

07-562 ALTRIA GROUP, INC., ET AL V. GOOD, ET AL

DECISION BELOW: 501 F3d 29

LOWER COURT CASE NUMBER: 06-1965

QUESTION PRESENTED:

To ensure that interstate commerce is "not impeded by diverse, nonuniform, and confusing cigarette labeling and advertising regulations," Congress has precluded the States from imposing any "requirement or prohibition based on smoking and health . . . with respect to the advertising or promotion of any cigarettes," and has authorized the Federal Trade Commission to regulate "unfair or deceptive acts or practices in the advertising of cigarettes." 15 U.S.C. §§ 1331, 1334, 1336. Based on studies suggesting that cigarettes with comparatively lower tar and nicotine yields may present fewer health risks, the FTC requires tobacco companies to disclose those yields as measured using an FTC-mandated test, and has authorized tobacco companies to advertise cigarettes using "descriptors," such as "light," as shorthand references to the numerical test results. Respondents in this case contend that such descriptors are misleading, in violation of a state deceptive trade practices statute.

The question presented is whether state-law challenges to FTC-authorized statements regarding tar and nicotine yields in cigarette advertising are expressly or impliedly preempted by federal law.

EXPEDITED BRIEFING SCHEDULE

CERT. GRANTED 1/18/2008