

February 23, 2006

The Honorable Deborah Platt Majoras  
Chairman  
Federal Trade Commission  
600 Pennsylvania Ave., N.W.  
Washington, D.C. 20580

Re: Petition for Initiation of Enforcement Proceedings Against  
Salmon of the Americas for Deceptive Practices  
Under Section 5 of the Federal Trade Commission Act

Dear Chairman Majoras:

In the interest of protecting the public health, the National Environmental Trust hereby petitions the Federal Trade Commission, pursuant to Commission Rule 2.2, to immediately institute enforcement proceedings against Salmon of the Americas (“SOTA”) for disseminating a deceptive advertisement -- targeted at pregnant women -- encouraging the consumption of farm-raised salmon. Over Thanksgiving weekend in 2005, SOTA sponsored an advertisement in the *New York Times* claiming that farmed salmon promotes fetal development and is beneficial to, and safe for, pregnant women and the population in general. Nothing could be further from the truth. Farm-raised salmon has been proven to contain high levels of chemicals that are harmful to developing fetuses and which increase the risk of cancer to the mother.<sup>1</sup> In fact, research clearly shows that farmed salmon have on the order of ten times more concentrations of chemicals that are harmful to fetuses, children and adults than wild Salmon.<sup>2</sup> As if these

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<sup>1</sup> Miram N. Jacobs, et al., *Investigation of Selected Persistent Organic Pollutants in Farmed Atlantic Salmon (Salmo Salar), Salmon Aquaculture Feed, and Fish Oil Components of the Feed*, 36 *Envtl. Sci. & Tech.* 2797, 2803 (2002)(available at [http://www.net.org/documents/salmon/persistent\\_organic\\_pollutants\\_in\\_farmed\\_salmon.pdf](http://www.net.org/documents/salmon/persistent_organic_pollutants_in_farmed_salmon.pdf)); M.D.L. Easton et al., *Preliminary Examination of Contaminant Loadings in Farmed Salmon, Wild Salmon and Commercial Salmon Feed*, 46 *Chemosphere* 1053, 1071-72 (2002)(available at [http://www.net.org/documents/salmon/contaminants\\_in\\_farmed\\_salmon.pdf](http://www.net.org/documents/salmon/contaminants_in_farmed_salmon.pdf)).

<sup>2</sup> Farmed salmon are, on average, ten times more contaminated, with at least different 12 chemical contaminants, than wild salmon. Ronald A. Hites *et al.*, *Global Assessment of Organic Contaminants in Farmed Salmon*, 303 *Science* 226 (2004) (“Hites, *Global Assessment of Organic Contaminants*”)(available at [http://www.net.org/documents/salmon/assessment\\_of\\_chemicals\\_in\\_salmon.pdf](http://www.net.org/documents/salmon/assessment_of_chemicals_in_salmon.pdf)).

false claims were not enough on their own, in order to assuage legitimate concerns pregnant women might have concerning their health and the health of their developing child, and to reinforce its health and safety claims, the ad prominently states that doctors recommend consumption of not just salmon, but specifically farm-raised salmon, for pregnant women (saying it is “just what the doctor ordered”). Physicians do not recommend the consumption of contaminated fish. Available evidence further refutes SOTA’s claims concerning the purity and health benefits of farmed salmon.<sup>3</sup>

The SOTA advertisement constitutes a deceptive trade practice that is prohibited by Section 5 of the Federal Trade Commission Act (“FTC Act”). SOTA simply cannot substantiate its many claims. Accordingly, the Commission should initiate an enforcement proceeding against SOTA and order it to cease and desist disseminating any further advertisements repeating these deceptive and potentially injurious claims. SOTA’s claims represent an immediate threat to consumer health and safety that should be thwarted as quickly as possible. It is irresponsible to market harmful products to anyone, but it is especially repugnant when harmful products are marketed directly to pregnant women.

