

## Executive Summary

Farmers have expressed concerns about decreasing competition and increasing concentration in the agricultural marketplace. Their concerns are directed primarily at the livestock sector where the number of traditional markets and slaughter facilities declined while the largest beef and hog packers expanded their ownership and purchasing powers. Meanwhile, current congressional leaders may be more inclined to examine these issues during farm bill consideration.

## Issue Background

Changes in the business structure and production methods of raising and marketing livestock and processing meat have long generated interest and controversy among producers and members of Congress. Farm animal production has undergone significant consolidation since 1980. Beef and pork packing and processing have consolidated rapidly into fewer and larger plants, resulting in a relatively small number of firms accounting for most production and sales.

Consider these trends, as reported by various USDA agencies:

- From 1980 through 2005, the share of steer and heifer slaughter for the four largest beef packers increased from 36 percent to 79 percent.
- From 1985 through 2005, the share of hog slaughter for the four largest hog packers increased from 34 percent to 64 percent.
- From 1975 to 2004, the portion of fed cattle marketed by feed yards that had a 1,000-head or larger capacity increased from 74 percent to 95 percent.
- Current four-firm market shares in the broiler sector are more than 50 percent.

The government's recently released Livestock and Meat Mar-

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## Competition and Concentration

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keting Study reveals significant information specific to the use of alternative marketing arrangements (AMAs) in the beef and pork processing sectors. From late 2002 through early 2005, AMAs were estimated at 38 percent of fed cattle volume, 44 percent of the fed lamb volume and 89 percent of the finish hog market.

Some people believe these structural changes have undermined the more traditional system of smaller-scale, independent farms and ranches. They also believe the structural changes have created closed markets with

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## AFBF Policy

**AFBF Policy 26, Monopoly** (excerpted): “To further protect the sellers of commodities from anti-competitive behavior, USDA oversight of the Packers and Stockyards Act should be enhanced. Specifically, Grain Inspection Packers and Stockyard Act (GIPSA) investigations need to include more legal expertise within USDA to enhance their anti-competitive analysis on mergers.”

**AFBF Policy 94, Packers and Stockyards Act** (excerpted): “We support effective enforcement of antitrust laws and the Packers and Stockyards Act. USDA, in conjunction with the Department of Justice, should closely investigate all mergers, ownership changes or other trends in the meat-packing industry for actions that limit

the availability of a competitive market for livestock producers.

“Action should be taken to oppose further concentration of the meat packers. The Departments of Agriculture and Justice should more aggressively enforce current antitrust laws pertaining to packer concentration.

“The Act should be amended to provide jurisdiction and enforcement over the marketing of poultry meat and eggs as already exists for livestock; strengthen the ability of GIPSA to stop predatory practices in the meat-packing industry; provide producer restitution when a case is successfully prosecuted; provide GIPSA enforcement authority to ensure that all instruments used in quantifying quality factors

for value determination for live-stock are performing to a set standard; and include breeder hen and pullet operations so they are treated the same as broiler operations.

“We will support legislation on a state and national basis, establishing GIPSA as the overall authority and provider of oversight to ensure livestock contracts are clearly written, confidentiality concerns are addressed, investments are protected, enhanced price transparency, price discovery and contractors honor the terms of contracts.”

Related policies: **Policy 60, Marketing Philosophy** and **Policy 49, Federal Marketing and Bargaining Legislation**. The entire policy book is posted on <http://silo.fb.org/Policy/FBFPolicyBook.htm>.

## Economic Analysis

To gain an understanding of this contentious issue, it helps to examine individual components of the production chain and see the trends. As illustrated in the table, all sectors except sheep and lamb slaughter experienced rapid consolidation in the 1980s and 1990s. With the exception of non-fed cattle slaughter, however, those trends have leveled.

The relevant prevailing economic theory is as concentration increases, the more likely it will be that large firms can influence the prices of goods bought or sold. Production agriculture is often described in textbooks as the last example of the pure competition model: a sector characterized by many independent producers pro-

ducing a largely non-differentiated product with few barriers to enter into or exit from the business. This model largely holds for grain, fiber and cow-calf production. However, the trend toward vertical coordination in the swine and poultry sectors, along with rapid consolidation in the packing and processing industries, troubles many agricultural leaders.

Major acquisitions in the livestock industry include Tyson Foods’ 2002 purchase of IBP; Smithfield Foods’ 2004 purchase of ConAgra’s cattle feedlots, followed months later by Smithfield’s joint venture with ContiBeef that formed the largest cattle feeding venture; Smithfield’s 2006 purchase of Premium Standard Farms; and Pilgrim’s Pride’s 2007 purchase of Gold-Kist.

