



**Jose Luis Murillo, Jr.**  
Vice President and Associate General Counsel

October 1, 2008

Michelle Hickerson, Esq.  
Deputy Attorney General  
California Department of Justice  
110 West A Street, Suite 1100  
San Diego, CA 92186-5266

Re: Unauthorized Appearance of Marlboro Cigarettes in Tropic Thunder and Definitely, Maybe

Dear Ms. Hickerson:

Thank you for your recent letters to Denise Keane informing us of the apparent use of Philip Morris USA's (PM USA) Marlboro brand cigarette in the movies Tropic Thunder and Definitely, Maybe. As you know, it has long been PM USA's policy to decline requests for product placement in movies or other public entertainment media. PM USA did not authorize the use of its Marlboro brand in either movie. As we have stated previously, PM USA does not want its brands or brand imagery depicted in movies and television shows.

I enclose a letter from Jennifer Hunter, Vice-President Corporate Responsibility and Stakeholder Relations, to DreamWorks Studios concerning Tropic Thunder and to Universal Studios concerning Definitely, Maybe. As you can see, Jennifer asks the studios to remove any depictions of PM USA's brands and to refrain from using those brands in the future. She also asks to meet with the appropriate representatives of the studios to discuss these issues. Unfortunately, there does not appear to be much else PM USA can do in this particular circumstance from a legal standpoint. As you know, federal and state trademark laws, as well as the U.S. Constitution, protect freedom of expression and the "fair use" of trademarks in works such as movies and television shows.

Your letter also makes reference to the National Cancer Institute's Smoking and Health Monograph #19, which we have also received and have been reviewing. We understand that Monograph #19 reconfirms prior research on the appearance of smoking in movies and its impact on youth smoking. PM USA shares the concerns expressed in Monograph #19 and prior research. Moreover, the unauthorized use of its brands and brand imagery perpetuates the misunderstanding among some that PM USA pays for or is otherwise responsible for these depictions, which is simply not the case.

Over the past several years, PM USA has taken numerous steps to engage with the movie and entertainment industry on these important issues. For example:

- On October 17, 2003, PM USA sent letters to the major movie studios expressing its support of the proposal by 25 State Attorneys General encouraging the motion picture industry to reduce or eliminate smoking scenes in movies that are directed toward kids, as well as asking the motion picture industry voluntarily refrain from portraying or referring to cigarette brands or brand imagery in any movies.
- In 2003 and 2004, PM USA submitted written comments to the Senate Committee on Commerce, Science and Transportation noting its concern with the use of its brand imagery in movies.
- PM USA has undertaken numerous engagements with studios and industry representatives on these issues, including:
  - April, 2005 - Screen Actor's Guild and Screen Actor's Guild Foundation
  - June, 2005 - American Federation of Television and Radio Artist
  - January, 2006 - Women in Film
  - December, 2005 - American Film Institute
  - July, 2007 - attended IFP in New York to review PM USA Brand Imagery Policy and attended the Tribeca Film Festival to discuss a recent MPAA decision
  - July, 2007 - attended the New York Film Festival to review opportunities for panel and roundtable discussions
  - August, 2007 - attended the American Film Institute Festival in LA for opportunities to connect with key stakeholders and industry leaders
  - August, 2007 - met with The Weinstein Company, 20<sup>th</sup> Century Fox, Sony, Paramount and Universal
  - November, 2007 - met with Lionsgate, Disney, Warner Brothers and Prop Master Guild
  - July 2008 – met with ad hoc group of directors, producers, writers and representatives from Screen Actors Guild at the local AFI festival in Silver Spring MD
- PM USA has also placed advertisements in industry publications (e.g., Variety), which discussed the issue of smoking imagery in movies and

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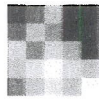
asked the industry to voluntarily refrain from using such imagery  
(sample attached).

This is a matter that PM USA continues to take seriously. We would be  
very interested in working with you to make more progress on this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer L. Hunter". The signature is written in a cursive, flowing style with large loops and a prominent initial "J".

cc: William Lieblich, Esq. (National Association of Attorneys General)  
Dennis Eckhart, Esq.  
Jennifer L. Hunter  
Pamela D. Lieberman  
Denise F. Keane, Esq.



