GAO United States
General Accounting Office
Washington, D.C. 20548

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Resources, Community, and
Economic Development Division

B-280762

August 28, 1998

The Honorable Kent Conrad
United States Senate

Subject: Tobacco: Lawsuits Facing the Cigarette Industry in the United States

Dear Senator Conrad:

On June 20, 1997, the nation's largest tobacco companies and the 40 state attorneys general who had filed suit against the industry agreed on a national settlement, that, if it had been approved by the Congress, would have significantly changed the way tobacco products are manufactured, marketed, and distributed in the United States. To provide an incentive for the industry to cooperate in this effort, the proposed settlement and some of the proposed legislation would have provided the industry with liability protection from certain types of lawsuits. For example, the proposed settlement would have protected the industry from class-action lawsuits and settled outstanding state lawsuits by setting up a system of annual payments to the federal and state governments and requiring an up-front payment of $10 billion. The initial payment and the annual payments would have totaled about $368.5 billion over the first 25 years. In addition, the proposed settlement would have dropped all claims for punitive damages for past conduct and granted the tobacco industry immunity from future class-action lawsuits, although individuals would still have been able to bring suit. When the efforts to pass national settlement legislation that the tobacco companies would support failed, the companies began meeting again with some state attorneys general to work toward an agreement that would not require congressional approval.

Because the liability provisions in the proposed settlement and some of the proposed legislation proved to be particularly controversial, you asked us to identify the number of lawsuits pending against the cigarette industry in the absence of a national settlement. Specifically, as agreed with your office, this report provides you with information on (1) the recent trend in the number of tobacco-related lawsuits pending against the five largest cigarette companies in

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the United States[1] and (2) the number of these lawsuits that, to date, have been decided or settled and that have resulted, or will result, in some form of payment to the plaintiffs and the amount of these payments. The information presented in this report was obtained from the companies' annual reports, filings required by the Securities and Exchange Commission, and representatives; cigarette litigation attorneys; and selected states' attorneys general offices.

RESULTS IN BRIEF

From 1994 through 1997, tobacco-related lawsuits pending in the United States against each of the five largest cigarette companies have increased about 10-fold, on average. The companies' 1997 Securities and Exchange Commission filings and annual reports show that between about 364 and 547 lawsuits were pending against each of these companies–up from between about 24 and 86 lawsuits at the end of 1994.[2] Since 1996, 16 settlements and/or decisions have required these companies to make monetary payments of about $41.8 billion over 25 years.

THE NUMBER OF LAWSUITS AGAINST THE CIGARETTE COMPANIES HAS INCREASED ABOUT 10-FOLD, ON AVERAGE, OVER THE PAST 4 YEARS

The number of tobacco-related lawsuits pending in the United States against the five largest cigarette companies has increased, on average, about 10-fold since the end of 1994.[3] (See fig. 1.) For example, the number of lawsuits pending against Brown & Williamson, which has about 16 percent of the domestic

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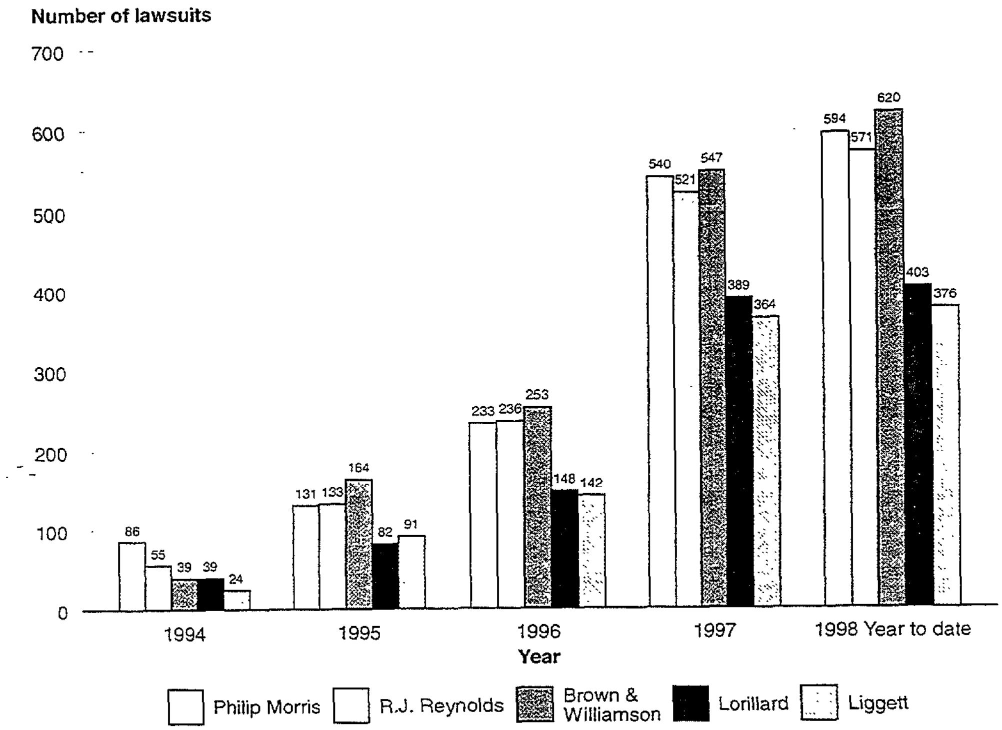
[1]The five largest cigarette companies in the United States are Philip Morris (49 percent of the market), R.J. Reynolds (25 percent), Brown & Williamson (16 percent), Lorillard (9 percent), and Liggett (1 percent).

