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Acting Chair Cheryl LaFleur
Federal Energy Regulatory Commission

Chair Timothy Massad
Commodity Futures Trading Commission

Chair Edith Ramirez
Federal Trade Commission

Re: Consumer Concerns with Google Acquisition of Skybox Imaging

The intent of this letter is to urge appropriate federal agencies to recognize that technology is rapidly altering aspects of commodity trading, and that federal regulators do not currently possess the tools needed to determine whether these technological changes are aiding market manipulation and other unfair practices.

On June 10, Google purchased Skybox Imaging for \$500 million in cash, explaining charitable reasons for the acquisition on its investor relations blog: "Skybox's team and technology will be able to help improve Internet access and disaster relief—areas Google has long been interested in."¹

With all due respect to Google's public relations department, a company posting \$13 billion in profits last year isn't going to drop half a billion dollars just for charity. For a company like Google, with a stock price north of \$500 a share and a market capitalization close to \$400 billion, the real value in the marketplace for Skybox's advanced data and image processing technology is as a powerful tool to aid commodity trading. In fact, Skybox has already played a role in revolutionizing aspects of commodity trading markets, which is precisely why it was an attractive purchase.

Commodity traders—including Wall Street banks, hedge funds and other financial firms—represent a significant share of Skybox's subscriber base. Traders utilize Skybox's unparalleled, proprietary satellite data processing technology to monitor oil, gas, power and other energy infrastructure to gain a financial trading intelligence advantage. Paying Skybox to obtain satellite data of oil shipments, storage, pipeline activities, production facilities and other aspects of physical

¹ <https://investor.google.com/releases/2014/0609.html>

infrastructure affords traders with access to data unavailable to other market participants, providing a decided trading advantage.

Public Citizen first provided Congressional testimony in May 2008² warning of commodity trading strategies that exploited control over infrastructure: "Energy traders like Goldman Sachs are investing and acquiring energy infrastructure assets because controlling pipelines and storage facilities affords their energy trading affiliates an 'insider's peek' into the physical movements of energy products unavailable to other energy traders. Armed with this non-public data, a company like Goldman Sachs most certainly will open lines of communication between the affiliates operating pipelines and the affiliates making large bets on energy futures markets. Without strong firewalls prohibiting such communications, consumers would be susceptible to price-gouging by energy trading affiliates."

While many commodity traders, such as Glencore, Gunvor, Mercuria, Trafigura, Vitol and Noble Group still control significant energy infrastructure assets to aid their trading, Public Citizen believes that rapid advances in technology, exemplified by firms like Skybox, are changing the fundamentals of commodity trading to provide enormous leverage to those firms who can afford access to this proprietary data. No longer does a firm need the expense and publicity of owning pipelines or oil storage terminals to gain an edge: a non-public contract with Google can now provide the same competitive trading advantage.

Since 2010, the Federal Energy Regulatory Commission has authorized Google to own power generation assets and charge market-based rates for energy sales.³ While Public Citizen is concerned about Google's control over Skybox technology to aid its own proprietary trading, we believe that much larger profit opportunities exist by leasing Skybox data to other proprietary traders.

The problem is that the proprietary market data collected and sold by Skybox is not regulated or tracked by any federal agency despite the significant role such data has had in increasingly shaping commodity trading activities.

Skybox will not exist as a stand-alone data collection and processing unit within Google; rather, it will be integrated into Google's vast data mining and processing empire to provide enhanced financial trading intelligence capabilities to those commodity traders with the financial resources to afford such services, exacerbating the unfair advantages such firms will possess in commodity markets.

Google has a track record of abusing its control over technology. In August 2012 it paid the largest penalty in FTC history for violating the Commission's explicit privacy order.⁴ In 2013, Google settled allegations brought by 38 states that the company illegally collected personal information from tens of millions of households

² www.citizen.org/documents/House08.pdf

³ <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=13436921>

⁴ www.ftc.gov/news-events/press-releases/2012/08/google-will-pay-225-million-settle-ftc-charges-it-misrepresented

and businesses,⁵ with similar investigations occurring in more than a dozen countries worldwide. In 2011 Google paid half a billion dollars to the US Justice Department to settle allegations it facilitated online advertising of illegal products.⁶

In light of Google's acquisition of Skybox, we recommend the following actions:

- Conduct a formal review of Google's purchase of Skybox to determine risks posed to competition, market integrity and potential harm to consumers.
- Assess whether existing regulations over physical and financial commodity markets adequately address the expanding roles of new technologies and data platforms, and to what extent your agencies can coordinate on such efforts.
- Require all proprietary commodity trading firms to publicly disclose all financial agreements with market intelligence firms— such as Google's Skybox Imaging—with certain details on the services provided. Such disclosure will aid regulators in tracking firms providing such intelligence and assist with the development of adequate anti-manipulation screens.
- Require market intelligence firms, such as Skybox, to disclose to regulators data relevant to commodity trading markets.
- Restrict communication between energy infrastructure affiliates and trading affiliates, modeled on 18 CFR §358, which limits communications between natural gas pipeline and marketing affiliates. Such limits should be adopted broadly to cover all types of energy infrastructure and proprietary trading affiliates.

Federal regulators and Congress must take swift action to keep consumers from further harm at the hand of market participants seeking to exploit non-public information to the disadvantage of other traders and market participants.

Sincerely,

Tyson Slocum, Director
Public Citizen's Energy Program

cc FERC Commissioner Tony Clark
FERC commissioner Philip Moeller
FERC Commissioner John Norris

CFTC Commissioner Mark Wetjen
CFTC commissioner Scott O'Malia

FTC Commissioner Julie Brill
FTC Commissioner Maureen Ohlhausen
FTC Commissioner Joshua Wright
FTC Commissioner Terrell McSweeney

⁵ www.ct.gov/ag/cwp/view.asp?Q=520518&A=2341

⁶ www.justice.gov/opa/pr/2011/August/11-dag-1078.html