### FACTUAL BACKGROUND

On Sunday, November 27, 2005, *The New York Times Magazine* included a “special advertising supplement” entitled “Ocean-Farmed Salmon, A Healthy Choice for Our Times and Your Table” (“the SOTA advertisement”).<sup>4</sup> Salmon of the Americas, a

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<sup>3</sup> Jeffrey A. Foran, et al, *Quantitative Analysis of the Benefits and Risks of Consuming Farmed and Wild Salmon*, 135 J. Nutr. 2639, 2641 (2005) (“Foran, Quantitative Analysis”)(available at [http://www.puresalmon.org/pdfs/nutrition\\_article.pdf](http://www.puresalmon.org/pdfs/nutrition_article.pdf)); Hites, *Global Assessment of Organic Contaminants* at 229; Ronald A. Hites, et al., *Global Assessment of Polybrominated Diphenyl Ethers in Farmed and Wild Salmon*, 38 *Envtl. Sci. & Tech.* 4945 (2004)(available at [http://www.net.org/documents/salmon/pbde\\_in\\_farmed\\_salmon.pdf](http://www.net.org/documents/salmon/pbde_in_farmed_salmon.pdf)); Jeffery A. Foran, et al., *Risk-Based Consumption Advice for Farmed Atlantic and Wild Pacific Salmon Contaminated with Dioxins and Dioxin-like Compounds*, 113 *Envtl. Health Perspectives* 552 (2005)(available at [http://www.net.org/documents/salmon/famed\\_salmon\\_health\\_risks.pdf](http://www.net.org/documents/salmon/famed_salmon_health_risks.pdf)); M. Coreen Hamilton, et al., *Lipid Composition and Contaminants in Farmed and Wild Salmon*, 39 *Envtl. Sci. & Tech.* 8622 (2005); Daniel L. Carlson, et al., *Polychlorinated Biphenyls in Salmon and Salmon Feed*, 39 *Envtl. Sci. & Tech.* 7389 (2005)(available at <http://pubs.acs.org/cgi-bin/abstract.cgi/esthag/2005/39/i19/abs/es048023r.html>); and Xiaoyu Huang, et al., *Consumptions Advisories for Salmon Based on Risk of Cancer and Noncancer Health Effects*, *Envtl. Research* (Aug. 11, 2005).

<sup>4</sup> In addition to this advertisement, SOTA has previously sponsored deceptive advertisements in national periodicals promoting the benefits of farmed-salmon for

trade association whose mission is to promote the sale and consumption of farmed salmon, sponsored the six-page advertisement, attached hereto as Exhibit 1.<sup>5</sup> The term “ocean-farmed” (or “farm-raised”) salmon refers to salmon that are hatched in climate-controlled, freshwater hatcheries but, in contrast to wild salmon, are ultimately transferred to sea cages where they develop until they are ready for market.<sup>6</sup>

While the SOTA advertisement makes claims concerning the health effects of farmed salmon for the general population, it includes specific claims relating to pregnant women and fetal development. In particular, on the third page of the supplement, the text “Ocean-Farmed Salmon, just what the doctor ordered” is over-laid, in large print, on a picture of a pregnant woman. The next line of text under the graphic states, “Paula’s doctor knows the value of ocean farmed salmon in everyone’s diet and how important it is for her now that she is pregnant.” Below that text and picture is a series of claims concerning the health effects of farmed salmon, including:

- “Studies show the high levels of omega-3 fatty acids in ocean-farmed salmon help fetal development.” “Omega 3s will continue to help her baby’s healthy development because they are passed along in breast milk.”
- “No mercury concerns with ocean-farmed salmon.”
- “Raised in a controlled environment and tracked from the hatchery to the store. Your assurance of quality and purity.”

The text on this page goes on to note that “[f]resh, wholesome ocean-farmed salmon is available year-round,” and refers to farmed salmon as a “new wave of good, healthy eating.” The advertisement concludes with the statement, in bold print, “Good for mom. Good for the rest of the family.”

