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June 14, 1988

The Cipollone Verdict

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Dear Fellow Employees:

All of us have been concerned about the lawsuit brought in Federal Court in Newark, New Jersey on behalf of Mrs. Rose Cipollone. The defendants were three cigarette manufacturers, Liggett, Lorillard, and Philip Morris, and yesterday the jury issued its verdict.

I want you to know how your management assesses this verdict.

As background, you may remember that almost 200 lawsuits have been brought against cigarette manufacturers over the last 5 1/2 years. Although every suit has differed, each has generally sought monetary damages from cigarette manufacturers, alleging that the plaintiffs became sick or died as a result of smoking. Prior to the Cipollone case, cigarette manufacturers had not lost a case nor had they paid money in order to settle one.

The Cipollone trial differed from preceding cases principally because the plaintiff devoted most of a very long trial to seeking to prove that the cigarette manufacturers had conspired together to mislead the public about the alleged risks associated with cigarette smoking. This charge related to the period prior to 1966, because since 1966 warning notices have been printed on every cigarette pack. In seeking to prove this conspiracy, the plaintiff introduced into evidence a large number of internal company documents which were intended to support the conspiracy theory. As you know, these documents provided much of the publicity which has been associated with the case.

The Cipollone verdict was issued in the form of replies to a series of written questions which the judge put to the jurors.

A summary of the questions which the jury had to answer and which related to the theory of a conspiracy, were:

1. Has plaintiff proven all of the elements necessary to establish fraudulent misrepresentation or concealment by defendants Liggett, Philip Morris, and Lorillard, prior to 1966, of material facts concerning significant health risks associated with cigarette smoking?

The jury unanimously answered "NO".

2. Was there a conspiracy prior to 1966 to fraudulently misrepresent and/or conceal material facts concerning significant health risks associated with cigarette smoking?

The jury unanimously answered "NO" to this question also.

The verdict on the principal issues in the case therefore was completely and unequivocally favorable to Philip Morris and the other cigarette manufacturers.

In answering another question which related to Liggett and only Liggett, the jury found that Liggett had failed to warn of the alleged health risks of smoking prior to 1966 and that this was a proximate or contributing cause of Mrs. Cipollone's lung cancer and death. Despite these findings, the plaintiff did not prevail on this claim and was awarded no damages. This was because, very importantly, the jury also found that Liggett was only 20% responsible for Mrs. Cipollone's injuries and that Mrs. Cipollone herself was 80% responsible.

This finding strongly supports the basic defense of cigarette companies in all of the preceding cases. That defense rests on the principle that smokers make a free choice of whether or not to smoke, that they do so knowing of the alleged risks associated with smoking, and that they must therefore, be held responsible for their informed decisions. In allocating 80% responsibility to Mrs. Cipollone, the jury necessarily rejected the claim that she was addicted.

Finally, the jury was asked another question which related only to Liggett, involving an alleged breach of a pre-1966 express warranty to consumers regarding the health aspects of its cigarettes. The jury found that Liggett had made such warranties, that it breached those warranties, and that this breach also was a proximate cause of Mrs. Cipollone's lung cancer and death.

As a result of this latter finding, the jury awarded \$400,000 in damages to Mr. Cipollone, but no damages to Mrs. Cipollone. No punitive damages were awarded.

We assess the verdict and its consequences in the following way:

- The jury's findings on the issue of conspiracy and misrepresentation completely vindicate the conduct of Philip Morris and the other cigarette companies and plaintiff's case failed on this key issue.
- Liggett have stated that they intend to appeal the warranty finding against them and we believe that there are good prospects for the appeal being successful.
- Although the damages of \$400,000, if they are sustained on appeal, appear to be substantial, they represent only a fraction of the investment made by the plaintiff's attorneys in trying the case. They are not large enough to be in any way encouraging to other plaintiffs' attorneys who may be contemplating suits against cigarette manufacturers.

We expect that other product liability suits will be brought against cigarette manufacturers. As in the past, we expect these cases to be different from each other, depending on such factors as the smokers' overall health histories, the nature of their illnesses, the extent of their awareness of the alleged risks of smoking and so on. We continue to believe that we and the other cigarette manufacturers will be successful in defending most, if not all, of these suits. We also believe that to the extent we may lose any future cases, we will be able to continue to manage the Company and our businesses without undue disruption.

All of us remain concerned about adverse publicity related to our cigarette business, particularly about the allegations that cigarette smoking is hazardous to health.

You should know that qualified, eminent medical witnesses testified in the Cipollone trial that smoking had not been proven to cause lung cancer. Most significant in that regard was undisputed evidence that inhalation tests which exposed animals to extraordinarily large quantities of whole cigarette smoke have consistently failed to induce lung cancer in these animals.

The causes of cancer and other diseases which have been statistically associated with smoking remain largely unknown. For many years we have supported independent research designed to clarify these medical uncertainties and I can assure you that we intend to increase our support in the future.

In the meantime, we should remember that cigarettes are legally sold and consumed in every country and that smokers have been warned that there may be health risks associated with smoking. Those of us who continue to smoke do so for the satisfaction and pleasure it gives us and in the context of a world in which we are constantly advised that the air we breath, much of the food and drink we consume daily and many of our chosen lifestyles also represent possible risks to our health.

I believe that each of us must make our own choices about where and how we live and what we consume. For myself, I plan to continue to enjoy smoking.

Yours sincerely,

A handwritten signature in cursive script that reads "Hamish Maxwell".

Hamish Maxwell