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July 13, 2020

Reed Hastings, Chair and CEO  
Netflix, Inc.  
100 Winchester Circle  
Los Gatos, CA 95032

Dear Mr. Hastings,

We the undersigned investors representing \$67.4 billion in assets under management are writing you in the midst of a worldwide public health emergency to urge immediate changes in company policy and operations in order to help protect the health and lives of millions of children and teens around the world exposed to tobacco imagery in our company's movies and TV shows.

Public health recommendations to the entertainment industry, dating back to late 2003, reflect the worldwide scientific consensus<sup>1</sup> that commercial entertainment with tobacco content is driving a global tobacco epidemic that kills eight million people annually and is on the way to kill one billion human beings in this century.<sup>2</sup>

We ask the company to commit to implement, by July 1, 2021, the recommended policies contained in the Appendix to this letter and derived from the report "What Is Hollywood Hiding?" (University of California, San Francisco, Center for Tobacco Research and Education).<sup>3</sup>

We believe that further delay in strengthening efforts to eliminate youth exposure to on-screen smoking and vaping can only increase this company's exposure to reputation and brand risk, domestic and international regulatory risk, and potential liability claims. For example:

#### **1. Legislative/regulatory risk**

In April 2019, three US Senators wrote thirteen entertainment media companies seeking information on how many of their films and TV shows featured tobacco imagery. They also asked each company to take a position on recommended policies to protect children's health.<sup>4</sup>

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<sup>1</sup> World Health Organization. Smoke-free movies: from evidence to action. 2016. Accessible at

<sup>2</sup> WHO. Tobacco (fact sheet). 27 May 2020.

<sup>3</sup> Polansky JR and Glantz SA. What is Hollywood hiding? How the entertainment industry downplays the danger to kids from smoking on screen. UCSF CTCRE. April 2020.

<sup>4</sup> U.S. Senators Markey, Van Hollen and Blumenthal to thirteen U.S. media company CEOs. 15 April 2019.

In August 2019, forty-three state Attorneys General asked the major US media companies to “eliminate or exclude tobacco imagery in all future streamed content for young viewers.”<sup>5</sup> The Attorneys General did so as part of their ongoing enforcement of the 1998 Master Settlement Agreement with US tobacco companies.<sup>6</sup>

These communications predate the global COVID-19 pandemic, but they were prescient in their warning that heedlessly promoting tobacco to the age groups most vulnerable to initiate tobacco use will have far-reaching population health effects. As the research literature shows, the COVID-19 virus amplifies these harmful effects; lungs weakened by tobacco fail when the virus strikes.<sup>7</sup> It is unconscionable to promote tobacco addictions among young people at any time, but especially when a global pandemic afflicting all ages has no preventive vaccine, no cure, and its future global course remains unknown.

Tobacco promotion in youth-oriented media is a global issue. For example, the *British Medical Journal* reported that streaming services that are popular with teens and young adults in India “are flouting the nation’s regulations on exposure to tobacco imagery in any media platform” and indicate “the need for better enforcement of existing rules in India and updating the guidelines for implementation of Article 13 of the WHO Framework Convention on Tobacco Control” (FCTC).<sup>8</sup> The FCTC has been signed by 168 nations and territories. FCTC Article 13 calls for a comprehensive ban on tobacco advertising, promotion and sponsorship, and includes tobacco in entertainment media.<sup>9</sup>

## 2. Reputation risk

The tobacco industry’s own documents, discovered during lawsuits, trace deliberate and persistent cross-promotion and paid product placement campaigns by US tobacco companies, in collaboration with major US movie studios, broadcast networks, and independent media producers, starting nearly a century ago.<sup>10</sup> Vaping manufacturers in recent years have boasted of using influencers and placement.<sup>11</sup>

Reports from the US Surgeon General<sup>12</sup> and peer-reviewed research articles published in the nation’s leading medical and public health journals, among them the US CDC’s official health surveillance publication, the *Morbidity and Mortality Weekly Report*<sup>13</sup>—consistently state that on-screen smoking is a substantial health threat.

Indeed, the CDC has projected that exposure to smoking on screen will recruit more than six million new young US smokers in this generation, and that more than two million of the young people recruited by

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<sup>5</sup> State and territorial Attorneys General to Streaming Company CEOs. 6 August 2019.

<sup>6</sup> Public Health Law Center. Master Settlement Agreement. 2019. See especially Sec. III(e).

<sup>7</sup> UCSF. Smoking nearly doubles the rate of COVID-19 progression. 12 May 2020.

<sup>8</sup> BMJ. Streaming services flouting India’s regulations banning tobacco imagery in all media. 9 April 2020.

<sup>9</sup> WHO. Tobacco advertising, promotion and sponsorship: depiction of tobacco in entertainment media: Report by the Convention Secretariat. 2016.

