

## New tobacco 'apology' ads plan still excludes most Black media

Written by George E. Curry, NNPA Editor-in-Chief  
Thursday, 12 June 2014 15:47

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WASHINGTON (NNPA) – A revised plan for major tobacco companies to purchase court-ordered ads to admit that they deliberately misled the public about the dangers of smoking would add nine White-owned newspapers to the list of publications carrying tobacco 'apology' ads but shut out more than 90 percent of Black newspapers and all Black-owned radio and television stations, according to documents filed in federal court.

"If they had asked, we could have helped them develop a better plan than this," said National Newspaper Publishers Association Chairman Cloves Campbell. "They didn't consult us and the end result is that we're back to where this process started last year. What they have put on the table is totally unacceptable."

If the NNPA files a motion in opposition to the revised plan, as expected, the judge has a number of options from which to choose, including making a final decision on the merits of the case or ordering the defendants to come up with a more comprehensive plan.

After being sued by the Justice Department and the Tobacco-Free Kids Action Fund, the major tobacco manufacturers were found guilty in 2005 of violating the Racketeer Influenced and Corruption Organizations Act (RICO) when they deliberately misled the public about the dangers and addictiveness of smoking.

U.S. Judge Gladys Kessler ordered them to halt the offending practices and place a series of full-page ads in newspapers and commercials on network TV during prime time for a year, reported by Target Market News to be valued between \$30 million and \$45 million, acknowledging their wrongdoing.

The defendants – Philip Morris USA, Inc., Altria Group, Inc., R.J. Reynolds Tobacco Company (in its own capacity and as successor to Brown & Williamson Tobacco Corporation and American Tobacco Co.) and Lorillard Tobacco Company – went along with a plan proposed by the judge that excluded all Black-owned newspapers and broadcast companies.

The tobacco companies submitted a revised plan last week after the National Newspaper Publishers Association (NNPA) and the National Association of Black Owned Broadcasters (NABOB), two trade associations whose member businesses reach more than 95 percent of all African Americans, filed an *amicus* or friend of the court brief challenging the original plan to run court-ordered ads only in White and Latino publications and on the three major television networks.

In an *amicus* brief supporting the Black Press, the NAACP said, "To rectify the damage created by Defendant in their targeting of African American communities, this Court should require Defendants to use NABOB and NNPA member organizations to fulfill its remedial order.

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Black-owned print and visual media remain a primary method of receiving information for African Americans."

After accepting the filing by NNPA and NABOB, Judge Kessler ordered the defendants to address the issues raised by the two trade associations and cable networks that later filed similar briefs protesting the arrangement that favored the three major broadcast networks over them. Among those joining the action were Fox Network News, Viacom (the parent company of BET, MTV and VH1), Univision, TV One, Radio One, CW Network and A&E Television Networks.

Under its latest plan, the tobacco firms propose advertising in only 13 of approximately 200 Black newspapers: The *Arizona Informant*, the *Denver Weekly News*, the *Inner-City News* (Con

n.)  
he  
*Gary Crusader*  
(Indiana)

,  
the  
*Louisville Defender, Insight News*  
(Minnesota)

,  
the  
*St. Louis American*,  
the  
*Omaha Star*,  
the  
*Ohio City News, Black Chronicle*  
(Oklahoma)

,  
the  
*Portland Skanner*,  
the  
*Seattle Skanner*,  
and the  
*Milwaukee Courier*

.  
The tobacco companies proposed reducing what it called "major-circulation newspapers," i.e. White dailies, from 29 to 27, eliminating the *Boston Herald*, the *Florida Times-Union*, the *Fort Worth Star-Telegram*,  
the  
*Fresno Bee*,  
the  
*New York Post*,  
the  
*New York Sun*

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[which has closed], the  
*Orlando Sentinel*,  
the  
*Palm Beach Post*,  
the  
*Sacramento Bee*,  
the  
*San Diego Union-Tribune*  
and the  
*Tallahassee Democrat*  
from the original list.

Added were: the *Baltimore Sun*, the *Birmingham News*, the *Charleston Post & Courier*, the  
*Clarion-Ledger*  
in Jackson

,  
Miss  
,,  
the  
*Memphis Commercial Appeal*,  
the  
*Detroit Free Press*,  
the  
*New Orleans Picayune*,  
the  
*Newark Star-Ledger*  
and the  
*News Journal*  
in Delaware.

