Opening Remarks of Chairman Deborah Platt Majoras[1]

Estimating the Price Effects of Mergers and Concentration in the Petroleum Industry: An Evaluation of Recent Learning

January 14, 2005 – 9:00 AM

Washington, DC

Good morning, and welcome to the Federal Trade Commission's conference on estimating the price effects of mergers and concentration in the petroleum industry. I would like to thank our distinguished panelists for traveling from both coasts, and points in-between, to share their insights and expertise. And thanks to those in the audience for joining us; we appreciate your interest.

As aptly stated in an FTC Bureau of Economics ("BE") report on oil industry mergers, released last August, "[t]he petroleum industry occupies an unusually prominent place in the American economy."[2] Domestic demand for gasoline and other refined petroleum products generally has increased year after year since the mid-1980's, and changes in the price and availability of gasoline directly affect consumers. Indeed, there may be no other product for which consumers are so acutely aware of price fluctuation, as ubiquitous retail stations loudly announce the current price on large signs visible to all who drive by. In addition, of course, the price and other supply conditions for petroleum products profoundly impact businesses in many

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[1] The views expressed in this speech are my own. They do not necessarily represent the views of the Federal Trade Commission or any other individual Commissioner.

[2] Federal Trade Commission Bureau of Economics, *The Petroleum Industry: Mergers, Structural Change, and Antitrust Enforcement* 1 (August 2004), *at* http://www.ftc.gov/os/2004/08/040813mergersinpetrolberpt.pdf.

sectors of the economy, as illustrated by the fact that announcements regarding the price of crude oil can rapidly move markets. As the BE Oil Mergers Report observed, "Perhaps no other industry's performance is so visibly and deeply felt."[3]

The Federal Trade Commission is, of course, the federal antitrust agency primarily responsible for addressing competition issues in the petroleum industry. The Commission has devoted substantial resources to scrutinizing market activity in this industry and, when warranted, to bringing law enforcement actions. I am committed to continuing the Commission's vigilance in this critical market sector. We will apply careful antitrust scrutiny to market behavior, including mergers, and will not hesitate to bring enforcement actions as needed.

Since becoming Chairman in August of last year, I have reviewed the FTC's past and current work in this area and focused on implementing a multifaceted agenda that synthesizes new and ongoing projects and uses all of the tools at the FTC's disposal: law enforcement, education, and research and development. Our work includes vigorous merger review, close consideration of refinery closings, careful scrutiny of potentially anticompetitive acts, and review of gasoline pricing anomalies detected by the agency's ongoing monitoring project. We also are focused on disseminating relevant information about market conditions and FTC actions in the industry (that may, consistent with confidentiality rules, be released publicly) for the benefit of consumers and others, and have, for example, established an oil and gasoline web page

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[3] *Id.* at 1.

for that purpose.[4] In addition, on December 15, I appointed FTC staff attorney, John Seesel, to fill the newly created position of Associate General Counsel for Energy at the Commission.[5] Highly respected both within and outside the agency, John will play a key role in reviewing and making recommendations on the Commission's energy-related work, including investigations and cases, legislative initiatives, advocacy comments, and studies and reports. John is here today, and although some of you know him already from his dedicated service to the Commission in other roles, I encourage you to welcome him to his new position.

The Commission takes seriously the role that Congress assigned in the development of sound antitrust and consumer protection policy. The agency's investments in research inform the development of competition policy, facilitate better case selection, and provide important economic support to aid the agency in its enforcement initiatives. That brings me to today's conference.

As you know, over the past few decades, the petroleum industry has undergone extensive structural change, including consummation of several large mergers in the late 1990s. The FTC devoted substantial resources to investigating those mergers and, in numerous instances, to challenging and modifying specific transactions. Last May, the Government Accountability Office ("GAO") released a report that sought to analyze how eight petroleum industry mergers or joint ventures consummated during the mid- to late 1990s affected gasoline prices. The GAO

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[4] The FTC's Oil & Gas Industry Initiatives Web site is available at http://www.ftc.gov/ftc/oilgas/index.html.

[5] *See* FTC Press Release, *Chairman Majoras Appoints FTC Energy Counsel* (December 15, 2004), *at* http://www.ftc.gov/opa/2004/12/ec.htm.

reported that six of the eight transactions it examined caused gasoline prices to rise, while the other two caused prices to fall. The GAO report has led some observers to call for changes in the way the FTC reviews petroleum mergers.

Of course, before any econometric analysis can be used as the basis for making decisions, its methodology and results must be carefully reviewed. Such analysis must withstand vigorous cross-examination, as U.S. consumers, our courts, and the Commission itself rightly demand nothing less. The wrong enforcement decision, in either direction, can lead to increased prices, decreased output, or inferior service.

Today's conference provides a public forum for outside economic experts to discuss the conceptual and methodological issues involved in estimating the price effects of petroleum industry mergers and concentration changes. Our panel of experts will explore these issues broadly and within the context of two reports: the May 2004 GAO study and a March 2004 BE case study of the effects of the Marathon/Ashland joint venture. I look forward to hearing our expert panel's assessments.

Before concluding, I would like to acknowledge the staff of the FTC Bureau of Economics who worked so diligently to plan this conference:

- Director Luke Froeb,
- Senior Economic Advisor Liz Callison,
- Assistant Director Lou Silvia,
- Deputy Assistant Director Chris Taylor, and
- Deputy Assistant Director Dan Hosken.

And, from my own staff, I thank attorney advisor, Sara Razi.

Finally, I would like to thank Comptroller General David Walker and GAO Chief Economist Scott Farrow for their constructive feedback on our conference agenda, and the GAO staff for participating in very helpful data and technical exchanges with their FTC counterparts.

It is now my pleasure to turn the podium over to BE Director Luke Froeb, who will provide more detail on what to expect from today's discussions. Thank you.