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SPEAKING NOTES

For

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COMPETITION BUREAU**

**Recent Increases In The Price Of Gasoline
Standing Committee on Industry, Science and Technology**

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Canada



INTRODUCTION

Thank you Mister Chair and members of the Committee for inviting me here today. I welcome this opportunity to discuss the Competition Bureau's role with respect to the issue of gasoline prices.

Gasoline prices are a sensitive issue. Canadian consumers react to temporary price hikes with frustration and anger asking themselves whether major gasoline retailers are engaging in price fixing. Over the years, the Competition Bureau has committed significant resources to studying and investigating this market.

The Bureau's objective is to ensure a fair, efficient and competitive marketplace which provides consumers with low prices and encourages companies to innovate and offer new product choices.

It is important to note that the federal government does not have constitutional authority to regulate prices, except in a national emergency. That responsibility rests with the provinces. Most provinces have decided not to regulate but to let market forces determine the price of gasoline. As a matter of general principle, there is no doubt in my mind that the best regulator of gasoline prices is a competitive market. Prices set by government rather than the market usually result in higher prices to consumers.

The role of the Competition Bureau is to administer the *Competition Act*, which includes criminal provisions against price fixing, price maintenance, and civil provisions dealing with mergers and abuse of dominant position, among others. All of these provisions apply to gasoline and other petroleum products markets. The purpose of the *Competition Act* is to maintain and encourage competition in Canada.

While we follow closely developments in the petroleum sector for the purposes of enforcing the *Competition Act*, it is important to note that

the Competition Bureau is not a gasoline price monitoring agency. Until 1995 this important function was undertaken by Natural Resources Canada. Regular data collection is now performed by MJ Ervin & Associates and some of the provinces. These data are then analysed by different government agencies and the Bureau.

GASOLINE PRICES IN PERSPECTIVE

Before addressing the February events, it is worth making some general observations about gasoline prices. The price of gasoline in Canada, in real terms, excluding all taxes, is lower than it was in the 1980s. In addition, there is no significant difference in the base price of gasoline (excluding taxes and adjusting for the exchange rate) between Canada and the United States. Furthermore, as reported by the International Energy Agency, Canada has lower gasoline prices than most industrialized countries.

THE FEBRUARY PRICE INCREASES

In early February 2003, gasoline prices started to increase across North America and peaked during the second week of March 2003. Since that time, prices have retreated to their December 2002 level.

All information available to date confirms that these increases in the price of gasoline were a direct result of the increase in the price of crude oil caused by:

1. a political crisis in Venezuela which affected that country's oil production;
2. at the time, an impending war in Iraq;
3. unusually cold weather in the northeast of North America; and
4. low inventory levels in North America.

Over the last year, the increases in retail gasoline prices in Canada have

been consistent with the increases in crude oil prices and with increases in gasoline prices elsewhere in the world.

PREVIOUS COMPETITION BUREAU INVESTIGATIONS

Since 1990, the Competition Bureau has conducted four major investigations related to the gasoline industry and found no evidence to suggest that periodic price increases resulted from a national or regional conspiracy to limit competition in gasoline supply, or from abusive behaviour by dominant firms in the market. Indeed, it should be noted that following each period in which prices had increased, market forces caused prices to return to historic levels. This is consistent with the results of numerous investigations conducted by our counterparts throughout the world who have generally arrived at the same conclusions.

For example, some of you may recall that in the summer of 1999 we were faced with a significant increase in the price of gasoline, a source of complaints from many consumers who thought that these prices indicated a lack of competition. The Bureau examined this gasoline price increase and found that it was the result of companies' independent pricing decisions made in reaction to normal market forces. Specifically, we found that these increases could be attributed to increasing crude oil prices on world markets, which caused wholesale gasoline prices to rise throughout North America.

Since 1972, there have been thirteen trials concerning retail price maintenance cases related to gasoline or heating oil prices resulting from inquiries initiated by the Bureau - eight of these cases resulted in convictions. These cases however concerned local markets and isolated incidents. This clearly shows that the Competition Bureau has always been prepared to investigate complaints and take enforcement action under the criminal provisions of the Act with respect to the petroleum industry whenever appropriate.

Additional information about the Bureau activities related to gasoline can be found on the Bureau website (<http://www.cb-bc.gc.ca>).

