

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman
Julie Brill
Maureen K. Ohlhausen
Joshua D. Wright

File No. P114508

ORDER TO FILE SPECIAL REPORT

Pursuant to a resolution of the Federal Trade Commission dated August 13, 2013, entitled "Resolution Directing Use of Compulsory Process," a copy of which is enclosed, [company] is ordered to file a Special Report with the Commission not later than October 28, 2013, containing the information specified herein. Much of the information requested for this report is to be filed electronically.

Your report is required to be subscribed and sworn to by an official of [company] who has prepared or supervised the preparation of the report from books, records, correspondence, and other data and material in your possession.

Your report should restate each item of this Order with which the corresponding answer is identified. If any question cannot be answered fully, give such information as is available to you and explain how and why your answer is incomplete.

Please supply written answers to each of the following twelve questions:

1. The subscriber to your report is to give his or her full name and business address and

3. State whether [company] is a subsidiary company; and if so, identify the full name and official address of its ultimate parent company.²
4.
 - A. If [company] is a subsidiary company, identify all other direct and indirect subsidiary companies of [company's] ultimate parent company, and for each such subsidiary company: (1) provide its full name and address; (2) identify its direct parent company and all of its direct subsidiary companies; and (3) state whether it has any involvement in the manufacturing, labeling, advertising, promotion, marketing, development, offering for sale, sale, or distribution of cigarettes.
 - B. If [company] is not a subsidiary company, identify all of [company's] direct and indirect subsidiary companies, and for each such subsidiary company: (1) provide its full name and address; (2) identify its direct parent company and all of its direct subsidiary companies; and (3) state whether it has any involvement in the manufacturing, labeling, advertising, promotion, marketing, development, offering for sale, sale, or distribution of cigarettes.

² For the purposes of this Order, the term “subsidiary company” shall mean a company that is controlled by another entity; the term “parent company” shall mean an entity that controls another company; and the term “ultimate parent company” shall mean the highest level parent company that is not controlled by another entity.

Furthermore, for purposes of this Order, the term “control” (as used in the terms “control(s)” and “controlled”) shall mean either holding 50 percent or more of the outstanding voting securities of an issuer or in the case of an entity that has no outstanding voting securities, having the right to 50 percent or more of the profits of the entity, or having the right in the event of dissolution to 50 percent or more of the assets of the entity.

5. Report the net (*i.e.*, after accounting for returns) number of cigarettes sold in the United States by the Company during calendar year 2012.³ This includes cigarettes given for free to retailers for subsequent sale to consumers. Report unit sales in number of cigarettes sold.
6. Report the net (*i.e.*, after accounting for returns) dollar value of cigarettes sold in the United States by the Company during calendar year 2012. Report dollar sales value in whole dollars.
7. Report the net (*i.e.*, after accounting for returns) number of cigarettes given away in the United States by the Company during calendar year 2012. This should include all cigarettes distributed for free whether through sampling, coupons for free product, “buy 3 get 1 free” type offers, or otherwise, as long as such cigarettes were not reported as sold in response to Question 5, above.⁴ Report units given away in number of cigarettes given away.

³ For the purposes of this Order, the term

8. Report separately the dollar amount expended during calendar year 2012 by the Company on cigarette advertising, merchandising, or promotion in the United States in each category specified in items 26 through 54 of the “Reportable Expenditures” section of this Order.⁵ This request is in addition to the request for the electronic “Cigarette Report Datafiles.”
9. A. State whether the Company or any other persons working for or on behalf of the Company paid any money or compensation, or made any other contribution (including, but not limited to, goods or services, including free cigarettes) in connection with any production or filming of any motion picture(s) or television show(s) during calendar year 2012. If so, please state which show(s) or movie(s), and the dollar value of each payment or contribution.
- B. State whether the Company or any other persons working for or on behalf of the Company paid any money or compensation, or made any other contribution (including, but not limited to, goods or services, including free cigarettes) during calendar year 2012 to any individual, partnership or corporation engaged in the business of product placement in motion pictures or television shows. If so, please identify: the person who made the contribution; the recipient of the payment or contribution; the nature and amount of the payment or contribution; and the name of each and every motion picture or television show in which any of the Company’s cigarette products or cigarette brand imagery appeared in return for such payment or contribution.
- C. State whether the Company or any other persons working for or on behalf of the Company sought or solicited the appearance of any cigarette product or any cigarette brand imagery in any motion picture(s) or television show(s) during calendar year 2012. If so, please state which show(s) or movie(s).

