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ONE HUNDRED TENTH CONGRESS

U.S. House of Representatives
Committee on Energy and Commerce
Washington, DC 20515-6115

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June 26, 2007

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Mr. Richard L. Wambold
Chairman and Chief Executive Officer
Pactiv Corporation
1900 W. Field Court
Lake Forest, IL 60045

Dear Mr. Wambold:

Under Rules X and XI of the Rules of the United States House of Representatives, the Committee on Energy and Commerce and the Subcommittee on Oversight and Investigations are investigating the adequacy of the efforts of the Food and Drug Administration (FDA) and the U.S. Department of Agriculture's Food Safety and Inspection Service (FSIS) to protect Americans from contaminated or otherwise unsafe food.

It is our understanding that Pactiv Corporation (Pactiv) packages meat in an atmosphere containing carbon monoxide (CO). We also understand that Pactiv employs a packaging system in which fresh meat is placed in gas-permeable retail-ready packages, which are placed inside an outer bag with an atmosphere containing carbon monoxide. In the outer bag, the carbon monoxide atmosphere colors the meat. The individual packages are to be removed from the outer bag and placed on store shelves. When the packages are removed from the carbon monoxide, you allege that the meat begins the normal oxidation process.

We have serious concerns about the consumer deception and public health consequences of using carbon monoxide to alter the color of fresh meat to make it appear fresh, safe, and wholesome, as long as it is packaged with the gas, regardless of its actual condition. As a manufacturer using a carbon monoxide meat packaging system, you are requested to help clarify the following questions:

1. ***Consumer Deception and Food Safety Risks:*** By reacting with meat to create a red color that simulates the look of fresh meat—regardless of the age of the meat or whether it has been temperature abused—carbon monoxide, while in contact with the meat, can mask signs of microbial spoilage, aging, and deterioration. In its Generally Recognized as Safe (GRAS) notification (GRN 000083) submitted to FDA, Pactiv included data that

the company characterized as demonstrating that the artificial-coloring effect only occurs during storage.

Please explain exactly how long the coloring effect of carbon monoxide remains in the retail meat package once it has been removed from the outer bag and placed on display. Please identify the data that supports this response.

2. ***Carbon Monoxide in Non-Equilibrating Packaging:*** The Committee is interested in Pactiv's views on the potential for deception and food safety concerns associated with the use of carbon monoxide in the packaging of fresh meats in non-equilibrating packages such as those described in Precept Foods, LLC's GRAS notification (GRN 000143). In Pactiv's GRAS notification request (GRN 000083), Pactiv states that for meat packaged with CO in consumer-ready packages,

“...there is sometimes an objection raised against using CO in retail ready meats because ‘the colour stability can exceed the microbiological shelf life, with the risk of masking the spoilage of meat,”

and,

“...it is important to have proper control of hygienic condition of the meat raw materials and the chill chain temperatures.’ AT2001 [Pactiv's designation for its packaging system] presents no such similar problems or needs for caution. AT2001 does not mask spoilage of the meat. AT2001 does not involve use of a modified atmosphere including CO in the retail package.”

Has Pactiv had any communication with FDA and/or FSIS or any academic or trade group about these concerns outside the initial exchange of information associated with GRN 000083?

Please provide all documents relating to such communications.

3. ***Consumer Complaints:*** Does Pactiv have any systems in place that are capable of documenting consumer complaints relating to carbon monoxide-treated meat? If so, please describe such systems.

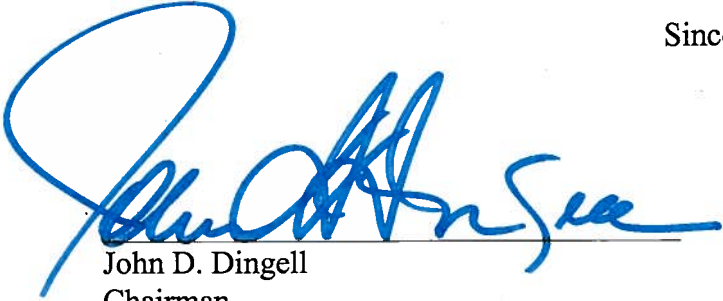
Please provide documents relating to any such consumer complaints.

Please provide the requested records and other responses to the Committee offices in room 316 of the Ford House Office Building no later than the close of business, two weeks from the date of this letter. The words “records” and “relating to” are defined in an attachment to this letter. If this request is interpreted to require production of documents that would constitute an

Mr. Richard L. Wambold
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unreasonable burden on the firm, it may be modified upon agreement with Committee staff. If you have any questions regarding this request, please contact us or have your staff contact David Nelson, John Arlington, or Kevin Barstow of the Committee staff at (202) 226-2424.

Sincerely,

A large, stylized handwritten signature in blue ink, appearing to read "John D. Dingell".

John D. Dingell
Chairman

A handwritten signature in blue ink, appearing to read "Bart Stupak".

Bart Stupak
Chairman
Subcommittee on Oversight and Investigations

Attachment

cc: The Honorable Joe Barton, Ranking Member
Committee on Energy and Commerce

The Honorable Ed Whitfield, Ranking Member
Subcommittee on Oversight and Investigations

ATTACHMENT

1. The term "records" is to be construed in the broadest sense and shall mean any written or graphic material, however produced or reproduced, of any kind or description, consisting of the original and any non-identical copy (whether different from the original because of notes made on or attached to such copy or otherwise) and drafts and both sides thereof, whether printed or recorded electronically or magnetically or stored in any type of data bank, including, but not limited to, the following: correspondence, memoranda, records, summaries of personal conversations or interviews, minutes or records of meetings or conferences, opinions or reports of consultants, projections, statistical statements, drafts, contracts, agreements, purchase orders, invoices, confirmations, telegraphs, telexes, agendas, books, notes, pamphlets, periodicals, reports, studies, evaluations, opinions, logs, diaries, desk calendars, appointment books, tape recordings, video recordings, e-mails, voice mails, computer tapes, or other computer stored matter, magnetic tapes, microfilm, microfiche, punch cards, all other records kept by electronic, photographic, or mechanical means, charts, photographs, notebooks, drawings, plans, inter-office communications, intra-office and intra-departmental communications, transcripts, checks and canceled checks, bank statements, ledgers, books, records or statements of accounts, and papers and things similar to any of the foregoing, however denominated.
2. The terms "relating," or "relate" as to any given subject means anything that constitutes, contains, embodies, identifies, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.