Meat Institute

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FACT SHEET: Packers and Stockyards Rules Changes

The Packers and Stockyards Act of 1921 (the Act or PSA) enforces fair competition in livestock markets.

Under the Act, a producer may make a claim and prevail in a Packers and Stockyards case if they can prove anticompetitive behaviors have caused or are likely to cause harm to competition.

Secretary Vilsack has proposed rules changes so that any individual producer may be able to make a claim under the Act and win, without showing harm to competition.

Secretary Vilsack tried and failed to enact similar rules in 2010. The Congress blocked implementation of most of the rules in each of the fiscal year 2012-2015 agriculture appropriations bills.

USDA's interpretation has been rejected by the courts: all eight federal circuits that have considered the question have held that a plaintiff must show harm or likely harm to competition to prevail under the Act. For more on the legal background go here.

USDA's goal is to move producers and packers away from Alternative Marketing Arrangements (AMAs) and back to the cash market.

Sometimes simply referred to as "contracts," more than 30 years ago, producers developed AMAs to support the innovation of value-added products, create supply certainty, hedge against risk, and reduce marketing costs. Today, AMAs are widely used in both beef and pork, although the cash market option still exists.

For more basics on the cattle value chain go here. For more on AMAs go here.

The Biden Administration wants to reverse this producer-driven innovation and believes that all livestock are the same and should receive the same price, regardless of supply and demand, genetics, quality, production practices, or any other factors. The rules will spur litigation, which, Secretary Vilsack hopes, will change how livestock are marketed between producers and packers.

In fact, when Secretary Vilsack and Jonathan Kanter, the Assistant Attorney General for Antitrust at the Department of Justice, announced the proposed rule, Kanter said he hopes plaintiffs "will bring a PSA case, or two, or 20."

While "encouraging" litigation in announcing the rule, USDA ignores litigation costs in its economic analysis of the recent "unfair practices" proposal. By not analyzing litigation costs, USDA is free to ignore the market changes the litigation will drive – i.e., reducing the use of AMAs. USDA must conduct a rigorous economic analysis of the PSA proposals so Congress and stakeholders know the true cost of these rules, including how the rules will affect the price of meat and poultry for consumers.

Academics' and Economists' Findings:

In 2007, USDA commissioned a study by RTI International, which found curtailing AMAs in beef and pork would cost both producers and consumers.

In 2020, Stephen Koontz, Department of Agricultural & Resource Economics – Colorado State University found that: *Limiting the use of AMAs by the cattle feeding and beef packing industries will decrease efficiency, will increase processing and marketing costs, and has the potential to reduce beef product quality….The costs at the industry level would potentially be over $2.5 billion per year in today's dollars, with the industry making economic adjustments and reducing in size,* *so that over a 10-year horizon the cumulative costs would be over $16 billion. The majority of the impact would be borne at the cow-calf producer level by farms and ranches. Further, the impact is distributed substantially on the industry that does business or supplies those in the southern plains of the U.S.* (Colorado, Kansas, New Mexico, Oklahoma and Texas)

In June 2021, USDA's Office of the Chief Economist and the Agricultural and Food Policy Center at Texas A&M University jointly sponsored a workshop at which a series of research papers on cattle market issues were presented and discussed. Some key findings include: "*Changing (AMAs) will not improve market prices for cattle producers, nor change the supply and demand picture, but it has the potential to disrupt efficient operations and make things worse for producers."*

Producer Organizations Oppose the Changes:

National Cattlemen's Beef Association: *"USDA's newly proposed rule is a direct attack on cattle producer profitability. By creating criteria that effectively deems any innovation or differentiation in the marketplace improper, USDA is sending a clear message that cattle producers should not derive any benefit from the free market but instead be paid one low price regardless of quality, all in the name of so-called fairness."*

National Pork Producers Council: "*Pork producers rely on enforcement of the PSA, which was enacted to protect competition in the meat and poultry industries, ensuring fair markets and competitive pricing opportunities. However, removing the requirement to show anticompetitive harm, combined with the proposal's vague and broad language, may increase frivolous litigation, and, as a result, negatively affect market innovation and contracts.*"

Key USDA Packers & Stockyards Rules and Industry Positions

Inclusive Competition and Market Integrity Under the Packers and Stockyards Act ("Inclusive Competition Rule") *Final, March 6, 2024*, Meat Institute: Changes to Packers & Stockyards Act Will Not Affect Competition

Fair and Competitive Livestock and Poultry Markets ("Unfair Practices Rule") *Proposed, June 28, 2024*
Meat Institute: Proposed Changes to Packers & Stockyards Act Rules Will Hurt Meat and Poultry Producers, Consumers

Price Discovery and Transparency in Markets for Fed Cattle ("Cattle Price Discovery Rule")
Announced, but not yet proposed