

H. R. 11450 (HOS)

ASSISTANT ATTORNEY GENERAL
ANTITRUST DIVISIONDepartment of Justice
Washington, D.C. 20530

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Honorable Harley O. Staggers
Chairman, Interstate and
Foreign Commerce Committee
House of Representatives
Washington, D. C. 20515

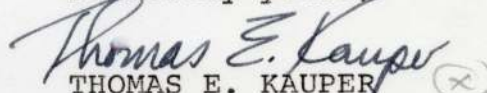
Dear Chairman Staggers:

We are advised that your Committee has incorporated in the energy emergency legislation now pending before you an amendment, which would provide for antitrust immunity in favor of retail and service firms to combine to set closing hours, delivery schedules and engage in such other activities as the President deems appropriate in the context of the emergency.

We object to this provision. Any exemption from the antitrust laws should be based on a strong showing of need for companies to engage in conduct which would otherwise be in violation of those laws. This strong showing of need has continually been required by Congress in its consideration of proposals for exemption, reflecting a firm commitment to competition and free enterprise as the principal regulator of our economy. We do not believe this showing has been made for the above amendment.

There would appear to be ample opportunity on the part of federal, state and local governments to enact legislation which would mandate that stores be closed in cases where a showing can be made that energy would be conserved. Delivery schedules could also be similarly treated. In this way the interest of the public, the consumer, as well as firms now seeking antitrust exemption, would be represented through their government.

Sincerely yours,

THOMAS E. KAUPER
Assistant Attorney General
Antitrust Division