

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

COMMISSIONERS: Joseph J. Simons, Chairman
Noah Joshua Phillips
Rohit Chopra
Rebecca Kelly Slaughter
Christine S. Wilson

File No. P114508

ORDER TO FILE SPECIAL REPORT

Pursuant to a resolution of the Federal Trade Commission dated [date], 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

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 2019. 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 2019. This should include all cigarettes distributed for free whether through sampling, coupons for free product, “buy two get one 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.

8. Report separately the dollar amount expended during calendar year 2019 by the Company on cigarette advertising, merchandising, or promotion in the United States in each category specified in items 5 through 33 of Datafile No. 2.⁵ This request is in addition to the request for the electronic datafile.

Midway Islands, Kingman Reef, and Johnston Island).

In addition, for the purposes of this Order, the phrase “sold in the United States” shall include all sales: (a) within the United States; (b) to members of the Armed Forces of the United States located outside the United States; or (c) for delivery to a vessel or aircraft of the Armed Forces of the United States, as supplies, for consumption beyond the jurisdiction of the internal revenue laws of the United States.

⁴ For the purposes of this Order, the phrase “given away in the United States” shall include all cigarettes given away: (a) within the United States; (b) to members of the Armed Forces of the United States located outside the United States; or (c) for delivery to a vessel or aircraft of the Armed Forces of the United States, as supplies, for consumption beyond the jurisdiction of the internal revenue laws of the United States.

⁵ For the purposes of this Order, the term “advertising” refers to all activities relating to

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

variety,⁶ or that used any cigarette brand imagery, in calendar year 2019. 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 2019 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. State whether the Company or any other persons working for or on behalf of the Company incurred any expenditures during calendar year 2019 in connection with 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. If so, please report the total amount of such expenditures during calendar year 2019, including all expenditures made by the Company in promoting or sponsoring such events.

12. Report the dollar amount expended during calendar year 2019 by the Company in the United States on advertisements directed to youth or their parents that are intended to reduce youth smoking.⁷

For items 5-12 above, if the responsive information 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 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 subscribing and swearing that the subsidiaries' reports submitted constitute all relevant information for [company] and its subsidiaries, and that no contrary information exists. The written report or reports may be submitted either in paper form or as .pdf files. 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 COMPLETING THE CIGARETTE REPORT DATAFILES

The Commission requests that information be produced by the Company in spreadsheet format (readable by Microsoft Excel).

⁶ For purposes of this Order, the term "variety" refers to cigarettes that have different UPC codes.

⁷ For purposes of this Order, the terms "youth" and "underage" mean persons younger than eighteen years of age.

The Commission is also requesting that expenditures on cigarette advertising, merchandising, or promotion in the United States that are not attributable to or in connection with any specific brand of cigarettes be reported in a “non-brand specific” record. Examples of such expenditures might include, among others, Category A expenses advertising or promoting all cigarettes generally or all of the Company’s cigarettes but not any specific brand of cigarettes and Category W expenses.

To the extent practicable, third-party agency fees relating to cigarette advertising, merchandising, or promotion should be reported in the categories of advertising or promotion to which those fees relate. For example, agency fees related to magazine advertising should be reported in Category B, agency fees related to point-of-sale advertising should be reported in Category F, and agency fees related to advertising on any Company web site should be reported in Category W. To the extent that third-party agency fees relating to cigarette advertising, merchandising, or promotion cannot be divided based on the materials to which they relate, they should be reported in Category AA.

FIELD DEFINITIONS FOR DATAFILE NO. 2

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:

Vector Group	C
Altria Group	E
Reynolds American	F
ITG Holdings	G

3. BRANDNO (Brand number): Numeric field. Entered as values 01 to 99. Enter previously

categories. “Outdoor advertising

requirements but excluding, if practicable, those expenditures covered by Categories A through I, which should be reported in those categories.

15. CAT-K-EXP (Category-K Expenses): Promotional allowances paid to any persons other than retailers, wholesalers, and full-time company employees who are involved in the cigarette distribution and sales process in order to facilitate the sale or placement of any cigarette but excluding, if practicable, those expenditures covered by Categories A through J, which should be reported in those categories.

16. CAT-L-EXP (Category-L-Expenses): Sampling of cigarettes, including the costs of the cigarettes themselves, all associated excise taxes and increased costs under the Master Settlement Agreement, and the costs of organizing, promoting, and conducting sampling. Sampling includes the distribution of cigarettes for consumer testing or evaluation when consumers are able to smoke 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.

otherwise and whether redeemed at the point of sale, by mail, online, or otherwise), including: (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. Coupons distributed for free cigarettes, with no purchase or payment required to obtain the coupons or cigarettes, should be reported in Category L. Redemption costs should include any payments to retailers above the face value of the coupons.

25. CAT-U-EXP (Category-U Expenses): Retail-value-added expenditures for promotions involving free cigarettes (*e.g.*, buy two, get one free), whether or not the free cigarettes are physically bundled together with the purchased cigarettes, including all expenditures and costs associated with the value added to the purchase of cigarettes (*e.g.*, all associated excise taxes paid on the free cigarettes and any increased costs under the Master Settlement Agreement resulting from the distribution of the free cigarettes).

26. CAT-V-EXP (Category-V Expenses): Retail-value-added expenditures for promotions involving free or discounted non-cigarette product (*e.g.*, buy two, get a free lighter or buy two, save 20 cents per gallon of gasoline), including all expenditures and costs associated with the value added to the purchase of cigarettes.

27. 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. This category includes, but is not limited to, expenditures for cigarette brand web sites.

28. CAT-X-EXP (Category-X Expenses): All expenditures for advertising on the Internet, other than on the Company's own Internet web sites, 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

any promotion or hear pre-recorded product messages, but excludes costs associated with having customer-service representatives available for responding to consumer complaints or questions.

30. CAT-Z-EXP (Category-Z Expenses): All expenditures for social media marketing on web sites or other online services or communities, including, but not limited to, social networking sites, microblogging sites, content-sharing sites, and blogs.

31. CAT-AA-EXP (Category-AA Expenses): Any advertising or promotional expenditures not covered by another reporting category. Specify the total amount on the written report and briefly describe the specific subject matter of each such expenditure.

32. TOT-ADV-EXP (Total Reportable Expenditures): Reportable expenditures for the brand as defined in the explanatory notes. The figure provided for total reportable expenditures should equal the sum of the expenses listed in Categories A through AA for the brand.

33. SPORTS-EXP (Sports and Sporting Events): Report all advertising and promotional expenditures connected with or related to sports or sporting events, including but not limited to: (i) 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; (ii) 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; (iii) 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, horc, ebcig, etpos ore, suppting

OTHER EXPLANATORY NOTES FOR DATAFILE NO. 2

Expenditures on lines 5-31 should be included in only one category, except for any amounts also reported on line 33 (sports). Reportable expenditures (lines 5-31) should equal the total on line 32, and should equal the total cost to the Company of administering the activity involved, including commissions and other payments made to separate organizations, such as advertising agencies. In addition, expenditures reported on lines 5-33 should include all expenditures for advertising and promotion relating to cigarettes, regardless of whether the advertising or promotion would constitute “commercial speech” or would be protected from law enforcement action by the First Amendment. However, such expenditures should not include the costs of employing full-time employees of the Company or any overhead expenses attributable to the activities of such company employees.

The financial accounting procedure to be used in assigning an expenditure to a particular calendar year should 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 June 30, 2020.

By direction of the Commission.

Joseph J. Simons, Chairman

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[date]