

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

COMMISSIONERS: Timothy J. Muris, Chairman
Sheila F. Anthony
Mozelle W. Thompson
Orson Swindle
Thomas B. Leary

File No. 022-3224

ORDER TO FILE SPECIAL REPORT

Pursuant to a resolution of the Federal Trade Commission dated October 17, 2002, entitled "Resolution Directing Use of Compulsory Process," a copy of which is enclosed, Brown & Williamson Tobacco Corporation, hereinafter referred to as "the company," is ordered to file a Special Report with the Commission not later than December 18, 2002, 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 the company who has prepared or supervised the preparation of the report from books, records, correspondence, and other data and material in your possession. If any question cannot be answered fully, give such information as is available to you and explain wherein and why your answer is incomplete. Please supply written answers to the following questions:

1. The subscriber to your report is to give his or her full name and business address and state his or her official capacity.
2. State the full name of the company and its official address, and its date and state of incorporation.
3. State whether the company is a subsidiary company; whether the company has a subsidiary company(ies); and report the same information specified in item two (2) as regards each parent or subsidiary.
4. Report the total number of cigarettes sold in the United States by the company and any of its subsidiary or parent companies during calendar year 2001.¹

¹For the purposes of this Order, the term "United States", when used in a geographical sense, includes the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and the United States territorial possessions (including Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, and Johnston Island).

(continued...)

5. Report the total dollar value of cigarettes sold in the United States by the company and any of its subsidiary or parent companies during calendar year 2001.
6. Report the dollar amount expended during calendar year 2001 by the company and any of its subsidiary or parent companies on cigarette advertising, merchandising or promotion in the United States in each category specified in items 25 through 40 of the "Reportable Expenditures" section of this Order.² Each category should be totaled separately.
7. Report the total number of cigarettes given away in the United States by the company during calendar year 2001. 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 4, above.³ Report units given away in number of cigarettes given away.

¹(...continued)

Furthermore, 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.

²For 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. The term "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; or (e) employment advertising.

Furthermore, for the purposes of this Order, the phrase "advertising, merchandising or promotion in the United States" shall include all advertising, merchandising or promotion: (a) within the United States; or (b) to members of the Armed Forces of the United States.

³For 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.

- 8A. State whether the company or any of its subsidiary or parent companies 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 2001. If so, please state which show(s) or movie(s), and the dollar value of each payment or contribution.
- 8B. State whether the company, any of its subsidiary or parent companies, or any other persons working for or on behalf of any of the foregoing, paid any money or compensation, or made any other contribution (including, but not limited to, goods or services, including free cigarettes) during calendar year 2001, 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 company product appeared in return for such payment or contribution.
- 8C. State whether the company or any of its subsidiary or parent companies, or any other persons working for or on behalf of any of the foregoing, sought or solicited the appearance of any cigarette product in any motion picture(s) or television show(s) during calendar year 2001. If so, please state which show(s) or movie(s).
- 8D. State whether the company or any of its subsidiary or parent companies, or any other persons working for or on behalf of any of the foregoing, granted approval or otherwise gave permission for the appearance of any cigarette product in any motion picture(s) or television show(s) during calendar year 2001. If so, please state which show(s) or movie(s).
9. To the extent that such information is possessed by the company, any of its subsidiary or parent companies, or any other persons working for or on behalf of any of the foregoing, identify each and every televised event that was aired in calendar year 2001 during which the name, logo, or any portion of the package of any brand or variety of cigarettes sold by the company or any of its subsidiary or parent companies appeared on television through televised coverage of sponsored events, teams, or individuals.
- 10A. List all varieties of cigarettes that the company or any of its subsidiary or parent companies first offered for sale in the United States during calendar year 2001.

- 10B. List all varieties of cigarettes that the company or any of its subsidiary or parent companies discontinued from sale in the United States during calendar year 2001.
11. Report the dollar amount expended during calendar year 2001 by the company and any of its subsidiary or parent companies in the United States on advertisements directed to youth or their parents that are intended to reduce youth smoking.⁴

⁴For purposes of this Order, the term "youth" means persons younger than eighteen years of age.

INSTRUCTIONS FOR COMPLETING THE CIGARETTE ADVERTISING DATAFILE

The Commission is continuing to request the information specific to each variety of cigarette produced by your company in a computer readable format. The instructions below provide detailed information on how to complete each field of the Cigarette Advertising Datafile. For the 2001 submissions, we have provided reference tables for brand numbers, variety numbers, and each of the eight descriptors used by the FTC to classify cigarette varieties. Please refer to these tables when entering data.

The term "variety of cigarette" refers to cigarettes that could have been differentiated by consumers according to any of the information reported in Fields 6 through 13 (Brand name and marketing descriptors). Separate production runs, minor changes in tar or nicotine and other minor modifications in any variety reported upon need not be reported separately.

