

# United States Senate

WASHINGTON, DC 20510

October 11, 2018

The Honorable Joseph Simons  
Chairman  
Federal Trade Commission  
600 Pennsylvania Avenue NW  
Washington, D.C. 20580

Dear Chairman Simons:

We write to share our concern over the fact that Big Tobacco has been utilizing deceptive social media marketing tactics to prey on the health of future generations. Tobacco companies' use of social media is the latest chapter in their long history of using misleading marketing tactics to addict young people to their deadly products. We urge the Federal Trade Commission (FTC) to investigate Big Tobacco's social media tactics to ensure these companies are not engaged in deceptive advertising, as prohibited by Section 5 of the FTC Act<sup>1</sup>, including advertising that appeals to youth markets.

Social media is a ubiquitous part of life for many Americans today, particularly for teens. As social media platforms have grown in number and subscription, so have social media influencers. These influencers are paid by advertisers to act as online brand ambassadors who promote a company's products to their online followings. It is a specific, targeted form of marketing, allowing companies to hand pick their influencers and thus, the niche markets they want to target. Since followers may feel as though they are getting a recommendation from a friend or role model, this form of marketing can be especially effective in targeting today's always-connected youth.

Unfortunately, Big Tobacco has taken advantage of social media trends and is abusing this novel and unregulated form of marketing to hook a new generation of tobacco users. A recent investigation by the Campaign for Tobacco-Free Kids (TFK), supported by Netnografica, LLC, details how the tobacco industry—specifically Phillip Morris International, British American Tobacco, Japan Tobacco, and Imperial Brands—are utilizing social media influencers to market tobacco products directly to youth. Further, the investigation revealed over 100 social media campaigns posted by young social media influencers who were paid by Big Tobacco. Globally, these campaigns have been viewed 25 billion times, including 8.8 billion times by users in the United States, on Twitter alone.<sup>2</sup> Given influencers' remarkable effectiveness in promoting products and getting views, the use of influencers to promote dangerous and addictive

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<sup>1</sup> <https://www.federalreserve.gov/boarddocs/supmanual/cch/ftca.pdf>

<sup>2</sup> [https://www.tobaccofreekids.org/press-releases/2018\\_08\\_27\\_ftc](https://www.tobaccofreekids.org/press-releases/2018_08_27_ftc)

tobacco products is especially concerning and warrants immediate investigation as to whether they may be engaged in deceptive and/or illegal tactics.

In fact, TFK's report provides ample and alarming evidence of these deceptive tactics by the tobacco companies. For example, tobacco companies seemingly used subtle hashtags – none that have included #ad – to tag a campaign to avoid being caught by platforms, like Instagram, Facebook and Twitter, which already prohibit tobacco advertising.<sup>3</sup> These posts are tailor-made by Big Tobacco to make smoking look “cool” in an effort to attract youth, replicating the same strategy the tobacco industry played with magazines and movies in the 1950s and 1960s. In one country, British American Tobacco (parent company of Reynolds American) even advised its influencers promoting Lucky Strike cigarettes to ensure health warnings on cigarette packs were not visible in the photos they posted.<sup>4</sup> In addition, since social media is a global enterprise, content posted by tobacco influencers abroad can easily fall into the hands of American teens. The companies' extensive use of words like #party, #girls, and #love paired with the campaign hashtags for brands like Lucky Strike or Marlboro are easily searchable and can readily be “followed” by any youth in the United States with a social media account.<sup>5</sup>

Although social media platforms should play an integral role in stopping this prohibited advertising on their platforms, the FTC must also exercise its authority and halt these perverse marketing schemes by Big Tobacco. It is clear that social media is not exempt from the Commission's truth-in-advertising rules under the FTC's Endorsement Guides (16 CFR § 255).<sup>6</sup> Just like advertising in television and magazines, online influencers paid to promote a product must disclose their material connection to the brand in a manner that is easily noticed and understood, as required by these truth-in-advertising rules.