[2]The total number of lawsuits pending against the entire industry cannot be calculated by adding the totals pending against each company. To do so would result in double-counting, because, often, more than one company is named in the same lawsuit. This report presents the ranges of the number of lawsuits pending against each company for selected years.

[3]The precise impact of an increase in the number of lawsuits pending over the years on the amounts the companies will have to pay is difficult to ascertain. The impact will depend on various factors, including the types of lawsuits, court decisions, jury awards, and the companies' views on litigating or settling pending lawsuits.

cigarette market, increased about 14-fold, from 39 lawsuits at the end of 1994 to about 547 at the end of 1997. Philip Morris, which has 49 percent of the market, experienced an approximately 6-fold increase in the number of lawsuits pending against it, from 86 lawsuits at the end of 1994 to about 540 at the end of 1997.

Figure 1: Lawsuits Pending in the United States Against the Five Largest Cigarette Companies, End of Year 1994 Through 1997 and 1998 Year to Date



Notes: The total number of lawsuits pending against the entire industry cannot be calculated by adding the totals pending against each company. To do so would result in double-counting, because, often, more than one company is named in the same lawsuit. This report presents the number of lawsuits pending against each company for the selected years.

The 1998 year-to-date totals are as of May 1, 1998, for Philip Morris; May 15, 1998, for Lorillard; March 31, 1998, for Liggett; April 30, 1998, for R.J. Reynolds; and April 10, 1998, for Brown & Williamson.

Year-end data on the number of lawsuits pending against Lorillard and Liggett were not available for all the years over the period reviewed. Therefore, we used the number of lawsuits pending against Lorillard as of March 27, 1995, as an approximation for its end-of-year 1994 total; the number as of March 28, 1996, for the 1995 total; the number as of March 27, 1997, for the 1996 total; and the number as of March 31, 1998, for the 1997 total. With respect to Liggett, the number of lawsuits pending as of April 12, 1995, as an approximation for its end-of-year 1994 total; the number as of April 15, 1996, for the 1995 total; and the number as of March 14, 1997, for the 1996 total. Also, it should be noted that it is not clear from the Securities and Exchange Commission (SEC) filings whether the April 12, 1995, and April 15, 1996, data for Liggett are complete.

The 1997 and 1998 year-to-date totals provided for Philip Morris and Lorillard and all of the totals provided for Liggett are approximations.

Sources: Cigarette companies' annual reports and SEC filings for 1994 through the first quarter of 1998.

As of December 31, 1997, between about 364 and 547 lawsuits were pending in the United States against each company. (See table 1.)

Table 1: Number of Lawsuits Pending in the United States Against Each of the Five Largest Cigarette Companies, by Type, as of December 31, 1997

	Number of lawsuits pending				
Company	**Individual smoking and health**[a]	**Class action smoking and health**[b]	**Health care cost recovery**[c]	**Other**[d]	**Total**
Philip Morris	Approximately 375	Approximately 50	Approximately 105	10	Approximately 540
R.J. Reynolds[e]	385	48	103	3	539
Brown & Williamson	388	48	111	0	547
Lorillard[f]	Approximately 200	54	Approximately 110	25	Approximately 389
Liggett	Approximately 250	Approximately 40	Approximately 74	0	Approximately 364

[a]Individual smoking and health lawsuits are those that a plaintiff (usually an individual or a family member on behalf of an individual) files against one or more cigarette companies and other defendants alleging personal injury from the use of tobacco products.

[b]Class-action smoking and health lawsuits are brought on behalf of a class of individual plaintiffs against one or more cigarette companies and other defendants alleging personal injury or nicotine addiction from the use of tobacco products. In order for a case to proceed, a court must certify that the plaintiffs represent a class.

