

**Congress of the United States**  
**Washington, DC 20515**

April 25, 2008

The Honorable William E. Kovacic  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, DC 20580

Dear Chair Kovacic:

In light of nationwide consumer concern about the record prices for oil and gas at the pump, we urge the Federal Trade Commission (FTC) to immediately initiate a rulemaking to implement the market manipulation authority mandated by Congress in the Energy Independence and Security Act of 2007 (P.L. 110-140). Congress provided this authority to the FTC four months ago -- but to date, the FTC has failed to exercise its power to protect consumers from skyrocketing energy costs. Recent price volatility and investor speculation in the oil market require the diligent oversight Congress called for, especially when oil prices smash records daily, hitting \$119 per barrel this week.

The Energy Independence and Security Act, which became law last December, directs the FTC to ensure that the U.S. petroleum market is free from price or supply manipulation. Congress gave you the power to levy tough penalties against those who might seek to profit from such illegal activities. Utilized effectively, this new authority will substantially strengthen consumer protections against high energy prices. More importantly, vigorous enforcement will help lower and stabilize prices, increase market transparency, and provide Americans with confidence that retail gasoline and diesel prices are free from the influence of anticompetitive practices and the exercise of market power.


This new authority granted to the FTC is modeled on the anti-manipulation authorities utilized by other agencies such as the Securities and Exchange Commission (SEC) and the Federal Energy Regulatory Commission (FERC). Specifically, Title VIII, Subtitle B of the Energy Independence and Security Act is modeled on section 10(b) of the Securities Exchange Act of 1934 for which a substantial body of case law has been developed over the last half century. In fact, the Supreme Court has compared this body of law to "a judicial oak which has grown from little more than a legislative acorn." *Blue Chip Stamps v. Manor Drug Stores*, 421 U.S. 723, 737 (1975).


FTC has acknowledged that oil and gas markets are susceptible to manipulation. In 2006, the FTC's Congressionally-mandated investigation of gasoline prices after Hurricane Katrina acknowledged the possibility that the petroleum industry can manipulate prices by reducing production, distribution, or inventories or increasing margins.


We need aggressive oversight to ensure such actions are not presently occurring, and to punish them if they are cheating consumers. The FTC must no longer delay action on implementing the mandate from Congress to stop market manipulation as American families and businesses struggle to deal with record gas prices.

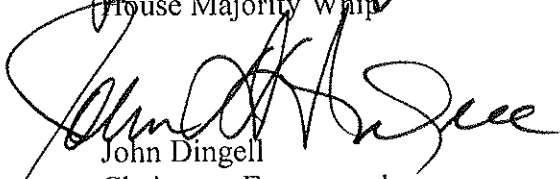
Sincerely,

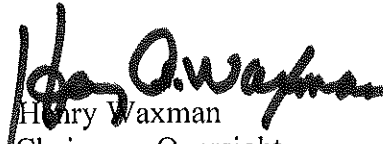
  
Nancy Pelosi  
Speaker of the House

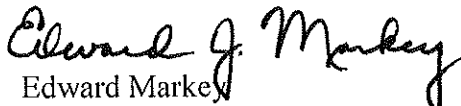
  
Steny Hoyer  
House Majority Leader

  
James E. Clyburn  
House Majority Whip

  
Rahm Emanuel  
Chairman, Democratic Caucus

  
John Dingell  
Chairman, Energy and  
Commerce Committee

  
Henry Waxman  
Chairman, Oversight  
and Government Reform

  
Edward Markey  
Chairman, Select Committee on  
Energy Independence and Global Warming

cc: Pamela Jones Harbour, FTC Commissioner  
Jon Leibowitz, FTC Commissioner  
J. Thomas Rosch, FTC Commissioner