From: "Jay McKeeman" <jaymac@cioma.com>
To: HQ.DCMAIL3(DCLARK)
Date: Mon, Apr 10, 2000 4:04 PM
Subject: CIOMA comments on Valero acquisition of Exxon Benicia refinery

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Please accept the attached document as the California Independent Oil Marketers Association comments on the Valero acquisition of the Exxon Benicia, California refinery. Hard copies are being sent via mail to Chairman Pitofsky and the cc:'s.

CC: "Evelyn Gibson (E-mail)" <egibson@cioma.com>

- Require Exxon to pay market support of 3 cents per gallon to all jobbers and retailers who continue to market under the Exxon brand during the period of time Valero will have the right to market under the Exxon brand. This compensation will encourage jobbers and dealers to remain with Valero rather than seeking other major brand refining companies capable of providing greater brand support. In addition, these payments will assist jobbers and dealers in supporting credit card programs and supplementing Valero's marketing of the Exxon or Valero brand.

In addition, because of the increasing tight supply and demand levels for refined petroleum products that meet California specifications, CIOMA urges the FTC to include a provision in the final order that assures unbranded jobbers and dealers access to petroleum products, particularly gasoline and diesel fuel from the Benicia refinery. CIOMA believes the final order should require the following:

- Limit the amount of gasoline Valero can market through direct company-operated or company-controlled retail service stations to 10% of the refinery's CARB gasoline output. Limiting direct marketing of gasoline by the acquirer will prevent redistribution of the gasoline output from the Benicia refinery and will preserve Benicia as a consistent source of branded and unbranded gasoline for the price-competitive independent sector of the market.

- Require that at least 20% of the acquirer's output be set aside for unbranded <u>rack</u> purchases when statewide supply levels fall 2% below seasonal demand. The frequent supply shortages that have occurred since the introduction of CARB gasoline are likely to occur even more frequently in the future as fuel specifications require greater refining capacity and eliminate out-of-state sources of gasoline. When supplies have reached critically low levels as a result of in-state refinery production problems, large amounts of unbranded product were sold on the spot market to refiners. These sales depleted nearly all inventories of unbranded gasoline normally sold at spot or rack to independents and drove prices for the remaining, limited quantities of unbranded gasoline sold to independents much higher than prices to refiners and direct serve dealers. As a result, consumers who had the least amount of elasticity in their buying practices because they were using the fuel to provide essential government, public safety, or business services paid the highest prices for fuel, as much as 26 cents higher than retail buyers. These price increases were most difficult for these entities to absorb since they operate on fixed budgets for fuel. <u>Benicia has been a critical source of unbranded gasoline. Mandating a 20% set aside for unbranded rack sales would ensure that sufficient amounts of product are available for these non-retail customers during periods of shortfall and would moderate price increases to them.</u>

CIOMA appreciates the interest and concern the staff of the FTC has shown with regard to the concerns and impacts of this divestiture on jobbers and dealers. However, we hope that specific provisions addressing those concerns will be drafted into the final order. CIOMA believes that Exxon has derived tremendous financial benefit from its merger with Mobil and from its divestiture of the Benicia refinery. That financial benefit should not come at the expense of jobbers and dealers who ultimately will be forced to pass their costs on to consumers, especially those non-retail consumers who have few fuel purchasing options. Please contact Evelyn Gibson at 703-834-6163 or 888-800-7989 if you have questions or would like to meet with CIOMA members to address specific elements of these comments.

Sincerely,

Jay McKeeman
Executive Vice President

cc: Commissioners
Daniel P. Ducore
Naomi Licker
Peter Richman