



May 5, 2020

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

RE: Antitrust concerns involving meat packers within the cattle industry

Dear Attorney General Barr,

We write to express our concerns regarding market concentration and potential anticompetitive practices by the meat packers in the cattle industry. We urge the United States Department of Justice (“DOJ”) to investigate the state of competition in this industry and the dynamics that are depriving cattle ranchers and American consumers of the benefits of a competitive cattle industry.

Antitrust concerns about the cattle market are nothing new. Competition issues arising from agricultural markets existed long before the COVID-19 pandemic and will persist long after we defeat our current crisis. The U.S. beef processing market is highly concentrated, with the four largest beef processors controlling 80 percent of U.S. beef processing. In this highly concentrated industry, meat packers have achieved sizeable profit margins. Cattle ranchers, however, who for generations have supplied our nation’s beef, are squeezed and often struggle to survive. Consumers, moreover, do not realize the benefits from a competitive market. In short, with such high concentration and the threat of increasing consolidation, we have concerns that beef processors are well positioned to coordinate their behavior and create a bottleneck in the cattle industry—to the detriment of ranchers and consumers alike.

In a competitive industry, rivals compete against each other for upstream supplies and to provide a higher quality and lower priced product to consumers. In oligopolistic industries, by contrast, firms can engage in tacit—or even express—collusion, providing artificially low prices to suppliers (e.g., farmers and ranchers) and inflating prices to consumers.¹ In

¹ U.S. DEP’T OF JUSTICE, PRICE FIXING, BID RIGGING, AND MARKET ALLOCATION SCHEMES: WHAT THEY ARE AND WHAT TO LOOK FOR, available at <https://www.justice.gov/atr/file/810261/download>

the beef industry—with the top four companies accounting for over 80 percent, nationwide—there are signs of such a dynamic at work; notably, the disparity between the price of live weight cattle and the retail cost of boxed beef sold to consumers is a sign of a market that lacks full and fair competition. Consider, for example, that live cattle futures recently hit 18-year lows, while both the price of boxed beef and consumer demand remain healthy, especially as consumers navigate these unprecedented times.²

As fellow antitrust enforcers with our own independent authority to enforce State and federal antitrust laws, we are eager to work with you on a careful examination of the competitive dynamics of this industry. Given the concentrated market structure of the beef industry, it may be particularly susceptible to market manipulation, particularly during times of food insecurity, such as the current COVID-19 crisis. During an economic downturn, such as that caused by the current pandemic, firms' ability to harm American consumers through market manipulation and coordinated behavior exacts a greater toll, providing an additional reason for conducting a careful inquiry into this industry.

We are specifically asking the DOJ to lead a thorough examination of the competitive dynamics of this industry. Even if, after investigation, there is no appropriate enforcement action that can be pursued, we would suggest that regulatory strategies should be explored to promote competition, address market manipulation, and protect consumers. The DOJ is in the ideal position to lead such an effort. States Attorneys General are ready to support this critical endeavor and our request for DOJ action here does not suggest a lack of interest by any of our States in conducting our own inquiry to protect its local markets. To the contrary, this request reflects our awareness of the nationwide significance of this issue and interest in collaborating with you on this important issue.

Now, more than ever, we need to dedicate our collective resources to promote competition and protect consumers. We appreciate your consideration in this matter. Please do not hesitate to contact us with any questions.

Sincerely,



Wayne Stenehjem
Attorney General of North Dakota



Philip Weiser
Attorney General of Colorado

² WALT AND ALEX BREITINGER, FUTURES FILE: MEAT PLANT CLOSURES COULD PROVE DEVASTATING FOR FARMERS (Apr. 19, 2020), OMAHA WORLD HERALD, available at https://www.omaha.com/money/futures-file-meat-plant-closures-could-prove-devastating-for-farmers/article_32db2bdc-db6d-5c78-87cc-24a83a3b3fd3.html



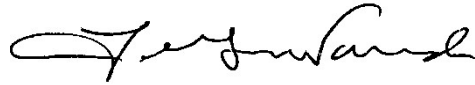
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