

United States Senate

WASHINGTON, DC 20510

March 19, 2020

The Honorable William Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

The Honorable Makan Delrahim
Assistant Attorney General
Antitrust Division, U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Barr and Assistant Attorney General Delrahim:

We write to urge the Department of Justice to investigate continued allegations of (“meat packer”) price fixing within the cattle market and to examine the current structure of the beef meatpacking industry for compliance with U.S. Antitrust law.

Just last summer, we saw the most recent allegation that resulted in the United States Department of Agriculture’s Packers and Stockyards Division initiating an investigation. In his press release statement on August 28, 2019, Secretary Sonny Perdue stated, “as part of our continued efforts to monitor the impact of the fire at the beef processing facility in Holcomb, KA, I have directed USDA’s Packers & Stockyards Division to launch an investigation into recent beef pricing margins to determine if there is any evidence of price manipulation, collusion, restrictions of competition or other unfair practices.” This investigation is still under review. However, the continued effect of diverging profits and losses along the supply chain compared to high end-consumer prices further demonstrate this ongoing issue. We strongly believe the resources of the Department of Justice Antitrust Division are needed in order to adequately investigate these allegations.

Over the last few years, the packing industry has enjoyed considerable profits. At the same time, cattle ranchers are producing at a net loss. Packers are in a unique position within the supply chain to exert control over the input of cattle that they buy from cattle producers, and, based on those controlled inputs, can control the supply available to downstream purchasers. According to a large volume of our constituents and member organizations within our states, allegations continue to surface against packers for price-fixing schemes designed to undercut competition. Because of this, we take these claims seriously.

To further illustrate these concerns, consider the live cattle prices compared to the cost of processed boxed beef. On February 14, 2020, USDA updated its U.S. Red Meat and Poultry Forecasts, projecting quarterly average beef prices. The forecast projected live cattle prices for

quarter one (Q1) to average \$123 per cwt and \$118 per cwt for Q2.¹ Since March 13, 2020, live cattle futures all fell below \$100 per cwt for the next 12 months. Meanwhile, the average boxed beef price for week-end of March 13, 2020, was \$207² and closed on March 13, 2020, at \$208.14³. Further, as of yesterday's closing date, boxed beef has slightly risen to over \$247⁴, that's a 20 percent increase in price for processed boxed beef in only five days.

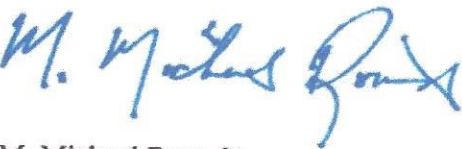
At the same time, cattle producers are operating at a significant net loss. The bottom line is that there is clearly an ongoing—and under certain circumstances an increasing—inverse relationship between live weight and retail prices to consumers. The real or perceived existence of manipulative price control is further enhanced by the packers' ability to control the timing and volume of slaughter. This further highlights why we find these allegations to be worthy of the Department of Justice's review. Specifically, whether these industry practices and price reports collected and reported by USDA, warrant an investigation for price fixing under current U.S. Antitrust law?

In addition, the four largest meat packing companies control approximately 80 percent of the beef processing in the United States. This consolidation of economic influence on the cattle market is cause for concern. It warrants review as to whether the inherent nature of the existing industry results in compliance with the law and/or an unfair disadvantage to producers and consumers. Based on the current meatpacking industry structure and its resulting impacts, does this concentration of market power amongst the four large packers create an unfair oligopoly in contradiction with U.S. Antitrust law?

At a time when cattle producers are seeing record losses and bankruptcies, now exacerbated by the COVID-19, compared to the shelf price of meat at record highs—these margins fail to make sense.

We ask that the Department of Justice Antitrust Division evaluate these dual concerns thoroughly and expeditiously in order to protect the integrity of America's failing beef industry. Thank you for your prompt consideration of this important matter.

Sincerely,



M. Michael Rounds
United States Senator



Kevin Cramer
United States Senator

¹ U.S. Red Meat and Poultry Forecast (2/14/2020)

² https://www.ams.usda.gov/mnreports/lm_xb459.txt

³ file:///C:/Users/kchase605/Downloads/AMS_2453%20(1).PDF

⁴ file:///C:/Users/kchase605/Downloads/AMS_2453%20(2).PDF



Steve Daines
United States Senator



John Hoeven
United States Senator