⁵ For the purposes of this Order, the term “advertising” refers to all activities relating to cigarettes that are intended or likely to be seen or heard by members of the public, regardless of whether they refer or relate to a brand or brands of cigarettes.

For the purposes of this Order, the term “cigarette advertising” does not refer to and should not be construed to include: (a) company or divisional names, when used as such, other than in an advertisement relating to cigarettes; (b) signs on factories, plants, warehouses and other facilities related to the manufacture or storage of cigarettes; (c) corporate or financial reports; (d) communications to security holders of the Company and to others who customarily receive such communications; (e) employment advertising; or (f) advertisements directed to youth or their parents that are intended to reduce youth smoking.

Furthermore, for the purposes of this Order, the phrase “advertising, merchandising, or promotion in the United States” shall include all advertising, merchandisi

- D. State whether the Company or any other persons working for or on behalf of the Company granted approval or otherwise gave permission for the appearance of any cigarette product or any cigarette brand imagery in any motion picture(s) or television show(s) during calendar year 2012. If so, please state which show(s) or movie(s).
- E. State whether the Company or any other persons working for or on behalf of the Company sought or solicited the appearance of any cigarette product or any cigarette brand imagery, or granted approval or otherwise gave permission for the appearance of any cigarette product or any cigarette brand imagery, in any video appearing on the Internet, including, but not limited to, sites providing user-generated content, during calendar year 2012. If so, please provide the name of the video(s), the name of the site on which the video(s) appeared, and the Uniform Resource Locator (“URL”) for each video.
- F. State whether the Company or any other persons working for or on behalf of the Company engaged in social media marketing that promoted any cigarette brand or variety, or that used any cigarette brand imagery, in 2012. If so, please identify each type of social media marketing used, including, but not limited to, social networking sites, microblogging sites, content-sharing sites, and blogs.
10. To the extent that such information is possessed by the Company or any other persons working for or on behalf of the Company, identify each and every televised event that was aired in calendar year 2012 during which the name, logo, or an image of any portion of the package of any brand or variety of cigarettes sold by the Company appeared on television through televised coverage of sponsored events, teams, or individuals.
11. A. List all varieties of cigarettes that the Company first offered for sale in the United States during calendar year 2012.
- B. List all varieties of cigarettes that the Company discontinued from sale in the United States during calendar year 2012.
12. Report the dollar amount expended during calendar year 2012 by the Company in the United States on advertisements directed to youth or their parents that are intended to reduce youth smoking.⁶

For each question 5-12, above, if the information responsive to the question exists only within subsidiaries, it is permissible to submit separate reports from each subsidiary with responsive information subscribed and sworn to by an official of each such subsidiary, who has prepared or supervised the preparation of the report from books, records, correspondence, and other data and material in its possession. In such case, an official of [company] still must submit a report

⁶ For purposes of this Order, the term “youth” means persons younger than eighteen years of age.

subscribing and swearing that the subsidiaries' reports submitted constitute all relevant information for the [company] and its subsidiaries, and that no contrary information exists. The written report or reports may be submitted either in paper form or as a .pdf file. In either case, the paper document(s) or the .pdf file(s) must include the signature(s) of the above-referenced official(s) attesting to the accuracy of the Company's report.

INSTRUCTIONS FOR CO

EXPLANATION OF DATAFILE STRUCTURE:

Attachment A contains the field names and field types for the Cigarette Report Datafile. Each field is described below:

FIELD DEFINITIONS:

Each record contains 59 fields of data. The first five fields in the file are used to create a unique identifier for each variety of cigarette. Please note the field names (in CAPS) cited below and use them as written for the Company's submissions.

