

procedures for the administration of such “negative option” plans.

### Burden Statement

*Estimated annual hours burden:* 3,875 hours.

Based on industry input, staff estimates that approximately 45 existing clubs each require annually about 75 hours to comply with the Rule’s disclosure requirements, for a total of 3,375 hours (45 clubs × 75 hours). These clubs should be familiar with the Rule, which has been in effect since 1974, with the result that the burden of compliance has declined over time. Moreover, a substantial portion of the existing clubs likely would make these disclosures absent the Rule because they have helped foster long-term relationships with consumers.

Approximately 5 new clubs come into being each year. These clubs require approximately 100 hours to comply with the Rule, including start up-time. Thus, the cumulative PRA burden for new clubs is about 500 hours (5 clubs × 100 hours). Combined with the estimated burden for established clubs, the total burden is 3,875 hours.

*Estimated annual cost burden:* \$171,825 (solely related to labor costs).

Based on recent data from the Bureau of Labor Statistics,<sup>1</sup> the mean hourly wage for advertising managers is approximately \$47 per hour. Compensation for office and administrative support personnel is approximately \$17 per hour. Assuming that managers perform the bulk of the work, while clerical personnel perform associated tasks (e.g., placing advertisements and responding to inquiries about offerings or prices), the total cost to the industry for the Rule’s information collection requirements would be approximately \$167,125 [(65 hours managerial time 45 existing clubs × \$47 per hour) + (10 hours clerical time × 45 existing clubs × \$17 per hour) + (90 hours managerial time × 5 new clubs × \$47 per hour) + (10 hours clerical time × 5 new clubs × \$17)].

Because the Rule has been in effect since 1974, the vast majority of the negative option clubs have no current start-up costs. For the few new clubs that enter the market each year, the costs associated with the Rule’s disclosure requirements, beyond the additional labor costs discussed above, are de minimis. Negative option clubs already have access to the ordinary office equipment necessary to achieve compliance with the Rule. Similarly, the

Rule imposes few, if any, printing and distribution costs. The required disclosures generally constitute only a small addition to the advertising for negative option plans. Because printing and distribution expenditures are incurred to market the product regardless of the Rule, adding the required disclosures results in marginal incremental expense.

### Request for Comment

You can file a comment online or on paper. For the FTC to consider your comment, we must receive it on or before October 3, 2011. Write “Negative Option Rule: FTC File No. P064202” 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 Web site, at <http://www.ftc.gov/ios/publiccomments.shtml>. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like 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 number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any “Trade 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). 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>2</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/NegOptionPRA> by following the instructions on the web-based form. If this Notice appears at <http://www.regulations.gov/Mhome>, you also may file a comment through that Web site.

If you file your comment on paper, write “Negative Option Rule: FTC File No. P064202” 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 Web site 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 October 3, 2011. 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>.

**David C. Shonka,**  
Acting General Counsel.

[FR Doc. 2011-19671 Filed 8-3-11; 8:45 am]

BILLING CODE 6750-01-M

## FEDERAL TRADE COMMISSION

### Agency Information Collection Activities; Proposed Collection; Comment Request

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

**ACTION:** Notice.

**SUMMARY:** The FTC is seeking public comments on its proposal to extend through January 31, 2015, the current PRA clearance for information sought through compulsory process orders to a combined ten or more of the largest cigarette manufacturers and smokeless tobacco manufacturers in order to obtain

<sup>1</sup> Occupational Employment And Wages—May 2010, Table 1, at <http://www.bls.gov/news.release/pdf/ocwage.pdf>.

<sup>2</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).

from them information including, among other things, their annual sales and marketing expenditures. The current clearance expires on January 31, 2012. The information collection requirements described below will be submitted to the Office of Management and Budget (“OMB”) for review, as required by the Paperwork Reduction Act (“PRA”).

**DATES:** Comments on the proposed information requests must be received on or before October 3, 2011.

**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://ftcpublish.commentworks.com/ftchobaccoreportspra> 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, NW., NJ–3212, Washington, DC 20580. Telephone: (202) 326–3116.

**SUPPLEMENTARY INFORMATION:** 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 were terminated, the Commission continued to collect and publish information obtained from the cigarette and smokeless tobacco industries pursuant to Section 6(b) of the FTC Act, 15 U.S.C. 46(b). The current PRA clearance to collect this information is valid through January 31, 2012, under OMB Control No. 3084–0134.

