

July 8, 2005

Federal Trade Commission
Office of the Secretary
Room H-159 (Annex G)
600 Pennsylvania Avenue, NW
Washington, DC 20580

RE: "Tobacco Reports: Paperwork Comment, FTC File No. P054507"

Dear Chairman Majoras:

We, the undersigned organizations, are writing to express our strong support for the continuation of the Federal Trade Commission's (FTC) reports on the cigarette and smokeless tobacco industries. These reports are virtually the only sources of accurate and reliable information on cigarette and smokeless tobacco marketing, sales and promotions in the United States. As a result, they play a vital role in enabling and empowering government officials, organizations and professional communities to conduct their important work. These include federal and state government legislative bodies and administrative health agencies, public health organizations, academia, law enforcement, the news media, as well as the general public (attached is a compilation of examples of how the data included in the FTC reports is used by a variety of organizations for various tobacco control and public health purposes).

The most important question that the FTC needs to consider in assessing the value and need to continue these reports is the following: Where else is the information published in these reports available to the public? The answer is ... no where else in such a reliable and accurate format. Due to the minimal level of federal oversight of the tobacco industry in general, these two FTC reports represent a large portion of the information that is available to the public and to the federal government on cigarette and smokeless tobacco manufacturers. As a result, the practical utility of these reports as a monitoring and oversight tool available to the FTC, the federal government, the public health community and the general public is critical and they must continue.

While the current reports do provide useful information, they only provide data in aggregate form. There are several ways in which the FTC could enhance the quality, utility, and clarity of the information to be collected. Specifically, the FTC should consider requiring the submission of more detailed information at a sub-national (state-by-state) and sub-industry (by company, by brand) level. Also, since three of the FTC's existing reporting categories account for more than 85 percent of all spending by the industry (price discounts, promotional allowances and retail value-added), it is important to get more details on what the constituent pieces are of these broad categories in order for communities and concerned organizations to develop policies to understand and address the impact of these expenditures.

Further, in order to enhance the quality and practical utility of the data in the reports, we recommend the following additional elements be considered by FTC:

- Breakdown of data on a state-by-state basis.
- Breakdown of promotional allowances information.
- Breakdown of retail value-added information.
- Subject to relevant trade secret and confidentiality provisions, include data on a company-specific or brand specific basis.¹
- Breakdown information by conventional versus “reduced-risk” tobacco products. While the FTC does report information based on nicotine and tar content, these categories reflect only a portion of the products being sold and marketed by the industry as so-called “reduced risk” tobacco products. Examples of these types of products (often with unsubstantiated health claims) include RJ Reynolds’ Eclipse, Brown & Williamson/Star Scientific’s Ariva (tobacco lozenges), and Vector’s low nicotine tobacco cigarette, Quest.
- Information on magazine advertising in magazines with youth readership rates in excess of 15 percent, or 2 million, youth readers.
- Information on sales, marketing, and promotions in adult-only establishments, venues, and publications.
- Need to include reporting of television advertising by cigarette companies (e.g., Philip Morris) touting charitable activities.
- Need to include reporting of television advertising by cigarette companies (e.g., Philip Morris) of their “anti-tobacco” advertising.
- Expanding the list of cigarette and smokeless tobacco companies subject to the submission of data for the FTC reports to the top 9 companies (based on market share) for cigarette sales and smokeless tobacco sales, respectively.

We believe that the changes we are recommending are reasonable and, based on the current level and configuration of industry spending, are warranted and represent sound public policy. We appreciate the opportunity to respond to this Federal Register notice and look forward to seeing the reports continued and improved in the future.

Sincerely,

Action Council Against Tobacco /Tata Memorial Hospital (Mumbai, India)
Action on Smoking & Health
American Association for Respiratory Care
American Cancer Society
American College of Chest Physicians
American College of Preventive Medicine
Americans for Nonsmokers Rights
American Heart Association

¹ We recognize that the FTC is constrained from releasing certain data due to trade secret or confidentiality reasons as detailed in U.S.C. 15 Section 46(f). However, we believe that the data provided by the tobacco industry for this report does not fall into the category of trade secrets or confidentiality, particularly since much of it is already available to other private sector entities that track and report on industry sales, marketing and promotion trends (e.g., Simmons, MRI, Maxwell).

