



[Billing Code: 6750-01-S]

## FEDERAL TRADE COMMISSION

### Agency Information Collection Activities; Submission for OMB Review; Comment Request

**AGENCY:** Federal Trade Commission (“FTC” or “Commission”).

**ACTION:** Notice.

**SUMMARY:** The FTC intends to ask the Office of Management and Budget (“OMB”) to extend through January 31, 2015, the current Paperwork Reduction Act (“PRA”) clearance for information the FTC would seek from a combined ten or more of the largest cigarette manufacturers and smokeless tobacco manufacturers. The current clearance expires on January 31, 2012.

**DATES:** Comments on the proposed information requests must be received on or before [insert date 30 days after date of publication in the FEDERAL REGISTER].

**ADDRESSES:** Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the SUPPLEMENTARY INFORMATION section below. Write: “Tobacco Reports: Paperwork Comment, FTC File No. P054507” on your comment, and file your comment online at <https://ftcpublic.commentworks.com/ftc/tobaccoreportspra2> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex J), 600 Pennsylvania Avenue, NW, Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the proposed collection of information should be addressed to Shira Modell, Division

of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., NJ-3212, Washington, D.C. 20580. Telephone: (202) 326-3116.

**SUPPLEMENTARY INFORMATION:**

*Title:* FTC Cigarette and Smokeless Tobacco Data Collection

*OMB Control Number:* 3084-0134

*Type of Review:* Extension of currently approved collection

*Abstract:* For more than forty years, the FTC has published periodic reports containing data on domestic cigarette sales and marketing expenditures by the major U.S. cigarette manufacturers. It has published comparable reports on smokeless tobacco sales and marketing expenditures for more than twenty years. Both reports originally were issued pursuant to statutory mandates. After those statutory mandates ended, the Commission continued to collect and publish information obtained from the cigarette and smokeless tobacco industries through compulsory process under the authority of Section 6(b) of the FTC Act, 15 U.S.C. 46(b).

The FTC plans to continue sending information requests annually to the ultimate parent company of several of the largest U.S. cigarette and smokeless tobacco companies (“industry members”). The information requests will seek data regarding, among other things: (1) the tobacco sales of industry members; (2) how much industry members spend advertising and promoting their tobacco products, and the amounts spent in each of several specified expenditure categories; (3) whether industry members are involved in the appearance of their products or brand imagery in television shows, motion pictures, or the Internet; (4) how much industry members spend on advertising intended to reduce youth tobacco use; (5) the events, if any, during which industry members' tobacco brands are televised; and (6) for the cigarette industry,

the tar, nicotine, and carbon monoxide ratings of their cigarettes, to the extent they possess such data.<sup>1</sup> The information will again be sought under the authority of Section 6(b) of the FTC Act.

On August 4, 2011, the FTC sought public comment on its proposed information collection requests to the major cigarette and smokeless tobacco manufacturers. 76 FR 47187. No comments were received. Pursuant to the OMB regulations, 5 CFR Part 1320, that implement the PRA, 44 U.S.C. 3501 et seq., the FTC is providing a second opportunity for the public to comment while seeking OMB approval to extend the existing paperwork clearance for the information collection requests.

*Burden Statement:*<sup>2</sup>

*Estimated Number of Respondents, Estimated Average Burden Per Year Per Respondent:*

- (a) Information requests to the five largest cigarette companies and five largest smokeless tobacco companies, at a per company average each year of 180 hours = 1,800 hours, cumulatively, per year; and
- (b) Information requests to a five additional respondents, of smaller size, at a per company average each year of 60 hours = 300 hours, cumulatively, per year.

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<sup>1</sup> Although the Commission has rescinded the 1966 enforcement policy that allowed factual statements of tar and nicotine yields supported by testing conducted under what was commonly referred to as “the FTC Test Method,” 73 FR 74500 (Dec. 8, 2008), the Commission believes it is important to continue collecting these data, which researchers and policymakers use to track trends over time.

<sup>2</sup> See 76 FR 47187 for further details underlying the estimates that follow.

Thus, the overall estimated burden for an assumed maximum of 15 recipients of the information requests is 2,100 hours per year.<sup>3</sup> These estimates include any time spent by separately incorporated subsidiaries and other entities affiliated with the ultimate parent company that has received the information request.

*Total Annual Labor Cost:* \$210,000 (2,100 hours per year @ \$100 per hour)

*Total Annual Capital or Other Non-Labor Cost:* minimal.<sup>4</sup>

**Request for comment:** You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before [insert date 30 days from FEDERAL REGISTER date of publication]. Write “Tobacco Reports: Paperwork Comment, FTC File No. P054507” on your comment. Your comment – including your name and your state – will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Website, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on the Commission Website.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as anyone’s Social Security number, date of birth, driver’s license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card

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<sup>3</sup> The Commission intends to use this PRA clearance renewal to collect information from the companies regarding their marketing and sales activities for the years 2011, 2012, and 2013. Although the Commission anticipates that it will issue compulsory process orders one year at a time, it is possible that it might not do so and instead issue an order in an ensuing year for information covering two years. The estimates in this notice for hours and labor costs are annualized to reflect an average year over the course of a prospective three-year PRA clearance.

<sup>4</sup> Although industry members may have to preserve relevant business records to accommodate the Commission’s information requirements, they already have the means in place to do so.

number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, don't include any "[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential . . . ," as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, don't include competitively sensitive information, such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).<sup>5</sup> Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online, or to send them to the Commission by courier or overnight service. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/tobaccoreportspra2>, by following the instructions on the web-based form. If this Notice appears at <http://www.regulations.gov/#!home>, you also may file a comment through that website.

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<sup>5</sup> In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c), 16 CFR 4.9(c).

If you file your comment on paper, write “Tobacco Reports: Paperwork Comment, FTC File No. P054507” on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex J), 600 Pennsylvania Avenue, NW, Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Website at <http://www.ftc.gov> to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before [insert date 30 days from FEDERAL REGISTER date of publication]. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

Comments on the information collection requirements subject to review under the PRA should additionally be submitted to OMB. If sent by U.S. mail, they should be addressed to Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17<sup>th</sup> Street, N.W., Washington, D.C. 20503. Comments sent to OMB by U.S. postal mail, however, are subject to delays due to heightened security precautions. Thus,

comments instead should be sent by facsimile to (202) 395-5167.

David C. Shonka  
Acting General Counsel.

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