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Gary M. Rodkin
Chief Executive Officer

May 29, 2008

VIA E-MAIL AND HAND DELIVERY

The Honorable John D. Dingell
Chairman
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Bart Stupak
Chairman
Subcommittee on Oversight and Investigations
2125 Rayburn House Office Building
Washington, DC 20515

Re: May 8, 2008 Letter

Dear Chairman Dingell and Chairman Stupak:

This is in response to the above-referenced letter sent to my attention. In the letter, you requested certain information regarding product recalls and instances of positive results for specific microbiological and chemical contamination for ConAgra Foods, Inc.'s ("ConAgra") products since January 1, 2000. ConAgra is pleased to further cooperate with the efforts of the Committee on Energy and Commerce ("Committee") and its Subcommittee on Oversight and Investigations ("Subcommittee") in investigating the safety of the Nation's food supply by voluntarily supplying the requested information.

To place our response in the proper context, we think it would be helpful to first briefly describe the scope of ConAgra's businesses. ConAgra is one of the largest packaged food companies in the United States. The company has a strong presence in the consumer grocery channel with many familiar brands such as Healthy Choice, Banquet, Hunt's, Chef Boyardee, Pam, Peter Pan, Hebrew National, and Orville Redenbacher's, as well as in restaurant and foodservice establishments. Our branded products portfolio is generally split into four (4) areas – frozen foods (e.g., frozen meals and entries), shelf-stable grocery products (e.g., canned foods, cooking oils and sprays, peanut butter), refrigerated items (e.g., hot dogs, puddings, margarines, whipped cream) and snacks (e.g., popcorn). What differentiates ConAgra from many other packaged food companies is that we also have a large commercial products business. Our commercial sector markets on a large scale a wide variety of products such as specialty potato products (e.g., French fries) from our Lamb Weston business to food ingredients like whole wheat flour, spices, and dehydrated vegetables from our ConAgra

Mills and Gilroy Foods and Flavors businesses. Over the past several years, ConAgra has also divested a number of businesses, including its beef, pork, poultry, seafood and deli meats businesses. As these businesses are no longer part of ConAgra, they are not covered in this response except as to prior recalls and food safety alerts for the company (Question 1).

Given the wide scope of ConAgra's food operations and the ubiquity of microorganisms and chemical contaminants, it should not be surprising for the company (or any other food company of a similar size and scale) to have positive laboratory findings for microorganisms or chemical contaminants over an eight year period. This is particularly true for microorganisms for those manufacturing processes involving foods that are more conducive to microorganisms, such as meat, poultry and dairy products and any raw agricultural commodities. The key in these areas is the development and implementation of quality programs designed to address possible microbiological and chemical contamination issues across the manufacturing spectrum. In ConAgra's case, these include programs designed to minimize the possible introduction of microorganism and chemical contamination into the production process (e.g., supplier qualification and shipment "certificate of analysis" requirements), a "kill step" for microorganisms during the manufacturing process for ready-to-eat products, and "hold and release" programs where finished product is not released to the trade until the results of testing on representative samples confirm the absence of any microorganism and/or chemical contaminant of concern.

Our responses to your specific questions for the time period of January 1, 2000 through May 8, 2008 for products sold or distributed by ConAgra in the United States (regardless of where manufactured or sourced) are as follows:¹

- 1. A list of all food recalls and food safety alerts issued by ConAgra. For each recall or safety alert, please provide the date of the recall or alert, the product and brand affected, and the reason for the recall or alert. If the food was affected by microbial or chemical contamination, please identify the contaminant.**

In Attachment A to this letter, we provide a spreadsheet that contains the requested information to the best of our knowledge for product recalls and food safety alerts for

¹ ConAgra has attempted in good faith to respond to this request from the Committee and Subcommittee for information going back to 2000 to the extent the company has possession of the relevant records. We generally do not retain records in the quality area for this extended period of time consistent with the company's Records Retention Policy ("Policy"). More specifically, records pertaining to routine testing of our products for microbial or chemical contamination are generally retained for three (3) years as Quality Assurance (QA) records under the Policy. Records pertaining to product recalls are generally retained for a longer period, six (6) years. To the extent the company retained relevant records beyond these periods or had access to the information from other public sources (e.g., Food and Drug Administration ("FDA") and U.S. Department of Agriculture ("USDA") websites for product recalls), we have included in our response.

ConAgra since 2000.² We also indicate on the list the recalls that were associated with products that ConAgra has since divested, which accounted for a large percentage of recalls for the company during this period.

2. For each brand or kind of product, please list all instances when internal microbiological testing was found to be positive for the presence of *E.coli*, *Salmonella*, *Cyclospora cayetanensis*, *Cryptosporidium*, *hepatitis A*, *Clostridium botulinum*, or *Listeria* in excess of the highest limit acceptable to the Food and Drug Administration (FDA) or any State regulatory authority.

