

Brazil sues cigarette manufacturers for public health costs

Brazil argues the companies should repay the cost their product incurs on public health, opening avenues for other countries to do the same. Lise Alves reports from São Paulo.



Brazil's Attorney General's Office (AGU) wants some of the country's largest cigarette manufacturers to repay the Brazilian Government for money spent by the public health system on treatments for problems caused by smoking. The AGU filed a civil action suit last week that asked manufacturers such as Souza Cruz and Philip Morris Brasil and their parent companies, British American Tobacco and Phillip Morris International, to pay back what the Union spent over the past 5 years on treatments for 26 diseases whose association with cigarette smoke has been scientifically supported.

"The profit of this trade is sent abroad, to these multinationals", explained the regional coordinator of the Prosecutor's Office in Porto Alegre, Davi Bressler, during a press conference. "It is not fair that they have not paid the burden that they are leaving with Brazilian society."

The monetary damages requested are based on the economic concept of negative externalities, since manufacturers have stopped bearing the costs corresponding to the risks arising from the activity from which they derive their gains.

"We applaud this bold decision by the Brazilian Government to seek reimbursement from multinational tobacco companies for the social and economic costs of the suffering and health care resulting from tobacco-related diseases", said Katia de Pinho Campos, coordinator of Chronic Non-Communicable Diseases and Mental Health at the Pan American Health Organization (PAHO) and WHO offices in Brazil.

The director of the Tobacco Control Alliance, Paula Johns, agrees. "[The lawsuit] should be celebrated. The burden of smoking has always fallen

upon society. The [tobacco] companies only had the bonus, the profits. They will now be held responsible for part of the costs that their products generate", says Johns.

Health problems related to cigarette consumption are said to cost tens of

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billions of Brazilian reais every year. If the ruling is favourable to the Union the total amount to be reimbursed will be calculated in the future.

The AGU argues that the evidence of injury is possible through the so-called epidemiological causal nexus, which obtains scientific evidence to ascertain the percentage of direct relationship between each disease and smoking.

Brazil's National Cancer Institute found that 90% of cases of lung cancer alone, for example, are due to cigarette addiction. "In Brazil, 428 people die every day because of nicotine addiction. It is estimated that R\$56.9 billion [approximately US\$14.1 billion] are spent each year due to medical expenses and reduced productivity; 156 216 annual deaths [mainly from cancer] could be avoided", notes the National Cancer Institute.

With the theory of subjective responsibility, the AGU listed negative behaviours promoted by companies over the last decades in its lawsuit, including the omission and manipulation of information about the ills of smoking, including passive

smoking, and the addictive power of nicotine and the use of marketing strategies and advertising aimed at young audiences.

The AGU, however, notes that the lawsuit is not intended to prohibit or hinder the activity of cigarette manufacturers. "In no way does [the lawsuit] affect domestic tobacco production, the condition of Brazil as the world leader in the export of product leaves or the earnings of Brazilian producers. Around 70% of the national tobacco production is directed towards the foreign market", the AGU says on its website.

Unlike the individual and collective lawsuits filed against tobacco companies in the past, Johns is hopeful that, this time, the lawsuit will be successful. According to her, unlike previous legal actions, the lawsuit is not placing the blame on individuals or companies. "The lawsuit does not argue the merit of blame or responsibility by company or individual. It demands restitution of costs incurred, which is a concrete fact", said Johns.

But, even if the AGU's demands are not accepted by Brazilian courts, those who advocate that health costs resulting from tobacco-related diseases should be shared with tobacco manufacturers say that the court filing of such a lawsuit is already a big step forward.

"This action by Brazil serves as an example for other countries, both to encourage them to take similar measures and to subsidize them with legal arguments. We, PAHO and WHO, will always be on hand to support the country in addressing the burden that tobacco imposes on individuals and national health systems", concludes PAHO's Campos.

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