1. YEAR (Year): Numeric field. Refers to the calendar year for which information is being reported. Entered as "20XX."
2. COMPCODE (Company Code): Character field. Enter letter assigned for the Company:

8. CR-FILTER (Marketing description of filter): Character field. This field is eight characters long.

9. CR-PACKAGE (Marketing description of packaging): Character field. This field is eight characters long.

10. CR-STRENGTH (Marketing description of cigarette taste/strength): The FTC is no longer collecting this information, but is keeping the field intact so that all of the subsequent fields retain their existing numbers. Leave this field blank.

11. CR-FLAVOR (Marketing description of cigarette flavoring): Character field. This field is eight characters long.

12. CR-STYLE

21. PACKTYPE (Packaging): Character field. One character in length. Enter “S” for soft-pack, “H” for hard-pack.

22. LASTSOLD (If the variety was discontinued during the year, the date on which it was last sold): Numeric Values as YYMMDD (no slashes).

The next three fields are used to record the tar, nicotine, and carbon monoxide yield of the particular variety of cigarette. If no data are available, please leave these fields blank. Please round tar and carbon monoxide figures to the nearest whole mg. Please round nicotine figures to the nearest tenth mg.

23. TAR (Tar): Numeric value, range 0 - 99.

24. NICOTINE (Nicotine): Numeric value, range 0.0 - 9.9.

25. CO (Carbon Monoxide): Numeric value, range 0 - 99.

REPORTABLE EXPENDITURES:

The next 29 fields are used to record advertising, merchandising, or promotion expenditures in the United States for the specific categories requested by the FTC. Please provide information for items 26-54 in thousands of dollars. Expenditures may be rounded to the nearest thousand dollars. For example \$1,234,567 should be reported as either 1234.567 or 1235, not 1234567.

26. CAT-A-EXP (Category-A Expenses): Newspaper advertising but excluding, if practicable, those expenditures covered by Categories L through V, which should be reported in those

reported in Category W or Category X below.

30. CAT-E-EXP (Category-E Expenses): Transit

the cigarettes outside of a facility owned or operated by the Company or its agents, but the cost of actual clinical testing or market research associated with such cigarette distributions should not be reported. Coupons distributed for free cigarettes, with no purchase or payment required to obtain the coupons or cigarettes, should be reported in this category. When reporting expenses associated with such coupons for free cigarettes, the value reported should include: (a) the total redemption expense (including expenses for payments to retailers or vendors for processing) for such coupons in the calendar year, as determined under Generally Accepted Accounting Principles; and (b) all other costs associated with such coupons incurred in the calendar year, including, but not limited to, costs associated with advertising, promotion, design, printing, and distribution.

38. CAT-M-EXP (Category-M Expenses): All co

41. CAT-P-EXP (Category-P Expenses): Public entertainment events (including, but not limited to, concerts and sporting events) bearing or otherwise displaying the name, logo, or an image of any portion of the package of any of the Company's cigarettes or otherwise referring or relating to cigarettes, which do not take place in an adult-only facility. This item includes all expenditures made by the Company in promoting and/or sponsoring such events.

42. CAT-Q-EXP (Category-Q Expenses): Public entertainment events (including, but not limited to, concerts and sporting events) bearing or otherwise displaying the name of the Company or any variation thereof but not bearing or otherwise displaying the name, logo, or an image of any portion of the package of any of its cigarettes or otherwise referring or relating to cigarettes. This item includes all expenditures made by the Company in promoting and/or sponsoring such events.

43. CAT-R-EXP (Category-R Expenses): Endorsements, testimonials, and product placement. This item includes, but is not limited to, all expenditures made to procure cigarette use, or to procure the mention of a cigarette product or company name, or the appearance of a cigarette product or name, logo, or package, in any situation (*e.g.*, motion picture, television show or program, stage show, public appearance by a celebrity) where such use, mention or appearance may come to the attention of the public.

expenditures and costs associated with the value added to the purchase of cigarettes.

48. CAT-W-EXP (Category-W Expenses): All expenditures for advertising on any Company Internet web site that can be accessed by computers located in the United States, regardless of where the site is located or the Internet address of the site or page.

