

POLITICS

Kamala Harris Assails DOJ's Antitrust Probe of Car Makers Over Emissions

Democratic presidential candidate alleges department is used for partisan political purposes



California Sen. Kamala Harris said Friday there were questions about whether federal law-enforcement was used to force car companies to stop making cleaner vehicles. PHOTO: PAUL KITAGAKI JR./ZUMA PRESS

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Sept. 13, 2019 5:47 pm ET

WASHINGTON— California Sen. Kamala Harris asked the Justice Department's inspector general to investigate why the department opened an antitrust probe of four car companies who struck a deal with California on vehicle-emissions standards.

Ms. Harris, a Democratic presidential candidate, said Friday in a letter to DOJ Inspector General Michael Horowitz that there were “serious questions about whether federal law enforcement is being used to coerce the four auto makers to abandon their efforts to make cleaner, less-polluting vehicles.”

Ms. Harris's letter comes as additional details are emerging about the Justice Department's interest in the agreement reached in July between the California Air Resources Board and Ford Motor Co., Honda Motor Co., BMW AG and Volkswagen AG .

Under the deal, the companies pledged to reduce their greenhouse gas emissions by 3.7% annually from model years 2022 to 2026, getting some credit toward that goal by selling electric vehicles. The targets are tamer than those adopted under President Obama but more stringent than those proposed by the Trump administration, which is seeking to roll back the Obama-era rules intended to cut the auto industry's contribution to climate change.

A recent Justice Department letter to the car makers, reviewed by The Wall Street Journal, suggests the department isn't sure what to make of the emissions agreement. The brief letter, dated Aug. 28 and signed by Makan Delrahim, head of the antitrust division, said the department learned of the deal from recent media reports and had questions about whether the car companies effectively brokered the deal among themselves, which "may violate antitrust laws," it said.

"Although we have reached no conclusions, based on what has been reported, we are concerned," the letter said. The department asked the auto makers to provide more information, including the context for the agreement and the communications that led to it.

People familiar with the Justice Department's thinking say officials view their query as a fact-finding effort. Mr. Delrahim, in a reporter scrum during a New York public appearance Thursday, suggested that criticisms of his division were misinformed.

A Ford spokeswoman referred to an earlier company statement that it would cooperate in any inquiry. A Volkswagen spokesman said, "We are in regular contact with U.S. authorities on a number of matters, but do not comment on specific private communications we may or may not receive."

The other two auto makers didn't respond to requests for comment.

Court precedent gives companies clear legal protection to jointly lobby the government, though the legal doctrine also has limits. Past cases say that if companies reach an anticompetitive private agreement among themselves and then ask the government to bless it, that conduct wouldn't be immune from antitrust liability.

Critics are suspicious of the department's motives given that the Trump administration is in a pitched political battle with California over appropriate fuel-economy standards. In recent weeks, top administration officials have aimed to strike back quickly at the state because of its deal with the four auto makers, an effort that has included trying to expedite the new federal rules and revoking California's authority to set its own.

Ms. Harris's letter Friday said there were "questions about whether the machinery of the Justice Department is being used for partisan political purposes."

Earlier this week, House Judiciary Committee Chairman Jerrold Nadler (D., N.Y.) and Rep. David Cicilline (D., R.I.), the chairman of a House antitrust subcommittee, also expressed concerns and said they planned to examine the Justice Department's actions.

The Journal first broke news of the DOJ inquiry on Sept. 6. Later that day, the federal Transportation Department and Environmental Protection Agency sent a joint letter to Mary Nichols, chair of the California Air Resources Board, that said the state's deal with the auto makers "appears to be inconsistent with federal law."

Ms. Nichols in an interview said she wasn't worried about the Justice Department's taking aim at the framework agreement with the car makers.

The deal's framework was developed through talks with the companies individually, she said, and all parties were mindful not to violate antitrust statutes.

"As we've regulated these companies over many years, we've also had voluntary agreements with these companies over many years," Ms. Nichols said. "They have very good lawyers who advise them on these issues and they would never transgress those rules."

The board is set to discuss the agreement at a public meeting in Sacramento on September 19.

Countries world-wide are setting more stringent emissions standards, putting pressure on auto makers to produce more low-emissions vehicles at a time when low energy prices are pushing consumers toward crossovers and trucks that burn more gasoline.

Meeting that challenge is costly, and the auto makers are more likely to reduce those costs by agreeing to work together to meet the same standards, analysts said, adding that they could even, potentially, share innovations in emission controls, analysts said.

"A lot of auto makers are looking at that longer term gain," said Ed Kim, vice president for industry analysis at AutoPacific Inc. "And California's standards are more in line with what the rest of the world is doing."

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