies' advertising and sales promotion budget went
5 to advertising. Today, on average, for most companies, advertising only accounts for
6 about 25% of the advertising and sales promotion budget. The rest of the dollars are
7 going to consumer promotion and trade promotion. Roughly speaking, for most
8 companies, trade promotion accounts for about 50% of all of the advertising and sales
9 promotion dollars.

10 **Q. Why are companies making this shift in general?**

11 A. In part, a great deal of power has gone to the retailer in terms of determining what
12 products to carry. Therefore, promotional spending by companies has moved toward the
13 distribution channel (e.g. retailer) in order to get products placed and promoted at the
14 retail level.

15 **Q. Is Defendants' shift in spending related to the advertising restrictions that**
16 **Defendants agreed to under the MSA?**

17 A. No. The shift was beginning many years prior to the MSA. This shift has continued
18 from 1986 to the present. As I just testified, from as early as 1994 to 2000 promotional
19 expenditures have been the single largest category in which tobacco companies spend
20 their dollars.

21 **Q. In summary, please describe the relevance to your overall conclusion of Defendants'**
22 **high expenditures on advertising and promotions.**

1 A. A logical outcome of the tobacco companies' spending has been the continual reach of
2 cigarette messages to teenagers. As I will explain later in my testimony, the tobacco
3 companies have used a portion of these expenditures to fund advertising and sales
4 promotion programs that reach and/or target teenagers.

5 ***B. Second Conclusion: Advertising and Promotion Are Important Marketing***
6 ***Tools***
7

8 **Q. Please remind the court of your second sub-conclusion regarding Defendants'**
9 **cigarette brand marketing efforts.**

10 A. My second conclusion is that the tobacco companies' advertising and promotion are
11 important marketing tools and play an important role in selling cigarettes.

12 **Q. Can you explain this conclusion?**

13 A. Advertising and other forms of promotion serve as important factors in selling cigarettes
14 and help to precipitate, influence and reinforce smoking behavior, particularly among
15 teenagers. Advertising and other forms of promotion work together, and in various ways,
16 including recruiting new smokers and reassuring smokers that smoking is an acceptable
17 behavior.

18 **Q. Upon what do you base this conclusion?**

19 A. I base it on relevant peer reviewed academic literature, on the tobacco companies'
20 internal documents, tobacco companies' advertising campaigns, and statements of
21 industry members.

22 **Q. Generally speaking, can you tell the Court how advertising and promotion work?**

23 A. Advertising and promotion can influence people in a variety of ways. Three separate but
24 related areas of influence are learning (or cognitive) feeling (or affective) and doing (or
25 conative). (Krugman, Reid, Dunn & Barban, 1994, pp. 248-255) (U.S. Exhibit 64,326).

1 Advertising and other forms of promotion can influence the learning or cognitive domain
2 by creating awareness, knowledge, comprehension, and positive images for branded
3 cigarettes. Advertising and other forms of promotion also influence the feeling or
4 affective domain by creating positive images, favorable attitudes, liking, desire,
5 preference, and conviction to use brands of cigarettes. Advertising and other forms of
6 promotion can assist in establishing the doing or conative domain of market action by
7 stimulating trial, purchase behavior, helping to create and enhance satisfaction, and
8 reinforcing purchase behavior.

9 **Q. How do these three types of influence relate to teenage smoking behavior?**

10 A. Consumers and teenagers do not necessarily go through several hierarchical stages of
11 information processing (e.g. awareness > knowledge> liking >conviction> action) in
12 order to form a logical conclusion regarding the initial and continued use of cigarettes.
13 Teenagers often respond to, rather than analyze, the imagery portrayed in cigarette
14 advertising and sales promotion.

15 **Q. What imagery are you referring to?**

16 A. Image is simply the picture or idea that a consumer has of the product or service.

17 **Q. How does cigarette advertising use brand image?**

18 A. The 1994 Report of the Surgeon General, Preventing Tobacco Use Among Young
19 People, states that cigarette advertising strategies often focus on the use of images: “Put
20 simply, the recommendations were to use reassuring pictures, not words; images, not
21 information. This tactic of employing visual imagery, lifestyle portrayals, and drama to
22 create mood and attitude, rather than words, facts, and data to create knowledge and
23 comprehension, is now known as ‘transformational’ or ‘image’ advertising, which stands

1 in contrast with ‘informational’ advertising.” (p. 171) (U.S. Exhibit 64,693). A peer
2 reviewed article published in 1990 comes to a similar conclusion – that cigarette
3 messages are visually oriented and tend to bypass logical analysis. (U.S. Exhibit 64,693).

4 **Q. What do you mean when you testify that cigarette messages bypass logical analysis?**

5 A. Cigarette advertising can act to help bypass logical analysis for new smokers and current
6 smokers. People do not necessarily think through the logical consequences of a decision.
7 Also, as noted in my textbook, advertising and sales promotion imagery and messages are
8 used by consumers to confirm, rationalize or justify an earlier decision, which would
9 include smoking behavior. (Krugman, Reid, Dunn and Barban, 1994, p. 253) (U.S.
10 Exhibit 64,326). Tobacco industry documents confirm the role of rationalization as a
11 mechanism in image building for cigarettes. (Surgeon General, 2000, p. 166) (U.S.
12 Exhibit 64,316).

13 **Q. Have others similarly concluded that cigarette messages bypass logical analysis?**

14 A. Yes. In 1980 Richard Vaughn, who worked for Foote, Cone, & Belding, a highly
15 respected advertising agency, developed his widely accepted model of advertising and
16 strategic planning, known as the Vaughn Model or the FCB Strategy Planning Model.
17 This model offers an approach to the planning, creation and execution of advertisements
18 that has been refined over the years and is utilized by many advertising agencies and
19 advertisers. According to the Vaughn Model, some decisions are characterized by a low
20 level of involvement. Importantly, Vaughn placed cigarettes in the self-satisfaction
21 category characterized by making decisions based on imagery and quick satisfaction.
22 This is a low level of involvement category. In the self satisfaction category, advertising

1 is not predicated on logic, but on gaining attention in a consistent manner. (Vaughn,
2 1980; 1986) (U.S. Exhibit 64,248); (U.S. Exhibit 64,249).

3 **Q. Is the Vaughn Model is a widely used model of advertising and strategic planning?**

4 A. Yes. The article in which Dr. Vaughn set out his model was included as a “classic”
5 article and updated for the Journal of Advertising Research’s 50th Anniversary issue.

6 **Q. Have others performed follow-up studies to the Vaughn Model?**

7 A. Yes. A follow-up study by Rachford (1987) empirically validates that cigarettes are in
8 the low involvement category characterized by feeling rather than logic. (U.S. Exhibit
9 64,260).

10 **Q. Turning now to Defendants’ documents, what do Defendants say about advertising
11 and promotion that is relevant to your conclusion?**

12 A. One thing that is very clear in the tobacco companies’ annual and five year corporate
13 plans, and other documents, is the faith placed by the tobacco companies in advertising
14 and promotion to sell cigarettes. It is not by accident that the tobacco companies spend
15 large sums of money for these purposes. It is also important to note that many of these
16 documents reference the importance of imagery in selling cigarettes. In these corporate
17 plans, the tobacco companies continually affirm the importance of advertising and
18 promotion in selling cigarettes.

19 **Q. Can you provide an example?**

20 A. Yes. A “Philip Morris U.S.A. Tobacco Marketing Five Year Plan” dated November
21 1975 stated: “From 1970 to 1974, there was a change in the effectiveness of brand
22 advertising. And during this period, Philip Morris advertising increased its competitive
23 advantage. . . . [T]oday, Virginia Slims advertising is recalled at a level 44% above the

1 industry average, Marlboro 33% more, and Benson & Hedges 14% more. Note that each
2 of these brands has extended the awareness advantage held during the last year of
3 television advertising. . . . It is clear that the non-broadcast era has been, until recent
4 months, a period of major brand consolidation with little successful effort at new brand
5 introduction.” 1005159309-9447 at 9317, 9445 (U.S. Exhibit 26,208) (emphasis in
6 original).

7 **Q. What is the significance of this five year plan to your conclusions?**

8 A. In this plan, Philip Morris clearly indicates that a positive change in advertising
9 effectiveness is translated to increased competitive advantage.

10 **Q. Can you provide another example?**

11 A. Yes. A Philip Morris USA “Five Year Plan 1980-1984” dated March 1980 stated: “PM-
12 USA has based its marketing philosophy on the conviction that the most efficient way to
13 market a product is through repetition of a proven image or theme. This image
14 characterizes not only the parent packings but also its line extensions.” 2026316735-
15 6797 at 6766 (U.S. Exhibit 37,340).

16 **Q. How is this five year plan significant to your conclusions?**

17 A. Philip Morris sees image advertising as a critical way to develop and enhance the
18 product’s image. Moreover, Philip Morris extends the equity built in that brand image to
19 other products in that line.

20 **Q. Can you provide another example?**

21 A. A Philip Morris U.S.A. “Five Year Plan 1982-1986” dated March 1982 stated:
22 “PM-USA’s on-going advertising strategy has been to maintain consistent imagery for
23 our major brands. PM-USA capitalizes on a brand’s heritage by establishing

1 complementary images for line extensions. This is a major reason for PM-USA's
2 advertising efficiency. Advertising expenditures are directed at reinforcing already well-
3 established images, rather than developing new images." 2024090016-0084 at 0058
4 (U.S. Exhibit 37,086).

5 **Q. What is the significance of this five year plan to your conclusions?**

6 A. Again, Philip Morris sees advertising as a key ingredient in reinforcing existing images.
7 The brand image is a valuable asset in the creation of, and acceptance of new products.
8 Philip Morris' conclusion in this document is consistent with my own – that the tobacco
9 companies' advertising and promotion works.

10 **Q. Can you provide another example?**

11 A. Yes. A Philip Morris U.S.A. "Five Year Plan 1986-1990" stated, under the heading
12 "Advertising," "Marlboro's success is in part attributable to a broad-based and impactful
13 advertising campaign which has developed the industry's most recognizable brand image.
14 . . . The Marlboro image remains strong among young male smokers, as evidenced by
15 recent share gains in smokers under 25." The plan further stated: "A large part of
16 Virginia Slims' success can be attributed to its consistent, yet innovative, advertising
17 campaign." 2048980301-0464 at 0334, 0345 (U.S. Exhibit 38,733).

18 **Q. How is this five year plan significant to your conclusions?**

19 A. Philip Morris notes, in part, the impact of advertising in developing and maintaining
20 Marlboro as the most recognizable cigarette brand image. Philip Morris links its
21 Marlboro advertising to recent market share gains in young smokers under the age of
22 twenty five. Also, Philip Morris links Virginia Slims success to its advertising. It is
23 important to note that Philip Morris sees consistency as a highly important part of

1 successful advertising. However, consistency does not mean a campaign remains static.

2 As noted by Philip Morris in this document, relating to Virginia Slims, that campaign had
3 “consistent, yet innovative, advertising.” In other words, Philip Morris is constantly
4 looking to update and contemporize the campaign. This confirms my conclusion that
5 advertising and promotion are successful in selling cigarettes.

6 **Q. Can you provide another example?**

7 A. A “Philip Morris U.S.A. Five Year Plan 1987-1991” stated under the heading
8 “Advertising/Promotions” that: “For a number of years, PM-USA has been the industry
9 leader in creating strong brand images through advertising. The success of this strategy
10 is reflected in the leadership positions attained by our brand franchises in the industry’s
11 most important categories.” Under the heading “Advertising,” the plan stated:
12 “Marlboro’s unparalleled growth is partly attributable to its long-standing advertising
13 campaign which has created the industry’s most recognizable brand image. Marlboro has
14 been the industry leader in claimed advertising awareness for seven consecutive years.
15 The brand’s image continues to be relevant for both young and old smokers as evidenced
16 by recent share gains among all smokers, especially those under 25 years of age.”
17 2024465760-5885 at 5788, 5820 (U.S. Exhibit 37,142).

18 **Q. Please explain the significance of this five year plan to your conclusions.**

19 A. Philip Morris clearly indicates that brand images are brought to fruition through
20 advertising and that the successful Marlboro brand image is a key to product growth.
21 This again confirms my conclusion that successful advertising in the cigarette industry
22 leads to product sales. In the plan, Philip Morris emphasizes its gains among young

1 smokers under 25 who it is researching and tracking, and clearly recognizes that the
2 Marlboro brand image appeals to these young smokers.

3 **Q. Can you provide another example?**

4 A. Yes. A Philip Morris “Benson & Hedges 1988 Marketing Plan Executive Summary”
5 analyzed Benson & Hedges’ “substantial volume growth between its introductory year
6 (1966) and 1982” and the “accelerating volume declines through 1986.” Explaining why
7 Benson & Hedges had been in decline, the plan stated:

8 During this 20 year period, smokers were exposed to ten brand campaigns
9 with varying creative tones and positionings. Three of these campaigns
10 were introduced between 1982 and 1986. The diverse advertising imagery
11 and fluctuating strength of marketing support have resulted in the dilution
12 of Brand positioning and competitive advantage.

13
14 2026308637-8724 at 8639 (U.S. Exhibit 37,339).

15 **Q. What is the significance of this plan to your conclusion?**

16 A. This plan shows the importance of advertising and promotion by linking inconsistent
17 advertising to product decline.

18 **Q. Can you provide another example?**

19 A. A “Philip Morris USA Five Year Plan 1991-1995” stated that: “The foundation of our
20 marketing plans for all our full margin brands remains image advertising. However,
21 innovative, higher perceived value consumer offers, as well as promotional events, will
22 pay increasingly important roles.” 2024090368-0532 at 0446 (U.S. Exhibit 37,087).

23 **Q. What is the importance of this five year plan to your conclusions?**

24 A. The plan confirms the importance of brand imagery in selling cigarettes. It also confirms
25 the value of promotion.

1 **Q. As well as the high level corporate planning documents you have just discussed, did**
2 **you review other documents relevant to this point?**

3 A. Yes, as I testified earlier I have reviewed thousands of the tobacco companies' internal
4 marketing documents. I have created a chart, Demonstrative 17,499, that provides some
5 examples of how the tobacco companies used advertising to obtain certain goals,
6 including the creation of awareness, the creation and development of brand image,
7 targeting of teenagers, appealing to peer groups, generating trial and/or selling cigarettes,
8 and convincing starters to use a brand. I would emphasize that these documents in the
9 chart are not the only documents that I have reviewed that make these points, but rather
10 are examples.

11 **Q. Please tell the Court what Demonstrative 17,499 shows.**

12 A. Demonstrative 17,499 is the summary chart of trial exhibits I created to show information
13 about some of the documents I reviewed. It shows information including the documents'
14 titles, dates, authors, and relevant quotes. I also have included a "key word" column
15 which reflects for each document the importance of the quoted portion as it relates to my
16 conclusions in this testimony.

17 **Q. Which documents in Demonstrative 17,499 are relevant to the testimony you are**
18 **providing in this section?**

19 A. For this section, I would point the Court to the documents that have the key word of
20 "creation, development, and importance of image." Other documents in Demonstrative
21 17,499 will be relevant to testimony I will provide later.

22 **Q: How do the documents and other materials you discuss in this section relate to your**
23 **overall conclusion?**

1 A: Advertising and promotion play a vital role in the success of many cigarette brands. This
2 is particularly true for brands that depend on visual imagery. As will be seen, visual
3 imagery works well for the tobacco companies when selling cigarettes to teenagers.

4 **C. Third Conclusion: Advertising and Promotion Work Together in Integrated**
5 **Marketing Communication**

6
7 **Q. Please remind the court of your third sub-conclusion regarding Defendants’**
8 **cigarette brand marketing efforts.**

9 A. My third conclusion is that the tobacco companies’ advertising and promotion are
10 inextricably linked and are coordinated for maximum impact. Cigarette advertising and
11 promotion work together to provide orchestrated brand images for maximum impact.
12 The coordination of advertising and promotion is often termed integrated marketing
13 communication. (Sirgy, 1998, p. 21) (U.S. Exhibit 64,256).

14 **Q. How does your third sub-conclusion relate to your overall conclusion regarding**
15 **Defendants’ marketing to teenagers?**

16 A. As I discuss later in my testimony, the tobacco companies have effectively used
17 integrated marketing communication to reach teenagers.

18 **Q. What is integrated marketing communication?**

19 A. Integrated marketing communication is the strategic coordination of all marketing tools
20 used by the firm. The coordination of media advertising, direct marketing, promotion, or
21 public relations for a brand can be extremely important in coordinating the overall
22 message. Product name, trade characters, trademarks, phrases, pictures, logos or other
23 identifying features of a product that are promoted by a company become part of the
24 value of that brand.

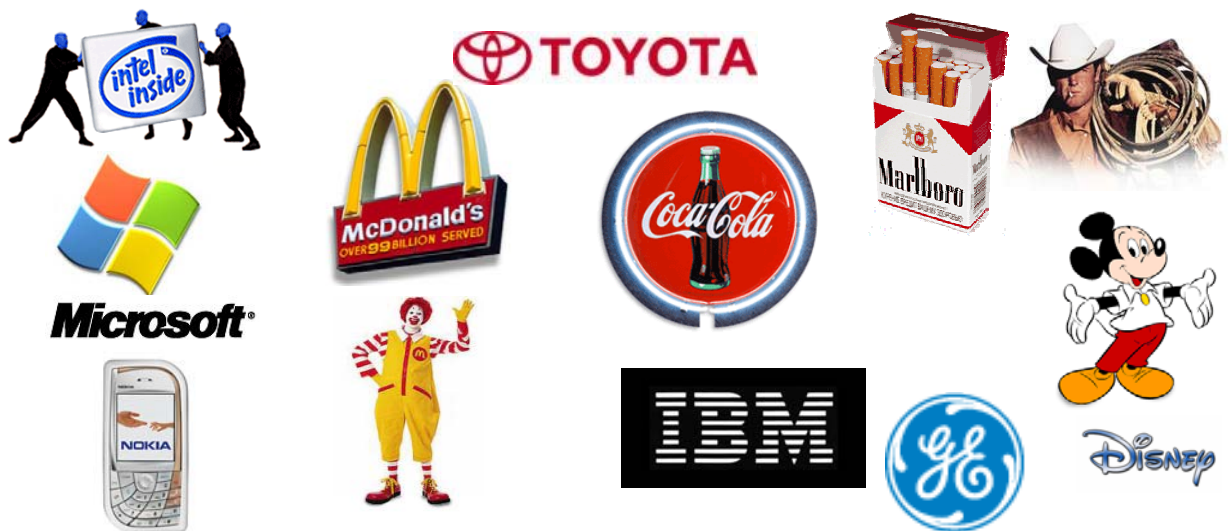
25 **Q. What is brand image?**

1 A. Brand image is the feeling or image that is attached to the brand or an association with an
2 experience related to the brand. A distinct brand image is often a critical asset that leads
3 to trial of, purchase of, and loyalty to a product or service. Brand images contribute to
4 brand equity.

5 **Q. Could you define brand equity?**

6 A. Professor David Aaker, well-recognized for his work on brand equity, states that brand
7 equity is a set of brand assets linked to a brand, its name and symbol, that add value to a
8 firm by creating a desirable brand and, in a different sense, add value to that firm's
9 customers by enhancing their use of the brand. Simply put, brand image is how the brand
10 is known to consumers or potential consumers and brand equity is the value of that
11 image. Demonstrative 17,500 shows the top ten most valuable global brands reported in
12 the August 2, 2004 edition of Business Week as measured by Interbrand Corp. Each
13 brand is measured by its ability to generate future earnings. These highly recognizable
14 brands have their own distinct style and meaning.

15 **Demonstrative 17,500: Most Valuable Global Brands**



16

1 **Q. Does a customer have to see all of an advertisement or promotion for brand image**
2 **to be effective?**

3 A. A consumer does not have to see all of an advertisement or promotion, and certainly does
4 not have to actively remember what was seen in an advertisement or promotion in order
5 for the brand image to take hold. Mental rehearsal of a message can occur when
6 contacted by only a portion of the total message. In a similar vein, Schultz and Walters
7 (1997) note that a “brand contact,” may be part of: “Any and all messages, incentives,
8 activities or methods by which a consumer or prospect comes in contact with the brand
9 and leaves some trace of brand information and impact.” Presence facilitates or
10 lubricates consumer decision making. Moran (1991) notes that the concept of “presence”
11 reduces the mental friction in the consumer’s decision making process. Two primary
12 forms are physical presence (e.g. shelf space) and mental presence through
13 communication devices such as advertising.

14 **Q. How would the concepts of presence and of integrated marketing communication**
15 **that you have just explained apply to Defendants’ advertising and promotion?**

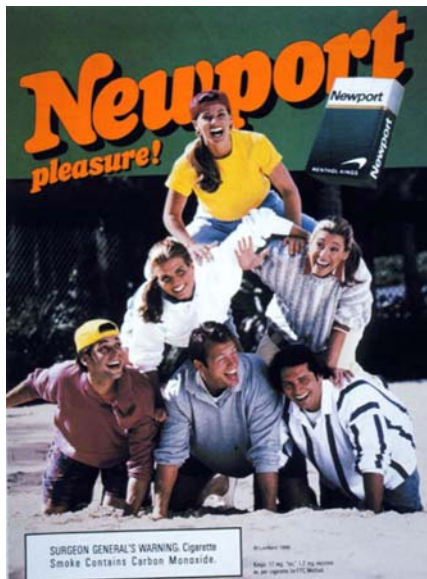
16 A. The tobacco companies use integrated marketing communication. Cigarette marketing
17 images are and have been well coordinated between different forms of communication.
18 Cigarette brand displays at the store are coordinated with other advertising such as
19 magazine advertisements and billboard advertisements to display consistent images.
20 Because of these synergies, advertising and promotion messages in one medium
21 reverberate in another. In-store promotion assists in the retrieval of messages from past
22 or present advertising and promotion so that key images and benefits are made salient at
23 the time of purchase. For example, at a single retail location, signs in the form of an

1 advertising message outside the store and/or point-of-sale display inside the store are
2 used to display the same image or brand name found in current or prior campaigns.

3 **Q. Can you provide an example?**

4 A. Yes. In the images in Demonstrative 17,501 are three different marketing
5 communication tools for Newport – a magazine advertisement, a sign outside the store,
6 and an in-store promotion. All of these images go together – the images use the same
7 color scheme, youthful approaches, and peer appeal to bring home the point of Newport
8 Pleasure. As I have explained, to coordinate messages to communicate, it is not at all
9 necessary to use the exact same images in all the communications; what is important is
10 that the images have the same look and feel. Moreover, an individual has to see only part
11 of these images in order to remember the whole campaign.

12 **Demonstrative 17,501: Advertising and Promotion Work Together**



16
17
18 **Magazine Advertisement**



19 **Sign Outside the Store**



Sign Inside the Store

1 **Q. Do Defendants' documents convey how they use integrated marketing**
2 **communications?**

3 A. Yes, their documents indicate that the tobacco industry understands the value of
4 integrated advertising and promotion and demonstrate their effective use of such
5 campaigns. In other words, the tobacco companies' use of integrated marketing
6 communications is both purposeful and effective.

7 **Q. Have you included such documents in your chart which is labeled Demonstrative**
8 **17,499?**

9 A. Yes. They are marked with the key word "integrated marketing communication."

10 **Q. Could you provide one example?**

11 A. A September 15, 1986 "Marlboro 1987 Marketing Plan" written by Nancy Brennan Lund
12 stated under the heading "Overview" that: "The advertising, media and promotion
13 foundations of the Marlboro marketing foundations of the Marlboro marketing plan are
14 tried and proven, working synergistically to support a leadership position for Marlboro."
15 2026307450-7473 at 7450 (U.S. Exhibit 37,337).

16 **Q. What is the significance of this marketing plan to your conclusions?**

17 A. This is a perfect example of my conclusion that the companies make advertising and
18 promotion work together "synergistically" for maximum impact to sell cigarettes.

19 **Q. Why do Defendants use integrated marketing communications?**

20 A. The tobacco companies use integrated marketing communications to strengthen their
21 cigarette brands' images and to create and strengthen the brands' equity.

1 **Q. Do Defendants’ plans discuss their use of integrated marketing communications to**
2 **strengthen cigarette brands’ images and to create and strengthen the brands’**
3 **equity?**

4 A. Yes. For example, a Philip Morris Companies Inc. Five Year Plan under Strategies notes
5 the importance to, “Extend the equity of premium trademarks.” Furthermore the strategy
6 dictates, “For Marlboro, enhance value through heavy advertising and loyalty and image
7 building promotion.” 2024341134-1225 at 1173 (U.S. Exhibit 37,141). Another plan
8 entitled “Philip Morris USA Five Year Plan 1992-1996” notes the importance of
9 imagery, popularity and unaided awareness among factors that reinforce equity. A key
10 portion of image is often driven by advertising and promotion. Unaided awareness is a
11 typical measure of the success of advertising and promotion. 2021313005-3161 at 3072
12 (U.S. Exhibit 36,728).

13 **Q. To sum up, how does Defendants’ use of integrated marketing communication relate**
14 **to your overall conclusion?**

15 A. As the plans show, the tobacco companies purposefully coordinate advertising and
16 promotion and use these integrated marketing communications to build brand equity. As
17 I will explain later, the tobacco companies have used these integrated marketing
18 communications to reach teenagers.

19 ***D. Fourth Conclusion: Cigarette Advertising and Promotion Is Ubiquitous***

20 **Q. Please remind the court of your fourth sub-conclusion regarding Defendants’**
21 **cigarette brand marketing efforts.**

22 A. My fourth conclusion is that the ubiquitous nature of cigarette advertising and promotion
23 normalizes and socially sanctions smoking among teenagers.

1 **Q. Can you explain this conclusion?**

2 A. As I have testified, the tobacco companies both in the past and present invest an
3 enormous amount of money in cigarette advertising and promotion. The dollars invested,
4 and the artful way that advertising and promotion are employed, make cigarettes a
5 ubiquitous part of the American culture and landscape accessible to teenagers.
6 Testimony of the tobacco companies' employees, many internal documents, and my own
7 knowledge of and understanding of the tobacco companies' marketing practices make
8 clear that the tobacco companies' ubiquitous marketing communications have been well
9 planned and far reaching in terms of making cigarette smoking an ever present part of our
10 culture.

11 **Q. How does the ubiquitous nature of Defendants' marketing normalize smoking
12 among teenagers?**

13 A. Cigarette brand names, logos, and advertising messages are pervasive. (Report of the
14 Surgeon General, 1998, p. 220) (U.S. Exhibit 64,831). Over the years, they have
15 appeared everywhere. While cigarette industry advertising and sales promotion strategies
16 have changed over the years, cigarette products still maintain a very high profile in terms
17 of images and messages reaching teenagers. By making their cigarette products and
18 messages ubiquitous, the tobacco companies normalize smoking and make smoking an
19 acceptable behavior among adolescents.

20 **Q. Is the ubiquity of Defendants' cigarette marketing purposeful?**

21 A. Yes. Tobacco companies' plans indicate that they intend for their cigarette brands to be
22 an ever-present part of the culture. For example, a Philip Morris mission statement in a
23 1996 Marlboro Community Event Marketing Plan states: "Continue to build brand equity

1 over an extended period of time while becoming a fabric of the community.”
2 2041940822-0852 at 0822 (U.S. Exhibit 38,244). This plan shows, as I have testified,
3 that Philip Morris’s plan is to make the Marlboro brand an important part of American
4 life – part of the “fabric of the community.”

5 **Q. Are certain communication vehicles that Defendants use more ubiquitous than**
6 **others?**

7 A. Certainly, some vehicles by nature offer a more wide range of viewers, readers or
8 customers than other vehicles. Those are: television, outdoor advertising (billboards),
9 and in-store displays. All three are less selective and tend to reach more people than
10 targeted vehicles.

11 **Q. At any point in time over the last 50 years, have Defendants not used one or more of**
12 **these ubiquitous vehicles?**

13 A. No. In the last 50 years, the tobacco companies have continually used ubiquitous
14 vehicles, first advertising on television, then on billboards, and currently at retail stores.

15 **Q. Have these ubiquitous vehicles reached many teenagers?**

16 A. Yes. As I will explain further in my sixth conclusion, the tobacco companies’ ubiquitous
17 marketing has reached many teenagers.

18 **Q. Is this true today?**

19 A. Yes. The tobacco companies’ current marketing at retail is ubiquitous and reaches many
20 teenagers. Retail doesn't simply offer information that a brand "is available," as the
21 tobacco companies have asserted in this case. The tobacco companies' retail marketing
22 purposefully creates brand image and brand equity using the same imagery that the

1 tobacco companies previously used for many years in magazines, on billboards, and on
2 television.

3 **Q. Do Defendants themselves refer to these media as ubiquitous?**

4 A. Yes. When discussing the use of out-of-home (outdoor) as an advertising medium for
5 marketing cigarettes, David Iauco, R.J. Reynolds Senior Vice President for Marketing,
6 testified “Out-of-home tends to be somewhat of a ubiquitous medium. It’s out there on
7 the landscape.” Deposition of David Iauco, United States v. Philip Morris, et al., May 8,
8 2002, 54:23-25.

9 **Q. Does the ubiquity of cigarette marketing affect people's perception of smoking?**

10 A. Yes. Although there is no one mechanism or pattern for understanding social influence,
11 media play a role in the way individuals develop ideas. (Bandura, 1994). Social learning
12 argues that, in part, individuals learn about and acquire behavior based on observations
13 and symbolism in the media. (Bandura, 1977, 1994; Baran and Davis, 2003; Severin and
14 Tankard, 1997; Wicks 2001). Moreover, the cumulative impact of media assists in
15 cultivating tastes and expectations among audience members. (Webster and Phalen,
16 1997). In short, people, in part, learn about how to act by observing what happens in the
17 media therefore media often help set the tone for how we act.

18 **Q. Is this true for teenagers?**

19 A. Yes. Teenagers have a heightened sensitivity to image and promotion themes at a time
20 when they are struggling to define their own identities. (Institute of Medicine, 1994,
21 p.106) (U.S. Exhibit 64,276). A textbook entitled “Consumer Behavior: Buying, Having,
22 and Being” states that teenagers actively search for cues in advertising and peers for the
23 “right” way to look and behave. Teenagers are more sensitive and responsive to cigarette

1 advertising, and actively search for cues in advertising that conform to peer relations that
2 result in the ‘right’ way to look and behave. (Solomon, 1992) (U.S. Exhibit 64,255).

3 **Q. Does the ubiquity of cigarette marketing affect teenagers?**

4 A. Yes. Ubiquitous cigarette advertising and sales promotion serve to normalize and
5 socially sanction smoking. Cigarette advertising and promotion also contribute to young
6 people overestimating smoking prevalence and underestimating smoking risk. (Report of
7 the Surgeon General, 1994) (U.S. Exhibit 64,693); (Report of the Surgeon General, 2000,
8 Conclusions) (U.S. Exhibit 64,316); (Levanthal et al., 1987) (U.S. Exhibit 64,270).

9 **Q. Do any recent studies support this conclusion?**

10 A. Yes. A 2004 Report of the American Psychological Association notes that advertising is
11 particularly effective with teenagers when it makes smoking (and alcohol consumption)
12 normative.

13 **Q. Dr. Krugman, can you explain how your fourth sub-conclusion that cigarette
14 marketing is ubiquitous relates to your overall conclusion?**

15 A. Cigarette advertising and promotion play an important role in making smoking behavior
16 acceptable to teenagers. The cigarette brand images provide cues as to how to act.
17 Simply put, the images convey experiences that are attractive to teenagers and associate
18 smoking with those attractive experiences, which I will describe later.

19 **E. Fifth Conclusion: Cigarette Advertising and Promotion Attract New Users**
20 **Under 18**

21
22 **Q. Please remind the court of your fifth sub-conclusion regarding Defendants’ cigarette
23 brand marketing efforts.**

24 A. My fifth conclusion is that, contrary to the tobacco companies’ public statements,
25 cigarette advertising and promotion attract new users who are predominantly under the

1 age of 18. Cigarette advertising and promotion help create new smokers who are most
2 often teenagers. The vast majority of new smokers are teenagers, with approximately
3 80% of tobacco use occurring for the first time among people less than 18 years of age.
4 (MMWR, October 13, 2000) (U.S. Exhibit 65,774).

5 **Q. What are the public statements of Defendants to which you refer?**

6 A. The tobacco companies have continually claimed that they are not interested in marketing
7 to new smokers, but rather are only interested in marketing to existing adult smokers.
8 They also claim that advertising has no effect on whether or not someone starts smoking.

9 **Q. Do professionals in your field agree with this claim?**

10 A. No. Advertising industry professionals understand that advertising stimulates new
11 demand. In a survey, advertising professionals reported they understand that advertising
12 increases primary demand and entices teenagers to smoke. (Crowley and Pokrywczynski,
13 1991) (U.S. Exhibit 64,308).

14 **Q. Do professionals in your field make a distinction between advertising and promotion
15 that appeal to existing customers versus new or potential customers?**

16 A. Yes, at times we consider the development of “primary demand” advertising which
17 covers strategies aiming at gaining new or potential users versus “selective demand”
18 advertising which covers strategies only oriented toward gaining share of the existing
19 market. However, in my judgment, this distinction does not apply to cigarette advertising
20 and promotion. So in many cases, selective demand advertising that appeals to existing
21 customers (this would include teenagers who already smoke) can certainly be a factor in
22 attraction of new teenage customers. My discussion will be oriented to understanding

1 how the tobacco companies' advertising and promotion strategies are used to cultivate
2 new smokers who are predominantly under the age of 18.

3 **Q. What advertising executive has stated that he or she understands that advertising
4 stimulates new demand?**

5 A. Emerson Foote debunked the notion that cigarette advertising only impacts brand
6 switching. He co-founded the well-known advertising agency Foote, Cone and Belding.
7 He left Foote, Cone and Belding to go to McCann-Erickson, another large, well-known
8 advertising agency. At McCann-Erickson, tobacco accounted for 20 million dollars
9 worth of business. It is clear that over his career, Mr. Foote had extensive, high-level
10 experience in working on tobacco advertising and promotion. Mr. Foote stated in 1981:

11 In recent years, the cigarette industry has been artfully maintaining that
12 cigarette advertising has nothing to do with total sales. Take my word for
13 it, this is utter and complete nonsense...I am always amused by the
14 suggestion that advertising, a function that has been shown to increase
15 consumption of virtually every other product, somehow miraculously fails
16 to work for tobacco.

17
18 (U.S. Exhibit 77,086).

19 Additionally, the 1994 Surgeon General Report notes that other prominent
20 advertising professionals are of the same mind that cigarette advertising is influential in
21 teenage smoking.

22 **Q. What does the Surgeon General conclude on this topic?**

23 A. The Surgeon General agrees that cigarette advertising and promotion attracts new users
24 under the age of 18. In both the 1994 Report, Preventing Tobacco Use Among Young
25 People, and the 2001 Report, Women and Smoking, the Surgeon General restated how
26 the advertising industry and tobacco industry trade press in early years lauded the efforts
27 of advertising in attracting new users under the age of 18. These reports indicated how

1 *The United States Tobacco Journal* extolled the effectiveness of advertising in attracting
2 new users. For example *The United States Tobacco Journal* noted that the money
3 invested in advertising and promotion reflects the industry’s faith in the effectiveness of
4 advertising as a sales building tool. (1994 Report of the Surgeon General at 173-174)
5 (U.S. Exhibit 64,693); (2001 Report of the Surgeon General at p. 497) (U.S. Exhibit
6 64,315).

7 **Q. Have scholars agreed that cigarette advertising and promotion attracts new users**
8 **under the age of 18?**

9 A. In the academic arena, some scholars have agreed that cigarette advertising and
10 promotion attract new users under the age of 18. For example, in his seminal 1947 work,
11 “The Economic Effects of Advertising,” Harvard Business School Professor Neil H.
12 Borden writes, “without advertising, cigarette use would have probably grown; with
13 advertising, the increase has been amazing.” More recently, Dr. Joel Cohen, a
14 distinguished professor of marketing at the University of Florida, who is currently editor
15 of the Journal of Public Policy and Marketing, published a peer reviewed article in that
16 same journal, finding that cigarette campaigns attract new users and that effective
17 campaigns assist in bringing teenagers into the market. (2000, pp. 162-163) (U.S. Exhibit
18 63,946).

19 **Q. Do you base your conclusion that cigarette marketing attracts new users who are**
20 **predominantly under the age of 18 upon Defendants’ internal documents?**

21 A. Yes. As well as the statements of advertising professionals, scholars and the Surgeon
22 General that I have just testified about, I also base my conclusion on the tobacco
23 companies' internal documents. Tobacco industry documents specifically point to the

1 need for gaining teenage smokers and how advertising strategies can be formulated to
2 obtain teenage smokers. In the documents, the tobacco companies state that they need to
3 market to teenagers, that they conduct research on teenagers, collect research on
4 teenagers, and design marketing to appeal to teenagers. The tobacco companies'
5 marketing and corporate plans, both annual and five year plans, also support my
6 conclusion. As I testified earlier, the companies' marketing and corporate plans typically
7 include high level analyses of a past year or five years of marketing and also set forth
8 plans for the upcoming year or five years. Generally, a corporate plan is the product of
9 multiple individuals that has been approved at the highest levels within each company.
10 These are documents which summarize a company's marketing techniques and plans.

11 **Q. How did these planning documents support your conclusion that cigarette**
12 **advertising and promotion attracts new users who are predominantly under the age**
13 **of 18?**

14 A. These documents focus on getting new and young smokers. They discuss research of
15 teenage smoking. They express a need for the companies to increase the number of
16 teenagers who start smoking, and ways to go about doing this through advertising and
17 promotion. These plans span a large time range.

18 **Q. Can you provide an example of a Brown & Williamson document?**

19 A. Yes. An August, 1962 Brown & Williamson memorandum, entitled "Smoking by
20 Children and Adolescents" stated, "It will be important . . . to study the trend in smoking
21 by children and young adults from two aspects: 1) The change in smoking habits as
22 children grow older, particularly in the three to four years before the age of fifteen. . . ."
23 The memorandum also stated, "Children in their teens present a dilemma for the tobacco

1 manufacturers. On the one hand you want to discourage children from smoking. . . . You
2 also presumably . . . wish to encourage moderation among adolescents.” 105408812-
3 8815 at 8812, 8813 (U.S. Exhibit 26,273).

4 **Q. How, if at all, is this memorandum significant to your conclusion that the cigarette**
5 **companies collected research on teenagers?**

6 A. This Brown & Williamson memorandum demonstrates that Brown & Williamson was
7 focused on young people as young as 11 years of age in order to understand their
8 smoking habits. The company clearly wants teenagers to smoke.

9 **Q. Can you provide another example?**

10 A. Yes. A February 21, 1973 internal Brown & Williamson memorandum from R.L.
11 Johnson, Brown & Williamson Advertising Department employee, to R.A. Pittman,
12 Brown & Williamson Vice President, stated: “Kool has shown little or no growth in share
13 of users in the 26+ group. Growth is from 16-25 year olds. At the present rate, a smoker
14 in the 16-25 year age group will soon be three times as important to Kool as a prospect in
15 any other broad age category.” It also stated: “Kool’s stake in the 16-25 year old
16 population segment is such that the value of this audience should be accurately weighted
17 and reflected in current media programs. As a result, all magazines will be reviewed to
18 see how efficiently they reach this group and other groups.” 680135996-6002 at 5996-
19 97, 5998 (U.S. Exhibit 20,989).

20 **Q. How, if at all, is this memorandum significant to your conclusion that the cigarette**
21 **companies focused on teenagers?**

22 A. This memorandum shows the importance to Brown & Williamson of gaining smokers
23 who are between the ages of 16-25. As importantly, it directs that current advertising

1 programs be weighted to reach these teenage target markets. Brown & Williamson
2 leaves little doubt it is going after the youth market.

3 **Q. Can you provide another example?**

4 A. Yes. A May 20, 1975 report entitled “What Have We Learned From People?” was
5 prepared for Marketing and Research Counselors by the Ted Bates Agency, an
6 advertising agency used by Brown & Williamson. The last section of the report asked:
7 “How can we introduce starters and switchers to our brand.” The section discussed how
8 to attract starters and noted such items as: “Present the cigarette as one of a few
9 initiations into the adult world.” 170043558-3593 at 3580-3585 (U.S. Exhibit 20,293).

10 **Q. How is this report significant to your conclusion?**

11 A. There is a clear focus on young people as starters. The report notes the importance of
12 young starters and young people. The report notes that cigarette smoking is viewed as a
13 way to enter the adult world and suggests advertising strategies to accomplish this.

14 **Q. Can you provide another example?**

15 A. Yes. A September 10, 1975 letter from L.M. Marshall, Jr., Ted Bates Advertising, to
16 Mike A. Willson, Brown & Williamson employee, entitled “Kool Analysis of Brand
17 Switching Study – Wave 18” stated that “Brand switching has reversed a previous
18 downward trend and is now at 16% level, up from 14% in Wave #17 . . . the most
19 dramatic increase evidenced in the 16-25 age group.” 685087319-7323 at 7319 (U.S.
20 Exhibit 31,029).

21 **Q. How, if at all, is this letter significant to your conclusion that Defendants focused on**
22 **teenagers?**

1 A. The letter has a clear focus on young people. Brown & Williamson’s advertising agency
2 notes that the largest impact has been on switchers in the teenage and young categories,
3 and the importance of young people continuing to smoke Kool.

4 **Q. Can you provide another example?**

5 A. Yes. A 1977 Kool Brand Promotion Plan noted that “Importance of total brand and its
6 overall awareness level among the young” would be recognized in promoting the brand,
7 and that “Kool is heavily oriented to the young” with a high brand starter index and
8 planned to “develop promotion events that involve the young and especially, to convince
9 the starter group to smoke Kool.” 170011229-1246 at 1230, 1245 (U.S. Exhibit 21,439)
10 (emphasis in original).

11 **Q. How is this plan significant to your conclusion?**

12 A. The plan has clear focus on the importance of young people as starters and the
13 importance of promoting to these young people. Brown & Williamson clearly wanted to
14 convince new users to smoke Kool.

15 **Q. Could you provide another example?**

16 A. A Brown & Williamson “Kool 1982 Marketing Plan,” dated October 1981, stated:
17 “Newport does extremely well among starters.” As a “Key Finding,” the marketing plan
18 stated: “Starters represent the greatest percent of total gains for KOOL and Newport.”
19 The plan later defines “KOOL’s target audience” as including those “under 25.”
20 685061076-1130 at 1084-1085, 1107 (U.S. Exhibit 54,234).

21 **Q. How is this plan significant to your conclusions?**

1 A. The plan clearly indicates the tobacco company's focus on new users. In the plan, new
2 users are termed "starters." This is consistent with my conclusion that the tobacco
3 companies' marketing has been aimed at attracting new users.

4 **Q. Can you provide another example?**

5 A. Yes. A February 17, 1987 memorandum entitled "Kool Isn't Getting the Starters" from
6 D.V. Cantrell at Brown & Williamson to I.D. Macdonald, Brown & Williamson
7 Marketing Vice President, addressed "the fact that Kool is no longer attracting new
8 smokers (further referred to as 'starters'), a product-related reason which possibly
9 explains this position, and suggestions to correct this problem." The memorandum
10 proposed to: "[P]romote Kool Milds as the starter brand." 621079918-9921 at 9918 (U.S.
11 Exhibit 30,792).

