

Nestlé USA



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BRAD ALFORD
CHAIRMAN AND
CHIEF EXECUTIVE OFFICER

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June 5, 2008

The Honorable John D. Dingell
Chairman
House Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Bart T. Stupak
Chairman
Subcommittee on Oversight and Investigations
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

Re: Third Response to May 8, 2008 Letter (Domestic)

Dear Chairman Dingell and Chairman Stupak:

This is a follow-up “rolling” response to your letter of May 8, 2008 in which you requested certain information relating to the safety of food sold in the United States. In prior submissions, we provided information responsive to Questions 1-3, 5 and 6 for domestic production. This submission provides information responsive to Question 4 for domestic production. For international production, we will provide initial information responsive to the relevant questions on a rolling basis by no later than June 12, 2008 and supplemental information, if any, by no later than June 19, 2008.¹

Again, I want to assure you on behalf of Nestlé in the United States that we take your inquiry seriously, and that we will cooperate fully with the Committee. For Nestlé USA and its affiliated companies in the United States, consumer confidence and trust in our brands are critical to our business. We are committed to providing consumers with products of the highest quality and that comply with applicable laws and regulations.

As indicated in my letter of May 22, 2008, I am responding on behalf of the following Nestlé companies that currently distribute food products in the United States:

¹ This time frame to respond was agreed to by Committee senior investigative staff.

- Nestlé USA, Inc.² and Nestlé Prepared Foods Company³ and its wholly owned subsidiary Dreyer's Grand Ice Cream, Inc. ("Nestlé USA");
- Nestlé Waters North America Inc.⁴, an affiliate of Nestlé USA;
- Nespresso USA, Inc., an affiliate of Nestlé USA; and
- Nestlé Nutrition USA, an affiliate of Nestlé USA that includes Jenny Craig, Inc.⁵ and Nestlé HealthCare Nutrition, Inc. (formerly Novartis Nutrition Corporation).⁶

As noted previously, as of December 31, 2007, Nestlé HealthCare Nutrition, Inc. and Gerber Products Company began operating Nestlé's medical nutrition and infant formula businesses, respectively, in the United States. We have included information for Nestlé's medical nutrition and infant formula businesses in this response for the relevant time period because those businesses were operated by Nestlé USA from January 1, 2000 – December 31, 2007. Gerber Products Company, currently part of Nestlé Nutrition USA, also received a letter from the Committee and has responded separately on behalf of its baby food business.

We again have not included information from Nestlé Purina PetCare Company that operates Nestlé's pet food business in the United States because it is our understanding that pet food is outside the scope of the Committee's request. In addition, please note that for companies acquired by Nestlé since January 1, 2000, information is provided as of the date of acquisition. Lastly, information relating to companies and facilities divested or closed since January 1, 2000 is also not included.

We have no supplemental information to add to our May 29, 2008 Second Response to Questions 2, 3, 5 and 6 for domestic production. This Third Response provides information for the companies listed above that relates to domestic production and is responsive to Question 4 of your letter.

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.

Please refer to Attachment 4 which is a list of tests for raw materials imported into the United States⁷ for handling or processing by U.S. Nestlé facilities that were found to be positive for the presence of certain microorganisms and chemical contaminants at levels in excess of FDA or

² Nestlé USA, Inc. includes the following business divisions: Beverage, Confections, Baking, Nestlé Professional, Emerging Markets, and PowerBar.

³ Nestlé Prepared Foods Company operates Nestlé's frozen and refrigerated businesses and includes acquisitions of Chef America, Inc. as of May 28, 2002, Dreyer's Grand Ice Cream, Inc. as of January 18, 2006, and Joseph's Pasta Company, LLC as of December 1, 2006.

⁴ Nestlé Waters North America Inc. operates Nestlé's bottled water business.

⁵ Jenny Craig, Inc. was acquired by Nestlé as of July 27, 2006.

⁶ Novartis Nutrition Corporation was acquired by Nestlé as of July 1, 2007.

⁷ "United States" means 50 states and the District of Columbia.

State regulatory limits. The scope of our response includes raw materials imported by, or for us, for possible use in finished products manufactured for distribution in the U.S.⁸

For microbiological testing we have included tests found to be positive for the presence of the specified microorganisms in excess of FDA or State regulatory limits. Please note that our information for E. coli and Listeria is specific for E. coli 0157:H7 and Listeria monocytogenes, respectively, because these are the pathogenic strains subject to FDA limits.

For chemical contaminant testing we have included tests found to be positive for the presence of a chemical contaminant in excess of FDA or State regulatory limits. Please note that for chemical contaminants "in excess of FDA or State regulatory limits", we have not included any information relating to threshold levels set by states that may trigger warnings on product labels because, in our view, these threshold levels relate to disclosure and do not represent limits that are deemed unacceptable by the FDA or States.

The attachments to this letter contain confidential business information and trade secrets of the Nestlé companies named in this letter. It is important that this information remain confidential because it includes non-public internal testing results. We understand that the Committee is not legally bound to afford confidential treatment to this submission, but that it will act responsibly with regard to confidentiality. Because of the sensitive nature of this information, in the event that you intend during the investigation of this matter to disclose the information to third parties or in any public forum, we request that we be given 72 hours notice.

Should the Committee require clarification of information in this, or subsequent, submissions, please contact Louise Hilsen (202-756-2491) or Molly Fogarty (202-756-2489) in the Nestlé Washington office.

Sincerely,



Brad Alford
Chairman & CEO

BA/lh

Enclosure

⁸ Information, if any, relating to finished products imported by Nestlé companies for distribution in the U.S. will be included in our international submission(s).

The Honorable John D. Dingell
The Honorable Bart T. Stupak
June 5, 2008
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cc: The Honorable Joe Barton
Ranking Member
Committee on Energy and Commerce

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