



October 5, 2020

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VIA ELECTRONIC MAIL

Gail Berman, President  
Lucy Fisher, President  
Producers Guild of America  
11150 West Olympic Boulevard, Suite 980  
Los Angeles, CA 90064

Dear Mmes. Berman and Fisher,

Forty-three state and territorial Attorneys General called on the nation's leading Video on Demand ("VOD") streaming companies to reduce youth exposure to tobacco imagery in movies and programs in August 2019. The Attorneys General encouraged the companies to take action, especially in light of the alarming numbers of high school and middle school students using electronic cigarettes.<sup>1</sup> Many of the companies and the Motion Picture Association ("MPA") responded, in part, by asking for Hollywood's creative community to be included in this important discussion. This bipartisan coalition of Attorneys General now request the Directors Guild of America, Producers Guild of America, Screenwriters Guild of America, Screen Actors Guild-American Federation of Television and Radio Artists, and International Alliance of Theatrical Stage Employees (collectively, "the Guilds") to help us protect young audiences from tobacco use.<sup>2</sup>

The Attorneys General successfully sued the U.S.'s major tobacco manufacturers in the mid-1990s for, among other misdeeds, promoting tobacco use as safe in television ads and in motion pictures. After settling those lawsuits, many Attorneys General asked film studios to eliminate tobacco imagery in movies for children, including films rated G, PG, and PG-13. Representatives of the Attorneys General also met with leaders from the creative community in 2003 to share research that found a link between youth exposure to smoking imagery depicted in movies and youth smoking initiation.

This early research was later confirmed in 2012, following a decade of studies conducted in a dozen countries with more than 50,000 adolescents, when the Surgeon General concluded, "[T]here is a causal relationship between

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<sup>1</sup> About one of every five (19.6%) high school students and about one in every twenty (4.7%) middle school students reported using e-cigarettes in the past thirty days. ([https://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/youth\\_data/tobacco\\_use/index.htm](https://www.cdc.gov/tobacco/data_statistics/fact_sheets/youth_data/tobacco_use/index.htm) [last visited Sept. 15, 2020].)

<sup>2</sup> Over 480,000 Americans (about one in five deaths) die every year from cigarette smoking. ([https://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/fast\\_facts/index.htm#beginning](https://www.cdc.gov/tobacco/data_statistics/fact_sheets/fast_facts/index.htm#beginning) [last visited Sept. 8, 2020].)

depictions of smoking in the movies and the initiation of smoking among young people.”<sup>3</sup> A 2020 study by Truth Initiative now shows youth and young adults who watch episodic programs with tobacco imagery via streaming, cable, and broadcast television are significantly more likely to initiate vaping than those who are not exposed to tobacco imagery on those media. In fact, even those with low levels of exposure were more than twice as likely to start using e-cigarettes, and those with high exposure were over three times more likely.<sup>4</sup> Previous studies by Truth Initiative found higher percentages of tobacco imagery in streamed original programs that are popular with youth during the 2015-2016 and 2016-2017 seasons than on broadcast television.<sup>5</sup> Compounding these findings, many American children are now consuming more media while at home, as a result of the COVID-19 pandemic.<sup>6</sup>

In the race to launch new platforms, provide more content, and capture audiences, many streaming companies failed to consider the impact that easy access to movies and programs with tobacco imagery has upon children. The MPA ratings system and TV Parental Guidelines, that were designed to shield youth from mature content in theaters and on broadcast television, provide little protection in the world of VOD streaming. With no industry-wide safeguards in place, children can more easily view mature content, including streaming PG-13, TV-14, R, and TV-MA-rated movies and programs with tobacco imagery.

We ask the Guilds to use their collective influence to persuade members of the creative community to depict tobacco imagery responsibly, while still supporting artistic freedoms. We also ask the Guilds to encourage streaming companies to adopt best practices that navigate youth audiences away from movies and shows with tobacco imagery. Among these practices, we have proposed banning tobacco imagery in all future, original youth-rated or youth-targeted content, with limited exceptions.<sup>7</sup> We have also asked streaming companies to recommend and promote

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<sup>3</sup> U.S. Department of Health and Human Services, *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Rockville, MD, 2012, at 602.

<sup>4</sup> Morgane Bennett, et al., *Exposure to Tobacco Content in Episodic Programs and Tobacco and E-Cigarette Initiation*, *Preventive Medicine*, <https://doi.org/10.1016/j.ypmed.2020.106169>, Aug. 1, 2020, at 3.

