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USA - Competitive meat market

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US Secretary of Agriculture Tom Vilsack announced new Rules to address the problem of increased contracting in the marketing and production of livestock and agriculture. The Organization for Competitive Markets (OCM) applauded the Department's bold action.

The applause grew louder after OCM's General Counsel and Senior Economics Fellow studied the Rules. They called the Rules "major steps in the direction of a functioning marketplace". General Counsel, Dave Domina commented: "Dr. Robert Taylor and I have had the privilege of studying and writing extensively about market concentration, and the problem of contracting between large producers and large packers to control the movement of meat animals to slaughter. We have expressed our grave concern about the trends in the courts, and the variance between their trends and the obvious history of the Packers and Stockyards Act. Now, these new Rules pointedly provide new tools to help producers assure market fairness."

Dr. Robert Taylor, an agricultural economist and the Alfa Eminent Scholar at Auburn University, noted that "a single producer cannot reasonably be expected to prove predatory intent, or competitive injury to the market place, when attempting to find redress from a packer's pointed attempts to harm that producer. Yet, in recent years, courts have required such proof, contrary to the plain language of the law."

Domina and Taylor said "the new Rules, particularly in 7 CFR § 201.210, aggressively address this problem, and express the Department's strong view that the courts have drifted in the wrong direction. Section 201.211 establishes criteria to be used in determining when improper preferences or advantages have been conferred. These are powerful tools."



The Organization for Competitive Markets has provided seminars and sponsored extensive writing in the area of market fairness and competition. OCM President Randy Stevenson hailed the new Rules as "a significant move in the right direction." He continues: "We believe poultry, pork and beef producers all gain significantly at this leveling of the playing field and advancement of fairness and market transparency."

Domina, a lawyer whose practice has included trial of Packers and Stockyards Act cases, noted that "the new regulations address, squarely, the fact that a number of US Circuit Courts of Appeal have not given deference to USDA's agency interpretation of the Packers and Stockyards Act. The new Rules specifically recite that this failure by the courts has frustrated the Agency's enforcement capabilities. The Agency is right."

Dr Taylor explained the economics problem of requiring one producer to prove that a processor's misconduct against him can be redressed only if the whole market is harmed. "Where one producer is singled out, and retaliated against, but cannot have a remedy unless that single producer can prove that the packer's conduct harmed the entire marketplace, and the price of the entire commodity, then the courts have marginalized the statute. The new rules address this problem forcefully."

OCM Executive Director Fred Stokes and the OCM Board joined Stevens, Domina and Taylor in complimenting USDA's rulemaking. Stokes remarked: "For many years, the courts have perverted the intent of the P&S Act and GIPSA has failed to discharge its duty. This has caused grievous harm to poultry growers and livestock producers. This is a new day! These rules are powerful and should dispel any remaining skepticism concerning GIPSA's commitment to enforcing the Packers and Stockyards Act."

Stevenson concluded, "If packers are so big and powerful that they can suppress the people who raise the food, inevitably they, joined by giant retailers, will gouge consumers as well. Today, the USDA took a giant step in the direction of protecting the American public, including both the producers and consumers of the nation's meat supply."

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