**OAKES TEST EXAMPLE**

**SUFFICIENT IMPORTANCE/OBJECTIVE**

WHAT IS THE GOAL

IS IT IMPORTANT

(Don’t mention RIGHTS or LAW or case specifics AT ALL!!!!)

In the given case of RJR-MacDonald Inc. v. Canada, the law in question prohibits tobacco companies from advertising their product. The goal or objective of this law would be to protect the health of Canadian citizens, namely protecting Canadians from the health risks associated with tobacco use. It is common knowledge that smoking tobacco increases a person’s likelihood of getting cancer. Smoking related cancer cases have been historically on the rise in Canada for some time; many would say that it is a leading cause of death in today’s society. One of the key duties of a government is to protect the safety of the individuals within society, therefore, with the facts and concepts stated, it is clear and irrefutable to claim that protecting Canadians from health risks associated with tobacco use is an incredibly pressing and substantial issue.

Check out Paragraph 65 - <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1290/index.do>

**RATIONAL CONNECTION**

Does the LAW connect rationally to the GOAL

* Make rational points to see that the goal will be achieved by this law

The law in questions prohibits the marketing of tobacco products. It is common knowledge that product advertising is an extremely successful and lucrative business. Companies exhaust billions of dollars a year into the branding, marketing and advertising of their products. Companies would not risk the financial set back of advertising if it was not proven to work. It is certainly a rational inference that if a product is out of sight, it is more likely to be out of mind (at least in the case of people looking to purchase the product for the first time). The decrease sales of cigarettes would subsequently lead to a less heath concerns caused by cigarettes; thus in turn creating a healthier society. Therefore, a law prohibiting tobacco advertising rationally connects to the overall goal of protecting the health of Canadians.

**MINIMAL IMPAIRMENT**

**FIRST TIME you mention the right/freedom……MENTION IT!!!**

**DID THE GOVT GO TOOOOO far?? OR could the government have achieved the goal BY BEING LESS INTRUSIVE**

The specific right/freedom being infringed in this case is the appellant’s freedom of expression. It is my opinion that the government impaired this freedom as little as possible in this particular case (not REALLY what Reynolds thinks……he disagrees w/ the Supreme Court).  It must be kept in mind that the infringed right at issue in these cases is the right of tobacco corporations to advertise the only legal product sold in Canada which, when used precisely as directed, harms and often kills those who use it. I have no doubt that Parliament could validly have employed the criminal law power to prohibit the *manufacture and sale* of tobacco products, and that such a prohibition would have been fully justifiable under the *Charter*. There is no right to sell harmful products in Canada, nor should there be. Thus, in choosing to prohibit solely the advertisement of tobacco products, it is clear that Parliament in fact adopted a relatively unintrusive legislative approach to the control of tobacco products. In this particular case, the government minimally impaired the rights of the tobacco company.

**DETRIMENT VS BENEFIT**

**Detriment to RIGHT**

**Benefit of LAW**

**Which wins???**

The detriment the company faces is the severe limitation of their ability to advertise their product. The benefit to society would be a potentially healthier, less cancer-ridden society. It is my view that the deleterious effects of this limitation, a restriction on the rights of tobacco companies to advertise products for profit that are inherently dangerous and harmful, do not outweigh the legislative objective of reducing the number of direct inducements for Canadians to consume these products. The appellants are large corporations selling a product for profit which, on the basis of overwhelming evidence, is dangerous. Considering the increase in smoking related cancer, the infringement is certainly proportional to the issue at hand.