Remaining on both ad buy lists were: the *Atlanta Journal-Constitution*, the *Boston Globe*, the  
*Charlotte Observer*,  
the  
*Chicago Sun-Times*,  
the  
*Chicago Tribune*,  
the  
*Dallas Morning News*,  
the  
*Houston Chronicle*,  
the  
*Los Angeles Times*,  
the  
*Miami Herald*,  
the  
*New York Daily News*,

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the  
*New York Times*,  
the  
*Philadelphia Inquirer*,  
the  
*Richmond Times-Dispatch*,  
the  
*San Francisco Chronicle*,  
the  
*Tampa Bay Times* (  
formerly the  
*St. Petersburg Times*), *USA Today*,  
the  
*Wall Street Journal*  
and the  
*Washington Post*  
.

The initial proposal called for television ads to be placed only on ABC, CBS or NBC because they reached the largest number of viewers Monday through Thursday in the desired 7 pm to 10 pm prime time slot. The same holds true for African American viewers.

"For the same days of the week and hours of the day, the average African-American audience on CBS was 872,000; on NBC, 621,000; and on ABC, 758,000," the revised proposal stated. "To be sure, the three channels for which African Americans comprised the highest percentage of viewers, on average, were TV One (89.7%), BET (81.7%), and VH1 (67.6%). But VH1 averaged 442,000 African-American viewers, BET averaged 418,000 African-American viewers, and TV One averaged 127,000 African-American viewers – more than 300,000 fewer African-American viewers on average per timeslot than on ABC, CBS, and NBC."

Under the revised plan, "...Up to one-third of the spots may run on a program that is not on ABC, CBS, or NBC if it has an overall audience at least as large as the least-viewed time slot of ABC, CBS, and NBC during the prescribed days of the week and hours of the day, and Defendants use their best efforts to ensure more African-American viewers than the 'benchmark timeslot.'"

In other words, TV One would technically be eligible to receive commercials, but probably won't get them because they can't match the audience numbers available on ABC, CBS and NBC.

No proposal was made to advertise on radio or magazines in either the original or revised plan.

The filing, called a joint praecipe, stated: "The parties believe that they have reasonably accommodated the *amici's* requests to modify the proposed Consent Order. While it is impossible at this late juncture to accommodate all of the concerns raised by the recently-appearing *amici*, the revised proposed Consent Order changes, the geographic distribution of major-circulation newspapers to better reach African

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Americans, adds the largest African-American newspapers in 14 states, and allows Defendants to run a portion of the corrective statements on television on any other channel network that will reach the same number of viewers and more African Americans. The parties believe that these adjustments should satisfy the concerns raised by the amici and by the Court at the Status Hearing."

Campbell, chairman of the NNPA, said the Black media remains deeply dissatisfied.

"What they have done is include some key cities that were ignored in the original proposal and assigned them to White papers while again bypassing local Black newspapers that were subjected in the past to heavy tobacco advertising aimed at Blacks," he explained. "Tobacco companies can't have it both ways. They can't say we were effective advertising vehicles when they were peddling life-threatening cigarettes, but when it comes to correcting the public record under court order, they want to leave most of our papers on the sidelines."

An examination of the proposed advertising reveals some curious selections.

According to the 2010 Census, the New York City metropolitan area has the largest number of African Americans (those checking the Black-only box), with 3.36 million or 18 percent of the area, followed by 2) Atlanta (1.70 million; 32 percent), 3) Chicago (1.64 million; 17 percent), 4) Washington, D.C. (1.43 million; 26 percent), 5) Philadelphia (1.24 million; 21 percent), 6) Los Angeles (1.23 million; 7 percent), 7) Miami (1.16 million; 21 percent), 8) Houston (1.02 million; 17 percent), 9) Detroit (980,000; 23 percent), 10) Dallas-Ft. Worth (961,871; 15 percent). 11) Baltimore (778,879; 29 percent); 12) Memphis (601,043; 46 percent) and 13) Norfolk-Virginia Beach (522,409; 31 percent).

Yet, there are no plans to place ads in any Black newspaper in those top 13 urban areas.

Equally curious, the tobacco companies plan to place ads in states where the Black population is sparse. For example, they propose placing ads in the *Omaha Star*. There are only 82,865 African Americans in the entire state of Nebraska, representing 4.5 percent of the population, according to the U.S. Census Bureau. On the other hand, New York City, Atlanta and Chicago each have more than 20 times as many African Americans living in their local communities yet have been rejected for ads.

Campbell said the tobacco industry could advertise in every Black newspaper in the nation without suffering any financial hardship.

"The tobacco companies considered us effective when they were targeting us for their products," the NNPA chairman said. "If anything, with our stronger circulation, digital platforms and our use of social media, we are even more effective in delivering messages to African Americans today than we were when they willingly patronized us."