



**Organization for
Competitive Markets**

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July 31, 2020

Makan Delrahim
Assistant Attorney General
Antitrust Division
United States Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Dear Assistant Attorney General Delrahim,

As you may know, the Brazilian company JBS purchased the assets of Mountain States-Rosen (MSR), a rancher-owned lamb processing cooperative based in Greeley, Colorado. JBS laid off over 200 employees of the MSR plant and announced that it would be converting the operations of the plant from lamb slaughter and processing to beef processing.

This move by JBS would reduce sheep slaughter capacity by 20%, leaving a surplus of over 350,000 lambs with no available processing facilities.¹ This is particularly troubling given that JBS's own lamb imports constitute nearly 50% of all lamb imports in North America.² The purchase and closure of a significant competitor by JBS would further increase consolidation in the lamb market, to potentially harmful levels, and should be investigated by your office for possible antitrust violations.

In addition, JBS is currently the subject of two ongoing investigations, and as such, the purchase of MSR by JBS should be halted until those investigations are concluded and the implications of their findings are known:

1. Your office has been investigating JBS since June, when the DOJ issued civil investigative demands to the four largest meatpacking companies in the U.S.³

¹ Stadheim, Carrie. "JBS acquires Mountain States Rosen lamb plant: Rancher seeks anti-trust intervention." Tri-State Livestock News. 30 July 2020. Available: <https://www.tsln.com/news/jbs-acquires-mountain-states-rosen-lamb-plant-ranchers-seeks-anti-trust-intervention/?fbclid=IwAR38ReF-MRcd9MAXp2sGpVvgwJimR6puBnptZFU3LgsJg9Ysedxo2YPfxng>

² "JBS Imports," website. 30 July 2020. Available: <https://jbsa.com/our-business/imports/>.

³ McLaughlin, David. "DOJ Subpoenas Four Biggest Meatpackers in Antitrust Probe." 4 June 2020. Available: <https://www.bloomberg.com/news/articles/2020-06-04/doj-subpoenas-four-biggest-meatpackers-in-antitrust-probe#:~:text=The%20Justice%20Department%20is%20formally,shutdowns%20due%20to%20the%20coronavirus.>

2. The United States Department of Agriculture is currently investigating JBS for potential violations of the Packers and Stockyards Act and has not yet publicly reported the full scope and status of the investigation.⁴

JBS is a proven bad actor with a track record of food safety, environmental and worker safety violations, among others,⁵ as well as criminal misconduct among its leadership:

1. In the past 5 years alone, JBS has recalled millions of pounds of contaminated beef, with over 6 million pounds recalled in one single event.⁶
2. JBS was investigated and ordered to close its plant in Greeley, Colorado on April 10 of this year due to concerns over the company's workplace safety amid the outbreak of Covid-19.⁷ Over 500 pages of emails and other records show JBS did little to prevent employee deaths from Covid-19,⁸ and so far, seven JBS-Greeley plant workers and one employee from the JBS corporate office in Greeley have died from Covid 19.⁹ Incidentally, the JBS Greeley plant is across the road from the MSR plant.
3. The criminal Batista brothers have returned to their leadership roles in the parent company of JBS after being imprisoned. The Batistas were banned from holding management positions in the company after federal prosecutors charged them with insider trading. Investigations of the Batistas exposed bribes paid to food safety inspectors in Brazil, and the Batista brothers faced allegations that they bribed almost 2,000 politicians at all levels of government, including Michel Temer, former Brazilian president.¹⁰

The above items, but particularly item 3, are grounds to stop the purchase of MSR by JBS, to begin an investigation, and to revoke JBS's grant of inspection in the United States. According to U.S. Code, a grant of inspection can be withdrawn from an applicant or recipient if they are "unfit to engage in any business requiring inspection under subchapter I because the applicant or recipient, or anyone responsibly connected with the applicant or recipient, has been convicted, in any Federal or State court, of (1) any felony, or (2) more than one violation of any law, other than a

⁴ United States Department of Agriculture, Agricultural Marketing Service. "Boxed Beef & Fed Cattle Price Spread Investigation Report," p.2. 22 July 2020. Available:

<http://www.themarketworks.org/sites/default/files/uploads/studies/CattleandBeefPriceMarginReportfinal.pdf>

⁵ "Violation Tracker." *Good Jobs First*, 30 July 2020. Available: <https://violationtracker.goodjobsfirst.org/parent/jbs>

⁶ Kilgore, Tomi. "JBS Tolleson recalls 3,250 tons of beef for possible Salmonella contamination." *MarketWatch*, 4 October 2018, Available: <https://www.marketwatch.com/story/jbs-tolleson-recalls-3250-tons-of-beef-for-possible-salmonella-contamination-2018-10-04>

⁷ Bradbury, Shelly. "How coronavirus spread through JBS's Greeley beef plant." *The Denver Post*, 12 July 2020. Available: <https://www.denverpost.com/2020/07/12/jbs-greeley-coronavirus-investigation/>

⁸ "Documents show JBS did little to prevent employee deaths from Covid-19." *The Counter*, 14 July 2020. Available: <https://thecounter.org/jbs-employee-deaths-covid-19-meatpacking-greeley/>

⁹ Bradbury, Shelly. "Eighth JBS Greeley worker dies amid coronavirus outbreak at meat plant." *The Denver Post*, 18 May 2020. Available: <https://www.denverpost.com/2020/05/18/jbs-greeley-coronavirus-covid-death/>

¹⁰ Shaffer, Erica. "Court clears Batista brothers' return to JBS parent company." *Meat & Poultry*, 28 May 2020. Available: <https://www.meatpoultry.com/articles/23206-court-clears-batista-brothers-return-to-jbs-parent-company>

felony, based upon the acquiring, handling, or distributing of unwholesome, mislabeled, or deceptively packaged food or upon fraud in connection with transactions in food."¹¹

For the reasons described above, we urge you to issue an immediate stay of the sale of the MSR assets to JBS. Further, we call on your office to investigate JBS for possible antitrust violations pursuant to Section 7 of the Clayton Antitrust Act, which prohibits mergers and acquisitions where the effect "may be substantially to lessen competition, or to tend to create a monopoly."¹²

Your prompt attention to this matter is necessary. Do not hesitate to let me know if there is more information or assistance OCM can provide.

Sincerely,



Ben Gotschall, Interim Executive Director
Organization for Competitive Markets

Cc: Secretary Sonny Perdue, United States Department of Agriculture,
Cc: Commissioner Rohit Chopra, Federal Trade Commission

¹¹ United States Code, 2014. Title 21, Food and Drugs. Chapter 12, Meat Inspection. Subchapter IV, Auxilliary Provisions. Section 671, "Inspection services; refusal or withdrawal . . ." Available <https://www.govinfo.gov/content/pkg/USCODE-2014-title21/html/USCODE-2014-title21-chap12-subchapIV-sec671.htm>

¹² Federal Trade Commission. "Guide to Antitrust Laws." 30 July 2020. Available: <https://www.ftc.gov/tips-advice/competition-guidance/guide-antitrust-laws/antitrust-laws>