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Connecticut Based Trade Association Representing Gasoline Retailers

Automotive Repair Shops, Body Shops, Towing Operators & Car Washes

Testimony before the House Committee on Natural Resources

United States House of Representatives

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Honorable Chairman Hastings, Ranking Member Markey and members of the committee; thank you for the opportunity to testify before you today on rising gasoline prices and the negative impact on small family-run businesses and what can be done to provide effective short- and long-term relief for both the small business gasoline retailers and the customers they serve.

My name is Michael J. Fox and I currently serve as the Executive Director of the Gasoline & Automotive Service Dealer's of America, Inc. (or GASDA, Inc.) a trade association who members are responsible for pumping over 1.4 billion gallons of gasoline in the State of Connecticut. In Connecticut and nation-wide, most gasoline retailers are small, family-owned and operated-businesses that are involved in their local communities. In Connecticut, they provide employment for approximately 4,000 people.

Our industry and specifically our members are still attempting to recover from boom and bust commodity cycles of the past, from hurricane Katrina to the more recent run-up in crude oil and gasoline prices. Gasoline retailers stand bewildered in the face of such surging and volatile prices. Sales volumes and consumer demand have not returned to normal demand cycles. The housing bubble, unemployment crises and slow post-2008 economic recovery have continued to strain businesses and consumer pocketbooks, and have caused retail stations to close at alarming rates. Those remaining still struggle with the additional capital requirements, diminished profitability and competitiveness, and general business uncertainties brought on by higher wholesale prices and the ever thinning margins due to higher product costs and credit and debit card swipe fees.

Gasoline retailers feel the effects of higher crude prices and higher wholesale fuel costs instantly. A gasoline retailer is like a consumer who fills up the car weekly, except some high volume retailers need to fill up daily or every other day and their gasoline tank is 8500 gallons, not 20 gallons. Most retailers are not free to shop for the best price daily as a consumer can when not happy with one particular retailers price that day. Most retailers have fuel supply agreements that make them captive customers of the "Major Oil" companies or middlemen called "distributors." Even when a retailer is supplied by a distributor, most times that distributor is a captive customer of "Major Oil." A big reason Major Oil is and has been exiting the direct serve market. More locked in captive customers equals larger Big Oil Profits. The facts are clear, Big Oil profits are huge and growing no matter what the economic climate or troubles come about, such as the tsunami in Japan, the collapse of Wall Street and subsequent Big Bank bailouts… we continue to see Big Oil profit while small gasoline retailers and consumers struggle.

I am aware that the Congress is currently debating measures to address rising gasoline prices and to bring relief to small businesses like ours and our consumers that depend so much on our product for their livelihoods and general mobility. I commend this committee and the Congress, and to both sides of the isle, for the commitment to this endeavor. It is certainly both in the interests of your constituencies and the interests of our broader economic well-being. Unfortunately, there is no immediate "magic bullet" that will lower the price of gasoline tomorrow, however that's not to say that there are no government solutions that will bring consumers some relief at the pump.

I. Addressing "Excessive Speculation" in the Energy Derivatives Marketplace

First and foremost, Congress can and should take additional steps to address "excessive speculation" and opaque market activity in the energy derivatives markets. As a founding member of the Commodity Markets Oversight Coalition (or CMOC), GASDA members have been advocating for complete transparency, accountability and oversight in the energy trading markets. CMOC is an informal coalition whose participating members represent an array of business and consumer interests that advocate in favor of government policies that promote stability and confidence in the commodity markets and that preserve the interests of *bona fide* hedgers, consumes and the broader economy.

We commend the Congress for the reforms that it included in the 2008 Close the Enron Loophole Act, which was championed by Congressman Peter Welch of Vermont, and the 2010 Dodd-Frank Wall Street Reform Act, which included comprehensive commodity trading reform under Title VII of the Act. The reforms of the Dodd-Frank Act are designed to bring energy derivative trading out in the open through mandatory reporting and clearing requirements, and to subject such trades to oversight by the Commodity Futures Trading Commission (CFTC), including prohibitions on fraud, manipulation and excessive speculation, all of which over-the-counter trading has been free from since these markets were deregulated in 2000.

"Excessive speculation" is of the greatest concern to my members. While speculation is in and of itself not a bad thing – in a transparent and well functioning energy marketplace, it provides the hedging community with necessary liquidity and facilitates price discovery. However, when said speculation is driven to excess, it creates volatile markets, unpredictable price swings, diminishes the ability of commercial hedgers to manage price risks associated with a commodity such as gasoline, and dislocates market prices from supply and demand fundamentals.

