

AG Derek Schmidt to U.S. Justice Department: Investigate pricing in beef markets

Kansas Attorney General Derek Schmidt is asking the U.S. Department of Justice to investigate significant price swings in the cattle and beef markets to determine whether any illegal market manipulation has occurred, the attorney general's office announced today.

In a letter sent today to U.S. Attorney General Bill Barr, Schmidt joined the request for an investigation made earlier this month by 11 other state attorneys general.

“Because I am instinctively reluctant to invite federal intervention in state affairs unless absolutely necessary, I wanted to fully explore whether state law enables us to get the answers to legitimate questions many producers and feeders are raising about the cattle and beef markets,” Schmidt said. “But unfortunately, I am not authorized by statute to conduct state-law investigations of most potential antitrust violations in livestock markets, and we have now determined no state-law investigation is in fact authorized in the current situation. Therefore, I am now joining in the request for a federal review.”

The main state-level statute authorizing the attorney general to investigate potential illegal market manipulation is the Kansas Restraint of Trade Act. But that state statute provides that it does not apply to situations governed by the federal Packers and Stockyards Act. Since the fire at the Tyson plant in Holcomb last summer, the U.S. Department of Agriculture has been conducting an investigation of beef pricing under authority of the Packers and Stockyards Act; that investigation is ongoing and now has been specifically expanded to include price disruptions during the COVID-19 pandemic.

Schmidt said he nonetheless has authority to participate in enforcement of federal antitrust law and joins with the other states in an effort to persuade USDOJ to undertake an investigation.

“There have been tremendous disruptions in beef and cattle markets related to COVID-19,” Schmidt said. “The legal question is whether any other factors that may not be legally permissible also are at play. The underlying frustration of many cattle producers and feeders boils down to this: Why are they being paid significantly less for live cattle when consumers are paying more for beef on the grocer's shelf? It is a reasonable question that deserves a review and fully-informed answer.”

Schmidt said he will remain in consultation with other states and federal

enforcers as appropriate.

A copy of the attorney general's letter to the U.S. Department of Justice is available at <https://bit.ly/2yDJAZs>.