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10 SUPERIOR COURT OF CALIFORNIA
11 COUNTY OF SAN DIEGO
12

13 **PEOPLE OF THE STATE OF CALIFORNIA, ex**
14 **rel. BILL LOCKYER, Attorney General of the State**
15 **of California,**

16 Plaintiff,

17 v.

18 **R.J. REYNOLDS TOBACCO COMPANY, a New**
Jersey corporation,

19 Defendant.
20

General Civil

Case No:

**COMPLAINT FOR
ENFORCEMENT OF THE
CONSENT DECREE AND
MASTER SETTLEMENT
AGREEMENT**

(Youth Targeting through Print
Advertising Placement)

21 The People of the State of California, by and through Bill Lockyer, Attorney General of
22 the State of California, allege as follows:

23 **INTRODUCTION**

24 1. In November 1998, the People of the State of California through the Attorney General
25 (“the People”) and the major tobacco companies, including defendant R.J. Reynolds Tobacco
26 Company (“Reynolds”), stipulated to entry of a Consent Decree and Final Judgment (“Consent
27 Decree”) and signed the Master Settlement Agreement (“MSA”), settling the State’s landmark
28 litigation against the tobacco companies, *People of the State of California, et al. v. Philip Morris*

1 **JURISDICTION AND VENUE**

2 5. This Court has retained exclusive jurisdiction for the purposes of implementing and
3 enforcing the provisions of the Consent Decree and the MSA. (Consent Decree, § VI.A, MSA, §
4 VII(a).)

5 **FACTUAL ALLEGATIONS**

6 6. Pursuant to section V.A of the Consent Decree, tobacco companies including
7 Reynolds are permanently enjoined from taking any action, directly or indirectly, to target youth in
8 the advertising, promotion, or marketing of tobacco products. This prohibition against youth
9 targeting is also set forth at section III(a) of the MSA.

10 7. The People allege on information and belief that Reynolds establishes “targets” for
11 each of its cigarette brands. These targets are groups of people who share certain demographic
12 characteristics. Reynolds develops media plans designed to achieve maximum exposure of the
13 targeted audiences to advertising for its various brands, in a cost-effective manner. Such media plans
14 typically identify the publications in which Reynolds’ ads will appear and when they will appear.
15 Reynolds and various advertising firms acting as its agents use nationally recognized syndicated
16 readership data and “reach and frequency” software programs to select the publications in which
17 Reynolds will place its advertising and to decide on the number of ad placements or “insertions”
18 Reynolds will make in various issues of the publications.

19 8. The syndicated readership data includes readership levels for measured publications,
20 expressed in numbers and percentages of readers for various demographic groups, including the 12-
21 17 age group. Using this information, advertisers can select publications which are read or looked
22 into by the target audience(s) and can calculate, based on the number of ad insertions, the number
23 (“audience”) and percentage (“reach”) of a particular group or groups that will be exposed to
24 advertising placed in those publications, and how often those persons will be exposed to the
25 advertising (“frequency”). Advertisers know and understand that their ad placements will expose
26 persons in target audiences other than the designated target(s) to their advertising. They can
27 determine the extent of such exposure using these standard resources, and can take steps using these

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1 resources to limit or reduce the exposure of persons in such target audiences (e.g., youth ages 12-17)
2 to their advertising.

3 9. The People allege on information and belief that the two leading national research
4 services which measure magazine readerships are MediaMark Research, Inc. (“MRI”) and Simmons
5 Market Research Bureau (“Simmons”). Historically, Reynolds and its advertising agents have
6 analyzed and relied upon MRI’s readership studies in selecting publications in which to advertise.
7 Reynolds and its advertising agents use reach and frequency software programs to determine how
8 many persons in selected demographic groups would be exposed to advertising for Reynolds’
9 cigarette brands, and how often they would be exposed, as the result of Reynolds’ advertising
10 placement decisions.

11 10. On December 10, 1999, by letter from Guy M. Blynn to Ohio Attorney General Betty
12 Montgomery and the National Association of Attorneys General, Reynolds stated, inter alia, that it
13 would continue to advertise in any publication whose under-21 readership was less than 50% of its
14 total readership. A copy of said letter is attached as Exhibit A to this Complaint and incorporated
15 by reference. However, to ascertain the “median age” of a publication’s readership for purposes of
16 this policy, Reynolds considered only the MRI data on adult readership and did not consider the MRI
17 data on youth readership.