[c]Lawsuits to recover health care costs are filed by third-party payors who seek reimbursement for Medicaid and/or other health care expenses they have incurred as a result of the use of tobacco products. For example, the attorneys general of 41 states have filed suit against the major cigarette companies to recover the portion of their states' Medicaid payments that they believe resulted from the use of tobacco products.

[d]The "other" category includes a variety of tobacco-related lawsuits--such as those in which plaintiffs allege the companies engaged in price fixing or violated federal securities laws--that were not included in the companies' totals for the other three categories.

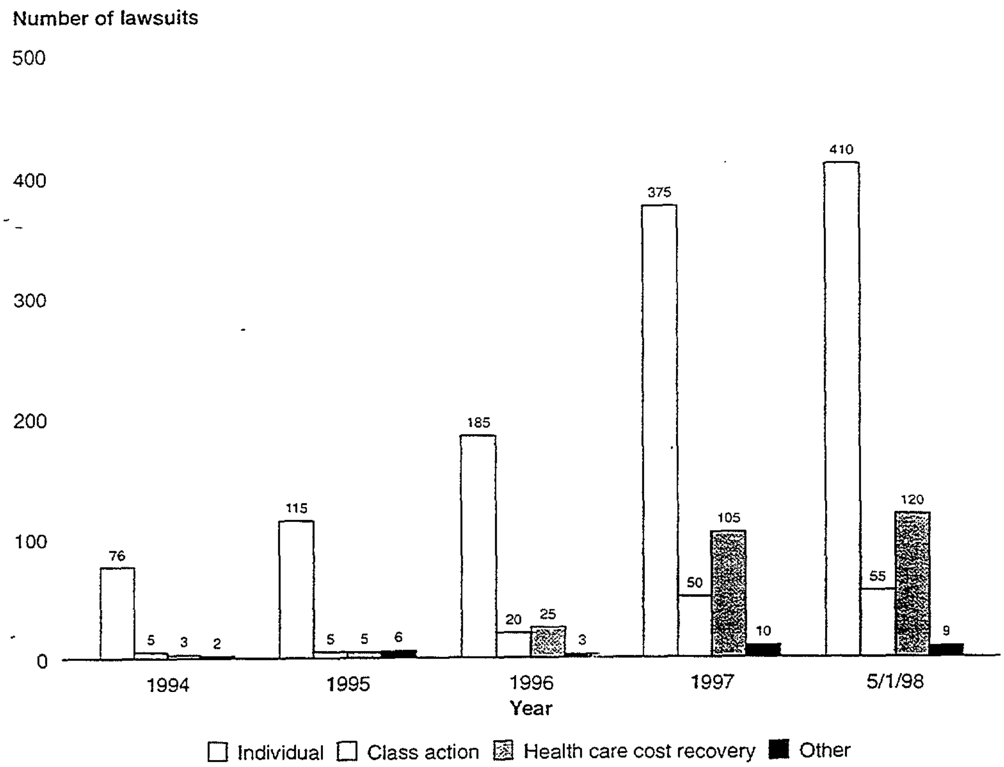
[e]Information on lawsuits by type was not available for R.J. Reynolds for December 31, 1997. Totals provided here for R.J. Reynolds are as of March 3, 1998; hence, they do not match the 1997 total provided in figure 1.

[f]Totals provided for Lorillard are as of March 31, 1998.

Sources: Cigarette companies' 1997 annual reports, company representatives, and/or 1997 SEC filings.

As indicated in figure 1, the companies have faced substantial increases in the number of tobacco-related lawsuits. Although individual smoking and health lawsuits constitute more than half of the lawsuits pending against each of these companies, the lawsuits to recover health care costs have been increasing more quickly and have proven to be much more costly. For example, figure 2 shows the number of each type of suit pending in the United States against Philip Morris at the end of years 1994 through 1997 and as of May 1, 1998. Although individual smoking and health lawsuits still constituted almost 70 percent of the tobacco-related lawsuits pending against the company as of May 1, 1998, the largest percentage increase was in the lawsuits to recover health care costs. From December 31, 1994, through May 1, 1998, the number of this type of lawsuit pending against Philip Morris increased about 40-fold.

Figure 2: Lawsuits Pending Against Philip Morris, by Type, End of Year 1994 Through 1997 and May 1, 1998



Sources: Philip Morris's annual reports and SEC filings for 1994 through the first quarter of 1998.

