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Independent Lubricant Manufacturers Association

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October 25, 2002

Federal Trade Commission

Office of Secretary

Room 159-H

600 Pennsylvania Avenue, N.W.

Washington, D.C. 20580

Re: In the Matter of Shell Oil Company and Pennzoil-Quaker State Company, File No. 021 0123, Docket No. C-4059

Dear Commissioners:

The Independent Lubricant Manufacturers Association ("ILMA") submits the following comments on the Federal Trade Commission's ("FTC" or "Commission") Proposed Consent Order with the Shell Oil Company ("Shell") and the Pennzoil-Quaker-State Company ("PQS") in the above-referenced matter. ILMA supports the resolution set forth in the Proposed Consent Order to remedy competitive concerns with the refining and marketing of Group II paraffinic base oils in the United States raised by the Shell and PQS transaction. However, the Association remains concerned that the ultimate purchaser of PQS' 50 percent interest in the Excel Paralubes facility, in fact, makes its Group II base oils from this refinery competitively available to the market, including independent lubricant manufacturers.

Introduction to ILMA

ILMA, established in 1948, is a national trade association of 142 manufacturing member companies, consisting largely of small businesses, ranging in size from fewer than 10 to more than 200 employees. As a group, ILMA member companies blend, compound and sell over 25 percent of the United States' lubricant needs and over 75 percent of the metal removal fluids utilized in the country.

A lubricant is a liquid or solid substance used to reduce the friction, heat and wear between solid surfaces. ILMA members manufacture automotive, truck, marine, aircraft and industrial engine oils; transmission fluids; hydraulic fluids; greases; general industrial oils; power equipment oils; process oils; metal removal, treatment, protecting and forming lubricants; and rolling oils.

In order to manufacture a lubricant, ILMA member companies purchase oil and synthetic lubricant base stocks and a wide range of additives. ILMA member companies then compound and blend the base stocks with the correct additives in the proper proportions to produce a lubricant with the desired characteristics for a particular job.

ILMA members are diverse. A large proportion of our membership manufactures automotive lubricants for original equipment manufacturers and for the retail market, either under their own labels or through contract packaging arrangements. Many produce lubricants for metalworking and heavy industrial machines, while others supply lubricants for mining, textiles, food processing, electronics, as well as many other industries.

Independent lubricant manufacturers by definition are neither owned nor controlled by companies that explore for or refine crude oil to produce lubricant base stocks. Base oils are purchased from refiners, who are also competitors in the sale of finished products. Independent lubricant manufacturers succeed by manufacturing and marketing high-quality, often specialized, lubricants. Their success in this competitive market also is directly attributable to their tradition of providing excellent, individualized service to their customers.

Throughout its 51-year history, ILMA has had two guiding principles as an association representing independent companies who buy raw materials from the same businesses they compete against in the finished products markets: (1) the availability of base oils, additives and other components at competitive prices; and (2) minimal governmental interference with the structure and operation of lubricants markets. As a result, ILMA wrote to the Commission on May 1, 2002, expressing members' concerns with Shell's proposed acquisition of PQS. Further, despite the costs to the parties, the Association appreciates the detailed and intensive review of the transaction by the FTC staff.

FTC Complaint

ILMA has reviewed the Complaint in this matter and agrees with a number of the Commission's conclusions about the Group II paraffinic base oils market, especially since the Exxon and Mobil merger at the end of 1999. This market continues to evolve, and demand for Group II base oils will increase with the continuous adoption of new performance standards for engine oils (both passenger car and heavy-duty vehicles).

Recent discussions between ILMA and leaders from the British Lubricants Federation and the Union of European Independent Lubricant Companies confirm the FTC's allegation in the Complaint that there is little Group II production outside the United States and Canada, so there is little ability for independent lubricant

manufacturers to go "offshore" for these base oils, even if freight penalties were not an issue.

ILMA also agree with the Commission's finding that construction of a new Group II refinery or converting an existing Group I refinery to make Group II base oils would not be timely to remedy the competitive concerns raised by the FTC. The Association's members compete directly with their base oil suppliers in the finished lubricants market, and, notwithstanding the Proposed Consent Order, many of these members continue to express concerns about price increases for Group II base oils not being passed through equally in the marketplace by refiner/competitors.

Proposed Remedy

While ILMA did not propose a remedy in its May 1, 2002 letter to the FTC, the Association does support Shell and PQS' decision to agree to the divestiture of PQS' interest in Excel Paralubes and the freezing of PQS' right to buy additional Group II base oils from ExxonMobil at approximately current levels. The Commission has concluded that a structural remedy is needed to alleviate its competition concerns, and this structural remedy should help to maintain and ensure a continuing, competitive market for base oils, especially Group II stocks, if implemented in the spirit intended by the Commission.

As noted earlier, however, the success of the remedy agreed to by Shell and PQS -- and a competitive base oils market, including for independent lubricant manufacturers - will depend largely on the acquirer of PQS' interest in Excel Paralubes. For example, if this buyer internally uses rather than sells the Group II base oil output from the Excel Paralubes refinery, then little or nothing will have been done to promote a competitive base oils market, including for Group II stocks. Such a result will increase market concentration and could lead to collusion or coordinated interaction among several competitors.

Accordingly, while the Commission will review and approve the eventual acquirer of PQS' 50 percent interest in Excel Paralubes, ILMA recommends that the FTC establish now that a criterion for this review and approval will be the extent to which Group II base oils from the Excel Paralubes refinery will be accessible to competitors, including independent lubricant manufacturers, at competitive prices. A "signal" should be sent to potential buyers that there will be the need to demonstrate to the Commission that a significant portion of the Group II base oils will be sold into the marketplace; hopefully, committing a certain portion to independent lubricant manufacturers at "most favored nation" pricing before approaching the general market. While ILMA does not wish to interfere with the marketing of PQS' interest in Excel Paralubes, more than price should be a clear condition of the purchase and sale.

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ILMA appreciates this opportunity to express its views on the Proposed Consent Order. We remain available to answer any questions that may be raised by these comments.

Sincerely,

Celeste M. Powers, CAE

Executive Director

cc: ILMA Board of Directors