The remainder of the six-page advertisement contains additional, unsupportable claims about the benefits of farmed salmon. Although this petition focuses on the

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overall health. On October 13, 2005, SOTA ran half-page advertisements in *USA Today*, the *New York Times*, the *Boston Globe*, and the *San Francisco Chronicle*. Entitled, “Ocean Farmed Salmon: Good for you. Good for the Oceans.”, these advertisements encouraged consumers to eat farmed salmon for its superior health benefits. “[I]f you are looking to fill the recommendation for omega-3, tasty farm-raised salmon is the best way to get enough of it in just a few meals a month.” See Exhibit 2.

<sup>5</sup> A list of SOTA’s current members, with links to their respective company websites, can be found at [www.salmonoftheamericas.com/links.html](http://www.salmonoftheamericas.com/links.html).

<sup>6</sup> See [www.puresalmon.org/pdfs/industry\\_factsheet.pdf](http://www.puresalmon.org/pdfs/industry_factsheet.pdf).

particularly egregious claims contained on the third page of the ad, there are ample examples of deceptive and unsupported claims in the rest of the advertisement as well.

## JURISDICTION

Section 5 of the FTC Act empowers the Commission to prevent “persons, partnerships, or corporations” from using “unfair or deceptive acts or practices in or affecting commerce.”<sup>7</sup> The FTC Act defines a “corporation[]” to include any entity that is “organized to carry on business for its own profit” or that carries on business for the profit “of its members.”<sup>8</sup> The Supreme Court has ruled that these definitions encompass not-for-profit organizations whose activities confer economic benefit on their members, such as through lobbying, marketing, and conducting public relations for the benefit of its members’ interests.<sup>9</sup> Though organized as a nonprofit organization, SOTA provides these and other services to its members, as demonstrated by its dissemination of the advertisement at issue here. Accordingly, SOTA is subject to the Commission’s jurisdiction.

Not only does the Commission unquestionably have jurisdiction over SOTA, but SOTA’s advertisement contains precisely the type of deceptive claims over which the Commission has historically exercised its authority. The Commission has a long history of pursuing deceptive food advertising.<sup>10</sup> The Commission states that it “pays closest attention” to advertisements that “make claims about health” or “that make claims that consumers would have trouble evaluating for themselves.”<sup>11</sup> In deciding on what cases to pursue, the Commission notes that it concentrates on cases that involve “national advertising” and that “could affect consumers’ health or safety,” including “deceptive health claims for foods.”<sup>12</sup>

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<sup>7</sup> 15 U.S.C. § 45(a)(2). In addition, sections 12 and 15 of the FTC Act prohibit “any false advertisement” that is “misleading in a material respect.” 15 U.S.C. §§ 52, 55.

<sup>8</sup> 15 U.S.C. § 44.

<sup>9</sup> See *Cal. Dental Ass’n v. FTC*, 526 U.S. 756, 766-69 (1999); see also, e.g., *FTC v. Nat’l Comm’n on Egg Nutrition*, 517 F.2d 485 (7th Cir. 1975) (upholding Commission determination that not-for-profit corporation organized to promote the interests of the egg industry was within the Commission’s jurisdiction).

<sup>10</sup> Enforcement Policy Statement on Food Advertising, at 3 & nn.26, 32, 36, 50, 51, 74, 75, 81, 87, 96 (May 1994)(available at <http://www.ftc.gov/bcp/policystmt/ad-food.htm>)(“Food Advertising Policy Statement”).

<sup>11</sup> “Frequently Asked Advertising Questions: A Guide for Small Business,” (available at <http://www.ftc.gov/bcp/conline/pubs/buspubs/ad-faqs.htm>).

<sup>12</sup> *Id.*

The SOTA advertisement for farmed salmon presents exactly the type of irresponsible health-claims advertising that the Commission is committed to challenge. As discussed below, SOTA's advertisement promises health benefits from the frequent intake of farmed salmon, notwithstanding both the existence of abundant evidence that farmed salmon may actually be harmful to developing fetuses and the dearth of evidence that it provides any unique health benefits to pregnant women. As such, SOTA's advertisement prevents consumers from making informed purchasing decisions and, in fact, induces them to make decisions that may affirmatively harm their own health and that of their families.

