

# Implications of the Federal Court Order banning the terms “light” & “mild”: What difference could it make?

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# The RICO Case

- September 22, 1999: DOJ files Complaint against Big Tobacco
  - “formed an ‘enterprise’ ...to achieve, through illegal means...[maximisation of] their profits and [avoidance of] the consequences of their actions”
  - “false and deceptive statements to the public and in congressional, judicial, and federal agency proceedings” / “fraudulent and tortious conduct”
  - “‘low tar/low nicotine’ cigarettes—that consumers believed to be less hazardous...are in fact not less hazardous than other cigarettes”

# Judge Kessler's Aug 2007 Ruling

## Prohibited:

- Any express or implied health message or health descriptor for any cig brand
- Forbidden descriptors
  - “low tar”, “light”, “mild”, etc.
  - Lead consumers to believe lowered risk, less hazardous
- Representing directly, indirectly, or by implication by any means that “light”, “low-nic”, etc may result in lower risk

# What does it mean?

- No more “light”, “low-tar”, “mild”, “natural”, or similar words

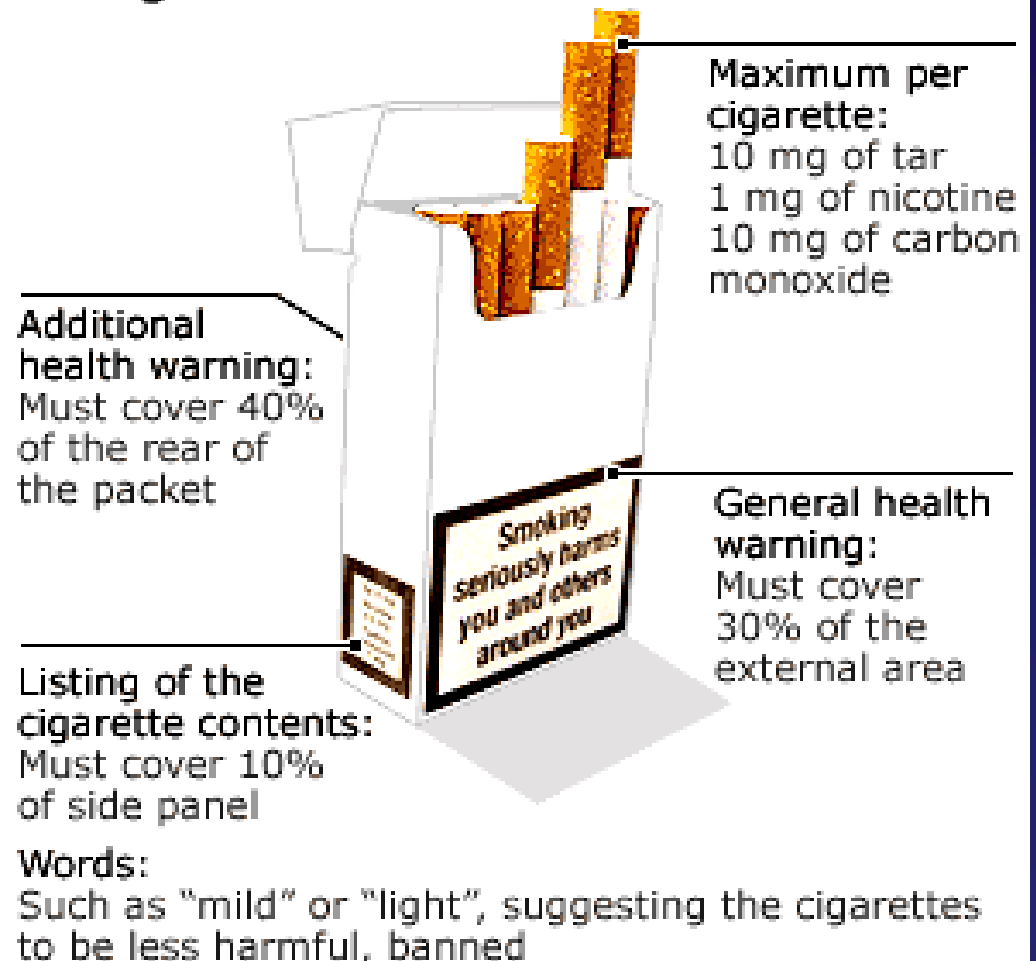


- Directly, indirectly, or by implication, *by any means*, communicating a “lowered risk” message

# I. Numbers: Tar/Nicotine

- 2003 EU ban on “light”, “mild”, etc
- **REQUIRES** tar/nicotine numbers on packs
- Widespread belief that low tar/nic = safer

## EU regulations



# I. Numbers: Tar/Nicotine

The first is low tar. Barclay smokers are usually well aware of Barclay's position

it  
a Well, 99% tar free, so it must be pretty

good, low in tar. I figure it's : pretty  
:otine."

: better for me, the lower in : advertising  
better than

. tar and nicotine.

id 99% tar free."

"Now this is 99% tar free and I have to admit I look at that quite a bit."

Barclay smokers report that they feel good "psychologically" about the low-tar benefit that Barclay offers them:

Brown & Williamson Product Perceptions Study 1986, tid: khu43f00

# I. Numbers: Coding

■ Home ■ Product Info ■ Store Locator ■ News ■ Company Info

[Where is Quest Available?](#)

## Make it your Quest

Introducing **Quest 1, 2 & 3**.  
The first cigarette brand that allows you to enjoy smoking by choosing to reduce your level of Nicotine.  
Real cigarettes, real premium tobacco, real smoking enjoyment.

