

Prepared Statement of the Federal Trade Commission

Solutions to Competitive Problems in the Oil Industry

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Commission prohibits "unfair methods of competition" and "unfair or deceptive acts or practices." The Commission shares its expertise in competition and consumer protection matters by providing advice and guidance to states and other federal regulatory agencies.⁽⁶⁾

Consumer protection is the goal of antitrust enforcement across all industries; its importance is particularly clear in the energy industry, where even small price increases can have a direct and lasting impact on the entire economy. Towards that end, the Commission has expended a substantial part of its resources in recent years enforcing antitrust laws in energy industries. In fiscal years 1999 and 2000 to date, the Bureau of Competition spent 115 work years on investigations in energy industries, almost one-third of its total enforcement budget. So far in fiscal 2000, the Bureau has spent over 35 work years on energy related matters.

II. Causes of the Current Price Spike

The recent spike in gas and heating oil prices appears to be caused by several factors, all related to the imbalance of supply and demand. During 1998 and 1999, OPEC countries and several other non-OPEC exporting countries curtailed the supply of crude oil available to the world market. During the same time period, a number of Asian economies began to recover from a regional recession, causing increased demand for petroleum products. The result was that worldwide consumption exceeded production, and inventories were drawn down. The price increase in crude oil caused by the excess of

among commercially important global industries in that a large share of the reserves of the base commodity is owned and regulated by sovereign nation-states. These states regard crude oil as their primary (and perhaps only) natural resource and tightly control how that resource is exploited. This fact significantly complicates the application of competitive principles to the global oil industry. Sovereign nations typically enjoy several jurisdictional and substantive defenses to the antitrust laws that are not available to domestic or foreign private companies.⁽¹³⁾

A group of nations holding the largest oil reserves have formed OPEC for purposes of making joint output decisions. The efficiency of the cartel has varied over time. However, OPEC's members recently agreed among themselves to reduce output to a level far short of the amount that would be pumped in a freely competitive market. So far, this agreement has been maintained by those countries. The result is oil prices that substantially exceed the marginal cost of supplying oil. The same activity undertaken by a group of commercial firms would constitute a *per se* violation of the U.S. antitrust laws.

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functioning of the national economy are a matter of serious concern. The Commission has devoted substantial resources to preserving competition in the oil industry during this period of consolidation through aggressive merger enforcement and nonmerger investigations. The Commission remains committed to taking all appropriate action to challenge private conduct that violates the antitrust laws. But, as we have noted above, antitrust enforcement against OPEC and its members involves considerably more complex questions than comparable actions against private companies - questions that ultimately would be resolved by other agencies in the executive branch.

Endnotes:

1. This written statement represents the views of the Federal Trade Commission. My oral presentation and response to questions are my own, and do not necessarily represent the views of the Commission or any individual Commissioner.

2. Energy Information Administration, Heating Fuels and Diesel Update, March 2, 2000, at www.eia.doe.gov See also Statement of John Cook, Petroleum Division Director, Energy Information Administration, Department of Energy, Before the Committee on Energy and Natural Resources, United States Senate (Feb. 24, 2000).

3. 15 U.S.C. § § 41-58.

4. 154 U.S.C. § 581247Tc 0 Tw 12 0 0 12 183.84 424.8 Tm [(1)-3ET EMC /P <</MCID 10 >>BD1 q 88.56 77.88 435 642.