STRUCTURAL ISSUES

How do we deal with competition in a market with only a few players? The Bureau has been effective in dealing with competition problems that could arise from proposed merger transactions in the gasoline industry by:

- blocking potential transactions which could substantially lessen or prevent competition;
- requiring parties to divest significant assets such as refineries, terminals and service stations; and
- requiring refiners to supply product to independent retailers.

For example, the proposed joint venture between Petro-Canada and Ultramar Diamond Shamrock in 1998 would have resulted in Petro-Canada merging its three refineries and over 1,800 service stations with Ultramar's refinery and 1,300 service stations in Eastern Canada. The Bureau examined the situation and determined that the proposed merger of these two major players in Quebec and Atlantic Canada would lead to a substantial lessening or prevention of competition. This would have likely meant an increase in prices in Quebec and Atlantic Canada. As a result of the Bureau's aggressive opposition to the joint venture, Petro-Canada and Ultramar decided to abandon their plans.

CONFERENCE BOARD STUDY

In 2000, in an effort to build a better understanding among all parties – the industry, governments and consumers – with respect to how gasoline markets work, Industry Canada and Natural Resources Canada sponsored an independent study of Canadian gasoline markets by the Conference Board of Canada.

In its report released in February 2001, the Conference Board said that Canadians are well served by the current market system that determines gasoline prices. It also pointed out that Canadians enjoy some of the lowest gasoline prices in the world. The Conference Board also concluded that the response of the retail price of gasoline to both increases and decreases in crude oil prices was the same. Studies commissioned by the Competition Bureau also concluded that the time it takes for a change in crude oil prices to result in a change in retail gasoline prices is on average the same for both increases and decreases in crude oil prices.

Are these conclusions still valid two years later? To find out, I asked economists from the Competition Bureau to update some of the econometric analysis done by the Conference Board. Using the same methodology but an updated database, their findings confirm those of the Conference Board two years ago:

1. Changes in wholesale prices follow closely changes in crude oil prices;
2. Changes in retail prices follow closely changes in wholesale prices; and
3. There is no asymmetry in retail prices, i.e., they decrease and increase in the same manner following a decrease or increase, respectively, in wholesale prices.

We are making available the detailed results of this update.

INDUSTRY STUDY AND REFERENCE TO THE CANADIAN INTERNATIONAL TRADE TRIBUNAL

In February 2003, we received a request from Mr. Lorne Nystrom, M.P., and five other Canadians, to conduct an investigation into the relationship between corporate concentration and vertical integration in the Canadian oil industry and gasoline price increases. The applicants stated their belief that the Competition Bureau has been given a mandate

by Parliament to consider the "big picture" and the "effects of corporate concentration and vertical integration on Canadian consumers, on Canadian business and on the health of the Canadian economy as a whole." On this basis they requested that the Competition Bureau investigate the Canadian petroleum industry.

As we indicated in our response to this request, while the Bureau's mandate includes the very important role of being an investigator and advocate for competition, the current legislation does not provide the Bureau with the authority to conduct an industry study. Such a big picture industry study should not be conducted by an investigatory agency, but rather by a neutral body.

Interestingly, in the fall of 2001, during this Committee's review of Bill C-23, a motion was proposed that would allow the Commissioner of Competition, with the approval of the Minister of Industry, to ask the Canadian International Trade Tribunal ("CITT") to inquire into the state of competition and the functioning of markets in any sector or subsector of the Canadian economy. Such a report would be tabled in the House of Commons by the Minister of Industry.

Since this proposed amendment had not already been the subject of consultations with stakeholders, the Government expressed the view that it should have the benefit of full discussion before considering such an addition to the Act. As a result, we are currently examining the possibility of adding this proposal to the upcoming consultation process in the next round of amendments to the Act in order to give the Government an opportunity to widely consult with stakeholders on this matter.

Clearly, if such a proposal were to be adopted in any future amendments to the Act, it would facilitate the type of study that has been asked for with respect to the petroleum sector.

CONCLUSION

As a general principle, there is no doubt in my mind that the best regulator of gasoline prices is a competitive market.

In closing, I want to add that I am of the view that overall the Competition Bureau has the appropriate tools to investigate anti-competitive conduct and deal with structural problems that could arise in the petroleum sector.

I would also reiterate that should the Competition Bureau obtain any evidence of conduct contrary to the *Competition Act*, we will not hesitate to take appropriate measures.

Again, I appreciate having been asked to appear before you today. I would now be pleased to answer any questions you may have.