49. CAT-X-EXP (Category-X Expenses): All expenditures for advertising on the Internet, other than on the Company's own Internet web site, including, but not limited to, the World Wide Web, commercial online services, and electronic mail messages, but excluding, if practicable, those expenditures covered by Category Z, which should be reported in that category. This category includes but is not limited to: spending on all Internet sites and pages, hyperlinks and banners on third-party sites, newsgroups, and online advertisements that can be accessed by computers located in the United States, regardless of where the site is located or the Internet address of the site or page; all direct mail advertising using electronic mail messages; and all sites and pages, hyperlinks and banners on third-party sites, newsgroups, or electronic mail messages that include the name, logo, symbol, motto, or selling message of a brand of cigarettes, or are referred to in any other cigarette advertisement, regardless of whether the site, page, hyperlink, banner, or electronic mail message is promoting the sale of cigarettes. Expenditures include but are not limited to the cost of developing, creating, maintaining, monitoring, and updating the site, page, hyperlink, banner, or electronic mail message, regardless of whether the site, page, hyperlink, banner, or electronic mail message is promoting the sale of cigarettes.

on lines 44 and 54. "Sports and sporting events" include but are not limited to football, basketball, baseball, hockey, tennis, wrestling, karate, judo, weight lifting, volleyball, skiing, skating, sailing, boating, equestrian, rodeo, automobile, race car, funny car, motorcycle, bicycle, truck, monster truck, tractor-pull, fishing, and hunting events, competitions, tournaments, and races.

Report all items that include but are not limited to all expenditures connected with or related to the sponsoring, advertising, or promotion of sports or sporting events, including any racing or automotive events, support of an individual, group, sports, or racing team, and purchase of or support for sports or racing equipment, uniforms, sports or racing facilities and or training facilities, and all expenditures for advertising including, but not limited to, print, television, radio, billboards, banners, etc., in the name of the Company or any of its cigarette brands in a sports or racing facility, on a scoreboard or in conjunction with the reporting of sports or racing results; and all expenditures connected with the production, offer, sale, or provision without fee of all functional promotional items at or in connection with a sporting or racing event, including, but not limited to, clothing, hats, bags, posters, sporting or racing goods, and equipment.

55. Was the variety's tar rating disclosed on the cigarette pack?

1. Yes
2. No

56. Was the variety's nicotine rating disclosed on the cigarette pack?

1. Yes
2. No

The next two fields are used by the FTC.

57. BRAND-SALES (Brand unit sales): FTC calculated field value, enter 0 here.

58. BRAND-DOLLARS (Brand dollar sales): FTC calculated field value, enter 0 here.

The last field holds additional identifier data for specific varieties of cigarettes.

59. UPC-CODE: Numeric value, enter industry standard bar-code value for product as printed on the pack.

OTHER EXPLANATORY NOTES

Expenditures on lines 26-52 should be included in only one category. Expenditures on line 54 (sporting events) duplicate expenditures reported on lines 26-52.

activities of such company employees.

The financial accounting procedure to be used in assigning an expenditure to a particular calendar year shall be the accrual rather than the cash basis method of accounting.

You are advised that penalties may be imposed under applicable provisions of federal law for failure to file special reports or for filing false reports.

The Special Report called for in this Order is to be filed on or before October 28, 2013.

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Edith Ramirez, Chairwoman**
 Julie Brill
 Maureen K. Ohlhausen
 Joshua D. Wright

RESOLUTION DIRECTING USE OF COMPULSORY PROCESS

File No. P114508

Nature and Scope of Matter: To collect information concerning sales and practices and methods of advertising and promotion of cigarettes employed throughout the United States during calendar year 2012 by Altria Group, Inc.; Commonwealth Brands, Inc.; Lorillard, Inc.; Reynolds American, Inc.; and Vector Group Ltd.

The Federal Trade Commission hereby resolves and directs that any and all compulsory processes available to it be used in connection with this inquiry.

Authority:

Sections 6, 9, and 10, Federal Trade Commi i C.F.R §§ 4d, et seq. and 1supplmens tharebto
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