<sup>10</sup> UCSF Smokefree Movies. How long has Big Tobacco bought its way on screen? (Infographic and substantiation).

<sup>11</sup> For example: Bloomberg. Instagram tells influencers to stop promoting vaping products. 18 December 2019.

<sup>12</sup> US Surgeon General. Preventing tobacco use among youth and young adults (Chapter 5, 2012) and The health consequences of smoking — 50 years of progress (Executive Summary and Chapter 14, 2014).

<sup>13</sup> Tynan MA, Polansky JR, Driscoll D, Garcia C, Glantz SA. Tobacco use in top-grossing movies — United States, 2010–2018. *Morbidity and Mortality Weekly Report*. 68(43):974–978. 31 October 2019. The US CDC has issued annual bulletins tracking tobacco content in top-grossing movies, by distributor, since 2012 (current fact sheet, 2018 data).

this specific channel will ultimately die from tobacco induced cancers, heart disease, lung disease, and stroke.<sup>14</sup>

The theme of this year's WHO 2020 World No Tobacco Day is "Protecting youth from industry manipulation and preventing them from tobacco and nicotine use." The WHO names as an example of industry manipulation "indirect marketing of tobacco products in movies, TV shows and online streaming shows." It calls on film, TV or drama production companies to join the fight against the tobacco epidemic by pledging not to depict tobacco or e-cigarette use.<sup>15</sup>

We recognize this is a period of disruption and risk for companies like ours. Rapid migration of viewers to on-demand platforms is a challenge to all players. Competing in this space, at scale, is exorbitantly expensive. Companies rushing to create friction-free online video stores are playing down familiar film and TV ratings, inventing their own content notices and applying them arbitrarily. Parents, when they are able to locate parental controls on these services at all, must master different tools on various platforms with inconsistent standards. Parents may well be less informed than before, with even less control over the specific content their children are exposed to — especially tobacco content.

According to the latest survey from the University of California, San Francisco, more than half (51%) of all top-grossing movies released theatrically in 2019 show smoking.<sup>16</sup> Despite the stated efforts of most MPA companies, 2019 saw more tobacco incidents on screen than in the past fifteen years. Vaping incidents, which had disappeared in 2018, roared back in 2019, outnumbering all such incidents since 2010. Smoking incidents even increased in movies rated G or PG. In 2019, movies rated R, which by default are freely accessible to children and teen viewers on streaming services, tripled their tobacco exposures to moviegoers to 19.4 billion impressions, the highest level recorded since 2002.

The MPA itself reports that films are now watched many times more often on digital media than in theaters — up to fourteen times more often, per capita<sup>17</sup> — turning tens of billions of in-theater tobacco impressions per year into more than one hundred billion total exposures in the United States alone. Teens might now see more smoking on screen than at the height of prime-time TV cigarette advertising, before it was banned from the public airwaves by an act of Congress exactly half a century ago this year.<sup>18</sup>

While there has been some progress against smoking in PG-13 theatrical movies, smoking has exploded in the streaming shows most popular with teens and young adults. Because audience numbers for streaming originals are not publicly reported, these exposures cannot be estimated with precision and are not included in the 2019 totals cited in the previous paragraph. At any rate, most smoking reductions in youth-rated movie occurred before 2010; smoking in these movies has hovered at persistently unsafe levels for the past decade.

We know that the company takes this issue seriously and is aware of the fact that on-screen smoking harms children watching it. The company must also be aware that there is a national policy consensus adamantly opposed to promoting tobacco to children and teens, enshrined in state and federal law.

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<sup>14</sup> US CDC. Smoking in the movies, 2015 (fact sheet, archived). 1 December 2016.

<sup>15</sup> WHO. World No Tobacco Day 2020. 31 May 2020.

<sup>16</sup> Polansky JR, Driscoll D, Glantz SA. Smoking in top-grossing US movies, 2019. UCSF CTCRE. 27 May 2020.

<sup>17</sup> Motion Picture Association. THEME report 2019. US online views/transactions (billions); citing HIS Markit, recalculated by UCSF using US Census data and MPA box office data.

<sup>18</sup> Whiteside T. Annals of advertising: Cutting down. The New Yorker. 12 December 1970. The legislation is Federal Cigarette Labeling and Advertising Act, Pub.L. 89-92. For legislation before 1970, see Calfee JE. FTC Working Paper No. 134. Cigarette advertising, health information and regulation before 1970.

However, the tobacco industry still benefits from tobacco presence in entertainment media, even though it has suffered penalties in the billions of dollars for promoting its products to young people.<sup>19</sup>

As shareholders, we believe the serious risks associated with tobacco promotion to young viewers can in no way be justified as arising in the course of the company's main business.