THE INDUSTRY IS TO PAY ABOUT $41.8 BILLION OVER 25 YEARS

Since 1996, 16 settlements and/or other decisions have required the five largest cigarette companies to make monetary payments. Combined, these actions will cost the companies about $41.8 billion over 25 years. According to our analysis, about 98 percent of these payments result from settlement agreements between the four largest companies–Philip Morris, R.J. Reynolds, Brown & Williamson, and Lorillard–and the state attorneys general of Mississippi, Florida, Texas, and Minnesota.[4] (See enc. I.) In addition, 41 states, the District of Columbia, Guam, the Northern Mariana Islands, San Francisco, and the U.S. Virgin Islands have settled with Liggett–the fifth largest company, which supplies about 1 percent of the U.S. domestic cigarette market. (See enc. II for a description of the status of the lawsuits to recover health care costs filed by U.S. state, local, and insular area governments against the five major cigarette companies in the United States.)

SCOPE AND METHODOLOGY

No central database containing all tobacco-related lawsuits was available. Therefore, to identify the number of lawsuits pending against the largest cigarette companies in the United States and to identify the amounts to be paid resulting from settled or decided lawsuits, we reviewed the annual reports and/or SEC filings of the five largest cigarette companies in the United States–Philip Morris, R.J. Reynolds, Brown & Williamson, Lorillard, and Liggett–which control nearly 100 percent of the U.S. market. We also contacted these companies to help clarify the information in the various reports and filings that we reviewed.[5] In addition, we discussed the litigation and the amounts these companies will pay with SEC, the Federal Trade Commission (FTC), the Tobacco Merchants Association, the Tobacco Institute, various Wall Street

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[4]The settlement agreements between the four largest companies and the state attorneys general specify annual payments, collectively totaling hundreds of millions of dollars, that will be paid for an indefinite period of time. Combined, the payments associated with these four settlements total about $40.8 billion over 25 years. The remaining settlements and decisions totaled about $1 billion.

[5]We also requested information on the legal costs that the four largest companies have incurred to defend themselves against tobacco-related litigation. These companies stated that this information is confidential and it is against company policy to release this information. The smallest of the five companies, Liggett, stated in its SEC filings that it spent $6.43 million in 1995, $10.4 million in 1996, and $5.85 million in 1997 (all in 1998 dollars).

analysts, tobacco litigation attorneys, and selected states' attorneys general offices.

To ensure the accuracy of the data in this report, we sent relevant sections of a draft of this report to each of the five cigarette companies for their review. Two companies–Philip Morris and Brown & Williamson–chose not to comment on the draft. The three remaining companies–R.J. Reynolds, Lorillard, and Liggett–suggested some technical changes that we made as appropriate.

We conducted our review from June 1998 through August 1998 in accordance with generally accepted government auditing standards.

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As agreed with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of this letter. At that time, we will send copies to interested parties and make copies available upon request.

If you or your staff have any questions about this report, please call me at (202) 512-5138. Major contributors to this report were Stephen Cleary, Dan Coates, Patricia Gleason, Richard Kasdan, and Kirsten Landeryou.

Sincerely yours,

Lawrence J. Dyckman
Director, Food
and Agriculture Issues

Enclosures - 2

SUMMARY OF TOBACCO-RELATED SETTLEMENTS AND/OR DECISIONS RESULTING IN MONETARY PAYMENTS

Company	Lawsuit	Type of lawsuit	Date decided or settled	Total amounts paid and/or to be paid
Liggett	Attorneys-general suits of Florida, Louisiana, Massachusetts, Mississippi, and West Virginia	Health care cost recovery	3/15/96 (settled)	[a]
Lorillard	[b]	Other (concerning asbestos in cigarettes filters)	In 1996, a jury returned a verdict in favor of the plaintiffs.	$70,000
Liggett	Attorneys-general lawsuits of Arizona, Connecticut, Hawaii, Illinois, Indiana, Iowa, Kansas, Maryland, Michigan, Minnesota, New Jersey, New York, Oklahoma, Texas, Utah, Washington, and Wisconsin	Health care cost recovery	3/20/97 (settled)	[c]
Liggett	Attorney-general lawsuit of California	Health care cost recovery	4/14/97 (settled)	California agreed to the terms of the March 20, 1997, settlement.[c]
Liggett	Attorney-general lawsuit of Alaska	Health care cost recovery	5/6/97 (settled)	Alaska agreed to the terms of the March 20, 1997, settlement.[c]
Liggett	Attorney-general suit of Oregon	Health care cost recovery	6/9/97 (settled)	Oregon agreed to the terms of the March 20, 1997, settlement.[c]

