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Mr. Donald S. Clark
Office of the Secretary,
Federal Trade Commission,
600 Pennsylvania Avenue, N.W., Room 113-H,
Washington, D.C. 20580

February 17, 2012

Dear Mr. Clark,

We are writing requesting your review of our proposed voluntary business arrangement between petroleum retailers and wholesalers operating within Connecticut, and the issuance of an advisory opinion concerning this proposed arrangement. We make this request after having reviewed the material in this letter with the Attorney General of the State of Connecticut, and make this request at his recommendation as well.

Background

The Independent Connecticut Petroleum Association [ICPA] is a voluntary trade association organized under Section 501 [c] [3] of the Internal Revenue Code, made up of primarily retail petroleum marketers and their associated businesses operating in the State of Connecticut.

Issue

You may be familiar with advertising on television and other media on subjects ranging from, "**Beef, It's What's for Dinner,**" or "**Cotton, The Fabric of Your Life,**" or "**Pork, The Other White Meat.**" These are all consumer education campaigns run by their various industries using funds generated from federally-sanctioned "check-off" programs. These programs allow the industries with the check-off programs to assess a fee on each unit produced or sold, with the revenues going to an industry association for use promoting their various products.

There are, currently, 24 such programs in operation in the country.

Commodity Promotion, Research, and Information Act, 7 U.S.C. §§ 7401; 7411-7425
Cotton Research and Promotion Act, 7 U.S.C. §§ 2102-2118
Potato Research and Consumer Information Act, 7 U.S.C. §§ 2611-2627
Egg Research and Consumer Information Act, 7 U.S.C. §§ 2701-2718

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Beef Research and Information Act, 7 U.S.C. §§ 2901-2911
Wheat and Wheat Foods Research and Nutrition Education Act, 7 U.S.C. §§ 3401-3417
Floral Research and Consumer Information Act, 7 U.S.C. §§ 4301-4319
Dairy Production Stabilization Act, 7 U.S.C. §§ 4501-4538
Honey Research, Promotion, and Consumer Information Act, 7 U.S.C. §§ 4601-4613
Pork Promotion, Research, and Consumer Information Act, 7 U.S.C. §§ 4801-4819
Watermelon Research and Promotion Act, 7 U.S.C. §§ 4901-4916
Pecan Promotion and Research Act, 7 U.S.C. §§ 6001-6013
Mushroom Promotion, Research, and Consumer Information Act, 7 U.S.C. §§ 6101-6112
Lime Research, Promotion, and Consumer Information Act, 7 U.S.C. §§ 6201-6212
Soybean Promotion, Research, and Consumer Information Act, 7 U.S.C. §§ 6301-6311
Fluid Milk Promotion Act, 7 U.S.C. §§ 6401-6417
Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act, 7 U.S.C. §§ 6801-6814
Sheep Promotion, Research, and Information Act, 7 U.S.C. §§ 7101-7111
Canola and Rapeseed Research, Promotion, and Consumer Information Act, 7 U.S.C. §§ 7441-7452
National Kiwifruit Research, Promotion, and Consumer Information Act, 7 U.S.C. §§ 7461-7473
Popcorn Promotion, Research, and Consumer Information Act, 7 U.S.C. §§ 7481-7491
Hass Avocado Promotion, Research, and Information Act, 7 U.S.C. §§ 7801-7813
Propane Education and Research Act (PERA), 15 U.S.C. § 6401
National Oilheat Research Alliance (NORA) 42 U.S.C. §6201

I am writing today about the National Oilheat Research Alliance (NORA) 42 U.S.C. §6201, passed and signed into law by President Clinton in 2000, reauthorized in 2005 and scheduled for reauthorization in 2010. Unfortunately, given the disposition of Congress and its relative lack of action on this and most everything else including a federal budget, we still wait for the reauthorization to occur.

NORA had a fee of twenty points per gallon [.0020], or one fifth of one cent per gallon, assessed at the wholesale level. Once collected by wholesalers, the revenue would be sent to NORA's national office and then 75% of the revenue collected from each state would be sent back to the authorized state association for consumer education and education and training subsidies. In the case of Connecticut, that association is ICPA.

ICPA uses NORA funds to promote energy conservation, the use of renewable fuels with BioHeat, as well as the subsidy of HVAC education and training, promoting the use of home energy audits. NORA funding prohibits the use of revenues for influencing government.

There are two bills, H.R. 1756 and S. 949, currently pending Congressional action. Our Congressional delegation is a co-sponsor of both bills in each chamber and is strongly endorsed by our entire delegation.

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While we wait for the Congress to act, and given that we've waited without action since February 6, 2010, our desire here is that we seek to replicate the majority of the NORA program but by voluntary contract between retailers and wholesalers.

Our thought is that, on an entirely voluntary basis, a retailer would authorize each wholesaler from whom they purchase their heating oil to charge them twelve points per gallon [.0012], or twelve tenths of a cent per gallon, and send the revenue on to ICPA until such time as the NORA federal statute is reauthorized by Congress.

We would envision ICPA preparing contracts for each retailer, and encouraging the **voluntary participation** of as many retailers and wholesalers as possible. This would occur on an **entirely voluntary basis without any coercion whatsoever, nor penalize those who decline to participate. Those who choose not to participate would face no significant economic consequences as a result of that decision.** Once a retailer and wholesaler had executed the voluntary agreement, the gallons purchased by the retailer from that wholesaler would have the twelve points per gallon [.0012] assessed and sent on to ICPA by the wholesaler.

As with NORA during its operation, our proposal envisions that the consumer is not assessed the fee in the billing from the retailer. The price of heating oil paid by any consumer would not be affected by the existence of this fee. As with NORA during its operation, this is strictly between retailers and wholesalers with wholesalers collecting the fee from retailers' purchases and passing along the revenue. In the decade NORA had operated there has never been an issue raised in Connecticut, or anywhere else we are aware of, from any consumer or consumer group about the existence of the NORA fee.

Finally, our thought was that when the NORA statute is reauthorized, whether later in 2012 or in the next Congress in 2013, our contract would stipulate an end to the voluntary fee collection we propose.

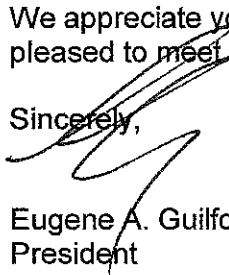
ICPA would use these funds to promote energy conservation, the use of renewable fuels with BioHeat, as well as the subsidy of HVAC education and training, and promoting the use of home energy audits in furtherance of residential energy conservation. NORA funding prohibits the use of revenues for influencing government and ICPA would continue to adhere to that restriction should we be allowed to implement the voluntary program we outline herein.

We appreciate that in asking this question you cannot provide legal advice or an endorsement, and we look to you for neither. We do request the issuance of an advisory opinion by the Commission on this proposed arrangement.

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We appreciate your time and attention to our question and this issue and would be pleased to meet with you and discuss this further as you deem necessary.

Sincerely,



Eugene A. Guilford, Jr.
President

Cc: The Honorable George Jepsen,
Attorney General, State of Connecticut