18 11. On June 16, 2000, by letter from Charles A. Blixt to Oklahoma Attorney General
19 W.A. Drew Edmondson and the National Association of Attorneys General, Reynolds set forth a
20 revised advertising placement policy, stating that with regard to publications in which it runs
21 advertising, it would not advertise in publications whose youth readership was 33 1/3% or more of
22 the publication’s readership, according to reported audience measurement data. A copy of said letter
23 is attached as Exhibit B to this Complaint and incorporated by reference.

24 12. While such policy approves of and adopts the concept of making advertising
25 placement decisions based on accepted industry audience measurement surveys, in fact Reynolds’ new
26 policy did not cause it to remove its advertising from any publications with a substantial youth
27 readership, in which it was then advertising. In contrast to Reynolds, the other three tobacco
28 companies which, along with Reynolds, are Original Participating Manufacturers (“OPM’s”) under

1 the MSA (Philip Morris, Inc., Brown & Williamson Tobacco Co., and Lorillard Tobacco Co.) and
2 which are subject to and bound by the terms of the Consent Decree and MSA, have modified their
3 advertising placement policies in a manner which has resulted in their removal of advertising for their
4 cigarette brands from a number of magazines with a substantial youth readership.

5 13. The People allege on information and belief that the revised policy set forth in Mr.
6 Blixt's letter of June 16, 2000 (Exhibit B) constitutes Reynolds' current ad placement policy. In view
7 of the fact that youth ages 12-17 represent 8.57% of the total U.S. population and 8.23% of the total
8 California population according to the U.S. Census Bureau, Reynolds' policy permits it to place
9 advertising for its cigarette brands in publications whose measured youth readership (i.e., readers ages
10 12-17) is about four times the percentage of 12-17 year-olds in the general and California
11 populations. This policy does not limit Reynolds' advertising in publications whose total number of
12 youth readers exceeds any particular number, nor does it restrict Reynolds from exposing millions of
13 youths, including the vast majority of California youth, to its cigarette advertising. In fact, Reynolds'
14 policy, when combined with the large number of placements of its advertising in publications with
15 high youth readerships, ensures that millions of youth are exposed to its advertising.

16 14. Since entry of the Consent Decree and approval of the MSA, Reynolds has placed and
17 continues to place a large amount of advertising for its cigarette brands in many publications with a
18 substantial number of youth readers, thus exposing millions of youth to its advertising, and exposing
19 youth to that advertising many times. For example, according to a recent study by the American
20 Legacy Foundation, during 1999 the percentage of youth ages 12-17 reached by Reynolds' ads for
21 its three leading brands five or more times are: Winston — 95%, Camel — 86%, Doral — 85%.
22 Further, in 1999 and 2000, Reynolds placed an estimated 114 ads for its Camel, Winston, and Doral
23 brands in *Sports Illustrated*, a weekly magazine that had 4,961,000 youth readers (ages 12-17) and
24 whose youth readership (age 12-17) comprised 17.3% of its total readership, according to the 1999
25 MRI TwelvePlus Study.

26 15. Notwithstanding Reynolds' claim that the target audience for its Camel and Winston
27 brands is adult smokers ages 21-34 and for its Doral brand is adult smokers age 35+, Reynolds' ad
28 placements in 1999 and 2000 in magazines with measured youth readerships expose youths to

1 advertising for these brands to virtually the same extent as they expose adult target smokers.

2 16. In 1999 and 2000, Reynolds placed advertising for its cigarette brands in at least 22
3 magazines whose youth readership (ages 12-17) exceeded 15% of the magazine's total readership,
4 as measured by MRI and/or Simmons: *Vibe*, *Allure*, *Spin*, *Hot Rod*, *Skiing*, *Sporting News*, *Rolling*
5 *Stone*, *Car Craft*, *In Style*, *Marie Claire*, *Guns & Ammo*, *US*, *Motor Trend*, *Road & Track*,
6 *Entertainment Weekly*, *Outdoor Life*, *True Story*, *Vogue*, *Sports Illustrated*, *Premiere*, *Car & Driver*,
7 and *Jet*. In addition, Reynolds placed advertising for its cigarette brands in nine other measured
8 magazines whose youth readership was between 10% and 15% of the total readership: *Essence*,
9 *Popular Mechanics*, *Glamour*, *Elle*, *Mademoiselle*, *GQ*, *Star*, *Soap Opera Digest*, and
10 *Cosmopolitan*.

