

Federal Trade Commission
Supporting Statement
Cigarette and Smokeless Tobacco Data Collection
OMB Control # 3084-0134

Pursuant to compulsory process, the Commission sends each year information requests to the largest cigarette manufacturers and smokeless tobacco manufacturers, seeking, among other things, data on the manufacturers' annual sales and marketing expenditures for cigarettes, smokeless tobacco products, and electronic devices used to heat non-combusted cigarettes, and sales of tobacco-free nicotine lozenges and pouches by them or related companies. This request seeks approval of a three-year extension of the existing clearance. Additionally, the Commission is seeking a modification of its existing clearance in order to collect information concerning advertising and promotional expenditures for tobacco-free nicotine lozenges and pouches.

(1) Necessity for Information Collection

Beginning in 1967, the Federal Trade Commission ("FTC" or "Commission") submitted annual reports to Congress on cigarette sales and marketing pursuant to the Federal Cigarette Labeling and Advertising Act. 15 U.S.C. §§ 1331-1341. Beginning in 1987, the FTC submitted biennial reports to Congress on smokeless tobacco pursuant to the Comprehensive Smokeless Tobacco Health Education Act. 15 U.S.C. §§ 4401-4408. The reports were based on data submitted by the largest cigarette and smokeless tobacco manufacturers of products sold in the United States.

The Federal Reports Elimination and Sunset Act of 1995¹ allowed the agency to decide whether to continue publishing these reports. In response to a request for public comment,² many public health and tobacco control advocates cited the importance and utility of the FTC's reports, and the Commission has continued to issue them annually.

More than twenty years ago, the Commission decided to address its information requests to the ultimate parent of each of the leading cigarette and smokeless tobacco manufacturers in order to ensure that no relevant data from affiliated companies went unreported. This increased the number of separately incorporated entities required to provide data, bringing the requirements within the scope of the Paperwork Reduction Act ("PRA"). Since then, the Commission has periodically updated its Cigarette and Smokeless Tobacco Orders in order to account for changing conditions in the markets for cigarettes and smokeless tobacco, including the changing products sold by the cigarette and smokeless tobacco manufacturers or related companies.³ In doing so, the Commission ensures that its Cigarette and Smokeless Tobacco Reports continue to provide relevant and accurate information.

¹ Pub. L. No. 104-66, Section 3003(a)(1), 109 Stat. 734.

² 66 FR 18640 (Apr. 10, 2001).

³ See, e.g., 86 FR 28351 (May 26, 2021).

Because the Commission has reason to believe that (1) sales of tobacco-free nicotine lozenges and pouches more than doubled between 2020 and 2022,⁴ and (2) these products appear to be especially popular with youth,⁵ the Commission is now seeking a modification of the existing clearance to allow for the collection of information concerning annual marketing expenditures for tobacco-free nicotine lozenges and pouches by smokeless tobacco manufacturers or related companies. Similar to the information collected pursuant to prior modifications to this OMB clearance, the information is needed to ensure that the Commission’s Smokeless Tobacco Reports continue to provide relevant and accurate information that in fact reflects the current market.

It is necessary for the Commission to ensure that the Commission’s Cigarette and Smokeless Tobacco Reports continue to provide accurate and up-to-date information because, as one commenter noted, they (1) “provide information that is not available elsewhere,” and (2) “often provide the basis for strong public health policies with regard to tobacco use and marketing.”⁶

(2) Use of the Information

The Commission uses the information collected to publish periodic reports on cigarette and smokeless tobacco sales and marketing.⁷ This information helps the FTC’s and the public’s understanding of the marketplace. To the FTC’s knowledge, the information published in these reports is not available from any other source.

Using compulsory process under Section 6(b) of the FTC Act, the Commission plans to continue sending information requests annually to the ultimate parent companies of the largest cigarette companies and smokeless tobacco companies in the United States (hereinafter collectively referred to as “recipients”). The information requests will seek data regarding, among other things: (1) the cigarette or smokeless tobacco sales of recipients; (2) how much recipients spend advertising and promoting their cigarette or smokeless tobacco products, and the specific amounts spent in each of a number of specified expenditure categories; (3) whether recipients are involved in the appearance of their cigarette or smokeless tobacco products or brand imagery in television shows, motion pictures, on the internet, or on social media; (4) how much recipients spend on advertising intended to reduce youth cigarette or smokeless tobacco usage; (5) the events, if any, during which recipients’ cigarette or smokeless tobacco brands are televised; and (6) how much recipients spend on public entertainment events promoting their

⁴ See, e.g., Fed. Trade Comm’n, *Federal Trade Commission Smokeless Tobacco Report for 2022* (2023), at 10, available at https://www.ftc.gov/system/files/ftc_gov/pdf/2022-Smokeless-Tobacco-Report.pdf.