### Percentage of Activity by Four Largest Firms

	1980	1985	1990	1995	2000	2005
Steer and Heifer Slaughter	35.7	50.2	71.6	79.3	81.7	79.1
Boxed Fed Beef Production	52.9	61.5	79.3	84.3	84.7	82.9
Cow and Bull Slaughter	9.7	17.2	20.4	23.4	32.0	55.0
Hog Slaughter	33.6	32.2	40.3	45.5	57.1	63.5
Sheep and Lamb Slaughter	55.9	51.2	70.2	77.9	69.8	55.7

Source: USDA Grain Inspection, Packers and Stockyards Administration, February 2007

## Public Relations Resources

### Talking Points:

- Consolidation and subsequent concentration within the agricultural sector could have adverse economic effects on U.S. farmers and ranchers.
- It is imperative that markets are open to all producers and that they offer fair prices for their products.
- As production using contracts and alternative marketing arrangements (AMAs) becomes more common, producers have less connection with traditional cash markets. This could result in lower prices paid to producers of all commodities.
- While AMAs are voluntary, we question whether they are truly voluntary in every region of the U.S., for every packer and for every species.
- Producers' protections should be strengthened in the Packers and Stockyards Act (PSA), and USDA's authority to enforce the PSA should be expanded to include the marketing of poultry and eggs as already exists for livestock.
- USDA oversight of the PSA should be enhanced, and investigations should include more legal expertise to bolster analysis of mergers.
- The Agriculture and Justice departments should work together more closely to investigate all mergers, ownership changes or other trends in the meat-packing industry that may limit the availability of competitive markets.
- An Office of Special Counsel for Competition should be established within USDA, and the employment of a specific agriculture counsel within Justice should be maintained.
- Producers should be free to discuss contracts with family members, attorneys and other outside advisers, and the contracts should clearly spell out what is required of producers. Producers also should be free to attest to companies' unfair actions in courts of law.

## Issue Background

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less price transparency, eroded farmers' negotiating powers and contributed to lower prices paid to farmers. In response to these claims, members of Congress have proposed legislation to prohibit packer ownership of animals, prevent the imposition of mandatory arbitration clauses in contracts and increase enforcement of existing farmer-friendly measures.

There are numerous laws and authorities over competition and concentration issues, and most of

these laws are not new. Concerns about the growing market power of large corporations and meat packers were widespread in the late 1800s and culminated with the passage of several major antitrust laws, including the Sherman and Clayton Acts. The Packers and Stockyards Act (PSA) of 1921 was implemented in response to concerns that the "marketing of livestock presented special problems that could not be adequately addressed by existing antitrust laws."

Parts of the PSA prohibit unjustified discriminatory practices, as well as certain, specific activities

that might adversely affect competition in the marketplace. The Agriculture Department has assigned regulatory responsibility for this law to an agency known as the Grain Inspection, Packers and Stockyards Administration (GIPSA). However, GIPSA does not have direct antitrust authority, and the PSA does not provide the agency with pre-merger review authority.

GIPSA's role is to maintain fair competition regulations. It is authorized to initiate and conduct investigations of alleged violations in the livestock industry, but not in the poultry industry.

## What's Happening Now?

During consideration of the farm bill later this year, several senators are expected to push for the addition of a new title focused on competition and concentration issues.

Already, Sens. Harkin (D-Iowa), Enzi (R-Wyo.), Feingold (D-Calif.), Thomas (R-Wyo.), Dorgan (D-N.D.), Baucus (D-Mont.) and McCaskill (D-Mo.) have introduced The Competitive and Fair Agricultural Markets Act, S. 622, which addresses many competition-related issues that concern farmers and ranchers. This bill could become the basis of a competition title if one is added to the farm bill.

AFBF supports enhancing the Agriculture Department's oversight of the Packers and Stockyards Act (PSA) and believes the Grain Inspection Packers and Stockyards Administration (GIPSA) investigations need to include more legal expertise from within USDA to enhance anti-competitive analysis of mergers.

AFBF also supports enforcement of antitrust laws and the PSA and believes USDA, in conjunction with the Department of Justice (DOJ), should closely investigate

all mergers, ownership changes or other trends in the industry for actions that limit the availability of a competitive market for livestock producers.

We also support establishing an Office of Special Counsel for Competition at USDA. AFBF was a leader in securing a specific agriculture counsel at DOJ to study the potential effects an agribusiness merger or acquisition would have on producers. Because this specialized position has worked well at DOJ, we believe USDA will benefit similarly.

Because protections for poultry producers are not covered by the PSA, AFBF supports strengthening the act to include measures and enforcement actions for poultry to bring its status in line with other forms of livestock.

Regarding contracts, AFBF supports ensuring the production contract clearly spells out what is required of the producer. Farm Bureau supports establishing GIPSA as the overall authority and provider of oversight to ensure livestock contracts are clearly written, confidentiality concerns are addressed, investments are protected, price transparency and discovery are

enhanced, and contractors honor the terms of contracts. Farm Bureau also strongly supports legislation that would prevent mandatory arbitration clauses so producers are not prevented from going to the courts to speak out against unfair actions by companies.

Farm Bureau also worked to reauthorize mandatory price reporting last fall. The program has worked well for producers in providing increased price and market information. AFBF is working with USDA to get regulations released in order to implement the program.

In addition, a long-standing Farm Bureau policy supports allowing interstate shipment of state-inspected meat and poultry—an issue that could come up during farm bill consideration. State-inspected meat and poultry should be treated the same as other state-inspected foods that already move freely.

## For More Information

The following AFBF staff members assembled this issue briefing:

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- **Caroline Rydell**, director of congressional relations in public policy, (202) 406-3671 and [caroline@fb.org](mailto:caroline@fb.org).
- **Jim Sartwelle**, livestock economist in economic analysis, (202) 406-3623 and [jsartwelle@fb.org](mailto:jsartwelle@fb.org).

### Additional Resources

Additional information is posted on Farm Bureau's intranet site, SILO, at <http://silo.fb.org/issues/livestock>.

Among the resources posted on the Livestock Issues Management page on SILO are news clips, links to past Issues Management Briefings about related issues and links to agricultural law programs around the U.S. Links to related conference calls and PowerPoint® slide presentations also are posted on this page.