12 **Q. How is this memorandum significant, if at all, to your conclusion that Defendants**
13 **designed their marketing to appeal to teenagers?**

14 A. Brown & Williamson shows a concern that it is not attracting those young people who
15 are initiating smoking. Promoting Kool Light as a "starter brand" is offered as a solution.

16 **Q. Can you provide an example of a Lorillard document that supports your**
17 **conclusion?**

18 A. Yes. A September 15, 1964 memorandum from Manuel Yellen, Vice President at
19 Lorillard, entitled "Lorillard Sales Position" to Morgan J. Cramer, Lorillard President and
20 Chief Executive Officer, stated about the Newport brand that "[t]he brand was marked as
21 a 'fun cigarette' . . . It was advertised as such and obtained a youthful group as well as an
22 immature group of smokers." 01124257-4265 at 4262 (U.S. Exhibit 34,485).

23 **Q. How is this memorandum significant to your conclusion?**

1 A. The memorandum acknowledges that Lorillard directed Newport's appeal to be a fun
2 cigarette that attracts young smokers and immature smokers, and that it worked to recruit
3 such smokers.

4 **Q. Can you provide another example?**

5 A. Yes. An August 30, 1978 Lorillard memorandum from Ted Achey, Lorillard General
6 Sales Manager, to company President Curtis H. Judge entitled "Product Information"
7 stated that "[t]he success of Newport has been fantastic during the past few years. Our
8 profile taken locally shows this brand being purchased by black people (all ages), young
9 adults (usually college age), but the base of our business is the high school student."
10 03537131-7132 at 7131 (U.S. Exhibit 22,357).

11 **Q. How is this memorandum significant to your conclusion that Defendants designed
12 their marketing to appeal to teenagers?**

13 A. This is a clear and unambiguous focus on high school students. The director of Midwest
14 sales communicates that he understands high school students are critical to Newport's
15 success. There is no getting around the fact that high school students are seen as the key
16 to Newport's success. This statement is highly consistent with the other Lorillard
17 documents noted above.

18 **Q. Can you provide another example?**

19 A. Yes. An August 11, 1981 memorandum from Tom Mau, Lorillard Senior Vice President,
20 to various Lorillard employees entitled "Replies to 5-Year Plan Questionnaire" stated:
21 "[t]he easiest is to keep riding with Newport. However, I think we must continually keep
22 in mind that Newport is being heavily supported by blacks and the under 18 smokers.

1 We are on somewhat thin ice should either of these two groups decide to shift their
2 smoking habits.” 01110991-1032 at 1030 (U.S. Exhibit 34,480) (U.S. Exhibit 34,481).

3 **Q. How is this memorandum significant to your conclusion?**

4 A. Lorillard acknowledges that smokers under age 18 are critical to sustaining Newport’s
5 success. Basically, this memorandum confirms its need to convince young people to
6 smoke and smoke Newports.

7 **Q. Can you provide an example of a Philip Morris document that supports your
8 conclusion?**

9 A. Yes. The following Philip Morris plan indicates Philip Morris' focus on attracting and
10 obtaining teenage smokers. Philip Morris’s “Five Year Plan 1970-1974” stated, under
11 the heading “Assessment of Philip Morris Position”: “While 8.5% of all smokers smoke
12 Marlboro, nearly 17% of the teenage smokers and 12% of all smokers in their early
13 twenties smoke Marlboro. Since beginning smokers select brands roughly in proportion
14 to the popularity of the various brands among their peers or persons slightly older than
15 they, this high market penetration among young smokers is likely to continue. To the
16 extent that these young smokers retain their brand loyalty as they grow older, the outlook
17 for Marlboro is favorable.” 1003225066-5171 at 5085 (U.S. Exhibit 35,675).

18 **Q. What is the significance of this plan to your conclusions?**

19 A. This plan confirms my conclusion that teenagers have been the focus of a good deal of
20 tobacco company marketing plans and that tobacco companies marketed to teenagers.
21 The plan also reveals the importance to the industry of obtaining and retaining teenage
22 smokers. Philip Morris acknowledges that young brand loyal smokers are key to future
23 success.

1 **Q. Could you provide another example?**

2 A. Yes. A July 25, 1974 Philip Morris Marketing Research Department memorandum
3 entitled “Highlights of Special Roper Study on Young Smokers” attached “highlights” of
4 the Roper studies. The “highlights” memorandum explained, “The Roper Organization
5 was commissioned to undertake the study summarized here, with the intention of probing
6 the dynamics of the market among smokers below the age of 24 . . . no lower age limit
7 was set,” and that “[y]oung smokers were sought out in . . . popular “hang-outs”, at drive-
8 ins, bowling alleys . . . at beaches, etc.” The document noted that “menthols in total
9 enjoy larger shares among the youngest groups in this study.” A table in the
10 memorandum noted specific categories, “To Age 18,” “19-21,” “22-24.” The
11 memorandum also pointed out Philip Morris’s concern over Kool’s growth and Marlboro
12 slowing down among young smokers. 1000730691-0713 at 0693, 0694, 0695, 0698
13 (U.S. Exhibit 20,104).

14 **Q. How, if at all, is this memorandum significant to your conclusion that the cigarette**
15 **companies were collecting research on teenagers?**

16 A. The memorandum indicates that a large research project was undertaken for Philip Morris
17 to understand young smokers. Philip Morris has a clear focus on the importance of these
18 young smokers. It is particularly noteworthy that no lower age limit was set on the
19 research study. This confirms the focus on young people including teenagers who are the
20 vast majority of starters.

21 **Q. Can you provide another example?**

22 A. Yes. On May 21, 1975, Myron Johnston, Senior Economist for Research and
23 Development, sent a memorandum to Robert B. Seligman, Director of Commercial

1 Development, Tobacco Products at Philip Morris, entitled “The Decline in the Rate of
2 Growth of Marlboro Red.” Johnston concluded that the “decline in Marlboro’s growth is
3 due to four factors.” Two factors listed are: “Slower growth in the number of 15-19 year
4 olds” and “Changing brand preferences of younger smokers.” 100024921-4927 at 4921
5 (U.S. Exhibit 35,083).

6 **Q. How is this memorandum significant to your conclusion?**

7 A. The memorandum has a clear focus on smokers 15-19 years of age. These “younger
8 smokers” or teenagers are a point of concern and a target for Philip Morris.

9 **Q. Can you provide another example?**

10 A. Yes. A June 2, 1976 Philip Morris memorandum from Alfred Udow, of the Philip Morris
11 Consumer Research Department, to James Morgan, then Vice President of Philip Morris,
12 entitled “Why People Start To Smoke” quoted one source that said: “ Many boys and
13 girls start smoking to show their independence. . . . The advertisers of cigarettes exploit
14 this urge by creating an image of a smoker as an outstanding athlete; a handsome virile
15 outdoor man.” 1000744089-4096 at 4091 (U.S. Exhibit 20,106).

16 **Q. How, if at all, is this memorandum significant to your conclusion that Defendants
17 designed their marketing to appeal to teenagers?**

18 A. There is not much question that Philip Morris is targeting young people including
19 teenagers when it uses the terms “boys” and “girls.” Moreover, it notes that advertising
20 can take advantage of young person’s desire for independence. Certainly, independence
21 has been a key Marlboro theme.

22 **Q. Could you provide another example?**

1 A. Yes. A Philip Morris USA “Five Year Plan 1976-1980” stated: “Demographic trends
2 will continue to benefit our brands during the next five years. . . . As a result, the increase
3 in smokers between 1975 and 1980 will be closer to 8%. Looking a few years further
4 ahead, however, demographic projections show the entry-level age group (15-19 years)
5 will reach a peak by 1976.” 2026318832-8899 at 8846 (U.S. Exhibit 37,343).

6 **Q. How is this plan significant to your conclusions?**

7 A. This plan confirms the importance of smoking initiation among 15 to 19 year old
8 teenagers. Teenagers are noted to be the “entry-level” or starter group into the market.
9 This confirms that teenagers are important as product initiators and that tobacco
10 companies, including Philip Morris, are fully aware of this fact.

11 **Q. Can you provide another example?**

12 A. Yes. A March 31, 1981 report written by Myron Johnston entitled “Young Smokers
13 Prevalence, Trends, Implications, and Related Demographic Trends” stated under the
14 heading “Summary”: “Today’s teenager is tomorrow’s potential regular customer and the
15 overwhelming majority of smokers first begin to smoke while still in their teens. . . .
16 [P]art of the success of Marlboro Red . . . was because it became the brand of choice
17 among teenagers who then stuck with it as they grew older.” 1000390804-0830 at 0808
18 (U.S. Exhibit 35,261) (emphasis in original).

19 **Q. How is this report significant?**

20 A. The importance of the teenage market is brought to light by Mr. Johnston. In essence,
21 teenagers are an investment in the company’s future.

22 **Q. Can you provide another example?**

1 A. Yes. A September 22, 1981 letter from Harry G. Daniel, Planning Coordinator at Philip
2 Morris, to three other Philip Morris employees, forwarded a September 17, 1981
3 memorandum from Myron Johnston entitled “Teenage Smoking and the Federal Excise
4 Tax on Cigarettes.” In this memo, Mr. Johnston discussed cross-elasticity among teenage
5 boys between gasoline prices and smoking and stated: “in 1967, for one dollar, a teenager
6 could buy two gallons of gasoline and a pack of cigarettes . . . this was no longer possible
7 for the 1979 teenager [because of inflation]. . . . it is clear that price has a pronounced
8 effect on the smoking prevalence of teenagers.” 202249717-9721 at 9720 (U.S. Exhibit
9 26,750).

10 **Q. How is this document significant to your conclusion?**

11 A. It shows that Philip Morris collected data that revealed that teenagers have limited
12 resources. There is an acknowledgement that teenagers are a key target because Philip
13 Morris is concerned over whether teenagers will have money to spend on cigarettes.

14 **Q. Could you provide another example?**

15 A. Yes. A Philip Morris U.S.A. “Five Year Plan 1982-1986” dated March 1982 stated
16 “There will be approximately six million new smokers and the industry will lose six
17 million of its current smoking population through attrition over the next five years.”
18 2024090016-0084 at 0025 (U.S. Exhibit 37,086).

19 **Q. What is the significance of this plan to your conclusions?**

20 A. This plan confirms the specific tracking of new smokers as they enter the industry to
21 replace older smokers who quit, die, or smoke less. This is consistent with my
22 conclusion that the tobacco companies see teenagers who are the largest source of new
23 users as a key to continued growth.

1 **Q. Can you provide another example?**

2 A. Yes. A January 23, 1984 Philip Morris document entitled “Product Testing Short
3 Course,” prepared by the Philip Morris Research and Development Department noted
4 that “Marlboro floundered for eight years and then hit a responsive cord among post-war
5 baby-boom teenages [sic] with the theme from the Magnificent Seven and an image
6 uncalculatedly right for the wave of teenages [sic] coming of smoking age.” 2028817401-
7 7576 at 7504 (U.S. Exhibit 20,016).

8 **Q. What does this document tell you?**

9 A. In this document, Philip Morris clearly acknowledges that the Marlboro theme was a
10 major factor in attracting teenagers to smoke and smoke the Marlboro brand. Basically,
11 the advertising imagery of the Marlboro Man worked to attract starters.

12 **Q. Could you provide another example?**

13 A. Yes. A September 15, 1986 “Marlboro 1987 Marketing Plan” written by Nancy Brennan
14 Lund, future Philip Morris Senior Vice-President of Marketing, stated under the heading
15 “Smoker Age” that “Franchise growth in past years has largely been due to rapid growth
16 among smokers under 25 from 33% of category in 1980 to 49% in 1986.” 2023743001-
17 3024 at 3003 (U.S. Exhibit 37,044).

18 **Q. What is the significance of this plan to your conclusions?**

19 A. The plan points to the significance of younger smokers to Philip Morris’s business. It
20 should be noted that the document does not specify a lower age limit but just discusses
21 smokers “under 25.”

22 **Q. Could you provide another example?**

1 A. A “Philip Morris U.S.A. Five Year Plan 1987-1991” includes a chart showing “Smoking
2 Incidence Among High School Seniors.” 2024465760-5885 at 5770 (U.S. Exhibit
3 37,142).

4 **Q. What is the importance of this plan to your conclusions?**

5 A. The plan illustrates a focus by Philip Morris on high school students as starters. This
6 plan, taken in the context of the other documents I have reviewed, confirms my
7 conclusion regarding the companies’ interest in attracting new users.

8 **Q. Could you provide another example?**

9 A. A Marlboro 1987 Marketing Plan dated October 21, 1986 was apparently created by the
10 Leo Burnett Company, a major advertising agency working for Philip Morris. It was
11 produced from the files of Philip Morris. Advertising agencies generally present yearly
12 plans for the companies for the brands they handle. It included a “Consumer Dynamics
13 Overview” that compared “new smokers v. quitters” and stated “retained younger
14 smokers increase consumption as they age.” This overview continued “switching levels
15 very low: 10.1% in 1985” and “excluding ‘new smokers’ and intrapacking switchers,
16 only 7%-8% switch brand allegiance per year.” Under the title “New Smokers,” the plan
17 stated that Leo Burnett: “have no P.M. data on under-18” who are “about half of starters.”
18 It further stated that 18-24 year olds make up the other “half of starters.” The plan stated
19 that: “Marlboro has been increasing smoker share under 25” from 28.4% in 1977 to 49%
20 in 1986. Under the title “New Smokers Summary,” the plan stated that: “New smokers
21 key to adding new business -- only net source of gain for [Marlboro] Red -- Major source
22 of growth for Lights -- Adds volume as they age.” 2048571540-1649 at 1554-1555,
23 1564-1566, 1571 (U.S. Exhibit 38,703).

1 **Q. What is the significance of this plan to your conclusions?**

2 A. This plan clearly indicates a focus on new smokers under the age of 18. It is clear that
3 these new smokers are seen as a key to new business for Marlboro. This is highly
4 consistent with my conclusions regarding the importance of advertising in attracting new
5 users. Because the plan was written by Leo Burnett, Philip Morris's advertising agency
6 for Marlboro, it is clear that there is a focus at Philip Morris's advertising agency on
7 targeting these young smokers.

8 **Q. What does the plan mean that new smokers "add[] volume as they age?"**

9 A. The companies know that adolescent smokers do not smoke as many cigarettes per day as
10 adults, but, as those teenagers get older, they remain loyal to the cigarette brand and
11 gradually increase the number of cigarettes they smoke each day, thus adding sales
12 volume.

13 **Q. Could you provide another example?**

14 A. A Philip Morris U.S.A. "Business Planning & Analysis" plan dated February 1987
15 included a chart displaying "Smoking Incidence Among High School Seniors."
16 Regarding this chart, the plan stated: "Start rates for young adults are expected to remain
17 near current levels. Survey data from the University of Michigan indicate that incidence
18 trends among high school seniors were relatively stable in 1984 and 1985." 2020020978-
19 1104 at 0988, 0987 (U.S. Exhibit 36,678).

20 **Q. What is the significance of this plan to your conclusions?**

21 A. University of Michigan is well known for its work in survey research. This plan indicates
22 that Philip Morris was investigating, collecting, and using in its marketing publicly
23 available data from the University of Michigan – likely its Monitoring the Future Survey

1 -- about trends of smoking among high school students. As importantly, this confirms
2 my conclusion regarding the focus of the companies to attract new users by marketing to
3 high school students.

4 **Q. Can you provide another example?**

5 A. Yes. A September 22, 1989 report prepared for Philip Morris by its advertising agency
6 Leo Burnett U.S.A. described “Our U.S. Target” as a “‘moving’ target, in transition from
7 adolescence to young adulthood.” The report also cites to a study “conducted among
8 6,000 teens aged 14 to 18 in 10 countries, including the U.S.” Later in the document
9 under the section “Feelings About Advertising,” it is noted that “For additional insights,
10 we reviewed previous research on similar target.” As part of the review on these similar
11 targets two studies are cited: one from 1982 entitled “They are US: An Exploration of
12 Teens in the ’80s,” and one from 1987 entitled “Tweens and Teens Talk About
13 Advertising.” 2048677983-8044 at 7994, 8023, 8033 (U.S. Exhibit 22,336).

14 **Q. How is this report significant to your conclusion?**

15 A. The report acknowledges that adolescents are part of Philip Morris’s target market.
16 Starters remain a key focus. As importantly, Leo Burnett cites research on teenagers as
17 information that is germane to their target market for cigarettes. When constructing
18 Philip Morris advertising, teenagers are clearly an important consideration.

19 **Q. Could you provide another example?**

20 A. A plan entitled Philip Morris USA Five Year Plan 1992-1996 stated: “Marlboro has
21 historically grown by increasing its share of new smokers entering the marketplace, while
22 maintaining and growing share among current smokers as they age.” 2021313005-3161
23 at 3091 (U.S. Exhibit 36,728).

1 **Q. How is this plan significant to your conclusions?**

2 A. This Philip Morris plan clearly acknowledges that the key to Marlboro growth is new
3 smokers. Again, this document is consistent with my conclusion that tobacco companies
4 are extremely interested in new smokers, and are not limiting their marketing to existing
5 smokers.

6 **Q. Can you provide another example?**

7 A. Yes. A 1999 Leo Burnett report looked at Marlboro's advertising image which “plays on
8 the ‘approaching adulthood’ side . . . [featuring] independence.” This report compared
9 Marlboro's image to the “competition” – Camel and Newport – whose advertising “plays
10 on the ‘being young (adult)’ side . . . [featuring] sociability, nightlife, partying, fun-
11 loving, experiencing the moment.” Leo Burnett recommended that, if Marlboro could
12 use the themes of sociability, spontaneity, and partying usually featured by Camel and
13 Newport, it would be the “[o]ppportunity for Marlboro to own ‘the road to adulthood.’”
14 LB0090212-0230 at 0217, 0218 (U.S. Exhibit 33,211).

15 **Q. What does this report show?**

16 A. It shows that, as of 1999, Philip Morris was not aiming its marketing only at adults age
17 21 and over. The report uses the clear terminology that Philip Morris is marketing to
18 people who are “approaching adulthood.” Additionally, the report continues to note that
19 a key theme for Marlboro is transition and ownership of the road to adulthood. That
20 same road of transition begins in adolescence.

21 **Q. You've provided numerous examples of Philip Morris documents. Can you**
22 **summarize the significance of this set of documents?**

1 A. It is important to understand that the documents I have just cited, taken together in
2 context, show Philip Morris’s consistent approach that teenagers are important. They are
3 consistent with my conclusion that cigarette marketing attracts new users who are
4 primarily under 18.

5 **Q. Could you provide an example of a R.J. Reynolds document that supports your**
6 **conclusions?**

7 A. Yes. A July 2, 1971 letter from Regina E. Simek of the William Esty Company to Jerry
8 L. Clawson, an R.J. Reynolds Marketing Research Department employee, described an
9 attached study that included incidence and preference shares by age among 14-20 year
10 olds. 506052583-2584 at 2583 (U.S. Exhibit 20,751).

11 **Q. How is this letter significant, if at all, to your conclusion?**

12 A. It shows the tobacco companies’ focus on young people and need to understand their
13 preferences.

14 **Q. Can you provide other examples?**

15 A. Yes. In the early 1970s, R.J. Reynolds gathered and interpreted data from National
16 Family Opinion (“NFO”) surveys on smoking habits.

17 For example, meeting summary notes dated April 7, 1971 and entitled “Summary
18 of Decisions Made in MRD-Esty Meeting Concerning Spring 1971 NFO Tobacco
19 Products Survey,” noted that the survey would include respondents aged 14-20 and
20 respondents aged 13 and younger, with age breaks of 14-15, 16-17, and 18-20. The
21 report also noted that two separate reports were to be produced – a standard one for adults
22 and a separate one for 14-20 year-olds (with specific breaks noted). 500347108-7111 at
23 7108-7109 (U.S. Exhibit 48,184).

1 A September 2, 1971 memorandum entitled “NFO Profiles for Camel Regular and
2 Filter,” that was attached to a November 29, 1971 R.J. Reynolds Marketing Research
3 Department marketing research report stated that “Perhaps the most interesting data in
4 this report is that for smokers 14-20 years of age.” The report carefully tracked 14-15
5 and 16-17 age groups. 501426066-6095 at 6068 (U.S. Exhibit 20,679).

6 On March 8, 1973 John McCain of William Esty Co. advertising agency sent a
7 memorandum entitled “NFO Preference Share Data - ‘Youth’ Market” to J.O. Watson of
8 the R.J. Reynolds Marketing Research Department that discussed the importance of the
9 14-20 year-old preference share data. 508453918-3920 (U.S. Exhibit 20,812).

10 On October 30, 1975, John M. Wallace, an R.J. Reynolds Marketing Research
11 Department employee, sent a memorandum to T.L. Ogburn entitled “Share of Smokers
12 by Age Group” that was based on an NFO panel with attached tables. The left-side
13 portion of Table 1 showed two categories: a 14-17 year-old group and an 18-and-over
14 group. The right-side portion has several age categories, yet R.J. Reynolds elects to
15 spend a lot of discussion in the memorandum on the 14-17 year-old group. The
16 memorandum further pointed out that “Salem is beginning to show strength in the
17 younger markets.” 500769032-9036 at 9032-9033 (U.S. Exhibit 21,814).

18 A September 7, 1976 report conducted by National Family Opinion (NFO) for
19 R.J. Reynolds entitled “Smokers Screening - April 1976 Profile (14-17)” used a sample
20 that focused on 14-17 year olds. The report included very detailed charts on teenage
21 smoking behavior, preference by brand, and demographics. 501376258-6470 (U.S.
22 Exhibit 20,678).

23 **Q. How, if at all, are these documents significant to your conclusion?**

1 A. The documents show that R.J. Reynolds had a consistent focus on 14-17 year olds in
2 terms of their smoking preferences and smoking rates. R.J. Reynolds is clearly making
3 these teenagers targets for its tobacco products.

4 **Q. Can you provide another example?**

5 A. Yes. A September 21, 1972 memorandum from J.H. Sherrill, Director of Marketing
6 Research at R.J. Reynolds, to William S. Smith, of the Tobacco Institute Advertising
7 Committee, entitled “Company Shares Broken by Age Groups,” took note of the 14-17
8 age group when looking at share of smokers. 502353751-3752 at 3751 (U.S. Exhibit
9 49,124).

10 **Q. How is this document significant to your conclusion?**

11 A. Again, it demonstrates that R.J. Reynolds had a focus on 14-17 year olds.

12 **Q. Can you provide another example?**

13 A. Yes. In a February 2, 1973 draft research planning memorandum entitled “Some
14 Thoughts About New Brands of Cigarettes for the Youth Market,” Claude Teague,
15 Assistant Director of Research at R.J. Reynolds, concluded, “Realistically, if our
16 Company is to survive and prosper, over the long term, we must get our share of the
17 youth market.” 502987357-7368 at 7358 (U.S. Exhibit 21,475).

18 **Q. How is this document significant?**

19 A. This is another indication of R.J. Reynolds’s need to focus on and target young people.

20 **Q. Could you provide another example?**

21 A. It is clear that R.J. Reynolds used National Family Opinion (NFO) data about teenagers
22 in developing marketing plans to build demand. A Camel Marketing Plan from April,
23 1973 uses NFO data to determine preferences for the NFF category, “As a result of this

1 strong preference for the 85mm NFF category, males 14-34 years old represent
2 approximately 35% of the 85mm NFF smokers (at least 50% higher than the total
3 industry).” 501496947-6983 at 6949 (U.S. Exhibit 48,902).

4 **Q. What is the significance of this plan to your conclusions?**

5 A. This plan provides a very clear example of R.J. Reynolds’s effort to market to teenagers.
6 Additionally, the document indicates how R.J. Reynolds used National Family Opinion
7 data on teenagers. Given that it is a Camel marketing plan, R.J. Reynolds’s use of NFO
8 data is contrary to R.J. Reynolds’ contention that the NFO data was only used for
9 “tracking” purposes.

10 **Q. Can you provide another example?**

11 A. Yes. A May 4, 1973 R.J. Reynolds presentation entitled “Originals for Turk Test Market
12 Proposal,” discussed, under the subheading “Why Camel Filter should aggressively target
13 against the young-adult male segment,” the “importance of young-adults [18-34] to the
14 industry.” The presentation included an age group of 14-20 and also noted that “[t]he
15 major growth brands in the industry (Marlboro and Kool) have been the ones which have
16 successfully appealed to young-adults.” The presentation notes themes and imagery of
17 “Freedom; Independence; Masculinity; and Fantasy.” 500723696-3718 at 3698-3699,
18 3700, 3706 (U.S. Exhibit 20,647).

19 **Q. How is this presentation significant to your conclusion?**

20 A. The presentation demonstrates that R.J. Reynolds employed certain themes and appeals
21 that resonate among young people. Furthermore the presentation shows that R.J.
22 Reynolds wants to do better in the younger categories, including those as young as 14.

23 **Q. Can you provide another example?**

1 A. Yes. An R.J. Reynolds presentation entitled “State of the Business 1969-1974,” under
2 the heading “Share of NFO Smokers by Age,” included age groups 14-17, 18-20, 21-24,
3 25-34, and 35-49. The presentation highlighted by an arrow the young categories,
4 including 14-17 year-olds. The presentation also noted: “Conclusion #1: Marlboro
5 smokers younger overall . . . Particular strength among young males.” Conclusion #4
6 indicated that the “difference in advertising approach” was the single major factor for
7 differing market performance between Winston and Marlboro. 501900019-0060 at 0031,
8 0033, 0049 (U.S. Exhibit 29,539).

9 **Q. How, if at all, is this presentation significant to your conclusion?**

10 A. The presentation points out R.J. Reynolds’s focus on 14-17 year olds. The presentation
11 demonstrates that R.J. Reynolds places great importance on Marlboro’s image. R.J.
12 Reynolds notes that its own brand, Winston, lacks a motivational image. In essence, R.J.
13 Reynolds is stating that a large part of Marlboro’s success is owed to its image conveyed
14 through advertising.

15 **Q. Can you provide another example?**

16 A. Yes. A 1974 report prepared for R.J. Reynolds by the advertising agency William Esty
17 Company entitled “What Causes Smokers to Select Their First Brand” included
18 subheadings such as “Starting Age” and “Initial reasons for smoking.” The report stated
19 that “If a person is going to smoke, he generally . . . starts during his teens”; that one of
20 initial reasons for smoking among men: “symbolic of rugged masculinity”; and that one
21 reason for selecting first “usual” brand: “young smokers ‘wear’ their cigarette.”
22 501122903-2908 at 2903-2904, 2907, and 2908 (U.S. Exhibit 29,529).

23 **Q. How does this report support your conclusion?**

1 A. The report shows R.J. Reynolds's focus on teenagers and its understanding of the
2 importance of symbolism in the initiation of smoking. Male teenagers are seen as prime
3 targets. Moreover, the advertising agency describes to R.J. Reynolds the importance of
4 symbolism and image creation to attract these young people.

5 **Q. Can you provide another example?**

6 A. Yes. A 1975 Marketing Plans Presentation given at Hilton Head to the R.J. Reynolds
7 Board of Directors stated: "First, let's look at the growing importance of the young adult
8 in the cigarette market. In 1960, this young adult market, the 14-24 age group,
9 represented 21% of the population." The presentation further stated: "In the 14-24 age
10 category, Philip Morris has a 38% share and B&W a 21% share. . . . Our two major
11 brands, Winston and Salem, show comparative weakness against Marlboro and Kool in
12 these younger categories. Winston is at 14% in the 14-24 age group versus Marlboro at
13 33%. Salem is at 9% versus Kool at 17% This suggests slow market share erosion
14 for us in the years to come unless the situation is corrected." 501421310-1335 at 1311-
15 1312 (U.S. Exhibit 23,052).

16 **Q. How is this presentation significant to your conclusion?**

17 A. I find a presentation to the Board of Directors to provide compelling support for my
18 conclusion that the tobacco companies collected research on teenagers and designed their
19 marketing to appeal to teenagers. R.J. Reynolds is not just looking at trends for
20 forecasting purposes, it is specifically comparing its market share of 14-24 year olds with
21 other companies' shares. The plan identifies young people between the ages of 14-24
22 and continues through with the targeting. Chart 2 shows young adults as ages 14-20, and

1 Chart 8 shows advertising to those young adults. Chart 13 discusses “new” and younger
2 smokers.

3 **Q. Can you provide another example?**

4 A. Yes. In a January 23, 1975 R.J. Reynolds memorandum to C.A. Tucker, R.J. Reynolds
5 Vice President, entitled “Camel Filter Recommendation: ‘Turk’ Advertising Campaign
6 and New Blend,” J.F. Hind, an R.J. Reynolds’ employee, recommended that the company
7 “expand nationally the successfully tested ‘Meet the Turk’ ad campaign,” and stated, “To
8 ensure increased and longer-term growth for Camel Filter, the brand must increase its
9 share penetration among the 14-24 age group which have a new set of more liberal values
10 and which represent tomorrow’s cigarette business.” He also wrote that “[w]hile ‘Meet
11 the Turk,’ is designed to shift the brand’s age profile to the younger age group, this won’t
12 come over night.” 505775556-5598 at 5557 (U.S. Exhibit 21,797).

13 **Q. How is this memorandum significant to your conclusion?**

14 A. Again this memorandum shows R.J. Reynolds’s clear focus on 14-17 year olds and R.J.
15 Reynolds’s use of advertising to increase sales to that group. R.J. Reynolds’s “Meet The
16 Turk” campaign is developed to meet R.J. Reynolds’ need to go after teenagers as targets.

17 **Q. Can you provide another example?**

18 A. Yes. An April 15, 1976 R.J. Reynolds report entitled “Planning Assumptions and
19 Forecast for the Period 1977-1986,” written by the R.J. Reynolds Research Department,
20 stated that “Evidence is now available to indicate that the 14-18 year old group is an
21 increasing segment of the smoking population. RJR-T must soon establish a successful
22 new brand in this market if our position in the industry is to be maintained over the long
23 term.” 500774773-4792 at 4787 (U.S. Exhibit 48,377) (emphasis in original).

1 **Q. How is this report significant to your conclusion that the cigarette companies are**
2 **focusing on teenagers, if at all?**

3 A. It shows R.J. Reynolds's focus on young people, in this case 14-18 year olds, as key
4 portions of the market. There is a stated urgency to reach this teenage market if R.J.
5 Reynolds is to maintain its position. It should be remembered that at that time Marlboro
6 was the dominant brand among teenagers.

7 **Q. Can you provide another example?**

8 A. Yes. In an October 31, 1977 memorandum to T.L. Ogburn entitled "Share of Smokers by
9 Age Group," Jeffrey Durgee, R.J. Reynolds Product Design employee, wrote that
10 "[p]erhaps because of their higher susceptibility to fads, peer pressure, etc., younger (14-
11 18) smokers show frequent, short-term changes from one brand to another." A table
12 attached to the memorandum showed a 14-17 age category. 501380878-0982 at 0878,
13 0881 (U.S. Exhibit 48,844).

14 **Q. How is this memorandum significant to your conclusion that the cigarette**
15 **companies designed their marketing to appeal to teenagers, if at all?**

16 A. In the memorandum R.J. Reynolds focuses on young people in terms of their
17 susceptibility to peers, fashion and fads. This is not monitoring teenagers to just look at
18 future trends; it is an analysis of the data for current marketing purposes. Taken in the
19 context of the other documents, R.J. Reynolds is really trying to figure out what
20 marketing strategies to employ in order to reach these teenagers.

21 **Q. Can you provide another example?**

22 A. Yes. In 1980, the R.J. Reynolds Marketing Development Department created a series of
23 internal reports entitled "Teenage Smokers (14-17) and New Adult Smokers and

1 Quitters.” There was quite a bit of correspondence among R.J. Reynolds marketing
2 research employees regarding these reports and these reports were discussed a number of
3 times in internal documents.

4 **Q. Please provide examples of those documents.**

5 A. On February 1, 1980, Stephen R. Perry sent a memorandum to Uziel Frydman (both R.J.
6 Reynolds Marketing Research Department Employees) that stated: “[t]o improve our
7 ability to forecast future trends, this report examines the demographics and smoking
8 behavior fo [sic] 14-17 year old smokers” 500768429-8438 at 8429 (U.S. Exhibit
9 20,649).

10 On February 4, 1980 Uziel Frydman sent a memorandum to J.B. Stuart, R.J.
11 Reynolds’s Director of Marketing Research, that commented on the reports. The
12 memorandum discussed “franchise aging” which demonstrates the need to know and get
13 new smokers, not simply shift smokers from one brand to the next. 500768427-8428
14 (U.S. Exhibit 22,341).

15 On July 9, 1980, Kay Duffy, an employee in R.J. Reynolds’s Marketing Research
16 Department, sent a memorandum to Uziel Frydman also commenting on the reports that
17 stated “RJR is continuing to lose share among teenage smokers.” 501254289-4301 at
18 4287 (U.S. Exhibit 22,466).

19 A July 18, 1980 memorandum from Jerry R. Moore of R.J. Reynolds’s Marketing
20 Research Development Department to N.W. Glover, R.J. Reynolds’s Vice-President of
21 Brand Marketing, G.H. Long, R.J. Reynolds’s Executive Vice-President, and J.B. Stuart
22 attached an updated report on Teenage Smokers and New Adult Smokers and Quitters.
23 The memorandum from Moore stated: “[t]he data is a natural by-product of tracking adult

1 smokers.” 500768754-8754 at 8754 (U.S. Exhibit 20,650). This caution that R.J.
2 Reynolds was only looking at trends among teenagers as a “by-product” of tracking
3 adults is not noted in the two page introduction and summary of key findings that
4 followed.

5 On July 31, 1980, Kay Duffy, R.J. Reynolds employee, sent a memorandum
6 entitled “Addendum to Report ‘Teenage Smokers (14-17) and New Adult Smokers and
7 Quitters’” to J.B. Stuart that added Camel, Vantage, More and Now to the earlier report.
8 Duffy’s memorandum notes that none of these brands “account for a very large portion of
9 the teenage smokers. Camel does appear to be a growing among the age group, primarily
10 due to Camel Lights.” 500794841-4843 at 4841(U.S. Exhibit 20,653).

11 Finally, on October 29, 1980, Duffy sent another memorandum to Moore that
12 attached the “third report relating to teenage smokers and new adult smokers and
13 quitters” and stated: “RJR’s share of teenage smokers has stabilized, with a share of
14 20.2% in Spring 1980, 19.9% in Fall 1979, and 21.3% in Spring 1979.” 501254267-4283
15 at 4267 (U.S. Exhibit 22,904).

16 **Q. How are these documents related to “Teenage Smokers (14-17) and New Adult**
17 **Smokers and Quitters” relevant to your conclusion?**

18 A. The documents show that R.J. Reynolds had a clear and unambiguous focus on 14-17
19 year olds. R.J. Reynolds is very concerned with its market share among teenagers. I
20 recognize that in a few cases the documents explicitly note the teenage data are for
21 forecasting purposes, and not for developing marketing strategies for the teenage market.
22 However, in the context of all the R.J. Reynolds’s documents of this era, I conclude that

1 R.J. Reynolds's objective in creating and circulating these reports was to continue its
2 focus on the teenage market was not just to review this market for future trends.

3 **Q. Do other internal documents support your conclusion, as you testify above, that R.J.**
4 **Reynolds was reviewing teenage data in order to develop marketing strategies**
5 **aimed at teenagers, and not just for forecasting?**

6 A. Yes. A July 22, 1980 memorandum from G.H. Long, R.J. Reynolds Executive Vice
7 President, to Edward A. Horrigan, Jr., R.J. Reynolds's CEO, entitled "MDD [Marketing
8 Development Department] Report on Teenage Smokers (14-17)," pointed out that R.J.
9 Reynolds was declining and Philip Morris was gaining among 14-17 year old smokers.
10 Long wrote that "[h]opefully, our various planned activities that will be implemented this
11 fall will aid in some way in reducing or correcting these trends." 508453894-3894 at
12 3894 (U.S. Exhibit 20,811).

13 **Q. How does this memorandum support your conclusion?**

14 A. This memorandum goes beyond only looking at trends. R.J. Reynolds's Marketing
15 Development Department is clearly focusing on the 14-17 year old age group and
16 developing marketing strategies to go after this group.

17 **Q. Can you provide another example?**

18 A. Yes. In an October 23, 1980 memorandum from Kay Duffy, R.J. Reynolds employee, to
19 L.W. Hall Jr., Vice President of Brands Marketing at R.J. Reynolds, entitled "Younger
20 Adult Smokers," part of the key summary is a discussion of the 14-17 old age group and
21 Philip Morris dominance in the age group. The memorandum also notes various shares
22 by age group and states that the focus on the 14-17 age group is to improve their ability to
23 forecast not to market. 500686301-6313 at 6302, 6303-6306 (U.S. Exhibit 21,566).

1 **Q. How is this memorandum significant to your conclusion that the cigarette**
2 **companies were collecting research on teenagers?**

3 A. This R.J. Reynolds memorandum offers a thorough discussion of the 14-17 market and
4 franchise aging which places an emphasis on those entering the market.

5 **Q. Can you provide another example?**

6 A. Yes. In a September 20, 1982 memorandum to P.E. Galyan, an employee in the
7 Marketing Research Department, Diane S. Burrows, R.J. Reynolds Marketing
8 Development Department researcher, Burrows stated that “if a man has never smoked by
9 age 18, the odds are three-to-one he never will. By age 21, the odds are twenty-to-one.”
10 501988846-8849 at 8846, 8847 (U.S. Exhibit 20,692).

11 **Q. How is this memorandum significant to your conclusion?**

12 A. It shows that R.J. Reynolds had a clear understanding that smoking is initiated before age
13 18.

14 **Q. Can you provide another example?**

15 A. Yes. In another memorandum dated October 6, 1982 Burrows wrote to L.W. Hall “[that
16 “the loss of younger adult males and teenagers is more important to the long term, drying
17 up the supply of new smokers to replace the old.” 501432328-2336 at 2328, 2329 (U.S.
18 Exhibit 48,870).

19 **Q. How is this memorandum significant to your conclusion?**

20 A. The memorandum indicates R.J. Reynolds’s continued focus on teenagers as a key for its
21 business.

22 **Q. Can you provide another example?**

1 A. Yes. In a February 29, 1984 strategic research report entitled “Younger Adult Smokers:
2 Strategies and Opportunities,” Diane Burrows stated: “Younger adult smokers are the
3 only source of replacement smokers.” Appendix B of the report charted replacement
4 smokers by age, with the caption, “More than two-thirds of male smokers start by age
5 18.” 507305610-5698 at 5624, 5674 (U.S. Exhibit 51,167).

6 **Q. How is this report significant to your conclusion?**

7 A. Again, this report points out that R.J. Reynolds recognizes the importance of teen
8 smokers. In context of the other documents it is easy to understand that R.J. Reynolds
9 focused on replacement smokers who were new smokers or teenagers who had not yet
10 started to smoke. The report illustrates, as do others, the company was not just focusing
11 on existing smokers.

12 **Q. Did the other companies' corporate and marketing plans contain similar content?**

13 A. Yes. For example, an R.J. Reynolds “Camel 1986 Annual Marketing Plan” stated:
14 “CAMEL gained more ‘new’ smokers and sustained less ‘quitting’ in first half, 1985 than
15 in 1984. CAMEL also improved its rate of ‘switching into’ the Brand Family, while
16 ‘switching out’ remained flat. Finally, CAMEL’s loyalty rate . . . improved significantly
17 versus the 1984 trend.” Under the heading “Marketing Strategy Summary,” the plan
18 stated that the “Developmental Positioning Strategy” for “Brand Positioning” was:
19 “CAMEL’s positioning strategy is to attract and build a franchise of younger adult
20 smokers selecting their first usual brand (primarily 18-24 males) by positioning CAMEL
21 as a more relevant and motivating alternative than Marlboro.” 505248648-8862 at 8660,
22 8764 (U.S. Exhibit 50,739).

23 **Q. What is the significance of this marketing plan?**

1 A. The marketing plan clearly indicates that R.J. Reynolds is focused on new smokers as
2 opposed to only existing adult smokers. Camel’s positioning strategy is aimed at
3 smokers selecting their first usual brand as opposed to only marketing to existing
4 smokers. This is consistent with my conclusion that gaining new smokers is a key focus
5 of the tobacco companies.

6 **Q. Can you provide another example?**

7 A. Yes. An October 15, 1987 memorandum entitled “Project LF Potential Year 1 Marketing
8 Strategy” from J.H. Miller to Emily C. Etzel and Ann E. Biswell, all R.J. Reynolds
9 employees, stated “Project LF is a wider circumference non-menthol cigarette targeted at
10 younger adult male smoker (primarily 13-24 year old male Marlboro smokers).”
11 505936377-6378 at 6377 (U.S. Exhibit 50,876).

12 **Q. How, if at all, is this memorandum significant to your conclusion that Defendants
13 designed their marketing to appeal to teenagers?**

14 A. This R.J. Reynolds memorandum shows a strategy that has a clear focus on young male
15 smokers including teenagers. The company is primarily targeting those young smokers
16 who are, or will be smoking Marlboro. Many of these teenagers will be new to the
17 market and not already existing smokers. Therefore, like many of the other documents,
18 this contradicts R.J. Reynolds’s statements that they are only interested in adult smokers.

19 **Q. Can you provide another example?**

20 A. Yes. On January 10, 1990, J.P. McMahon, R.J. Reynolds Division Manager, sent a
21 memorandum headed “VERY IMPORTANT, PLEASE READ CAREFULLY!!!” to all
22 Division Sales Managers asking sales reps to denote “stores that are heavily frequented
23 by young adult shoppers.” The purpose was to “identify those stores during 1990 where

1 we would try to keep premium items in stores.” The stores should be “in close proximity
2 to colleges, high schools or areas where there are a large number of young adults.”
3 507341430-1430 at 1420 (U.S. Exhibit 51,170).

4 **Q. How is this memorandum significant to your conclusion?**

5 A. The memorandum illustrates that at the tactical level R.J. Reynolds was targeting
6 teenagers via in-store selling programs. Also it shows that R.J. Reynolds considered
7 teenagers in high school to be part of its “young adult” market.

8 **Q. To sum up, how does Defendants’ focus on attracting new users relate to your
9 overall conclusion?**

10 A. All of these documents indicate the continued focus of the tobacco companies on
11 obtaining the teenage market. These documents provide further support for my
12 conclusion that cigarette advertising and promotion are influential in creating overall
13 market demand, particularly among teenagers. It is my conclusion that advertising and
14 promotion are important and enduring forces attracting teenagers to smoking, as opposed
15 to only shifting consumer demand among already existing brands.

16 **F. Sixth Conclusion: The Cigarette Companies Have Effectively Advertised And**
17 **Promoted to Teenagers**

18
19 **Q. Please remind the court of your sixth sub-conclusion regarding Defendants’
20 cigarette brand marketing efforts.**

21 A. Contrary to their statements, the tobacco industry has been effective in the planning and
22 execution of cigarette advertising and promotion to teenagers.