⁵ See, e.g., Jan Birdsey et al., *Tobacco Product Use Among U.S. Middle and High School Students — National Youth Tobacco Survey, 2023*, 72 *Morbidity and Mortality Wkly. Rep.* 1173 (Nov. 3, 2023), available at <https://doi.org/10.15585/mmwr.mm7244a1>.

⁶ Comment from Truth Initiative (May 28, 2024), available at <https://www.regulations.gov/comment/FTC-2020-0049-0014> [hereinafter *Truth Initiative Comment*].

⁷ See, for example, the most recent reports under the existing PRA clearance at <https://www.ftc.gov/reports/federal-trade-commission-cigarette-report-2022-smokeless-tobacco-report-2022>. See also FTC Press Release, *FTC Releases Reports on Cigarette and Smokeless Tobacco Sales and Marketing Expenditures for 2022* (Oct. 30, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/10/ftc-releases-reports-cigarette-smokeless-tobacco-sales-marketing-expenditures-2022>.

companies but not specific cigarette or smokeless tobacco products or such products generally. The information requests to cigarette companies will also seek information pertaining to the annual sales, giveaways, and marketing expenditures for electronic devices used to heat non-combusted cigarette products, and the information requests to smokeless tobacco companies will also seek information concerning sales and advertising and promotional expenditures, including the specific amounts spent in each of a number of specified expenditure categories, for tobacco-free nicotine lozenges and pouches.

(3) Information Technology

Improved information technology may assist in gathering and producing this information. The Commission will continue to allow the recipients to deliver their responses by electronic mail, should they choose to do so, rather than preparing conventional submissions that must be delivered through the mail or via courier service.

(4) Efforts to Identify Duplication

There is no reliable information available elsewhere that can be used for these purposes. In particular, the Food and Drug Administration (FDA) is not collecting the sales and marketing expenditure data regarding cigarettes, smokeless tobacco, the devices used to heat non-combusted cigarette products, or tobacco-free nicotine lozenges and pouches that would be collected in response to the Commission's 6(b) Orders.

(5) Efforts to Minimize the Burden on Small Organizations

The requests to the four largest cigarette manufacturers and the five largest smokeless tobacco manufacturers will not have a significant impact on a substantial number of small entities. Wherever possible, the FTC will attempt to minimize the time commitment necessary to respond to the information requests. For example, among other things, the Commission's 6(b) Orders are drafted in a manner that is primarily intended to solicit information that is not publicly available, which avoids the recipients' need to unnecessarily spend time compiling information that is already publicly available. Additionally, the Commission only sends its information requests to the largest cigarette and smokeless tobacco manufacturers.

Recipients are already permitted to deliver their responses electronically; however, the FTC will consider additional proposals for the use of information technology that may reduce burden.

(6) Consequences of Not Conducting the Collection or Conducting Less Frequently

If the information is not collected, the FTC will not have the data necessary to prepare the reports, which, as some of the commenters noted, provide critical data to researchers, policymakers, advocates, and the general public,⁸ and "provide information that is not available

⁸ See *Truth Initiative Comment*, *supra* note 6; Comment from Andy Hernandez (Mar. 27, 2024), available at <https://www.regulations.gov/comment/FTC-2020-0049-0010> [hereinafter *Individual Commenter I*].

elsewhere.”⁹ The burden of the information collection has been reduced as much as possible (see Sections (3), (4), and (5) above), and the information is collected no more frequently than once per year.

(7) Circumstances Requiring Collection Inconsistent with Guidelines

The reporting requirements are consistent with all the applicable guidelines contained in 5 C.F.R. § 1320.5(d)(2).

(8) Consultation Outside the Agency

As required by 5 C.F.R. § 1320.8(d)(1), the FTC sought public comment on its proposal to extend and modify its current OMB clearance for the information collection requests, *see* 89 FR 20967 (Mar. 26, 2024), and is doing so again contemporaneously with this submission.

