



Office of the Attorney General  
Washington, D.C. 20530

September 27, 2001

MEMORANDUM FOR THE HEADS OF EXECUTIVE AGENCIES

FROM:

John Ashcroft  
Attorney General

SUBJECT: United States v. Philip Morris, Inc., et al.

This memorandum is to request your continued assistance in connection with United States v. Philip Morris, Inc., the federal government's lawsuit against the cigarette manufacturers and two affiliated entities. Although the court has dismissed our damages claims under two medical cost-recovery statutes, it has held that the United States has stated viable claims for relief under the Racketeer Influenced and Corrupt Organizations Act (RICO). These claims retain the support of the Department of Justice, and could result in significant equitable relief and disgorgement of proceeds. At present, the parties are engaged in intensive fact discovery concerning the United States' claims for relief under RICO. The case is set for trial on July 15, 2003.

An important aspect of the litigation concerns defendants' discovery of documents in the possession, custody, and control of the Executive Branch. Defendants have served over 1,700 separate requests for production of documents on various Executive Branch components, while the Civil Division has served approximately 900 separate requests on the defendants. Pursuant to the court order, production of documents by both sides must be substantially completed by December 1, 2001.

We estimate that defendants' requests potentially implicate billions of pages of Executive Branch records. Although the Civil Division has implemented procedures designed to reduce the burden on and expense to Executive Branch components in connection with the comprehensive requests, I recognize that the burden remains substantial, given the large number of records requested. The Justice Department continues to require assistance and cooperation of Executive Branch entities in such activities as providing the Justice Department authorization to gain access to records stored in federal records centers, production of "active" records (i.e., those contained in headquarters and branch offices, as opposed to those transferred to federal records centers or the National Archives), and asserting and supporting claims of privilege.

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So that together we can represent the best interests of the United States, I ask that you devote the resources necessary to continue to support this important case and work with the Department's Tobacco Litigation Team to meet the court-ordered discovery requirements. I very much appreciate your support.