The Commission uses Microsoft Office 2000 Access database software. It will also accept database and spreadsheet data in the following formats: MS Excel, Foxpro or visual Foxpro, Dbase III or IV, tab-delimited, or comma-delimited. Technical support questions should be directed to:

Frank M. Curtin
Litigation and Customer Support
Office of Information and Technology Management
Federal Trade Commission
(202) 326-2280

EXPLANATION OF DATAFILE STRUCTURE:

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

FIELD DEFINITIONS:

Each record contains 47 fields of data. The first 5 fields in the file are used to create an unique identifier for each variety of cigarette.

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 your company:

Brown & Williamson	B
Liggett	C
Lorillard	D
Philip Morris	E
R.J. Reynolds	F
Commonwealth Brands	G

3. BRANDNO (Brand number): Numeric field. Entered as values 01 to 99. Enter previously assigned number for existing brands. If new brand, FTC will assign number.

4. VARIETY (Variety code): Numeric field. Entered as values 01 to 99. Enter previously assigned number for existing brand varieties. If new variety, FTC will assign number.

5. NUM (Number per pack): Numeric field. Entered as 1, 2, or 3. Refers to the pack size in which the variety is typically offered for sale (20=1, 25=2, All Other=3).

The next eight fields include the brand name and marketing / physical characteristics that make the variety unique. These descriptors have been organized into specific fields for 2001 and placed in order to correspond with the format for cigarettes tested by the Tobacco Industry Testing Laboratory ("TITL"). Please enter the descriptors in the appropriate fields. Please enter all letters that appear in alpha-numeric character fields using only capital letters.

6. BRAND-NAME (Brand name): Character field. Refers to the brand identified on the cigarette pack or in advertising. If the product is a generic or private label cigarette, indicate "GENERIC" and complete a separate record for each distinct variety. This field is 30 characters long.

7. CR-LENGTH (Marketing description of length): Character field. This field is eight characters long and can contain a number or term.

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): Character field. This field is eight characters long.
11. CR-FLAVOR (Marketing description of cigarette flavoring): Character field. This field is eight characters long.
12. CR-STYLE (Marketing description of special attributes of a variety): Character field. This field is eight characters long.
13. CR-OTHER (Marketing descriptors not falling into standard categories): Character field. This field is eight characters long.

The next two fields are used to record the variety's units sold, and the dollar value of those units.

14. VARUNITS (Variety units): Numeric field. Report one figure for the number of cigarettes of this variety sold in the United States during the calendar year covered by the Report.
15. VARSALES (Variety-sales): Numeric field. Report one figure for the dollar value of cigarettes of this variety sold in the United States for the calendar year covered by this Report.
16. VARPERCENT (Variety unit sales percent): FTC calculated field value, enter 0 here.
17. CIGLENGTH (Cigarette length in millimeters): Numeric field. Three digits. Enter cigarette length in millimeters.
18. FILCODE (Filter code): Character field. One character in length. Enter "F" for filtered or "N" for non-filtered.
19. FLAVOR (Flavoring): Character field. One character in length. Enter "M" for menthol, "N" for non-flavored, "O" for other flavored.
20. PACKTYPE (Packaging): Character field. One character in length. Enter "S" for soft-pack, "H" for hard-pack.
21. 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. Where the variety was tested by the Tobacco Industry Testing Laboratory, the TITL values will be used; where varieties were unavailable for TITL testing, company data will be used. Please round tar and carbon monoxide figures to the nearest whole mg. Please round nicotine figures to the nearest tenth mg.

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

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

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

REPORTABLE EXPENDITURES:

The next eighteen 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 25 through 42 rounded to the nearest whole dollar. Please do not express in hundreds or thousands.

25. CAT-A-EXP (Category-A Expenses): Newspaper advertising but excluding, if practicable, those expenditures covered by Categories I, J, K, M or N, which should be reported in those categories.

26. CAT-B-EXP (Category-B Expenses): Magazine advertising but excluding, if practicable, those expenditures covered by Categories I, J, K, M or N, which should be reported in those categories.

27. CAT-C-EXP (Category-C Expenses): Outdoor advertising but excluding, if practicable, those expenditures covered by Categories I, J, K, M or N, which should be reported in those categories.

28. CAT-D-EXP (Category-D Expenses): All expenditures for audio-visual or video advertising on any medium of electronic communication not subject to the jurisdiction of the Federal Communications Commission. This category includes, but is not limited to, advertisements on: screens at motion picture theaters, television screens or monitors in residential dwellings, as in certain televised programs and through video cassette entertainment products; and television screens or monitors in commercial establishments, such as video arcades. This category does not include expenditures for advertising on the Internet, which should be reported in Category O below.

29. CAT-E-EXP (Category-E Expenses): Advertising in or on public transportation facilities but excluding, if practicable, those expenditures covered by Categories I, J, K, M or N, which should be reported in those categories.

30. CAT-F-EXP (Category-F Expenses): Direct mail advertising but excluding, if practicable, those expenditures covered by Categories I, J, K, M, N or O, which should be reported in those categories.

31. CAT-G-EXP (Category-G Expenses): Point of sale advertising but excluding, if practicable, those expenditures covered by Categories H, I, J, K, M or N, which should be reported in those categories.