In response to its initial request for public comment, the Commission received three germane comments. Two of the three comments express the commenters’ strong support for the information collection,¹⁰ while one individual commenter generally asserts that government resources spent on collecting this information should be spent on other “much bigger issues” instead.¹¹ However, as discussed in Section (1) above, the collection of the information is necessary and useful. The remainder of this comment is not germane to this clearance request.¹²

Both supportive comments assert that the FTC’s Cigarette and Smokeless Tobacco Reports provide critical data to researchers, policymakers, advocates, and the general public.¹³ Truth Initiative reiterates the “powerful utility” of the FTC’s Cigarette and Smokeless Tobacco Reports by noting that the FTC’s Cigarette and Smokeless Tobacco Reports “provide information that is not available elsewhere,” and “often provide the basis for strong public health policies with regard to tobacco use and marketing.”¹⁴ Additionally, Truth Initiative expresses its approval of the Commission’s practice of updating its Cigarette and Smokeless Tobacco Orders to ensure that the resulting reports continue to be relevant and reflect the current cigarette and smokeless tobacco market. Specifically, in this context, Truth Initiative agrees that there is a need to modify the existing clearance to allow for the collection of information concerning annual marketing expenditures for tobacco-free nicotine lozenges and pouches by smokeless tobacco manufacturers or related companies, and agrees with the Commission’s justifications for doing so.¹⁵

⁹ *See Truth Initiative Comment, supra* note 6.

¹⁰ *See Truth Initiative Comment, supra* note 6; *Individual Commenter I, supra* note 8..

¹¹ *See* Comment from DarkSoul Longlegs (Apr. 5, 2024), available at <https://www.regulations.gov/comment/FTC-2020-0049-0011>.

¹² Aside from the commenter’s general assertion that “[t]here are much bigger issues [that should be] track[ed],” the remainder of the comment discusses general policy matters, such as access to healthcare, marijuana usage, and reproductive rights. *See id.*

¹³ *See supra* note 8.

¹⁴ *See Truth Initiative Comment, supra* note 6.

¹⁵ *See id.* (citing Jan Birdsey et al., *Tobacco Product Use Among U.S. Middle and High School Students — National Youth Tobacco Survey, 2023*, 72 *Morbidity and Mortality Wkly. Rep.* 1173 (Nov. 3, 2023), available at <https://doi.org/10.15585/mmwr.mm7244a1>).

Truth Initiative also recommends that the Commission make certain additional modifications to its Cigarette and Smokeless Tobacco Orders.

First, Truth Initiative recommends that the Commission request information regarding low nicotine cigarettes. Truth Initiative points out that, in December 2019, the FDA had authorized the marketing by one company of two new tobacco products, which are combusted, filtered cigarettes that contain a reduced amount of nicotine compared to typical commercial cigarettes.¹⁶ Truth Initiative acknowledges that “the market share of these products is extremely small compared to other products,” but notes that “it is important that we understand the kind of marketing that is used to promote these products.”¹⁷ It recommends the Commission add the manufacturer of these two products to the list of companies “required to fill out future Cigarette Orders.”¹⁸

The Commission’s Cigarette Reports focus on the largest cigarette manufacturers and do not attempt to present a complete picture of the cigarette market. There are numerous smaller manufacturers and importers of cigarettes to which the Commission does not direct its cigarette Orders. Even if the Commission were to direct an order to the one company selling low nicotine cigarettes, it could not publish data regarding “low nicotine” cigarettes because doing so would result in publishing the one company’s confidential commercial information. The Commission does not intend, at this time, to seek information specifically regarding low nicotine cigarettes, or to direct an Order to the one company marketing such products.

Second, Truth Initiative suggests that the Commission collect and report on information about the content of advertisements for certain products, such as heated, non-combusted cigarettes and oral nicotine products; specifically, whether such products are being advertised as less harmful or better alternatives to traditional cigarette and smokeless tobacco products or as lifestyle products. In support of this recommendation, Truth Initiative notes that, for example, the marketing of oral pouch products as “tobacco-free” alternatives to smoking may lead consumers to ascribe lower risks to these products, despite a lack of evidence or proper federal authorization.¹⁹ Truth Initiative also recommends that the Commission collect information on how “tobacco companies” use sponsored content in major media outlets to shift public perception. In support of this recommendation, Truth Initiative notes that “[t]obacco companies . . . [are] spending millions on ads designed to reposition them as aligned with public health.”²⁰

With respect to Truth Initiative’s suggestion that the Commission collect information on certain types of advertising content, the Commission notes that the Cigarette and Smokeless Tobacco Reports have historically provided data on sales and advertising expenditures.