Company	Lawsuit	Type of lawsuit	Date decided or settled	Total amounts paid and/or to be paid
Philip Morris, R.J. Reynolds, Brown & Williamson, and Lorillard	Moore v. the American Tobacco Company, et al. (Mississippi)	Health care cost recovery	7/2/97 (settled)	Collectively, about $4 billion over the first 25 years, with annual payments continuing thereafter[d]
Philip Morris, R.J. Reynolds, Brown & Williamson, and Lorillard	The state of Florida, et al. v. the American Tobacco Company, et al.	Health care cost recovery	8/25/97 (settled)	Collectively, about $12.9 billion over the first 25 years, with annual payments continuing thereafter[d]
R.J. Reynolds	Mangini v. R.J. Reynolds Tobacco Company, et al.	Other (class-action advertising)	9/5/97 (settled)	At least $10 million
Lorillard	[b]	Other (concerning asbestos in cigarettes filters)	[e]	$1.6 million
Philip Morris, R.J. Reynolds, Brown & Williamson, Lorillard, and Liggett	Castano, et al. v. the American Tobacco Company, et al.	Individual[f]	In January 1998, the plaintiffs and defendants agreed to dismiss the case without prejudice and toll the statute of limitations.	Philip Morris has paid $5.9 million, and Lorillard has paid $1 million to reimburse costs and expenses of the plaintiffs' counsel.[g]

Company	Lawsuit	Type of lawsuit	Date decided or settled	Total amounts paid and/or to be paid
Philip Morris, R.J. Reynolds, Brown & Williamson, and Lorillard	The state of Texas v. the American Tobacco Company, et al.	Health care cost recovery	1/16/98 (settled)	Collectively, about $17.3 billion over the first 25 years, with annual payments continuing thereafter[d]
Philip Morris, R.J. Reynolds, Brown & Williamson, Lorillard, and Liggett	Broin, et al. v. Philip Morris Companies, Inc., et al.	Class-action smoking and health	2/3/98 (settled)	$349 million over 3 years
Liggett	Attorneys-general lawsuits of Arkansas, Colorado, District of Columbia, Guam, Idaho, Maine, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, Northern Mariana Islands, Ohio, Pennsylvania, Rhode Island, U.S. Virgin Islands, and Wyoming	Health care cost recovery	3/12/98 (settled)	At least $45.04 million over 25 years[h]
Liggett	Attorney-general lawsuit of Georgia	Health care cost recovery	3/26/98 (settled)	Georgia is covered under a March 12, 1998, settlement.[h]

Company	Lawsuit	Type of lawsuit	Date decided or settled	Total amounts paid and/or to be paid
Philip Morris, R.J. Reynolds, Brown & Williamson, and Lorillard	State of Minnesota, et al. v. Philip Morris Incorporated, et al. (Minnesota attorney general and Minnesota Blue Cross/Blue Shield were coplaintiffs)	Health care cost recovery	5/8/98 (settled)	For Minnesota, collectively, about $6.1 billion over the first 25 years, with annual payments continuing thereafter[d] For Blue Cross/Blue Shield of Minnesota, collectively, $469 million over 5 years For a national research account and attorneys' fees and costs, collectively, about $666 million over 10 years[d]
Total				**About $41.8 billion over 25 years**[i]

Note: Where applicable, we converted the amounts paid and/or to be paid to constant 1998 dollars, assuming a 1.7-percent inflation rate from 1997 through 1998. For a few settlements and/or decisions, we were unable to determine when amounts were paid or whether future amounts to be paid are to be adjusted for inflation. These settlements and/or decisions amount to less than $400 million, which is less than 1 percent of the total amount paid and to be paid. In addition, some of the agreements contain volume adjustments which may alter the amount that the cigarette companies ultimately pay.

[a]Pursuant to the March 1996 settlement agreement, Liggett will pay about $5 million ($5.04 million in 1998 dollars) over 10 years and 2.5 percent of pretax income over 24 years to the five states collectively. According to the agreement, $1 million ($1.04 million in 1998 dollars) was scheduled

to be paid by Liggett on March 22, 1996, and the remaining $4 million, adjusted for inflation, is to be paid in equal annual installments over the following 9 years. Further, according to a Liggett representative, there is a provision in the settlement that if Liggett does not merge with another company within 3 years, it must pay an additional $5 million in total to the five states. The total amount paid and/or to be paid associated with all of Liggett's 1996, 1997, and 1998 attorneys-general settlements is at least $45.04 million (in 1998 dollars) over 25 years.

[b]The name of the lawsuit was not available.

