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July 21, 2003

The Honorable Donald S. Clark
 Secretary
 Federal Trade Commission
 600 Pennsylvania Avenue, NW
 Washington, DC 20580

Bryan Cave LLP
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Re: Revel™ Smokeless Tobacco Advertisement

Dear Secretary Clark:

U.S. Smokeless Tobacco Company (“USSTC”) submits this letter and the attached materials in order to inform the Commission and its staff of an advertisement USSTC plans to disseminate to promote Revel™, a smokeless tobacco product which will be reintroduced into the marketplace in the coming months. Our intent in informing the Commission is to invite it and its staff to provide us with any comments they may have about this advertisement.¹

USSTC plans to disseminate an advertisement for its Revel™ smokeless tobacco product with the following statements: *‘I was a smoker but my wife hated the smoke.’... No Secondhand Smoke. Another Reason to Switch to Revel™.* This advertisement, which contains a description of Revel™, is attached as Exhibit A. The advertisement would be disseminated initially through direct mail pieces sent to adult smokers and by way of display in adult-only environments.

Adult smokers are virtually certain to interpret this narrow claim regarding the absence of secondhand smoke as promoting what should be an obvious product attribute of Revel™: unlike cigarettes, it does not produce tobacco smoke and therefore does not cause discomfort or annoyance to others in close proximity. The truthfulness of this proposition is not in doubt.

Furthermore, this advertisement makes no claim about the relative health risk of smokeless tobacco as compared to cigarettes. It does no more than present another reason why adult smokers, faced with restrictions on where they can smoke or the reactions of others to their smoking, should switch to Revel™.

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¹ USSTC continues to believe that a workshop or other public forum to consider the broader issues presented by conveying information in advertising about tobacco harm reduction options is desirable and appropriate.

As a result, it does not raise questions of advertising interpretation or scientific and public health issues.²

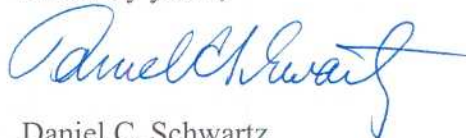
The Commission has jurisdiction over smokeless tobacco advertising. Further, the FTC is uniquely experienced in addressing the type of product attribute advertising at issue here and in providing guidance to business as a means of preventing deception.³

Any innovative advertising campaign for a smokeless tobacco product, advocating that adult smokers switch to smokeless tobacco from cigarettes, may be controversial, and in the past has engendered strong opposition from tobacco control advocates.⁴ Accordingly, any views the Commission or its staff would be willing to share with USSTC about its proposed advertisement would serve to guide USSTC and others in the smokeless tobacco industry, as well as media companies that publish and distribute the industry's advertising. Such guidance would assist in preventing the imposition of unnecessarily strict advertising review standards, while providing important, truthful information to adult smokers and non-smokers annoyed by secondhand smoke.

The subject matter of this advertisement is of significant public interest. Also at stake is the important issue of the ready availability of accurate information for adult cigarette smokers considering whether to switch to smokeless tobacco products. The Commission's comments regarding this advertisement will encourage the publication of accurate information and help adult smokers make more informed choices about the use of smokeless tobacco products.

We respectfully request that you place this letter on the public record and we look forward to receiving your comments. Please contact me at (202) 508-6025 or my colleague, Dana Rosenfeld, at (202) 508-6032, for any further information you may require.

Sincerely yours,



Daniel C. Schwartz

² See *Can Tobacco Cure Smoking? – A Review of Tobacco Harm Reduction Before the Subcomm. On Commerce, Trade and Consumer Protection, of the House Comm. On Energy and Commerce, 108th Cong.* (June 3, 2003) (prepared statement of the Federal Trade Commission) [hereinafter *June 3rd Hearing*] at 4. See also acknowledgement that an evaluation of a claim based on the absence of secondhand smoke would involve different considerations from one involving harm reduction, and is likely to be “very quick.” FDCH Political Transcripts, June 3, 2003 at 19.

³ The Commission has previously provided guidance to industry regarding product attribute claims such as “Made in USA,” and “environmentally friendly.” See, e.g., *Complying with the Made in USA Standard* (Dec. 1998); *Guides for the Use of Environmental Marketing Claims*, 16 C.F.R. 260.

⁴ Representative Darrell Issa (R-CA) articulated this concern during the June 3rd Hearing: “It appears to me as though, other than tobacco, we have this theory that you are innocent until proven guilty. In tobacco, you are guilty until proven innocent.” FDCH Political Transcripts, June 3, 2003 at 19.

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cc: Chairman Timothy J. Muris
Commissioner Sheila F. Anthony
Commissioner Orson Swindle
Commissioner Mozelle W. Thompson
Commissioner Thomas B. Leary
J. Howard Beales, III, Director, Bureau of Consumer Protection
C. Lee Peeler, Deputy Director, Bureau of Consumer Protection
Joseph Mulholland, Bureau of Economics
Mary Engle, Associate Director, Division of Advertising Practices
Thomas Pahl, Assistant Director, Division of Advertising Practices
Michael Ostheimer, Division of Advertising Practices

EXHIBIT A

Bryan Cave LLP



“I was a smoker,
but my wife hated the smoke.”

WARNING:
THIS PRODUCT
IS NOT A SAFE
ALTERNATIVE TO
CIGARETTES

U.S. SMOKELESS TOBACCO CO.
NOT
FOR SALE TO
MINORS
REMEMBS
YOU

SO WHY ARE WE SMILING?

With today's restrictions and rising costs, it's getting tough for adult smokers to enjoy their tobacco. Until now. Introducing Revel, a groundbreaking option for smokers looking for a new way to enjoy real tobacco satisfaction. A slim white packet, filled with premium tobacco

and refreshing flavors like mint and wintergreen, it's not like any tobacco product you have ever experienced before. Just tuck one in your mouth for real tobacco satisfaction in minutes. It's truly discreet, with **no smoke, no odor, and no spitting.** So maybe it's time for a switch. To Revel. And to enjoying tobacco in a whole new way.

Tobacco satisfaction that's yours and yours alone.



No Secondhand Smoke. Another Reason to Switch to Revel.

U.S. Smokeless TOBACCO CO.

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