

United States Senate

WASHINGTON, DC 20510

May 12, 2020

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

Dear Attorney General Barr,

We have heard growing concerns from cattle producers and feeders in our states about troubling practices in the cattle industry that the COVID-19 national emergency has intensified, including allegations of market manipulation and coordinated behavior harmful to competition. These serious claims have been relayed in a request for further inquiry by the United States Department of Justice (DOJ) from eleven state attorneys general this past week, in addition to a number of letters from Senators on the matter. We support these calls to action and request that the DOJ investigate suspected price manipulation and anticompetitive behavior in the highly concentrated cattle industry, in order to identify more clearly the factors contributing to a dire situation for producers.

The lack of competition in the meatpacking industry has resulted in a vulnerable beef supply chain, which the current national emergency has destabilized further. Recent pricing discrepancies between fed cattle and boxed beef are pushing cattle producers and feeders to the brink, adding to the longstanding concerns stemming from the state of competition among beef packers. Since February, we have seen live cattle prices slump by more than 18 percent, while wholesale beef prices have increased by as much as 115 percent during the same period.

Although Congress acted to address the problematic conduct that was commonplace in the meat packing industry a century ago, consolidation has significantly increased in the industry since then. The four major beef packing companies, controlling over 80 percent of the cattle industry and with the advantage of thousands of producers from which to get their supply, effectively function as a chokepoint for the entire industry. Given the critical nature of their operations, the Big 4 packers have a massive dominance in the marketplace that limits opportunity for pricing negotiations in what should be a healthy, competitive marketplace. This is an untenable power imbalance.

We remain concerned about the heightened allegations of suppressed prices for cattle, especially considering how coordinated conduct is facilitated more easily by high market concentration. Furthermore, with so few packers, it makes it far more difficult to assess what is customary within the industry and distinguish reasonable practices. While several different types of conduct can come together to distort this highly concentrated market, we urge the DOJ to review the many dynamics at play here, including the allegations of price manipulation and actions taken to restrict competition.

We recognize that antitrust enforcement alone cannot wholly reshape the industry. However, antitrust laws do have a critical influence in keeping markets competitive as we seek to address the complex issues facing America's livestock industry during this pandemic. Guided by both the Sherman and Clayton Acts, in addition to the Packers & Stockyards Act, the DOJ's enforcement responsibility is key to ensure market manipulation and anticompetitive conduct do not interfere with competitive market forces within the beef supply chain.

Given the opaqueness of this concentrated industry, DOJ is in a distinct position to gather the facts and evidence necessary to determine the forms of collusion or other unfair and deceptive practices that might exist behind identical prices or certain buying and selling patterns among packers. We are greatly encouraged to see the momentum at the state level displayed by the coalition of eleven state attorneys general who wrote to the DOJ on May 5, 2020. We also respectfully request that the DOJ collaborate with our state antitrust enforcers to inform comprehensive efforts at both the federal and state levels for careful examination of the cattle industry's competitive dynamics.

Cattlemen across America seriously question the ability for their children to take over what are frequently multi-generational, family-owned operations that have served as the engines for their communities and our country's food supply. The precarious market situation for feeders and producers could lead to a widespread collapse of this entire industry, making it susceptible to the forces of vertical integration, which may beset the industry far more quickly than once anticipated. It is critical for the DOJ to act expediently to investigate these concerning circumstances and evaluate potential competitive harms.

We appreciate your prompt consideration of this important matter.

Sincerely,



Deb Fischer
United States Senator



Steve Daines
United States Senator



Michael B. Enzi
United States Senator



Mike Crapo
United States Senator



Doug Jones
United States Senator



M. Michael Rounds
United States Senator



John Hoeven
United States Senator



Kevin Cramer
United States Senator



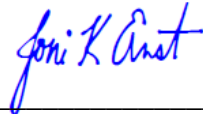
John Barrasso, M.D.
United States Senator



Martha McSally
United States Senator



Marsha Blackburn
United States Senator



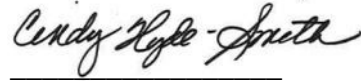
Joni Ernst
United States Senator



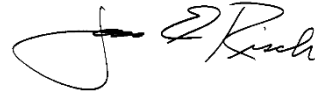
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United States Senator



Tina Smith
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Cindy Hyde-Smith
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