[c]Pursuant to the March 1997 settlement agreement, Liggett will pay 25 percent of its pretax income each year for 25 years to the states covered under the settlement, collectively. Pursuant to the "most-favored nation" provisions of this settlement, Liggett will pay these states the terms of the March 1998 settlement. The total amount paid and/or to be paid associated with all of Liggett's 1996, 1997, and 1998 attorneys general settlements is at least $45.04 million (in 1998 dollars) over 25 years.

[d]Mississippi's, Florida's, and Texas' payments reflect the impact of the "most-favored nation" provisions of their settlements that resulted from the financial provisions of the Minnesota settlement. The updated figures were provided by an attorney who has worked closely on these lawsuits for the plaintiffs and discussions with the relevant attorneys general offices. The settlement totals presented for these states include attorneys' fees and costs. The payments presented for Florida could change because negotiations have not yet been completed. With respect to the Minnesota attorney general and Minnesota Blue Cross/Blue Shield lawsuit, settling defendants agreed to pay $100 million over 10 years into a national research account and about $566 million in attorneys' fees and costs (about $445 million associated with the state of Minnesota and about $121 million associated with Minnesota Blue Cross/Blue Shield). The attorneys' fees and costs were negotiated separately between the attorneys and the settling tobacco companies. They were not paid to the state or Blue Cross/Blue Shield.

[e]The jury returned a verdict for the plaintiffs for $1.6 million, but the date of the decision was not available. Lorillard made the resulting payment on December 30, 1997.

[f]Originally brought as a class-action lawsuit. The class was decertified in 1996.

[g]These payments will be credited against any future judgment or settlement in similar lawsuits. Information on payments made by R.J. Reynolds and Brown & Williamson was not available. Liggett made no payments associated with this lawsuit.

[h]Pursuant to the March 1998 settlement agreement, Liggett will pay each state or locality covered under the agreement either $1 million (in constant 1998 dollars) over 9 years or a percentage of its annual pre-tax income over the same period of time, whichever is greater. Liggett will be required to pay between 27.5 and 30 percent of its pretax income collectively to the states and localities covered under this settlement, with the percentage depending on the total number of states and localities covered by the settlement. Each of the states that settled under the March

1996 and March 1997 settlements (including states that settled later in 1997) can benefit from the financial and/or nonfinancial terms of the March 1998 settlement because of "most-favored nation" provisions in the earlier settlements. According to these provisions, if Liggett enters into any agreements with the attorneys general or similar representatives of other states and localities in the future on terms more favorable than the terms of the states that have already settled, then the existing settlement agreements may be revised so that the states that have already settled will obtain treatment at least as favorable as provided in the future settlements. The financial terms of the March 1998 settlement are generally more favorable than those in the March 1997 settlement but not the March 1996 settlement, according to some of Liggett's attorneys. As a result, Liggett will pay the terms of the March 1998 settlement to the 36 states, the District of Columbia, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands and will continue to pay the terms of the March 1996 settlement to Florida, Louisiana, Massachusetts, Mississippi, and West Virginia. In total, Liggett will pay at least $45 million ($45.04 in 1998 dollars) over 9 years and 2.5 percent of its pretax profits over 24 years.

[i]Any insurance payments the companies receive would reduce their financial burden.

Sources: Cigarette companies' annual reports, Security and Exchange Commission (SEC) filings for 1994 through the first quarter of 1998, and discussions with cigarette litigation attorneys and selected states' attorneys general offices.

STATUS OF LAWSUITS TO COVER HEALTH CARE COSTS: STATE, LOCAL, AND INSULAR AREA GOVERNMENTS (LATEST SEC REPORTS AVAILABLE)

Jurisdiction	Date filed	Settlement date	Total amounts paid and/or to be paid
State			
Alabama	Has not filed	[a]	[a]
Alaska	4/14/97	Liggett--5/6/97	[b]
Arizona	11/12/96	Liggett--3/20/97	[b]
Arkansas	5/5/97	Liggett--3/12/98	[c]
California[d]	6/12/97	Liggett--4/14/97	[b]
Colorado	6/5/97	Liggett--3/12/98	[c]
Connecticut	7/18/96	Liggett--3/20/97	[b]
Delaware	Has not filed	[a]	[a]
Florida	2/21/95	Liggett--3/15/96; Philip Morris, R.J. Reynolds, Brown & Williamson, and Lorillard--8/25/97	Liggett;[e] Philip Morris, R.J. Reynolds, Brown & Williamson, and Lorillard--collectively, about $12.9 billion over the first 25 years[f]
Georgia[g]	8/29/97	Liggett--3/26/98	[c]
Hawaii	1/31/97	Liggett--3/20/97	[b]
Idaho[g]	6/11/97	Liggett--3/12/98	[c]
Illinois	11/12/96	Liggett--3/20/97	[b]
Indiana	2/19/97	Liggett--3/20/97; Attorney-General lawsuit dismissed on 7/24/98	[b]
Iowa	11/27/96	Liggett--3/20/97	[b]
Kansas[d]	8/20/96	Liggett--3/20/97	[b]
Kentucky	Has not filed	[a]	[a]
Louisiana	3/13/96	Liggett--3/15/96	[e]