Altria  
Altria Client Services

Jennifer L. Hunter  
Vice President  
Corporate Responsibility & Stakeholder Relations

Phone 804/484-8751  
Fax 914/272-4226

September 30, 2008

Stacey Snider, CEO  
DreamWorks Studios  
1000 Flower St.  
Glendale, CA 91201

Re: Unauthorized Display of MARLBORO® Brand Packaging in Tropic Thunder

Dear Ms. Snider:

As you can see from the enclosed correspondence from the California Attorney General's office dated August 28, 2008, Philip Morris USA Inc. ("Philip Morris USA") has recently learned that DreamWorks Studios depicted or displayed a package of Philip Morris USA's MARLBORO® brand cigarettes in the motion picture Tropic Thunder. Specifically, the packaging appeared in several scenes tucked inside the helmet of a main character portrayed by Ben Stiller.

This letter is to reiterate Philip Morris USA's strong desire that our brands not be depicted in any movie or other public entertainment media. Our position is that those involved in the production of motion pictures or other public entertainment media should refrain even from displays of our brands that are arguably subject to "fair use" protection. Unfortunately, many who see Philip Morris USA's brands in television programming or the movies assume falsely that these appearances are a result of product placement endorsed by Philip Morris USA. Philip Morris USA's longstanding policy has been to deny all requests for permission to use or display our brands in movies, television and other entertainment programming. Furthermore, the 1998 Tobacco Settlement Agreements prohibit such product placement.

We request that DreamWorks Studios remove any and all displays of Philip Morris USA's brands and products currently in production or, any other DreamWorks Studios entertainment that might be made available in the future on DVD, video, broadcast or any other media.



Research suggests that exposure to cigarette smoking and tobacco in movies may have an impact on youth attitudes and behaviors related to smoking, and consequently, can increase their risk of starting smoking. For example, research demonstrates a positive relationship between adolescents' (age 10 to 14) estimated exposure to movie smoking in recent box-office hits and adolescent smoking initiation (measured by the respondents' reply to whether they had ever tried smoking a cigarette). The studies' authors write that "adolescents with higher exposure to movie smoking were significantly more likely to try smoking even after controlling for ... covariates ... including sociodemographics, social influences, personality factors, and parenting style." (Sargent, Beach, Adachi-Mejia, et al.; 2005).

We would like to work with DreamWorks Studios to avoid the future necessity for such remedial actions. We ask that you identify someone within your organization whom we can contact and with whom we can discuss this important issue. We would like to see our brand imagery eliminated from movies. We continue to believe the best way to make progress is to work with studios like DreamWorks.

This issue remains important to us. It continues to be important to the California Attorney General. We hope that it would also be important to those in the entertainment industry in a position to have a positive impact.

Thank you for your attention to this matter, and I look forward to discussing this issue at your earliest convenience.

Sincerely,



Jennifer Hunter

Enclosure

cc: *Michelle L. Hickerson, Esq., Office of the Attorney General, State of California*  
*Denise Keane, Executive Vice President and General Counsel, Philip Morris USA*



Altria  
Altria Client Services

Jennifer L. Hunter  
Vice President  
Corporate Responsibility & Stakeholder Relations

Phone 804/484-8751  
Fax 914/272-4226

September 30, 2008

Jeffrey Zucker, CEO  
NBC Universal  
100 Universal City Plaza  
Universal City, CA 91608

Re: Unauthorized Display of MARLBORO<sup>®</sup> Brand Packaging in *Definitely, Maybe*

Dear Mr. Zucker:

As you can see from the enclosed correspondence from the California Attorney General's office dated September 9, 2008, Philip Morris USA Inc. ("Philip Morris USA") has recently learned that Universal Pictures depicted or displayed a package of Philip Morris USA's MARLBORO<sup>®</sup> brand cigarettes in the motion picture *Definitely, Maybe*. Specifically, a character asks for a pack of "reds" and "Marley Reds" and the package of cigarettes handed over is clearly recognizable as Marlboro<sup>®</sup>.

This letter is to reiterate Philip Morris USA's strong desire that our brands not be depicted in any movie or other public entertainment media. Our position is that those involved in the production of motion pictures or other public entertainment media should refrain even from displays of our brands that are arguably subject to "fair use" protection. Unfortunately, many who see Philip Morris USA's brands in television programming or the movies assume falsely that these appearances are a result of product placement endorsed by Philip Morris USA. Philip Morris USA's longstanding policy has been to deny all requests for permission to use or display our brands in movies, television and other entertainment programming. Furthermore, the 1998 Tobacco Settlement Agreements (TSAs) prohibit such product placement and the appearance of our brands in movies continues to raise undue concerns among the Attorney's General about Philip Morris USA's compliance with the TSAs.