### LEGAL ANALYSIS

The Commission has stated that it "will find deception if there is a representation, omission or practice that is likely to mislead the consumer acting reasonably in the circumstances, to the consumer's detriment."<sup>13</sup> The Commission employs a three-step analysis in making such determinations.

*First*, there must be a "representation" that "is likely to mislead the consumer."<sup>14</sup> The Commission has explained that this inquiry is indifferent to whether the advertisement "causes actual deceptions"; rather, "[t]he issue is whether the act or practice is *likely* to mislead."<sup>15</sup>

*Second*, the Commission examines the advertisement "from the perspective of a consumer acting reasonably in the circumstances."<sup>16</sup> In determining the reaction of a reasonable consumer, the Commission takes into account the totality of the advertisement, including such factors as the clarity of the representation in question, the conspicuousness of any qualifying information, and the importance of any omitted information.<sup>17</sup> The Commission has stated that "[i]n evaluating advertising representations, we are required to look at the complete advertisement and formulate our

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<sup>13</sup> FTC Policy Statement on Deception at 2, Appended to Cliffdale Assocs., Inc., 103 F.T.C. 110, 174 (1984) (available at <http://www.ftc.gov/bcp/policystmt/ad-decept.htm>) ("FTC Policy Statement on Deception"); *see also, e.g., Novartis Corp. v. FTC*, 223 F.3d 783, 786 (D.C. Cir. 2000).

<sup>14</sup> FTC Policy Statement on Deception at 1.

<sup>15</sup> *Id.* at 2 (emphasis added).

<sup>16</sup> *Id.* at 1.

<sup>17</sup> *Id.* at 6.

opinions on them on the basis of the net general impression conveyed by them and not on isolated excerpts.”<sup>18</sup>

*Third*, the claim must be “material.”<sup>19</sup> A material claim “involves information that is important to consumers and, hence, likely to affect their choice of, or conduct regarding, a product.”<sup>20</sup> As the Commission has explained, “Injury exists if consumers would have chosen differently but for the deception. If different choices are likely, the claim is material, and injury is likely as well. Thus, injury and materiality are different names for the same concept.”<sup>21</sup>

As discussed below, the SOTA advertisement includes claims that, under the above analysis, are deceptive and thus prohibited under the FTC Act. For these claims, the first and third prongs of the deception analysis are readily satisfied. First, there can be no question that the claims were in fact made. Further, these claims relate to health or safety, which the Commission has ruled are presumptively material.<sup>22</sup> Accordingly, the following discussion focuses on the second prong of the deception analysis -- whether the claim would be considered deceptive from the perspective of the reasonable consumer.

Under the Commission’s guidance, “It is deceptive . . . to make an express or implied nutrition or health benefit claim for a food unless, at the time the claim is made, the advertiser possesses and relied upon a reasonable basis substantiating the claim.”<sup>23</sup>

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<sup>18</sup> *Id.* at 4-5 (quoting *Standard Oil of Calif.*, 84 F.T.C. 1401, 1471 (1974), *aff’d as modified*, 577 F.2d 653 (9th Cir. 1978), *reissued*, 96 F.T.C. 380 (1980)).

<sup>19</sup> *Id.* at 2.

<sup>20</sup> *Novartis Corp. at 786*; *see also* FTC Policy Statement on Deception at 2 (“The basic question is whether the act or practice is likely to affect the consumer’s conduct or decision with regard to a product or service.”).

<sup>21</sup> FTC Policy Statement on Deception at 7.

<sup>22</sup> *See In re Novartis Corp.*, 127 F.T.C. 580, 667 (1999) (stating that claims that “involve an important health claim” are “presumptively material”) (citing *Kraft Inc.*, 114 F.T.C. 40, 135-36 (1991)); *see also* Food Advertising Policy Statement at 3 & n.24 (citing cases).

<sup>23</sup> Food Advertising Policy Statement at 3; *see also* FTC Policy Statement Regarding Advertising Substantiation at 1, Appended to *Thompson Med. Co.*, 104 F.T.C. 648, 839 (1984)(available at <http://www.ftc.gov/bcp/guides/ad3subst.htm>)(“FTC Policy Statement on Substantiation”) (requiring that an advertiser “possess and rely upon a reasonable basis” for any objective claims it makes concerning a product, whether explicitly or by implication, and stating that a failure to do so “constitutes an unfair and deceptive act or practice”).

