United States Senate
WASHINGTON, DC 20510

March 5, 2012

The Honorable Eric Holder
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

The Honorable Margaret Hamburg
Commissioner
Food and Drug Administration
10903 New Hampshire Avenue
Silver Spring, MD 20993

Dear Attorney General Holder and Commissioner Hamburg:

We write to urge the Department of Justice and the Food and Drug Administration to immediately appeal a recent U.S. District Court ruling finding FDA's graphic warning labels on cigarette packages to be unconstitutional. These cigarette labels will be an important tool in educating children and adults about the dangers of smoking, and this misguided ruling threatens to undermine efforts to prevent the deadly impacts of smoking.

Cigarettes continue to burden the health and financial well-being of Americans. Forty-six million Americans smoke cigarettes and more than 2,000 young people under the age of 18 start smoking each day. Ten million cigarettes are sold every minute. This year alone, 443,000 Americans will die from tobacco use, more than the number of people who will die from HIV, illegal drug use, alcohol use, motor vehicle injuries, suicides, and homicides combined. Annually, tobacco costs the nation more than $100 billion in health care expenses and lost productivity.

In 2009, Congress passed the Family Smoking Prevention and Tobacco Control Act, giving FDA the critical authority to regulate tobacco products. This law requires cigarette manufacturers to include new labels with graphic color images depicting the dangers of smoking. We have applauded FDA's implementation of these provisions through its release of nine different graphic warning labels, each based on sound science and recommendations from the World Health Organization (WHO), the Institute of Medicine, and the Surgeon General. Within their first year of use, these labels are expected to deter hundreds of thousands of people, including many young people, from smoking.

For 45 years, cigarettes have been required to carry warning labels that educate consumers about the dangers of smoking. FDA's new labels build upon existing requirements to effectively demonstrate to consumers that cigarette smoking is hazardous to their health. The warning content includes factual statements and graphic representations that help to educate the general public about the dangers of smoking, encourage current smokers to quit, and prevent

non-smokers from initiating cigarette use. The court's ruling jeopardizes efforts to use strong warning labels to protect public health.

When the court issued a preliminary injunction last year blocking the implementation of the new labels, DOJ and FDA appropriately appealed the ruling. We urge DOJ and FDA to appeal this latest disappointing court decision and we look forward to continuing to work together to protect public health.

Sincerely,

FRANK R. LAUTENBERG

RICHARD DURBIN

TOM HARKIN

RICHARD BLUMENTHAL

SHERROD BROWN

AL FRANKEN

JEFF MERKLEY