

Litigation

"Litigation will keep coming until the industry goes belly-up."
 Professor Richard Daynard,
 Northeastern University, USA, 2002

Tobacco litigation began with a personal injury lawsuit in the USA in 1954. For more than 40 years, the tobacco industry boasted it had not lost a single case, but this has changed. One case in Minnesota that began in 1994 ruled that millions of pages of internal tobacco industry documents (see map 21) be put into the public domain. These showed that the industry has concealed information on the true harmfulness of smoking and misled governments, the media and their clients – smokers.

Litigation has put the industry on the political defensive, forced tobacco companies to the bargaining table, and has resulted in some large settlements, with the industry paying US states billions of dollars a year.

Outside the USA, tobacco litigation is a new phenomenon, and clear patterns do not yet exist. However, some recent cases show the potential for litigation to advance tobacco control. Australia has seen a major ruling on the dangers of passive smoking. Public interest writ litigation in India has prompted the Supreme Court of India to require nationwide implementation of broad restrictions on public smoking.

Cases now vary from smokers and non-smokers filing for damage to health; public interest law suits seeking to force the industry or government to comply with legal or

BAT
4,419
lawsuits
in the USA alone
at the end of 2001

constitutional requirements; governments suing for tobacco-attributable health care costs or for lost taxation due to smuggling; to cases brought by the tobacco industry against individuals, organisations or even governments.

The judge in an Australian lawsuit against BAT in 2002 found "that given the fact that not a single document was in fact

discovered in that category (pharmacological effects of nicotine) the implication seems overwhelming that discovery has been fundamentally thwarted under this category by virtue of the 1998 destruction programme."

