

The APEX Act: Built on a Pyramid of False Claims

The APEX Act is not needed



In early 2018, the United States imposed 10% tariffs on aluminum imports.

Seeing the cost of aluminum cans increase, beer industry leaders began an effort to lower the price of aluminum through “government intervention,” claiming the Midwest Premium is “artificially inflated” (Peter Coors op-ed).

These efforts peaked with the introduction of the APEX Act by Representative Ken Buck of Colorado, who claims the APEX Act is needed “to equip the CFTC” with the authority “to investigate pricing irregularities” (Rep. Ken Buck press releases), but would in fact give the CFTC unrestricted authority to intervene in aluminum pricing.

The APEX Act is not needed because the CFTC already has the authority to oversee commodities markets, including aluminum, and investigate any “pricing irregularities,” “artificially inflated” prices, or manipulation of the market.

CFTC Chairman Giancarlo recently confirmed this existing authority to Congress—testifying that they “oversee whether there may be manipulation”—and the CFTC has already used their authority to investigate the beer industry’s claims.

The APEX Act is built on a claim the CFTC has already refuted—testifying to Congress: “we monitor that very carefully ... we have not found manipulation.”

Beer industry leaders have claimed for over 18 months to see “pricing irregularities” in the Midwest Premium price assessment reported by Platts, which they say demonstrate it is being “artificially inflated,” yet have failed to provide any evidence of incorrect pricing information or inappropriate behavior by Platts.

CFTC Chairman Giancarlo was asked about these claims recently before Congress, and testified that “we monitor that very carefully ... we have not found manipulation.”

S&P Global Platts is a neutral and independent information provider with no financial stake in whether the price of aluminum or any other commodity goes up or down.

All pricing information that Platts relies on in making its price assessments is reported to the market throughout the day to see, validate, and comment on.

Use of a price assessment is voluntary, and market participants can choose if they want to use a price assessment for the Midwest Premium from Platts, or one of its several competitors.

The APEX Act is an effort by one industry to use political influence to lower the price of aluminum through “government intervention” following increased aluminum costs from tariffs.

Already facing falling consumer demand, the beer industry is now facing increased costs due to aluminum tariffs.

The 10% tariff on pure (or “primary”) aluminum resulted in about a 10% increase in the price of aluminum in the United States because the U.S. imports about 90% of its aluminum needs.

- This price has begun to come down following the lifting of tariffs on Canada and Mexico—still leaving about 35-40% of aluminum imports subject to the tariff.

After first pressuring the messenger (in this case Platts) through false claims of manipulation, beer industry leaders are now advocating for the APEX Act unrestricted government authority over aluminum pricing, which they can then hope to influence to their benefit.

- As Pete Coors said in an op-ed, after failing to negotiate their preferred price for cans and can sheet—stating suppliers “refused” to provide “better rates”—they now believe “government intervention” is “necessary”.

The APEX Act is potentially disruptive to commodities markets through unrestricted government authority over commodity pricing.

Commodity prices (like for aluminum) are determined between buyers and sellers of a commodity in transactions that occur out of sight.

Platts, like other information providers, sheds light on these deals as an independent third-party reporting what happened.

- Market participants share this information with Platts voluntarily to create a more transparent and efficient market.

The APEX Act would give the CFTC unrestricted authority to intervene in aluminum pricing—potentially distorting the price, disrupting the market for aluminum, and eliminating the transparency provided by Platts and other information providers.