For ConAgra's various finished food products for the platforms described above, upon checking our internal records and with the appropriate company personnel, we can report the following as to any positive findings for the specific pathogens indicated:³

- **Snacks:** There were no instances of positive findings for these specific pathogens for our Snacks portfolio.
- **Frozen:** The confidential details of positive pathogen test findings for finished products for our Frozen Foods business are provided in Attachment B.
- **Grocery:** The only positive pathogen findings for our Grocery business were the positive *Salmonella* findings for our peanut butter business. These confidential details, much of which have previously been shared with the Subcommittee, are provided in Attachment C. Also provided in this attachment are the additional details pertaining to the *Salmonella* testing for ConAgra's peanut butter business that the Subcommittee staff requested in follow-up to the February 26, 2008 Subcommittee hearing on this subject.
- **Refrigerated:** As previously reported to the Subcommittee, our Refrigerated business had one positive pathogen test finding for

² This list is comprised of product recalls conducted by ConAgra based on the company's records and what FDA and USDA captured in their publicly available databases as product recalls for ConAgra during this time period.

³ For *E. coli* and *Listeria*, we focused our review on any testing for the pathogenic form of these microorganisms, i.e., *E.Coli O157:H7* and *Listeria monocytogenes*, as to our knowledge these are the only types for these microorganisms with a regulatory limit (a zero tolerance limit). We also note that, on May 24, 2007, we responded to a similar request from the Subcommittee for the details for the past five (5) years (at that time) of any positive pathogen findings for finished products from any routine testing conducted by ConAgra. As that request (and our corresponding response) was broader in nature in that it was not limited to the specific microbial pathogens covered by this request, for the convenience of the Committee and Subcommittee, we have included the relevant details from that response and supplemented as necessary so that this response stands on its own.

Salmonella in 2003. For your convenience, the confidential details of this incident are provided in Attachment D.

- Lamb Weston: The confidential details of positive pathogen test findings for finished products for our Lamb Weston business are provided in Attachment E.⁴
- Ingredients: The confidential details of positive pathogen test findings related to finished products for our food ingredients businesses are provided in Attachment F.⁵

As indicated in the relevant attachments, in each instance of a positive test finding for one of these pathogens, the company took the appropriate steps to isolate, contain and remediate through further processing (for ingredients only) or destroy the potentially impacted product.

3. For each brand or kind of product, please list the instances when internal testing was found to be positive for the presence of a chemical contaminant at levels in excess of the highest limit acceptable to FDA or any State regulatory authority.

Upon checking our internal records and with the appropriate company personnel, we can report the following as to any findings of chemical contamination for our various platforms:⁶

- Snacks: We do not conduct any finished product testing for chemical contamination for our Snacks portfolio, so no results to report.
- Frozen: We do not conduct any finished product testing for chemical contamination for our Frozen portfolio, so no results to report.
- Grocery: For our Grocery portfolio, we do not conduct any finished product testing for chemical contamination except for our peanut butter business, for which we test finished product at our Sylvester, GA manufacturing facility for aflatoxin to confirm the product meets the requisite specifications (i.e., regulatory limits). We do not have any

⁴ As indicated in Attachment E, the details for our Lamb Weston business do not include results for any testing conducted this month (i.e., May 2008) as those data are still being compiled.

⁵ As indicated in Attachment F, the details for our food ingredients businesses do not include results for any testing conducted this month (i.e., May 2008) as those data are still being compiled.

⁶ For purposes of this request, we interpreted “chemical contaminants” as including heavy metals, pesticides, micotoxins (e.g., aflatoxin), and any specific chemical testing requested by customers (e.g., certain dyes for spices imported from certain countries).

positive (i.e., out-of-spec) findings for aflatoxin since the restart of this facility in August 2007.⁷

- Refrigerated: We do not conduct any finished product testing for chemical contamination for our Refrigerated portfolio, so no results to report.
- Lamb Weston: We do not conduct any finished product testing for chemical contamination for our Lamb Weston business, so no results to report.
- Ingredients: For our food ingredients businesses, we conduct testing on our finished capsicum products (e.g., paprika, red pepper) intended for sale or use in the United States for aflatoxin and Sudan dyes and other related dyes. Our records do not show any positive findings (i.e., levels in excess of FDA or State regulatory limits) for these contaminants.⁸

For those products for which ConAgra does not conduct finished product testing for chemical contaminants, the company has quality assurance programs and specifications in place internally and with its suppliers to ensure that the ingredients used in the manufacture of the finished products meet the relevant requirements in this area.