¹⁶ Food and Drug Administration, *FDA Permits Sale of Two New Reduced Nicotine Cigarettes Through Pre-market Tobacco Product Application Pathway* (Dec. 17. 2019), available at <https://www.fda.gov/news-events/press-announcements/fda-permits-sale-two-new-reduced-nicotine-cigarettes-through-premarket-tobacco-product-application>.

¹⁷ See *Truth Initiative Comment*, *supra* note 6.

¹⁸ See *id.*

¹⁹ See *id.* (citing Patel Czaplicki et al., *Oral Nicotine Marketing Claims in Direct-Mail Advertising*, 31 *Tobacco Control* 663 (2022), available at <https://doi.org/10.1136/tobaccocontrol-2020-056446>).

²⁰ See *Truth Initiative Comment*, *supra* note 6 (citing Robin Koval et al., *Tobacco Industry Advertising: Efforts to Shift Public Perception of Big Tobacco with Paid Media in the USA*, 32 *Tobacco Control* 801 (2023), available at <https://doi.org/10.1136/tobaccocontrol-2021-057189>).

Additionally, the Commission believes that expanding the scope of the requests to include this type of information would divert critical resources from other mission priorities. Therefore, the Commission declines to make these proposed modifications.

Third, Truth Initiative recommends that the Commission collect marketing data on cigars, and notes that “[y]outh use cigars at rates similar to cigarettes, making marketing information around cigars equally important.”²¹ The collection of data regarding cigars is beyond the scope of this supporting statement. The Commission respectfully declines the commenter’s recommendation to seek marketing data on cigars as part of its information requests. The Commission believes that doing so would divert critical resources from other mission priorities.

Fourth, Truth Initiative recommends that the Commission collect data on the organic, or unpaid, promotion of tobacco products by influencers on social media. According to Truth Initiative, the FTC’s Cigarette and Smokeless Tobacco Reports leave “out a crucial and significant segment of how tobacco product use is promoted” because (1) “[t]obacco content is commonplace on social media,” and (2) “[r]esearch shows exposure to tobacco content on social media doubles the odds of tobacco use among young people compared to those who are not exposed.”²² Truth Initiative also suggests the Commission try to quantify this information by gathering data from social media companies. As noted above, this type of gathering and analyzing advertising content and assessing the impact of that advertising is beyond the scope of these reports.²³

Truth Initiative also notes that one of its studies, which examined vaping influencers on Instagram, found that “most influencer posts promoting vaping products were unambiguous vaping advertisements promoting a specific brand or product,” and the majority of them did not disclose the influencer’s brand relationship.²⁴ Accordingly, Truth Initiative also urges the Commission to take enforcement actions against such social media posts on the basis that the influencers’ failure to disclose their brand relationship constitutes a violation of the FTC’s Endorsement Guides (16 CFR part 255). Because any such enforcement actions would be independent from the Commission’s Cigarette Orders and Smokeless Tobacco Orders, this recommendation is not germane to this clearance request.

(9) Payments and Gifts to Respondents

There is no provision for payments or gifts to respondents.

²¹ See *Truth Initiative Comment*, *supra* note 6.

²² See *id.* (citing Scott I. Donaldson et al., *Association Between Exposure to Tobacco Content on Social Media and Tobacco Use*, 176(9) *JAMA Pediatrics* 878 (July 11, 2022), available at <https://doi.org/10.1001/jamapediatrics.2022.2223>; Daniel K. Cortese et al., *Smoking Selfies: Using Instagram to Explore Young Women’s Smoking Behaviors*, *Social Media + Society* 4(3) (Aug. 7, 2018), available at <https://doi.org/10.1177/205630511879076>).

²³ Truth Initiative recognizes that gathering information from social media companies is beyond the scope of these information requests. See *Truth Initiative Comment*, *supra* note 6.

²⁴ *Id.* (citing Nathan A. Silver et al., *Examining Influencer Compliance with Advertising Regulations in Branded Vaping Content on Instagram*, 10 *Front. Public Health* (Jan. 9, 2023), available at <https://doi.org/10.3389/fpubh.2022.1001115>).

