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Press Release of Senator Cantwell

Senators Cantwell, Wyden Call for Federal Agencies to Use New Market Collection Tools to Protect Consumers

Thursday, August 07, 2008

WASHINGTON, DC – Today, U.S. Senators Maria Cantwell (D-WA) and Ron Wyden (D-OR) sent the following letter to Acting Chairman Walter Lukken and Commissioners Michael Dunn, Bart Chilton, and Jill Sommers of the Commodities Futures Trading Commission (CFTC). The letter asked the CFTC to take responsibility to protect market users and the public from fraud, manipulation, and abusive practices in the commodity, futures and options markets in the United States, most recently in its capacity as chair of the interagency Task Force on Commodity Markets.

[The text of the letter follows below]

August 7, 2008

Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Dear Acting Chairman Lukken and Commissioners Dunn, Chilton, and Sommers:

We write with continuing concern that the Commodities Futures Trading Commission (CFTC) is not meeting its responsibility to protect market users and the public from fraud, manipulation, and abusive practices in the commodity, futures and options markets in the United States, most recently in its capacity as chair of the interagency Task Force on Commodity Markets.

In June, under mounting public and Congressional pressure, the CFTC established and chaired the Interagency Task Force to examine conditions in the commodity markets. We understand that the Task Force will submit a final report on its findings later this year. Unfortunately, last month, the Task force irresponsibly injected itself into the national debate on increasing transparency and oversight in the oil futures market by releasing a premature Interim Report on Crude Oil that drew upon the same body of information the CFTC has acknowledged is incomplete or flawed.

We therefore insist that the CFTC, as the chair of the Interagency Task Force on Commodity Markets, work with its interagency partners to immediately begin collecting and analyzing additional and complete market data to correctly understand and report on the causes of oil price increases and volatility.

The Interim Report explained price increases and the recent acute price and trading volatility in the crude oil futures market as symptoms of supply and demand fundamentals, notwithstanding a finding that "the positions of non-commercial traders in general, and hedge funds in particular, often move in the same direction as prices." Furthermore, the Interim Report acknowledged that critical information on swaps dealers and index funds, which comprise a much larger percentage of the crude oil markets than the body of data examined, was not included in the analysis. At the moment, it appears the CFTC is making judgments about the entire market when it is only watching a small portion of the market.

Since 2003, the beginning of the period the Interim Report evaluates, there has been enormous growth in speculative investment in the oil futures markets. Commodity index funds have risen from a little over $13 billion in value to over $317 billion today. Nearly all of this investment is in oil which, over the same time period, went from $27 per barrel in 2003 to $119 per barrel today, with a stop at $147 along the way. And in the last few months we have seen unusually extreme volatility with acute spikes and drops in oil prices.

The emergence of India and China as major consumers is well known, and cannot explain one-day spikes in the price of oil of more than $11. We saw prices rise in July after Saudi Arabia announced it would increase production. Conversely, the price of oil even dropped during events that threaten supply, as when Iran tested a long-range missile that could reach Israel or following reports of escalating civil unrest in Nigeria.

Contrary to the central tenants of the Interim Report, none of these events had the "expected" affects on the price of oil. Robert McCullough of McCullough Research, an energy market expert who exposed Enron's market manipulation, has released a new statistical analysis research report of oil futures and spot market prices that is a convincing and substantive rebuttal to the interagency interim report. This report shows that the dramatic rise in oil prices in June 2008, and the subsequent fall in price in July 2008, can't be explained by any of the fundamentals of supply and demand. Instead, it could be a result of the trading strategies of major market players.

To correctly understand and report on the causes of oil price increases and volatility the CFTC, as the chair of the Interagency Task Force on Commodity Markets, must work with its interagency partners to immediately begin collecting and analyzing data on spot markets for oil that will allow the identification of market shares. In addition, the Task Force should utilize the same concepts and measures used elsewhere to assess the roles of large traders and the economic concentration they possess in the energy markets. Specifically, the Task Force should utilize tools such as the Herfindahl-Hirschman Index (HHI), a commonly accepted measure of market concentration, for data on all exchange and over-the-counter oil futures markets. HHI is currently used by the U.S. Department of Justice and the Federal Trade Commission, a Task Force partner to assess market concentration and market power. Finally, as chair of the Task Force, CFTC should ensure that the Energy Information Administration (EIA) develops a methodology for reporting key physical supply, storage, and price data, such as wellhead prices for the largest suppliers to the U.S. This report should be issued on the same frequency as other EIA reports.

If this data is not collected prior to the release of the Interagency Task Force's final report, please explain why not and how the absence of this data affects the conclusions of the final report.

Sincerely,
Sens. Maria Cantwell (D-WA) and Ron Wyden (D-OR)

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