



March 4, 2004

Mr. Alan W. Hile  
Assistant Director  
Division of Marketing Practices  
Bureau of Consumer Protection  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

***Re: DaimlerChrysler Corporation Complaint***

Dear Mr. Hile:

This letter supplements the Independent Lubricant Manufacturers Association's ("ILMA") November 11, 2003 complaint, requesting that the Federal Trade Commission ("FTC") investigate and take action against the DaimlerChrysler Corporation ("DCC") for the automaker's unfair trade practices involving its ATF+4® automatic transmission fluid.<sup>1</sup> As set forth more fully below, it is imperative that the Commission act on ILMA's complaint as expeditiously as possible.

DCC's anticompetitive "Mopar Bulk Oil/ATF+4" program ("Program") continues to cost ILMA members longstanding accounts with Chrysler dealers.<sup>2</sup> A Midwestern ILMA member informed the Association on March 3 that it just lost a 40-year account with a Chrysler dealer as the direct result of DCC's Program. This same ILMA member indicated that it has three other Chrysler dealer customers that are "in jeopardy" and expects also to lose as the direct result of DCC's Program. DCC's violation of the tie-in sales prohibition under the Magnuson-Moss Warranty Act (15 U.S.C. §§2301 *et seq.*) and the FTC's implementing regulations (16 CFR Part 700) are real and are continuing to have a direct and adverse affect on ILMA members' longstanding relationships with Chrysler dealers.

In the absence of immediate action by the FTC, ILMA expects the market situation resulting from DCC's Program to go from bad to worse. The U.S.

---

<sup>1</sup> In addition to ILMA, the Automotive Oil Change Association ("AOCA") filed a December 18, 2003 complaint with the FTC over DCC's ATF+4 proprietary automatic transmission fluid requirement.

<sup>2</sup> ILMA's November 11, 2003 complaint, in part, set forth how DCC is requiring its dealers to buy at least two viscosity grades of Mopar engine oils in order to purchase the ATF+4 automatic transmission fluid in bulk (and cheaper) quantities.

Mr. Alan W. Hile  
March 4, 2004  
Page 2 of 2

Environmental Protection Agency (“EPA”) has been asked by the automakers to provide guidance on the use of new GF-4 passenger car motor oils in all viscosity grades for fuel economy and emission certification test vehicles.<sup>3</sup> *See* October 21, 2003 letter from the Alliance of Automobile Manufacturers and the Association of International Automobile Manufacturers (attached). EPA requires that, as a condition for approval of engine oils in certification test vehicles, the oils are readily and widely available at a competitive price for actual production vehicles. The automakers asserted to EPA even before the new GF-4 specification was adopted that the GF-4 oils would be “readily and widely available.....by the spring of 2005.”

EPA, at the request of ILMA and AOCA, recently held two stakeholder meetings on its approval of and guidance to automakers on the use of the new GF-4 engine oils in certification test vehicles. The Agency has indicated during these meetings that it will use its July 31, 2001 guidance for GF-3 engine oils as a “starting point” for its guidance to automakers on GF-4 engine oils. *See* July 31, 2001 EPA letter to Manufacturers (CCD-01-12)(Attached). In its GF-3 guidance, EPA imposed as a condition that “(t)he manufacturer supplies its dealers with GF-3 oils of the same viscosity grade as used in the test vehicles or otherwise assures the use of the appropriate viscosity grade GF-3 engine oil at dealerships.” ILMA has urged EPA to delete this statement and use a more competitively-neutral condition for assuring the availability to consumers of the new GF-4 engine oils.

Even if EPA agrees with ILMA on “level playing field” language for GF-4 oils being made available at dealerships, ILMA fears that DCC, in the absence of action by the FTC, will “hide behind” and will use EPA’s GF-4 guidance to pressure more of its dealers to participate in the Program. Because of the financial benefits to DCC from the use of GF-4 engine oils under the Corporate Average Fuel Economy program, the automaker will be under tremendous pressure to promote the use of these new engine oils. It would be easy for DCC to modify its Program to include one or more viscosity grades of GF-4 oils as the tie for purchasing the ATF+4 in bulk quantities. Moreover, there is increased incentive for DCC to use “backroom” and other tactics to force its dealers into the Program, all under the guise of satisfying an EPA condition for fuel economy and emissions.<sup>4</sup>

ILMA again requests that the Commission take immediate action on this matter to protect consumers and competition in the passenger car motor oils market. The Association remains available to meet with you and the FTC staff.

Sincerely,

Celeste M. Powers, CAE  
Executive Director

cc: ILMA Board of Directors

---

<sup>3</sup> The International Lubricant Standardization and Approval Committee (“ILSAC”) approved the new generation passenger car motor oil specification – GF-4 – on January 14, 2004. ILSAC expects that the American Petroleum Institute will begin licensing engine oils that meet the GF-4 specification beginning on July 31, 2004.

<sup>4</sup> If DCC is allowed to continue its unfair trade practice with the Program, it will not take long for other automakers and engine manufacturers to adopt a similar tie-in.