Regarding health claims, this requires that the advertiser possess “competent and reliable scientific evidence sufficient to support the claim.”<sup>24</sup> Such evidence must consist of “tests, analyses, research, studies or other evidence conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the relevant profession to yield accurate and reliable results.”<sup>25</sup> As explained below, SOTA cannot satisfy these standards with respect to its claims related to the health benefits of farmed salmon.

### **1. Consumption of Farmed Salmon Is Not Beneficial to Fetal Development.**

The SOTA advertisement contains specific representations concerning the purported health effects of farmed salmon for pregnant women and developing fetuses. SOTA cannot substantiate its specific -- and sweeping -- claim that the consumption of farmed salmon “help[s] fetal development” because there is simply no reliable evidence or studies that support that conclusion. Despite its specious claim that “[s]tudies show” that high intake of the omega-3 fatty acids contained in farmed salmon is beneficial for fetal development, the omega-3 fatty acids in farmed salmon provide no unique benefit that would not be supplied by omega-3 fatty acids from another source.<sup>26</sup> Rather, as

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<sup>24</sup> Food Advertising Policy Statement at 3; *see also* FTC Policy Statement on Substantiation at 1 (stating that for express claims -- introduced by language like “studies show” -- “the advertiser must possess the amount and type of substantiation the ad actually communicates to consumers”).

<sup>25</sup> Food Advertising Policy Statement at 3-4.

<sup>26</sup> Petitioners are aware that some authors have suggested that the consumption of *uncontaminated* fish during pregnancy may benefit development, but fall short of concluding that omega-3 fatty acids or fish intake does, in fact, benefit fetal development. J. L. Daniels, M. P. Longnecker, A.S. Rowland, J. Golding, *Fish Intake During Pregnancy and Early Cognitive Development of Offspring*, 15 *Epidemiology* 394, 401 (2004); Hites, *Global Assessment of Organic Contaminants* at 226. Indeed, no available scientific research offers support for the proposition that the supposed connection between omega-3 fatty acid consumption and fetal development would outweigh the well-documented harmful effects of the PCBs found in ocean-farmed salmon on fetal cognitive development.

Some articles relating to fetal cognitive development suggest that a positive connection may exist between a pregnant woman’s consumption of omega-3 fatty acids and her child’s IQ. Notably, these articles stop short of concluding that there *is* such a connection, and instead merely posit that one *might* exist. These articles cannot constitute a reasonable basis for SOTA’s assertion that the omega-3 fatty acids found in ocean-farmed salmon *in particular* help fetal development. Moreover, other studies have concluded that no relationship exists between cognitive development and consumption of

discussed below, existing evidence actually shows that farmed salmon may harm fetal development, because of the high levels of contaminants in farmed salmon.

## 2. Farmed Salmon Contains Contaminants and Its Consumption Is Harmful for a Developing Fetus.

Contrary to SOTA's claims that farmed salmon is "healthy eating" for pregnant women and beneficial to their unborn children, there is compelling evidence that the consumption of farmed salmon has particularly harmful effects for a developing fetus. This is because farmed salmon is contaminated with "PCBs" -- or polychlorinated biphenyls -- and other toxic compounds to a far greater degree than wild salmon,<sup>27</sup> and far more than other farm-raised animals intended for human consumption.<sup>28</sup> One study found a "significantly higher" concentration of fourteen different contaminants in farmed salmon as compared to wild salmon, and determined that "[e]ven the least contaminated farmed salmon" still had "significantly higher contaminant loads" of PCBs, dioxins, and other compounds than wild salmon.<sup>29</sup> These findings, the study continued, "suggest that consumption of farmed salmon may result in exposure to a variety of persistent bioaccumulative contaminants with the potential for an elevation in attendant health risks."<sup>30</sup>

