

CAMPAIGN FOR JUSTICE ON TOBACCO FRAUD

CAMPAGNE POUR OBTENIR JUSTICE FACE À LA FRAUDE DU TABAC

NEWS RELEASE

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Sixty health and legal experts release poll for World No Tobacco Day and express alarm over near zero awareness of landmark provincial lawsuits against Big Tobacco.

Toronto – Exposure of the unsavoury practices of the tobacco industry is one of the key objectives of the World Health Organization’s World No Tobacco Day held on May 31 each year. The WHO understands that knowledge of the industry’s behaviour is a key ingredient in any effort to eradicate the tobacco epidemic.

This has relevance for public health in Canada say 60 health and legal experts in a letter to the provinces released today. Provincial governments are suing tobacco manufacturers to recover health care costs incurred from alleged industry conspiracy and fraud and the public knows virtually nothing about the behaviour behind the lawsuits.

“Canadians should take note then, as World No Tobacco Day approaches,” says Garfield Mahood, president of the Campaign for Justice on Tobacco Fraud, “that if the provincial allegations are proven in court, the fraud involved would be the largest and most destructive in the history of Canadian business or public health.”

The provinces allege that for five decades the manufacturers lied about cigarette risks, addiction, second-hand smoke and marketing to kids. Yet, according to a national poll made public for the first time today, “less than 10 percent of Canadians know that the provinces are suing tobacco companies over their behaviour” said Donna Dasko, the pollster who conducted the research. This surprised Dr. Dasko, a former lead researcher for Health Canada in the development of tobacco control policies. “Of even greater concern, less than one percent of Canadians are aware that the provinces are claiming that the manufacturers conspired to commit fraud by lying and hiding information about the risks of their products.”

Once made aware of the litigation, a majority of Canadians, 60 percent, believe the provinces are justified in suing the tobacco companies to recover health care costs. “This poll reveals a real potential for the provinces to raise public support for the litigation to higher levels,” said Dr. Dasko. “A large majority, 77 percent, say their support for the litigation would increase if some of the money recovered through court awards or settlements were used to change tobacco company behaviour in the interests of public health.”

Today, the Campaign is making public both the poll and the letter from more than 60 health and legal experts pressing provincial attorneys general and health ministers to inform Canadians about the litigation and the alleged illegal behaviour behind the suits. The letter reveals strong support for public health gains to be outcomes of the tobacco litigation.

“The almost total lack of awareness of the predatory behaviour behind the lawsuits revealed by the poll is not good news for public health,” said Dr. Fernand Turcotte, professor emeritus of public health at Laval University. “For example, research tells us that knowledge of the industry’s behaviour, such as awareness that an industry preyed on smokers when they were in their teens, increases the odds that a smoker will try to quit and increases the resolve of former smokers to stay smoke-free.”

“Lack of knowledge about this litigation may lead to other undesired outcomes from a public health perspective”, said Robert Solomon, distinguished professor in the faculty of law and public health at Western University. “In the absence of public awareness of these lawsuits and the destructiveness of the illegal behaviour, provinces may be less inclined to take the manufacturers to trial. Inadequate settlements before trial threaten both the potential for public health gains from the litigation and justice for the one to two million smokers whose deaths may have been contributed to or caused by the wrongful behaviour.”

“Failure to take the manufacturers to trial combined with an ill-informed public could produce sweetheart out-of-court settlements similar to the smuggling fraud settlements of 2008 and 2010,” said Mahood (see http://www.nsra-adnf.ca/cms/file/files/What_Were_They_Smoking-FINAL_Aug_26_2013.pdf). “Those settlements failed to put tobacco documents into the public domain, recovered a mere pennies-on-the-dollars claimed and stayed pending criminal charges against tobacco executives. The smuggling settlements seemed designed to protect tobacco tax revenue streams rather than to produce health measures to repair the damage caused by industry dishonesty.”

Major public health gains were realized in the United States when four state attorneys general took the industry to trial and spoke publicly about the industry's behaviour. The trial process gave public health 40 million pages of documents that are still aiding litigation and prompting industry regulation and law reform. These trials and documents led to a US \$246 billion settlement involving another 46 states, as well as to the creation of a multi-million dollar public health trust to reduce the use of the industry's products.

The letter released today represents the second time that professors of law, public health, and medicine as well as the CEOs of major health organizations have urged provincial attorneys general and health ministers to take the industry to trial. Last June, they pressed provinces to demand health-related litigation outcomes: the full disclosure of industry documents, the establishment of an arms-length tobacco control trust, and court-ordered performance guarantees to change the industry's behaviour. And they called for efforts by the provinces to educate the public about the claims before the courts.

There are no legal reasons why the provinces cannot take steps to ensure that Canadians are aware of these lawsuits and understand the illegal behaviour that attorneys general allege is behind them. The CJTF challenges the provinces to throw a spotlight on this critical litigation. They can do so, for example, at various stages in the litigation with news releases and public statements that draw attention to the alleged wrongful behaviour, not just to the amount of the claims. The signatories of the letter also challenge the attorneys general and health ministers to use recovered health care costs from the litigation to reduce the tobacco-caused disease and death predicted for addicted smokers now alive. "Justice for the alleged tobacco conspiracy and fraud requires nothing less," said Mahood.

The litigation awareness survey was based on a national random sample of 1,000 adult Canadians, 18 years of age and older, conducted by telephone from September 17 to 23, 2012. A sample of this size drawn randomly from the population would be expected to produce results accurate to within plus or minus 3.1 percentage points in 95 out of 100 samples.

This poll was commissioned in 2012 for CJTF strategic planning purposes. It is being made public today because of its importance to public health. Dr. Dasko and other experts hold that they are unaware of any developments in the last two years that would alter the findings of this survey.

(The news release letter to attorneys general and health ministers and the poll will be available to the public at <http://www.justiceontobaccofraud.ca/> at 0800. Click on NEWS.)

The Campaign for Justice on Tobacco Fraud is a health advocacy group incorporated under the *Canada Not-for-profit Incorporations Act*.

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