(10) & (11) Assurances of Confidentiality/Matters of a Sensitive Nature

In connection with the information requests, the Commission will receive information of a confidential nature. Under Section 6(f) of the FTC Act, 15 U.S.C. § 46(f), such information will be protected from disclosure while it remains confidential commercial information. Individual company information will be anonymized and/or aggregated so that it cannot be disaggregated to disclose information about any submitter.

(12) Estimated Annual Hours and Labor Cost Burden

Estimated Annual Burden Hours: 3,540.

The FTC staff's estimated hours of burden is based on the time required each year to respond to the Commission's information requests. Because the potential recipients of the information requests vary greatly in size, the number of products they sell, and the extent and variety of their advertising and promotion, FTC staff distinguishes between the four largest industry members and smaller industry members for the purpose of calculating the estimated annual burden hours. This burden analysis first discusses the burden hours that industry members will incur in providing information on their sales and marketing expenditures for cigarettes and smokeless tobacco products.

Requests for Information on Cigarettes and Smokeless Tobacco: For the information requests on the sales and marketing expenditures for cigarettes and smokeless tobacco products, the Commission currently anticipates sending information requests to the four largest cigarette companies and the five largest smokeless tobacco companies each year. However, in order to take into account any future industry changes, the burden estimate is based on up to 15 information requests being issued per year. The Commission assumes that 6 of the 15 information requests will be issued to the four largest industry members, and the remaining nine information requests will be issued to nine smaller industry members.²⁵

FTC staff estimates that each of the four largest industry members will incur, on average, a burden of 400 hours per response per year, resulting in a cumulative burden of approximately 2,400 hours per year (6 requests x 400 hours per year). Additionally, FTC staff estimates that the remaining nine smaller recipients of the Commission's information requests will each incur, on average, a burden of 60 hours per request per year, resulting in a cumulative burden of approximately 540 hours per year (9 requests x 60 hours).

Accordingly, FTC staff estimates that, for the purpose of providing information on their sales and marketing for cigarettes and smokeless tobacco products, industry members will incur a cumulative burden of approximately 2,940 hours per year (2,400 hours per year + 540 hours per year).

Requests for Information on Tobacco-Free Nicotine Lozenges and Pouches: In the past, the Commission's Smokeless Tobacco Orders have also sought information pertaining to the annual unit and dollar sales of tobacco-free nicotine lozenges and pouches by the smokeless

²⁵ Based on their product variety, two of the four largest industry members receive both a Cigarette Order and a Smokeless Tobacco Order.

tobacco manufacturers or related companies. The Commission is proposing to amend its existing OMB clearance to also collect data on smokeless tobacco manufacturers' annual advertising and promotional expenditures for tobacco-free nicotine lozenges and pouches. FTC staff estimates that, as a result of this modification, the Commission will seek this information from the five largest smokeless tobacco manufacturers each year. However, in order to take into account any future industry changes, the burden estimate is based on up to five additional information requests being issued per year to smokeless tobacco companies that sell, or have related companies that sell, tobacco-free nicotine lozenges and pouches.

FTC staff estimates that each of the ten recipients will incur, on average, a burden of 50 hours per request per year. Accordingly, FTC staff estimates that, for the purpose of providing information on the sales and marketing expenditures for tobacco-free nicotine lozenges and pouches, the recipients will incur a cumulative burden of approximately 500 hours per year (10 requests x 50 hours per year).

Requests for Information on Devices to Heat Non-Combusted Cigarettes: The Commission's Cigarette Orders have also sought sales and marketing expenditure information for electronic devices used to heat non-combusted cigarettes. At this time, there is no longer any industry member that sells such devices in the United States, but FTC staff anticipates that at least one of the four largest industry members will re-enter this market segment over the next three years. FTC staff assumes that, as a result of the Commission's information requests, it will take any of the largest cigarette companies that sell electronic devices used to heat non-combusted cigarettes approximately 25 hours per year to compile the information on their sales and marketing expenditures for such devices, and that as many as four of the largest industry members may sell such devices, for a possible burden of 100 hours (4 requests x 25 hours per year).

Accordingly, FTC staff estimates that, as a result of the Commission's requests for information on sales and marketing for the subject products, market participants will incur a cumulative burden of approximately 3,540 hours per year (2,940 hours per year + 500 hours per year + 100 hours per year). This estimate includes any time spent by separately incorporated subsidiaries and other entities affiliated with the ultimate parent company that receives the information request.

Estimated Annual Cost Burden: \$407,100.