23 **Q. What steps did you take to reach this conclusion?**

24 A. As I have testified to above, I have concluded that the tobacco companies targeted
25 teenagers. In addition, as I will describe below, I have concluded that the tobacco

1 companies: (1) employed the concept of peers in order to market to teenagers; (2) use
2 images and themes in their marketing that appeal to teenagers; and (3) employ
3 advertising and promotion strategies to knowingly reach teenagers. As I will also
4 describe below, brand share data confirms that the leading brands among teenagers are
5 image oriented and have been among the most heavily supported brands by advertising
6 and promotion. Taking all these elements together, I have reached what I call here my
7 sixth conclusion, that the tobacco industry has been effective in the planning and
8 execution of cigarette advertising and promotion to teenagers.

9 ***(1) Defendants Have Used Peer Appeals to Market to Teenagers***

10
11 **Q. Please explain your conclusion that Defendants employed the concept of peers in
12 order to market to teenagers.**

13 A. I have concluded that the tobacco companies understand how to use the concept of peer
14 and peer influence when creating advertising and sales promotion. In other words, the
15 tobacco companies understand the power and influence of peers and employ it in their
16 advertising and promotion. The tobacco companies know that teenagers are peer
17 oriented, and they recognize the importance of peers in the initiation of smoking. The
18 tobacco companies turn this knowledge of peers into effective advertising and promotion.
19 They often design their cigarette advertising and promotion so that it employs strategies
20 that appeal to peer association. I refer to this as “peer appeal.”

21 **Q. Can you define peer appeal?**

22 A. Peer appeals are appeals that indicate that product use such as smoking cigarettes will
23 enhance one’s respect or standing within one’s peer group.

24 **Q. What is your basis for this conclusion?**

1 A. My conclusion is based upon review of the tobacco companies' internal marketing
2 documents. My conclusion is also supported by scholarly published work.

3 **Q. What are the findings of that scholarly work?**

4 A. Cigarette advertising and promotion often foster images of peer associations and peer
5 context. Teenagers actively search for cues in advertising of how to conform to peer
6 relations that result in the "right" way to look and behave. (Solomon, 1992) (U.S.
7 Exhibit 64,255). Thus, the association of tobacco products with desirable adolescent
8 traits is often made to convey a teenager can achieve peer acceptance through smoking
9 behavior. Cigarettes are seen as props in image management that situate a user within a
10 peer group. (Cohen, 2000) (U.S. Exhibit 63,946). Advertising and promotion are
11 important in communicating images of smoking to adolescents. (Romer and Jamieson,
12 2001) (U.S. Exhibit 63,901). As teenagers become more likely to smoke, they recognize
13 the acceptance of this behavior among their peers.

14 **Q. How do Defendants' internal marketing documents support your conclusion?**

15 A. In these documents, the tobacco companies repeatedly state that they design their
16 cigarette advertising and sales promotion to employ peer appeals and appeal to the peer
17 group. The tobacco companies' cigarette marketing strategies incorporate the use of peer
18 association and peer appeal when planning advertising and promotion campaigns. As
19 well as these explicit statements in marketing documents, I have evaluated the tobacco
20 companies' marketing and concluded that it contains peer appeals.

21 **Q. Can you provide an example of R.J. Reynolds' use of peer appeals?**

22 A. Yes. An October 31, 1977 memorandum from J. Durgee, R.J. Reynolds Product Design
23 employee, to T.L. Ogburn, Jr., R.J. Reynolds Vice-President of Public Issues, uses

1 National Family Opinion data purchased by the company to discuss teenagers 14-18
2 years old: “Perhaps because of their high susceptibility to fads, peer pressure, etc.,
3 younger (14-18) smokers show frequent, short term changes from one brand to another.”
4 The memo further points out that, “RJR’s share of younger (under 18) smokers continues
5 a 3 year decline.” 501380878-0982 at 0878, 0880 (U.S. Exhibit 48,844).

6 **Q. How is this memorandum significant to your conclusions?**

7 A. It is significant because it highlights the importance of peer pressure when marketing
8 cigarette to teenage smokers. “Younger smokers” are clearly defined as 14-18 years of
9 age. The above memo also shows that the NFO data are used by R.J. Reynolds to
10 actively pursue youth smoking behavior, rather than only to spot upcoming trends in the
11 underage market.

12 **Q. Can you provide another example?**

13 A. A December 8, 1988 memorandum from S.L. Snyder, R.J. Reynolds Marketing
14 Development Department employee, to E.J. Fackleman states: “Specifically, the new
15 ‘Birthday’ and ‘Heroic’ advertising was developed to maintain the target’s perception of
16 CAMEL smokers as being masculine and individualistic while improving on its image on
17 being admired/respected by friends.” 506870492-506870493 at 0492 (U.S. Exhibit
18 21,443).

19 **Q. How is this memorandum significant to your conclusions?**

20 A. The document discusses the target’s perception of Camel and the development of new
21 advertising strategies employing a peer orientation. Showing Joe Camel as “being
22 admired/respected by friends” is a way of executing a peer-oriented advertising and
23 promotion strategy. Therefore, R.J. Reynolds’ intent is to associate smoking Camel with

1 being “admired/respected by friends.” This document is consistent with my conclusion
2 that the tobacco companies are not only aware of peer influence with respect to youth
3 initiation, but that they have employed the concept of peer appeal in their marketing
4 techniques so as to appeal to teenagers.

5 **Q. Can you provide another example?**

6 A. A March 1988, “Heroic Camel” Advertising Test report states: “The advertising will
7 position Camel as an authentic brand for smokers who are admired and respected by their
8 peers because of their attitudes and lifestyles distinguish them as individuals who have
9 their own identity and make their own decisions.” 507278143- 8195 at 8144 (U.S.
10 Exhibit 21,440).

11 **Q. How is this document significant to your conclusions?**

12 A. The advertising strategy employed by R.J. Reynolds as shown in this Joe Camel
13 document is very clear: Camel cigarettes are for those smokers who want to be admired
14 and respected by their peers. Therefore, R.J. Reynolds has put into place an advertising
15 strategy which utilizes the strength of the peer group. This is highly consistent with my
16 conclusion that not only do cigarette companies understand the power of peer association
17 but they also employ that peer association to market their products to teenagers.

18 **Q. Can you provide another example?**

19 A. A “Camel 1987 Marketing Plan” discussed R.J. Reynolds’s “Maverick Strategy”: “The
20 development of a new advertising campaign is proceeding with the exploration of a
21 ‘maverick’ strategy. The objective of CAMEL’s new advertising is to reposition existing
22 target perceptions so that CAMEL becomes a relevant, appealing alternative to Marlboro.
23 To accomplish this objective, CAMEL will be positioned as an independent brand choice

1 for smokers who seek to challenge convention . . . CAMEL smokers refuse to settle for
2 the ordinary, preferring to make a statement that positively affirms that independence and
3 projects an image which is respected and admired by others.” 505331190-1237 at 1215-
4 1216 (U.S. Exhibit 50,806).

5 **Q. How is this plan important to your conclusions?**

6 A. The plan emphasizes R.J. Reynolds’s use of peer appeal in order to reach its target
7 market. This is consistent with my conclusion that tobacco companies both understand
8 and use the concept of peer appeal. The maverick strategy discussed in this document is
9 a likely forerunner for the Joe Camel campaign as evidenced by July 30, 1987 document
10 “Camel 75th Birthday Promotion Concepts Presentation Agenda” that described Joe
11 Camel as “a character consistent with the maverick, irreverent attitude reflected by
12 CAMEL.” 506885567-5603 at 5568 (U.S. Exhibit 87,823) (emphasis in original).

13 **Q. Did you review other tobacco companies’ documents on this topic?**

14 A. Yes. I also reviewed Philip Morris’s documents that show that Philip Morris uses peer
15 appeals in marketing.

16 **Q. Can you provide an example?**

17 A. An August 20, 1987 “Virginia Slims Key Issues 1988 Marketing Plan” acknowledges the
18 role of peers as the company addresses declining market share: “Virginia Slims share of
19 18-21 females has declined from 9.3% to 8.0% . . . this trend is of major concern and
20 should be addressed quickly, especially considering that peer group usage is an important
21 factor in brand selection among this age group. Virginia Slims will be considering this
22 problem during the development of all advertising and promotions for next year.”
23 2040737461-7465 at 7463-7464 (U.S. Exhibit 37,540).

1 **Q. How is this marketing plan significant to your conclusion?**

2 A. The company is quite clear that peer group is important to selecting a brand of cigarettes.
3 The concept of the peer group is examined as a key issue in developing advertising and
4 promotion.

5 **Q. What other tobacco company's documents did you review?**

6 A. Lorillard.

7 **Q. Does Lorillard use peer appeals in marketing Newport?**

8 A. Yes. As we can see in documents ranging from 1994-2000, Lorillard plainly states that
9 its creative product (advertising, promotion and other forms of marketing
10 communication) will communicate that Newport is a peer brand. In other words,
11 Lorillard makes a very direct appeal to the peer group. Newport's primary message
12 during this time is to employ imagery which shows people in social situations with their
13 peers.

14 **Q. Can you provide examples of Lorillard documents ranging from 1994-2000?**

15 A. Yes. An August 11, 1994 "Newport Sales/Marketing Communications Meeting" under
16 the heading "Newport 1995 Creative Strategies" illustrates the importance of a peer
17 appeal: "Newport's creative product must strengthen Newport's competitive edge as the
18 'peer' brand among younger adult smokers." 94309276-9321 at 9297 (U.S. Exhibit
19 74,526) (emphasis in original).

20 An August 15, 1995 "Newport 1996 Strategic Plan" stated as a "marketing
21 strategy" that Lorillard should: "continue to improve Newport's appeal as the 'peer'
22 brand among younger adult smokers." 91995220-5263 at 5234 (U.S. Exhibit 74,432).

1 An August 8, 1997 “Newport 1998 Brand Plan” directed under the heading
2 “Newport 1998 Creative Strategies” focused on the importance of peer appeal: “develop
3 creative executions that continue to strengthen Newport’s competitive advantage as the
4 peer brand of choice among younger adult smokers by reinforcing the perception that
5 Newport delivers smoking pleasure in social settings relative to their lifestyles.”
6 82213301-3376 at 3325 (U.S. Exhibit 55,451); 82447096-7250 at 7183 (Category I
7 confidential) (U.S. Exhibit 55,481); 96689480-9609 at 9481 (U.S. Exhibit 56,921)
8 (Category I confidential); 86128647-8654 at 8648 (U.S. Exhibit 56,131) (Category I
9 confidential).

10 A “Newport 2000 Strategic Plan Overview” dated October 8, 1999, under the
11 heading “Creative Strategy,” demonstrates the reliance on peer appeals: “Develop
12 creative executions that continue to strengthen and refresh Newport’s competitive
13 advantage as the peer brand of choice among younger adult smokers by reinforcing the
14 perception that Newport delivers smoking pleasure in social settings relative to their
15 lifestyles.” 98196660-6681 at 6671 (U.S. Exhibit 56,953).

16 **Q. How are these Lorillard documents and company plans significant to your**
17 **conclusion that Defendants use the concept of peer appeal in marketing to**
18 **teenagers?**

19 A. Newport is clearly positioned in the market as a peer brand. The message of the brand is
20 extremely consistent. The implication from the brand image as executed in advertising
21 and promotion is that smoking Newport cigarettes will enhance acceptance and status
22 among your peers.

1 **Q. Does the chart you created as Demonstrative 17,499 include additional documents**
2 **related to the use of peer appeals to market to teenagers?**

3 A. Yes. They are marked with the key word “appealing to peer groups.”

4 **Q. Overall, what do Defendants’ internal documents tell you about their use of peer**
5 **appeals?**

6 A. It is quite simple. The tobacco industry acknowledges and understands the power of the
7 peer group with respect to teenage smoking. Documents continually identify that
8 teenagers need to belong to a peer group. Advertising and promotion strategies often
9 incorporate peer appeals.

10 **Q. Did any R.J. Reynolds’ employee provide testimony in this case that is relevant to**
11 **your conclusion that Defendants use the concept of peer appeal in marketing?**

12 A. Yes. David Iauco, R.J. Reynolds Senior Vice-President for Marketing, stated in his
13 deposition that “I can’t think of any ads that were directed to somehow utilize peer.”
14 Deposition of David Iauco, United States v. Philip Morris, et al., May 7, 2002, 100:2-3.

15 **Q. How did this testimony inform your conclusion?**

16 A. I find this testimony to be inconsistent with R.J. Reynolds documents, such as those I cite
17 above, which demonstrate the importance and use by R.J. Reynolds of peer appeals in its
18 advertising.

19 **Q. Do Defendants address the role of peers in teenage smoking initiation in this case?**

20 A. Yes. In their expert reports and their Findings of Fact, the tobacco companies say that
21 peers are one of the most important variables in the initiation of smoking. Defendants’
22 expert Dr. Semenik states that “Peers and Family, not advertising, influence people to
23 begin smoking.” Expert Report of Richard J. Semenik, United States v. Philip Morris, et

1 al., (R. 833; filed February 2, 2002) at 13-14. Defendants' recent Findings of Fact state
2 that "influences such as family and peer attitudes and behaviors – rather than advertising
3 – influence smoking initiation among youth." Defendants' Final Proposed Findings of
4 Fact (R. 3416; filed July 1, 2004) at Chapter 6, ¶ 248. And in Defendants' opening
5 statement in this case, counsel for the tobacco companies stated at 341:5-15 that "if you
6 ask adults or children why they smoke, they'll tell you the same thing that the academic
7 research has shown, peer influence and family influence."

8 **Q. Have Defendants stated this publicly?**

9 A. Yes. In various public statements, the tobacco companies have asserted that peers – not
10 advertising – motivate youth smoking initiation.

11 **Q. Could you provide an example?**

12 A. Yes. A May 24, 1979 letter from Horace Kornegay of the Tobacco Institute to Joseph A.
13 Califano, Jr., Secretary of the Department of Health, Education and Welfare, letter stated
14 that Secretary Califano's "statements reflect the erroneous view that brand advertising has
15 an effect on the decision to begin smoking," and asserted that the 1978 Report of the
16 Surgeon General "suggested that the primary motivating factors in smoking by young
17 people were the influence of peers, smoking parents, and older siblings." TI05031337-
18 1339 at 1338 (U.S. Exhibit 21,245) (U.S. Exhibit 78,792).

19 **Q. Do you have another example?**

20 A. Yes. To respond to expected criticisms triggered by the 1994 Report of the Surgeon
21 General on smoking and teenagers, the Tobacco Institute circulated background fact
22 sheets to the media that asserted that "cigarette advertising does not influence young

1 people to smoke” and “family and peers are the primary influences of youth smoking.”
2 TII16300337-0345 at 0337 (U.S. Exhibit 62,447).

3 **Q. What is your reaction to Defendants’ public statements and positions in this case**
4 **that it is peers – not advertising – that influences teenage smoking?**

5 A. Peers are very important to teenagers, and studies have found that peer smoking is highly
6 correlated to adolescent smoking. As I have described, the tobacco companies are aware
7 of the importance of peers to youth smoking behavior. However, Defendants’ own
8 documents show that their claims that the influence of peers is solely responsible for
9 youth smoking and that their advertising and promotion has no influence are not correct.
10 As I have testified, the tobacco companies’ advertising and promotion attract new
11 smokers including teenagers and the tobacco companies understand and use the power
12 and influence of peers in their advertising and promotion. The documents above confirm
13 their faith in the use of peer appeals.

14 (2) **The Themes in Defendants’ Advertising and Promotion Appeal to**
15 **Teenagers**
16

17 **Q. What have you concluded about the themes and images Defendants use in their**
18 **advertising and promotion?**

19 A. The tobacco companies' advertising and promotion use images and themes that appeal to
20 teenagers. The themes used by the cigarette industry in advertising and other forms of
21 promotion are effective in communicating to young audiences. Cigarette advertising and
22 other forms of promotion have used or currently use pictures, illustrations, graphics and
23 other visual techniques as a primary form of image creation. In reviewing studies
24 regarding the content of cigarette advertising, the 1994 Surgeon General Report,
25 Preventing Tobacco Use Among Young People, concluded that cigarette advertisements

1 relied more on visual imagery than verbal techniques. (pp. 181-182) (U.S. Exhibit
2 64,693).

3 **Q. Generally, what themes or images do Defendants use in marketing their cigarette**
4 **brands?**

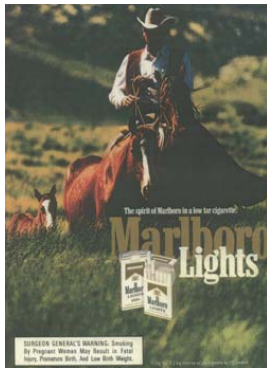
5 A. The images created include, but are not limited to, independence, liberation,
6 attractiveness, adventurousness, sophistication, glamour, athleticism, social inclusion,
7 sexual attractiveness, thinness, popularity, rebelliousness and being “cool.” (Report of the
8 Surgeon General, 1994, pp. 179-183 (U.S. Exhibit 64,693); Report of the Surgeon
9 General, 1998, p. 220 (U.S. Exhibit 64,831); Report of the Surgeon General, 2001, pp.
10 505-506 (U.S. Exhibit 64,315); 503969372-9414 (U.S. Exhibit 21,444); 503969238-9242
11 (U.S. Exhibit 79,096). The Surgeon General’s conclusion about imagery contained in
12 advertising is consistent with the 1981 FTC report entitled, “Staff Report On The
13 Cigarette Advertising Investigation,” which noted that cigarette advertising is portrayed
14 as an integral part of youth, happiness, attractiveness, vigor and other positive lifestyles.

15 **Q. Can you provide some examples?**

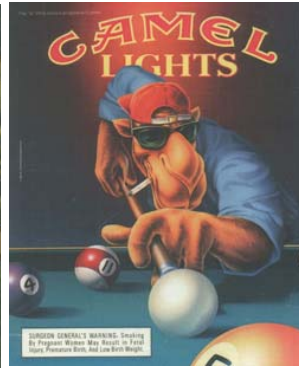
16 A. Demonstrative 17,502 shows a selection of Marlboro, Camel and Newport
17 advertisements in Rolling Stone and Sports Illustrated for the years 1993-2002. As I will
18 testify later, both magazines reach high levels of teenagers and Marlboro, Camel and
19 Newport are leading brands smoked by youth. The Marlboro Man is often associated
20 with independence and freedom as well as athletic prowess from the images of riding and
21 roping. (1994 Report of the Surgeon General, DHHS 1994, p.177) (U.S. Exhibit 64,693).
22 Joe Camel is perceived as “cool” by young people as well as seen as an icon who is
23 admired and respected by friends. 512674860-4908 (U.S. Exhibit 51,649). When

1 examining the “Joe Camel” campaign, Dr. Joel Cohen makes the link between imagery,
 2 peer acceptance and smoking among adolescents. Newport is depicted in social settings
 3 and positioned as the “peer brand” among younger adult smokers. (U.S. Exhibit 63,946).

4 **Demonstrative 17,502: Marlboro, Camel and Newport Advertisements in Rolling Stone**
 5 **and Sports Illustrated (1993-2002)**



15
16 7/12/93
17 (Sports Illustrated)



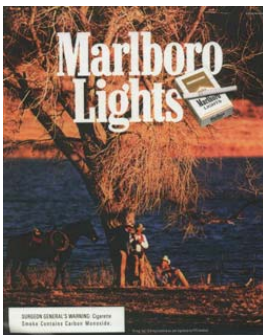
18 1/7/93
19 (Rolling Stone)



20 8/16/94
21 (Sports Illustrated)



22 1/26/94
23 (Rolling Stone)



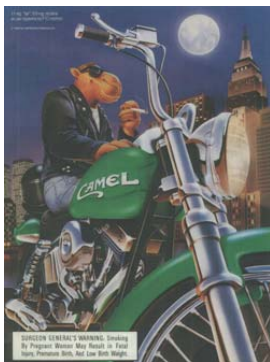
31 11/30/95
32 (Rolling Stone)



4/3/95
(Sports Illustrated)



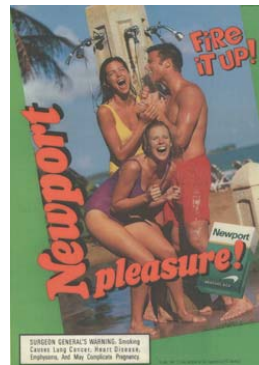
8/8/96
(Rolling Stone)



41 3/25/96
42 (Sports Illustrated)



5/19/97
(Sports Illustrated)



11/27/97
(Rolling Stone)



10/4/99
(Sports Illustrated)



5/13/99
(Rolling Stone)



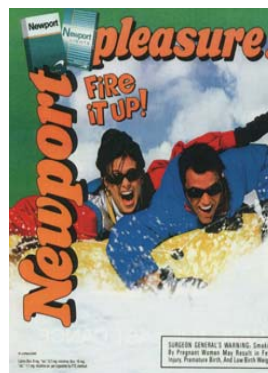
5/11/00
(Rolling Stone)



2/3/00
(Rolling Stone)



10/30/00
(Sports Illustrated)



1/18/01
(Rolling Stone)



9/13/02
(Rolling Stone)

21 **Q. Do the themes in Lorillard’s advertisements appeal to youth?**

22 A. Yes. The themes shown in Lorillard's "Alive with Pleasure" and “Fire It Up” Newport
 23 campaigns appeal to youth. The imagery in the campaigns transform the smoking
 24 experience into situations appealing to youth. The advertisements in the campaign show
 25 young, vibrant, active people in outdoor scenes personifying the concept of being alive
 26 with pleasure. The social situations and social interactions displayed in the “Alive with
 27 Pleasure” campaign are an important part of the theme that appeals to youth and peer

1 appeal. The use of peer appeal as a strategy is acknowledged by Lorillard in its
2 marketing documents.

3 **Q. Do the themes in Philip Morris’s advertisements appeal to youth?**

4 A. Yes. The advertisements for Philip Morris's "Marlboro Country" appeal to youth because
5 they develop and perpetuate imagery that resonates with and is influential among young
6 people. The imagery in the “Marlboro Country” campaign transforms the smoking
7 experience into situations appealing to youth. The Marlboro Man has become an icon in
8 American life symbolizing and communicating freedom, independence, authenticity,
9 ruggedness and adventure. Philip Morris's "Marlboro Racing" advertisements also appeal
10 to youth because they personify many of the above attributes associated with the
11 Marlboro Man. (1994 Report of the Surgeon General at 179) (U.S. Exhibit 64,693).

12 **Q. Do the themes in R.J. Reynolds’s advertisements appeal to youth?**

13 A. Yes. The advertisements which are part of R.J. Reynolds's "Mighty Tasty Lifestyles"
14 campaign for Camel appeal to youth because of their irreverent tone and tongue in cheek
15 approach. R.J. Reynolds's "Viewer Discretion Advised" Camel campaign advertisements
16 appeal to youth because of their irreverent tone and spoofs related to movie ratings. The
17 imagery in the campaign transforms the smoking experience into situations appealing to
18 youth. For example, one of the advertisements, shown below in Demonstrative 17,503,
19 shows a youthful man, pulling up his pants, hastily fleeing from a house. The young man
20 is chased by a much older man holding a shotgun. A window view of the house shows an
21 attractive young blond, laying in bed and partially covered by sheets, smoking a cigarette.
22 The “Viewer Discretion Advised” shows three ratings, “SS -- Satisfied Smoker, FV --
23 Farm Violence and AN -- Animal Nudity.” It should be noted that a movie rating parody

1 may have particular significance with teenagers who are among the heavier movie
2 attending segment of the population.

3 Moreover, R.J. Reynolds's "Pleasure To Burn" campaign advertisements for
4 Camel appeal to youth. The campaign uses stylized retrospective models. The imagery
5 in the campaign transforms the smoking experience into situations appealing to youth.
6 The campaign creates moods and attitudes rather than words, fact or data. The stylized
7 models contain such images as a pin-up girl, vamp, detective, sailor, James Dean type,
8 young man with afro and stylized glasses. In most of these advertisements, these
9 characters are made more accessible by wearing/using items such as cell phones,
10 headsets, earrings or wrap-around sunglasses.

11 **Demonstrative 17,503: Viewer Discretion Advised Advertisement**



12
13 **Q. Do the themes in Brown & Williamson's advertisements appeal to youth?**

14 **A.** Yes. Brown & Williamson's "B Kool" campaign advertisements for its cigarette brand,
15 Kool, appeal to youth. Many of the advertisements in the "B Kool," campaign depend on

1 illustrations/pictures and are solely based on youthful images. The imagery in the
2 campaign transforms the smoking experience into situations appealing to youth. The
3 campaign creates moods and attitudes. There are no words except “B-Kool” stamped in
4 the corner of the advertisement and those on the package. The models are young, highly
5 attractive, and placed in social situations appealing to young people. The campaign
6 generally shows a young woman gazing, in an alluring manner at an unidentified man
7 holding a pack of Kool cigarettes in the foreground. The female models in the
8 advertisements have a range of ethnic appeal and possess images to which many youth
9 aspire – being hip, casually dressed, attractive and out-on-the-town. Kool cigarettes are
10 associated with attracting young females.

11 (3) **Defendants’ Advertising and Sales Promotions Have Reached**
12 **Teenagers**
13

14 **Q. What is your next conclusion?**

15 A. Tobacco companies employ advertising and promotion strategies to knowingly reach
16 teenagers.

17 **Q. What does "reach" mean?**

18 A. “Reach” is a term that refers to the number of different persons or homes exposed to a
19 specific media vehicle or schedule at least once. The idea behind reach is to understand
20 how audiences accumulate.

21 **Q. What is that basis of your conclusion?**

22 A. I base this conclusion on Reports of the Surgeon General and other official government
23 reports, my own review of media, the tobacco companies’ internal documents, academic
24 literature, and commercial data about the industry.

1 **Q. What has the Surgeon General concluded with regard to whether Defendants'**
2 **marketing reaches teenagers?**

3 A. The Surgeon General has found that teenagers constantly come in contact with cigarette
4 advertising and promotion. (U.S. Exhibit 64,316). Teenagers under the age of 18 in the
5 past and present continually encounter branded cigarette messages.

6 **Q. What have other official government reports concluded?**

7 A. The CDC found that in 1988 cigarettes were the most heavily advertised product in
8 outdoor, the second most heavily advertised product in magazines, and the sixth most
9 heavily advertised product in newspapers. (Morbidity and Mortality Weekly Report,
10 April 27, 1990) (U.S. Exhibit 64,306).

11 **Q. How have Defendants reached teenagers?**

12 A. The tobacco companies reached teenagers through many types of advertising and
13 promotion, including: television advertising; billboard advertising; sampling activities
14 and promotional and specialty items; sponsorship and public entertainment; product
15 placement in movies; magazine advertising; and retail marketing.

16 **Q. Why do you list these types of advertising and promotion in that order?**

17 A. This is a roughly chronological order of the types of advertising and promotion most
18 heavily funded and used by the tobacco companies from the 1950s to the present. I start
19 with television advertising which the tobacco companies used during the 1950s and
20 1960s and stopped using in 1970 because of the Broadcast Ban. I then move to billboard
21 advertising because, after the Broadcast Ban, the tobacco companies shifted their
22 advertising to this vehicle, and heavily used billboards until they signed the Master
23 Settlement Agreement in 1998 and agreed to stop using billboards. I then discuss various

1 types of advertising and promotion that the tobacco companies have used regularly over
2 time including sampling and promotional and specialty items; public entertainment; and
3 product placement in movies. I then turn to magazines, in which the tobacco companies
4 have regularly advertised over time, and describe how the tobacco companies increased
5 their magazine advertisements in magazines that reached teenagers directly after they
6 agreed to limit certain other forms of advertising such as billboard advertising under the
7 Master Settlement Agreement in 1998. Finally, I discuss advertising and promotion at
8 retail, because this is the vehicle the tobacco companies have now shifted to and currently
9 heavily fund to market to young people.

10 (a) **Defendants' Cigarette Advertisements on Television**

11 **Q. How have Defendants reached teenagers through television?**

12 A. In the 1950s through 1970 when the television broadcast ban became effective, the
13 tobacco companies placed cigarette brand advertisements on television. In 1963, tobacco
14 companies sponsored shows such as “Wagon Train,” “McHale’s Navy,” “The Fugitive,”
15 “Route 66,” “The Twilight Zone,” and “Gunsmoke.” These television shows and the
16 tobacco companies' cigarette brand advertisements were viewed by many teenagers.
17 (FTC, 1965, pp. 226-227) (U.S. Exhibit 23,731).

18 **Q. How many teenagers were reached by Defendants' cigarette advertisements on**
19 **television?**

20 A. In reviewing 1963 television audience data, the FTC concluded that 23 of the 55
21 programs sponsored in whole or part by the cigarette companies in that year reached a
22 teenage audience in excess of two million. (FTC, 1964, pp. 47-49) (U.S. Exhibit 75,032).
23 The FTC further estimated that during a single evening time period, cigarette advertising

1 reached 7.9 million or 46% of the population aged 13-17 and 11.4 million or 26% of the
2 population aged 2-12. (FTC, 1964, p. 50) (U.S. Exhibit 75,032).

3 **Q. Did Defendants' cigarette brand advertisements on television reach more teenagers**
4 **than adults, or a proportionate number of each?**

5 A. The tobacco companies reached more teenagers than adults. In 1967, the FTC noted that
6 cigarette advertising on television and radio were more frequently viewed or heard by
7 teenagers than any other segment of the population. (FTC, 1967, p. 28) (U.S. Exhibit
8 22,148).

9 **Q. After the 1970 Broadcast Ban, did Defendants continue to reach television viewers**
10 **with their cigarette brand marketing?**

11 A. Yes. Many of the public entertainment events sponsored by cigarette brands have
12 enjoyed prominent television coverage and have continually reinforced both the brand
13 name and image of specific cigarettes. Philip Morris highlighted the television coverage
14 of their sponsored activities and brand name associations in an event tape. 2042914833-
15 4834 (U.S. Exhibit 38,269). The event tape documents the success of several promotions
16 by illustrating how cigarette brand-sponsored events such as the Virginia Slims
17 professional women's tennis tournament, Virginia Slims "Fashion Spree," Benson &
18 Hedges Blues Festival, Marlboro Music Tour, Marlboro "Mini Grand Prix," and
19 Marlboro professional racing events were covered on television.

20 **Q. Why did the companies choose to sponsor car racing?**

21 A. According to Philip Morris, race car sponsorship was selected because it personifies the
22 image of the "modern day Marlboro Man" by portraying strength, independence and
23 masculinity. 2500025505-5505 (U.S. Exhibit 25,343). In automotive and sports racing,

1 cigarette smoking can be associated with the ability to use a high degree of coordination
2 and the ability to assess risk. I will discuss the tobacco companies' sponsorship of
3 automotive racing in more detail in the section of my testimony entitled "Public
4 Entertainment."

5 **Q. After the Master Settlement Agreement, are the companies still able to sponsor car**
6 **racing?**

7 A. Yes. Under the Master Settlement Agreement, each company may have a single brand-
8 name sponsorship in any 12 month period. Philip Morris, for example, has continued to
9 sponsor car racing; in 2004, it sponsors an Indy Racing League car racing team to
10 promote its Marlboro brand. According to Philip Morris's website, Philip Morris will
11 voluntarily give up its brand sponsorship of car racing by December 1, 2006.

12 **Q. Do Defendants continue to reach teenagers today on television through sponsoring**
13 **car racing?**

14 A. Yes. As I will describe more fully in the section entitled "Public Entertainment," the
15 tobacco companies continue to sponsor car racing which is televised and viewed by
16 millions of individuals across the United States.

17 **(b) Defendants' Billboard Advertising**

18 **Q. Let's turn to billboards. How are billboards generally used by marketers?**

19 A. In general, billboards are not a marketing tool that allows a marketer to precisely target a
20 narrow audience. The advantage of outdoor advertising, such as billboards, is wide
21 coverage of the local population. It does not as a rule have the ability to select out or
22 target certain groups of people within that population.

1 **Q. Did Defendants in fact reach large numbers of people, including teenagers, through**
2 **billboards?**

3 A. Yes. The CDC found that in 1988, cigarettes were the most heavily advertised product in
4 outdoor of all consumer products. (MMWR, April 27, 1990) (U.S. Exhibit 64,306).

5 **Q. When did Defendants use billboards to advertise their cigarettes?**

6 A. The tobacco companies' use of billboards began in earnest when they were stopped from
7 advertising on television on January 1, 1971 as required by the Broadcast Ban. The
8 tobacco companies turned to billboards after losing television because they saw
9 billboards as a "reach medium." The tobacco companies then agreed to stop advertising
10 on billboards under the terms of the Master Settlement Agreement in November of 1998.

11 **Q. What do you mean that Defendants saw billboards as a "reach medium"?**

12 A. I am quoting the trial testimony of James Morgan in the Minnesota case. Mr. Morgan
13 was a Marlboro Brand Manager in the 1960s and 1970s and later the President of Philip
14 Morris. Mr. Morgan testified about the issue faced by Philip Morris when the Broadcast
15 Ban forced it to take its advertisements off of television:

16 Television had huge reach. Television reached 10, 12, 14 million
17 people at a time, and we were losing that. And so I and a couple of
18 associates came up with the idea that outdoor [billboards] could
19 replace television as a reach medium, and that you could in fact
20 reach large numbers of people with outdoor. But we had not done
21 a lot of outdoor. . . . We found in Opelousas, Louisiana, a printer
22 who could print on paper big enough that you could get what
23 looked like a printed ad in a magazine on huge paper [W]ell
24 before the rest of the industry caught up and [the rest of the
25 industry] was still putting up stuff that was hand painted . . . [In]
26 the early 70s, Marlboro outdoor started looking like Marlboro
27 magazines, had the same high quality, and it gave you the
28 flexibility to basically run the same things on outdoor that you ran
29 in magazines. That not only built brand equity, but it added to the
30 consistency, because people would see on the highways . . . what
31 they saw in magazines. So the whole story of the broadcast ban is

1 not the story of the broadcast ban, it is the story of the creation of
2 the Marlboro outdoor effort, which has been recognized up and
3 down the line as one of the best outdoor programs in the history of
4 the outdoor industry in the United States.

5
6 Testimony of James J. Morgan, State of Minnesota v. Philip Morris Inc.,
7 et al., C1-94-8565, March 2, 1998, 13455-56.

8 **Q. How is the President of Philip Morris' testimony significant to your conclusions?**

9 A. A key point to remember is that the tobacco companies' outdoor advertising such as
10 billboards is not selective, it is reach-oriented. In essence, while Philip Morris' Marlboro
11 campaign reached a high number of adults, it also reached a high number of adolescents
12 with the Marlboro image.

13 **Q. Have Defendants provided any testimony in this case that supports your conclusion?**

14 A. Yes. David Iauco, R.J. Reynolds Senior Vice-President for Marketing, confirms that
15 billboards were ubiquitous. Iauco testified: "With a medium like outdoor [billboards],
16 you really can't do a really good job of – it's not a medium that is targeted to any
17 particular group. It just doesn't offer that kind of targeting ability. . . . Out of home tends
18 to be a somewhat ubiquitous medium." Deposition of David Iauco, United States v.
19 Philip Morris, et al., May 8, 2002, 54:19-24.

20 (c) **Defendants' Sampling Activities and Promotional and**
21 **Specialty Items**
22

23 **Q. What is cigarette sampling?**

24 A. Sampling gets the product into the hands of the consumer. Sampling allows consumers
25 to try the product free of charge or for a very small fee. It is used to have people
26 experience the product. For example, at events and concerts, the tobacco companies will

1 set up booths or tents where they provide free cigarettes as well as other free items or
2 entertainment.

3 **Q. Have Defendants reached teenagers with their cigarette sampling?**

4 A. Yes. Cigarette product sampling and promotions at events and concerts have regularly
5 reached teenagers. One survey of elementary, high school, and college students found
6 that 20% of high school students and 4% of elementary students surveyed reported
7 receiving free cigarette samples themselves. (Davis and Jason, 1988) (U.S. Exhibit
8 64,302). Anecdotal evidence also points to the fact that teenagers have obtained free
9 samples. (20/20 Telecast Growing Up In Smoke, October 20, 1983) 690149518-9531 at
10 9524 (U.S. Exhibit 21,046).

11 **Q. What are promotional and specialty items?**

12
13 A. This is a catchall classification that includes a variety of items carrying the advertiser's
14 name and other pertinent information such as how to contact the advertiser and/or a brief
15 message.

16 **Q. Have Defendants reached teenagers with their specialty and promotional items?**

17 A. Yes. The cigarette industry has used specialty items and premiums that appeal to and are
18 used by adolescents. A Gallup survey revealed that almost half of adolescent smokers
19 and one quarter of nonsmoking adolescents had received promotional items from tobacco
20 companies. (Gallup, 1992) (U.S. Exhibit 51,596).

21 **(d) Defendants' Public Entertainment Activities and Sponsorship**

22 **Q. What is public entertainment?**

23 A. Public entertainment is a category that the FTC uses in its annual cigarette reports that
24 includes sponsorship of such venues as concerts, community events, auto racing and

1 fishing tournaments. It can also include other forms of event sponsorship such as
2 stadium signs.

3 **Q. How do Defendants use sponsorships to market their cigarettes?**

4 A. Tobacco companies rely on sponsorships to develop customer relationships and foster
5 positive brand images. Brand images are conveyed to both event attendees and broadcast
6 audiences of the event. Public entertainment events also enjoy media coverage that
7 reinforces both the brand name and image of specific cigarettes.

8 **Q. How much did Defendants spend on public entertainment including sponsorships in
9 2001?**

10 A. The cigarette industry spent \$312.4 million in 2001 on public entertainment which
11 includes sponsorship of car racing.

12 **Q. Does Defendants' sponsorship of car racing allow them to reach many people?**

13 A. Yes. Motor sport racing broadly exposes cigarettes and other tobacco products to those
14 who attend the events as well as to those who watch them on television. Many people
15 attend the races in which the tobacco companies sponsor car racing teams. In 2002,
16 seventeen of the country's twenty most highly attended sporting events were NASCAR
17 Winston Cup races (Conley, 2003).

18 **Q. Do many people watch these car racing events on television?**

19 A. Yes. In fact, in 2002, NASCAR was second only to football in television ratings.
20 (Conley, 2003). There were fifty-nine airings of the thirty-six races over the NBC, FOX,
21 FOX Sports Network (FSN), TNT and FX television networks.

22 **Q. Is there any data that measures that number of people who view car racing events
23 and see Defendants' cigarette brand advertising?**

1 A. Yes. Joyce Julius and Associates is a company that conducts syndicated research that
2 measures television audience exposure, clear in-focus time a cigarette brand is pictured,
3 and the number of verbal cigarette brand mentions during each telecast. Joyce Julius also
4 calculates the value of such exposure by using a formula that compares the mentions and
5 exposure time of the brand to the cost for purchasing commercials during that particular
6 broadcast. Verbal references are valued at 1/3 (or ten seconds) of a thirty second
7 commercial, based on historical research conducted by Joyce Julius, which concluded a
8 brand is mentioned on average three times during a traditional :30 commercial. I would
9 note that the economic value of such exposure and mentions is only an estimate.

10 **Q: Why is this data on exposure of use to you?**

11 A: Documenting exposure is one of the most widely practiced techniques for evaluating the
12 effectiveness of a public relations effort. (Wilcox, Ault and Agee, 1998, p.195) (U.S.
13 Exhibit 64,247).

14 **Q. What does Joyce Julius data indicate about Defendants' sponsorships of automotive
15 racing?**

16 A. Data from Joyce Julius reveals that the tobacco companies' race car sponsorships generate
17 a broader exposure on television than race attendance. (Joyce Julius and Associates,
18 2002) (U.S. Exhibit 73,676).

19 **Q. Have you created a list that shows the various racing series that were measured by
20 the Joyce Julius data?**

21 A. Yes. The fourteen televised racing series that were sponsored by the tobacco companies
22 or in which the tobacco companies had sponsored race teams from 1985 to 2002 are
23 shown in Demonstrative 17,504, below.

1 **Demonstrative 17,504: Racing Series/Joyce Julius Data**

NASCAR Winston Cup: 1986 - 2002
CART ChampCar Series (Formally know as IndyCar): 1985 - 2002
NHRA POWERade Drag Racing Series (Formally know as Winston Drag Racing Series): 1986
NASCAR Craftsman Truck Series: 1995 - 2002
NASCAR Busch Series: 1987 - 2002
IRL IndyCar Series: 1996 - 2002
ARCA RE/MAX Series: 1990 - 2002
SCCA Trans-Am Series: 1987 - 2002
Hydro-Prop Tour (Formally URC and UHRA): 1987 - 1999
Indy Lights Series: 1990 - 2001
Toyota Atlantic Series: 1987 - 2002
Hooters IHRA Drag Racing Series: 1988 - 2002
World of Outlaws (WOO): 1997 - 2002
American LeMans Series (Formally IMSA): 1987 - 2002

2
3 **Q. Can you provide a chart that shows an example of attendance for one of the events**
4 **you have listed above?**

5 A. Yes. The chart below, labeled as Demonstrative 17,505, provides attendance and
6 estimated value for one of the fourteen racing series, the Winston Cup Racing Series.
7 This chart shows Joyce Julius's measurement of television exposure for the Winston Cup
8 Racing series for 1985-2002. The thirty-six Winston Cup 2002 races had a total
9 attendance of 4.3 million. The 36 events were aired 59 times on either the Fox, FSN, FX,
10 NBC, or TNT television networks. Total viewership for the fifty-nine airings was 322
11 million. For those airings, the Winston brand had 15 hours of total onscreen clear in-
12 focus exposure time and it was mentioned was 1,877 times in total. Joyce Julius
13 estimated the value of Winston's onscreen exposure and brand name mentions at \$160
14 million.

1

Demonstrative 17,505: Winston Cup Racing Series

NASCAR Winston Cup Series					
Year	Television Viewership	Attendance	Total Events	Total Airings	Networks
1985	146,452,390	N/A	26	26	CBS, ABC, NBC, ESPN, SETN, WTBS, MIZLOU, JEFF. PROD.
1986	159,502,175	1,959,478	29	64	CBS, ABC, ESPN, SETN, WTBS, MIZLOU, JEFF. PROD.
1987	177,040,560	1,937,177	29	69	CBS, ABC, ESPN, SETN, WTBS, JEFF. PROD.
1988	144,120,350	2,086,425	29	64	CBS, ABC, ESPN, SETN, WTBS
1989	168,219,350	2,307,700	29	60	CBS, ABC, ESPN, WTBS, PPV
1990	170,597,640	2,385,250	29	67	CBS, ABC, ESPN, WTBS, PPV
1991	177,539,260	2,439,700	29	71	CBS, ABC, ESPN, WTBS, TNN
1992	187,575,330	2,688,970	29	65	CBS, ABC, ESPN, WTBS, TNN
1993	132,700,480	2,793,400	30	70	CBS, ABC, ESPN, WTBS, TNN
1994	136,329,120	3,222,100	31	65	CBS, ABC, ESPN, WTBS, TNN
1995	160,093,120	3,262,000	31	67	CBS, ABC, ESPN, WTBS, TNN
1996	179,175,360	3,407,000	31	123	CBS, ABC, ESPN, ESPN2, WTBS, TNN
1997	219,115,840	3,941,021	32	108	CBS, ABC, ESPN, ESPN2, WTBS, TNN
1998	220,826,720	4,117,000	33	116	CBS, ABC, ESPN, ESPN2, WTBS, TNN
1999	230,615,840	4,423,000	34	108	CBS, ABC, ESPN, ESPN2, WTBS, TNN
2000	222,127,680	4,606,000	34	107	CBS, ABC, ESPN, ESPN2, WTBS, TNN
2001	316,882,400	4,608,000	36	75	FOX, FSN, FX, NBC, TNT
2002	321,712,980	4,325,000	36	59	FOX, FSN, FX, NBC, TNT
Total:	3,470,626,595	54,509,221			

2

Brand	Year	Time	Mentions	Value
Winston	2002	15:00:46	1,877	\$ 160,158,235

3

4 **Q. Can you provide the same information for the other racing events?**

5 A. Yes, I have included this information in charts at the back of my testimony labeled
6 Demonstrative 17,506.

7 **Q. What do you conclude from this Joyce Julius data?**

1 A. The overriding point is that these events sponsored by the tobacco companies are
2 important tools for the companies in presenting positive cigarette brand images to
3 potential and current smokers including young people. Because the product is conveyed
4 in the context of the event, it creates a “rub off” between the event and the product. For
5 example, a Marlboro Formula One Car and Marlboro Indy Car racing are used to convey
6 the rugged independent image of Marlboro and the Marlboro Man. (Surgeon General,
7 1994 p. 178-179) (U.S. Exhibit 64,693).

