Retail Gasoline Market: Federal Trade Commission Chairman Announces Pricing Probe

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Federal Trade Commission ("FTC") Chairman Lina A. Khan responded in an August 25th letter to prior correspondence from Brian Deese, Director, National Economic Council, who expresses concerns about potential unlawful conduct in the United States gasoline market.

Chairman Khan's letter addresses the FTC's prior role in reviewing mergers and acquisitions in the oil and gas industry and actions she will direct its staff to take to address the concerns raised in Director Deese's letter.

Chairman Khan expresses concern about the FTC's prior review of the significant consolidation of the oil and gas industry in the United States. She states that while the FTC has addressed anticompetitive issues in merging companies by requiring the divestment of fuel stations in overlapping markets, consolidation at the national level may have created "conditions ripe for price coordination and other collusive practices."

FTC staff will be directed to take various actions to address Director Deese's concerns, which include:

- Identification of additional legal theories to challenge retail fuel station mergers where dominant players are buying family-run businesses
- The divestiture process will face greater scrutiny to ensure the FTC's approach to merger remedies is not encouraging further consolidation or enabling dominant firms to exercise market power
- Explore ways in which large national chains may "restore" higher prices through collusive practices
- Steps will be taken to deter unlawful mergers in the oil and gas industry
- Imposition of "prior approval" requirements to deter those who propose illegal mergers (including retail gas markets)
- Investigation of abuses in the franchise market
- Determination whether a power imbalance favoring large national chains allows them to force their franchisees to sell gasoline at higher prices

A copy of the letter can be downloaded here.