Further, a number of studies have found that prenatal exposure to contaminants such as PCBs is especially *harmful* to unborn children. One study noted that children who were exposed to PCBs *in utero* "were delivered with more medical problems, including low birth weight, pigmentation of the gums, nails, and skins, conjunctivitis, natal teeth, and delay of developmental milestones."<sup>31</sup> The same study found that such children scored "significantly lower" in all aspects of intelligence testing than their siblings who had not been exposed prenatally to PCBs, and concluded that this "difference in IQ scores is . . . best explained by prenatal exposure to PCBs and related

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omega-3 fatty acids. See e.g. A. Ghys et al, *Red Blood Cell and Plasma Phospholipid Arachidonic and Docosahexaenoic Acid Levels at Birth and Cognitive Development at 4 Years of Age*, 69 *Early Hum. Dev.* 83, 88 (2002).

<sup>27</sup> See notes 1-3 *infra*.

<sup>28</sup> See Jacobs, *Investigation of Selected Persistent Organic Pollutants* at 2803.

<sup>29</sup> Hites, *Global Assessment of Organic Contaminants*, at 227.

<sup>30</sup> *Id.* at 229.

<sup>31</sup> Yung-Cheng Joseph Chen *et al.*, *Cognitive Development of Children Prenatally Exposed to Polychlorinated Biphenyls (Yu-Cheng Children) and Their Siblings*, J. Formosan Med. Assoc. 704 (1992).

compounds.”<sup>32</sup> Another study confirmed that prenatal exposure to PCBs “is associated with poorer performance on cognitive tests,” and further determined that “the developing fetal brain is particularly sensitive to these compounds.”<sup>33</sup> And one study identified “behavioral differences” between children born to women who consumed high amounts of contaminated fish and other children, finding in particular that the former group “demonstrated a greater number of abnormal reflexes and less mature autonomic response (e.g., more startles and tremors).”<sup>34</sup>

In light of such evidence, SOTA could not possess a reasonable basis supporting its claim that farmed salmon is safe for pregnant women and their unborn children. In fact, contrary to the assertions in its advertisement, SOTA’s website currently posts an article quoting a Harvard Medical School Professor -- who SOTA asserts has credentials to comment on these issues -- stating that it makes sense for pregnant women to be cautious: “For certain people *like pregnant women*, for a little time in their lives they may need to be a bit more conservative.”<sup>35</sup> Further, in light of the overwhelming evidence of the harmful effects of consumption of PCB-contaminated fish on unborn children, the SOTA advertisement is deceptive because it promotes frequent consumption of farmed salmon by pregnant women without disclosing the material fact that such consumption may actually harm fetal development.

### 3. Farmed Salmon Is Neither Safe Nor Pure.

The SOTA advertisement’s claims are not limited to the effects of the consumption of farmed salmon on pregnant women and developing fetuses. Rather, as noted, the advertisement states that “wholesome ocean-farmed salmon” is “[g]ood for the

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<sup>32</sup> *Id.* at 705; *id.* at 706 (“Our data indicate that prenatal exposure to PCBs and related compounds is associated with chronic adverse cognitive effects in children up to elementary school age.”); *see also id.* at Table 1 (noting that that differential between the scores of children who were exposed to PCBs and their siblings who were not was 6.8-16.1 points on the performance intelligence quotient, 10.2-18.4 points on the verbal intelligence quotient, and 8.9-18.5 points on the full scale intelligence quotient).

<sup>33</sup> Svati Patandin *et al.*, *Effects of Environmental Exposure to Polychlorinated Biphenyls and Dioxins on Cognitive Abilities in Dutch Children at 42 Months of Age*, 134 *J. Pediatrics* 33, 38 (1999).

<sup>34</sup> Edward Lonky *et al.*, *Neonatal Behavioral Assessment Scale Performance in Humans Influenced by Maternal Consumption of Environmentally Contaminated Lake Ontario Fish*, 22 *J. Great Lakes Res.* 198, 210 (1996).