Jurisdiction	Date filed	Settlement date	Total amounts paid and/or to be paid
Maine[g]	6/17/97	Liggett--3/12/98	[c]
Maryland	5/1/96	Liggett--3/20/97	[b]
Massachusetts	12/19/95	Liggett--3/15/96	[e]
Michigan	8/21/96	Liggett--3/20/97	[b]
Minnesota	8/17/94	Liggett--3/20/97; Philip Morris, R.J. Reynolds, Brown & Williamson, and Lorillard--5/8/98	Liggett;[b] Philip morris, R.J. Reynolds, Brown & Williamson, and Lorillard--collectively, about $6.1 billion over the first 25 years and about $545 million in attorneys' fees and other costs over 10 years[f]
Mississippi	5/23/94	Liggett--3/15/96; Philip Morris, R.J. Reynolds, Brown & Williamson, and Lorillard--7/2/97	Liggett;[e] Philip Morris, R.J. Reynolds, Brown & Williamson, and Lorillard--collectively, about $4 billion over the first 25 years[f]
Missouri	5/12/97	Liggett--3/12/98	[c]
Montana	5/5/97	Liggett--3/12/98	[c]
Nebraska	[h]	Liggett--3/12/98	[c]
Nevada[g]	5/21/97	Liggett--3/12/98	[c]
New Hampshire[g]	6/4/97	Liggett--3/12/98	[c]
New Jersey	9/9/96	Liggett--3/20/97	[b]
New Mexico[d]	5/27/97	Liggett--3/12/98	[c]
New York	1/27/97	Liggett--3/20/97	[b]
North Carolina	Has not filed	[a]	[a]
North Dakota	[h]	Liggett--3/12/98	[c]
Ohio	5/8/97	Liggett--3/12/98	[c]

Jurisdiction	Date filed	Settlement date	Total amounts paid and/or to be paid
Oklahoma	8/22/96	Liggett--3/20/97	[b]
Oregon[d]	6/9/97	Liggett--6/9/97	[b]
Pennsylvania	4/23/97	Liggett--3/12/98	[c]
Rhode Island	6/17/97	Liggett--3/12/98	[c]
South Carolina[g]	5/12/97	Not settled	[a]
South Dakota	2/23/98	Not settled	[a]
Tennessee	Has not filed	[a]	[a]
Texas	3/28/96	Liggett--3/20/97; Philip Morris, R.J. Reynolds, Brown & Williamson, and Lorillard--1/16/98	Liggett;[b] Philip Morris, R.J. Reynolds, Brown & Williamson, and Lorillard--collectively, about $17.3 billion over the first 25 years[f]
Utah	9/30/96	Liggett--3/20/97	[b]
Vermont	5/29/97	Not settled	[a]
Virginia	Has not filed	[a]	[a]
Washington	6/5/96	Liggett--3/20/97	[b]
West Virginia	9/20/94	Liggett--3/15/96	[e]
Wisconsin	2/5/97	Liggett--3/20/97	[b]
Wyoming	[h]	Liggett--3/12/98	[c]
Cities/counties			
District of Columbia	[h]	Liggett--3/12/98	[c]
Los Angeles, CA	8/5/96	Not settled	[a]
New York, NY	10/17/96	Not settled	[a]
San Francisco, CA	6/6/96	Liggett--May 1997	$0
Erie County NY[g]	1/14/97	Not settled	[a]
Cook County, IL[g]	4/18/97	Not settled	[a]
Birmingham, AL[g]	5/28/97	Not settled	[a]

Jurisdiction	Date filed	Settlement date	Total amounts paid and/or to be paid
U.S. insular areas			
Puerto Rico[g]	6/16/97	Not settled	[a]
Guam[g]	5/29/97	Liggett--3/12/98; Suit dismissed in 1/98	[c]
Northern Mariana Islands	[i]	Liggett--3/12/98	[c]
U.S. Virgin Islands	[h]	Liggett--3/12/98	[c]

Note: Unless otherwise indicated, the lawsuits named Philip Morris, R.J. Reynolds, Brown & Williamson, Lorillard, and Liggett as defendants. These five companies supply nearly 100 percent of the U.S. domestic cigarette market. In addition, it is possible that there are other lawsuits by governments to recover health care costs that have been filed but were not included in the companies' SEC reports, and are therefore not included in our analysis. All of the amounts paid and/or to be paid are in constant 1998 dollars, assuming a 1.7-percent inflation rate from 1997 through 1998. In addition, some of the agreements contain volume adjustments which may alter the amount that the cigarette companies ultimately pay.

