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Statement from ATS President Monica Kraft on the US Court of Appeals Smoking Warnings Decision

August 27, 2012—"Last week's decision by the U.S. Court of Appeals for the D.C. Circuit to strike down the graphic warnings on cigarette packages required by the 2009 Family Smoking Prevention and Tobacco Control Act, passed by Congress with bipartisan support, defies logic and science.

"The FDA estimates that these warning labels, set to appear on all cigarette packages beginning in September, would have reduced the number of smokers by more than 200,000 people by 2013.

"In siding with Big Tobacco, the court majority decided that the 'First Amendment requires the government not only to state a substantial interest justifying a regulation on commercial speech, but also to show that its regulation directly advances the goal' of reducing smoking rates. That the court would find unconvincing the scores of scientific studies demonstrating the effectiveness of these graphic warning is very difficult to understand. If the warnings were ineffective, why would the tobacco industry be using every legal means possible to stop them?

"Unfortunately the court's action—which can and must be appealed by the Justice Department—represents the latest campaign of deception by Big Tobacco to wage war on Americans' health. As Circuit Judge Roberts noted in his dissent: '...it is beyond dispute that the tobacco companies have engaged in a decades-long campaign to deceive consumers....' and they have "spent more than \$13 billion to attract new users, retain current users, increase current consumption, and generate favorable long-term attitudes toward smoking and tobacco use, often misleadingly portraying the use of tobacco as socially acceptable and healthful to minors.'

"Smoking is the No. 1 cause of preventable death in this country. The American people have indicated that they want to change that fact. Today's decision directly contradicts their will and the will of their elected representatives."

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