

**FOR IMMEDIATE RELEASE**

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## **FCC URGED TO TAKE ACTION AGAINST AMERICAN LEGACY FOUNDATION**

The Washington Legal Foundation (WLF) today urged the Federal Communications Commission (FCC) to take action against the American Legacy Foundation (ALF), to prevent ALF from continuing to run radio advertisements that suggest that cigarette manufacturers add dog urine to their products, and that include secretly recorded telephone conversations with tobacco company employees.

WLF filed its comments in connection with FCC proceedings initiated at the behest of Lorillard Tobacco Company. In response to Lorillard's complaint that the ALF advertisements violated federal regulations, the FCC has opened formal proceedings to investigate the matter.

ALF is a nonprofit foundation founded in 1999 as a result of the Master Settlement Agreement between tobacco manufacturers and attorneys general from 46 states and is funded from the proceeds of that settlement. In furtherance of its mission to reduce underage smoking, ALF has run anti-smoking advertisements directed at children. One of the advertisements created by ALF features a secretly recorded telephone conversation between an ALF representative and Lorillard employees. The gist of the conversation was a suggestion by the ALF representative that Lorillard adds dog urine to its products and a facetious offer by the ALF representative to sell "high-test" dog urine to Lorillard.

In its comments, WLF urged the FCC to take action against ALF to prevent recurrence of such advertisements. WLF argued that the advertisement violates § 73.1206 of the FCC's rules, which prohibits a radio station from broadcasting a telephone conversation unless all parties to the conversation have consented to its use. WLF argued that the prohibition applies even when, as here, the recording was made by a third party (here, ALF), not the radio station. WLF also argued that the advertisement was false in suggesting that cigarettes contain dog urine.

WLF also argued that, whatever free-speech rights ALF may have to broadcast recordings of telephone conversations are far outweighed by the privacy rights of those who participate in the conversations and do not want their words broadcast over the airwaves. WLF asserted that there can be no First Amendment right to broadcast

telephone conversations unless the conversations touch on matters of significant public interest. WLF argued that nothing said by the Lorillard employees was of any public interest -- all they did was to respond as politely as they could to a prank call.

The Washington Legal Foundation is a public interest law and policy center with supporters in all 50 states. It devotes a significant portion of its resources to defending the free enterprise system from unwarranted government regulation.

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