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July 8, 2005

Via Hand Delivery and E-Mail

Mr. Donald S. Clark
Federal Trade Commission
Office of the Secretary
Room H-159 (Annex G)
600 Pennsylvania Avenue, NW
Washington, DC 20580
E-Mail: TobaccoReports@ftc.gov

Re: Tobacco Reports: Paperwork Comment, FTC File No. P054507

Dear Mr. Clark:

On behalf of Philip Morris USA, Inc. ("PM USA"), I submit this letter in response to the Comment Request published by the Federal Trade Commission ("the Commission" or "the FTC") in the Federal Register on May 9, 2005, with respect to proposed information requests to cigarette manufacturers.

The Commission has invited comments on whether the proposed collections of information are necessary for the proper performance of the functions of the FTC; the accuracy of the FTC's estimate of the burden of the proposed collections; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of collecting information on those who are to respond.

PM USA takes no position on whether the proposed collections of information are necessary for the proper performance of the functions of the FTC, and we have no comment on the FTC's estimate of the burden of the proposed collections of information. PM USA offers the following comments on ways to enhance the quality and utility of the information proposed to be collected and on ways to minimize the burden on respondents to the information requests:

1. The Comment Request states that the Commission intends to seek data from the cigarette and smokeless tobacco industries regarding, inter alia, the tobacco sales of industry members; how much industry members spend advertising and promoting their tobacco products; whether industry members are involved in the appearance of their tobacco products in television shows or movies; how much industry members spend on

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advertising intended to reduce youth tobacco usage; the events, if any, during which industry members' brands are televised; and, for the cigarette industry, the tar, nicotine, and carbon monoxide ratings of their cigarettes, to the extent they possess such data.

As noted in the Comment Request, the Commission's information requests to the cigarette industry were initially made in furtherance of the Commission's duty under the Federal Cigarette Labeling and Advertising Act ("FCLAA"), 15 U.S.C. §§ 1331-41, to make annual reports to Congress on cigarette sales and marketing. Specifically, FCLAA directed the Commission to transmit to Congress an annual report concerning (a) "the effectiveness of cigarette labeling," (b) "current practices and methods of cigarette advertising and promotion," and (c) "such recommendations for legislation as it may deem appropriate." *See* Pub. L. No. 89-92, § 5(d)(2), 79 Stat. 282, 283 (1965). Pursuant to FCLAA, the FTC submitted these reports to Congress from 1967 until 1999. FCLAA's mandate for the Commission's reports to Congress terminated in 2000, and the Commission's information requests since then have been made pursuant to Section 6(b) of the Federal Trade Commission Act, 15 U.S.C. § 46(b).

With respect to the information that the Commission intends to collect as set forth above, PM USA believes that the public interest would be better served if the Commission were to have a broad perspective on current practices and methods of advertising and promotion. We note that the Commission proposes to send information requests only to the ultimate parent company of each of the five largest cigarette companies and each of the five largest smokeless tobacco companies in the United States. We believe, however, that the Commission would obtain a more comprehensive view of current practices if the threshold for identifying the companies that are asked to provide data were to be based on a particular sales volume or market share that the Commission determines to be material and non-de minimis rather than preset at a fixed number of companies. Companies below the top five may well engage in conduct that has a material effect on the market and that may be of interest to the Commission, particularly if they do not abide by the terms of the Master Settlement Agreement between certain cigarette manufacturers and forty-six states or related state legislation.

2. To minimize the burden of collecting information on those who are to respond, we respectfully suggest that the Commission consider revising the ways in which it collects information. We believe the changes we recommend below would have little or no effect on the substance of the annual reports that the Commission issues. We believe these changes, however, would reduce the burden on PM USA and, we suspect, on other manufacturers in providing information to the Commission. Specifically:

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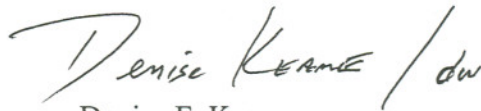
- We request that the Commission solicit information from manufacturers on a pre-determined schedule. Currently, the Commission issues an Order to File Special Report (“Order”) requesting information some time between the early spring and late fall each year. For example, the Commission issued its Order to PM USA in October 2002 for 2001 data, in May 2003 for 2002 data, and in August 2004 for 2003 data. PM USA is given sixty days in which to collect, compile, and produce the data. It would decrease the burden on PM USA if the Order requesting information were to be issued at the same time every year and if the time to respond were to be increased to ninety days. Further, if the Commission is going to ask for new data or change the way that it asks that the data be reported, it would minimize the burden on PM USA if the changes were announced before the Order requesting information is issued.
- We request that the Commission allow PM USA to provide its data rounded to the nearest \$1,000. Currently, PM USA is required to report expenditures to the penny. Allowing for some modest rounding would minimize some of the burden of submitting the data in the format required by the Commission’s most recent Order on this subject, without materially affecting the accuracy of the reporting.
- We request that the Commission allow all reporting to be done based on generally accepted accounting principles (“GAAP”). For example, Category L expenses in the Report for 2004 required that PM USA detail the expense associated with coupons when such coupons are redeemed by the retailer. Under GAAP, PM USA recognizes coupons as an expense when they are issued rather than when they are redeemed. Reporting expenditures to the FTC in the same manner that it records those expenditures on its books would reduce the burden on PM USA. In addition, we believe that allowing manufacturers to report advertising and promotional expenses as they account for them in the regular course of business provides the public with a more accurate picture of market practices.

3. With respect to the Commission’s proposal to seek information regarding the tar and nicotine ratings of cigarettes to the extent that the industry possesses such data, PM USA notes that it does maintain these data. Further, we refer the Commission to PM USA’s Petition for Rulemaking Concerning Tar and Nicotine Testing and Disclosure, filed with the Commission on September 18, 2002 (“the Petition”).

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If the Commission decides to collect the information identified in the Comment Request, we will be happy to provide whatever cooperation we can. Further, if it would be useful to the Commission, we would welcome the opportunity to discuss our comments and the Petition in greater detail.

Sincerely,

A handwritten signature in cursive script that reads "Denise Keane / dw". The signature is written in black ink and is positioned above the printed name.

Denise F. Keane