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October 14, 2014

David C. Shonka
Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue NW, Suite CC-5610 (Annex J)
Washington, DC 20580

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

Dear Mr. Shonka:

The Campaign for Tobacco-Free Kids is pleased to submit comments on the FTC's tobacco marketing reports. We strongly support the FTC's intention to continue its collection and reporting of cigarette and smokeless tobacco manufacturers' annual sales and marketing expenditures, which provide critical data to researchers, policy-makers, advocates and the general public.

Tobacco use is the leading preventable cause of death in the United States and around the world, and it is perpetuated by the tobacco industry's extensive marketing practices—many of which appeal to youth. As reported by the U.S. Surgeon General in 2014, "Tobacco industry advertising and promotion cause youth and young adults to start smoking, and nicotine addiction keeps people smoking past those ages."¹

In order to reduce tobacco use and its deadly toll, it is necessary to have access to timely and accurate data that provides a detailed look at how and where the tobacco industry is spending its marketing dollars. While we know more about the industry's marketing practices than perhaps ever before, we also know that, in the face of a growing number of tobacco regulations, tobacco companies have been altering their marketing strategies in an effort to maintain their sales and profits. Continuing to collect data that illuminates how the industry's tactics are changing is crucial for informing future tobacco control efforts.

The FTC is currently the primary source for data on cigarette and smokeless tobacco companies' marketing and promotional expenditures. No other agency collects and publishes such information directly from the companies, making the FTC reports the most accurate and reliable assessment of tobacco marketing and promotion expenditures available.

The FTC marketing reports on cigarettes and smokeless tobacco provide important information that the tobacco control and public health communities rely upon in their daily efforts to reduce tobacco use and

¹ U.S. Department of Health and Human Services. *The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General*, 2014, available at <http://www.surgeongeneral.gov/library/reports/50-years-of-progress/full-report.pdf>.

monitor industry marketing activities. This information is widely used by public health professionals, academics, the media, policymakers and government agencies at local, state and federal levels to emphasize the significant investment tobacco companies make to market their products, highlight the impact it has on youth and adult tobacco use and support tobacco control policies. Our organization, for example, uses the FTC's published data to discuss trends in marketing expenditures—both overall and by specific expenditure categories—in many of our fact sheets, which are made publicly available at www.tobaccofreekids.org/facts_issues/fact_sheets/toll/tobacco_kids/marketing/.

While the current reporting of tobacco companies' marketing and promotional expenditures is informative, there are additional actions that could be taken to enhance the quality, utility and clarity of the data. For example:

- Providing a breakdown of price discount expenditures by retailer and wholesaler categories.
- Clarifying the definitions for the categories. For instance, for "coupons" and "internet – other," are coupons obtained online, whether through websites or electronic mail messages, counted as coupon expenditures or internet expenditures?
- Including data on a company-specific or brand-specific basis.²
- Requiring manufacturers to report on expenditures related to corporate sponsorships and advertisements.
- Requiring manufacturers to report on expenditures related to promotion of their youth tobacco prevention programs.
- Providing an option to download published report data in spreadsheet format, so that users can search, graph and further analyze it.
- Reporting state-level marketing and promotional expenditures, in addition to the national totals.

We also recommend that the FTC extend its data collection to include electronic cigarettes and cigars. While cigarettes and smokeless tobacco still are among the most prevalent forms of tobacco consumption, there has been in recent years an increase in the number and marketing of these other tobacco products.

The FTC released one report with marketing data for cigars in 1999.³ Between 2000 and 2013, however, there has been an explosion of cheap, flavored cigars that has more than doubled the sale of cigars in the United States – from six billion cigars to more than 13 billion annually.⁴ Considering the dramatic recent changes in the cigar landscape, it is important to know how the cigar industry has been marketing its products.

Similarly, the electronic cigarette industry has rapidly grown in just the last five years and the companies have been marketing in innovative ways, making it even more necessary to know how and how much

² 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 these marketing reports 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).

³ See FTC, Commission and Staff Reports, *1999 Report on Cigar Sales, Advertising and Promotion*, July 1999, <http://www.ftc.gov/reports/1999-report-cigar-sales-advertising-promotion>.

⁴ U.S. Alcohol and Tobacco Tax and Trade Bureau (TTB), Tobacco Statistics, <http://www.ttb.gov/tobacco/tobacco-stats.shtml>. See generally, Campaign for Tobacco-Free Kids, *Not Your Grandfather's Cigar: A New Generation of Cheap and Sweet Cigars Threatens a New Generation of Kids*, March 13, 2013, available at http://www.tobaccofreekids.org/content/what_we_do/industry_watch/cigar_report/2013CigarReport_Full.pdf.

they are spending their marketing dollars. For example, we know that in this rapidly changing media environment, e-cigarettes are increasingly being marketed on digital and social media platforms. A recent study of the marketing of e-cigarettes on Twitter captured more than 73,000 tweets related to e-cigarettes over a two month period, and 90 percent of these were classified as commercial tweets. Thirty-four percent of the commercial tweets mentioned prices or discounts for e-cigarettes.⁵ This research illustrates the importance of these media platforms in promoting tobacco use. While utilizing digital social media platforms may be inexpensive or even free, creating and maintaining these accounts certainly requires human capital. Additional data detailing how and where cigars and electronic cigarettes are being marketed are essential to understanding the changing tobacco landscape and informing tobacco control efforts and regulatory decision-making at the local, state and federal levels.

In regards to the collection of tar, nicotine and carbon monoxide yields for cigarettes, we acknowledge that, while such data may fill an important need for researchers and regulatory agencies, the tobacco industry's history of manipulating this self-reported data raises concerns about its accuracy and validity. In this context, it should be noted that Section 915 of the Food, Drug and Cosmetic Act, as amended by the Family Smoking Prevention and Tobacco Control Act of 2009 ("Tobacco Control Act") requires the Food and Drug Administration to issue regulations requiring the testing and reporting of tobacco product constituents, ingredients and additives, including smoke constituents, by brand and sub-brand, as necessary to protect the public health. In light of this mandate to FDA, we urge the FTC to closely coordinate with FDA to establish a coherent set of product testing requirements that will best serve the statutory missions of both agencies. It would be a mistake for the FTC to determine its product testing policy without due regard for FDA's extensive regulatory authority over tobacco products.

Moving forward, we encourage the FTC to publish its tobacco marketing reports in a timely manner. In the past, there has been roughly a two-year time lag in making this data available to the public. Because marketing practices can change quickly, the utility of the tobacco marketing reports for tracking, monitoring and responding to industry marketing practices will be greatest if the information is published soon after it is collected (ideally within one year).

Despite the progress made in tobacco control, the ever-changing tobacco environment makes the continuation of the FTC's tobacco marketing reports just as important as before. These reports are fundamental to much of the work being done in tobacco control. It is critical that the FTC continue to publish these data, which can be used to support tobacco control policies, inform regulatory decision-making and educate the public, policymakers and media about the nature and extent of the tobacco industry's marketing practices.

Thank you for your ongoing work on these important tobacco marketing reports.

Respectfully submitted,

Sincerely,

Matthew L. Myers
President
Campaign for Tobacco-Free Kids

⁵ Huang, J, et al., "A cross-sectional examination of marketing of electronic cigarettes on Twitter," *Tobacco Control* 23(Suppl 3):iii26-30, 2014.