4. For products imported into the United States for handling or processing by any facility operated by your firm, please list the instances when internal or outside laboratory testing was positive for the presence of either a chemical or microbiological contaminant in excess of FDA or State regulatory limits.

ConAgra conducts an extensive amount of testing on products imported into the United States for our food ingredients businesses that are further handled or processed for use in the company's retail products or for sale as finished ingredient products to third parties domestically and abroad. The results of this testing for our finished ingredient products intended for use or sale in the United States are covered in our responses above and the relevant attachment. However, we are still reviewing and compiling the results of our extensive in-process testing for imported products intended for use in the United States. This testing includes analyses for certain microorganisms (e.g., *Salmonella*) and chemical contaminants, including heavy metals and pesticides. The pesticide testing alone can include anywhere from 100 to 400 individual pesticide tests per lot of product, the results of which are only available for manual review by the company at this time. We anticipate being able to provide this additional information by June 12, 2009.

⁷ We do not have access to any aflatoxin test records prior to the closure of our Sylvester, GA facility in February 2007 in connection with our peanut butter recall as the originals of these test result records were provided to FDA in connection with its investigation following the recall.

⁸ Please see footnote #5.

5. For each of the above items, please specify whether FDA was notified, and if not, why not.

For the instances covered in the relevant attachments as to positive test findings for microbial or chemical contamination, to our knowledge FDA was not notified for the products under its jurisdiction as the company in each case was able to isolate, contain and remediate through further processing (for ingredients only) or destroy the potentially impacted product. Therefore, the products were not introduced into commerce for distribution to consumers. For those positive findings that related to USDA-regulated products, as a matter of practice, we did notify the local USDA Inspector-in-Charge (IIC) in the facility. Our USDA-regulated facilities are under continuous USDA inspection so an inspector would likely have been present during production of the potentially impacted product. Again, any potentially affected products were not introduced into commerce. For product recalls, our records do not clearly indicate whether FDA (or USDA) was notified for each recall initiated by the company. However, to the best of our knowledge, ConAgra's historical practice (and our current practice) was to notify FDA or USDA for each Class I or II product recall conducted by the company (i.e., those involving products that may have posed a potential health risk to consumers).

6. Please supply a list of all instances where FDA or any State regulatory authority was denied entrance to any facility, foreign or domestic, or denied access to any records regarding microbiological or chemical testing performed on products processed at the facility. This request encompasses denials of initial requests for entry or any such testing record regardless of whether the plant or its records were to be made available for inspection at a later date.

Upon checking with the appropriate company personnel, to the best of our knowledge, we are not aware of any situation since January 1, 2000 in which ConAgra denied FDA or a State regulatory authority access to any of the company's facilities for a permitted regulatory inspection.

With regard to access to records, there likely have been instances in the past where FDA or a State regulatory authority made a verbal request for records in connection with a plant inspection and was asked by ConAgra's plant personnel (consistent with company policy at the time) to make the request in writing, but did not follow up with a written request, in which case the records were not provided. To the extent any such requests were not submitted in writing, it is not possible to track and keep a record of them. Indeed, this, along with the desire to be fully responsive to any such requests as well as provide the responsive records in a manner that protects them from inappropriate disclosure under the Freedom of Information Act, are the primary reasons why ConAgra historically asked for a written request for the company's information. In that regard, consistent with our historical policy, we would not have refused to provide

FDA or a State regulatory authority with copies of the information verbally requested; rather, we would have simply responded by asking that the request be made in writing.

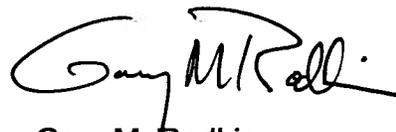
Notwithstanding our prior practice (which to our knowledge is the general practice in the food industry), ConAgra provided the Subcommittee on April 23, 2007 with a letter confirming that the company's current policy for providing FDA (or its delegated State regulatory authority, as the case may be) with access to company information would be formalized to reflect the approach the company followed in connection with its peanut butter recall last year. Specifically, we will suspend any written request requirement in a recall-related situation, provide on-site review of records for routine inspections, and provide copies of routine, non-sensitive information (i.e., non-confidential and non-proprietary information) upon a verbal request from FDA. As indicated in that letter, we will continue to ask for a written request for copies of any sensitive, proprietary company information.

* * *

Please note that the information provided in the attachments to this letter (with the exception of the product recall and food safety alert details in Attachment A) is confidential and proprietary to ConAgra. As such, we ask that it be treated accordingly by the Committee and Subcommittee and not be released publicly without first notifying ConAgra.

Should you have any questions regarding this information, please let us know.

Very truly yours,



Gary M. Rodkin
Chief Executive Officer

Attachments A-F

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

The Honorable John M. Shimkus
Ranking Member
Subcommittee on Oversight and Investigations