

French motorcycle Grand Prix of Le Mans :

Justice rules in favor of the National Committee for Tobacco Control (CNCT) and prohibits the return of Philip Morris on the racing circuits.

The French justice has just inflicted a stinging defeat to multinational tobacco company Philip Morris by giving a stop to its attempt to return to motorsport and declaring illegal its sponsorship of Ferrari cars and Ducati motorcycles. Commissioned by the Ministry of Health, the *Comité national contre le tabagisme* (CNCT) had appealed to the interim relief judge of Le Mans to prohibit the companies Philip Morris Product and Ducati to make or display any reference to Philip Morris's *Mission Winnow* branding during the French motorcycle Grand Prix and in any communication related to the event. The judge ruled in favor of CNCT in every aspect.

Paris, May 15, 2019 - Tobacco companies, which made the peak of motorsport between the 1970s and 2006, have been cleverly taking back their place since last October, more than a decade after tobacco advertising was internationally banned. Since the Japanese Grand Prix last October, the Scuderia Ferrari cars, drivers and staff members are carrying Philip Morris's *Mission Winnow* logo and livery.

Mission Winnow has already made the headlines - in a curious way - at the Australian Grand Prix in March. When the Australian government launched an investigation to determine if Mission Winnow was a violation of the country's anti-smoking law, Philip Morris and Ferrari decided, just ten days before the race, to remove any visual traces and mention of Mission Winnow on cars, team name, and clothes of the drivers and staff.

It should be remembered that the WHO treaty, the Framework Convention on Tobacco Control, prohibits all forms of advertising, promotion and sponsorship for all tobacco products, considering that corporate advertising by tobacco companies is a form of tobacco product advertising. WHO has alerted its Member States about the return of tobacco companies to motorsport. Braving this ban at the Bahrain F1 Grand Prix, Ferrari raced with the tobacco company branding and livery.

There was strong indication that during the French motorcycle Grand Prix to be held May 17-19 at Le Mans, Ducati Corse, sponsored by Philip Morris Products (PMP), would compete under the team name *Mission Winnow Ducati* and would use the associated livery, which incorporates many attributes of the famous Marlboro brand. Images presenting the French Grand Prix competitors showed the Ducati motorcycles and drivers bearing the Mission Winnow logo registered by the tobacco company as a trademark for tobacco products. This would be a serious violation of the law in several ways. It is in this respect that the interim relief judge of Le Mans has ruled in favor of the CNCT:

"The name and logo "Mission Winnow" are a reference, although indirect and implicit to tobacco, especially to the brand Marlboro and its owner, Philip Morris. Consequently, the use of this brand name and logo falls under the prohibition of propaganda or advertising enacted by Article 3512-4 of the Public Health Code.

In addition, the partnership between Philip Morris and Ducati, under cover of the "Mission Winnow" organization and brand name, is clearly a sponsorship or patronage operation prohibited by law."

The judge was not fooled by Philip Morris's announcement, made *"immediately after the summons and in response to it,"* that the "Mission Winnow" brand and logo would not be used at the French motorcycle Grand Prix *"(supposedly to offer pilots the opportunity to run with custom motorcycles),"* as he points out. On the contrary, he sees in this announcement *"an implicit but necessary recognition of the merits of the resources and requests of the CNCT".*

Finally, the interim relief judge:

"- Acknowledges the companies Philip Morris and Ducati that they do not intend to use or display the "Mission Winnow" brand or logo at the Grand Prix de France held on 17, 18, 19 May 2019 at Le Mans;

- Where necessary, prohibits Philip Morris Products SA and Ducati Spa Motors from making any use of the mark, the logo, or the expression "Mission Winnow", whether attached or not to the name "Ducati" on the occasion of the Moto GP competition held on May 17, 18, and 19, 2019, at the Bugatti circuit in Le Mans or in the communication surrounding it, and this under penalty of € 10,000 per violation noted;

- Condemns Philip Morris and Ducati companies, together, to pay the CNCT the sum of € 10,000 on the basis of Article 700 of the Code of Civil Procedure; "

The CNCT is delighted by this decision, which, according to Professor Martinet *"is a great victory and a huge step forward for the fight against the tobacco epidemic in France and around the world, especially with the young generation with a fascination for high-level motorsport". "This decision should encourage other countries to put an end to this pernicious advertising that contributes to make any tobacco products particularly attractive."* Finally, Professor Martinet reminds that *"This decision should have a European scope, insofar as there is European directive that makes such sponsorship illegal in all Member States of the EU."*