FTC staff cannot calculate with precision the labor costs associated with this data production, as those costs entail varying compensation levels of management and/or support staff among companies of different sizes. FTC staff assumes that paralegals and computer analysts will perform most of the work involved in responding to the Commission information requests, although in-house legal personnel will be involved in reviewing the actual submission to the Commission. FTC staff will use a combined hourly wage of \$115/hour for the combined efforts

of these individuals.²⁶ Using this figure, FTC staff's best estimate for the total annual labor costs is \$407,100 per year (\$115 per hour x 3,540 hours).

(13) Estimated Annual Capital or Other Non-labor Costs

The capital or other non-labor costs associated with the information collection are minimal. Although recipients may have to preserve relevant business records to accommodate the Commission's information requirements, they already have the means in place to do so.

(14) Estimate of Cost to the Federal Government

FTC staff estimates that, in collecting and analyzing this information, the total cost each year to the FTC's Bureau of Consumer Protection is approximately \$22,000. This estimate is based on the assumption that about 6 percent of an attorney work year is devoted to those tasks. The cost in attorney time will be approximately \$11,000. In addition, about 6 percent of a data senior analyst's work year, approximately \$11,000, will be devoted to processing the data submitted.

(15) Changes in Burden

Changes in burden are due to program changes, as well as adjustments to the Commission's previous estimates.

As indicated above, the Commission's proposal to add requests for information concerning annual marketing expenditures for tobacco-free nicotine lozenges and pouches by smokeless tobacco manufacturers or related companies will result in a burden increase of approximately 500 hours per year (10 requests x 50 hours per year).

Additionally, the Commission's 2021 estimate assumed that six smaller industry members would each spend one hour responding to the Commission's requests for information on electronic devices used to heat non-combusted cigarettes. However, as explained in the Federal Register Notice, the Commission no longer expects any of the smaller industry members to sell electronic devices used to heat non-combusted cigarettes in the United States. Accordingly, this accounts for a burden decrease of approximately 6 hours per year (6 requests x 1 hour per year). Accordingly, there is a cumulative burden increase of 494 hours (3,046 hours in 2021 and 3,540 hours in 2024).

²⁶ FTC staff believes that this estimate is conservative. According to data from the Bureau of Labor Statistics, the mean hourly wages for these three occupations are as follows: \$31.95 for paralegals; \$55.01 for computer and information analysts; and \$84.84 for lawyers. Economic News Release, Bureau of Labor Statistics, Table 1—National employment and wage data from the Occupational Employment Statistics survey by occupation, May 2023, available at <http://www.bls.gov/news.release/ocwage.t01.htm>. Even if employees of the major cigarette and smokeless tobacco manufacturers earn more than these hourly wages, FTC staff believes its \$115/hour estimate is appropriate.

The Commission has also updated the hourly mean wage rates it used to estimate the annual cost burden. Together with the two changes in burden discussed above, this leads to an increase in estimated labor costs from \$304,600 in 2021 to \$407,100 in 2024.

(16) Statistical Use of Information/Publication of Results

The information provided by the respondents will be used to prepare annual reports that will be publicly released.

The proposed data collections do not employ statistical methods such as sampling or imputation. The Commission does not attempt to describe the sales and marketing activities of the cigarette industry as a whole. Instead, the Commission has focused only on the largest players.

The Commission could attempt to perform reporting that is statistically representative of the entire cigarette and smokeless tobacco industries, but doing so would first require preliminary surveys of the respective industries to identify as many participants as possible, and then to gather information on their sales and marketing expenditures. Conducting those preliminary surveys would impose a burden on the recipients, many, if not most, of which—other than prior recipients of the Commission’s 6(b) Orders—are likely to be small entities with low sales and even lower marketing expenditures. This would also require significant additional agency resources, delaying timely completion of the FTC’s reports. Issuing the 6(b) Orders to those very small entities could impose a significant burden upon them. Further, given the Commission’s belief that the responses provided by the four largest cigarette manufacturers and the five largest smokeless tobacco manufacturers represent the vast majority of the industries’ sales and marketing expenditures, the result would likely not be very different from that produced by the FTC’s proposed data collections. Accordingly, the Commission believes that employing a statistically representative approach is not in the public interest, because it would impose additional burdens far exceeding its benefits.

(17) & (18) Failure to Display the OMB Expiration Date/ Exceptions to Certification

Not applicable.