There are some that argue that such a conclusion is "fantasy" and assert that there are no reputable academic or governmental studies that provide evidence that speculation can every be harmful or "excessive." This is not true. I have included for the record a list a sampling of 58 studies, reports, and analyses that show the affects that excessive speculation and market opacity have had on the commodity markets. I have also included a recent study by Stanford that is exceptionally conclusive.

There are some that also argue that the business community and commercial end-users of derivatives are united in their opposition to reform and limits on speculation. This is also not true and I am here as proof. I also urge you to look at the thousands of comments sent from businesses and consumers alike to the CFTC on Monday in support of a proposed rule on speculation limits, written under mandate by the Congress in the Dodd-Frank Act. You will note, however, see much support from the financial community that profit from excessive market volatility and speculation *(banks, hedge funds, pensions)* at the expense of others *(captive customers, retailers, consumers, business owners).*

Some argue that for every gallon of gasoline, consumers are paying a "speculative premium" of as much as $1 per gallon as a result of excessive speculation in the crude oil and gasoline markets. Congress could immediately remove this "speculative premium" by:

- Supporting the implementation of authorities provided the CFTC under the Dodd-Frank Act, especially comprehensive transparency requirements, rules to strengthen prohibitions on fraud and manipulation, and meaningful position limits designed to protect against the burdens of excessive speculation;

- Fighting efforts to strip funding from this agency at a time in which additional resources are needed to implement these new reforms and to respond to ever changing global and domestic market conditions and trading practices;

- Considering legislation to restrain or limit the involvement of "index funds" and other so-called "passive investors," whose buy-and-hold strategies have severely disrupted price discovery and caused volatile swings in the price of gasoline; and by

- Reforming the tax code to close loopholes currently being exploited by Wall Street commodity traders that allows them to pay little or no taxes on their speculative profits while commercial hedgers are taxed at higher rates.

Once the CFTC implements the necessary reforms provided by the Congress in the Dodd-Frank Act, which simply put assures complete transparency and "bans all types of excessive speculation" and provided the Congress resists ideological crusades to repeal these reforms and instead affords the CFTC the support, resources and funding to do the job intended - Congress will sending a clear message that the markets will hear loud and clear. And, unlike many other solutions being considered by Congress, the effect will be very immediate.

II. Releasing from the Strategic Petroleum Reserve (SPR)

A release from the Strategic Petroleum Reserve (SPR) will also have an immediate but short term positive impact, unlike reforms of the commodities markets, which would have both an immediate and permanent impact on the marketplace. However, this solution should not be ignored. It is just smart policy. Even a small release of 30 or 100 million barrels will have the immediate effect of driving some bullish and speculative activity out of the marketplace and help signal somewhat of a much needed correction to an overly emotional market.

Some argue there should be no release from the SPR because there is no present or imminent supply disruption or surge in demand. Yet, these same critics also say that speculation is not at fault because there is a global supply and demand problem, and/or they argue that there is a domestic supply and demand problem that requires increased domestic drilling. I just don't understand this logic. A small SPR release is just simply in the interests of small businesses, consumers and the struggling economy, especially in light of the delayed reforms at the CFTC, market irrationalities and world events.

III. Implementation of a Long-term Domestic Energy Policy

This SPR release worked during Katrina and at other times in our history because it bought time and immediate relief to struggling consumers until the damaged refineries could get back up and running and pipe lines repaired. Such releases from the SPR are a good idea and good timing but without a long-term strategy of increased domestic energy production and decreased reliance on foreign energy, it is only a short-term fix.

Once the commodity markets are repaired, our nation can and must turn its attention to its energy policy. But not before. We must have functional, transparent and responsive commodity markets that can hear and respond affectively, much as the stock markets would do to signals from Washington and market-makers. Any announcement of a comprehensive long term energy policy of domestic energy production increases and alternative energy solutions must be heard loud and clear by markets in order for them to have the intended result. Otherwise, it could serve the same affects of an SPR release – Washington acts, the market responds, and then only days later rumors of another "crisis" drives speculators back into the markets and the prices surge again.

There is much the Congress can do but it should walk the walk, not just talk the talk. Measures to address rising gasoline prices that are explored by this committee and this Congress must be backed up by hard, concrete actions that can be measured by results. Otherwise this is just another form of "speculation" and that is what we are trying to eliminate. Let's return to markets that are responsive to cold, hard supply and demand fundamentals and then give them the supply needed to meet the demand through a smart and effective domestic energy policy – something that is, indeed, long overdue.

Thank you for the opportunity to come here and speak to you today and I will answer any questions you may have.