8 **Q. Do Defendants reach teenagers through their sponsorship of race car events and**
9 **teams?**

10 A. I do not have specific attendance or audience data to draw upon that specifically
11 measures the age of the viewers or attendees for these events. Based on my
12 understanding of the viewing audience and the large audience attendance, my conclusion
13 is that some unknown number of teenagers are reached with positive cigarette messages.
14 I simply can’t quantify that figure.

15 **Q. Aside from the race attendees and television viewers, are there other people who are**
16 **exposed to Defendants' cigarette marketing as a result of their sponsorships?**

17 A. Yes. These sponsorships often incur a great deal of publicity in local and national media
18 surrounding the event. The tobacco companies intend to garner this publicity. For
19 example, a “Virginia Slims Marketing Plan Executive Summary” containing plans for
20 1988 stated under the section “Event Sponsorship”: “The overall objective of Virginia
21 Slims event sponsorships are to extend the brand image and to obtain increased brand
22 awareness through attendance and media coverage of events.” 2048473839-3926 at 3866
23 (U.S. Exhibit 38,690).

1 **Q. Can you provide an example of a community event sponsored by a Defendant?**

2 A. Yes. Philip Morris has sponsored state fairs with its Marlboro Brand. A Philip Morris
3 “1992 Community Marketing Programs Plan” stated: “In 1991, Community Marketing
4 Programs achieved a 71% national penetration; representing a 38% increase in the event
5 calendar, and a 33% increase in audience reach.” The plan discussed Philip Morris’s
6 “mission” to “build brand equity” at “festivals, state fairs, airshows, rodeos, concerts, and
7 Asian/Native American events.” The objective of the plan: “Raise brand awareness and
8 visibility by continuing to sponsor grassroots community events.” It also included
9 discussion of State Fairs: “State Fairs are regional events that offer the Marlboro brand
10 the unique opportunity to extend its image to an entire state over a period of two to four
11 weeks The 1992 calendar consists of eleven state fairs, which Marlboro has
12 developed brand equity with a total attendance of 11.4 M.” 2041010102-0120 at 0102-
13 0104 (U.S. Exhibit 37,875).

14 **Q. What is stadium advertising?**

15 A. Typically this includes advertising at sporting and other type events in stadiums. The
16 typical vehicles for reaching spectators at these events are stadium scoreboards, programs
17 and posters in the stadium or lobby.

18 **Q. Can you give an example of Defendants’ use of stadium advertising?**

19 A. Yes. A “Philip Morris U.S.A. Tobacco Marketing Five Year Plan” dated November
20 1975 stated under the heading “Media . . . Opportunities” that: “We continue to pursue a
21 program of sports stadium and arena signs for Marlboro. We anticipate representation in
22 just about every major arena or stadium by the end of 1977.” 1005159309-9447 at 9445
23 (U.S. Exhibit 26,208).

1 **Q. Is stadium advertising an effective marketing tool?**

2 A. According to Philip Morris, yes. Tobacco companies use advertising in stadiums that is
3 coordinated with their messages in other media. Tobacco companies have noted that
4 such advertising is persuasive and effective. (Philip Morris v. Pittsburgh Penguins,
5 October, 1983).

6 (e) **Defendants' Product Placement in Movies**

7 **Q. Have Defendants used product placement in movies?**

8 A. Yes. I have concluded that the tobacco companies used product placement in movies to
9 promote their cigarette brands.

10 **Q. What is product placement?**

11 A. Product placement is when a company pays to have its product or its brand featured in a
12 movie, this is referred to as product placement. For example, hypothetically, Philip
13 Morris could pay to have its Marlboro brand featured in a movie, either by having a
14 character smoke Marlboros, by having a Marlboro billboard shown, by picturing a
15 Marlboro race, or some other means.

16 **Q. On what do you base your conclusion?**

17 A. Congressional hearings held in 1989 pointed out several instances of cigarette placement
18 in movies. (H.R. 1250, Serial No. 101-85). As stated in these hearings and a Philip
19 Morris letter, the company paid approximately \$42,500 to have Marlboro featured in
20 Superman II. 2023271313-1315 (U.S. Exhibit 37,000). A review of Superman II reveals
21 several instances prominently displaying Marlboro throughout the film. I also base my
22 conclusion upon the findings of the hearings that revealed the following: in 1987 and
23 1988, Philip Morris supplied free cigarettes and other props to appear in 56 different

1 films; Philip Morris paid \$350,000 to have Lark cigarettes appear in the James Bond
2 movie, “License to Kill”; Liggett paid \$30,000 to have Eve cigarettes appear in the 1983
3 film, “Supergirl”; and in 1984, American Tobacco paid more than \$5,000 and other props
4 to have Lucky Strike appear in “Beverly Hills Cop.”

5 **Q. Did you conclude whether the tobacco companies’ product placement of their**
6 **cigarette brands in movies reached teenagers?**

7 A. Yes. Based on information from the Motion Picture Association of America, I have
8 concluded that teenagers 12 to 17 years of age attend movies more frequently than people
9 18 and over and cigarette product placements have been prominent in movies that appeal
10 to young audiences. (www.mpa.org). It is important to understand that such films are
11 often purchased or rented from video stores and played on television, thus garnering
12 additional exposure years after their initial release.

13 **(f) Defendants’ Magazine Advertising**

14 **Q. Have Defendants reached teenagers with the cigarette brand advertisements they**
15 **place in magazines?**

16 A. Yes. Cigarette advertising in magazines has reached a very high number of adolescent
17 readers with imagery that appeals to teenagers. The tobacco companies have placed
18 advertising for youth oriented brands in magazines that reach a high number of
19 adolescents. Image based cigarette advertising for the most popular youth brands
20 delivered a more than a sufficient number of impressions to help normalize and socially
21 sanction smoking among teenagers 12 to 17 years of age. Specifically, the tobacco
22 companies knowingly reached 12 to 17 year olds with their magazine advertisements –
23 particularly those for Marlboro, Newport, and Camel. In the 1990s in particular, the

1 tobacco companies' reach of adolescents with these advertisements was on a continual
2 basis.

3 **Q. What is the basis for your conclusion?**

4 A. I have several bases. First, I have reviewed commercial data sold by firms to the tobacco
5 companies and other professionals and advertisers, such as Mediamark Research Inc.
6 ("MRI"). Second, I have reviewed the academic literature on this topic including peer
7 reviewed work. Third, I have myself written and published on this topic in peer reviewed
8 journals. Fourth, I have considered the tobacco companies' internal documents on this
9 subject as well as thousands of the tobacco companies' magazine advertisements.

10 **Q. Dr. Krugman, please describe Demonstrative Exhibit 17,372.**

11 A. Demonstrative Exhibit 17,372 is a collection of cigarette brand advertisements that
12 Defendants placed in Rolling Stone from September 12, 1974 to October 14, 2004. I
13 understand this collection is the vast majority of cigarette brand advertisements placed by
14 Defendants in Rolling Stone.

15 **Q. Please describe the summary exhibit which is marked as United States Exhibit**
16 **89,175.**

17 A. This is an exhibit that summarizes 15,454 cigarette advertisements that the tobacco
18 companies placed in 26 magazines and 1 alternative newspaper between April 1953 to
19 October 2004. The magazines in which the tobacco companies placed these
20 advertisements are: Allure, Car & Driver, Car Craft, Cosmopolitan, Entertainment
21 Weekly, ESPN, Esquire, Glamour, GQ, Hot Rod, InStyle, Ladies Home Journal, Life,
22 Mademoiselle, Maxim, McCalls, Motorcyclist, Newsweek, People, Playboy, Rolling
23 Stone, Spin, Sports Illustrated, Time, Vibe, and Vogue; the alternative newspaper is the

1 Village Voice. Included in the summary exhibit are columns identifying the United
2 States Exhibit Number for each advertisement, the issue date for each magazine, the page
3 on which the advertisement appeared if available, the Defendant whose advertisement it
4 is, and the cigarette brand shown in the advertisement.

5 **Q. You testified that your conclusions were based in part upon MRI data. What is**
6 **MRI data?**

7 A. Mediamark Research Inc. (“MRI”) is one of two widely used commercial syndicated
8 resources for magazine readership data (the other being a firm called “SMRB”). MRI
9 collects data on readership of select magazine titles for persons age 12 and above;
10 readership data for persons under age 12 is not measured by MRI or SMRB. MRI’s
11 readership data is compiled by combining MRI’s teen (12 to 17) and adult (18 and up)
12 studies, which are national in nature and generalizable to the public.

13 **Q. Can you summarize what the MRI data showed?**

14 A. I created Demonstrative 17,507 to show the court MRI data from 1993-2002. The MRI
15 data shows that several magazines reach a lot of young people between the ages of 12 to
16 17 and that tobacco companies selected these magazines as vehicles to place their
17 cigarette brand advertising. In other words, tobacco companies knowingly reached a lot
18 of teenagers in their selection of magazines.

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**Demonstrative 17,507: Percentage and Number of Readers Ages 12-17
of Magazines in Which Defendants Place Cigarette Brand Advertisements from 1993-2002**

	1993-2002 Average Number of Readers Ages 12 to 17	1993-2002 Average Percent of Readers Ages 12 to 17
<i>TV Guide</i>	5,519,600	12.43
<i>Sports Illustrated</i>	4,719,580	17.10
<i>People</i>	3,255,380	8.32
<i>Life</i>	2,340,300	12.46
<i>Vibe</i>	2,253,000	32.31
<i>Sport</i>	2,240,660	34.75
<i>Cable Guide, The</i>	2,215,080	15.91
<i>ESPN</i>	2,177,700	20.25
<i>Rolling Stone</i>	2,120,950	19.89
<i>Hot Rod</i>	2,048,830	24.38
<i>Glamour</i>	1,960,400	14.80
<i>Cosmopolitan</i>	1,949,700	11.08
<i>Vogue</i>	1,860,030	16.70
<i>Ebony</i>	1,804,300	13.77
<i>Time</i>	1,736,000	7.00
<i>National Enquirer</i>	1,699,800	9.25
<i>Newsweek</i>	1,660,600	7.47

	1993-2002 Average Number of Readers Ages 12 to 17	1993-2002 Average Percent of Readers Ages 12 to 17
<i>Better Homes and Gardens</i>	1,599,700	4.37
<i>Jet</i>	1,583,100	15.49
<i>Popular Science</i>	1,563,530	18.61
<i>Car and Driver</i>	1,487,920	16.88
<i>Field & Stream</i>	1,481,500	10.53
<i>Entertainment Weekly</i>	1,406,500	14.54
<i>Popular Mechanics</i>	1,399,200	13.12
<i>Motor Trend</i>	1,305,420	18.47
<i>Outdoor Life</i>	1,224,520	16.46
<i>Mademoiselle</i>	1,184,440	17.74
<i>In Style</i>	1,170,230	17.57
<i>Essence</i>	1,168,100	14.56
<i>Sporting News, The</i>	1,134,400	24.61
<i>Road & Track</i>	1,128,150	18.42
<i>Star</i>	1,081,200	10.94
<i>Soap Opera Digest</i>	1,072,700	12.42
<i>Allure</i>	1,051,940	26.61
<i>McCall's</i>	1,017,900	5.86
<i>Family Circle</i>	1,001,400	3.94

	1993-2002 Average Number of Readers Ages 12 to 17	1993-2002 Average Percent of Readers Ages 12 to 17
<i>Woman's Day</i>	996,900	4.31
<i>Maxim</i>	948,000	8.75
<i>Spin</i>	930,160	25.72
<i>GQ</i>	878,800	12.60
<i>Redbook</i>	855,400	6.38
<i>US</i>	822,500	14.67
<i>Elle</i>	767,420	16.07
<i>Self</i>	748,600	14.64
<i>Ladies Home Journal</i>	677,100	3.89
<i>True Story</i>	609,510	15.47
<i>Ski</i>	587,330	22.64
<i>Marie Clare</i>	576,200	17.18
<i>Skiing</i>	562,870	24.96
<i>New Woman</i>	558,800	12.44
<i>Harper's Bazaar</i>	487,300	14.34
<i>Premiere</i>	459,970	19.84
<i>US News & World Report</i>	394,900	3.44

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2

1 **Q. What does Demonstrative 17,507 show?**

2 A. Demonstrative 17,507 is a table that shows the MRI data for the total number of
3 adolescents between the ages of 12 to 17 the tobacco companies reached for the years
4 1993-2002 ranked by largest reach to smallest reach in terms of average number of
5 teenage readers. Column one shows the name of the magazine. Column two shows the
6 average number of adolescents aged 12 to 17 who read the magazine. For example, one
7 average issue of TV Guide reached approximately 5.5 million readers (5,519,600)
8 between the ages of 12 to 17. The magazines are listed in descending order of readers 12
9 to 17 years of age who were reached. By contrast US News & World Report the last
10 magazine listed in column 2 reached under .4 million (394,000) adolescent readers
11 between the ages of 12 to 17.

12 Column three shows the MRI average for the percent of a magazine's total
13 readership that is composed of readers 12 to 17 from 1993-2002. For example, on
14 average, adolescents between the ages of 12 to 17 account for 17.1% of Sports Illustrated
15 readers. Looking down the list we see that adolescent readers between the age of 12 to
16 17 account for 32.31% of Vibe's readership and 34.75% of Sport's readership.

17 It should be noted that not all magazines had ten years worth of MRI data. When
18 ten years of data were not available, averages were taken for those years that were
19 available.

20 **Q. Do you have other tables that show more fully the MRI data from 1993-2002?**

21 A. Yes. Demonstrative 17,508, which is at the end of my testimony, shows the average
22 number of readers 12 to 17 that read each magazine each year as well as the overall
23 average for 1993-2002. In several cases MRI did not examine all ten years for certain

1 magazines. The spaces on the table for those years are left empty indicating that there is
2 no MRI data available. So, for example, while TV Guide has data available for all ten
3 years, Life has data available for seven of the years. Demonstrative 17,509, which is also
4 at the end of my testimony, is similarly constructed to show the overall average and each
5 individual year for the percent of a magazine's total readership that is composed of
6 readers 12 to 17 from 1993-2002 for each year it is available. For example, there is data
7 available for Sport for seven of the ten years.

8 **Q. Have all the tobacco companies placed cigarette advertisements in the magazines**
9 **shown on Demonstratives 17,507 to 17,509 during the ten year from period of 1993-**
10 **2002?**

11 A. Yes.

12 **Q. What is the amount of Defendants' expenditures for magazine advertising from**
13 **1993-2002?**

14 A According to the Annual FTC Reports, Defendants spent approximately \$2.5 billion on
15 advertising in magazines in those years. I show the amounts for each year in the table
16 below.

17

Year	Defendants' Expenditures on Magazine Advertising
1993	\$235 million
1994	\$252 million
1995	\$249 million
1996	\$243 million
1997	\$237 million
1998	\$281 million
1999	\$377 million
2000	\$295 million
2001	\$173 million
2002	\$107 million
TOTAL	\$2.5 billion

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1 **Q. Do all magazines on Demonstratives 17,507 to 17,509 reach teenagers?**

2 A. Yes. Many of these magazines reach a substantial number of adolescents. Some reach a
3 large number of adolescents on an absolute basis. It is important to understand that a
4 magazine such as People whose average yearly percentage of youth readers ages 12 to 17
5 is only 8.32 % reaches a total of 3.25 million adolescents between the ages of 12 to 17
6 each year because the magazine has such a large overall readership.

7 **Q. Why is it important to look at both the number of teenagers who read a magazine
8 and the percentage of the readership of a magazine that are teenagers?**

9 A. A magazine like Cosmopolitan reaches just under 2 million 12 to 17 aged readers and 12
10 to 17 aged readers constitute 11% of the readership. A magazine like Spin reaches
11 slightly less than a million (948,000) readers of this age. However, these same readers
12 comprise 25.72 % of that magazine's readership. That is why it is important to look at
13 both the absolute reach in number and the percent of readers that compose that magazines
14 readership in determining how widely the tobacco companies reach youth with their
15 brand images.

16 **Q. Are there studies that have looked at Defendants' placement of cigarette brand
17 advertisements in magazines?**

18 A. Yes. Several studies have examined cigarette brand advertising in magazines with high
19 youth readership levels. Some of this work has been conducted after the tobacco
20 companies signed the Master Settlement Agreement, and has used a standard borrowed
21 from FDA rules.

22 **Q. You indicated that academic work as borrowed a standard from the FDA rules.
23 What is that standard?**

1 A. In some recently published studies, authors define a “youth-oriented” magazine as one
2 which had a readership greater than 2 million teenagers age 12 to 17 or one whose
3 readership of teenagers age 12 to 17 was more than 15.

4 **Q. Why do you discuss the FDA rules in this testimony?**

5 A. I mention these rules because the standard that I mention above has been used in the
6 academic literature as a measure to allow comparisons of “youth-oriented” versus “adult-
7 oriented” magazines. Also, modified forms of these rules have been applied by some but
8 not all tobacco companies.

9 **Q. Has the application of some form of the FDA rules prevented Defendants from**
10 **reaching large numbers of adolescents?**

11 A. No, not necessarily. The tobacco companies knowingly reach millions of adolescents
12 through magazines.

13 **Q. Can you provide an example of a study that has looked at Defendants’ placement of**
14 **cigarette brand advertisements in magazines?**

15 A. One peer reviewed study published in 1998 entitled “Adolescent Exposure to Cigarette
16 Advertising in Magazines” examined readership data and expenditure data gathered by a
17 commercial provider of data called Leading National Advertisers for 39 magazines over a
18 one year period. The study found that the tobacco companies were more likely to place
19 advertisements for cigarette brands popular among teenagers such as Marlboro, Camel,
20 and Newport in magazines with higher percentages of youth readers. Conversely, the
21 study found that the tobacco companies were less likely to place advertisements for adult
22 brands in magazines with higher percentages of youth readers. King et al. (1998) (U.S.
23 Exhibit 64,274).

1 **Q. Are there other such studies?**

2 A. A second peer reviewed study published in 2001 entitled “The Master Settlement
3 Agreement With the Tobacco Industry and Cigarette Advertising In Magazines”
4 investigated trends in tobacco company advertising expenditures for 15 brands of
5 cigarettes in 38 magazines during the period 1995-2000. Cigarette brands were divided
6 into youth and adult brands, and the magazines were also classified as either “youth” or
7 “adult” magazines on the basis of the FDA’s rules. The analysis focused on 20 youth and
8 18 adult magazines over a six year period. Secondary data were supplemented with an
9 outside analysis conducted by the research department of a media company to determine
10 the reach of the combined youth magazines in which the tobacco companies placed their
11 cigarette advertisements. Based on readership, the authors used a media planning
12 program that estimated reach and frequency magazine exposure. Results of the study
13 revealed that the tobacco companies generally increased their cigarette advertising for
14 youth popular brands such as Marlboro, Camel and Newport in magazines classified as
15 youth oriented. The authors estimated that more than 80% of United States teenagers
16 were exposed to magazines with cigarette advertising an average of 17 times in 2000.
17 The study further indicated that a substantial number of youth readers would be reached
18 even if advertising were restricted to magazines with predominantly adult readers. (King
19 and Siegel 2001) (U.S. Exhibit 72,737).

20 **Q. Are there other studies on magazine advertising that have informed your**
21 **conclusion?**

22 A. Yes. One peer reviewed study published in 2000 entitled “Cigarette Advertising
23 Expenditures Before and After the Master Settlement Agreement: Preliminary Findings”

1 found that the tobacco companies increased their cigarette advertising in 19 magazines
2 that had a readership of 15% or more of young people 12- 17 years of age immediately
3 after the Master Settlement Agreement went into effect. In part this is attributed to the
4 fact that the tobacco companies agreed to limit other media options such as outdoor
5 advertising when they agreed to the terms of the MSA. What is clear from the study is
6 that the tobacco companies' immediate reaction to the MSA was to focus their
7 advertising efforts on vehicles that reached a substantial number of teenagers. (Turner-
8 Bowker and Hamilton, 2000) (U.S. Exhibit 21,859).

9 Another peer reviewed study published in 2002 examined the response by the
10 tobacco industry to the Master Settlement Agreement for three separate periods, January
11 to November 1998, December to June 2000, and July 2000 to November 2001. They
12 found that the major tobacco companies increased their advertising expenditures in youth
13 magazines immediately after the MSA. Later expenditures in magazines were reduced.
14 (Hamilton et al., 2002).

15 **Q. Can you describe your research on this topic?**

16 A. I conducted a study with Dr. Karen King that was peer reviewed and published in 2000.
17 Our study analyzed and examined the extent to which teenagers are reached by popular
18 consumer magazines in which the tobacco companies advertise, such as Rolling Stone.
19 We answered the question of how many teenagers would be reached by tobacco company
20 advertising if the companies placed a single advertisement in 14 magazines with high
21 youth readership. We found that tobacco companies would reach nearly two-thirds of
22 teenagers ages 12 to 17 by placing a single advertisement in each of the 14 magazines
23 identified as having a high youth readership. The magazines in question would reach

1 approximately 78% of male teenagers and 53% of female teenagers. Hence, in the
2 findings we state, “Our study shows that even limited magazine schedules potentially
3 expose a large number of teens to cigarette advertising.” (Krugman and King, 2000)
4 (U.S. Exhibit 64,273).

5 **Q. Are there any studies that have reached a different result than the studies you have**
6 **described above?**

7 A. Yes. In their Final Proposed Findings of Fact, Defendants cite to a study by Lancaster
8 and Lancaster that found that “only 2.7 % of teens are likely to notice three or more of [a
9 typical cigarette] brand’s advertisements, assuming one insertion in each of the 14
10 publications.” Defendants further cite the Lancaster and Lancaster study’s conclusion
11 that “reducing cigarette advertising in these magazines would be likely to have little
12 effect on teen smoking.” Defendants’ Final Proposed Findings of Fact (R. 3416; filed
13 July 1, 2004) at Chapter 6, ¶¶ 143 and 145.

14 **Q. Does this study change your conclusion?**

15 A. No.

16 **Q. Why?**

17 A. The conclusion of the Lancaster and Lancaster study exceeds the limits of their data.
18 Lancaster and Lancaster expectedly reached a conclusion that cigarette advertising in
19 those magazines had a very limited reach. First, the Lancaster and Lancaster study used
20 the limited 14 magazine schedule employed in my 2000 study with Dr. King which
21 assumed that Defendants only placed one advertisement in each magazine. Second, they
22 used Starch data based on adult readership to estimate exposure to the advertisements.
23 There is no verification that adult exposure rates are similar to that of adolescents. Third,

1 they applied a standard requiring adolescents to notice 3 or more of a cigarette brand's
2 advertisements. Essentially, this procedure does not account for those seeing the
3 advertisement less than 3 times. For well known brands such as Marlboro, Camel, and
4 Newport, a single exposure can operate effectively as part of an ongoing campaign
5 because it triggers recollection of the previous exposures. Based on the way they
6 conducted the study, Lancaster and Lancaster expectedly reached a conclusion that
7 cigarette advertising in those magazines had a very limited reach. This is not a surprising
8 result and should in no way be construed that cigarette magazine advertising did not
9 reach teenagers with regularity.

10 **Q. Do tobacco company documents support your conclusion?**

11 A. Yes. Tobacco industry documents confirm that directly following the effective date of
12 the MSA, Philip Morris significantly increased its expenditures in magazines that reach a
13 high number of adolescents through implementing a program it called the Print
14 Leadership Initiative. An internal document entitled "1999 Philip Morris Print
15 Leadership Initiative Overview" shows that in 1998, Philip Morris placed Marlboro
16 advertisements in 18 of 24 editions of Rolling Stone and planned for 24 insertions in
17 1999. The same media plan shows that in 1998, Philip Morris placed Marlboro
18 advertisements in 21 of 52 issues of Sports Illustrated and planned to place 46 insertions
19 in Sports Illustrated in 1999. 2080499829-9896 (U.S. Exhibit 20,536). Another media
20 plan entitled "2000 Marlboro Mainline Media Plan" shows that Philip Morris increased
21 its Marlboro magazine advertising by fifty percent from 1998 to 1999 (\$39 million to
22 \$58.4 million). The media plan further states that Sports Illustrated, Rolling Stone, and

1 ESPN magazine are ways to expand a leadership presence for Marlboro in print media.
2 2080501674-1725 (U.S. Exhibit 45,333).

3 **Q. Can you summarize your conclusions regarding Defendant's magazine**
4 **advertisements?**

5 A. As the tobacco companies well know, magazines are a selective medium allowing the
6 advertiser to target specific audiences. When implementing magazine strategies tobacco
7 advertisers know what groups they will reach and the consistency with which they will
8 reach these groups. By placing cigarette advertising in magazines that are read by a large
9 number or a large percentage of teenagers the tobacco companies have knowingly
10 reached teenagers. Their pattern of placing cigarette advertising in youth oriented
11 magazines has been extensive. The tobacco companies made a choice, a very clear
12 choice, to reach teenagers on a consistent basis with a lot of advertising that is image
13 oriented. As I testified earlier, the cigarette brand images used in the magazines that
14 reach teenagers are attractive to these same teenagers.

15 **(g) Defendants' Retail Marketing**

16
17 **Q. Do Defendants reach teenagers through their marketing at retail?**

18 A. Yes.

19 **Q. What do you mean by retail marketing?**

20 A. By retail, I refer to tobacco company communications that take place at the store level.
21 The idea is to for a company to communicate product image and availability at the time
22 of purchase. Retail promotion techniques include cash/rebates, free products, display
23 cases to dealers, and special value added deals to consumers, encourage retailers to create
24 tobacco friendly environments containing enticing displays, competitive prices and

1 visible point-of-sale advertising. Product visibility, awareness and image are also
2 fostered via interior and exterior advertising, and tobacco branded functional objects such
3 as counter change mats, clocks, or shopping baskets.

4 **Q. How do Defendants use retail marketing to reach teenagers?**

5 A. The tobacco companies use in-store communication programs as an important way to
6 bring imagery to teenagers. Convenience stores and gas stations frequented by teenagers
7 are more likely to be tobacco friendly environments because they contain a lot of tobacco
8 messages. A recent Robert Wood Johnson funded study examined the use of advertising
9 and promotion in stores. It found that retail environments (e.g. convenience/gas retailers)
10 frequented by teenagers heavily promote tobacco use. (MMWR, March 8, 2002) (U.S.
11 Exhibit 64,234).

12 **Q. What do you mean that retail marketing brings imagery to teenagers?**

13 A. Retail promotion has a unique ability to create brand presence. Presence at the retail
14 level in the form of displays and signs is employed to communicate a cigarette brand's
15 central message or image. (Moran, 1990) (U.S. Exhibit 64,266). Cigarette brand
16 information at the store is coordinated with other advertising to display consistent
17 images. Tobacco marketers rely on in-store signage and display space to communicate
18 brand images and brand messages.

19 **Q. Can you provide an example?**

20 A. In a dispute over retail promotion programs with Philip Morris, Vice President of Trade
21 Marketing at R.J. Reynolds pointed to the significance of in-store display space as a form
22 of "brand equity advertising communication at retail in the consumers normal line of
23 sight." (Stockdale, 1999).

1 **Q. Do Defendants communicate brand imagery in other ways at retail?**

2 A. Yes. In retail stores currently, there is great emphasis on the display area, not just to
3 show availability of the product, but to promote cigarette brand image. Packaging and in-
4 store displays of packages are important ways to communicate cigarette brand image. As
5 the tobacco companies are shifting away from traditional brand advertising and into retail
6 stores, they are still communicating brand imagery. Sharon Smith, Brown & Williamson
7 Director of Creative Services, provided testimony consistent with my conclusion:
8 “consumers put a lot of emphasis on the packaging itself and the packaging is extremely
9 important in communicating the image you want to communicate.” Deposition of Sharon
10 Smith, United States v. Philip Morris, et al., February 2, 2002, 80:7-10.

11 **Q. How do Defendants coordinate in-store marketing with other advertising?**

12 A. The tobacco companies coordinate their different marketing tools for maximum impact.
13 For example, a “Kool 1983 Marketing Plan Summary” dated August 5, 1982 illustrates
14 how magazine advertising and in-store promotions are coordinated: “magazine/brochure
15 featuring music with young adult appeal to be distributed via high under 25 reach
16 magazines and at retail (near pack) under local option. Free with purchase of any style
17 KOOL.” 675159468-9470 at 9469 (U.S. Exhibit 53,920).

18 **Q. How much do Defendants spend on retail marketing?**

19 A. Currently, by far the largest cigarette expenditures are promotional at the retail level.
20 (FTC 2001, Issued 2003) (U.S. Exhibit 64,804). Demonstrative 17,497, which I
21 discussed earlier, shows these expenditures. In 2001, the tobacco companies spent 42.5%
22 (\$4.76 billion) on retail value added promotions such as, “buy one get one free” and
23 39.7% (\$4.45 billion) for promotional allowances that includes payment to retailers to

1 carry and prominently display products. The cigarette industry focuses on developing
2 and maintaining its brand images via a major presence in retail stores. The expenditures
3 show the investment tobacco companies are making with respect to communicating their
4 image and selling at retail.

5 **Q. Why are the tobacco companies making such large expenditures on retail?**

6 A. My review of the tobacco companies' internal marketing documents shows that the
7 tobacco companies use retail to reach teenagers. For example, a "Camel 1990 Business
8 Plan" dated November 2, 1989 under the headings "Marketing Strategy" and "Retail
9 Role" points out the importance of the retail store: "Retail will serve as the primary
10 vehicle to reach/convert YAS, receiving 45% of total spending." 514101723-1733 at
11 1731 (U.S. Exhibit 51,774). Here, the tobacco companies mean that retail is the primary
12 tool they use to convey messages and sell cigarettes.

13 **Q. Can you provide examples of other tobacco industry documents that support your
14 conclusion?**

15 A. I have reviewed numerous internal tobacco company documents in which the tobacco
16 companies state that contact and visibility at the retail level is a critical factor in sales and
17 growth. The tobacco companies' internal documents indicate that retail visibility has
18 become even more important in recent years. For example, a "1994 Camel Plan" stated:
19 "If CAMEL does not respond to Marlboro's increased retail promoted volume, the Brand
20 could lose 774MM units for every 5% Marlboro PV increase." Under the heading
21 "Strategy," the plan directed: "Integrated plan focusing on Joe's Place at retail." The
22 plan further stated under the heading "Retail Presence": "Establish permanent high

1 impact presence for CAMEL in top package outlets.” 510914987-5011 at 4993, 4995-
2 4996 (U.S. Exhibit 51,535).

3 **Q. How is this plan significant to your conclusion about retail?**

4 A. Certainly this means the tobacco companies do more than just communicate product
5 availability at retail. Rather, the plan refers to the importance of using the imagery
6 associated with Joe Camel at retail. The Joe Camel icon had great visibility and
7 popularity with young people.

8 **Q. Do you have other examples?**

9 A. Yes. A “1997 Camel Plan” stated that, as a “Key Strateg[y]” for “Retail Presence” R.J.
10 Reynolds would “Provide dominant big brand presence with consistent look. Drive
11 brand equity communication and product integration . . . on new generation displays.”
12 515129153-9177 at 9161 (U.S. Exhibit 87,833) (emphasis added).

13 **Q. How is this plan significant to your conclusion?**

14 A. This demonstrates that the tobacco companies know that retail communication produces
15 and extends product imagery.

16 **Q. Do other plans support your conclusion?**

17 A. Yes. An R.J. Reynolds “1998-2000 Strategic Plan” dated June 27, 1997 stated under the
18 heading “Building Brand Equity”:

19 Brand equity will continue to be a very important element of smoker choice.
20 Where and how image is effectively delivered is TBD

- 21 • Adult venues and publications offer opportunity -- reach is an issue
22 (depth and breadth)
- 23 • Packaging will undoubtedly increase in importance
- 24 • Retail outlet visibility will continue to be important but
25 constrained.

26
27 519498624-8749 at 8637 (U.S. Exhibit 87,844).

1 **Q. What do you conclude from this plan?**

2 A. The tobacco companies know that communication at the retail level remains important in
3 building brand equity. The in-store communication is meant to do more than just
4 communicate product availability, it is intended to build brand equity.

5 **Q. Do you have other examples?**

6 A. Yes. I have reviewed numerous Philip Morris documents that emphasize the importance
7 of retail, and discuss creating presence, awareness, visibility, equity and reinforcing
8 brand image at retail. For example, a September 15, 1986 “Marlboro 1987 Marketing
9 Plan” written by Nancy Brennan Lund, later Philip Morris Senior Vice-President for
10 Marketing, under the heading “Retail Inventories/Visibility” pointed out the importance
11 of in-store presence and inventory in terms of sales: “Correlation studies suggest that a
12 +1% rise in Marlboro share of visual inventory equates to a +.25 share point rise for the
13 Brand. Conversely, a –1% loss results in a -.25 share point loss.” 2023743001-3024 at
14 3004 (U.S. Exhibit 37,044) (emphasis added).

15 **Q. What is the significance of this plan to your conclusion?**

16 A. The plan shows the importance of Marlboro’s visibility at retail to Philip Morris’s share
17 of the market. As retail presence or visibility increases, sales increase, and if visibility
18 decreases, sales drop.

19 **Q. Can you provide other examples?**

20 A. A Philip Morris U.S.A. “Business Planning & Analysis” plan dated February 1987, under
21 the heading “POS/Retail Promotions,” underscores in-store activity as a critical
22 marketing communication tool: “Creative point-of-sale materials and promotional
23 incentives are critical elements in maintaining consumer awareness as they are the last

1 exposure to advertising before product purchase. These marketing tools have become
2 more important in recent years to combat media clutter, reinforce brand images, reward
3 consumer loyalty and generate trial.” Under the heading “Retail Promotions,” the plan
4 stated that “PM-USA utilizes retail promotions to build consumer loyalty, communicate
5 brand images and attract competitive smokers.” 2020020978-1104 at 1076 (U.S. Exhibit
6 36,678) (emphasis added). This conclusion was repeated verbatim in the “Philip Morris
7 U.S.A. Five Year Plan 1987-1991,” under the heading “POS/Retail Promotions”:
8 “Creative point-of-sale materials and promotional incentives are critical elements in
9 maintaining consumer awareness as they are the last exposure to advertising before
10 product purchase.” 2024465760-5885 at 5858 (U.S. Exhibit 37,142).

11 **Q. How is this plan significant to your conclusion?**

12 A. It clearly states that Philip Morris considers its retail marketing to be advertising, and that
13 it considers this advertising to be “critical” because it is the last exposure to advertising
14 before purchase. Communicating brand image is a key aspect of advertising and
15 promotion at the retail level, and this retail communication also generates trial.

16 **Q. Do you have other examples?**

17 A. The “Philip Morris USA Five Year Plan 1991-1995” illustrates the importance of the
18 retail effort: “Convenience outlets represent Marlboro’s most important and best
19 developed trade class . . . It is in these outlets that Marlboro’s key smoker group, young
20 adult smokers, purchase cigarettes.” Following this summary, under the heading “Issue,”
21 the plan stated: “Our competitive position in convenience stores has been weakened.”
22 The “strategy” for Marlboro to deal with this issue: “Marlboro must increase its retail
23 promotion support behind pack sales nationally, with a strong focus on convenience

1 outlets. We will improve our availability and visibility and manage increased support
2 and more frequent promotion to avoid the pitfall of conditioning smokers to deals,
3 reducing inherent value and committing ourselves to never ending support increases.”
4 2024090368-0532 at 0448 (U.S. Exhibit 37,082).

5 **Q. How is this plan significant to your conclusion?**

6 A. The plan is significant because it reaffirms the importance of in-store marketing at
7 convenience locations to reach young smokers. Additionally, it points out the importance
8 of product for selling individual packs.

9 **Q. Do you have other examples?**

10 A. The “PM-USA Five Year Plan Summary” for 1995-1999 emphasizes the importance of
11 brand contact at the retail level: “The Retail store is one of the most important ‘contact
12 points’ we have with the consumer and winning in the store will be a key variable in
13 sustaining Marlboro’s long-term share growth.” 2079001669-1701 at 1682 (U.S. Exhibit
14 45,232).

15 **Q. What is the importance of this plan?**

16 A. The plan confirms the ability of in-store advertising and promotion to communicate
17 product image and the importance of this advertising and promotion to Marlboro’s long
18 term growth.

19 **Q. Do you have other examples?**

20 A. The “PM-USA Five Year Plan Summary” for the years 1996-2000 stated under the
21 heading “Brand Image” that: “We will continue to create ‘biggest brand’ presence in
22 Media and at Retail with fresh, bold Marlboro Country imagery that is popular among the
23 young adult smokers of the 1990’s.” 2047892284-2451 at 2294 (U.S. Exhibit 27,011).

1 **Q. How is this plan important to your conclusion?**

2 A. The plan, like many of the others, notes the importance of Marlboro Man imagery
3 popular with young people at the retail level, to build brand equity.

4 **Q. Do you have other examples?**

5 A. In a February 1999 study entitled “Retail Prominence In-Store Test,” Philip Morris
6 conducted 1949 in-store interviews in 119 convenience stores. It found that “Marlboro is
7 clearly the leading brand in terms of perceived retail visibility, not only compared to
8 other brands of cigarettes, but across categories as well,” with more visibility at retail
9 than Coca-Cola and Budweiser. It also found that “overhead rack signage is the most
10 noticeable form of in-store advertising.” 2073970827-0848 at 0831, 0832, 0840 (U.S.
11 Exhibit 43,390).

12 **Q. How is this study significant to your conclusion?**

13 A. First the study reveals that Philip Morris conducted an extensive study of people in retail
14 stores. Second, results from the study indicate that Marlboro not only leads other
15 cigarette brands in terms of visibility at retail but also leads other major consumer brands
16 such as Coca-Cola and Budweiser. This certainly confirms the fact that such stores are
17 indeed “tobacco friendly” environments. Third, it shows that the overhead signage that
18 Philip Morris continues to use today is the most visible place for advertising to be.

19 **Q. Do you have other examples?**

20 A. A Philip Morris research study titled “Metro Area Consumer Retail Masters Study”
21 conducted 400 in-store interviews with convenience store customers, and eye tracking
22 with 40 consumers, to examine perceptions between stores following Philip Morris’s
23 “Retail Masters” program and the stores not following that program (non-Retail Masters).

1 The study found that Retail Masters stores provide higher visibility for Marlboro and that
2 Marlboro door and counter fixtures/signage are often noticed to the exclusion of other
3 brand's signs or fixtures. In non-Retail Masters stores other brands are seen more often
4 (e.g. Camel counter and door displays were regularly seen). Results also show that stores
5 in the Retail Masters program generate higher recall of Philip Morris's advertising and
6 promotion among customers than stores that are not in the program. 2073194491-0542 at
7 4498, 4508 (U.S. Exhibit 42,869).

8 **Q. How is this study significant to your conclusion?**

9 A. The study illustrates the sophistication of Philip Morris's research techniques. Philip
10 Morris uses in-store interviews and eye tracking to investigate visibility at retail. The
11 study shows how important it is to Philip Morris to understand the visibility of its
12 displays; it also shows the extent to which tobacco companies track the impact of signage
13 and displays. Stores with more displays create a higher recall of advertising and
14 promotion among customers, which is a typical measure of advertising effectiveness.

15 **Q. Have you reviewed other companies' documents related to retail marketing?**

16 A. Yes. For example, an August 15, 1991 Lorillard document entitled "Newport 1992
17 Strategic Marketing Plan," stated under the heading "Consumer Sales Promotion
18 Objective," "Continue to effectively target the consumer by delivering impactive
19 incentives, both price and image driven, to reward current smokers and generate interest
20 and trial amongst entry-level smokers and competitive users." 92011118-1156 at 1137
21 (U.S. Exhibit 22,352).

22 **Q. How is this plan significant to your conclusions?**

1 A. The document confirms that in-store programs which include image are important for
2 both new entry level smokers and existing smokers. This is in line with my contention
3 that the tobacco companies are indeed targeting new users and that in-store promotion is
4 a viable means by which to implement that strategy.

5 **Q. Have you reviewed testimony that informs your conclusion about the importance of**
6 **retail visibility, image and brand equity to Defendants?**

7 A. Yes. At her June 27, 2003 deposition in this case, Suzanne LeVan, Vice President of
8 Marlboro, confirms the importance of in-store imagery and of providing a consistent
9 message at retail. Ms. LeVan testified that she agreed with the statement in a June 30,
10 2001 memorandum from Philip Morris employee Deb Fuche that: “Retail POS [Point of
11 Sale] has become an increasingly important vehicle for communicating with adult
12 consumers.” 2085231513-1535 at 1513 (U.S. Exhibit 45,669).

13 **Q. Please summarize how the set of documents that you have just discussed informs**
14 **your conclusion regarding Defendants’ retail practices.**

15 A. Advertising and promotion at the store level are key vehicles for building and
16 communicating brand image. This type of communication goes well beyond only
17 signaling that the product is present. Increasing the visibility of tobacco brand messages
18 is emphasized in the tobacco companies’ internal documents time and time again. As
19 importantly, the tobacco company documents show that the companies recognize the
20 importance of integrating in-store advertising and promotion with other forms of media
21 advertising such as magazine or outdoor. The communication of these messages reaches
22 far more people than only current cigarette smokers. Certainly the reach extends to

1 teenagers who are potential smokers or current smokers. The shift to in-store promotion
2 provides a viable vehicle for gaining customers, many of whom will be teenagers.

3 (4) **Teenagers Smoke Heavily Advertised and Promoted Brands**
4

5 **Q. What cigarette brands do teenagers smoke?**

6 A. Cigarette brands that the tobacco companies heavily advertise, and that convey youthful
7 brand images, are smoked at a highly disproportionate rate among teenagers, such as
8 Marlboro, Newport and Camel.

9 **Q. What is the basis of your conclusion?**

10 A. Data shows that teenagers 12-18 years of age smoke the most heavily advertised brands.
11 The three most commonly purchased brands among adolescent smokers (Marlboro,
12 Camel and Newport) were the most heavily advertised brands in 1993. (U.S. Department
13 of Health and Human Service's Morbidity and Mortality Weekly Report, August 19,
14 1994) (U.S. Exhibit 63,106). A 1996 peer reviewed study found that youth are
15 significantly more sensitive than adults in terms of smoking the most heavily advertised
16 cigarette brands and that teenagers smoke some of the most heavily advertised cigarette
17 brands at higher rates than adults. (Pollay et al., 1996) (U.S. Exhibit 73,037).

