



January 8, 2010

Via Electronic Portal and U.S. Mail

Division of Dockets Management (HFA -305)
Food and Drug Administration
5630 Fishers Lane, Room 1061
Rockville, Maryland 20852

Re: Approved Tobacco Retailer Training (Docket No. FDA-2009-N.-0569)

Dear Sir or Madam,

The Food Marketing Institute (FMI)¹ is pleased to respond to the Food and Drug Administration's (FDA's) request for comments on the "approved tobacco retailer training program" element of the Family Smoking Prevention and Tobacco Control Act (the "Tobacco Act"). 74 Fed. Reg. 65129 (Dec. 9, 2009).

Company Policies on Youth Access to Tobacco

Many retailers have training programs already in place in order to conform to various state laws regarding the sale and distribution of tobacco to minors. Public health education coupled with State and local enforcement and retailer training at the front end have all led to a steady decrease in tobacco sales to minors.²

Retailers use a variety of effective training programs. Some retailers use the *We Card* training and education program.³ Other retailers adapt elements of the *We Card* program to meet

¹ FMI conducts programs in public affairs, food safety, research, education and industry relations on behalf of its 1,500 member companies — food retailers and wholesalers — in the United States and around the world. FMI's U.S. members operate approximately 26,000 retail food stores and 14,000 pharmacies. Their combined annual sales volume of \$680 billion represents three-quarters of all retail food store sales in the United States. FMI's retail membership is composed of large multi-store chains, regional firms and independent supermarkets. Its international membership includes 200 companies from more than 50 countries. FMI's associate members include the supplier partners of its retail and wholesale members.

² 2008 Annual Synar Report; see: <http://prevention.samhsa.gov/tobacco/synarreportfy2008.pdf>

³ The We Card training and education program; see: wecard.org

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specific store needs, or develop their own in-store program. All programs, however, train employees on the specifics of the law, how to identify fake IDs, how to properly use the cash register to determine age and how to effectively refuse a sale to a minor. FMI supports the *We Card* program and recommends that FDA model training standards on the *We Card* program. *We Card* is retail-focused and incorporates retail management and employee input into the development and refinement of their training program. In addition, their training meets and exceeds the curriculum outlined by the FDA in its request for comments on FDA approved training programs.

FDA should, however, recognize that other retailer programs that include the same information should also be considered “approved training programs.” In addition, FDA should not require pre-approval of every retailer’s training program; rather, any program should be considered “approved” if it contains the elements required by FDA.

Methods of Training

A “one size fits all” approach to training does not work for all retailers. Retailers use different methods of training formats – e.g., computer-based training (online via the Internet or within a company’s Intranet), “train the trainer,” and classroom training -- for a variety of reasons. For example, computer-based training may provide appropriate training for smaller retailers with few employees, or serve as a refresher program for other retail associates. A “train the trainer” program may be appropriate for stores operating on small budgets or with few employees. Each retailer will know which method works best for them, as the end goal is to prevent underage access to tobacco. FDA should establish guidelines with this in mind.

* * *

We appreciate the opportunity to provide comments on FDA’s implementation of the Approved Tobacco Retailer Training aspect of the Family Smoking Prevention and Tobacco Control Act. If you have any questions regarding our comments or if we may be of assistance in any way, please do not hesitate to contact us.

Sincerely,



Deborah White
Senior Vice President &
Chief Legal Officer

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