

The Federal Trade Commission has been studying anticompetitive practices in the petroleum industry literally since our creation in 1914,<sup>1</sup> and this Report offers valuable insights into factors and practices that affect the price of gasoline. Commission staff should be commended for producing a thorough analysis that deepens our understanding of the oil industry. As the Report demonstrates, price gouging is a phenomenon that is hard to nail down. Indeed, price gouging is the obscenity of antitrust law: difficult to define in theory but easily recognized at the pump. Nonetheless, it is worth noting that using the Congressionally mandated definition,<sup>2</sup> the Commission found price gouging at multiple levels of the petroleum industry.

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hurricanes. It is equally troubling, however, that most other refiners, who did not technically meet the price gouging test, enjoyed markups of similar magnitude.<sup>3</sup>

In the wake of Katrina and Rita, the vast majority of retailers raised prices based on what they paid for supply or in anticipation of increased replacement costs. Some retail stations, however, actually raised their prices significantly without satisfactory cost or adequate market-based explanations. Not surprisingly, thousands of complaints have been received at the local level and dozens of cases brought under state laws prohibiting price-gouging.<sup>4</sup> These statutes, which almost invariably require a declared state of emergency or other triggering event, may serve a salutary purpose: discouraging outliers from profiteering in the aftermath of a disaster.

If there is any villain in the long lasting saga of high oil prices, the villain in the long .r OPEC

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In sum, petroleum industry pricing and gas price manipulation are enormously complicated matters – ones not subject to simple explanation, even absent the disruptive effects of a major natural disaster. Still, the behavior of many market participants, on balance, leaves much to be desired. Our Report sheds some light on market practices after the hurricanes and, hopefully, it will be put to good use.