[a]Not applicable.

[b]Pursuant to the March 1997 settlement agreement, Liggett will pay 25 percent of its pretax income each year for 25 years to the states covered under the settlement, collectively. (Alaska, California, and Oregon subsequently agreed to be covered by the terms of the March 20, 1997, settlement agreement.) Pursuant to the "most-favored nation" provisions of this settlement, Liggett will pay these states the terms of the March 1998 settlement. The total amount paid and/or to be paid associated with all of Liggett's 1996, 1997, and 1998 attorneys-general settlements is at least $45.04 million (in 1998 dollars) over 25 years.

[c]Pursuant to the March 1998 settlement agreement, Liggett will pay each state and locality covered under the agreement either $1 million (in constant 1998 dollars) over 9 years or a percentage of its annual pretax income over the same period of time, whichever is greater. Liggett will be required to pay between 27.5 and 30 percent of its pretax income collectively to states and localities covered under this settlement, with the percentage depending on the total number of states and localities covered by the settlement. Each of the states that settled under the March 1996 and March 1997 settlements (and states that settled later in 1997) can benefit from the financial and nonfinancial terms of the March 1998 settlement because of "most-favored nation" provisions in the earlier settlements. According to these provisions, if Liggett enters into any agreements with attorneys general or similar representatives of other states and localities in the future on terms more favorable than the terms of the states that have already settled, then the existing settlement agreements may be revised so that the states that have already settled will obtain treatment at least as favorable as provided in the future settlements. The financial terms of the March 1998 settlement are generally more favorable than those in the March 1997 settlement but not the March 1996 settlement, according to some of Liggett's attorneys. As a result, Liggett

will pay the terms of the March 1998 settlement to the 36 states, the District of Columbia, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands and will continue to pay the terms of the March 1996 settlement to Florida, Louisiana, Massachusetts, Mississippi, and West Virginia. In total, Liggett will pay at least $45 million ($45.04 In 1998 dollars) over 9 years and 2.5 percent of its pretax profits over 24 years.

[d]Liggett was not named as a defendant in the state's, locality's, or insular area's lawsuit to recover health care costs.

[e]Pursuant to the March 1996 settlement agreement, Liggett will pay about $5 million ($5.04 million in 1998 dollars) over 10 years and 2.5 percent of pretax income over 24 years to the five states collectively. According to the agreement, $1 million ($1.04 million in 1998 dollars) was scheduled to be paid by Liggett on March 22, 1996, and the remaining $4 million, adjusted for inflation, is to be paid in equal annual installments over the following 9 years. Further, according to a Liggett representative, there is a provision in the settlement that if Liggett does not merge with another company within 3 years, it must pay an additional $5 million in total to the five states. The total amounts paid and/or to be paid associated with all of Liggett's 1996, 1997, and 1998 attorneys-general settlements are at least $45.04 million (in 1998 dollars) over 25 years.

[f]Mississippi's, Florida's, and Texas' payments reflect the impact of the "most-favored nation" provisions of their settlements that resulted from the financial provisions of the Minnesota settlement. The updated figures were provided by an attorney who has worked closely on these lawsuits for the plaintiffs and discussions with the relevant attorneys general offices. The settlement totals presented for these states include attorneys' fees and costs. The payments presented for Florida could change because negotiations have not yet been completed. With respect to the Minnesota attorney general settlement, settling defendants agreed to pay $100 million over 10 years into a national research account and about $445 million in attorneys' fees and costs. The attorneys' fees and costs were negotiated separately between the attorneys and the settling tobacco companies. They were not paid to the state.

[g]The state, local, or insular area government complaint document was not available; therefore, it is uncertain whether all five of the major cigarette companies were named in the suit.

[h]The state, local, or insular area government has not filed a health care cost recovery lawsuit; however, it reached a settlement with Liggett.

[i]It is not known whether the state, local, or insular area government has filed a health care cost recovery lawsuit; however, it reached a settlement with Liggett.

Sources: Cigarette companies' SEC filings for 1994 through the first quarter of 1998, Northeastern University's state tobacco information center, and discussions with cigarette litigation attorneys and selected states' attorneys general offices.

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