

United States Senate

WASHINGTON, DC 20510

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July 22, 2024

The Honorable Tom Vilsack
Secretary
U.S. Department of Agriculture
Washington, D.C. 20250

Re: Fair and Competitive Livestock and Poultry Markets (AMS-FTPP-21-0046) and Poultry Grower Payment Systems and Capital Improvement Systems (AMS-FTPP-22-0046)

Dear Secretary Vilsack,

I write in strong support of the above-mentioned rules proposed by the U.S. Department of Agriculture (USDA) under Packers & Stockyards Act (PSA) authority. These rules would be a game-changer for contract poultry growers and other livestock producers. These rules are necessary as the livestock and poultry markets currently face similar challenges with consolidation that they faced in 1921 when the PSA was originally passed. As you review comments and finalize these rules, I urge you to retain strong protections for growers, on a timeline that promotes stability and fairness in the market and meets the urgency of the need.

Updating PSA terms

The PSA is clear in its definitions, which prohibit “any unfair, unjustly discriminatory, or deceptive practice or device,” (7 U.S.C. 192(a)). By clarifying PSA terms, the USDA would make the industry more fair, as envisioned by the 67th Congress that passed the PSA. A reasonable understanding of the PSA should not require proof of “competitive injury;” a much lower threshold is sufficient for farmers to demonstrate a meatpacker is out of compliance with the PSA, by demonstrating that practices have been unfair or deceptive. Your clarity on these definitions is important to support growers.

Promoting choice among meatpackers

The USDA’s own data shows a concerning level of consolidation in the livestock and poultry markets, rivaling the consolidation in the early 1900’s which prompted passage of the PSA.¹ The Federal Trade Commission found near-complete control of the market by the “Big Five” in 1919. Recently, the USDA found consolidation increasing in the sector since 1980, with only *four* corporations controlling 81% of the cattle market and 67% of the hog market.² As the

¹ FTC. (1919). Food investigation : report of the Federal trade commission on the meat-packing industry: Volumes 1-2. *Federal Trade Commission*.

² MacDonald, J. M. (2024). Concentration in U.S. Meatpacking Industry and How It Affects Competition and Cattle Prices. *USDA Economic Research Service*.

Poultry Grower Payment Systems and Capital Improvement Systems proposed rule explains, “roughly 22 percent of growers operate in a pure monopsonistic local market, and that 52 percent of broiler growers (farms), accounting for 55 percent of broilers produced and 56 percent of total production, report having only one or two LPDs in their local areas.” Anything you can do to promote competition and choice among contract growers is a win by my standards.

Regulating fairness in tournaments

I can think of no clearer example of an “unfair” practice in the poultry industry than pitting growers in a regional market against each other. Similarly, I can think of no clearer “deceptive” practice than telling growers they will receive one price, then paying them another. Unfortunately, as the Poultry Grower Payment Systems and Capital Improvement Systems proposed rule clearly lays out, the current tournament system many growers are operating under does just these things. The USDA can and must do more to create a level playing field for these growers, and this rule does just that. In an industry where one company is worth up to \$61.5 billion,³ this rule will give contract growers a fair shot against corporate behemoths and their legal armies.

Modernizing enforcement

As anyone with eyes can see, the 21st century livestock and poultry market has become concerningly monopolized by a small handful of companies. This consolidation is made worse by modern technology, demonstrated by a recent U.S. Department of Justice (DOJ) consent decree. In its decree, DOJ alleges poultry companies and a data consulting firm suppressed wages and other benefits for plant workers.⁴ As you continue pushing for a fairer food system, I urge you—in coordination with and referral to DOJ—to increase your enforcement measures against corporations in violation of the PSA. Your actions, with DOJ, help create a fair market for livestock producers.

Thank you in advance for your consideration. The work you have been doing in the Biden-Harris administration to promote competition in the livestock and poultry market is necessary to give farmers a fair shot. Please contact my office directly with any questions.

Sincerely,

³ Blas, J. (2023). Peek Inside America’s Largest Privately Owned Company. *Bloomberg*.

⁴ Office of Public Affairs. (2022). Justice Department Files Lawsuit and Proposed Consent Decrees to End Long-Running Conspiracy to Suppress Worker Pay at Poultry Processing Plants and Address Deceptive Abuses Against Poultry Growers. *U.S. Department of Justice*.



John Fetterman
United States Senator

CC: The Honorable Merrick Garland, Attorney General, U.S. Department of Justice