We request that Universal Pictures remove any and all displays of Philip Morris USA's brands and products currently in production or, any other Universal Studios entertainment that might be made available in the future on DVD, video, broadcast or any other media.

Research suggests that exposure to cigarette smoking and tobacco in movies may have an impact on youth attitudes and behaviors related to smoking, and consequently, can increase their risk of starting smoking. We have engaged with your studio in the past and are aware of your comprehensive policy regarding tobacco depiction in film. This policy states that Universal Pictures presumes that no *smoking incidents should appear on any youth-rated film produced by Universal Pictures or any wholly-owned Universal Studios film label and released in the United States. Smoking incidents may be permitted in a youth-rated film only when there is a substantial reason for doing so.* We recognize that you have allowed for creative flexibility in the policy, but would like to understand what criteria were used to determine that there was a “substantial reason” for incorporating smoking in this youth-rated film? We believe your policy, if effectively enforced, can substantially reduce or eliminate tobacco imagery in films directed at youth. We ask that you take additional steps to assure effective enforcement of your policy such that you eliminate our brand imagery or any reference to our brands from movies.

This issue remains important to us. It continues to be important to the California Attorney General. We hope that it would also be important to those in the entertainment industry in a position to have a positive impact.

Thank you for your attention to this matter, and I look forward to discussing this issue at your earliest convenience.

Sincerely,

A handwritten signature in black ink that reads "Jennifer Hunter". The signature is written in a cursive style with a large, looping initial "J".

Jennifer Hunter

Enclosure

cc: *Michelle L. Hickerson, Esq., Office of the Attorney General, State of California*  
*Denise Keane, Executive Vice President and General Counsel, Philip Morris USA*





## Movies should inspire kids to be heroes. Not smokers.

Movies have the power to amuse, delight, teach and inspire.

Unfortunately, they may also have an influence on a kid's decision to smoke.

Studies suggest that youth exposure to smoking in movies can increase their risk of starting smoking.<sup>1,2,3</sup>

Kids should not smoke. Producers, directors, actors and others in the movie

industry are in a unique position to voluntarily reduce or eliminate smoking scenes in movies directed at youth.

You have the power to help prevent youth smoking—just by losing one little prop.

For more information on our youth smoking prevention efforts, please visit [www.philipmorrisusa.com](http://www.philipmorrisusa.com)

#### References

1. Sargent, J.D., Beach, M.L., et al. (2005). Exposure to movie smoking: Its relation to smoking initiation among US adolescents. *Pediatrics*, 116, 1183-1191.
2. Sargent, J.D., Dalton, M.A., et al. (2002). Viewing tobacco use in movies: Does it shape attitudes that mediate adolescent smoking? *American Journal of Preventive Medicine*, 22(3), 137-145.
3. Pechmann, C., and Shih, C. (1999). Smoking scenes in movies and antismoking advertisements before movies: Effects on youth. *Journal of Marketing*, 63, 1-13.

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**Youth  
Smoking  
Prevention™**  
Philip Morris USA





## Please don't give our cigarette brands a part in any movie.

The appearance of cigarettes and brand imagery in movies continues to be a topic of concern to many in society.

Studies suggest that youth exposure to smoking in movies can increase their risk of starting smoking.<sup>1,2,3</sup>

Philip Morris USA does not pay

for or endorse any product placement of its brands in movies.

We do not want our brands or brand imagery depicted in movies and television shows.

We appeal to, and encourage, those in the entertainment industry to eliminate depictions of our brands and brand imagery in their work.

#### References

1. Sargent, J.D., Beach, M.L., et al. (2005). Exposure to movie smoking: Its relation to smoking initiation among US adolescents. *Pediatrics*, 116, 1183-1191.
2. Sargent, J.D., Dalton, M.A., et al. (2002). Viewing tobacco use in movies: Does it shape attitudes that mediate adolescent smoking? *American Journal of Preventive Medicine*, 22(3), 137-145.
3. Pechmann, C., and Shih, C. (1999). Smoking scenes in movies and antismoking advertisements before movies: Effects on youth. *Journal of Marketing*, 63, 1-13.

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