<sup>5</sup> Truth Initiative, *While You Were Streaming: Smoking on Demand – A Surge in Tobacco Imagery is Putting Youth at Risk*, June 2019, at 4.

<sup>6</sup> The Nielsen Company reported a 55% increase in VOD streaming. (<https://www.nielsen.com/us/en/insights/article/2020/connected-tv-usage-remains-above-pre-covid-19-levels-as-traditional-tv-viewing-normalizes/> [last visited Sept. 8, 2020].

<sup>7</sup> As exceptions, youth rated content may 1) depict historical figures who actually used tobacco or 2) clearly show the negative health effects of tobacco use. All other content with tobacco imagery should be rated TV-MA, R, or a higher designation.

only tobacco-free titles for children and families. We have challenged the companies to mitigate the historic and cumulative impact of watching tobacco imagery in movies and programs by running strong anti-tobacco spots, especially before videos with smoking or vaping. In addition, we have encouraged the companies to display prominent and forceful tobacco warnings before content with tobacco imagery and to offer effective parental controls, so families may be empowered to choose smoke-free content.

The Guilds' assistance and support is critical to implementing these changes and stopping the renormalization and glamorization of tobacco use. We look forward to opening discussions with you about ways the creative community can protect children, while maintaining artistic integrity. Please respond to Michael Hering, Director and Chief Counsel, National Association of Attorneys General Center for Tobacco and Public Health, at [mhering@naag.org](mailto:mhering@naag.org) or (202) 326-6023, by October 30, 2020, with the name and title of a contact person within your organization with whom we can speak regarding this important matter. Thank you for your attention to this critical issue.

Sincerely,



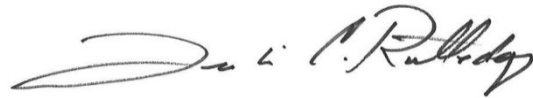
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Acting Alaska Attorney General



Leslie Rutledge  
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Phil Weiser  
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William Tong  
Connecticut Attorney General



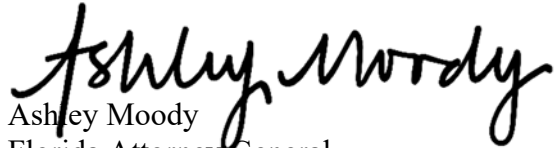
Kathleen Jennings  
Delaware Attorney General



Karl A. Racine  
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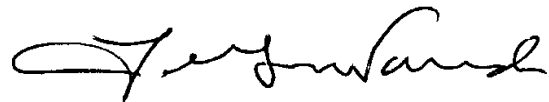
Leevin Taitano Camacho  
Guam Attorney General



Ashley Moody  
Florida Attorney General



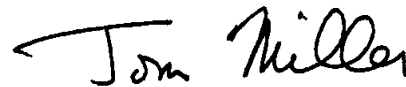
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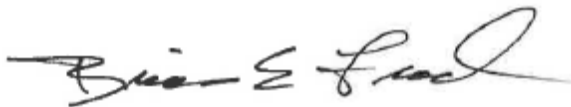
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Ellen F. Rosenblum  
Oregon Attorney General



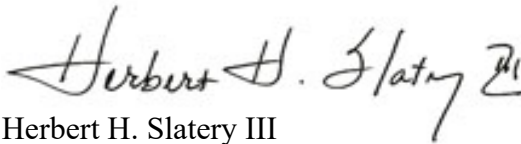
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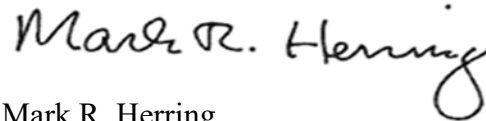
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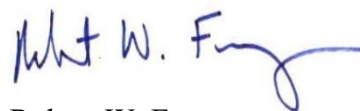
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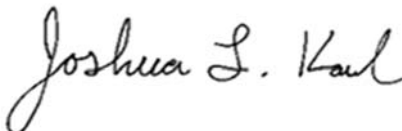
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Enclosure: August 6, 2019 Multi-State Attorneys General Letter

Cc: Susan Sprung, National Executive Director / Chief Operating Officer  
Vance Van Petten, National Executive Director / Chief Operating Officer