**Make it your Quest:**

**1** Low Nicotine  
**2** ExtraLow Nicotine  
**3** Nicotine Free

Quest Menthol Quest  
[Find out more](#)

[Privacy Policy](#) | [Terms & Conditions](#) | [Where is Quest Available?](#)

WARNING: This product is NOT intended for use in quitting smoking. Quest is for smokers seeking to reduce nicotine exposure only.

SURGEON GENERAL'S WARNING: Smoking Causes Lung Cancer, Heart Disease, Emphysema, And May Complicate Pregnancy.

<http://www.questcigs.com/> Accessed 31 Oct 2007

# I. Numbers: Coding

people felt a cigarette with less nicotine would be generally healthier

and pack designs made very little difference in people's response to the concept. At best, the particular positioning could be said to color the respondent's product expectations only slightly.

they didn't know exactly what nicotine and its effects were,

The link between Next and Nicotine Extraction was tenuous. Visually separating the N-EXT on the pack helped, but still it was rare for respondents to make the connection. Past research on the "What's Next?" campaign found a much clearer link when attention was focused on the Next device. But in the absence of that kind of attention, any visual device that connect Next to nicotine extraction would be welcome.

Philip Morris parentage had little impact on interest. Some younger respondents recognized Philip Morris as a large company that makes cigarettes. Older respondents were more likely to associated Philip Morris with the brand of cigarettes by that name.

#### Next for Merit

The Next from Merit pack was the most appealing one to respondents. It was seen as stylish, contemporary and clean looking. Perhaps, because of the color difference, the design was not recognized as the Merit rhomboid.

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Philip Morris market research report on low-nicotine cigarette concept, 1988. tid: opc68e00



## II. Color: Coding



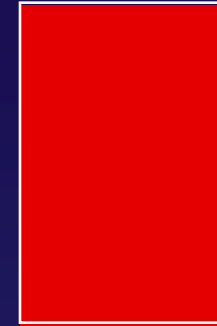
Light/Ultralight



Mild



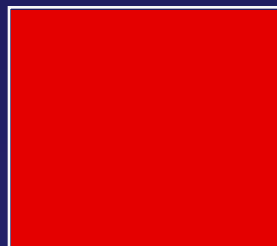
Menthol



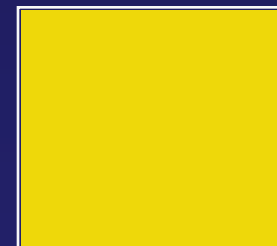
Full flavor/Regular



Silk Cut



Marlboro



Benson & Hedges

## II. Color: Coding

- Before EU ban
  - Lucky Strike Lights



- After EU ban
  - Lucky Strike Silver



## II. Color: Symbolism

vibrant blue, and very blue.

TESTIMONY OF RECALLERS

not as harsh

supposed to be better tasting for a menthol. The main idea was that it is a new and fresher menthol. It went through my mind just that it was a new menthol. I usual-

clean, fresh smoke

roducing it to people. It was a colorful ad. The main idea was I should change to Bright. As for what I particularly liked, nothing really. It was all right. I don't get excited over ads."


"It showed a pack of cigarettes, and it had a bright look to it. 'Bright,' is all I remember the ad saying. It brought out the idea that they would be a light cigarette. The main idea was it was a refreshing cigarette. I was thinking that they may have a fresh taste to them. I particularly liked that it was a clean-looking ad."

"The ad was vibrant blue, and very blue. I saw a sunburst of blues and aqua colors. It talked about a 'clean, fresh taste.' It brought out the idea that it was a different kind of cigarette. They are not as harsh as they used to be. The main idea was they are introducing the cigarette as something new to smoke. I was thinking they look like a clean, fresh smoke. I particularly liked that it caught my eye; the colors are pretty."




RJ Reynolds market research report on Bright brand advertising, 1982. tid: kwc49d00


# III. Imagery: Symbolism

Advertisement:	Elements	Meaning
<p data-bbox="226 570 380 626">West</p>  <p data-bbox="226 675 653 732">Have an Ice day!</p> <p data-bbox="541 1052 873 1092">NECH SE WEST</p> <p data-bbox="302 1122 800 1138">MINISTR ZDRAVOTNICTVÍ VARIJE: KOUŘENÍ ZPŮSOBUJE BAKOVINU.</p>	<p data-bbox="919 675 1331 1092">White pack frozen inside ice cube; blue and white color palette</p>	<p data-bbox="1367 675 1860 1187">“Ice” avoids target words (“light”, “mild”) but implies coolness, soothing</p>

# III. Imagery: Symbolism

Advertisement: West	Elements	Meaning
	Physically fit athlete; carrying Olympic torch	Athletic body implies health; torch is semantically a “light”

# III. Imagery: Symbolism

Advertisement: Silk Cut	Elements	Meaning
 <p>LOW TAR is defined by U.S. Government WARNING: Government Health WARNING: CIGARETTES CAN SERIOUSLY DAMAGE YOUR HEALTH</p>	Brand's signature purple color; cut silk	A well-known low-tar ("safer") brand; image invokes brand name without using any words

# Implications

- Tobacco industry adept at circumventing partial bans or restrictions
- Order must be interpreted to restrict broader communications of health associations
  - existing brands, line extensions, new products
- Emphasis should be on consumer interpretation of advertising messages