18 **Q. Is the market share of these brands with teenagers proportionate to overall market
19 share among all smokers?**

20 A. No. For each brand, adolescent brand preference is higher than total market share. For
21 example, adolescent preference for Marlboro was 60% among the 12-18 year old group
22 while Marlboro's total market share was 23%. Adolescent preference for Camel was
23 13.3% among the 12-18 year old group while Camel's total market share was 3.9%.

1 Adolescent preference for Newport was 12.7% among the 12-18 year old group while
2 Newport's total market share was 4.8%.

3 **Q. Do you have recent data to show whether teenagers still smoke Marlboro, Camel
4 and Newport?**

5 A. Yes, this data from the National Household Survey on Drug Abuse, July 11, 2003 is in
6 the table below, labeled Demonstrative 17,510.

7 **Demonstrative 17,510: Marlboro, Newport, or Camel Smokers by Age**

	12 to 17 years	18 to 25 years	26 years or Older
<i>Marlboro</i>	55.2%	53.9%	37.6%
<i>Newport</i>	22.8%	17.2%	7.4%
<i>Camel</i>	9.4%	13.6%	4.7%
<i>Total</i>	87.4%	84.7%	49.7%

8
9 **Q. Please explain this table to the Court.**

10 A. The table shows information for the top three cigarettes brands smoked by teenagers 12
11 to 17 years of age and other age groups. The data represent National Household Survey
12 on Drug Abuse (NHSDA) findings measuring brand most often used during the last
13 month. (NHSDA, July 11, 2003). It is clear that Marlboro, Newport and Camel remain
14 the major brands in the 12 to 17 year old age group. Dramatic differences occur when
15 comparing the 12 to 17 age group brand preferences with adults 26 and older in that
16 teenagers are much more apt to prefer these three leading brands. Overall, Marlboro,
17 Camel, and Newport are smoked by 87.4% of teenagers age 12 to 17 and 49.7% of adults
18 26 and over.

19 **Q. Dr. Krugman, could you provide examples of Defendants' advertising and
20 promotion campaigns that would illustrate your sixth sub-conclusion?**

1 A. Yes. To restate, my conclusion is that the tobacco industry has been effective in the
2 planning and execution of cigarette advertising and promotion to youth. R.J. Reynolds'
3 Joe Camel campaign and Marlboro's long-running Marlboro Country campaign both
4 provide excellent illustrations of my conclusion.

5 **(a) Joe Camel Campaign**

6 **Q. Please explain further your conclusion with regard to the Joe Camel campaign?**

7 A. The case of R.J. Reynolds' Joe Camel is an interesting example of how a well-executed
8 advertising and promotion campaign was able to create a high profile trade character for
9 Camel cigarettes among teenagers in a short period of time. Introduced in 1988, it took
10 only a few years for the cool/hip, peer-admired, stylized icon of Joe Camel to be well
11 recognized among the nation's youth.

12 **Q. How did R.J. Reynolds create awareness of Joe Camel among teenagers?**

13 A. Youth-oriented magazines, outdoor advertising and in-store promotions were the primary
14 vehicles R.J. Reynolds used in the campaign. Using these vehicles, Joe Camel awareness
15 among teenagers was able to rise rapidly without the benefit of using television as a
16 medium. From 1988 to 2003, teenage preferences for Camel rose 64%. (MMWR, 1994)
17 (U.S. Exhibit 63,106).

18 **Q. Upon what do you base your conclusion that Joe Camel was well recognized by
19 teenagers?**

20 A. Peer reviewed studies and studies funded by the tobacco companies show that the Joe
21 Camel character made its way into the American culture and was well known among
22 teenagers. Two separate studies found that young children associated the Joe Camel
23 character with cigarettes. For example, 91.3% of 6 year olds in the Fischer study

1 correctly matched Joe Camel with a cigarette. The high recognition rate for Joe Camel
2 was comparable to young children's ability to match Mickey Mouse with Disney.
3 (Fischer et al., 1991); (Mizerski, 1995). The 1995 Mizerski study, funded by R.J.
4 Reynolds, also found that a large number of 6 year olds were able to match Joe Camel
5 with cigarettes. Approximately, 72% of the six year olds matched Joe Camel to
6 cigarettes. By comparison 96.1% were able to match the Mickey Mouse and Disney logo
7 and 62.3% were able to match Ronald McDonald with a hamburger. A 1993 survey
8 titled "Advertising Character and Slogan Study" by the Roper Starch research
9 organization conducted for R.J. Reynolds examined adolescents 10-17 years of age.
10 Again, awareness of Joe Camel was high with this age group. Seventy-three percent of
11 the adolescents indicated they had seen or heard of Joe Camel. An additional 13% of the
12 adolescents – 86% total – indicated they had seen or heard of Joe Camel when shown a
13 depiction of the character. 512674860-4908 at 4880 (U.S. Exhibit 51,649).

14 **Q. What do these three studies demonstrate?**

15 A. All three studies showed high awareness of Joe Camel. While awareness of Joe Camel
16 does not necessarily equate with liking or buying Camel cigarettes, one study did show
17 that adolescents attributed positive qualities to Joe Camel. A follow-up question in the
18 Roper study asked adolescents age 10-17, "How would you describe Joe Camel? What is
19 the character like?" The open ended approach allowed the respondents to use their own
20 words to describe the character. In the table below, the responses of those 909
21 respondents who identified Joe Camel with cigarettes are shown. 512674860-4908 at
22 4883 (U.S. Exhibit 51,649).

23

1
2

Open-ended Reaction To Joe Camel Among 10-17 Year Olds

“How would you describe Joe Camel? What is the character like?”	Respondents who identified Joe Camel with cigarettes
He smokes/smokes Camels/has cigarette in his mouth	37%
Really cool/acts cool/think he’s cool	35%
He’s a camel	34%
Wears sunglasses	15%
Advertises; sells cigarettes	11%
He’s smooth/slick/suave	5%
Friendly/has lots of friends/ someone who is fun/ Attracts people	5%
Tries to get kids to smoke	2%

3

4 **Q. Please explain the table to the Court.**

5 A. The results in the table are quite revealing. Thirty seven percent of the 10-17 year old
6 respondents stated: “He smokes/smokes Camels/has cigarettes in his mouth.” When
7 combining three of the categories, it is clear that 45% of the 10-17 year old respondents
8 were able to articulate an essential part of the campaign by attributing being cool,
9 smooth/slick/suave or peer-admired to the character. The second most popular answer,
10 given by 35% of the respondents, was “Really cool, acts cool, think he’s cool.”
11 Additionally, 5% of the respondents indicated “He’s smooth/slick/suave,” and 5% of the
12 respondents indicated “Friendly/has lots of friends/someone who is fun/attracts people.

1 This survey shows that the well orchestrated advertising and promotion of the Joe Camel
2 campaign resonated among teenagers.

3 **Q. In sum, what have you concluded about R.J. Reynolds' Joe Camel campaign?**

4 A. The Joe Camel campaign was an effective advertising and promotion campaign that
5 contained images that are attractive to teenagers and correlated with a strong rise in
6 Camel's market share. The Joe Camel campaign, using magazine advertising, outdoor
7 advertising in-store and other promotions, was an important influence in teenage
8 smoking.

9 **(b) Marlboro Country Campaign**

10 **Q. Please describe the Marlboro Country campaign?**

11 A. The Marlboro Country campaign featured depictions of the American West and cowboys.
12 Those cowboys came to be commonly known as the "Marlboro Man." The Marlboro
13 Man became the Philip Morris icon which ultimately transformed Marlboro's image from
14 a mild women's cigarette to male brand in the late 1950s. (DHHS, 1994, pp. 172, 177)
15 (U.S. Exhibit 64,693).

16 **Q. Please briefly describe the history of the Marlboro Country campaign?**

17 A. At the time the campaign was first introduced, Philip Morris was still advertising on
18 television. Television advertisements for Marlboro showed the Marlboro Man as
19 independent and rugged. In the early 1960s, Philip Morris added the score to the western
20 movie "The Magnificent Seven" to their advertisements for Marlboro. The western
21 theme resonated with consumers and became extremely popular. The "Come to
22 Marlboro Country" or "Marlboro Country" television advertisements featuring the
23 rugged, independent cowboy helped to transformed the smoking experience and had the

1 right image to appeal to young people and starters. (DHHS, 1994, pp. 172, 177) (U.S.
2 Exhibit 64,693). The campaign relied on well-conceived and executed visual imagery
3 rather than on text. The Marlboro campaign ran in both magazines and outdoor
4 billboards. As shown earlier via the Minnesota testimony of James Morgan, Marlboro
5 Brand Manager in the 1960s and 1970s and later President of Philip Morris when Philip
6 Morris could no longer advertise on television, it turned to magazines and then billboards
7 to depict and communicate Marlboro Country. In the early 1970s, Marlboro outdoor
8 advertisements started looking like Marlboro magazine advertisements because Philip
9 Morris maintained the same high quality look and feel. That continuing high quality
10 brand image not only built brand equity, but it added to the consistency of the Marlboro
11 campaign, because people would see on highway billboards the same images they saw in
12 magazines. The Marlboro Man image was transferred back and forth between these two
13 mediums. The image symbolized the freedom, ruggedness and independence of the
14 Marlboro Man; the Marlboro Country campaign was visually oriented and required little
15 text to successfully communicate the message.

16 **Q. Has Philip Morris's Marlboro Country campaign been successful?**

17 A. Yes. Marlboro is the dominant cigarette brand in the industry among young people. For
18 example, in 1989 Marlboro was preferred by 68.7% of 12-18 year olds. (MMWR, 1994)
19 (U.S. Exhibit 63,106). As I have just indicated, more recent figures indicate that 55.2%
20 of young people 12 to 17 smoke Marlboro; 53.9% of 18-25 year olds smoke Marlboro;
21 and 37.6% of those aged 26 and older smoke Marlboro. Marlboro's appeal to starters and
22 young smokers has endured. Not many people would argue with my conclusion that this
23 is one of the most well conceived and executed campaigns in American history. The

1 Marlboro Man is considered an icon in American culture. As defense counsel stated in
2 the opening statement of this case at 389:18-24, the Marlboro Man has been considered
3 the “most successful American campaign in American history.” The Marlboro man has
4 tremendous value in creating brand equity.

5 **Q. What was Philip Morris’s understanding of Marlboro’s success or failure with**
6 **teenagers?**

7 A. Philip Morris was aware of the Marlboro’s great success among teenagers. As an
8 example, the document entitled “Product Testing Short Course” dated January 23, 1984
9 from Philip Morris’ Research and Development Department stated; “Marlboro
10 floundered for eight years and then hit a responsive cord among post-war baby-boom
11 teenages [sic] with the theme from the Magnificent Seven and an image uncalculatedly
12 right for the wave of teenages [sic] coming of smoking age.” 2028817401-7576 at 7504
13 (U.S. Exhibit 20,016). It is important to understand that the company knew Marlboro
14 was a huge hit with young people due to its advertising featuring the Marlboro Man
15 image and that scores of underage smokers were starting to smoke and smoking
16 Marlboros.

17 **Q. Why has this campaign been so successful?**

18 A. The Marlboro Country campaign has remained consistent over time. While the Marlboro
19 Man concept stays true, the executions change and are kept fresh. The concept of
20 western independence and freedom remains the same, putting the Marlboro Man in
21 different western scenes. Philip Morris made a tremendous investment in the imagery of
22 Marlboro and the Marlboro Man over the years, and it really paid off in both the
23 conceptualization and execution of its Marlboro Country campaign. Certainly, the

1 Marlboro images of independence, ruggedness, and freedom as portrayed in the western
2 theme transport smokers to a limitless landscape. The use of advertising can transform
3 an experience into something new. After the Marlboro Country campaign, smoking a
4 Marlboro offered the possibility of “coming to Marlboro Country.” This is referred to as
5 “transformational advertising” because the advertising can transform the experience of
6 using a product. The people that are most apt to buy into this type of transformation are
7 the youngest people.

8 **Q. Can you provide an example of a document that supports your conclusion?**

9 A. Yes. As a Philip Morris U.S.A. “Five Year Plan 1982-1986” dated March 1982 stated:
10 “PM-USA’s on-going advertising strategy has been to maintain consistent imagery for
11 our major brands. . . . Advertising expenditures are directed at reinforcing already well-
12 established images, rather than developing new images.” 2024090016-0084 at 0058
13 (U.S. Exhibit 37,086). Similarly, a Philip Morris USA “Five Year Plan 1980-1984”
14 dated March 1980 stated: “PM-USA has based its marketing philosophy on the
15 conviction that the most efficient way to market a product is through repetition of a
16 proven image or theme.” 2026316735-6797 at 6766 (U.S. Exhibit 37,340).

17 **Q. How does Philip Morris create the Marlboro Country image?**

18 A. This is demonstrated very well in a 1999 Philip Morris research document that gives
19 direction for taking pictures for Marlboro advertising: “The primary strength of the pool
20 is its diversity. So, as you load your cameras, please remember we need a diversity of
21 shots across all content areas.” The document explains that it is a challenge to shoot
22 (take pictures of) the Marlboro Man so that he looks natural and authentic. However,
23 when the photos are taken correctly, they can directly communicate the essence of

1 strength, integrity and masculinity. Close up shots of the Marlboro Man convey
2 personality and character, mid-range shots give context to what the Marlboro man does,
3 distance shots include the man and the country. When discussing the role of “Vistas” or
4 outdoor landscapes in the Marlboro campaign, the same document explains that much of
5 the Marlboro Man’s image and communication takes place on multiple levels. The
6 multiple levels listed are: “Personal: ‘I want to be there,’ ‘freedom,’ and ‘opportunity.’”;
7 “Category: tranquility and the smoking experience”; and “Brand: Land where cowboys
8 live. ‘You have to be tough to live in a rugged environment.’ Cowboys are not ‘nine-to-
9 fivers.’” LB20300185-0210 at 0186, 0187, 0196, 0207 (U.S. Exhibit 33,745).

10 **Q. Can you provide an example of how Philip Morris keeps the Marlboro Country**
11 **image consistent as well as fresh?**

12 A. Although remaining independent, Philip Morris has recently given the Marlboro Man a
13 social side to make the Marlboro man more accessible. The same 1999 Philip Morris
14 research document has a section entitled “Role in the Marlboro Campaign: Bonding.”
15 Bullet points under this heading indicate that bonding “Allows for closer association with
16 the cowboy” and that bonding “Communicates on multiple levels.” The multiple levels
17 listed are: “Personal: It’s what I do with my friends.”; “Category: Smoking and relaxing
18 after a hard day’s work. Smoking with friends (especially important in California).”; and
19 “Brand: Cowboy sociability/approachability.” Later, the document notes that: “What me
20 and my friends do. Shows the social side of the cowboy.” LB20300185-0210 at 0201,
21 0202 (U.S. Exhibit 33,745). The document shows images of the man that highlight the
22 “bonding” themes with imagery of sociability and approachability.

23 **Q. Could you provide an example?**

1 A. Yes, it is below.



2
3 (U.S. Exhibit 14,040)

4
5 **G. Response to Defendants' Public Statements and Defendants' Marketing Expert**

6
7 **Q. You testified you have concluded that cigarette advertising and promotion attract**
8 **new users who are predominantly under the age of 18, contrary to the public**
9 **statements of the tobacco industry. What public statements in particular were you**
10 **referring to?**

11 A. The industry makes two types of public statements which are contrary to their actual
12 marketing practices and contradict their own internal documents. First, the tobacco
13 industry publicly states that advertising and promotion are designed to only impact
14 switching rates among current adult smokers, and are not designed to start anyone
15 smoking. Second, the tobacco companies publicly state that the cigarette market is
16 "mature" and therefore that advertising only shifts smokers between brands.

17 **(1) Brand Switching**

18 **Q. Are Defendants' advertising and promotion designed only to impact switching rates**
19 **among current adult smokers?**

1 A. No. As I have explained, the very large expenditures made by the tobacco companies on
2 advertising and promotion would not be justified by the goal of brand switching. In
3 2001, the tobacco industry spent \$11.2 billion on advertising and promotion. (FTC,
4 2003) (U.S. Exhibit 64,804). In 2002, the tobacco industry spent approximately \$12.5
5 billion on advertising and promotion. In prior years, the tobacco companies'
6 expenditures were similarly very large. These expenditures simply would not be
7 warranted if the tobacco companies' goals were only to shift demand from one brand to
8 another. As will be seen in later documents, there is not enough switching to warrant
9 these expenditures.

10 **Q. What is the difference between switching companies and switching brands?**

11 A. Some smokers will switch from a regular brand – such as Marlboro Red – to a light brand
12 – such as Marlboro Lights. This is known as "switching down." Smokers often stay
13 within the same company and simply switch down from that company's regular brand to
14 its light brand. This keeps sales within the company. Other switchers go to another
15 company – going from Philip Morris' Marlboro to R.J. Reynolds's Camel, for example.

16 **Q. How many smokers switch brands yearly?**

17 A. These data indicate that a small amount of company and brand switching takes place.
18 Data from the 1986 CDC Adult Use-of-Tobacco Survey indicate just 9.2% of adult
19 smokers switched brands, and 6.7% switched companies. (Seigel et al., 1996, p.14) (U.S.
20 Exhibit 76,047).

21 **Q. According to Defendants' public statements, how many smokers switch brands**
22 **yearly?**

1 A. The tobacco companies have publicly claimed that 15-20% and even 25% of smokers
2 switch brands yearly.

3 **Q. Can you provide an example?**

4 A. Yes. In a 1992 pamphlet, Philip Morris stated:

5 At Philip Morris, we market our cigarette brands to adults who already
6 smoke. Why? Because there are 350 brands to choose from out there, and
7 25 percent of smokers switch brands every year. . . . That's about \$10
8 billion in annual retail sales. That's why we advertise. . . . Advertising in
9 mature markets, such as the one for cigarettes, is designed to maintain
10 brand loyalty and to promote brand switching.

11
12 2023852207-2221 at 2209 (U.S. Exhibit 66,649).

13 **Q. According to Defendants' internal documents, how many smokers switch brands
14 yearly?**

15 A. Various internal documents typically cite to 4-9% switching rates.

16 **Q. Could you provide an example?**

17 A. Yes. A “Marlboro 1990 Marketing Plan” stated that “Industry and Marlboro switching
18 have both declined over the years.” A chart showed the following switching rates: in
19 1982, the Industry Switching Rate was 15%, down to 9% in 1989; in 1982, the Marlboro
20 Switching Rate was 14%, down to 7% in 1989; in 1982, the Marlboro Out-Switching
21 Rate was 10%, down to 6% in 1989. 2044977085-7147 at 7124 (U.S. Exhibit 38,383).
22 This was confirmed by another Philip Morris document, “Smoker Dynamics,” which
23 examined switching rates between 1980-1986 and found that switchers per 100,000
24 smokers declined from 15,385 to 7,026 – from 15% to 7%. 2041787758-7815 at 7763
25 (U.S. Exhibit 38,236).

26 **Q. Are there other examples?**

1 A. Yes. Industry documents also discuss the high brand loyalty of smokers and estimate
2 switching at 8%. For example, a March 20, 1984 Philip Morris document entitled “The
3 Cigarette Smoker” reveals three key points: “switching requires extended use and
4 motivation on the part of consumers” and that consumers “can’t wait to get back to
5 regular brand,” “gross annual level of brand switching is quite small and declining”
6 between 1973-1983, and individuals leaving one brand for another are estimated to be
7 around 8 percent. 2500002189-2207 at 2199, 2201 (U.S. Exhibit 21,460).

8 **Q. Do other internal industry documents support Defendants' public statements**
9 **regarding brand switching?**

10 A. No, quite the opposite. Several industry documents discuss the fact that the level of
11 switching is low; therefore new smokers are important. For example, an R.J. Reynolds
12 June 21, 1990 report entitled “U.S. Cigarette Market in the 1990’s” indicates that the
13 level of brand switchers is 4-8% per year, and “much of this switching tends to be
14 random noise, with little net effect on shares for most brands.” 507798137-8230 at 8143
15 (U.S. Exhibit 20,789). A 1988 R. J. Reynolds report entitled “Market Dynamics”
16 illustrates the importance of new smokers over switching. The document states that
17 “aging” is the result of new 18 year old smokers entering the market and replacing older
18 smokers who quit and that the “aging” group is larger than the number of people who
19 switch in a six month period. 507531192-1258 at 1211, 1219 (U.S. Exhibit 51,219).

20 **Q. What other, if any, internal tobacco company documents support your conclusion?**

21 A. A November 1994 email exchange between Josh Slavitt, Senior Issues Manager,
22 Corporate Affairs Department, and Edward Gee, Philip Morris Consumer Research
23 Director, discusses the invalidity of Philip Morris’ “brand switching argument.” The

1 email from Gee responds to a draft issue statement to be used to fight advertising
2 restrictions containing the assertions that: (1) 15% of smokers switch every year; (2) as
3 many as 20,000 smokers switch every day; and (3) this “switching” segment was worth
4 between \$8-10 billion in annual sales. Gee writes that Philip Morris’ internal research
5 shows that: (1) “the industry switching rate is more like 10%”; (2) “it’s a real stretch to
6 make the 20,000 per day extrapolation; and (3) “you certainly can’t make the \$6.8 billion
7 in annual sales extrapolation.” Slavitt responded:

8 The anti’s claim that the industry spends \$4 billion to advertise to
9 approximately 50 million smokers, or more than \$80 for every smoker
10 which they claim makes us one of the most heavily advertised consumer
11 products in the U.S. They also claim that our advertising is designed to
12 encourage new consumers, including kids. Our counter argument was –
13 until this morning – that we advertise to maintain brand loyalty and
14 promote brand switching because each market share point of the tobacco
15 industry is worth \$400 million. We defended this position by showing
16 that a specific number – 15-20% – of smokers ‘switch’ brands every year.
17 And that this ‘switching’ segment of the market was potentially worth
18 between \$8-10 billion of the total industry revenues. We also said that at
19 any given time, as many as 20,000 smokers could change brands daily. . . .
20 . If we can no longer use the 15-20% switching rate, we are going to need
21 another justification, because ‘A LOT’ won’t cut it. Advertising
22 restrictions are going to be very hot this year at state and local levels and
23 we are going to need numbers to substantiate our argument.
24

25 2045165002-5014 at 5002, 5014 (U.S. Exhibit 38,402).

26 **Q. What is the significance of this email?**

27 A. The e-mail debunks the tobacco companies' public statements that marketing is aimed
28 only at switchers. The e-mail states that it is difficult to justify Philip Morris' high
29 advertising and promotion expenditures based on the internal knowledge of lower
30 switching rates.

31 (2) **Mature Market**

32 **Q. What is the mature market concept to which Defendants refer?**

1 A. The mature market concept is part of a notion or generalization called the product life
2 cycle. The product life cycle portrays a product as having different and fairly regular
3 stages. These stages include introduction, growth, maturity and decline. An important
4 factor in the product life cycle is the design of marketing programs. If the market for a
5 particular product is mature, that product is far along in its life cycle with a fast declining
6 growth and there are no new uses or benefits that would further diffusion into untapped
7 markets. (Cohen, 2000) (U.S. Exhibit 63,946). In a mature market the product is well
8 known and sales of a product have peaked. In such a market, the theory goes, marketing
9 including advertising and sales promotion can only shift demand among competitors
10 rather than increase demand. The cigarette industry contends the cigarette market is
11 mature because growth has slowed and cigarettes are well known to consumers, and
12 therefore asserts that their marketing can only affect brand switching.

13 **Q. Where have Defendants made these claims publicly?**

14 A. In the 1992 pamphlet I just discussed, Philip Morris stated: "Advertising in mature
15 markets, such as the one for cigarettes, is designed to maintain brand loyalty and to
16 promote brand switching." 2023852207-2221 at 2209 (U.S. Exhibit 66,649).

17 **Q. Are there other examples?**

18 A. Yes, another Philip Morris pamphlet, stated: "Cigarette advertising no more makes
19 people smoke than soap ads make them wash, or car ads make them drive. The purpose
20 of advertising in a mature market is to attract current consumers to a particular brand."
21 2023916742-6776 at 6748 (U.S. Exhibit 20,396).

22 **Q. Any other examples?**

1 A. Yes. On CBS News Nightwatch, broadcast on February 27, 1990, Brennan Dawson,
2 Vice President of Public Affairs at the Tobacco Institute, stated on behalf of the tobacco
3 companies Philip Morris, R.J. Reynolds, Brown & Williamson, Lorillard and Liggett
4 that: “advertising doesn’t cause smokers . . . And advertising in a mature market doesn’t
5 create the urge to run out and buy a pack of cigarettes.” CORTI1731-1738 at 1734, 1737
6 (U.S. Exhibit 87,735). A 1979 Tobacco Institute brochure made the same point. In it, the
7 tobacco companies declared that cigarette advertisements create new smokers “[n]o more
8 than advertising a specific brand of toothpaste causes more people to use toothpaste.
9 Cigarette advertising is brand advertising, aimed at interesting smokers in switching
10 brands and creating brand loyalty. . . . The tobacco industry does not try to persuade
11 anyone to smoke. Nor does it discourage anyone who makes up his or her mind to quit.”
12 TIMN0133740-3798 at 3759-3761 (U.S. Exhibit 21,280).

13 **Q. Is the cigarette market “mature” such that the tobacco companies only aim their**
14 **advertising at shifting smokers between brands?**

15 A. No.

16 **Q. Please explain further.**

17 A. My review of thousands of internal company documents and the tobacco companies'
18 marketing practices shows me that the cigarette market is not mature. Quite the opposite,
19 new smokers enter the market, other smokers quit, and as I have testified, the tobacco
20 companies actively compete to keep and expand their business through advertising and
21 sales promotion. It simply would not be accurate to refer to the cigarette market as
22 mature.

1 **Q. What do other scholars say about the mature market concept, and whether it**
2 **applies to the cigarette market?**

3 A. Marketing scholars have even questioned the existence and application of the product life
4 cycle and its various stages including maturity. When reviewing the concept of product
5 life cycle and the mature market thesis, Dhalla and Yuspeth (1976) (U.S. Exhibit 64,303)
6 concluded that the “mature market” concept probably does not exist in most cases. The
7 authors examined over 100 product categories to examine if each product followed the
8 prescribed pattern. The authors specifically demonstrate that the concept is not
9 particularly applicable to cigarettes.

10 More recently, the mature market hypothesis was reviewed by Dr. Joel Cohen
11 during his analysis of the Joe Camel campaign. He found that the number of new people
12 entering or leaving the cigarette market is not fixed and that new people can be attracted
13 to the market by product characteristics.

14 I have concluded that a substantial element of the competition is designed to
15 retain existing customers and attract new customers who are adolescents. Basically, the
16 cigarette market is much more dynamic than the tobacco companies contend. Some
17 adolescents are recruited into the market by product characteristics including brand
18 image. This is supported by the documents that note the importance of starters and the
19 ability of advertising and promotion to effectively convey appealing imagery.

20 **Q. In summary, what conclusion have you drawn about these public statements?**

21 A. The cigarette industry’s public statements that advertising and promotion only shift
22 current demand among competitors are not credible when taking into account that new
23 smokers enter the cigarette market on a daily basis, and cigarette companies compete for

1 these new smokers. As I testified, it defies logic to assume the cigarette industry can
2 spend approximately \$12.5 billion on marketing in 2002, \$74.8 billion on well-crafted
3 advertising and promotion from 1993-2002, and billions of dollars in prior years, and
4 constrain its appeal and influence to existing smokers continuing to smoke approximately
5 the same number of cigarettes.

6 (3) **Response to Defendants' Marketing Expert's Conclusion that**
7 **Advertising Does Not Affect Youth Smoking Initiation**
8

9 **Q. Have you reviewed the expert report of Dr. Semenik, an expert for Defendants in**
10 **this case?**

11 A. Yes and I particularly reviewed Dr. Semenik's conclusion that "interpersonal factors like
12 peers and family, not advertising, influence people to begin smoking." I also specifically
13 reviewed his conclusions that "advertising and marketing for cigarettes are not causal
14 factors in the decisions of either adolescents or adults to begin or continue smoking
15 cigarettes"; and "Interpersonal Factors Like Peers and Family, Not Advertising, Influence
16 People to Begin Smoking." Expert Report of Richard J. Semenik, United States v. Philip
17 Morris, et al., (R. 833; filed February 2, 2002) at 2, 13.

18 **Q. Does advertising cause youth smoking initiation in the way that Dr. Semenik**
19 **discusses it?**

20 A. There are two problems with Dr. Semenik's conclusion. First, the advertising/promotion
21 and smoking initiation/continuation relationship is not an empirically verifiable
22 phenomenon. There are simply too many intervening variables that take place between
23 the advertising and promotion and smoking behavior to disentangle specific causes.
24 These variables include interpersonal factors such as family and friends and peer groups,
25 and non-personal factors such as social, economic and technical trends, and media. In

1 order to be able to disentangle all of these variables one would have to use some type of
2 field experiment where levels of advertising and promotion pressure are gauged against
3 certain youth markets. Obviously, an experiment of this type – which encouraged
4 teenagers to smoke – would be unethical.

5 **Q. What is the second problem?**

6 A. Dr. Semenik focuses on the effect of advertising on initiation. This of course ignores the
7 influence of advertising, sales promotion, and other marketing factors, on not only
8 initiation but also the continuance of smoking among young people.

9 **Q. Do advertisers and professionals who study and utilize advertising examine whether
10 their advertising is "causing" consumption of their products?**

11 A. For the most part, no. Advertisers simply understand that in most cases it is difficult to
12 directly connect advertising and sales. Isolating the causal effects of advertising from the
13 many other variables that produce a sale is difficult. Instead of concentrating on sales,
14 other communication factors are measured such as: readership of the vehicle the
15 advertisement was placed in or readership of the advertisement itself; recall of some
16 portion of the advertisement or the advertising campaign; attention to the advertisement
17 or the campaign; comprehension of the advertisement or the campaign; and consumer
18 opinion and attitude regarding an advertisement or the campaign. Therefore,
19 intermediary factors are commonly used as measures of advertising effectiveness.
20 Furthermore, advertisers do not as a rule assess influence by asking people directly if the
21 advertising was a factor in their behavior.

22 **Q. Is this always true?**

1 A. This is usually true. In some cases, however, we may be able to trace the direct influence
2 of advertising on sales or some other form of action such as product trial. Techniques
3 such as field experiments can assist in tracing direct effects. However, in most cases,
4 including the direct effect of cigarette advertising and sales promotion on youth smoking
5 and initiation and continuance, it is simply not a reasonable question that one can study.

6 **Q. Have you concluded that there is any relationship between advertising and**
7 **promotion and teenage smoking?**

8 A. It is my conclusion that advertising and promotion are an important part of the smoking
9 uptake and continuation process. I am very satisfied after examining the total situation –
10 industry investments, the actual advertising and sales promotion, academic and industry
11 research, industry documents and industry comments – that advertising and sales
12 promotion are influential in the initiation and continuation of smoking among teenagers.

13 **Q. If Defendants are not marketing only to adults who are switching brands, e.g.,**
14 **Marlboro to Camel, what are the other purposes of their marketing?**

15 A. Their other purposes include gaining new smokers who are entering the market,
16 encouraging people to smoke more, keeping customers in the market, and assisting in
17 bringing past users (quitters) back to the market.

18 **Q. What does Dr. Semenik state is his basis for his conclusion?**

19 A. Dr. Semenik relies upon studies where people are asked if advertising had any affect on
20 their smoking initiation. In these studies, people generally say “no.”

21 **Q. Is Dr. Semenik’s basis valid?**

22 A. No, not necessarily.

23 **Q. Why not?**

1 A. Generally speaking, people underplay the importance of advertising in their decision
2 making processes. They, either, don't remember, can't recall, or do not wish to impute a
3 power of influence to something such as advertising. However, as I have demonstrated
4 earlier, with a product such as cigarettes, advertising and sales promotion imagery work
5 to make people aware of the product and make the product acceptable, likeable, or simply
6 to raise salience or importance. A well accepted notion in advertising and mass
7 communication is that individuals feel that advertising influences others more than
8 themselves. This is often termed the "third person" effect. (Severin and Tankard, 1997).

9 **Q. Does Dr. Semenik claim that people accurately report that advertising influences**
10 **them?**

11 A. Earlier in his discussion, Dr. Semenik argues that people will admit that advertising
12 influences them when it really does and points to political advertising as an example.
13 Expert Report of Richard J. Semenik, United States v. Philip Morris, et al., (R. 833; filed
14 February 2, 2002) at 17. In my estimation, Dr. Semenik's interpretation that people will
15 impute power to advertising is really an over-simplified view of the way mass
16 communication works. My point is that it is often difficult to disentangle the influence of
17 advertising and promotion from other factors. The investment that tobacco companies
18 have made via advertising and promotion have normalized smoking behavior and the
19 created images that are highly appealing to teenagers. This type of influence is not likely
20 to be measured by asking people if they are influenced by advertising.

21 **Q. What is your basis for this conclusion?**

1 A. My own research and knowledge of this topic gained from my many years in this field
2 confirms that people are generally reluctant to note the influence of advertising on their
3 behavior. My conclusion is confirmed in the tobacco companies' documents.

4 **Q. Can you provide an example?**

5 A. Yes, for example, I point to a research document entitled "A Qualitative Assessment of
6 Camel Advertising Equity" conducted by Ellison Qualitative Research, Inc. for R.J.
7 Reynolds in October 1991. The purpose of this study was to gain a thorough
8 understanding of Joe Camel's character in order to ensure that the "Smooth Character"
9 advertising and integrated communications program remain successful in repositioning
10 the product. The report attributes Camel's success to the Joe Camel campaign. Eight
11 focus groups were conducted in Dallas (three with 18-34 year male old Camel smokers,
12 three with 18-34 Marlboro smokers, two with 18-24 year old female smokers further
13 broken down by whether they smoked Marlboro or Camel). 507642890-2934 (U.S.
14 Exhibit 22,055).

15 **Q. What did the report find?**

16 A. The research report notes that some people in both the Camel and Marlboro groups and in
17 the male and female groups:

18 -- Volunteered that Camel Advertising is "probably" a factor contributing to their
19 positive feelings for/personal comfort with the Camel brand. This point seems
20 particularly noteworthy since, since consumers are generally reluctant to overtly
21 admit being influenced by advertising.* *Generally speaking – In a focused
22 group environment – whether cigarettes or for other packaged goods—consumers
23 are inclined to be critical of advertising and/or deny that it plays any role in their
24 choice of products.

25
26 507642890-2934 at 2906 (U.S. Exhibit 22,055) (emphasis added).

1 **Q. How does this document support your conclusion that the influence of advertising is**
2 **not likely to be measured by asking people if they are influenced by advertising?**

3 A. My point is confirmed by the report of the research firm employed by R.J. Reynolds
4 which explicitly stated that people will generally not admit to being influenced by
5 advertising or can't recognize the influence of advertising in the initiation of a product.
6 As the research firm noted, "consumers are inclined to be critical of advertising and/or
7 deny that it plays any role in their choice of products."

8 **Q. If people generally will not admit to being influenced by advertising, why did the**
9 **focus group in this case admit that they had been influenced by Joe Camel**
10 **advertising?**

11 A. The Joe Camel campaign was relatively new and had a unique appeal. In this case, the
12 focus groups were able to tease out that people had positive feelings toward the brand due
13 to advertising. This makes sense. Also, I note the report discusses these kinds of
14 intermediary influences I have been discussing. That is, the participants do not admit that
15 advertising causes purchase, but rather that it creates positive feelings about the brand.
16 However, my larger conclusion still holds, as the document itself states, that "consumers
17 are generally reluctant to overtly admit being influenced by advertising."

18 ***IV. DEFENDANTS' CIGARETTE ADVERTISING CODE***

19 **Q. Dr. Krugman, we are now going to turn to your conclusions regarding Defendants'**
20 **Advertising Code. Please remind the Court of your conclusion about Defendants'**
21 **Advertising Code.**

22 A. The industry's Advertising Code, a voluntary code that set forth certain provisions to
23 limit marketing and advertising to teenagers, has been largely ignored by the industry and

1 has not stopped the tobacco companies from marketing to teenagers. I base my
2 conclusion on the 1967 FTC Report to Congress; the tobacco companies' internal
3 documents, including marketing materials and advertisements; and the data on the
4 tobacco companies' placement of advertisements in magazines, which I testified about
5 earlier.

6 **Q. What is the Advertising Code?**

7 A. Written in 1964 and revised in 1990, the major American tobacco companies developed
8 the Cigarette Advertising Code and publicly stated that they would adhere to it. Their
9 publicly stated purpose for the Code was to establish a uniform set of standards for
10 certain forms of cigarette industry and promotion. Key aspects of the code include, but
11 are not limited to, prohibiting: 1) advertising placed in media “directed primarily to
12 persons under twenty-one years of age”; 2) distributing “[s]ample cigarettes . . . to
13 persons under twenty-one years of age”; 3) advertising that represents “that cigarette
14 smoking is essential to social prominence, distinction, success, or sexual attraction”; 4)
15 the use of models or other characterizations that “appear to be under 25 years of age”; 5)
16 the suggestion that the “attractive appearance or good health” of “attractive, healthy
17 looking models” or characterizations is “due to cigarette smoking”; 6) the depiction “as a
18 smoker any person participating in, or obviously having just participated in, physical
19 activity requiring stamina or athletic conditioning beyond that of normal recreation”; and
20 7) “advertising which makes a representation with respect to health.” MNAT00608606-
21 8614 (U.S. Exhibit 21,228)

22 **Q. How does the 1967 FTC Report to Congress inform your conclusions?**

1 A. Even early in its adoption, the Code did not stop the tobacco companies from marketing
2 and advertising to people under 21. The FTC’s 1967 Report to Congress concluded that
3 after the adoption of the Code, the tobacco companies made only minor changes in some
4 of their advertisements. Overall, they did not change their cigarette brand themes and the
5 impact of their advertisements was the same. (FTC, 1967, p. 26-27) (U.S. Exhibit
6 22,148). For example, the provision of the Code that promises that young models will
7 not be used in advertisements has not stopped the tobacco companies from aiming their
8 advertisements at teenagers.

9 **Q. What do Defendants publicly state about their Advertising Code?**

10 A. The industry publicly promised that, under the Advertising Code, they would not market
11 to young people. The Tobacco Institute’s “Voluntary Initiatives of a Responsible
12 Industry” dated January 1, 1972 specifically asserts that the Advertising Code prohibits
13 “advertising, marketing and sampling directed at young people,” an explicit statement
14 that the intent of the Code is to encompass the tobacco companies’ marketing activities
15 and not just advertising. Similarly, a September 1975 Tobacco Institute press release
16 entitled “Cigarette Industry Advertising Standards” referred to the Code and stated “it is
17 the intention of the cigarette manufacturers to continue to avoid advertising directed at
18 young persons.” 680263421-3422 (U.S. Ex. 22,345) (U.S. Ex. 78,780). An updated
19 version of “Voluntary Initiatives of a Responsible Industry was released in 1983.
20 ATX040294056-4056 (U.S. Exhibit 58,599). A December 1990 pamphlet published by
21 the Tobacco Institute, entitled “Cigarette Advertising and Promotion Code,” similarly
22 stated: “The cigarette manufacturers advertise and promote their products only to adult

1 smokers . . . [and] have adopted the following Code to emphasize their policy that
2 smoking is solely for adults.” 2021183859-3862 (U.S. Ex. 36,717).

3 **Q. When Defendants promise not to market to "young people," or only to market to**
4 **"adult smokers," have Defendants publicly stated what ages they consider to be**
5 **included as "young" or "adult"?**

6 A. Yes. On the nationally televised ABC program 20/20, broadcast on October 20, 1983,
7 the Tobacco Institute spokesperson Ann Browder said: “We feel very strongly that
8 cigarette smoking is an adult custom that one should not even consider until they've
9 reached the age of maturity” and that the “age of maturity is 21.” 680286673-6686 at
10 6675-6676 (U.S. Ex. 20,999); 690149518-9531 at 9520-9521 (U.S. Ex. 21,046) (U.S. Ex.
11 78,732). In a May 18, 1979 letter from Raymond J. Mulligan, President of Liggett, to
12 Joseph A. Califano, Jr., Secretary of the Department of Health, Education and Welfare.
13 Mulligan stated that Liggett "does not promote or advertise its cigarette products to
14 children or young people under twenty-one years of age" and cited to the Advertising
15 Code. TI03972545-2546 (U.S. Ex. 22,358). Sharon Smith, Brown & Williamson’s
16 Director of Creative Services, testified at her deposition in this case that Brown &
17 Williamson follows the Code by not “marketing” to people under 21. Smith testified:
18 “We refer to the Cigarette Advertising and Promotion Code and Marketing Principles and
19 Guidelines interchangeably,” and discussed “our marketing policy being 21.” Deposition
20 of Sharon Smith, United States v. Philip Morris, et al., February 2, 2002, 203:18-19,
21 205:9-11. Smith was referring to Brown & Williamson’s “Marketing & Consumer
22 Principles and Practices” posted on their website that promised that "the intended
23 audience for all B&W marketing programs is adults twenty-one and over. Hence, the

1 purpose of B&W's marketing programs is to encourage smokers twenty-one and over to
2 select B&W brands." <http://www.brownandwilliamson.com> (U.S. Ex. 65,077).

3 **Q. Do any of Defendants' internal documents indicate that they intended the public to**
4 **interpret the Code as limiting their advertising and promotion to those under 21?**

5 A. Yes. A November 20, 1990 memorandum between two Lorillard in-house counsel,
6 Ronald S. Goldbrenner and James R. Cherry, regarding "Youth Action Plan & the 1990
7 Marketing Mangers Meeting" stated: "[T]he industry has adopted a new Youth Action
8 Plan . . . to demonstrate its commitment to avoid advertising or promoting to children. In
9 this context 'children' means anyone under twenty-one. . . . This Plan will go into effect
10 on Dec. 11, 1990 and will be announced with much fanfare and P.R." 91384746-4749 at
11 4747 (U.S. Ex. 57,030). The Youth Action Plan referred to was a re-issuance of the
12 Cigarette Advertising Code.

13 **Q. Are the Defendants' public statements about the Code consistent with the**
14 **conclusions of Defendants' experts in this case?**

15 A. No. While the tobacco companies have publicly stated that the Advertising Code
16 prevents them from marketing to those under 21, in his expert report, Defendants' expert
17 Michael Houston states: "Dr. Krugman misunderstands and misinterprets the Code's
18 prohibitions. This is demonstrated in his expert report where he attempts to extend the
19 Code's prohibitions to the whole area of marketing rather than limiting the scope to the
20 medium in which the advertisement is placed." Expert Report of Michael Houston,
21 United States v. Philip Morris, et al., (R. 818; filed February 1, 2002) at 28.

22 **Q. Have the tobacco companies adhered to their public statements that they would not**
23 **advertise to young people under 21 years of age?**

1 A. No. While the language of the Code plainly states and the tobacco industry has
2 repeatedly publicly stated that it does not direct media in advertising at persons under 21
3 years of age, (and other documents paraphrasing the Code to including marketing) the
4 tobacco companies have not adhered to these promises. Earlier in my testimony I
5 testified about my conclusion the tobacco companies targeted teenagers as an important
6 part of their marketing programs and provided numerous documents and examples. Any
7 time the tobacco companies conducted research, developed market plans, and developed
8 advertising and sales promotion to starters and teenagers, they were not adhering to the
9 industry's Code.