The FTC plans to continue sending information requests annually to the ultimate parent company of several of the largest cigarette companies and smokeless tobacco companies in the

United States (“industry members”). The information requests will seek data regarding, inter alia: (1) The tobacco sales of industry members; (2) how much industry members spend advertising and promoting their tobacco products, and the specific amounts spent in each of a number of 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 usage; (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 using compulsory process under Section 6(b) of the FTC Act.

Under the PRA, 44 U.S.C. 3501–3521, federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. “Collection of information” means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3), 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing paperwork clearance for the proposed collection of information.

*The FTC invites comments on:* (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information

technology, e.g., permitting electronic submission of responses.

**Estimated hours burden:** The FTC staffs estimate of the hours burden is based on the time required each year to respond to the Commission’s information request. Although the FTC currently anticipates sending information requests each year to the five largest cigarette companies and the five largest smokeless tobacco companies, the burden estimate is based on up to 15 information requests being issued per year to take into account any future changes in these industries. These companies vary greatly in size, in the number of products they sell, and in the extent and variety of their advertising and promotion. Prior input received from the industries, combined with staffs knowledge of them, suggests that the time most companies would require to gather, organize, format, and produce their responses would range from 30 to 80 hours per information request for the smaller companies, to as much as hundreds of hours for the very largest companies. As an approximation, staff continues to assume a per company average of 180 hours for the ten largest recipients of the Commission’s information requests to comply—cumulatively, 1,800 hours per year, or 5,400 hours over the three years that would be covered by an extension of OMB’s approval under the PRA.

Staff anticipates that if the Commission decides to issue information requests to an additional one or more companies, those companies would be smaller than the primary ten recipients and the burden would therefore be less than on the larger companies. Staff believes that the burden should not exceed 60 hours for these smaller recipients of information requests. Cumulatively, then, the total burden for five additional respondents should not exceed 300 hours per year or 900 hours over a three-year OMB clearance. Thus, the overall estimated burden for a maximum of 15 recipients of the information requests is 2,100 hours per year or a total of 6,300 hours. 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.

**Estimated cost burden:** It is not possible to calculate with precision the labor costs associated with this data production, as they entail varying compensation levels of management and/or support staff among companies of different sizes. Commission staff assumes that personnel with technical training will handle most of the tasks involved in the data collection process,

<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 74,500 (Dec. 8, 2008), the Commission believes it is important to continue collecting these data, which researchers and policymakers use to track trends over time.

although legal staff likely will be involved in preparing the actual submission to the Commission, and has applied an average hourly wage of \$100/hour for their combined labor.

Accordingly, staffs best estimate for the total labor costs for up to 15 information requests is \$210,000 per year, for a total of \$630,000 over the entire three-year period. Staff believes that the capital or other non-labor costs associated with the information requests are minimal. Although the information requests may necessitate that industry members maintain the requested information provided to the Commission, they should already have in place the means to compile and maintain business records.

*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 October 3, 2011. 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 Web site, 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 Web site. 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 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>2</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.

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**David C. Shonka,**

*Acting General Counsel.*

[FR Doc. 2011-19672 Filed 8-3-11; 8:45 am]

**BILLING CODE 6750-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

#### Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772-76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 76 FR 34075, dated June 10, 2011) is amended to reflect the establishment of the Office of Minority Health and Health Equity (CAW), Office of the Director (CA), Centers for Disease Control and Prevention (C). This will align this office as a direct report to the Director, Centers for Disease Control and Prevention (CDC), pursuant to passage of the Patient Protection and Affordable Care Act (Pub. L. 111-148).

I. Section C-B, Organization and Functions, is hereby amended as follows:

Under Part C, Centers for Disease Control and Prevention (C), Office of the Director (CA), add the following organizational unit after the Office of Diversity Management and Equal Employment Opportunity (CAV):

*Office of Minority Health and Health Equity (CAW):* The mission of the Office of Minority Health and Health Equity (OMHHE) is to accelerate CDC's health impact in the U.S. population and to eliminate health disparities for vulnerable populations as defined by race/ethnicity, socio-economic status, geography, gender, age, disability status, risk status related to sex and gender, and among other populations that are identified as at-risk for health disparities. As the Office of the Director's organizational focus for eliminating health disparities, OMHHE: (1) Provides leadership for CDC-wide policies, strategies, action planning, implementation and evaluation to eliminate health disparities; (2) coordinates CDC's response to Presidential Executive Orders, Congressional mandates, Secretarial and HHS/ASH/OPHS Initiatives, and provides timely performance reports on minority health and health equity as required; (3) monitors and reports on the health status of vulnerable populations and the effectiveness of health protection programs; (4) evaluates the impact of policies and programs to achieve health disparities elimination; (5) supports internal/

<sup>2</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).