



INDEPENDENT LUBRICANT MANUFACTURERS ASSOCIATION

June 30, 2004

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Mr. Kevin Ferrick  
American Petroleum Institute  
1220 L Street, N.W.  
Washington, D.C. 20005-4070

Dear Kevin:

The Independent Lubricant Manufacturers Association (“ILMA”) appreciates that the American Petroleum Institute’s (“API”) Lubricants Committee has given all of its members an opportunity to reaffirm or change their vote on the Lubricant Committee’s June 3, 2004 adoption of the API Service Category SM (“API SM”) with a first license date of September 30, 2004 for non-ILSAC grade engine oils. ILMA would like to reiterate its position that, given the prior definition of ILSAC GF-4, six months is the minimum time needed for independent lubricant manufacturers and other oil marketers to participate fairly in the category upgrade for non-ILSAC GF-4 oils. Based upon its observation of the Lubricants Committee’s process to date, ILMA believes that the four-month first license date remains a restraint of trade that violates United States antitrust laws. The Association hopes that Lubricants Committee members will reconsider and will rescind the June 3 action.

ILMA was stunned that the Lubricants Committee Chair found “unpersuasive” the negative ballots on the first license date for API SM non-ILSAC grades. All but one of the leading additive companies argued against the four-month period between ballot approval and first license, expressing concerns with technology requirements with the new phosphorous and sulfur limits and base oil combinations, especially given the number of customer programs that need to be qualified for what the Lubricants Committee intends as a global specification.

Moreover, ILMA believes that the panel’s rush to implement the September 30, 2004 first use date violates the fundamental consensus approach adopted by API for specifications, such as API SM. There were not clear majorities – that is, a consensus of opinion on the timing of the category upgrade – when the initial “straw vote” was 7-6 and the letter ballot vote was 8-3-2. The Association believes that the Lubricants Committee had an obligation to “work through” the negative ballots and questions the appropriate threshold that allowed the Lubricants Committee Chair to give short shrift to the additive companies’ representations.

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The Lubricant Committee either intentionally or hastily has created illegal market barriers. The June 3, 2004 action by the Lubricants Committee creates a significant competitive advantage for those oil marketers who use only Group II or higher basestocks for both ILSAC GF-4 and non-ILSAC GF-4 grades of engine oils, largely as the result of OEM programs that are to be licensed by July 31, 2004. Independents and other similarly-situated oil marketers do not have the ability to change easily limited tankage in such a fashion and still satisfy customer needs. Moreover, "market general" additive packages used by most ILMA members typically are the last to be tested and approved. In the case of the upgrade for non-ILSAC GF-4 oils, the increased number of base oil combinations that are possible will exacerbate this delay. Thus, rather than arriving at a consensus position that all stakeholders could live with and which takes into account a wide range of consumers, the Chair dismissed such valid considerations and agreed knowingly to provide a handful of large oil marketers on the Committee with a distinct competitive advantage. The Lubricants Committee must take down such competitive barriers. ILMA will take appropriate action if the Lubricants Committee fails voluntarily to "level the playing field."

The Association remains deeply troubled by and alarmed at the increasingly shortened time frames from ballot approval to first licensing for API Service Categories. ILMA complained when this time period was first reduced from one year to nine months. API responded at that time, indicating to the Association that it was trying to balance a number of competing interests in deciding on a shorter introduction period. Any reasonable and legitimate attempt at such balancing has totally disappeared in the case of first licensing of API SM non-ILSAC grades. ILMA, therefore, requests that the Lubricants Committee go on record that the four-month time frame does not establish precedent for future API Service Categories.

Sincerely,

A handwritten signature in black ink that reads "Celeste Powers". The signature is written in a cursive, flowing style.

Celeste M. Powers, CAE  
Executive Director

cc: ILMA Board of Directors  
Jeffrey L. Leiter, Esq.  
Larry F. Kuntschik