10 **Q. As well as the documents you have already cited, do other internal documents**
11 **support your conclusion?**

12 A. Yes. I will focus on the Code's promise that "Cigarette advertising shall not appear . . .
13 in publications directed primarily to those under 21 years of age." 2070557669-7702 at
14 7699 (U.S. Exhibit 20,519). This promise is inherently problematic because the tobacco
15 companies' use of the word "primarily" is ambiguous and is not a criterion they have
16 defined, as I discussed in my peer reviewed publication entitled "Teenage Exposure to
17 Cigarette Advertising in Popular Consumer Magazines." (Krugman and King, 2000)
18 (U.S. Exhibit 64,273). No matter how "primarily might be defined, however, the tobacco
19 companies explicitly target people under the age of 21 with their cigarette advertising
20 placed in media such as magazines. As shown by their high level corporate planning
21 documents young people under age 21 are among their primary targets for their cigarette
22 advertising in the media.

1 **Q: Could you provide an example of a Philip Morris corporate plan that supports your**
2 **conclusion?**

3 A. Yes. A September 17, 1986 “Parliament 1987 Marketing Promotion Plan” stated as the
4 “objective” for 1987 “To gain new triers in targeted age group (18-34).” The strategy to
5 do so was to conduct a “media driven sweepstakes promotion [that] would promote the
6 brand’s image while generating trial in these selected markets. Grand Sweepstakes Prize
7 designed to enhance and reinforce ‘Perfect Recess’ advertising campaign.” 2043640937-
8 0938 at 0938 (U.S. Exhibit 38,321) (emphasis added).

9 **Q: Do you cite in Demonstrative 17,499 additional documents where Philip Morris**
10 **expressly discusses targeting advertising at people under the age of 21?**

11 A. Yes. I have included these documents in my chart which is Demonstrative 17,499 under
12 the key word “Advertising Code.”

13 **Q. How are these Philip Morris corporate plans and other documents you cite in your**
14 **chart significant to your conclusion?**

15 A. These plans show Philip Morris’ continual, unrelenting focus on people under the age of
16 21 as target markets for media advertising. There isn’t any question that Philip Morris
17 broke with the Code’s provision and their public promises not to aim media advertising at
18 those under the age of 21. It is clear that the Code did not work to protect people under
19 the age of 21 from being targets of Philip Morris’ media advertising.

20 **Q. Did you review deposition testimony taken in this case that informed your**
21 **conclusions about Philip Morris’s advertising practices?**

22 A. Yes.

23 **Q. Please explain.**

1 A. From a review of Philip Morris' media plans it is clear that the company's intention in the
2 1990s was to consistently reach people as least as young as 18, rather than only those
3 over 21. This is repeatedly confirmed in the testimony of Thomas Dudreck, corporate
4 designee for the Leo Burnett Advertising Agency in this case, who was responsible for
5 managing all Philip Morris's marketing work and particularly the marketing of Marlboro.
6 Mr. Dudreck testified: "Philip Morris' advertising has always been directed at adult
7 smokers, and adult smokers being defined as those smokers legal age 18 plus."
8 Deposition of Thomas Dudreck, United States v. Philip Morris, et al., August 26, 2003,
9 288:23-289:1. This testimony is important because Leo Burnett has been Philip Morris's
10 key advertising agency in developing and implementing the Marlboro campaign. Nancy
11 Lund, Philip Morris Senior Vice President of Marketing, testified in this case that
12 Dudreck "has a high level of knowledge about Philip Morris business." Deposition of
13 Nancy Lund, United States v. Philip Morris, et al., June 27, 2002, 98:3-5. Mr. Dudreck's
14 testimony states plainly that cigarette advertising was continually and purposefully
15 directed to people under 21, which is significant because, here we have the major
16 advertising agency for the largest selling brand – Marlboro – confirming that Philip
17 Morris directs its advertising to those who are at least as young as 18 years old. This is
18 not consistent with the Advertising Code or the tobacco companies' promises about the
19 Advertising Code.

20 **Q. Have you reviewed other Philip Morris deposition testimony in this case relevant to**
21 **the Advertising Code?**

22 A. Yes. I reviewed the testimony of Richard Camisa, Philip Morris's Director of Media. He
23 was the senior most employee responsible for placing all of Philip Morris's advertising in

1 magazines in the late 1990s. Prior to that position, he was a cigarette Brand Manager at
2 Philip Morris.

3 **Q. How did the testimony of Camisa inform your conclusion?**

4 A. The testimony of Mr. Camisa showed two things that supported my conclusion: (1) the
5 tobacco companies' high level executives were not familiar with the provisions of the
6 Advertising Code which they publicly promised would prevent them from marketing to
7 youth; and (2) until June 2000 Philip Morris in-house relied upon subscribership and not
8 readership data when claiming that they were not reaching young people with their
9 advertisements. Yet, their media plans show that their sophisticated advertising agency,
10 Leo Burnett, was using the broader readership data for decisions of which magazines
11 Philip Morris should place their cigarette advertisements.

12 **Q. Please explain your first point.**

13 A. First, Camisa was not familiar with portions of the Advertising Code. With respect to
14 the provision of the Code that states, "Cigarette advertising shall not suggest that
15 smoking is essential to social prominence, distinction, success or sexual attraction, nor
16 shall it picture a person smoking in an exaggerated manner," Camisa testified that: (1) he
17 could not explain its meaning and stated that it "could mean different things to different
18 people" within Philip Morris; (2) he could not provide a single example of an
19 advertisement that might improperly suggest that smoking is essential to sexual
20 attraction; (3) no one at Philip Morris ever provided him with a list of objective standards
21 or characteristics to determine whether an advertisement violated this provision; and (4)
22 he was not "trained" to determine whether an advertisement suggests that a person's
23 attractiveness and good health is due to cigarette smoking. Deposition of Richard

1 Camisa, United States v. Philip Morris, et al., June 28, 2002, 41-49. He was not even
2 familiar with the basics of the Advertising Code.

3 **Q. Please explain your second point.**

4 A. On my second point, Mr. Camisa testified that, in the 1990s, Philip Morris used in-house
5 subscriber data and used MRI and/or Simmons 18 plus data to determine whether it was
6 reaching young people under the age of 21 years but did not use the 12 to 17 year old
7 data. However, as I will explain further, sophisticated marketers such as Philip Morris
8 know that subscribership data will not reflect the actual reach of their advertising.

9 Deposition of Richard Camisa, United States v. Philip Morris, et al., June 28, 2002,
10 67:15-19.

11 **Q. Please explain further.**

12 A. Subscriber and circulation data used by Philip Morris between the early 1990s and 2000
13 were extraordinarily limited because they only tell you who purchases or subscribes to
14 the magazine, not who reads the magazine. In essence, by using data that only identifies
15 subscribers and not readers, which is broader, you are only getting part of the puzzle and
16 this would not really help a company too much in answering the question of who is
17 seeing your advertising. Sophisticated advertisers like Philip Morris and its advertising
18 agency, Leo Burnett, are not likely to only use circulation and subscription data to make
19 actual determinations of where to place their advertisements. Philip Morris is an
20 extremely sophisticated marketer and would know that subscription data is not an
21 accurate description of audiences as subscription data gets only the person who is
22 subscribing to the vehicle. Subscription data also ignores any purchases of the magazine
23 at newsstands. Readership data tells you who in the household would in fact read the

1 magazine. It would be difficult, if not impossible, for the tobacco companies to follow
2 the Advertising Code using only subscription data which does not provide information
3 about who is actually reading a magazine.

4 **Q. Can you give a specific example to illustrate?**

5 A. Yes. Philip Morris apparently determined throughout the 1990s by using subscriber data
6 only that Rolling Stone, although clearly a magazine read by millions of teenagers, was
7 not “primarily directed at young people under the age of 21.” Since Rolling Stone
8 supposedly satisfied Philip Morris’s “subscriber only” standards, Philip Morris continued
9 to advertise its youth popular brand, Marlboro, in Rolling Stone until June 2000. Once
10 Philip Morris started using Simmons teenage data, which measures the number of readers
11 age 12 to 17 and not just subscribers, to see whether the very same magazine was
12 “primarily directed at young people under age 21,” Philip Morris stopped advertising in
13 Rolling Stone.

14 **Q. Does Philip Morris currently advertise in Rolling Stone?**

15 A. No.

16 **Q. Does the Master Settlement Agreement or any thing else prevent Philip Morris from
17 advertising again in Rolling Stone if it chooses to do so?**

18 A. No.

19 **Q. Did you review additional deposition testimony of Philip Morris executives?**

20 A. Yes. I reviewed the testimony of Suzanne LeVan, Vice President of Marlboro.

21 **Q. How did Ms. LeVan’s testimony inform your conclusions?**

22 A. Ms. LeVan testified that Philip Morris designs its marketing programs and
23 communications to appeal to young people age 18 and over, but then communicates its

1 advertisements only to adults age 21 and older. Deposition of Suzanne LeVan, United
2 States v. Philip Morris, et al., June 25, 2002, 188:12-189:2. On the surface this logic
3 does not hold water. Additionally, this statement is not consistent with Philip Morris'
4 documents that show that Philip Morris target teenagers and those under 21.

5 **Q: Could you provide an example of an R.J. Reynolds document that supports your**
6 **conclusion?**

7 A. Yes. A Perception Tracking Study (January 1988/Januaury 1999) for the "Camel Ex.
8 Regular" reviewed the growth in awareness of advertising and its impact on perception
9 and attitudes among target smokers. The sample composition was males 18-34. Specific
10 breakdowns are given for the 18-20 year old target for such items as unaided advertising
11 awareness, slogan recall and identification of Camel as the brand having the slogan
12 "Smooth Character." Several conclusions point to the consideration of 18-20 year olds as
13 a part of the intended advertising target, "It is hypothesized that the strong YAS appeal of
14 the current advertising enabled it to more directly impact attitudes/perceptions of YAS
15 (particularly 18-20's) toward Camel than older groups." "The % of 18-24 smokers
16 buying Camel increased significantly with the introduction of the 75th
17 Advertising/Promotional Programs." 507562835-2855 at 2849, 2850 (U.S. Exhibit
18 51,222).

19 Similarly, a Camel 1990 Business Plan measured an increase in the "share of
20 smokers 18-20" based on the introduction of the Joe Camel media advertising campaign.
21 The Plan further included a graph showing the growth in "Camel 18-20 share of smoker"
22 following the introduction of the Joe Camel campaign, and indicate that "growth among
23 YAS crucial longer term." 507240386-0436 at 0391, 0394 (U.S. Exhibit 51,154).

1 **Q: Do you cite in Demonstrative 17,499 additional documents where R.J. Reynolds**
2 **expressly discusses targeting advertising at people under the age of 21?**

3 A. Yes. I have included these documents in my chart which is Demonstrative 17,499 under
4 the key word “Advertising Code.”

5 **Q. How are the R.J. Reynolds corporate plans and other documents cited in your chart**
6 **significant to your conclusion?**

7 A. Just as with Philip Morris, these R.J. Reynolds plans and documents show an unrelenting
8 focus by the company on people under the age of 21 as targets for media advertising.

9 There is no question that R.J. Reynolds broke with the Advertising Code’s provision and
10 the tobacco companies’ public promises not to aim media advertising at those under the
11 age of 21. Once again, the Advertising Code clearly did not work to protect people under
12 the age of 21 from being targets of R.J. Reynolds’s media advertising.

13 **Q. Did you review deposition testimony of R.J. Reynolds executives in this case related**
14 **to the Advertising Code?**

15 A. Yes. I reviewed the testimony of Lynn Beasley, R.J. Reynolds Executive Vice President
16 for Marketing; David Iauco, R.J. Reynolds Senior Vice President for Marketing; and
17 Diane Burrows, R.J. Reynolds Marketing Development Department researcher.

18 **Q. Please explain how the testimony of these executives informed your conclusions.**

19 A. Ms. Beasley testified that, after 1992, R.J. Reynolds continued to track whether young
20 people age 18 years and older were aware of R.J. Reynolds’s cigarette products, spotted
21 problems with brand awareness among 18, 19, and 20 year olds, and conducted follow up
22 by researching 21 year olds. Ms. Beasley calls the data on 18-20 year olds a “yellow
23 flag” that would warn R.J. Reynolds to change its marketing activities. Deposition of

1 Lynn Beasley, United States v. Philip Morris, et al., June 25, 2002, 92-93. From this
2 testimony, it is quite clear that R.J. Reynolds used 18, 19, and 20 year olds in their market
3 research process and in their advertising and promotion development. Clearly, R.J.
4 Reynolds continues to directly market to young people even though Ms. Beasley testified
5 that the reports are for tracking purposes only. The reports clearly contain information on
6 R.J. Reynolds's advertising campaigns and are used by R.J. Reynolds in the planning and
7 development process for their campaigns.

8 **Q. What testimony does Mr. Iauco provide about the Code?**

9 A. When asked about the Advertising Code, or its restrictions, Mr. Iauco displayed a
10 cavalier attitude. For example, Mr. Iauco testified that, "Just because an ad appeals to
11 someone doesn't mean it's going to be effective in getting them to do something. . . . for
12 example, to start smoking. . . . I don't believe that any of our advertising had any effect in
13 ever convincing anyone to start smoking." According to his testimony, under R.J.
14 Reynolds' interpretation of the Advertising Code: "advertising distribution, as well as
15 content, was permissible to those smokers eighteen years of age and older." When asked
16 what advertising was forbidden by the Code, Mr. Iauco testified that the Advertising
17 Code is "ambiguous." Mr. Iauco also testified that R.J. Reynolds's conduct was "very
18 consistent," noting that smokers aged 18 years and older were "fair game in terms of
19 marketing activities." While Mr. Iauco testified that R.J. Reynolds made a policy change
20 in 1992 that directed all marketing to adults age 21 and above, he also admitted that R.J.
21 Reynolds's marketing group continued after 1992 to use research on people ages 18 to
22 24. When asked about the use of earlier data on those age 18 and over, Iauco responded,
23 "It's all we had." Again, it is quite obvious that Mr. Iauco was not concerned about the

1 industry's Advertising Code. Deposition of David Iauco, United States v. Philip Morris,
2 et al., May 7, 2002, 95:5-11; Deposition of David Iauco, United States v. Philip Morris, et
3 al., May 8, 2002, 87-88, 123:9-10, 101:25, 161-164.

4 Similarly, Ms. Burrows testified that 18, 19, 20 year olds are a legitimate target
5 for R.J. Reynolds's advertising. Deposition of Diane Burrows, United States v. Philip
6 Morris, et al., June 27, 2001, 31:5-32:9.

7 **Q: Could you provide an example of a Lorillard corporate plan that supports your**
8 **conclusion?**

9 A. Yes. A "Newport 1994 Brand Review" dated May 2, 1994 contained the same "Brand
10 Positioning Statement" as in the previous years' plans which are shown in Demonstrative
11 17,499: "Newport is the leading menthol cigarette brand among younger adult smokers in
12 the freshness segment, positioned to appeal primarily to general market/urban center
13 adult smokers ages 18-24." The plan omitted any specification of age under the headings
14 "media strategies" and "media tactical summary." 92051255-1281 at 1256, 1277-1278
15 (U.S. Exhibit 74,442).

16 **Q: Do you cite in Demonstrative 17,499 additional documents where Lorillard**
17 **expressly discusses targeting advertising at people under the age of 21?**

18 A. Yes. I have included these documents in my chart which is Demonstrative 17,499 under
19 the key word "Advertising Code."

20 **Q: How are these Lorillard corporate plans significant to your conclusion?**

21 A. As did the plans of Philip Morris and R.J. Reynolds that I testified to above, these
22 Lorillard plans show a constant, unwavering focus by Lorillard on people under the age
23 of 21 as target markets for media advertising. Once again, the Advertising Code did not

1 work to protect people under the age of 21 from being targets of Lorillard's media
2 advertising. Lorillard unquestionably broke with the Code's provision and the tobacco
3 companies' public promises not to aim media advertising at those under the age of 21.

4 **Q: Can you provide an example of a Brown & Williamson corporate plan that supports**
5 **your conclusion?**

6 A. Yes. A "Kool 1978 Marketing Plan" prepared by the advertising agency "Ted Bates"
7 dated June 16, 1977 stated under the heading "Demographic Profile for Media Selection"
8 that the demographic profile for Kool Kings and box were "Young adult males, 16-25,
9 young blacks (both sexes), 16-25, and some females 16-25." The title page of the plan
10 bears the handwritten comment "Agency Final." 674150758-0776 at 0771, 0758 (U.S.
11 Exhibit 53,900) (emphasis added).

12 **Q. Do you have another example?**

13 A. Yes. A "Kool 1982 Marketing Plan," dated October 1981, stated as a "Key Finding" that
14 "Starters represent the greatest percent of total gains for KOOL and Newport." Under the
15 heading "Target Audience/Media Strategies," the plan defines "KOOL's target audience"
16 as including three groups: "under 25," 25-34, and over 35. 685061076-1130 at 1084-
17 1085, 1107 (U.S. Exhibit 54,234).

18 **Q. How are these Brown & Williamson corporate plans significant to your conclusion?**

19 A. Just as with the other tobacco company plans, these Brown & Williamson plans show its
20 continual focus on people under the age of 21 as target markets for media advertising.
21 Without question, Brown & Williamson broke with the Advertising Code's provision and
22 the tobacco companies' public promises not to aim media advertising at those under the

1 age of 21. Again, it is clear that the Code did not work to protect people under the age of
2 21 from being targets of Brown & Williamson's media advertising.

3 **Q. What overall conclusion about Defendants' Advertising Code and their public**
4 **promise about the Code have you reached?**

5 A. The tobacco companies' cigarette marketing, advertising, and promotion have been
6 specifically directed at, and continually appeal to, persons under 21 years of age. The
7 Cigarette Advertising Code has not stopped the tobacco companies from marketing,
8 advertising and promoting to individuals under the age of 21, and their marketing
9 practices have been contrary to the letter and spirit of the code.

10 A. **Promotions, Sampling, and other Advertising Code Provisions**

11 **Q. What does the Advertising Code expressly state about the sampling of cigarettes?**

12 A. The 1964 Advertising Code states: "Sample cigarettes shall not be distributed to person
13 under twenty-one years of age." MNAT00608606-8614 at 8610 (U.S. Exhibit 21,228).
14 The 1990 Advertising Code states: "Persons who engage in sampling shall refuse to give
15 a sample to any person whom they know to be under 21 years of age or who, without
16 reasonable identification to the contrary, appears to be less than 21 years of age."
17 2070557669-7702 at 7700 (U.S. Exhibit 20,519).

18 **Q. Have Defendants conducted sampling programs aimed at people under 21?**

19 A. Yes.

20 **Q. Please provide an example or two.**

21 A. A Philip Morris video addressing 1989 Marlboro promotions presented by Carl Cohen,
22 Marlboro, Brand Manager, defined people 18-24 years of age as a key target market of
23 young adult smokers, or YAS. In the video, Mr. Cohen states that Marlboro has a 55%

1 share of the YAS market, and that attracting and keeping YAS smokers is critical to
2 Marlboro's success. A number of the advertising and promotion activities highlighted in
3 the Marlboro video are predicated on reaching the YAS market, which includes
4 individuals 18-20 years of age. Media promotions show the use of a three page
5 advertisement with a coupon for free giveaways. Another advertisement makes the offer
6 of a free racing poster to anyone who calls into an 800 number. Another strategy
7 identifies a "blitz" campaign using multiple promotions with a race car theme that was
8 conducted in Syracuse, New York. The campaign's objective is to accelerate growth and
9 raise awareness of Marlboro in the YAS market. One element features "Marlboro girls"
10 in red sports cars distributing samples of free cigarettes. This sampling program has three
11 goals – visibility, distribution of sweepstakes forms and sampling. Mr. Cohen states on
12 the video, "by the end of the summer, every young adult male in Syracuse knew of the
13 samplers as the Marlboro girls." 2500025505-5505 (U.S. Exhibit 25,343). This Philip
14 Morris sampling activity targeted young adult males, including males 18-20 years of age,
15 which contradicts the express language of the Code.

16 As another example, "Virginia Slims Marketing Plan Executive Summary"
17 containing plans for 1988 stated under the heading "Broadening Advertising" that
18 "Specific target groups the brand should be reaching are 18-24 females." Discussing
19 Virginia Slims' sponsorship of women's professional tennis, the plan stated: "The overall
20 objective of Virginia Slims event sponsorships are to extend the brand image and to
21 obtain increased brand awareness through attendance and media coverage of events."
22 The plan also discussed the Virginia Slims Resort Program which "is a sampling program
23 targeted at females under 18-24 . . . [in] Fort Lauderdale, Fla.; Daytona Beach, Fla.; and

1 South Padre Island, Texas.” 2048473839-3926 at 3859, 3866-3867 (U.S. Exhibit
2 38,690) (emphasis added).

3 **Q. What does the Advertising Code expressly state about models who appear in**
4 **cigarette advertising?**

5 A. The 1964 Advertising Code states: “Natural persons depicted as smokers in cigarette
6 advertising shall be at least twenty-five years of age and shall not be dressed otherwise
7 made to appear to be less than twenty-five years of age.” MNAT00608606-8614 at
8 8610-8611 (U.S. Exhibit 21,228).

9 The 1990 Advertising Code states: “No one depicted in advertising shall be or appear to
10 be under 25 years of age.” 2070557669-7669 at 7700 (U.S. Exhibit 20,519).

11 **Q. Have Defendants used models under the age of 25 in their cigarette advertising?**

12 A. While I do not know the precise age of any models, many of the models appear to be
13 younger than 25 years of age and people perceive the models to be young.

14 In a 1992 peer reviewed study, consumers were asked to rate the age of models in
15 cigarette advertisements. Based on observations, participants concluded that some
16 advertisements use models who appear to be less than 25 years of age. On average,
17 consumers participating in the study estimated the age of the model in a Lucky Strike
18 advertisement as 20.3 years and the age of the female model in a Winston Lights
19 advertisement as 20.7 years. (Mazis, et al., p 22-37).

20 **Q. What does the Advertising Code expressly state about the representation of physical**
21 **activity in advertisements?**

22 A. The 1964 Advertising Code states: “Cigarette advertising shall not depict as a smoker and
23 person participating in, or obviously just having participated in, physical activity

1 requiring stamina or athletic conditioning beyond that of normal recreation.”

2 MNAT00608606-8614 at 8611 (U.S. Exhibit 21,228).

3 The 1990 Advertising Code states: “Cigarette advertising shall not depict as a smoker
4 who is or has been well known as an athlete, nor shall it show any smoker participating
5 in, or obviously just having participated in, a physical activity requiring stamina or
6 athletic conditioning beyond that of normal recreation.” 2070557669-7669 at 7700 (U.S.
7 Exhibit 20,519).

8 **Q. Have Defendants depicted physical activity in their advertisements?**

9 A. Yes.

10 **Q. Please explain.**

11 A. One of the more blatant examples is R.J. Reynolds’s use of downhill ski racers, kayakers,
12 windsurfers and other individuals participating in scenes of athletic achievement in its
13 Vantage cigarette advertisements. Also, Philip Morris’s advertisements depict the
14 Marlboro Man demonstrating athletic prowess through fast horseback riding and cattle
15 roping. Philip Morris documents confirm that Philip Morris’s approach is to show the
16 Marlboro Man in physical action beyond normal recreation. These internal documents
17 describe the Marlboro Man as extraordinary, the Marlboro Man is “hard-working,
18 fearless, and skillful.” For example, a document entitled “1999 Marlboro Mainline Print
19 Pool Research” states: “The Marlboro Man demonstrate[es] his expertise and skill, as no
20 one else could.” The document also indicates, “Shoot a Variety of Action Shots: The
21 Marlboro Man demonstrating his expertise and skill, as no one else could.” The page
22 also illustrates the kind of pictures that can demonstrate the special skills and expertise.
23 LB20300185-0210 at 0205-0206 (U.S. Exhibit 33,745).

1 **V. FRANK STATEMENT**

2 **Q. Please remind the Court of your conclusion about the Frank Statement.**

3 A. The 1954 advertisement commonly referred to as The Frank Statement was an effective
4 public relations strategy put forth by the cigarette industry because it allayed public
5 concerns about smoking and provided consumers a rationale for continuing to smoke.
6 The Frank Statement was a 1954 advertisement placed by Defendants in 448 newspapers
7 that reached an estimated circulation of over 43 million Americans. The message
8 conveyed by the tobacco companies persuaded many consumers that smoking was a safe
9 experience and provided a rationale for continuing to smoke. The Frank Statement
10 served as a preemptive strategy to allay consumers' concerns that smoking can cause
11 lung cancer in human beings. In publicizing the Frank Statement, the cigarette industry
12 provided the public with a counter argument to the concerns of smoking. The tobacco
13 industry prepared the public to resist current and future arguments that smoking causes
14 lung cancer. The advertisement and surrounding events served to reassure customers and
15 retain them as smokers.

16 **Q. Can you describe how the Frank Statement came about?**

17 A. The tobacco industry hired the public relations firm Hill & Knowlton to develop a public
18 relations program to counter the growing body of evidence that smoking caused cancer.
19 (Miller, 1999, pp. 121-145). On January 4, 1954, the tobacco industry announced the
20 creation of the Tobacco Industry Research Council (TIRC) through a newspaper
21 advertisement entitled, "A Frank Statement to Cigarette Smokers." A January 15, 1954
22 "Progress Report" indicated the advertisement ran in 448 newspapers in 258 cities across
23 the United States (including all cities with populations over 50,000), reaching an

1 estimated circulation of over 43 million people. TINY0001788-1791 (U.S. Exhibit
2 62,957).

3 **Q. What did the Frank Statement say?**

4 A. In part, the advertisement stated:

5 Distinguished authorities point out:

- 6 1. The medical research of recent years indicates many possible
7 causes of lung cancer.
- 8 2. That there is no agreement among authorities regarding what the
9 cause is.
- 10 3. That there is no proof that cigarette smoking is one of the causes.
- 11 4. That statistics purporting to link cigarette smoking with the disease
12 could apply with equal force to any one of many other aspects of modern
13 life. Indeed the validity of the statistics themselves is questioned by
14 numerous scientists.

15
16 We accept an interest in peoples health as a basic responsibility,
17 paramount to every other consideration in our business.

18
19 We believe the products we make are not injurious to health.

20
21 We always have and always will cooperate closely with those whose task
22 it is to safeguard the public health.

23
24 For more than three hundred years tobacco has given solace, relaxation
25 and enjoyment to mankind. At one time or another during these years
26 critics have held it responsible for practically every disease of the human
27 body. One by one these charges have been abandoned by lack of
28 evidence.

29
30 The Frank Statement further emphasized that the industry was responding to public
31 concern by establishing the TIRC to aid research efforts related to all phases of tobacco
32 use and health.

33 **Q. Please describe the strategy employed by the tobacco companies in the Frank**
34 **Statement.**

1 A. The advertisement effectively used a descriptive and detailed approach to respond to
2 growing concerns that smoking caused cancer. A company uses a descriptive approach
3 when the proposition it wishes to communicate to the consumer needs strong emphasis.
4 (Krugman et al., 1994, p. 367) (U.S. Exhibit 64,326).

5 **Q. Was the Frank Statement a public relations effort?**

6 A. Yes. I would categorize the Frank Statement as a type of public relations called advocacy
7 advertising. The purpose is to promote a sponsor's viewpoint on social, political or
8 economic issues in an effort to gain attitudinal or behavioral support for the sponsor's
9 interest. (Krugman et al., 1994, p. 544) (U.S. Exhibit 64,326).

10 **Q. How did the Frank Statement reassure smokers and keep them smoking?**

11 A. The descriptive copy in the advertisement offered several reasons why smokers or
12 potential smokers should not be concerned about the risks or dangers of smoking. The
13 advertisement provided ample justification by sending the message that it is reasonable to
14 continue smoking and that a person should not be concerned about smoking and lung
15 cancer because "all the evidence is not in." The Frank Statement also clouded and
16 downplayed the dangers of smoking by touting the creation of TIRC and promising to
17 keep health paramount in all of its efforts. Finally, the Frank Statement provided an
18 excellent rationalization for an individual to continue smoking (Miller, 1999, p. 144).
19 Experts have noted the role of such information in reducing dissonance with respect to
20 cigarette smoking. (Solomon, 1992, p. 142) (U.S. Exhibit 64,255); (Festinger, 1957, p. 6)
21 (U.S. Exhibit 64,281).

22 **Q. Is there any literature that supports your conclusion?**

1 A. Yes. Dr. Karen Miller’s book, “The Voice of Business, Hill & Knowlton and Postwar
2 Public Relations,” which was published by the University of North Carolina Press, a
3 prestigious publisher in the area of history. Dr. Miller’s book assessed the tobacco
4 industry and Hill & Knowlton’s public relations and advertising campaigns. Dr. Miller
5 singles out the Frank Statement as a particularly effective public relations strategy. She
6 also explains that health groups were at a disadvantage at the time the Frank Statement
7 was published because they did not possess the organized persuasion skills of the tobacco
8 industry: “It [The Frank Statement] assured the manufacturers of high visibility, full
9 quotation, and freedom from adulteration, and it gave the industry a single, coherent
10 voice. Newspapers quoted from the ad extensively when they wrote stories about the
11 new committee [TIRC]. The health groups undertook no similar activities.” (Miller,
12 1999, p.144.).

13 **Q. Did Defendants use the Frank Statement as a part of a public relations effort?**

14 A. Yes. Tobacco industry documents confirm the public relations role. In referring to
15 TIRC’s successor organization, Council for Tobacco Research (CTR), a 1974 Lorillard
16 memo from A.W. Spears (Lorillard’s Director of Research) to C.H. Judge (President of
17 Lorillard) states that joint funded smoking and health research programs have not been
18 selected against scientific goals, but rather for various purposes such as public relations,
19 political relations and position for litigation. The memo further states that the programs
20 provided some buffer to public and political attack. 91799125-9129 at 9127 (U.S.
21 Exhibit 57,107). A 1978 memo from Ernest Peeples (B&W’s Vice-President and
22 General Counsel) to J.E. Eans, C.I. McCarty, I.W. Hughes, and Debraun Bryant, notes,

1 “Originally, CTR was formed as a public relations effort.” 680212421-2423 at 2422
2 (U.S. Exhibit 54,024).

3 **Q. Did Defendants conclude that the Frank Statement was an effective advertisement?**

4 A. Yes. The Frank Statement and surrounding public relations events were deemed highly
5 successful by the tobacco industry. A January 15, 1954 “Progress Report” discussed the
6 wide circulation of the Frank Statement advertisement and concluded that no other
7 advertisements were necessary because all groups, with the exception of the foreign
8 press, had been reached. The report further stated that telegrams received about the
9 advertisement ran two to one in favor of tobacco, and the press release announcing the
10 formation of the Tobacco Industry Research Committee was “given national distribution
11 and was widely covered by newspaper, radio, TV and the magazines.” TINY0001788-
12 1791 (U.S. Exhibit 62,957).

13 **VI. WARNINGS**

14 **Q. Dr. Krugman, do Defendants discuss the warning labels in cigarette advertising in
15 their Findings of Fact?**

16 A. Yes. The tobacco companies refer to the warning labels numerous times. They claim
17 that the warnings are “health information” and that they amount to an “express message
18 that [cigarettes] are dangerous.” They also claim that “polling data show even teenagers
19 who smoke nearly universally believe” these warnings. I quote:

20 Reynolds’ cigarette brands - regardless of their brand style . . . carry the same
21 warning mandated by Congress. . . . Thus, Reynolds’ brands carry an express
22 message that they are dangerous.
23

24 Defendants’ Final Proposed Findings of Fact (R. 3416; filed July 1, 2004) at Chapter 12,

25 ¶ 388

1 Plaintiff's unsupported theory assumes, without credible evidence, that cigarette
2 advertising not only causes youth to start smoking but that it does so by negating
3 the health information available from myriad sources, . . . including the warnings
4 that have appeared on every cigarette pack since 1966 and every cigarette
5 advertisement since 1972, which polling data show even teenagers who smoke
6 nearly universally believe.
7

8 Defendants' Final Proposed Findings of Fact (R. 3416; filed July 1, 2004) at Chapter 13,
9 ¶ 146.

10 **Q. Have Defendants offered an expert witness on the issue of warning labels?**

11 A. Yes. In his expert report, Richard Semenik states that the cigarette warning labels are not
12 undermined by images in cigarette advertising.

13 **Q. What question have you considered regarding the warning labels on Defendants'**
14 **cigarettes?**

15 A. I have considered the question of whether the current warning labels in all cigarette
16 advertisements are effective.

17 **Q. And what have you concluded?**

18 A. The current mandated rotated warning labels are inadequate to convey important
19 information to prospective consumers, including the nature and extent of the health risk
20 of smoking, how harmful the consequences of smoking are, and what type of harm could
21 ensue from smoking. To be considered effective, within the context of the advertising
22 and promotion for cigarettes, warnings must be of sufficient conceptualization and
23 execution to convey the hazards of smoking. The warnings must be visible, readable, and
24 must convey the seriousness of the hazard in a manner that realistically allows consumers
25 to process the information.

26 **Q. When were warnings first implemented?**

1 A. The Federal Cigarette Labeling and Advertising Act of 1965 mandated cigarette warnings
2 for all packages that read, “Caution: Cigarette Smoking May be Hazardous to Your
3 Health.” In an attempt to strengthen the warning, the Public Health Cigarette Smoking
4 Act of 1969 changed the wording to “Warning: The Surgeon General Has Determined
5 That Cigarette Smoking Is Dangerous To Your Health.” Although the 1965 act is titled
6 the Labeling and Advertising Act, the warnings were not required on advertising at that
7 time.

8 **Q. Were the warnings subsequently applied to advertising as well as packaging?**

9 A. Yes. In 1972 the Federal Trade Commission (FTC) obtained consent orders from six
10 major cigarette companies, “requiring all cigarette advertising to display clearly and
11 conspicuously the same warning that Congress already had required on cigarette
12 packages.” At that time, little was known about the way that people would respond to
13 mandated cigarette warnings, and there were no specific criteria for assessing warning
14 effectiveness and, hence, no monitoring of warning impact.

15 **Q. Were the 1965 warnings criticized?**

16 A. A 1981 FTC staff report entitled “Staff Report On The Cigarette Advertising
17 Investigation” concluded “that a substantial portion of consumers do not understand the
18 health hazards of smoking.” Moreover, the report concluded that even if consumers were
19 aware that smoking is hazardous, many did not possess enough information on smoking
20 to understand how dangerous it is to their health. Illuminating the difference between a
21 general awareness and specific understanding of the consequences of smoking is
22 important because it points out the limitations of the warning. The 1981 report stated that
23 the existing mandated warning was likely to be ineffective because it: 1) is overexposed

1 and worn out and no longer read or noticed by most Americans exposed to cigarette
2 advertising; 2) lacks novelty and therefore does not draw attention; 3) is too abstract and
3 therefore not readily transformed into mental images; and 4) lacks personal relevance
4 which is meaningful to people. (U.S. Exhibit 62,822).

5 **Q. Were the 1965 warnings changed?**

6 A. Yes. In 1984, Congress passed the Comprehensive Smoking Education Act, mandating a
7 system of four rotated warnings for cigarette packages and print advertisements. Even
8 after the move to four rotated warnings, the general appearance of the warnings in
9 cigarette packaging and advertising has remained the same. Warnings still consist of a
10 box, bordered in black with black letters on a white background, located on the side of
11 the package or the periphery of the advertisement.

12 **Q. Do you think that the change in the warnings in 1984 solved the problems noted by
13 the FTC in its 1981 report?**

14 A. No. The concerns noted by the FTC 1981 report remain valid today. There is a genuine
15 difference between having warning information available on the package and in the
16 advertisements and the impact of such information. One peer reviewed study published
17 in 1994 concluded that it is important to understand both how consumers think about risk
18 and how to communicate risk in the context of consumer products. (Stewart and Martin,
19 1994) (U.S. Exhibit 64,235).

20 **Q. Do the current warnings meet the standards for being effective you describe?**

21 A. No. The warning labels used in cigarette advertising between 1970-1984, and the four
22 rotating warnings used since 1984, fail to meet these requirements. The rotating
23 warnings are a box containing black letters on a white background, which constitute less

1 than 5% of the advertisement. The warnings are overshadowed by advertising text and
2 imagery indicating that cigarette smoking is an attractive and appropriate behavior.

3 **Q. What is the basis for your conclusion?**

4 A. It is based on my own research, using focus groups, tachistoscope, eye tracking, masked
5 recall, and recognition tests.

6 **Q. Was this research published?**

7 A. Yes, as I stated at the beginning of this testimony, the research led to two peer reviewed
8 publications in the journals Tobacco Control and The Journal of Advertising Research.

9 Additionally, an overview piece on “What Does It Take To Warn” was published in the
10 Journal of Health Communication.

11 **Q. What did you conclude from this research?**

12 A. First and foremost, we learned that the existing, mandated warnings were not particularly
13 effective. While people can tell you that it’s a warning, for the most part, they cannot
14 understand or conceptualize what the existing warning has indicated. It is my belief,
15 based on this data, that people have essentially learned not to look at the existing
16 warnings. In many cases adolescents do not process the mandated warnings at sufficient
17 levels to merit those warnings effective. This is completely understandable when we
18 recognize that the basic format of the warnings has not changed since their inception.
19 The current warnings are a small, rectangular box with black letters on a white
20 background. It is extraordinarily difficult for this warning message to compete with the
21 more carefully crafted messages employed by the tobacco companies in their cigarette
22 advertising.

1 **Q. Let's discuss your research on cigarette warning labels in more detail. How did that**
2 **research begin?**

3 A. In 1987, I was contacted by Earl Berman, who at that time was a medical student at the
4 Medical College of Georgia working with Dr. Paul Fisher, a faculty member and medical
5 doctor at that college. They asked if I was interested in researching the effectiveness of
6 the cigarette warning labels with respect to teenagers.

7 **Q. What was your response to Mr. Berman?**

8 A. I was very interested in the opportunity to employ mass communication research
9 techniques to a different area, namely the cigarette warnings. After meeting with the
10 people at the Medical College of Georgia, I agreed to work on the project.

11 **Q. What research work did the project entail?**

12 A. The original work investigated the amount of time adolescents spent looking at cigarette
13 warnings and their recognition of such warnings. Results revealed that adolescents were
14 really not spending that much time looking at the cigarette warnings. What we found is
15 that adolescents were spending much more time looking at the cigarette advertisements
16 compared to the warning and that these same adolescents had a difficult time
17 remembering what was in the warning. Naturally, this was understandable given the
18 image-oriented advertisements versus the small, text-based warnings. However, I
19 became intrigued with understanding the process of what it takes to warn somebody.

20 **Q. Was this research published in a peer reviewed journal?**

21 A. Yes, this work was published in the Journal of the American Medical Association.

22 **Q. Did you perform follow up research?**

1 A. Yes. We wanted to investigate this phenomenon in much greater detail. We applied for
2 and received a grant from the American Cancer Society to enable us to use multiple
3 methods to further investigate the effectiveness of warnings. I was the lead person at the
4 University of Georgia working on the project that was centered at the Medical College of
5 Georgia. The project involved a more broad-based study design to compare existing
6 cigarette warning labels with newly constructed warning labels. The idea behind the
7 project was to see if we could develop more effective warnings vis-a-vis the application
8 of traditional marketing communication methods. In other words, we wanted to treat the
9 mandated warnings as an advertising/marketing communication campaign.

10 **Q. How did you go about this?**

11 A. Within this project, we employed professional designers to develop some additional,
12 alternative warnings that were more visually pleasing than the original government
13 mandated messages. An initial set of focus groups with adolescents in the Atlanta area
14 were used to inquire about teenage smoking and both the existing warnings and ideas for
15 new warnings. Information from this set of focus groups was utilized by the designers to
16 develop new warnings within the context of existing advertisements. These new
17 warnings were tested against the existing warnings in a second set of focus groups among
18 adolescents.

19 **Q. What were your findings?**

20 A. Information from the second set of focus groups allowed the designers to develop new
21 warnings which could be tested against existing warnings. Two separate sets of tests
22 were conducted. One set involved using eye-tracking followed up by recognition and
23 recall tests to examine how much time adolescents spent on new warnings versus existing

1 warnings and, as importantly, how quickly adolescents focused on new warnings versus
2 existing warnings. Additionally, these same adolescents were tested as to the amount of
3 information they could recognize and recall in new versus mandated warnings.

4 Outcomes indicated that adolescents exposed to the newly designed warnings generally
5 focused on those warnings more quickly than adolescents exposed to the existing
6 warnings. Moreover, the new warnings resulted in a better understanding of what
7 actually was stated in the warnings themselves. Basically, the new warnings were
8 attended to more quickly and produced better recognition and recall of their actual
9 contents.

10 **Q. What was the other set of tests?**

11 A. The other set of tests involved using tachistoscopes and recall and recognition tests to
12 examine within another framework whether the new warnings were more effective than
13 the existing warnings. The tachistoscope allowed us to determine how long it takes for
14 an adolescent to perceive whether a warning is present in a message. Similar to the eye-
15 tracking study, the tachistoscope subjects were tested as to the amount of information
16 they could recognize and recall in new versus mandated warnings. Findings revealed
17 that, under these conditions, adolescents were better able to identify the concept of the
18 warning in situations where they were presented the new warning versus the existing
19 warning. Additionally, the new warnings were better at communicating specific warning
20 information about the risks of smoking.

21 **Q. What did your studies conclude?**

22 A. The above two studies confirmed that the current mandated warnings are worn out and
23 lack the conceptualization and execution necessary for communicating the dangers of

1 cigarette smoking effectively. The new warnings that we developed and tested against
2 the mandated warnings demonstrate that thoughtfully developed disclosures are
3 significantly more effective with respect to communicating specific dangers, gaining
4 attention faster, and garnering higher levels of attention.

5 **Q. What else did you learn through this research?**

6 A. Current warnings are at a disadvantage relative to positive brand messages because the
7 former have fewer cues to rely on at the time of purchase. An earlier report indicates that
8 the retail environment provides numerous brand cues that stimulate and aid the
9 recognition of brand information, yet the current warnings have few, if any, cues to assist
10 in spontaneous recall of the message at the time of purchase. (Cohen & Srull, 1980) (U.S.
11 Exhibit 64,236).

12 **Q. As a result of your research, what did you conclude?**

13 A. It is difficult for black and white warnings that are not updated to compete with the
14 artfully developed imagery created by the tobacco companies. It is quite understandable
15 that worded elements such as the warnings are not well remembered within the context of
16 visually oriented cigarette advertisements. Warnings would greatly benefit from the
17 same techniques that are designed to effectively communicate commercial messages.
18 Current warnings are worn out, lacking novelty and personal relevance. In many cases,
19 people have learned not to look at a warning that appears in advertising. People know a
20 warning is present in an advertisement but do not necessarily pay attention to the
21 warning's content. Warnings would be more effective if they were targeted to specific
22 groups, novel, simple, and tested in advance for efficacy. (Krugman, Fox and Fischer,
23 1999) (U.S. Exhibit 64,237). Finally, warnings would be enhanced if integrated into

1 larger communication programs where they would have the opportunity to reinforce other
2 messages.