<sup>35</sup> Tracy Hampton, *Farmed, Wild Salmon Pollutants Probed*, *The Journal of the American Medical Association*, February 25, 2004, [http://www.salmonoftheamericas.com/topic\\_pcbs\\_jama.html](http://www.salmonoftheamericas.com/topic_pcbs_jama.html) (emphasis added).

rest of the family.” It also includes a number of representations concerning the alleged purity of farmed salmon by stating that there are “[n]o mercury concerns with ocean-farmed salmon” and that farmed salmon is “[r]aised in a controlled environment and tracked from the hatchery to the store. Your assurance of quality and purity.” Clearly, the net impression of such representations to the reasonable consumer is that farmed salmon is free of contaminants and that the unlimited consumption poses no risk of harm. This is simply untrue.

As noted above, farmed salmon is contaminated with PCBs and other toxic compounds to a far greater degree than wild salmon.<sup>36</sup> Independent peer-reviewed research has found that in order to meet the U.S. Environmental Protection Agency’s fish consumption advisories, consumers should not eat more than one meal of farmed salmon per month.<sup>37</sup> Clearly, SOTA’s claims that farmed salmon is pure, wholesome”, and safe for frequent consumption are completely false.

In addition, SOTA’s claim that farmed salmon is continuously monitored for exposure to such contaminants is misleading. Only minute samples of farmed salmon are ever tested. In fact, the United States Food and Drug Administration considered testing farmed salmon for antibiotics, pesticides and possible carcinogens, but those plans have not materialized.<sup>38</sup>

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<sup>36</sup> See Miriam N. Jacobs *et al.*, *Investigation of Selected Persistent Organic Pollutants* at 2803.

<sup>37</sup> Hites, *Global Assessment of Organic Contaminants* at 228. One of the authors of the study provides the following summary of the findings at <http://www.Albany.edu/ihe/salmonstudy>.

The study found that concentrations of several contaminants associated with serious health risks from neurological effects to cancer are significantly higher in farmed salmon than in wild salmon.

The authors concluded that concentrations of several cancer-causing substances are high enough to suggest that consumers should consider restricting their consumption of farmed salmon. In most cases, consumption of more than one meal of farmed salmon per month could pose unacceptable cancer risks according to U.S. Environmental Protection Agency (EPA) methods for calculating fish consumption advisories.

<sup>38</sup> See *Farmed Salmon and Human Health Factsheet* at 1 (citing “Seafood: Farmed vs wild,” *Consumer Reports*, Jan. 2005)(available at [http://www.puresalmon.org/pdfs/human\\_health\\_factsheet.pdf](http://www.puresalmon.org/pdfs/human_health_factsheet.pdf)).

**4. Consumption of Farmed Salmon Offers No Unique Health Benefits.**

In addition to these claims of safety, the SOTA advertisement claims that unlimited farmed salmon consumption has affirmative health benefits for everyone because it contains high levels of omega-3 fatty acids. But again, SOTA cannot substantiate this claim. There is no evidence that farmed salmon offers any particular health benefits compared to other foods that also contain omega-3 fatty acids. Indeed, the level of dangerous contaminants found in farmed salmon suggests that other sources of omega-3 fatty acids -- such as wild salmon -- are far more beneficial to health than farmed salmon because they convey the same benefit of omega-3 fatty acids but convey lower levels of contaminants. As one study concludes,

women of child-bearing age, pregnant women, and nursing mothers...concerned with health impairments such as reduction in IQ and other cognitive and behavioral effects, can minimize contaminant exposure by choosing the least contaminated wild salmon or by selecting other sources of (n-3) fatty acids.<sup>39</sup>

**CONCLUSION**

For the reasons set forth above, the Commission should immediately file a complaint against Salmon of the Americas under Section 5 of the FTC Act, for deceptive practices concerning the health effects of ocean-farmed salmon.

Respectfully submitted,

Philip E. Clapp  
President

cc: Donald Clark, Secretary

Lydia Parnes, Director, Bureau of Consumer Protection

Lee Peeler, Deputy Director, Bureau of Consumer Protection

Mary Engle, Associate Director for Advertising Practices, Bureau of Consumer Protection

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<sup>39</sup> Foran, *Quantitative Analysis*, p. 2642.