Under current laws and regulations, tobacco advertising is already restricted from television and radio, as well as sponsorship of athletic, musical, artistic, social, and cultural events. Furthermore, a warning message must be included in advertisements.<sup>7</sup> Obviously, these warnings are not being posted on social media, and as has been made clear, the targeted population is often under 21. This is unacceptable.

As you know, on August 24, 2018, numerous public health groups, including TFK, American Academy of Family Physicians, American Academy of Pediatrics, American Cancer Society Cancer Action Network, American Heart Association, and American Lung Association, among others, filed a [complaint](#)<sup>8</sup> with the FTC requesting an investigation into Big Tobacco's deceptive tactics and asking FTC to order tobacco companies and their influencers to disclose up-front when they have paid for an advertisement on a specific post.<sup>9</sup>

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<sup>3</sup> <https://www.takeapart.org/wheretheressmoke/>

<sup>4</sup> <https://www.takeapart.org/wheretheressmoke/>

<sup>5</sup> <https://www.takeapart.org/wheretheressmoke/>

<sup>6</sup> <https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-publishes-final-guides-governing-endorsements-testimonials/091005revisedendorsementguides.pdf>

<sup>7</sup> <http://www.publichealthlawcenter.org/sites/default/files/fda-5.pdf>

<sup>8</sup> [https://www.tobaccofreekids.org/assets/content/press\\_office/2018/2018\\_08\\_ftc\\_petition.pdf](https://www.tobaccofreekids.org/assets/content/press_office/2018/2018_08_ftc_petition.pdf)

<sup>9</sup> [https://www.tobaccofreekids.org/press-releases/2018\\_08\\_27\\_ftc](https://www.tobaccofreekids.org/press-releases/2018_08_27_ftc)

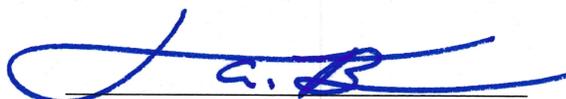
We urge the FTC to act quickly and respond to this complaint by fully investigating Big Tobacco's continued efforts to reach children through social media advertising. The industry has shown that its membership will stop at nothing to addict a new generation of tobacco users, and we cannot allow tobacco companies to deceptively promote their products through social media in ways that are likely to increase youth use of tobacco products, damaging their health for decades to come.

Thank you for your prompt attention to this urgent public health matter. We respectfully request a response by October 24<sup>th</sup>, 2018.

Sincerely,



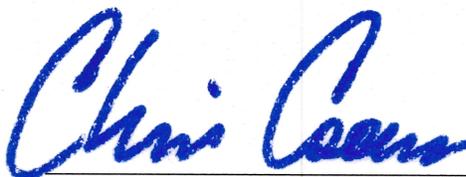
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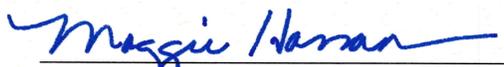
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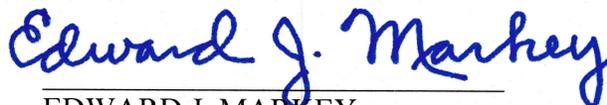
TAMMY DUCKWORTH  
United States Senate



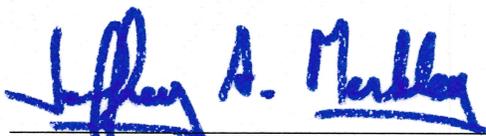
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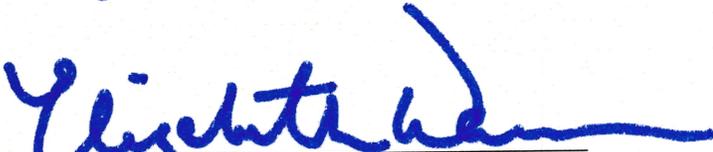
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United States Senate



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United States Senate



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SHELDON WHITEHOUSE  
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RON WYDEN  
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CC:  
Commissioner Rohit Chopra  
Commissioner Rebecca Kelly-Slaughter  
Commissioner Noah Phillips  
Commissioner Christine Wilson  
FDA Commissioner Scott Gottlieb