3 **Q. What do you mean by reinforce?**

4 A. When you go into a retail store, for example, you see visual stimuli that resurrect in your
5 mind the other advertisements you have seen in the past. This is similar to the Newport
6 example I showed earlier. Cigarette warnings are not well reinforced at retail or in other
7 locations. Nothing at a retail store satisfactorily reminds you to think about the warning.
8 The same thing is not true for tobacco brand marketing. The MMWR report that I noted
9 earlier reported a study which investigated several forms and levels of pro-tobacco
10 messages including – tobacco product placement (self service versus clerk assisted);
11 promotions (multi-pack cents off discounts and gift with purchase offers); tobacco
12 branded functional objects (free items provided by the industry such as counter change
13 mats and shopping baskets displaying the company's logo; presence of exterior and
14 interior advertisements (such as those indicating special prices); presence of low height
15 interior advertising or advertisements directly in the line of sight of very young children
16 (at a height of < 3 ½ feet above the floor); and tobacco-control signage (such as industry-
17 sponsored, health warnings or messages indicating that identification is required to
18 purchase tobacco products). The MMWR report confirms that retail environments
19 frequented by teenagers heavily promote tobacco use through various forms of promotion
20 both inside and outside the store. The MMWR report helps to illustrate the point that the
21 current mandated warnings work in a much more isolated fashion than the advertising
22 and promotion of the tobacco companies. (MMWR, March 8, 2002) (U.S. Exhibit
23 64,234).

1 **Q. In summary, what is your conclusion about warnings?**

2 A. In my estimation, cigarette warnings in advertising have not been effective in
3 communicating the dangers of smoking to adolescents.

4 **Q. Thank you, Dr. Krugman.**

Demonstrative 17,499: Defendants' Documents Referenced in Dr. Krugman's Testimony

Key Word	U.S. Ex. #/ Bates #	Company	Title	Date	Author	Recipient	Document Type	Comments/Quotes
Creation of Awareness	U.S. Ex. 20,973 670624652-4705	B&W	Kool Strategic Brand Plan	1981	N/A	N/A	Brand Plan	"The research will track smokers' awareness of Kool's styles, their image of them and trial of both Kool and competitive brands."
Creation of Awareness	U.S. Ex. 21,439 170011229-1246	B&W	Kool Brand Promotion Plan	1977	N/A	N/A	Promotion Plan	"Promotion Objectives": "To increase overall Kool brand awareness among all smoker groups" at 1229 "The brand and its selected styles will be promoted recognizing the following: Importance of the <u>total</u> brand and its overall awareness level among the young." at 1230
Creation of Awareness	U.S. Ex. 21,449 2023177676-7709	PM	Presentation to Hamish Maxwell	November 19, 1985	N/A	N/A	Presentation	"Newport is particularly attractive to very young smokers because of its emphasis on peer group acceptability" at 7702
Creation of Awareness	U.S. Ex. 21,440 507278143-8195	RJR	"Heroic Camel" Advertising Test	March, 1988	N/A	N/A	Report	"Research Objectives": "To assess the emotional response generated by the advertising among target and franchise smokers." at 8146
Creation, Development, Importance of Image	U.S. Ex. 21,475 502987357-7368	RJR	Some Thoughts About New Brands of Cigarettes for the Youth Market	February 2, 1973	Claude Teague	N/A	Research Planning Memo	"Assuming that at some point marketing people will establish a name and image for a new youth brand . . . then Research and TPD should be able to provide the product needed." at 7367
Creation, Development, Importance of Image	U.S. Ex. 20,647 500723696-3718	RJR	Originals for Turk Test Market Proposal	May 4, 1973	N/A	N/A	Presentation	"Strategy": "Marketing": "Develop an image/aura around the Brand that reflects the attitudes, values and lifestyle of young adult males." at 3709

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Key Word	U.S. Ex. #/ Bates #	Company	Title	Date	Author	Recipient	Document Type	Comments/Quotes
Creation, Development, Importance of Image	U.S. Ex. 21,442 501893498-3503	RJR	What causes smokers to select their first brand of cigarette?	July 3, 1974	D.W. Tredennick	F.H. Christopher, Jr.	Memo	"Marlboro is often selected initially because (a judgment) its advertising has consistently communicated a manly, tough confident user image and smoking characteristics consistent with this image." at 3503
Creation, Development, Importance of Image	U.S. Ex. 21,444 503969372-9414	RJR	Camel Creative Exploratory	January 3, 1986	N/A	N/A	Report	"Camel Positioning Statement": "Camel is an up-to-date, smooth and satisfying cigarette for younger adult male smokers who want to express a confident, independent and adventurous attitude . Camel smokers should be viewed as members of an in-group to which their peers aspire to belong." at 9400 (emphasis added)
Creation, Development, Importance of Image	U.S. Ex. 79,096 503969238-9242	RJR	Camel New Advertising Campaign Development	March 12, 1986	R.T. Caufield	D.N. Iauco	Memo	"Copy Strategies": "Cool Attitude . . . Rationale: Aspiration to be perceived as cool/a member of the in-group is one of the strongest influences affecting the behavior of younger adult smokers." at 9241
Creation, Development, Importance of Image	U.S. Ex. 20,764 506768775-8784	RJR	Camel Advertising Development "White Paper"	1987	N/A	N/A	White Paper	"Camel's current existing market image (i.e., brand perceptions, not advertising perceptions) includes aspects that are highly consistent with the wants of younger adult males, and have a strong fit with what Camel has always stood for." at 8779
Creation, Development, Importance of Image	U.S. Ex. 21,443 506870492-0493	RJR	Current/Projected Perceptions of Camel Among Target Smokers	December 8, 1988	S.L. Snyder	E.J. Fackelman	Memo	"Camel's advertising traditionally projected an image of a rugged man who is independent." at 0492

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Key Word	U.S. Ex. #/ Bates #	Company	Title	Date	Author	Recipient	Document Type	Comments/Quotes
Creation, Development, Importance of Image	U.S. Ex. 20,775 507257278-7281	RJR	Camel Creative Exploratory Focus Groups	November 27, 1989	Charlee Taylor-Hines	Brown; Haines; Maclise; Mezzine; Terzis	Memo	Describing the “types of things which seem to appeal most to our target prospects: . . . They seem drawn by the bright colors, fun and irreverent tonality. . . . They enjoy the fantasy aspects which lets their imaginations run free.” at 7280 The “research suggests: . . . The ‘Leader of the Pack’ execution had the kind of appeal which spans a broad spectrum of target smokers.” at 7280
Creation, Development, Importance of Image	U.S. Ex. 20,789 507798137-8230	RJR	U.S. Cigarette Market in the 1990's	June 21, 1990	N/A	N/A	Report/ Study	“By contrast, the high interest/low savings brand adoption among 18-24 year old smokers suggests imagery will be key to attracting this group.” at 8179 “18-24 year old smokers focused on image/pleasure.” at 8181 “Among adult smokers 18-24. . . . Key attribute improvements demonstrate relevance of imagery communication consistent with emerging trend.” at 8207
Creation, Development, Importance of Image	U.S. Ex. 23,010 507490339-0354	RJR	Camel Advertising Overview	December 4, 1990	Young & Rubicam	N/A	Report	“Camel Marketing Strategy”: “To build preference by leveraging Camel’s appeal among 18-34 smokers, particularly those with an ‘irreverent, less serious’ mind set, gradually breaking down the pervasive peer acceptance of Marlboro.” at 0343
Creation, Development, Importance of Image	U.S. Ex. 30,312 516442572-2588	RJR	Camel Communications Planning	January 29, 1996	Mezzina/ Brown Inc.	N/A	Report	“Build the character equity with images that evoke the ‘spirit’ of the open road: Freedom, Rebellion, Adventure, Escape.” at 2581
Creation, Development, Importance of Image	U.S. Ex. 20,973 670624652-4705	B&W	Kool Strategic Brand Plan	circa 1981	N/A	N/A	Brand Plan	“The need, then, is to revitalize Kool as a product representing the best in relevant product and smoker image qualities in a vibrant and contemporary manner.” at 4656

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Key Word	U.S. Ex. #/ Bates #	Company	Title	Date	Author	Recipient	Document Type	Comments/Quotes
Creation, Development, Importance of Image	U.S. Ex. 21,450 2042276211-6238	PM	Marlboro Lowered Tar/Ultra Lights	December 8, 1986	Elizabeth Twomey	Nancy Lund	Memo	"Over the years, Marlboro has worked very hard at establishing its rugged, full flavor image, an image which is extremely appealing to the younger smoker." at 6212
Creation, Development, Importance of Image	U.S. Ex. 21,449 2023177676-7709	PM	Presentation to Hamish Maxwell	November 19, 1985	N/A	N/A	Presentation	"A Word About Marlboro": "Marlboro's traditional area of strength has, of course, been young people because the principal message its imagery delivers is independence. For young people who are always being told what to do, the Marlboro Man says 'I'm in charge of my life.'" at 7704
Creation, Development, Importance of Image	U.S. Ex. 20,033 01124257-4265	Lorillard	Lorillard Sales Position	September 15, 1964	M. Yellen	M.J. Cramer	Memo	"Very important, however, is that whatever direction the manufacturer takes in attempting to secure an 'image' for his product, he must make certain that the execution of his advertising and selling philosophy relates to the image he is attempting to acquire for the product." at 4258 "The brand [Newport] was marked as a 'fun cigarette' . . . It was advertised as such and obtained a youthful group as well as an immature [sic] group of smokers." at 4262
Creation, Development, Importance of Image	U.S. Ex. 21,604 and 34,481 01110991-1032	Lorillard	Replies to 5-Year Plan Questionnaire	August 11, 1981	Tom H. Mau	9 other Lorillard employees	Memo and attached Replies	"Lorillard advertising must not be typical tobacco advertising. Advertising should work to build an image (not personality) for each brand that consumers feel good about." at 1007
Integrated Marketing Communication	U.S. Ex. 51,221 507546706-6805	RJR	Are Younger Adult Smokers Important?	1984	N/A	N/A	Report/Presentation	"A marketer can select among 3 alternatives. . . : -As the total marketing effort. -Use selected elements of the marketing mix to target the sex theme to FUBYAS only. -Use the learning defensively, i.e., execute relevant marketing efforts." at 6780

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Key Word	U.S. Ex. #/ Bates #	Company	Title	Date	Author	Recipient	Document Type	Comments/Quotes
Integrated Marketing Communication	U.S. Ex. 51,167 507305610-5698	RJR	Younger Adult Smokers: Strategies and Opportunities	February 29, 1984	Diane S. Burrows	G.H. Long; M.L. Orlowsky; H.J. Lees	Strategic Research Report	"RJR should make resources available to develop/improve its capabilities to thoroughly identify and track demographics, values/wants, media effectiveness, and brand performance within sectors of the younger adult smoker population . . . brand development/management should encompass all aspects of the marketing mix" at 5653
Integrated Marketing Communication	U.S. Ex. 51,123 507102470-2482	RJR	Camel 1989 Big Idea	1989	N/A	N/A	Report/Plan	"Tactical Outline:. . . All Elements of Marketing Plan: Innovative, Highly Impactful, Stopping Power" "One theme must incorporate 'Heroic Camel' creative concept." at 2479
Integrated Marketing Communication	U.S. Ex. 23,010 507490339-0354	RJR	Camel Advertising Overview	December 4, 1990	Young & Rubicam	N/A	Report	Camel "Brand had greater creative opportunity to be better than Marlboro at": "Linking itself, more closely . . . across <u>all consumer communications</u> ." Lists: "OOH/Print; Retail; Direct Marketing; Field Marketing; Special Events; Packaging." at 0351
Integrated Marketing Communication	U.S. Ex. 62,039 R0017302-7316	RJR	Camel Vision Debrief	June 14, 1995	N/A	N/A	Report	"Recommendations": "Take Proactive Measures Throughout the Marketing Mix" at 7307 "Entire Mix Must Communicate LFL to Maximize Trademark Power" at 7313
Integrated Marketing Communication	U.S. Ex. 30,312 516442572-2588	RJR	Camel Communications Planning	January 29, 1996	Mezzina/ Brown Inc.	N/A	Report	"On-Going Strategies:. . . Integrate all marketing tools to best exploit the strengths of each discipline." at 2575
Integrated Marketing Communication	U.S. Ex. 54,048 680559149-9162	B&W	Kool Family Utopian Objectives 1979-1985	circa 1978	N/A	N/A	Report/ Plan	Headings: "Advertising/Creative"; "Advertising/Media" – "Strategy. . . Shift emphasis in KSL media allocation and new high filtration styles from outdoor to print where readership is more appropriate."; "Promotion"; "Publicity."

Demonstrative 17,499: Defendants' Documents Referenced in Dr. Krugman's Testimony

Key Word	U.S. Ex. #/ Bates #	Company	Title	Date	Author	Recipient	Document Type	Comments/Quotes
Integrated Marketing Communication	U.S. Ex. 20,973 670624652-4705	B&W	Kool Strategic Brand Plan	circa 1981	N/A	N/A	Brand Plan	"Key Marketing Strategies: Marketing resources will be devoted to single-minded efforts supporting the entire Kool Family. Advertising creative will position the Kool Family as the positive epitome of menthol taste. . ." at 4654
Integrated Marketing Communication	U.S. Ex. 47,231 325097173-7222	BATCo		May 8, 2000				Category I (confidential)
Appealing to Peer Groups	U.S. Ex. 21,441 501276041-6056	RJR	Areas of Opportunity for R.J. Reynolds – 18-24 Year Old Smokers	January 11, 1980	J. Douglas Weber	G. Novak	Memo	"It appears then in comparing the very young to the young that social concerns play a prominent role in behavior" at 6043 Describing what "young adult males want": "At the same time, he feels vulnerable to the opinions of his peers. He resolves this by smoking the same brand as his peer group. Not only does this minimize risk of rejection, but also aids in creating a favorable self identity. Since young males seek peer acceptance, the user image they desire from a cigarette is young males, relatively like themselves." at 6044
Appealing to Peer Groups	U.S. Ex. 50,405 503497769-7772	RJR	A Perspective on Appealing to Younger Adult Smokers	February 2, 1984	R.J. Harden	A.M. Curry	Memo	Young adult transition: "To help himself through this transition, a younger adult looks for ways to express his: maturity . . . independence. At the same time, the younger adult is looking for the reassurance of his peers." at 7770 "Positioning": "There will always be a need to be accepted by your peers, while maintaining some degree of differentiation from older generations." at 7771

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Key Word	U.S. Ex. #/ Bates #	Company	Title	Date	Author	Recipient	Document Type	Comments/Quotes
Appealing to Peer Groups	U.S. Ex. 21,444 503969372-9414	RJR	Camel Creative Exploratory	January 3, 1986	N/A	N/A	Report	"Camel Creative Strategy – New Campaign": "Replacing Marlboro with Camel establishes the smoker as a member of a peer group that is on the leading edge." at 9404
Appealing to Peer Groups	U.S. Ex. 79,096 503969238-9242	RJR	Camel New Advertising Campaign Development	March 12, 1986	R.T. Caufield	D.N. Iauco	Memo	"The recommendation is based on consideration of the marketplace dynamics which are perpetuating Marlboro's growth (i.e. brand loyalty and peer influence)" at 9238 "Overall, Camel advertising will be directed toward using peer acceptance/influence to provide the motivation for target smokers to select Camel . . . convincing target smokers that by selecting Camel as their usual brand they will project an image that will enhance their acceptance among their peers." at 9238
Appealing to Peer Groups	U.S. Ex. 20,293 170043558-3593	B&W	What Have We Learned From People?	May 20, 1975	Conducted by: Marketing and Research Counselors	Conducted for: Ted Bates Advertising (used by B&W)	Research Report	"How Can We Introduce Starters and Switchers To Our Brand:. . . With only very few exceptions, young people start to smoke because of their peer group." at 3580
Appealing to Peer Groups	U.S. Ex. 21,460 2500002189-2207	PM	The Cigarette Consumer	March 20, 1984	N/A	N/A	Report/ Study	"People Begin Smoking": First reason listed is "Peer Pressure" at 2203
Appealing to Peer Groups	U.S. Ex. 76,182 2048677983-8044	PM	Young Adult Smoker Target: An In-Depth Look	September 22, 1989	prepared by Leo Burnett	prepared for PM USA	Report/ Study	"Key task at this stage is for target to establish own identity – To accomplish this, begin to separate from parents and identify more closely with peers." at 7995

Demonstrative 17,499: Defendants' Documents Referenced in Dr. Krugman's Testimony

Key Word	U.S. Ex. #/ Bates #	Company	Title	Date	Author	Recipient	Document Type	Comments/Quotes
Focus on Starters	U.S. Ex. 54,048 680559149-9162	B&W	Kool Family Utopian Objectives 1979-1985	circa 1978	N/A	N/A	Report/ Plan	“Demographic Objectives”: “Return the starter index to 11% by 1982 and maintain this level as the highest starter index in the industry.” at 9152 “Starter Index”: “Flight [sic] advertising pressure against high filtration styles in young adult skewed publications” at 9153
Focus on Starters	U.S. Ex. 21,439 170011229-1246	B&W	Kool Brand Promotion Plan	1977	N/A	N/A	Promotion Plan	“Promotions to Young”: “Since Kool is heavily oriented toward the young and the brand’s starter index is 10, it will benefit us long-term to develop promotion events that involve the young and especially, to convince the starter group to smoke Kool.” at 1245
Focus on Starters	U.S. Ex. 20,106 1000744089-4096	PM	Why People Start to Smoke	June 2, 1976	Al Udow	J.J. Morgan	Memo	Provides a summary of why people start to smoke
Generating Trial	U.S. Ex. 20,764 506768775-8784	RJR	Camel Advertising Development “White Paper”	1987	N/A	N/A	White Paper	“[Y]ounger adult smoker targeted promotions for Camel resulted in dramatic share growth of more than ten smoker share points among this group.” at 8778
Advertising Code	U.S. Ex. 37,114 2024262332-2448	PM	Philip Morris U.S.A. Five Year Plan 1985-1989	March 1985	N/A	N/A	Five Year Plan	“Advertising will be directed to smokers aged 18 to 34 with emphasis on magazines and billboards.” at 2369
Advertising Code	U.S. Ex. 38,301 2043535401-5503	PM	Philip Morris U.S.A. 1985-1989 Five Year Plan	July 31, 1985	N/A	N/A	Five Year Plan	“Brand Strateg[y]” for Marlboro was to “maintain leadership position in advertising.” In order to obtain that “leadership,” the tactic was to “expand use of promotions - target campaigns to smokers ages 18-34.” at 5427

Demonstrative 17,499: Defendants' Documents Referenced in Dr. Krugman's Testimony

Key Word	U.S. Ex. #/ Bates #	Company	Title	Date	Author	Recipient	Document Type	Comments/Quotes
Advertising Code	U.S. Ex. 37,044 2023743001-3024	PM	Marlboro 1987 Marketing Plan	September 15, 1986	Nancy Brennan	R. Stirlen	Memo	“Media plans should recognize that all smokers groups, with the exception of blacks and the over 65+ age group, are important to the Brand <u>Support against the primary Marlboro target audience, males 18-34, should be maintained at the 1986 level.</u> ” at 3006 (emphasis added)
Advertising Code	U.S. Ex. 38,690 2048473839-3926	PM	Virginia Slims Marketing Plan Executive Summary	1988	N/A	N/A	Plan	“ <u>Broadening Advertising . . . Specific target groups the brand should be reaching are 18-24 females . . .</u> ” at 3859 (emphasis added) “The overall objective of Virginia Slims event sponsorships are to extend the brand image and to obtain increased brand awareness through attendance and media coverage of events.” at 3866 The plan also discussed the Virginia Slims Resort Program which “ <u>is a sampling program targeted at females under 18-24 [in] Fort Lauderdale, Fla.; Daytona Beach, Fla.; and South Padre Island, Texas.</u> ” at 3867 (emphasis added)
Advertising Code	U.S. Ex. 37,540 2040737461-7465	PM	Virginia Slims Key Issues 1988 Marketing Plan	August 20, 1987	N/A	N/A	Marketing Plan	“ <u>Virginia Slims share of 18-21 females has declined from 9.3% to 8.0% Virginia Slims will be considering this problem during the development of all advertising and promotions for next year. . . . In media buying, there will be a slight shift, making sure that the magazines with younger demographics receive greater emphasis.</u> ” at 7463-7464 (emphasis added)
Advertising Code	U.S. Ex. 38,183 2041440386-0423	PM	PM Blues 1988 Marketing Plan	October 8, 1987	N/A	N/A	Marketing Plan	Reported a telephone tracking study that found that Philip Morris's brand PM Blues “ <u>enjoys higher levels of unaided brand and advertising awareness, trial and purchase among younger smokers (18-24).</u> ” at 0393 (emphasis added)

Demonstrative 17,499: Defendants' Documents Referenced in Dr. Krugman's Testimony

Key Word	U.S. Ex. #/ Bates #	Company	Title	Date	Author	Recipient	Document Type	Comments/Quotes
Advertising Code	U.S. Ex. 37,501 2040329942-9956	PM	Marlboro Five Year Plan	November 1989	N/A	N/A	Plan	Identified "the 18-24 year old smoker segment with a 58% share, continued opportunity exists and must be exploited." at 9943 Philip Morris' "Action Plan" for 1990-1994 was to "continue to invest in the young, adult male core franchise: continue to feature Marlboro Country imagery in advertising, strengthening and running predominantly a pool of Red Light ups, action shots, and Red roofs . . . deliver greatest reach, frequency and total advertising impressions against this audience." In contrast, the plan subsequently identified 21-24 year olds as the audience for Marlboro Light advertising. at 9945
Advertising Code	U.S. Ex. 38,703 2048571540-1649	PM	Philip Morris Marlboro 1987 Marketing Plan	October 21, 1986	Leo Burnett Company	Philip Morris	Marketing Plan	"Target Audience: . . . <u>Marlboro advertising should be directed within media which best reaches the current Marlboro smoker group: adults 18-34. Primary emphasis should be placed on the brands [sic] key audience, males 18-34 . . .</u> " at 1546 (emphasis added) The "primary target" for Marlboro were "persons 18-34" at 1553 (emphasis added) " <u>Marlboro ad awareness continues to be the highest in the cigarette category . . . Awareness very strong among primary target: Marlboro highest awareness (68%) is among smokers 18-24.</u> " at 1618 (emphasis added)
Advertising Code	U.S. Ex. 38,407 2045287048-7092	PM	Executive Summary Total Parliament Lights	1987	N/A	N/A	Plan	1988 strategy: " <u>target media and promotional programs primarily for 18-24 year old males and females.</u> " at 7070 (emphasis added) "Media Objectives . . . new marketing strategy" for Parliament was to " <u>shift media targeting to younger and dual audience -Target 18-49 with emphasis 18-24.</u> " at 7075 (emphasis added)

Demonstrative 17,499: Defendants' Documents Referenced in Dr. Krugman's Testimony

Key Word	U.S. Ex. #/ Bates #	Company	Title	Date	Author	Recipient	Document Type	Comments/Quotes
Advertising Code	U.S. Ex. 38,395 2045129218-9290	PM	Executive Summary	1990	N/A	N/A	Plan	"Executive Summary Parliament 1991 Media Plan," stated that the " <u>audience</u> " for Parliament's advertising was " <u>LA [Legal Age]-34, with an LA-24 emphasis.</u> " at 9245 (emphasis added)
Advertising Code	U.S. Ex. 21,494 500165434-5439	RJR	N/A	April 12, 1973	N/A	N/A	Marketing Group Memo	The need to use advertising in magazines read by younger people.
Advertising Code	U.S. Ex. 49,106 502305001-5010	RJR	Camel Filter Marketing Plan 1976-1978	1976-1978	N/A	N/A	Marketing Plan	"Target all marketing efforts directly at current and potential 85MM normal-flavor male smokers aged 18-34, with primary focus on the 18-24 age group." at 5004 "Since advertising is recognized as the most efficient and practical means of reaching and motivating the target market on a regional and national scale, it will receive the largest share of the Brand's marketing budget." at 5009
Advertising Code	U.S. Ex. 50,282 503014353-4476	RJR	Salem 1981 Annual Marketing Plan	July 31, 1980	N/A	N/A	Marketing Plan	"The style of SALEM's advertising will be contemporary, natural, realistic and impressive in its visual presentation projecting a user perception that SALEM is a brand for all menthol smokers (both men and women) who are modern, confident and young at heart regardless of their chronological age." Identified the " <u>Prime Prospect</u> " for this advertising as age 18-49. at 4419 (emphasis added)
Advertising Code	U.S. Ex. 21,566 500686301-6313	RJR	Younger Adult Smokers	October 23, 1980	Kay Duffy, R.J. Reynolds employee	L.W. Hall, Jr., Vice President of Brands Marketing	Memo	Individuals aged 18-34 are referred to as "media targets." at 6301

Demonstrative 17,499: Defendants' Documents Referenced in Dr. Krugman's Testimony

Key Word	U.S. Ex. #/ Bates #	Company	Title	Date	Author	Recipient	Document Type	Comments/Quotes
Advertising Code	U.S. Ex. 48,873-48,884 501447260-7402	RJR	Camel 1982 Annual Marketing Plan	1982	N/A	N/A	Marketing Plan	“Copy Strategy”: “CAMEL advertising will convince younger adult male smokers that CAMEL reflects an independent, adventurous, masculine user imagery.” The “target prospect” for this advertising was 18-24 year old male smokers. at 7348
Advertising Code	U.S. Ex. 49,181-49,195 5502656423-6660	RJR	Camel 1984 Annual Marketing Plan	August 25, 1983	N/A	N/A	Marketing Plan	“CAMEL spending will be <u>shifted in favor of advertising</u> in 1984,” and that this advertising would be aimed at the “brand’s defined <u>prime prospect</u> ” -- male smokers 18-34. at 6427 (emphasis in original) Description of a “major” “marketing/sampling” program “designed to impact concentrations of 18-34 year old male smokers . . . sampling will center on areas of younger adult lifestyle interest or venues such as nightclubs, pro sports, amateur sport leagues, beaches, ski resorts, concert halls . . .” at 6610
Advertising Code	U.S. Ex. 50,791 505275568-5595	RJR	Camel 1985 Younger Adult Plan	1985	N/A	N/A	Plan	Business objective: “establish growth for CAMEL among 18-24 year old smokers.” at 5569 To “halt SOM [share of market] declines and position brand for accelerated future growth,” the first strategy listed was to “target marketing elements and concentrate resources against younger adult male smokers 18-24.” This reflected a “key change versus current [plan]” because it “deleted secondary target of males 25-34.” at 5569 Under “Media,” the plan indicated that R.J. Reynolds had “ <u>reduced publication list to books with 25% or greater composition of males 18-24.</u> ” at 5570 (emphasis added)

Demonstrative 17,499: Defendants' Documents Referenced in Dr. Krugman's Testimony

Key Word	U.S. Ex. #/ Bates #	Company	Title	Date	Author	Recipient	Document Type	Comments/Quotes
Advertising Code	U.S. Ex. 50,739 505248648-8862	RJR	Camel 1986 Annual Marketing Plan	1986	N/A	N/A	Marketing Plan	"1986 Strategic Focus . . . accelerating brand growth among younger adult male smokers" by " <u>providing heavy, continuous media and promotion pressure against CAMEL's key demographic (18-24 males).</u> " at 8763 (emphasis added)
Advertising Code	U.S. Ex. 50,805 505327877-7918	RJR	1987 Camel Business Plan	June 20, 1986	N/A	N/A	Plan	The "overall strategic focus" for Camel in 1987 was to "reposition brand for accelerated long-term growth," by introducing "new advertising which fully exploits CAMEL's product and user assets to dramatically improve brand perceptions and performance among target competitive smokers." The stated "prime prospect" for this new advertising were "18-34 year old male smokers." at 7892-7893
Advertising Code	U.S. Ex. 50,794 505325957-5968	RJR	General Market Media Plan	October 1, 1986	N/A	N/A	Media Plan	"Media Strategies" for 1987 indicated that "CAMEL's 1987 target has been expanded from 18-24 to 18-34 male smokers." at 5959
Advertising Code	U.S. Ex. 50,918 506563374-3437	RJR	Younger Adult Smokers	1987	N/A	N/A	Report/ Plan	Developing competing marketing strategies to reach those aged 18-20.
Advertising Code	U.S. Ex. 20,764 506768775-8784	RJR	Camel Advertising Development "White Paper"	1987	N/A	N/A	White Paper	Advertising to appeal to the 18-24 market.
Advertising Code	U.S. Ex. 80,777 508748614-8614	RJR	N/A	1988	N/A	N/A	Video	Discusses advertising for 18 plus in several magazines such as <u>Rolling Stone</u> , <u>Penthouse</u> , <u>Sports Illustrated</u> , <u>Field & Stream</u> and <u>Hot Rod</u>

Demonstrative 17,499: Defendants' Documents Referenced in Dr. Krugman's Testimony

Key Word	U.S. Ex. #/ Bates #	Company	Title	Date	Author	Recipient	Document Type	Comments/Quotes
Advertising Code	U.S. Ex. 51,774 514101723-1733	RJR	Camel 1990 Business Plan	November 11, 1989	N/A	N/A	Plan	"Key Factors/Issues: . . . growth among YAS is obtainable/crucial, but is a longer term volume proposition -consumption -aging." Discussed YAS as ages 18-20, the <u>Camel Marketing Strategy was a "single-minded focus against YAS (males/females) with emphasis against males 18-20."</u> "Tactics" to accomplish this goal included retail POS and pack promotions, and media-delivered via magazines. at 1727-1732 (emphasis added)
Advertising Code	U.S. Ex. 66,499 513422757-2762	RJR	Selected Industry Information	April 4, 1990	P.E. Galyan, Marketing Research Department employee	J.J. Gangloff	Memo with attached industry information	"Adult smokers 18-24 are the only source of replacement smokers." at 2762
Advertising Code	U.S. Ex. 23,010 507490339-0354	RJR	Camel Advertising Overview	December 4, 1990	Young & Rubicam	N/A	Report	Advertising directed to the 18-34 market.
Advertising Code	U.S. Ex. 51,214 507488244-8275	RJR	1991 Camel Business Plan	1991	N/A	N/A	Plan	"The 'irreverent, less serious' mindset represents a shift from the 'independent idealistic' mindset that reflected the attitude of younger adults in the 1960's and which Marlboro effectively leveraged . . . It is heavily concentrated in the 18-34 age segment." at 8247
Advertising Code	U.S. Ex. 74,499 93307390-7427	Lorillard	Newport National Marketing Plan	1989	N/A	N/A	Marketing Plan	"Advertising": " <u>Maintain high brand awareness and impact among all target consumers (adults 18-34).</u> " at 7400 (emphasis added)

Demonstrative 17,499: Defendants' Documents Referenced in Dr. Krugman's Testimony

Key Word	U.S. Ex. #/ Bates #	Company	Title	Date	Author	Recipient	Document Type	Comments/Quotes
Advertising Code	U.S. Ex. 22,352 92011118-1156	Lorillard	Newport 1992 Strategic Marketing Plan	August 15, 1991	N/A	N/A	Marketing Plan	“Newport 1992 Media Strategies: . . . <u>Continue to effectively utilize OOH as the primary vehicle to deliver maximum reach and intrusiveness to the brand’s primary target – adult smokers 18-24</u> with secondary emphasis against adult smokers 25-34 years of age.” at 1134 (emphasis added)
Advertising Code	U.S. Ex. 74,433 91998594-8645	Lorillard	Newport 1993 Strategic Marketing Plan	September 14, 1992	N/A	N/A	Marketing Plan	“Newport 1993 Brand Positioning Statement: . . . Newport is the leading menthol cigarette brand among younger adult smokers . . . <u>positioned to appeal primarily to general market/ethnic adult smokers ages 18-24</u> , with secondary emphasis on ages 25-34.” at 8609 (emphasis added) “Media Strategies: . . . <u>national print advertising targeted to younger adult general market/ethnic smokers at high reach/frequency levels</u> ” and of <u>OOH</u> . at 8621 (emphasis added) “Media Executional Considerations: . . . <u>utilize print vehicles that offer maximum reach against the target audience</u> ,” specifying ages 21-34 with “ <u>skews 21-24</u> .” at 8624 (emphasis added)
Advertising Code	U.S. Ex. 74,503 93335995-6040	Lorillard	Newport 1993 Strategic Marketing Plan	October 15, 1992	N/A	N/A	Marketing Plan	Subsequent draft of previous plan contained the same brand positioning statement specifying Newport’s primary market as 18-24, and omitted the discussion of “Media Executional Strategies” directed at ages 21-34 that had been included in the previous draft. at 6003

Demonstrative 17,506: Race Series/Joyce Julius Data

CART Series					
Year	Television Viewership	Attendance			
1985	102,577,270	N/A			
1986	N/A	N/A			
1987	110,534,430	1,792,506			
1988	79,379,020	1,695,295			
1989	104,410,650	1,599,341			
1990	116,159,250	1,731,839			
1991	107,848,250	1,792,700			
1992	113,328,450	1,677,037			
1993	68,374,400	2,677,000			
1994	62,136,480	2,799,715			
1995	81,276,160	2,868,486			
1996	53,592,960	2,166,270			
1997	45,895,200	2,296,600			
1998	42,281,010	2,477,860			
1999	42,521,920	2,524,160			
2000	31,345,160	2,621,229			
2001	29,728,800	2,565,005			
2002	23,926,080	2,686,640			
Company (and brands)	Brand	Year	Time	Exposure Mentions	Value
American Tobacco Company					
	Newport	1989	0:02	0	\$ 3,000
					\$ 3,000
Brown & Williamson Tobacco Corp.					
	Kool	1997	8:09:35	15	\$ 9,634,350
	Kool	1998	6:30:09	263	\$ 7,697,180
	Kool	1999	4:29:50	61	\$ 8,415,285
	Kool	2000	4:24:12	74	\$ 6,914,160
	Kool	2001	2:35:31	37	\$ 5,337,615
	Kool	2002	5:37:26	162	\$ 4,488,110
					\$ 42,486,700
Philip Morris USA					
	Marlboro	1985	45:08	0	\$ 819,195
	Marlboro	1986	2:22:51	62	\$ 3,470,655
	Marlboro	1987	2:23:09	101	\$ 4,792,880
	Marlboro	1988	3:55:49	231	\$ 5,467,920
	Marlboro	1989	3:26:50	146	\$ 8,431,210
	Marlboro	1990	3:43:43	80	\$ 9,697,650
	Marlboro	1991	6:31:34	199	\$ 13,184,120
	Marlboro	1992	6:01:47	145	\$ 10,476,925

Demonstrative 17,506: Race Series/Joyce Julius Data

CART Series (continued)					
	Marlboro	1993	5:39	52	\$ 15,042,945
	Marlboro	1994	6:41	149	\$ 17,566,460
	Marlboro	1995	6:22:03	28	\$ 11,506,820
	Marlboro	1996	8:07:26	86	\$ 7,908,900
	Marlboro	1997	7:50:34	52	\$ 8,724,010
	Marlboro	1998	5:18:51	119	\$ 6,309,360
	Marlboro	1999	1:28:37	2	\$ 2,800,400
	Marlboro	2000	5:58:07	21	\$ 8,843,260
	Marlboro	2001	3:29:21	5	\$ 6,510,780
	Marlboro	2002	0:31	3	\$ 6,830
	Philip Morris	1988	0:00	3	\$ 1,835
	Philip Morris	1992	0:33	0	\$ 11,980
	Philip Morris	1994	0:05	1	\$ 2,450
	Philip Morris	2000	0:00	2	\$ 5,500
	Player's	1986	28:13	0	\$ 169,430
	Player's	1987	5:21	0	\$ 267,500
	Player's	1988	3:30	0	\$ 175,000
	Player's	1989	2:42	0	\$ 148,500
	Player's	1990	18:36	0	\$ 104,260
	Player's	1991	47:26	0	\$ 449,465
	Player's	1992	45:32	0	\$ 1,105,335
	Player's	1993	22:13	0	\$ 775,495
	Player's	1994	1:12:20	18	\$ 2,642,075
	Player's	1995	2:18:02	24	\$ 4,371,160
	Player's	1996	2:40:58	47	\$ 2,658,675
	Player's	1997	3:57:47	34	\$ 4,429,180
	Player's	1998	4:32:20	153	\$ 5,451,115
	Player's	1999	1:27:48	37	\$ 3,409,855
	Player's	2000	2:15:20	58	\$ 3,381,145
	Player's	2001	1:39:16	92	\$ 3,414,445
	Player's	2002	4:47:18	302	\$ 4,624,080
					\$179,158,800
RJ Reynolds Tobacco Company					
	Camel	1986	15:25	0	\$ 77,740
	Camel	1987	40:38	13	\$ 213,320
	Camel	1988	12:57	6	\$ 71,240
	Camel	1989	8:00	0	\$ 46,250
	Camel	1990	14:22	22	\$ 112,250
	Camel	1991	10:41	2	\$ 91,185
	Camel	1992	10:41	0	\$ 101,315
	Camel	1993	13:14	0	\$ 132,330
	Camel	1994	0:06	0	\$ 1,160
	Camel	1997	0:03	0	\$ 1,165
	Camel	1998	0:09	0	\$ 3,500
	Camel	1999	0:02	0	\$ 550
	Camel	2000	0:02	0	\$ 550
	Monarch	1992	0:08	0	\$ 1,130

Demonstrative 17,506: Race Series/Joyce Julius Data

CART Series (continued)					
	R.J. Reynolds	1988	0:05	0	\$ 4,165
	Winston	1986	6:18	5	\$ 38,995
	Winston	1987	6:35	13	\$ 345,080
	Winston	1988	8:25	29	\$ 247,525
	Winston	1989	0:23	8	\$ 29,900
	Winston	1990	2:00	10	\$ 70,665
	Winston	1991	4:26	21	\$ 94,600
	Winston	1992	0:05	10	\$ 30,950
	Winston	1993	1:47	23	\$ 105,335
	Winston	1994	0:01	14	\$ 49,200
	Winston	1995	0:00	7	\$ 90,000
	Winston	1996	0:00	22	\$ 36,665
	Winston	1997	0:00	32	\$ 98,330
	Winston	1998	3:28	43	\$ 173,665
	Winston	1999	3:01	50	\$ 237,250
	Winston	2000	3:46	18	\$ 108,195
	Winston	2001	0:24	7	\$ 48,150
	Winston	2002	9:16	66	\$ 114,820
					\$ 2,777,175

Demonstrative 17,506: Race Series/Joyce Julius Data

NHRA Pro Drag Racing					
Year	Television Viewership	Attendance			
1986	50,818,860	846,263			
1987	99,685,040	1,102,950			
1988	83,784,200	1,204,300			
1989	92,334,200	1,492,152			
1990	81,670,450	1,649,700			
1991	61,288,980	1,617,400			
1992	58,147,830	2,241,785			
1993	39,946,720	1,651,153			
1994	33,011,440	1,776,800			
1995	40,034,720	1,921,400			
1996	37,270,880	1,972,700			
1997	22,833,586	2,288,396			
1998	23,772,396	2,376,600			
1999	30,327,550	2,426,956			
2000	29,792,154	N/A			
2001	53,724,229	N/A			
2002	28,151,191	N/A			
Company (and brands)	Brand	Year	Time	Exposure Mentions	Value
Brown & Williamson Tobacco Corp.					
	Kool	2001	0:14	-	\$ 1,640
					\$ 1,640
Philip Morris USA					
	Marlboro	1989	0:10	-	\$ 2,265
	Marlboro	2001	1:05	-	\$ 6,920
					\$ 9,185
RJ Reynolds Tobacco Company					
	Camel	1987	0:10	-	\$ 720
	Camel	1988	0:18	-	\$ 1,620
	Camel	1990	1:06	-	\$ 9,385
	Camel	1994	9:18	-	\$ 119,885
	Camel	1995	6:50	1	\$ 75,725
	Camel	1996	25:19	5	\$ 280,850
	Camel	1997	0:02	-	\$ 1,000
	Camel	2000	0:02	-	\$ 260
	Smokin' Joe's (Camel)	1994	18:59	51	\$ 313,265
	Smokin' Joe's (Camel)	1995	6:56	34	\$ 129,375
	Smokin' Joe's (Camel)	1996	20:51	95	\$ 361,980
	Smokin' Joe's (Camel)	1997	0:06	-	\$ 160
	R.J. Reynolds	1997	0:00	2	\$ 10,000
	R.J. Reynolds	1998	0:00	8	\$ 19,335
	R.J. Reynolds	1999	0:02	25	\$ 27,815

Demonstrative 17,506: Race Series/Joyce Julius Data

NHRA Pro Drag Racing (continued)					
	R.J. Reynolds	2000	0:00	9	\$ 24,800
	R.J. Reynolds	2001	0:00	14	\$ 20,555
	Winston	1986	3:10:53	50	\$ 898,175
	Winston	1987	4:25:04	590	\$ 2,057,690
	Winston	1988	3:46:52	626	\$ 2,864,860
	Winston	1989	7:45:04	817	\$ 4,238,705
	Winston	1990	4:12:23	825	\$ 4,578,190
	Winston	1991	3:25:31	643	\$ 3,907,860
	Winston	1992	4:03:53	525	\$ 5,517,320
	Winston	1993	6:02:28	963	\$ 4,639,220
	Winston	1994	3:53:10	748	\$ 3,298,985
	Winston	1995	3:29:51	619	\$ 3,332,795
	Winston	1996	3:50:30	729	\$ 3,911,570
	Winston	1997	6:55:07	2,069	\$ 6,629,765
	Winston	1998	7:05:58	1,745	\$10,670,950
	Winston	1999	13:17:46	2,369	\$ 9,852,895
	Winston	2000	11:49:23	1,721	\$12,317,675
	Winston	2001	12:32:27	1,418	\$ 9,071,815
	Winston	2002	10:48	50	\$ 280,335
	Winston Select	1994	26:49	77	\$ 249,015
	Winston Select	1995	21:56	86	\$ 331,185
	Winston Select	1996	23:08	63	\$ 308,995
	Winston Select	1997	0:20	2	\$ 7,185
	Winston Select	1998	0:03	-	\$ 495
	Winston Select	2000	0:09	-	\$ 720
					\$ 90,363,130

Demonstrative 17,506: Race Series/Joyce Julius Data

Craftsman Truck Series					
Year	Television Viewership	Attendance	Total Events	Total Airings	Networks
1995	32,264,040	433,300	20	37	ABC, CBS, ESPN, TNN
1996	42,851,680	680,300	24	59	CBS, ESPN, ESPN2, TNN, WTBS
1997	38,086,560	754,989	26	59	CBS, ESPN, ESPN2, TNN, WTBS
1998	28,089,960	796,111	27	57	CBS, ESPN, ESPN2, TNN, WTBS
1999	33,534,112	854,600	25	70	ABC, CBS, ESPN, ESPN2
2000	31,482,472	768,791	24	65	CBS, ESPN, ESPN2, TNN, WTBS
2001	26,868,000	708,865	24	68	ESPN, ESPN2
2002	23,077,120	793,000	22	52	ESPN, ESPN2
Total:	256,253,944	5,789,956			