11 17. In 1999 and 2000, Reynolds placed advertising for its cigarette brands in at least six
12 magazines with more than two million youth readers (ages 12-17), as measured by MRI and/or
13 Simmons: *Vibe*, *Hot Rod*, *Rolling Stone*, *Sports Illustrated*, *TV Guide*, and *People*. In addition,
14 Reynolds placed advertising for its cigarette brands in twenty other magazines whose youth
15 readership was between one million and two million youth readers: *Allure*, *Spin*, *Sporting News*, *In*
16 *Style*, *Guns & Ammo*, *Motor Trend*, *Road & Track*, *Entertainment Weekly*, *Outdoor Life*, *Vogue*, *Car*
17 *& Driver*, *Jet*, *Essence*, *Popular Mechanics*, *Glamour*, *Cosmopolitan*, *Field & Stream*, *Time*, *Better*
18 *Homes & Gardens*, and *National Enquirer*.

19 18. The People allege on information and belief that Reynolds knows and understands that
20 its practice of placing large numbers of ads for its cigarette brands in magazines with substantial youth
21 readerships exposes very large numbers of youth to its advertising, and is or should be aware of the
22 likely number and percentage of readers in the 12-17 age group that its advertising will reach and the
23 frequency with which its advertising will be seen by youth ages 12-17. For example, applying
24 standard reach and frequency analysis, advertising for Reynolds' cigarette brands in 2000 in
25 magazines which measure youth readership reached approximately 95% of youth ages 12-17, and
26 reached them an average of fifty times during the year.

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1 23. Section V.A of the Consent Decree permanently enjoins Reynolds from “[t]aking any
2 action, directly or indirectly, to target Youth within the State of California in the advertising,
3 promotion or marketing of Tobacco Products.”

4 24. Section III(a) of the MSA prohibits Reynolds from “taking any action, directly or
5 indirectly, to target Youth within any Settling State in the advertising, promotion or marketing of
6 Tobacco Products.”

7 25. Reynolds’ policy and practice of placing advertising for its cigarette brands in
8 magazines with a substantial youth readership and using advertising placement plans and/or schedules
9 with large numbers of ad placements in such magazines, thereby exposing very large numbers of
10 youth to said advertising, constitutes action to target youth, whether directly or indirectly, in the
11 advertising, promotion, or marketing of its cigarette brands, in violation of the Consent Decree and
12 the MSA.

13 26. As set forth in paragraphs 20 and 21, the People through the Attorney General have
14 made repeated demands that Reynolds change or modify its advertising practices to reduce or limit
15 youth exposure to advertising for its cigarette brands. Unless this Court enters appropriate relief
16 restraining the above-described violations, Reynolds will continue to target youth in its advertising
17 placement practices.

18 WHEREFORE, the People respectfully pray that this Court grant the following relief:

19 1. Issue an Order finding and declaring that Reynolds’ advertising placement policies and
20 practices are in violation of the prohibition against targeting youth, whether directly or indirectly, in
21 the advertising, promotion or marketing of Tobacco Products, as set forth in section V.A of the
22 Consent Decree and section III(a) of the Master Settlement Agreement;

23 2. Enter an Enforcement Order permanent enjoining Reynolds, and its successors, agents,
24 representatives, employees, and all persons acting in concert with Reynolds, from adhering to
25 advertising placement policies and/or engaging in advertising placement practices that violate section
26 V.A of the Consent Decree and section III(a) of the Master Settlement Agreement;

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3. Enter an Order for monetary sanctions and for civil contempt;
4. Grant the People reasonable attorneys' fees and costs incurred in this proceeding pursuant to Consent Decree section VI.D;
5. Grant such other and further relief as the Court deems just and proper.

Dated: March 19, 2001

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