

**Oral Statement by John Felmy  
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**House Judiciary Committee  
Antitrust Task Force  
Hearing on “Prices at the Pump: Market Failure and the Oil Industry”**

Thank you, Mr. Chairman. We appreciate the invitation to present API’s views on gasoline prices. We recognize that consumers are frustrated with today’s higher prices.

However, the cause of the higher prices is an imbalance between supply and demand, worsened at least in part by policy failures, which the current price-control proposals could make it worse. Price control legislation fails to address this cause and is premised on myths about how fuel is marketed.

Our companies have been producing record amounts of fuel to supply their customers in highly competitive markets.

The industry has supplied about 8.85 million barrels per day to date this year. However, because of maintenance at European refineries and a French port-workers’ strike, less imported gasoline has been available. Gasoline imports typically make up about 12 percent of our supply. As a result, total U.S. gasoline supplies have struggled to keep up with demand, which has been extremely strong. During the first quarter of 2007, total U.S. gasoline demand set a record, increasing almost 2 percent over the same period in 2006.

Besides record-breaking demand and sluggish imports, other factors have been contributing to higher gasoline prices. They include:

- Crude oil prices, which account for more than half the cost of gasoline and are set on international markets.
- The annual switchover to more expensive-to-produce “summer blend” gasoline required by EPA.
- And, regularly scheduled refinery maintenance and unplanned problems that have prevented refiners from making even more gasoline.

In short, the recent price increases reflect supply and demand. And the same is true for past price increases that have been thoroughly investigated by government agencies who would not have hesitated to take the industry to task if illegal or improper activity had been discovered. Invariably, these agencies have explained price spikes by supply/demand conditions that had nothing to do with manipulation of supplies or illegal agreements among companies.

A 2006 investigation by the U.S. Federal Trade Commission found [quote] “no evidence indicating that refiners make product output decisions to affect the market price of gasoline. Instead, the evidence indicated that refiners responded to market prices by trying to produce as much higher-valued products as possible.... The evidence collected in this investigation indicated that firms behave competitively.” [unquote]

Those who persist in suspecting that the industry is holding back supplies often cite the lack of new refinery construction. However, over the past ten years, existing refineries have expanded capacity equivalent to building 10 new refineries and, based on public announcements of refinery expansions, are projected to add capacity equivalent to an additional eight new refineries by 2011.

Another explanation advanced to explain higher prices is industry mergers. Industry mergers have occurred only after careful FTC scrutiny to ensure the competitiveness of markets. There is no shortage of competitors today. The eight biggest refiners account for about 66 percent of the market at the beginning of 2006, a level of concentration that is comparable to other consumer product industries. There is nothing we are aware of in the professional peer reviewed literature tying higher prices to mergers. In that category I exclude a 2004 GAO report dismissed by the FTC as badly flawed.

In short, the justifications advanced in support of price control legislation are without merit. Price-control laws could prevent the operation of the laws of supply and demand, hamstringing efforts to secure ample supplies of fuel to consumers. Such proposals are cousins of the disastrous price and allocation controls of the 1970s, which led to gasoline lines, odd or even days, and millions of angry motorists.

If price controls are enacted, the 12 percent of our daily gasoline consumption met by imports could be jeopardized. Because of artificially low prices, exporters would have less incentive to ship to U.S. markets. Also, they may prefer to ship to other markets rather than risk jail time or exorbitant fines supplying the U.S. Finally, after a natural disaster in the U.S., the same disincentives would affect domestic suppliers, making it harder to end regional shortages that typically follow natural disasters.

The U.S. oil and natural gas industry is doing everything it can to produce the fuels consumers demand. Markets work and have done more for consumers than price controls could ever hope to. But we also need policies that focus on increasing supplies; encouraging energy efficiency and conservation in all sectors of the economy, including transportation; and promoting responsible development of alternative and non-conventional sources of energy.

At a minimum, we must do no harm. Price control laws threaten consumers and the nation’s energy security. We can do much, much better.