Company (and brands)	Brand	Year	Time	Exposure Mentions	Value
Philip Morris USA					
	Marlboro	1995	4:17	0	\$ 257,000
	Marlboro	1996	8:01	0	\$ 332,200
	Marlboro	1997	20:40	0	\$ 1,024,400
	Marlboro	1998	5:56	0	\$ 296,665
	Marlboro	1999	10:59	0	\$ 149,275
	Marlboro	2000	2:27	0	\$ 27,045
	Marlboro	2001	4:00	0	\$ 48,050
	Marlboro	2002	2:23	0	\$ 39,790
					\$ 2,174,425
RJ Reynolds Tobacco Company					
	Camel	1996	0:25	0	\$ 7,865
	Camel	1997	0:29	0	\$ 13,340
	R.J.Reynolds	1996	0:02	0	\$ 800
	R.J.Reynolds	1995	0:00	4	\$ 9,660
	Winston	1995	2:04:53	496	\$ 2,843,200
	Winston	1996	4:41:08	925	\$ 4,194,525
	Winston	1997	3:53:12	623	\$ 4,926,825
	Winston	1998	3:46:17	464	\$ 5,325,840
	Winston	1999	3:16:10	180	\$ 2,459,795
	Winston	2000	1:29:14	408	\$ 2,133,565
	Winston	2001	1:44:16	879	\$ 3,298,525
	Winston	2002	1:15:57	739	\$ 3,741,075
	Winston Select	1996	1:18	1	\$ 26,135
					\$28,981,150

Demonstrative 17,506: Race Series/Joyce Julius Data

NASCAR Busch Series					
Year	Television Viewership	Attendance	Total Events	Total Airings	Networks
1987	15,324,740	179,200	7	10	ESPN, SETN
1988	40,779,400	496,650	15	15	ESPN, SETN, SPECTRA
1989	23,241,200	440,200	11	17	ESPN, WTBS, WSN
1990	36,236,950	760,200	18	24	ESPN, PRIME, SPECTRA, WSN
1991	59,577,110	779,300	24	43	ESPN, PRIME, TNN, WTBS, WSN
1992	68,853,040	990,450	27	49	ESPN, PRIME, TNN, WTBS
1993	44,396,160	1,101,910	27	50	ESPN, TNN, WTBS
1994	45,553,280	1,161,383	28	55	ESPN, TNN, WTBS
1995	47,852,560	1,252,731	26	48	CBS, ESPN, TNN, WTBS
1996	53,117,440	1,178,500	26	59	CBS, ESPN, TNN, WTBS
1997	68,056,760	1,734,000	30	77	CBS, ESPN, ESPN2, TNN, WTBS
1998	65,463,776	1,658,050	31	73	CBS, ESPN, ESPN2, TNN, WTBS
1999	81,578,080	1,862,640	31	81	ABC, CBS, NBC, ESPN, ESPN2, TNN
2000	64,269,280	1,974,000	32	66	ABC, CBS, NBC, ESPN, ESPN2, TNN, WTBS
2001	73,505,680	2,278,219	33	34	FOX, FX, NBC, TNT
2002	97,500,800	2,133,300	34	104	FOX, FX, NBC, SPEED, TNT
Total:	885,306,256	19,980,733			

Company (and brands)	Brand	Year	Exposure		
			Mentions	Value	Time
Brown & Williamson Tobacco Corp.					
	Kool	1997	0:10	0	\$ 10,000
	Kool	2000	0:15	0	\$ 1,810
	Kool	2001	0:01	0	\$ 1,165
	Kool	2002	0:04	0	\$ 8,665
					\$ 21,640
Philip Morris USA					
	Marlboro	1988	0:01	-	\$ 565
	Marlboro	1989	0:07	3	\$ 2,700
	Marlboro	1990	4:46	-	\$ 38,130
	Marlboro	1991	6:06	-	\$ 118,900
	Marlboro	1992	8:14	-	\$ 149,105
	Marlboro	1993	16:08	-	\$ 254,060
	Marlboro	1994	15:17	-	\$ 225,340
	Marlboro	1995	12:50	-	\$ 280,335
	Marlboro	1996	15:52	-	\$ 336,265
	Marlboro	1997	28:04	-	\$ 697,970
	Marlboro	1998	5:08	-	\$ 181,905
	Marlboro	1999	0:04	-	\$ 2,575
	Marlboro	2000	0:35	-	\$ 13,035
	Marlboro	2001	0:01	-	\$ 2,665
					\$ 2,303,550

Demonstrative 17,506: Race Series/Joyce Julius Data

NASCAR Busch Series (continued)					
RJ Reynolds Tobacco Company					
	Camel	1988	0:00	2	\$ 11,330
	Camel	1989	0:15	-	\$ 1,500
	Camel	1991	1:15	-	\$ 10,885
	Camel	1992	6:36	13	\$ 155,895
	Camel	1993	7:39	8	\$ 139,065
	Camel	1994	0:02	-	\$ 300
	Camel	1995	0:06	-	\$ 5,500
	Camel	1996	0:42	-	\$ 13,385
	Camel	1997	5:36	1	\$ 81,375
	Camel	1998	0:30	-	\$ 27,000
	R.J. Reynolds	1997	0:00	1	\$ 2,665
	Winston	1987	39:58	176	\$ 472,400
	Winston	1988	1:41:51	348	\$ 2,233,650
	Winston	1989	59:36	305	\$ 1,324,440
	Winston	1990	1:23:25	485	\$ 1,693,570
	Winston	1991	1:32:52	604	\$ 2,680,740
	Winston	1992	2:12:14	684	\$ 3,284,880
	Winston	1993	3:43:56	710	\$ 4,110,160
	Winston	1994	3:47:39	641	\$ 4,143,790
	Winston	1995	3:28:05	648	\$ 6,467,730
	Winston	1996	4:15:54	877	\$ 6,705,545
	Winston	1997	5:33:18	1,221	\$ 8,182,685
	Winston	1998	5:01:34	1,093	\$ 10,781,910
	Winston	1999	5:43:11	1,431	\$ 15,995,750
	Winston	2000	3:26:56	909	\$ 11,218,310
	Winston	2001	1:30:43	742	\$ 20,733,195
	Winston	2002	3:01:21	1,507	\$ 20,176,685
	Winston Select	1995	15:21	11	\$ 334,135
	Winston Select	1996	8:19	23	\$ 242,635
					\$ 121,231,110

Demonstrative 17,506: Race Series/Joyce Julius Data

Indy Racing League					
Year	Television Viewership	Attendance			
1996	27,366,720	704,500			
1997	48,449,280	1,062,100			
1998	31,760,160	1,005,135			
1999	18,818,000	810,000			
2000	27,970,920	830,314			
2001	21,808,900	1,160,700			
2002	24,145,900	1,017,476			
Company (and brands)	Brand	Year	Time	Exposure Mentions	\$Value
Brown & Williamson Tobacco Corp.					
	Kool	2001	0:06	0	\$ 5,000
					\$ 5,000
Philip Morris USA					
	Marlboro	1996	0:59	0	\$ 20,365
	Marlboro	1997	2:11	0	\$ 879,165
	Marlboro	1999	0:47	0	\$ 71,850
	Marlboro	2000	1:14	0	\$ 132,370
	Marlboro	2001	10:18	4	\$ 1,001,975
	Marlboro	2002	50:37	102	\$ 4,220,200
	Player's	1999	0:01	0	\$ 5,000
	Player's	2000	0:04	0	\$ 2,665
					\$ 6,333,590
RJ Reynolds Tobacco Company					
	Camel	1996	0:04	2	\$ 33,000
	Winston	1996	1:41	4	\$ 134,095
	Winston	1997	18:57	15	\$ 1,732,100
	Winston	1998	12:55	12	\$ 1,042,435
	Winston	1999	13:57	21	\$ 515,265
	Winston	2000	15:12	28	\$ 540,940
	Winston	2001	16:58	25	\$ 686,640
	Winston	2002	0:00	14	\$ 97,840
					\$ 4,782,315

Demonstrative 17,506: Race Series/Joyce Julius Data

ARCA Series					
Year	Television Viewership	Attendance			
1990	3,218,250	168,500			
1991	18,637,300	232,000			
1992	9,531,720	344,750			
1993	9,531,720	344,750			
1994	7,811,040	313,500			
1995	9,705,520	413,325			
1996	15,349,640	733,500			
1997	15,438,880	689,498			
1998	14,784,480	644,000			
1999	19,595,840	589,100			
2000	25,115,520	626,500			
2001	12,826,720	1,250,620			
2002	6,865,440	545,700			
Company (and brands)	Brand	Year	Time	Exposure Mentions	Value
Brown & Williamson Tobacco Corp.					
	Kool	1997	0:46	0	\$ 6,280
	Kool	2002	0:12	0	\$ 280
					\$ 6,560
Philip Morris USA					
	Player's	1993	0:02	0	\$ 250
	Marlboro	1996	8:39	0	\$ 84,195
	Marlboro	1997	14:22	0	\$ 132,080
	Marlboro	2001	1:24	0	\$ 2,380
	Marlboro	2002	1:14	1	\$ 3,290
					\$ 222,195
RJ Reynolds Tobacco Company					
	Camel	1993	0:01	0	\$ 335
	Camel	1997	0:39	0	\$ 22,950
	R.J. Reynolds	1996	0:00	4	\$ 3,465
	R.J. Reynolds	1998	0:00	1	\$ 2,165
	Winston	1990	25:22	64	\$ 282,655
	Winston	1991	24:26	200	\$ 656,795
	Winston	1992	26:34	126	\$ 444,565
	Winston	1993	32:59	258	\$ 777,490
	Winston	1994	28:18	203	\$ 452,700
	Winston	1995	34:06	218	\$ 542,540
	Winston	1996	50:37	383	\$ 1,028,475
	Winston	1997	1:51:26	452	\$ 1,667,875
	Winston	1998	1:01:44	280	\$ 1,289,100
	Winston	1999	46:59	261	\$ 1,354,910
	Winston	2000	27:25	221	\$ 868,445
	Winston	2001	27:36	407	\$ 346,970

Demonstrative 17,506: Race Series/Joyce Julius Data

ARCA Series (continued)					
	Winston	2002	44:01	490	\$ 244,640
	Winston Naked	1997	0:15	0	\$ 2,100
	Winston Select	1994	6:59	0	\$ 51,770
	Winston Select	1995	5:08	2	\$ 36,060
	Winston Select	1996	9:21	3	\$ 103,095
					\$ 10,179,100

CART Toyota Atlantic Series					
Year	Television Viewership	Attendance			
1997	5,389,920	1,236,600			
1998	5,207,840	1,377,850			
1999	5,907,400	1,073,000			
2000	3,483,520	949,220			
2001	3,610,080	1,198,268			
2002	2,569,120	1,447,105			
Company (and brands)	Brand	Year	Time	Exposure Mentions	\$Value
Brown & Williamson Tobacco Corp.					
	Kool	1997	1:57:07	4	\$ 197,865
	Kool	1998	2:36:24	20	\$ 239,600
	Kool	1999	1:46:15	9	\$ 215,500
	Kool	2000	3:02	0	\$ 11,545
	Kool	2001	6:26	0	\$ 27,860
	Kool	2002	2:29	0	\$ 3,005
					\$ 695,375
Philip Morris USA					
	Marlboro	1997	40:03	0	\$ 80,460
	Marlboro	1998	37:20	0	\$ 56,000
	Marlboro	1999	22:42	0	\$ 45,400
	Marlboro	2000	11:14	0	\$ 35,910
	Marlboro	2001	7:58	0	\$ 32,910
	Navy Cut (Player's)	2000	0:12	0	\$ 515
	Navy Cut (Player's)	2001	0:06	0	\$ 300
	Player's	1997	3:14:44	141	\$ 277,875
	Player's	1998	4:12:48	460	\$ 494,200
	Player's	1999	1:40:00	177	\$ 259,000
	Player's	2000	44:35	8	\$ 129,645
	Player's	2001	29:16	0	\$ 88,240
	Player's	2002	17:24	0	\$ 19,920
					\$ 1,520,375

Demonstrative 17,506: Race Series/Joyce Julius Data

Trans Am Series					
Year	Television Viewership	Attendance			
1987	11,003,610	N/A			
1988	12,798,250	521,187			
1989	16,421,350	521,950			
1990	22,013,680	808,500			
1991	20,607,750	953,005			
1992	14,155,680	822,750			
1993	11,554,400	1,160,347			
1994	12,700,800	1,304,590			
1995	14,784,000	742,419			
1996	8,091,200	1,223,071			
1997	8,601,760	923,424			
1998	14,740,000	1,094,800			
1999	18,425,440	1,056,951			
2000	8,768,000	N/A			
2001	7,620,960	N/A			
2002	7,922,080	N/A			
Company (and brands)	Brand	Year	Time	Exposure Mentions	Value
Brown & Williamson Tobacco Corp.					
	Kool	2001	0:12	0	\$ 300
	Kool	2002	0:06	0	\$ 455
Philip Morris USA					
	Marlboro	1987	3:56	0	\$ 14,945
	Marlboro	1988	32:26	0	\$ 127,615
	Marlboro	1989	14:39	2	\$ 64,240
	Marlboro	1990	15:55	0	\$ 68,020
	Marlboro	1991	7:44	8	\$ 70,050
	Marlboro	1992	23:12	1	\$ 195,295
	Marlboro	1993	23:29	0	\$ 102,980
	Marlboro	1994	19:36	2	\$ 59,300
	Marlboro	1995	12:06	0	\$ 36,300
	Marlboro	1996	6:19	0	\$ 13,755
	Marlboro	1997	2:06	0	\$ 7,800
	Marlboro	1998	22:22	0	\$ 95,380
	Marlboro	1999	4:11	0	\$ 9,385
	Marlboro	2000	16:00	0	\$ 29,320
	Marlboro	2001	6:33	0	\$ 33,650
	Player's	1989	0:34	0	\$ 1,700
	Player's	1992	14:02	1	\$ 43,040
	Player's	1994	57:48	2	\$ 174,400
	Player's	1995	30:00	8	\$ 94,000

Demonstrative 17,506: Race Series/Joyce Julius Data

Trans Am Series (continued)					
	Player's	1996	25:32	6	\$ 75,525
	Player's	1997	22:05	1	\$ 311,500
	Player's	1998	1:02:37	0	\$ 318,220
	Player's	1999	54:20	4	\$ 315,505
	Player's	2001	0:09	0	\$ 230
					\$2,262,155
RJ Reynolds Tobacco Company					
	Camel	1987	31:37	0	\$1,322,620
	Camel	1988	26:57	3	\$ 109,860
	Camel	1989	6:15	0	\$ 18,750
	Camel	1990	9:05	0	\$ 49,595
	Camel	1991	2:43	0	\$ 19,145
	Camel	1992	6:00	0	\$ 59,240
	Camel	1993	16:32	0	\$ 48,770
	Camel	1994	1:42	4	\$ 7,100
	Camel	1995	0:04	0	\$ 200
	Camel	2001	0:04	0	\$ 90
	Winston	1987	0:03	2	\$ 3,545
	Winston	1988	0:02	0	\$ 130
	Winston	1989	0:20	30	\$ 19,900
	Winston	1990	9:03	40	\$ 100,580
	Winston	1991	22:25	43	\$ 217,215
	Winston	1992	6:16	14	\$ 102,495
	Winston	1993	10:08	16	\$ 63,295
	Winston	1994	5:24	20	\$ 22,665
	Winston	1995	17:06	8	\$ 55,300
	Winston	1996	2:53	8	\$ 31,185
	Winston	1997	5:13	18	\$ 106,870
	Winston	1998	12:27	26	\$ 61,495
	Winston	1999	0:00	6	\$ 1,600
	Winston	2000	5:38	23	\$ 21,625
	Winston	2001	2:51	5	\$ 117,450
	Winston	2002	3:15	25	\$ 15,920
					\$2,576,640

Demonstrative 17,506: Race Series/Joyce Julius Data

URC/UHRA/Hydro Prop Series					
Year	Television Viewership	Attendance			
1987	23,670,400	1,065,000			
1988	32,400,050	1,417,000			
1989	25,370,050	1,803,892			
1990	38,079,550	1,575,000			
1991	18,977,520	1,205,000			
1992	17,519,760	N/A			
1993	19,274,500	N/A			
1994	10,689,280	1,095,000			
1995	8,401,920	981,500			
1996	4,766,920	1,091,000			
1997	5,279,520	N/A			
1998	5,286,320	N/A			
1999	7,395,280	N/A			
Company (and brands)	Brand	Year	Time	Exposure Mentions	\$Value
Philip Morris USA					
	Virginia Slims	1989	0:30	0	\$ 2,065
					\$ 2,065
RJ Reynolds Tobacco Company					
	Camel	1994	24:34	18	\$ 234,310
	Camel	1995	1:55:08	62	\$ 573,965
	Camel	1996	1:10:52	67	\$ 682,035
	Camel	1998	0:44	8	\$ 9,920
	Camel	1999	0:00	13	\$ 10,830
	Smokin' Joe's (Camel)	1994	58:34	642	\$ 1,457,730
	Smokin' Joe's (Camel)	1995	2:38:22	1774	\$ 2,082,160
	Smokin' Joe's (Camel)	1996	1:18:10	1339	\$ 1,996,095
	R.J. Reynolds	1991	0:00	3	\$ 3,935
	R.J. Reynolds	1994	0:00	6	\$ 8,500
	R.J. Reynolds	1995	0:16	41	\$ 25,775
	Vantage	1996	0:45	0	\$ 6,250
	Winston	1989	1:18:22	785	\$ 1,595,705
	Winston	1990	1:20:29	806	\$ 1,881,690
	Winston	1991	58:36	685	\$ 1,649,045
	Winston	1992	50:13	774	\$ 1,567,225
	Winston	1993	1:12:04	882	\$ 1,877,710
	Winston	1994	0:08	16	\$ 23,800
	Winston	1995	0:04	12	\$ 9,595
	Winston	1996	0:03	11	\$ 15,245
	Winston	1998	0:40	16	\$ 16,000
	Winston	1999	0:00	15	\$ 12,495
					\$ 15,740,015

Demonstrative 17,506: Race Series/Joyce Julius Data

CART Indy Lights Series		
Year	Television Viewership	Attendance
1990	21,430,700	778,839
1991	11,278,460	626,600
1992	15,137,490	771,037
1993	9,024,640	1,447,000
1994	6,025,600	1,539,715
1995	8,409,480	1,523,486
1996	5,446,048	1,605,720
1997	6,072,760	1,661,100
1998	3,290,576	1,609,840
1999	3,934,240	1,353,300
2000	3,643,040	1,399,737
2001	3,004,165	1,129,762

Company (and brands)	Brand	Year	Time	Exposure Mentions	Value
Brown & Williamson Tobacco Corp.					
	Kool	1996	36:07	33	\$ 84,185
	Kool	1997	2:00:50	71	\$ 77,080
	Kool	1998	16:12	38	\$ 58,445
	Kool	1999	19:37	16	\$ 55,630
	Kool	2000	1:25:10	93	\$ 268,230
	Kool	2001	0:40	0	\$ 1,960
					\$ 545,530
Philip Morris USA					
	Marlboro	1990	36:29	0	\$ 195,390
	Marlboro	1991	30:57	1	\$ 194,850
	Marlboro	1992	20:53	0	\$ 214,130
	Marlboro	1993	26:50	0	\$ 100,070
	Marlboro	1994	57:35	15	\$ 163,585
	Marlboro	1995	51:07	3	\$ 141,570
	Marlboro	1996	35:56	8	\$ 97,520
	Marlboro	1997	3:15:56	24	\$ 121,360
	Marlboro	1998	40:52	0	\$ 103,960
	Marlboro	1999	23:29	0	\$ 64,005
	Marlboro	2000	11:46	0	\$ 34,695
	Marlboro	2001	10:34	0	\$ 36,330
	Philip Morris	1996	0:00	4	\$ 1,335
	Player's	1990	5:10	0	\$ 24,800
	Player's	1991	5:02	0	\$ 29,195
	Player's	1992	7:17	0	\$ 71,665
	Player's	1993	6:59	0	\$ 22,150
	Player's	1994	16:00	0	\$ 48,400
	Player's	1995	1:38:33	101	\$ 385,250

Demonstrative 17,506: Race Series/Joyce Julius Data

CART Indy Lights Series (continued)					
	Player's	1996	2:32:31	198	\$ 396,030
	Player's	1997	2:59:44	63	\$ 106,560
	Player's	1998	46:52	2	\$ 122,810
	Player's	1999	15:07	4	\$ 133,880
	Player's	2000	11:00	0	\$ 27,590
	Player's	2001	18:33	0	\$ 55,670
					\$ 2,892,800
RJ Reynolds Tobacco Company					
	Camel	1990	1:52	0	\$ 9,240
	Camel	1991	2:04	0	\$ 13,385
	Camel	1992	1:06	2	\$ 13,180
	Camel	1993	0:49	4	\$ 7,240
	Camel	1994	0:00	2	\$ 900
	Camel	1996	0:00	4	\$ 1,335
	Winston	1996	1:04	0	\$ 2,135
	Winston	1998	1:42	8	\$ 7,670
	Winston	1999	0:40	4	\$ 3,335
	Winston	2000	1:02	6	\$ 5,210
	Winston	2001	0:30	4	\$ 3,930
	Winston Select	1996	2:00	4	\$ 4,665
					\$ 72,225

World of Outlaws					
Year	Television Viewership	Attendance			
1997	9,108,000	503,000			
1998	9,983,200	251,100			
1999	16,433,600	243,500			
2000	9,746,720	293,951			
2001	8,184,960	299,500			
2002	N/A	N/A			
Company (and brands)	Brand	Year	Time	Exposure Mentions	\$Value
Philip Morris USA					
	Marlboro	1997	0:00	2	\$ 3,000
					\$ 3,000
RJ Reynolds Tobacco Company					
	Winston	1997	4:58	102	\$ 200,700
	Winston	1998	4:06	43	\$ 102,900
	Winston	1999	10:15	121	\$ 390,000
	Winston	2000	4:41	61	\$ 405,900
	Winston	2001	7:56	37	\$ 263,840
	Winston	2002	0:04	45	\$ 23,660
					\$ 1,387,000

Demonstrative 17,506: Race Series/Joyce Julius Data

IHRA Pro Drag Racing					
Year	Television Viewership	Attendance			
1988	36,706,950	402,500			
1989	30,581,050	249,055			
1990	19,462,410	303,628			
1991	12,987,250	318,367			
1992	19,757,520	481,251			
1993	8,635,840	450,706			
1994	9,185,760	423,590			
1995	8,626,704	N/A			
1996	16,790,880	429,212			
1997	5,363,520	382,233			
1998	3,206,880	195,014			
2000	4,838,720	N/A			
2001	4,779,520	N/A			
2002	8,778,440	N/A			
Company (and brands)	Brand	Year	Time	Exposure Mentions	Value
RJ Reynolds Tobacco Company					
	Winston	1988	56:07	49	\$ 339,990
	Winston	1989	16:18	0	\$ 79,175
	Winston	1990	12:45	0	\$ 86,410
	Winston	1991	0:31	0	\$ 3,360
	Winston	1992	3:23	0	\$ 29,950
	Winston	1993	0:27	0	\$ 2,495
	Winston	1994	4:48	8	\$ 38,575
	Winston	1995	0:13	0	\$ 645
	Winston	1996	4:17	0	\$ 14,495
	Winston	1997	1:00	0	\$ 7,000
	Winston	1998	0:58	0	\$ 6,920
	Winston	2002	0:03	0	\$ 750
	Winston Select	1994	3:06	0	\$ 16,210
	Winston Select	1995	0:20	0	\$ 900
					\$ 626,875

Demonstrative 17,506: Race Series/Joyce Julius Data

IMSA/ALMS Series					
Year	Television Viewership	Attendance			
1987	46,000,930	876,026			
1988	8,179,400	231,700			
1989	24,837,780	879,900			
1990	18,344,910	741,900			
1992	32,394,230	614,000			
1993	3,534,400	144,700			
1994	4,913,240	274,000			
1995	6,111,296	393,200			
1996	6,643,520	N/A			
1997	1,249,920	N/A			
1999	8,634,560	N/A			
2000	8,283,520	549,000			
2001	10,159,320	462,500			
2002	6,732,640	668,182			
Company (and brands)	Brand	Year	Time	Exposure Mentions	Value
Brown & Williamson Tobacco Corp.					
	Kool	2000	0:31	0	\$ 10,120
	Kool	2002	0:35	0	\$ 1,400
					\$ 11,520
Philip Morris USA					
	Marlboro	1987	1:57	0	\$ 33,290
	Marlboro	1988	0:06	2	\$ 1,125
	Marlboro	1990	10:03	0	\$ 60,650
	Marlboro	1992	0:00	2	\$ 3,065
	Marlboro	1997	0:15	0	\$ 1,240
	Marlboro	1999	0:01	0	\$ 400
	Marlboro	2000	0:02	0	\$ 185
	Marlboro	2001	0:14	0	\$ 4,805
	Marlboro	2002	0:08	4	\$ 40,325
					\$ 145,085
RJ Reynolds Tobacco Company					
	Camel	1987	6:39:37	2667	\$ 3,931,605
	Camel	1988	1:06:36	105	\$ 275,240
	Camel	1989	4:10:56	800	\$ 1,939,575
	Camel	1990	2:46:46	760	\$ 2,029,745
	Camel	1992	3:17:56	885	\$ 3,491,320
	Camel	1993	29:08	13	\$ 201,205
	Camel	1994	1:30	8	\$ 20,035

Demonstrative 17,506: Race Series/Joyce Julius Data

IMSA/ALMS Series (continued)					
	Camel	1995	1:17	13	\$ 23,530
	Camel	1996	0:03	4	\$ 8,135
	Camel	1997	0:00	6	\$ 2,865
	Camel	2000	0:16	0	\$ 2,235
	Camel	2001	0:14	0	\$ 2,045
	Camel	2002	1:08	0	\$ 1,950
	R.J. Reynolds	1989	0:04	4	\$ 2,880
	Winston	1987	15:45	52	\$ 106,775
	Winston	1988	0:14	4	\$ 3,340
	Winston	1989	1:33	7	\$ 20,200
	Winston	1990	0:02	19	\$ 18,825
	Winston	1992	0:24	16	\$ 39,625
	Winston	1993	0:00	4	\$ 1,465
	Winston	1994	5:42	8	\$ 57,505
	Winston	1996	2:51	3	\$ 15,205
	Winston	1997	22:11	15	\$ 55,445
	Winston	1999	5:18	11	\$ 297,300
	Winston	2000	11:57	9	\$ 255,055
	Winston	2001	2:16	6	\$ 147,980
	Winston	2002	1:20	13	\$ 54,195
					\$ 13,005,280

Demonstrative 17,508: Number of Readers Ages 12 to 17 of Magazines in Which Defendants Place Cigarette Brand Advertisements for 1993-2002

	1993-2002 Average Number of 12-17 Readers	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
<i>TV Guide</i>	5,519,600	6,623,400	6,738,800	6,678,900	6,304,100	5,933,900	5,529,800	5,475,300	4,579,400	3,934,200	3,398,100
<i>Sports Illustrated</i>	4,719,580	5,105,400	5,201,400	5,280,700	5,309,100	5,064,600	5,069,000	4,961,400	4,040,800	3,680,300	3,483,100
<i>People</i>	3,255,380	3,194,300	3,019,700	2,952,200	3,094,300	2,973,900	3,346,900	3,888,800	3,763,400	3,222,200	3,098,100
<i>Life</i>	2,340,300	2,847,000	2,665,200	2,479,200	2,286,100	2,003,700	1,950,400	2,150,500			
<i>Vibe</i>	2,253,000						2,369,500	2,722,300	2,391,900	2,085,500	1,695,800
<i>Sport</i>	2,240,660	2,319,400	2,274,100	2,365,400	2,482,400	2,137,200	2,011,000	2,095,100			
<i>Cable Guide, The</i>	2,215,080	3,599,200	3,357,800	2,961,900	2,567,300	2,175,900	1,765,500	1,961,700	1,446,700	1,215,100	1,099,700
<i>ESPN</i>	2,177,700										2,177,700
<i>Rolling Stone</i>	2,120,950	1,951,800	1,868,800	1,899,900	2,176,500	2,216,600	2,218,500	2,565,300	2,405,100	2,122,600	1,784,400
<i>Hot Rod</i>	2,048,830	2,368,300	2,294,900	2,316,500	2,271,400	2,035,100	2,068,500	2,214,600	1,909,600	1,577,700	1,431,700
<i>Glamour</i>	1,960,400	2,278,200	2,215,500	2,109,600	2,101,200	1,879,900	1,987,400	1,861,700	1,777,000	1,786,900	1,606,500
<i>Cosmopolitan</i>	1,949,700	2,348,700	2,279,300	1,947,300	1,715,900	1,597,500	1,845,900	1,858,200	1,787,400	2,105,500	2,010,900

Demonstrative 17,508: Number of Readers Ages 12 to 17 of Magazines in Which Defendants Place Cigarette Brand Advertisements for 1993-2002

	1993-2002 Average Number of 12-17 Readers	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
<i>Vogue</i>	1,860,030	2,602,800	2,236,900	2,031,600	1,863,300	1,698,400	2,032,500	1,871,900	1,527,800	1,401,900	1,333,200
<i>Ebony</i>	1,804,300	2,290,700	2,111,100	2,113,000	1,987,400	1,766,900	1,522,000	1,736,100	1,662,000	1,459,500	1,394,000
<i>Time</i>	1,736,000	1,948,500	1,971,800	1,968,600	1,870,500	1,627,800	1,763,600	1,894,700	1,544,300	1,396,100	1,374,400
<i>National Enquirer</i>	1,699,800	2,642,200	2,388,300	2,234,800	1,899,800	1,669,600	1,552,800	1,335,100	1,226,100	1,105,900	943,200
<i>Newsweek</i>	1,660,600	1,828,000	1,910,700	1,830,100	1,785,000	1,668,300	1,909,000	2,072,100	1,402,000	1,104,000	1,097,000
<i>Better Homes and Gardens</i>	1,599,700	2,078,100	2,042,500	1,741,600	1,463,300	1,407,700	1,486,100	1,698,500	1,446,300	1,380,500	1,252,100
<i>Jet</i>	1,583,100	1,875,700	1,724,300	1,709,700	1,645,600	1,575,600	1,629,000	1,640,100	1,446,500	1,281,100	1,303,400
<i>Popular Science</i>	1,563,530	1,950,900	1,906,000	1,740,700	1,651,500	1,475,400	1,565,700	1,571,500	1,225,300	1,246,400	1,301,900
<i>Car and Driver</i>	1,487,920	1,700,000	1,465,300	1,307,100	1,391,900	1,196,500	1,225,800	1,455,800	1,783,000	1,732,100	1,621,700
<i>Field & Stream</i>	1,481,500	1,872,700	1,760,100	1,743,100	1,738,700	1,537,000	1,309,500	1,250,200	1,158,800	963,800	
<i>Entertainment Weekly</i>	1,406,500						1,527,600	1,808,400	1,620,800	1,140,900	934,600
<i>Popular Mechanics</i>	1,399,200	1,657,700	1,616,900	1,549,600	1,286,000	1,307,700	1,378,700	1,468,200	1,389,000	1,200,800	1,136,900
<i>Motor Trend</i>	1,305,420	1,652,800	1,393,200	1,374,300	1,288,100	1,074,500	1,141,300	1,379,400	1,359,700	1,161,100	1,229,800

Demonstrative 17,508: Number of Readers Ages 12 to 17 of Magazines in Which Defendants Place Cigarette Brand Advertisements for 1993-2002

	1993-2002 Average Number of 12-17 Readers	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
<i>Outdoor Life</i>	1,224,520	1,477,200	1,579,300	1,508,000	1,309,800	1,048,900	954,000	1,237,100	1,147,500	758,900	
<i>Mademoiselle</i>	1,184,440	1,560,600	1,369,100	1,277,200	1,326,900	1,150,300	1,108,200	927,400	755,800		
<i>In Style</i>	1,170,230								1,219,400	1,199,900	1,091,400
<i>Essence</i>	1,168,100		1,251,100	1,317,400	1,358,800	1,352,800	1,152,200	1,115,000	1,187,700	991,100	787,100
<i>Sporting News, The</i>	1,134,400	1,412,700	1,393,600	1,356,100	1,434,000	1,207,900	1,040,000	1,091,300	788,400	812,100	807,900
<i>Road & Track</i>	1,128,150	1,515,300	1,233,900	1,277,300	1,331,200	1,126,900	959,800	1,072,700	1,026,500	927,000	810,900
<i>Star</i>	1,081,200	1,610,500	1,579,000	1,388,300	1,106,900	927,600	974,000	985,700	859,600	768,200	612,300
<i>Soap Opera Digest</i>	1,072,700	1,523,900	1,299,500	1,449,800	1,312,300	1,127,300	1,039,500	923,300	825,600	677,200	548,100
<i>Allure</i>	1,051,940				844,800	814,200	1,283,000	1,427,000	1,018,200	997,800	978,600
<i>McCall's</i>	1,017,900	1,373,800	1,274,000	1,308,200	1,224,300	923,400	769,300	690,400	580,000		
<i>Family Circle</i>	1,001,400	1,464,400	1,210,400	1,146,700	1,031,900	978,100	979,900	980,700	910,400	728,100	583,400
<i>Woman's Day</i>	996,900	1,336,200	1,202,200	1,191,500	1,127,000	980,100	1,046,500	1,116,100	809,600	632,800	527,400
<i>Maxim</i>	948,000										948,000

Demonstrative 17,508: Number of Readers Ages 12 to 17 of Magazines in Which Defendants Place Cigarette Brand Advertisements for 1993-2002

	1993-2002 Average Number of 12-17 Readers	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
<i>Spin</i>	930,160			892,900	1,050,500	1,132,300	1,189,200	1,077,300	886,400	701,500	511,200
<i>GQ</i>	878,800	1,039,000	1,036,700	1,030,300	1,051,100	888,300	871,500	836,000	779,200	710,500	484,900
<i>Redbook</i>	855,400	1,276,200	1,152,700	1,173,500	1,059,100	974,400	699,300	581,900	583,300	571,800	481,700
<i>US</i>	822,500	1,122,800	814,100	822,100	728,800	557,700	718,500	993,400			
<i>Elle</i>	767,420	1,042,900	819,200	975,400	1,098,400	798,800	649,800	699,000	588,300	535,500	467,100
<i>Self</i>	748,600		786,400	826,500	784,200	799,800	820,600	740,500	632,100	658,800	688,400
<i>Ladies Home Journal</i>	677,100	885,800	838,000	850,700	789,100	633,200	543,300	664,300	626,700	511,300	428,800
<i>True Story</i>	609,510	827,800	739,900		593,300	425,700	582,100	713,900	499,000	494,400	
<i>Ski</i>	587,330	772,100	827,400	834,800	703,800	589,500	580,700	481,100	373,700	403,100	307,100
<i>Marie Clare</i>	576,200								641,300	560,200	527,100
<i>Skiing</i>	562,870	813,600	789,200	749,900	647,500	591,800	607,600	517,100	273,600	312,400	326,000
<i>New Woman</i>	558,800		684,800	726,000	558,900	407,200	465,300	510,700			
<i>Harper's Bazaar</i>	487,300		717,700	701,100	754,200	523,600	405,000	441,800	333,400	248,700	260,300

Demonstrative 17,508: Number of Readers Ages 12 to 17 of Magazines in Which Defendants Place Cigarette Brand Advertisements for 1993-2002

	1993-2002 Average Number of 12-17 Readers	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
<i>Premiere</i>	459,970	635,800	616,800	628,300	559,100	412,000	407,600	377,300	304,100	397,700	261,000
<i>US News & World Report</i>	394,900									291,800	498,000

NOTE: If a magazine does not appear for a year, it was not listed in the MRI database.

Demonstrative 17,509: Percentage of Readers Ages 12 to 17 of Magazines in Which Defendants Place Cigarette Brand Advertisements for 1993-2002

	1993-2002 Average Percent of 12-17 Readers	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
<i>Sport</i>	34.75	34.69	33.82	36.05	38.40	33.46	31.50	35.34			
<i>Vibe</i>	32.31						43.60	38.57	31.95	26.72	20.71
<i>Allure</i>	26.61				30.51	28.04	34.49	32.92	23.48	19.30	17.54
<i>Spin</i>	25.72			27.03	29.98	31.57	30.46	27.38	24.07	19.67	15.62
<i>Skiing</i>	24.96	31.31	30.87	26.58	23.30	22.43	26.11	26.99	18.71	21.49	21.85
<i>Sporting News, The</i>	24.61	26.69	27.79	28.46	30.77	28.33	24.62	25.09	19.11	18.11	17.17
<i>Hot Rod</i>	24.38	29.43	28.15	26.83	25.45	22.57	23.33	26.98	24.56	19.32	17.16
<i>Ski</i>	22.64	25.01	26.44	27.26	24.18	22.15	24.66	22.31	19.51	20.25	14.60
<i>ESPN</i>	20.25										20.25
<i>Rolling Stone</i>	19.89	20.01	18.50	18.38	20.67	20.22	20.27	23.73	22.85	18.94	15.30
<i>Premiere</i>	19.84	28.68	25.82	24.57	20.73	16.36	17.97	17.19	14.73	19.19	13.19
<i>Popular Science</i>	18.61	21.26	20.80	18.76	18.56	18.51	20.09	19.92	16.73	16.18	15.29

Demonstrative 17,509: Percentage of Readers Ages 12 to 17 of Magazines in Which Defendants Place Cigarette Brand Advertisements for 1993-2002

	1993-2002 Average Percent of 12-17 Readers	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
<i>Motor Trend</i>	18.47	24.82	22.12	19.78	18.44	16.60	16.26	18.86	18.19	14.85	14.74
<i>Road & Track</i>	18.42	22.58	20.63	20.97	21.55	17.59	15.13	18.83	18.40	15.65	12.87
<i>Mademoiselle</i>	17.74	20.88	19.73	18.31	20.64	18.08	16.66	14.91	12.73		
<i>In Style</i>	17.57								22.29	16.97	13.44
<i>Marie Clare</i>	17.18								21.81	15.77	13.97
<i>Sports Illustrated</i>	17.10	17.78	17.99	18.64	19.38	18.00	17.09	17.26	15.64	14.96	14.25
<i>Car and Driver</i>	16.88	20.64	18.31	16.51	16.83	14.60	14.82	16.98	18.68	16.49	14.95
<i>Vogue</i>	16.70	21.50	17.97	17.07	17.88	16.74	18.96	17.53	14.58	12.86	11.94
<i>Outdoor Life</i>	16.46	15.53	18.00	18.60	18.76	15.79	14.18	18.49	17.67	11.13	
<i>Elle</i>	16.07	21.54	17.76	19.37	22.38	17.47	13.82	14.52	12.86	11.50	9.51
<i>Cable Guide, The</i>	15.91	17.17	19.18	20.02	18.78	16.41	14.03	16.77	13.69	11.94	11.11
<i>Jet</i>	15.49	19.77	16.72	16.78	16.98	15.69	15.18	15.24	14.39	13.02	12.89

Demonstrative 17,509: Percentage of Readers Ages 12 to 17 of Magazines in Which Defendants Place Cigarette Brand Advertisements for 1993-2002

	1993-2002 Average Percent of 12-17 Readers	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
<i>True Story</i>	15.47	16.21	14.82		13.40	10.87	13.87	18.39	17.57	18.66	
<i>Glamour</i>	14.80	17.55	17.13	16.11	16.37	14.27	14.01	13.38	13.74	13.53	11.92
<i>US</i>	14.67	18.05	13.82	13.32	12.60	10.79	14.43	19.70			
<i>Self</i>	14.64		16.23	15.88	15.65	16.19	15.80	14.47	13.00	12.27	12.25
<i>Essence</i>	14.56		16.85	17.27	17.62	16.89	13.94	13.40	14.19	11.78	9.09
<i>Entertainment Weekly</i>	14.54						15.50	18.47	16.97	12.01	9.74
<i>Harper's Bazaar</i>	14.34		18.18	17.10	20.88	16.34	11.76	13.63	11.22	8.81	11.13
<i>Ebony</i>	13.77	16.86	15.82	15.94	15.12	13.15	11.26	13.26	13.35	11.82	11.12
<i>Popular Mechanics</i>	13.12	15.00	14.52	13.77	12.03	12.35	12.68	13.78	13.94	12.13	10.99
<i>GQ</i>	12.60	15.98	15.12	14.88	15.28	12.62	11.67	11.67	11.46	10.16	7.18
<i>Life</i>	12.46	13.09	12.91	12.93	13.24	11.59	11.04	12.39			
<i>New Woman</i>	12.44		14.03	15.50	13.54	9.62	10.08	11.88			

Demonstrative 17,509: Percentage of Readers Ages 12 to 17 of Magazines in Which Defendants Place Cigarette Brand Advertisements for 1993-2002

	1993-2002 Average Percent of 12-17 Readers	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
<i>TV Guide</i>	12.43	13.13	13.23	13.17	13.00	12.82	12.51	13.22	12.02	10.99	10.19
<i>Soap Opera Digest</i>	12.42	17.30	14.35	15.14	14.86	12.39	11.73	11.66	10.73	8.72	7.36
<i>Cosmopolitan</i>	11.08	13.77	12.80	11.15	10.11	9.52	10.61	10.47	10.40	11.49	10.49
<i>Star</i>	10.94	13.25	13.40	12.08	10.34	9.48	10.89	12.20	11.02	9.29	7.48
<i>Field & Stream</i>	10.53	11.77	11.06	11.37	11.86	10.86	9.87	10.18	9.67	8.12	
<i>National Enquirer</i>	9.25	11.41	10.71	10.33	9.76	9.29	9.35	8.85	8.70	7.74	6.34
<i>Maxim</i>	8.75										8.75
<i>People</i>	8.32	8.34	7.80	7.41	8.01	7.82	8.29	9.60	9.71	8.34	7.92
<i>Newsweek</i>	7.47	8.04	8.01	7.98	8.01	7.38	8.34	9.49	6.95	5.40	5.09
<i>Time</i>	7.00	7.73	7.66	7.68	7.52	6.61	6.93	7.58	6.61	6.04	5.66
<i>Redbook</i>	6.38	8.58	7.77	7.68	7.20	7.06	5.56	4.97	5.35	5.22	4.37
<i>McCall's</i>	5.86	7.21	6.68	7.09	7.00	5.42	4.77	4.63	4.10		

Demonstrative 17,509: Percentage of Readers Ages 12 to 17 of Magazines in Which Defendants Place Cigarette Brand Advertisements for 1993-2002

	1993-2002 Average Percent of 12-17 Readers	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
<i>Better Homes and Gardens</i>	4.37	5.76	5.49	4.62	3.99	3.86	4.07	4.75	4.13	3.81	3.22
<i>Woman's Day</i>	4.31	5.48	4.81	4.81	4.72	4.16	4.71	5.16	3.83	3.00	2.41
<i>Family Circle</i>	3.94	5.12	4.21	4.12	3.94	3.93	4.11	4.20	4.03	3.26	2.51
<i>Ladies Home Journal</i>	3.89	4.74	4.36	4.38	4.30	3.84	3.34	3.92	3.94	3.34	2.78
<i>US News & World Report</i>	3.44									2.70	4.17

NOTE: If a magazine does not appear for a year, it was not listed in the MRI database.