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

33. CAT-I-EXP (Category-I Expenses): Sampling of cigarettes, including the costs of the cigarettes themselves and the costs of organizing, promoting and conducting sampling.

34. CAT-J-EXP (Category-J Expenses): All costs of distributing items other than cigarettes, including the cost of such items, whether distributed by sale, redemption of coupons, or otherwise, including all items which do and/or do not bear the name or depict any portion of the package of any variety of cigarettes sold by the company. The expenditures reported in this item shall be the net cost to the company, *i.e.*, payments received from consumers for such items shall be deducted. Whenever such activities are combined with cigarette sampling, the expenditures connected therewith shall be reported solely in Category I. When such activities are combined with the sale of cigarettes, such as when a non-cigarette item is blister-packed to a package or packages of cigarettes, the expenditures connected therewith shall be reported solely in Category N.

35. CAT-K-EXP (Category-K Expenses): Public entertainment events bearing or otherwise displaying the name of the company or any of its cigarettes. This item includes all expenditures made by the company in promoting and/or sponsoring such events.

36. CAT-L-EXP (Category-L Expenses): Endorsements and testimonials but excluding, if practicable, those expenditures covered by Categories A-G, or Category K, which should be reported in those categories. 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, 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.

37. CAT-M-EXP (Category-M Expenses): All expenditures and costs associated with coupons for the reduction of the retail cost of cigarettes, whether redeemed at the point of sale or by mail, including but not limited to all costs associated with advertising or promotion, design, printing, distribution and redemption.

38. CAT-N-EXP (Category-N Expenses): Retail value added expenditures, including all expenditures and costs associated with the value added to the purchase of cigarettes, including but not limited to buy two get one free, or buy cigarettes and get a free promotional item.

39. CAT-O-EXP (Category-O Expenses): All expenditures for advertising on the Internet, including but not limited to the World Wide Web, on commercial on-line services, and through electronic mail messages. This category includes, but is not limited to: spending on all Internet sites and pages, hyperlinks and banners on third party sites, newsgroups, and on-line 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. Please include expenditures associated with such ads paid for by the company or any of its parent or subsidiary companies. Expenditures include, but are not limited to, the cost of developing, creating, maintaining, monitoring, and updating the site, page, banner, or other form of on-line advertising, whether located on systems maintained by the company or by third party advertisers, commercial online services, or Internet World Wide Web host providers.

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

41. TOT-ADV-EXP (Total Reportable Expenditures): Refers to reportable expenditures for the variety as defined in the appropriate explanatory notes. The figure provided for total reportable expenditures should equal the sum of the expenses listed in Categories A-P for the variety.

42. SPORTS-EXP (Sports and Sporting Events): The expenditures reported in this category are intended to be duplicative of expenditures listed above on lines 25 through 40 and totaled on line 41. Do not report any expenditures on this line that have not also been reported on lines 25 through 40. For example, advertising expenditures for a sporting event that appears in a newspaper would be reported on line 25 and on line 42; a miscellaneous advertising expenditure for promotion of a sports or racing team would be reported on lines 40 and 42.

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.

43. Were the variety's tar and nicotine ratings disclosed on the cigarette pack?
1. Yes
 2. No

The next two fields are used by the FTC.

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

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

The last two fields hold additional identifier data for specific varieties of cigarettes. Please enter the identifiers in the appropriate fields.

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

47. TITL CODE (TITL testing code): Enter TITL code. (6 characters).

OTHER EXPLANATORY NOTES

Expenditures on lines 25 through 40 should be included in only one category. Expenditures for line 42 (sporting events) duplicate expenditures reported on lines 25 through 40. Reportable expenditures (line 25 through 40) should equal the total on line 41, 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. 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 cost 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.

In allocating reportable expenditures among brand varieties, the following guidelines should be followed:

(1) If the accounting or bookkeeping records of the company confirm that a particular expenditure related to only one variety of a brand, the expenditure should be entered in the appropriate category on the report sheet for that variety.

(2) If the expenditure related to more than one variety, or the accounting or bookkeeping records of the company do not reflect to which variety or varieties the expenditure related, the expenditure should be allocated among the smallest number of varieties that can be identified as having been the subject of the expenditure. Such allocation should be based on the unit sales of the variety or varieties involved. For example, to the extent not already allocated, brand advertising should be allocated among all varieties within the brand according to the share of that variety of the total sales of the brand.

It is recognized that certain of the allocations required by the guidelines set forth above will be arbitrary. In making the requested allocations, the company involved is not being asked to certify or warrant that the allocations precisely reflect either the subject or intent of the expenditures being reported.

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 December 18, 2002.

By direction of the Commission.

Timothy J. Muris
Chairman

SEAL

Date of Order: October 17, 2002

The Report required by this Order, or any inquiry concerning it, should be addressed to the attention of:

Michael Ostheimer
Federal Trade Commission
Division of Advertising Practices
Washington, D.C. 20580