

## [Nigerian Guardian Newspapers](#)

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LAGOS State government and a non-governmental organisation, Environmental Rights Action (ERA) yesterday began before a Lagos High Court a N2.7 trillion compensation suit against British-American Tobacco (BAT)(Nigeria) Limited, International Tobacco Limited and four others for health hazards resulting from cigarette smokers in the state.

The suit, endorsed by the state Attorney-General and Commissioner for Justice, Prof. Yemi Osinbajo (SAN) also named British-American Plc, British-American Tobacco (Investment) Limited, Phillip Morris International and The Tobacco Institute as defendants.

The claimants' claim is based on allegations that

the defendants have recently admitted that tobacco smoking has severe health implications, including, but not limited to cancer, cardiovascular and pulmonary complications;

in spite of the obvious knowledge of the adverse effect of their product, the defendants have surreptitiously and fraudulently targeted young and underage persons in their advertising and marketing. Through the use of market surveys and sophisticated advertising, the defendants have utilised such means as music, cinema and fashion, to attract and addict young and underage persons to smoking. There have been substantiated instances of free distribution to children at their events;

the mandatory health warnings inscribed on the pack is ineffective as the defendants promote a retail strategy of sale by the stick (the individual sticks that most consumers buy have no such warnings). This retail strategy is also a significant causal factor of youth smoking as it encourages easy access to the products;

on account of legal action, liability, and stricter control measures in the developed world such as the United States (where big tobacco companies and their lobby arms were mandated to pay compensatory damages of \$260 billion to state governments for public health costs), the defendants have turned their focus to the developing world with Nigeria being a top priority. While there is a significant decline in the smoking rates in the developed world with diminishing health concerns, in the developing world such as Nigeria, smoking increase at least by 20 per cent yearly. In Lagos, two persons die daily in the government-run health facilities, from tobacco-related diseases;

beginning from about the middle of the last century, the defendants have conspired internationally and locally to suppress the fact of the addictive and narcotic qualities of nicotine (which equals that of heroin), and also its manipulation to achieve a higher level of dependability on the product by its user. They have also conspired to conceal the adverse health effects of

smoking to the consuming public, government and regulators. Their conspiracy also extends to the issue of second-hand smoke or passive smoke, otherwise referred to as Environmental Tobacco Smoke (ETS). Finally, despite possessing the wherewithal to manufacture safer cigarettes, defendants have conspired to blatantly suppress any advance in this area; and in perpetrating their conspiracy to commit the several actionable wrongs alleged in the suit, the defendants acted in concert with one another, and also employed an astonishing array of lobby groups, bogus research organisations, and public relations companies.

The Programme Manager, ERA, Mr. Olufemi Akinbode, in his written statement on oath as a potential witness attached to the suit averred that

"In response to loss of market dominance and income in developed countries, tobacco companies are channelling their massive resources and promotional machinery to lure impressionable youths in the developing countries of Africa to long-term tobacco use," and that

"The defendants have actively endorsed and participated in musical concerts with recognised pop and other celebrated musicians to create an atmosphere that furthers their false deception. The first defendant actively marketed its Benson and Hedges brand by putting on musical concerts dubbed with names like "Wild and Wicked" to attract Nigerian youths. At each BAT Nigeria musical concert, young people are provided with a supply of free Benson and Hedges cigarettes in order to get them addicted to cigarette smoking at a young age so as to make them life-long consumers."

He added that on several occasions he had accompanied relations, friends and members of ERA and the National Co-ordinator of the Nigeria Tobacco Control Alliance (NTCA) to both public and private hospitals for treatment of tobacco-related diseases.

Specifically, the claimants' causes of action are based on negligence, public nuisance, restitution, strict liability, conspiracy to commit actionable wrongs, among others.

The overall effect of the defendants' course of conduct is that the state government is called upon to expend its resources in treating tobacco-related ailments caused by the use of defendants' products. In the year 2006 alone, there were 9,527 reported cases of tobacco-related diseases in Lagos State hospitals. The state government spends at least N316,000 per month on each of these cases.

The claimants sought against the defendants, jointly and severally, the following reliefs among others:

an order of mandatory injunction compelling the defendants, their successors-in-title, privies and or agents to cease the marketing, promotion, distribution and sale of tobacco-related products to minors or under-aged persons;

an order of mandatory injunction restraining the defendants from representing or portraying to minors or persons under the age of 18, any alluring and/or misleading image regarding tobacco-related products whether by direct depictions, pictorials, advertorials, images, words, messages, sponsorship, branding and/or through overt or covert and/or subliminal means.