

This could cause problems with limitation periods and almost certainly delay the resolution of many cases.

Claims cannot be referred to a Claims Assessor or be litigated until entitlement to damages for non-economic loss is confirmed.

7. Whether the issuing of a Permanent Impairment Certificate will be conclusive evidence of causation thus depriving the Court from deciding this issue.

### What is at stake?

It is an "all or nothing" situation. If permanent impairment is assessed as not being greater than 10% there will be no damages for non-economic loss. If greater than 10% the damages are likely to be substantial, probably at least \$80,000.00.

### Conclusion

One of the stated objectives of the Act is; "To keep premiums affordable, in particular by limiting the amount of compensation payable for non-economic loss in cases of relatively minor injuries, while preserving principles of full compensation for those with severe injuries involving ongoing impairment and disabilities" [s.5 (1)(e)].

**"psychological or psychiatric injuries cannot be added to physical injuries to take the permanent impairment through the 10% gateway"**

Far from preserving the principles of full compensation for those with severe injuries involving ongoing impairment and disabilities, the new scheme will eliminate damages for non-economic loss for all but the very seriously and catastrophically injured because little or no account will be taken of disabilities as opposed to permanent impairment.

Thus many seriously injured accident victims who have hobbled around on crutches for months, who have suffered unsightly scarring, who are depressed and anxious, who have suffered personality changes, who have suffered loss of fitness and vitality, whose loss of confidence and self esteem have plummeted, whose home life is in tatters, whose personal relationships have broken down, who face the grim prospect of increasing and unremitting pain will be surprised, disappointed and angry when informed that they are actually much worse off under the new scheme. **PL**

# Smoking kills, tobacco giant admits

BELINDA HICKMAN  
SARAH STOCK  
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## Huffing and puffing

**The Australian** yesterday approached Nick Greiner, former NSW premier and now chairman of British American Tobacco Australasia in the lobby of 139 Macquarie Street, Sydney. **Reporter:** Mr Greiner, I was wondering if you would care to comment on Philip Morris's new Web site and the implications it

has for your company. **Greiner:** Look, act like an adult. **Reporter:** So you have no comment? **Greiner:** No, no comment. **Reporter:** As chair of the company you will not comment? **Greiner:** Look, if you want a quote from the company go to the company, now grow up.

**THE world's biggest cigarette company has admitted for the first time that smoking is addictive, unsafe and causes cancer—but campaigners fear the move may be nothing more than window-dressing.**

Anti-smoking groups and lawyers involved in a class action by 3000 Australian smokers welcomed the admission on a Web site by US-based Philip Morris, maker of Marlboro cigarettes, but they said it came 50 years too late.

They said the statement would mean nothing if the tobacco companies did not increase action to help people give up nicotine and prevent children from taking up the habit. The company's corporate Web site states "there is no safe cigarette" and admits: "There is an overwhelming medical and scientific consensus that cigarette smoking causes lung cancer, heart disease, emphysema and other serious diseases in smokers."

Philip Morris Australia said it supported the statement. "There should be a single consistent health message," Melbourne-based spokesman Eric Windholz said.

"It is not about legal liability but communicating more broadly with the public and employees. We wanted to give the public a variety of perspectives on these issues."

Slater & Gordon lawyer Ken Fowle, whose company is running a Federal Court class action for smokers with related diseases, said no other tobacco

company had made such an admission voluntarily, and that the Philip Morris statement was likely to help the legal case.

The statement may also assist a class action of 65 health care organisations, being run by the Tobacco Control Coalition, said convenor Andrew Penman, the NSW Cancer Council chief executive.

The campaigners challenged British American Tobacco Australasia and Imperial Tobacco to follow suit. BAT senior manager Stuart Silver said his company was considering a similar move, but argued that the Philip Morris site merely said there was "overwhelming evidence" of smoking's harmful effects. "It does not say we agree with it."

Philip Morris's comments are part of a \$US100 million (\$150 million) campaign to lift its image in the face of lawsuits brought against the tobacco industry by the US Justice Department and some states.

In Canberra, federal Health Minister Michael Woodridge was delighted, a spokeswoman said. "The Government will wait to see what impact, if any, this has on negotiations with the tobacco industry over listing cigarette ingredients."

The Australian Council on Smoking and Health's Ron Edwards challenged former NSW premier Nick Greiner, now BAT Australasia chairman. "Mr Greiner was strong on transparency and honesty in public life. He now has permission to follow suit with tobacco."

The Australian 15/10 1999. Reproduction with permission.

### Cigarette Smoking: Health Issues for Smokers

Health Smoking Prevention
Cigarette Marketing Practices
Health Issues for Smokers
Quitting Smoking
Responsibility to Cigarettes
Understanding the and Marketing Messages
Secondhand Smoke

**Cigarette Smoking and Disease in Smokers.** There is an overwhelming medical and scientific consensus that cigarette smoking causes lung cancer, heart disease, emphysema and other serious diseases in smokers. Smokers are far more likely to develop serious diseases, like lung cancer, than non-smokers. There is no "safe" cigarette. These are and have been the messages of public health authorities worldwide. Smokers and potential smokers should rely on these messages in making all smoking-related decisions.

For more detailed information from public health authorities on cigarette smoking and disease in smokers:

Click on the year indicated for highlights and conclusions from the following U.S. Surgeon General's reports: 1964, 1979, 1980, 1983, 1984 and 1994.

Owning up: A section of the Philip Morris Web site