With public health joining the protection of loved ones as chief preoccupations of most of this company's customers and subscribers, now is the time for clear vision and true leadership. The recommended measures in the Appendix are worthy of your review, and their implementation over the next year will make a lifetime of difference to millions of families. We look forward to a substantive discussion of the crises we all face and the actions we can take to move this company forward, away from risk, toward greater certainty, confident that its offerings will be welcomed in homes around the world for decades to come.

We look forward to your response by July 31, 2020. Please contact Cathy Rowan at <rowancm@trinity-health.org>

Sincerely,



On behalf of the following investors:

Laura Krausa  
CommonSpirit Health

Rev. Robert Wotypka, OFM, Cap.  
Corporate Responsibility office - The Province of  
Saint Joseph of the Capuchin Order

Ann Roberts  
Dana Investment Advisors

Corey Klemmer  
Domini Impact Investments LLC

Gemma Doll  
Dominican Sisters of Peace

Susan Emster  
Franciscan Sisters of Perpetual Adoration

Jeffrey W. Perkins  
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Jackie Radisich  
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Maria Vazquez  
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Leslie Samuelrich  
Green Century Capital Management

Shane Yonston  
Impact Investors, Inc.

Cathy Rowan  
Maryknoll Sisters

Lydia Kuykendall  
Mercy Investment Services

Rev. Seamus Finn, OMI  
Missionary Oblates International Pastoral  
Investment Trust

Michael Kramer  
Natural Investments

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<sup>19</sup> For example, see: Public Health Law Center. United States v. Philip Morris (D.O.J. lawsuit). No date.

Mari Schwartzer  
NorthStar Asset Management, Inc.

Sister Judy Byron, OP  
Northwest Coalition for Responsible Investment

Joe Sylvester  
Promethos

Brother John Koelle, OFM Cap.  
Province of St. Mary of the Capuchin Order

Christopher W. Cox  
Seventh Generation Interfaith Coalition for Responsible Investment  
Cathy Rowan  
Trinity Health

Sister Barbara Joseph Lammers, SCN  
Sisters of Charity of Nazareth

Sisetr Joan Agro, OP  
Sisters of St. Dominic, Blauvelt, NY

Sister Nora Nash, OSF  
Sisters of St. Francis of Philadelphia

Sister Judy Sinnwell, OP  
Sisters of the Precious Blood

Sisters of St. Francis-Dubuque

Sister Tody Lardie, HM  
Sisters of the Humility of Mary

Sister Linda Pleiman, CPPS

Sister Ruth Garaets, PBVM  
Sisters of the Presentation of the BVM of Aberdeen SD

Susan Baker  
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Kelly Hirsch  
Vancity Investment Management

Pat Miguel Tomaino  
Zevin Asset Management

## APPENDIX

Recommendations contained in the report, "What is Hollywood Hiding?"

University of California, San Francisco, April 2020

<https://escholarship.org/uc/item/3pw661mg>

- End tobacco depictions in new media products that have a reasonable expectation of attracting 15 percent or more of their audience from the age group 2-20, with only two possible exceptions:
  - 1) portrayals of nonfictional historical figures for whom tobacco use is an important piece of accurate portrayal (not including invented or composite characters or background actors) and
  - 2) realistic depictions of the serious health consequences from tobacco and nicotine use.
- End tobacco brand display or mention of tobacco brand names in any new media product.
- Require each of the credited producers of a media product with any tobacco or nicotine presence to file an affidavit (if true) that no one associated with any phase of the media production entered into any agreement or received any consideration in regard to the tobacco or nicotine depiction.
- Require a strong anti-tobacco spot (not one produced by a tobacco company or its proxy) to show immediately before any media product depicting the use of a tobacco product or nicotine device, whether in a theater or on another platform.
- For any media product depicting tobacco or nicotine use, post a plain-language warning, such as "Smoking on screen harms young viewers" on all promotional material and selection windows, prior to transactions, and at point-of-purchase, in all markets and on all platforms, regardless of age-classification.
- Support the addition of tobacco and nicotine as adult/mature rating factors for media productions submitted for ratings on or after July 1, 2021, in Motion Picture Association (R rating) and TV Parental Guidelines (TV-MA rating) regimes.
- Support development of uniform parental control interfaces and standards across platforms and video display hardware, after iterative consumer testing, and annually report (publicly) anonymized data on the number of account holders opting into its parental controls and the average duration of use.
- Enable on-demand account holders to block tobacco and nicotine content specifically, regardless of rating.
- Annually report (publicly) anonymized data on the youth (ages 2-20) component of theatrical, network and on-demand audiences for movies and TV programs with any tobacco or nicotine content created or carried by this company; the repository of this data to be determined.