

Farmtrac issues linger; industry finance assistance sought from SBA



This "Action Alert" icon will be displayed whenever action steps exist to help your voice be heard on topical issues. Dealers can expect to see alerts in all forms of NAEDA communications.

Manufacturer Relations		
ISSUE	ACTION SUMMARY	NAEDA'S POSITION
Farmtrac	NAEDA and its legal counsel continue to work with dealers to resolve several outstanding issues related to product inventory and credit payments. NAEDA has visited with Textron Financial, formerly a key finance provider to many Farmtrac dealers, and another meeting was scheduled prior to publication time.	While this issue is specific to a particular group of dealers, the involvement of NAEDA, its affiliated associations and counsel in the Farmtrac matter is a consistent course of action. The way dealers are treated by any company, financial companies or others, is an association concern. Resolving lingering issues is a priority to ensure the success of dealers and protect the integrity of the marketplace.
Manufacturer Meetings	The association's Industry Relations Task Force (IRTF) recently met with AGCO, McCormick and Deere to discuss matters submitted by dealers throughout North America. Current policies and organizational issues were at the core of meeting agendas, which included discussions about consolidation and succession criteria.	NAEDA's board, which develops and establishes association policy, supports IRTF meetings with manufacturers. During its spring board meeting, the board requested "written" succession criteria to clarify issues raised by dealers.
ECHO/ Shindaiwa	In June, NAEDA wrote to top management at ECHO and Shindaiwa to express concerns about the merger of the two companies and how it could affect dealerships located in the same geographical areas and represent both brands. Chief among the concerns is the price competition that may develop between dealers where there previously was none.	Too much competition is harmful to dealer profitability and ultimately drives down margins. It can also have a negative effect on the ability of dealers to fully represent the value and products of a given manufacturer. The response to NAEDA suggests the companies don't view overlapping within a territory as an issue. NAEDA remains concerned about any strategy where there seems to be a hesitancy to limit how many dealers may be located within a market area.
CNH Parts & Service	CNH Parts & Service recently announced major initiatives to improve parts availability to dealers and boost service to customers. The announcements, made in late July, include a new joint venture to expand the availability of re-manufactured engines and components; the expansion of a network of dealers to provide service to broader categories of Fiat-powered equipment; and the establishment of a new parts distribution center in Portland, Ore.	By all accounts, these actions, coupled with other improvements, are the result of recommendations made by dealers who are members of the CNH Parts Support Advisory Board. Noted one dealer, CNH is listening and responding to the needs of dealers and customer demands.
Government Relations		
ISSUE	ACTION SUMMARY	NAEDA'S POSITION
Industry Finance	NAEDA is one of a number of major trade associations working with the Small Business Administration (SBA) to improve access to capital for businesses involved in the equipment distribution channel. NAEDA and the other associations have called on the agency to tailor SBA loan underwriting to better serve the equipment industry, change the perception that SBA is biased against non-titled vehicles, and improve access to capital for captive finance companies.	The associations are working in response to a SBA pilot floor plan finance program for dealers. Announced earlier this year, research into the pilot program revealed limitations that generally exclude access by the equipment industry. The need for floor plan financing became more acute when Textron Financial exited the wholesale finance market at the end of last year.
Global Warming	NAEDA is closely watching the movement of a global warming bill that narrowly passed the House before heading to the Senate. According to a memo published by the Heritage Foundation, the Waxman-Markey sponsored cap and trade bill would hit homeowners, small businesses and farmers the hardest.	Since farming is an energy-dependent industry, NAEDA is concerned about the increased costs farmers could face if the Waxman-Markey bill were passed into law. To review the article, visit www.heritage.org/research/energyandenvironment/wm2553.cfm .
Ethanol Waiver	NAEDA recently submitted comments to the EPA supporting the waiver request of ethanol producers under Section 211(F) (4) of the Clean Air Act. The waiver request would allow increasing the percentage of ethanol allowed in motor fuels to 15 percent from the current level of 10 percent.	The comments are consistent with NAEDA policy, which encourages the development of alternative fuels, renewable fuels and next-generation technologies for wind, biomass, coal and nuclear fuels. However, some outdoor power equipment dealers have expressed concern about increasing the ethanol waiver and the problems it could cause in the performance of two-cycle engines. This will be a topic of discussion for members of NAEDA's OPE Dealer Council.
Shareholder Bill of Rights	The U.S. Chamber of Commerce is opposing Shareholder Bill of Rights legislation introduced by Sen. Charles Schumer (D-NY). NAEDA participated in a recent conference call in which the chamber outlined its concerns about the legislation. Under the proposal, the Security and Exchange Commission would be authorized to significantly change corporate governance laws and regulations. The bill would override state corporate laws by mandating shareholder access, separating CEO and chairman roles, imposing say on pay votes, and creating separate risk management committees.	As it stands, the proposal seeks to create redress for the financial crisis on all companies and would have a negative effect on small and mid-size businesses. Although NAEDA does not have a policy against the legislation, the association opposes the bill on the premise it would merely add more government mandates for dealers and public companies.

A companion reference is regularly updated in the Dealer Advocacy Center at www.naeda.com.

NAEDA notes

ALERT: FACTA enforcement delayed again Deadline pushed back to November

To assist small businesses and other entities, the Federal Trade Commission will redouble its efforts to educate them about compliance with the "Red Flags" Rule and ease compliance by providing additional resources and guidance to clarify whether businesses are covered by the rule and what they must do to comply. To give creditors and financial institutions more time to review this guidance and develop and implement written Identity Theft Prevention Programs, the FTC will further delay enforcement of the rule until November 1, 2009.

The Red Flags Rule is an anti-fraud regulation, requiring "creditors" and "financial institutions" with covered accounts to implement programs to identify, detect and respond to the warning signs, or "red flags," that could indicate identity theft. The financial regulatory agencies, including the FTC, developed the rule, which was mandated by the Fair and Accurate Credit Transactions Act of 2003 (FACTA). FACTA's definition of "creditor" includes any entity that regularly extends or renews credit – or arranges for others to do so – and includes all entities that regularly permit deferred payments for goods or services.

Accepting credit cards as a form of payment does not, by itself, make an entity a creditor. "Financial institutions" include entities that offer accounts that enable consumers to write checks or make payments to third parties through other means, such as other negotiable instruments or telephone transfers.

The FTC's Red Flags Web site, www.ftc.gov/redflagsrule, offers resources to help entities determine if they are covered and, if they are, how to comply with the rule. It includes an online compliance template that enables companies to design their own identity theft prevention program through an easy-to-do form, as well as articles directed to specific businesses and industries, guidance manuals, and Frequently Asked Questions to help companies navigate the rule.

NAEDA reminds dealers that FACTA is law and only the enforcement deadline of the Red Flags Rule is being extended to give businesses and financial institutions more time to meet compliance guidelines.

Dealers who have not developed a compliance plan are encouraged to do so. To get started, review and download a NAEDA-prepared summary and sample plan by logging onto www.naeda.com.