Page 3 – Letter to Chairman Majoras Re: “Tobacco Reports: Paperwork Comment, FTC File No. P054507’

American Lung Association
American Medical Association
American Public Health Association
American Society of Addiction Medicine
American Society of Clinical Oncology
American Thoracic Society
Association of Teachers of Preventive Medicine
Austrian Council on Smoking and Health
Campaign for Tobacco Free Kids
Capital Area Substance Abuse Council
Center for a Tobacco Free New York
Center for Communications, Health and the Environment
Coalition for a Tobacco Free Arkansas
Colorado Tobacco Education and Prevention Alliance
Georgia State University/Institute of Public Health
Health Partners, LLC
Indiana University School of Medicine/Department of Public Health
International Non Governmental Coalition Against Tobacco (London, UK)
Louisiana Campaign for Tobacco-Free Living
Maine Coalition on Smoking or Health
MATCH Coalition, Inc.
Meriden and Wallingford Substance Abuse Council
National African American Tobacco Prevention Network
New Mexicans Concerned About Tobacco
Oncology Nursing Society
Oral Health America
Smokefree Air For Everyone
SmokeFree Pennsylvania
Society for Public Health Education
Society for Research on Nicotine and Tobacco
The Partnership for a Healthy Mississippi
Tilson Consulting (Ontario, Canada)
Tobacco Control Network
Tobacco Control Law & Policy Consulting
Tobacco-Free Coalition of Oregon
Tobacco Free Kansas Coalition

Attachment

Examples of How FTC Report Data Is Used by Various Public Health and Tobacco Control Organizations

American Lung Association - The American Lung Association relies on the Federal Trade Commission's Cigarette Report to provide critical information regarding cigarette sales, advertising and promotion. The data serves as key background information for our annual *American Lung Association State of Tobacco Control Report* (see <http://lungaction.org/reports/tobacco-control04.html>) and *State Legislated Actions on Tobacco Issues* report (see <http://slati.lungusa.org/>). In addition it helps inform our youth prevention and cessation programs.

Americans for Nonsmokers Rights – ANR has used the FTC data to maintain our *Tobacco Industry Spending on Advertising and Promotions* document found at <http://www.no-smoke.org/pdf/adspending.pdf> to help demonstrate that despite changes in television advertising the industry continues to market its product to teens and young adults.

American Public Health Association -

1. APHA's policy on the advertising and promotion of tobacco products is based on FTC data. The various steps of APHA's policy-making process require scientific referencing to ensure the science foundation of our policies. Without FTC data, it would be more difficult for science-based organizations like APHA to develop policies to address tobacco marketing.
2. The *American Journal of Public Health* has had several issues over the years devoted to tobacco, and many of the authors used FTC data in their research. The peer reviewed tobacco marketing science that appears in our Journal is dependant on FTC data. We also published a book in 2000 entitled "*Nicotine and Public Health*," where the editors reference FTC regarding advertising health claims (pp. 24-29).

Campaign for Tobacco Free Kids – The data produced by the FTC in its annual reports on cigarette and smokeless tobacco manufacturer's promotions and sales figures are used extensively by the Campaign in virtually every aspect of our educational and advocacy activities. For example, the data from the FTC is an integral part of the Campaign's annual report on how States have spent the money they receive from the 1998 Master Settlement Agreement (see "*A Broken Promise to Our Children: The 1998 State Tobacco Settlement Six Years Later*", <http://tobaccofreekids.org/reports/settlements/2005/fullreport.pdf>). The FTC data is also prominently featured in many of the Campaign's widely used, disseminated and quoted factsheets (see <http://tobaccofreekids.org/research/factsheets/>).

New Mexicans Concerned About Tobacco - The FTC data helps the state set reasonable estimates of how much needs to be spent to minimize the health dangers and health-related costs associated with tobacco use to its citizenry and taxpayers. This information also helps track dangerous trends in tobacco marketing, since increased marketing affects consumption rates which in turn affect public health. As advocates, New Mexicans Concerned About Tobacco used the FTC data to help support our case for continuing to fund the comprehensive tobacco use prevention program.

Indiana University School of Medicine/Department of Public Health – Use data in the FTC reports for presentations at major professional and academic conferences (most recently at

APHA's annual meeting – see *Blatnik's Hearings: Roots of Modern Pro-and Anti-tobacco Policies* in the U.S. Oct. 17, 2004).

Tilson Consulting (Ottawa, Ontario, Canada) – The firm has used data from the FTC reports on numerous occasions. In the past year alone, the firm as used FTC data in assisting several different clients in their advocacy for provincial bans on retail displays of tobacco products (see report prepared for Smoke-Free Nova Scotia coalition at <http://www.smokefreens.ca/displayban.pdf>). In April 2005, the firm testified before a committee of the Ontario Government Legislature regarding the evidence that tobacco displays at retail are a form of tobacco product promotion and cited data from the FTC report (see http://www.ontla.on.ca/hansard/committee_debates/38_parl/session1/finance/pdfF045.pdf).

The Tobacco-Free Coalition of Oregon (TOFCO) - The marketing expenditure data for the tobacco industry, collected by the FTC, is a critical tool for the advocacy efforts of the Tobacco-Free Coalition of Oregon (TOFCO). We use it on our website: www.tobaccofreeoregon.org and on most of the fact sheets and publications we produce and deliver to lawmakers and the news media in Oregon. It helps to illustrate that the battle to protect our children from Big Tobacco is not over and we need to continue to fund tobacco prevention to counter their influence on our kids.