

MEAT & POULTRY PROMOTION COALITION

October 18, 2007

The Honorable Tom Harkin
Chairman
Senate Committee on Agriculture, Nutrition, and Forestry
731 Hart Senate Office Building
Washington, DC 20510

Dear Mr. Chairman,

The Meat and Poultry Promotion Coalition, representing a vast majority of U.S. livestock producers and the meatpacking industry, wants to express its appreciation for the leadership you provide to the agriculture and food industry. Our Coalition's objective in the 2007 farm bill is quite simple: to preserve our ability to provide a high quality, consistent, and safe product to the American consumer at a reasonable price while preserving the economic health of the U.S. livestock, poultry, and meat industry. We want to ensure that consumer demands continue to drive business decisions between producers and processors, and that producers are able to benefit from marketing arrangements that promote the production of high quality meat products.

We understand that your Chairman's mark may include provisions similar to S.622, the Competitive and Fair Agricultural Markets Act of 2007. This bill would place unmanageable restrictions on U.S. livestock, poultry, and meat producers, while providing redundant and unnecessary new enforcement authorities to USDA.

The Congressionally mandated Livestock and Meat Marketing Study, prepared by the Research Triangle Institute (RTI), represents the most up-to-date independent data and analysis on the effects of alternative marketing arrangements on the meat and livestock industry. The RTI report shows that provisions such as those in S. 622 are likely to damage the interests of U.S. livestock producers--the very same producers the bill is intended to protect. According to the RTI report, provisions that restrict the use of marketing arrangements will not only threaten the profitability of producers and packers, but will have negative economic implications on U.S. consumers.

If the Senate version of the 2007 farm bill includes provisions that limit producers' profitability, such as those included in S. 622 as well as amendments that we believe would undermine the U.S. livestock and poultry industries, we must strongly oppose the bill. Specifically, we oppose inclusion of any provision in the Senate version of the farm bill that:

- Restricts the use of contracting and marketing arrangements that have proven to serve the interests of consumers and enhance the economic viability of U.S. cattle, pork,

and poultry producers. Marketing arrangements and contracts continue to help producers manage risk and price volatility. Moreover, contracts are important tools that help producers obtain critical short and long term financing for their operations. Provisions that would regulate “captive supplies,” whether packer owned or procured through marketing agreements or contracts, could subject livestock and poultry producers to inconsistent interpretations as to how they can market their animals, as well as limit their ability to participate in arrangements that promote high-quality, safe and consistent products.

- Eliminates the fundamental requirement that a plaintiff show some injury to competition in cases involving the Packers and Stockyard Act and the Agricultural Fair Practices Act litigation. The vaguely defined new standard of “fairness” will lead to increased litigation against producers and packers. Eliminating the requirement of a showing of injury to competition would allow, for example, one producer to challenge in court the marketing arrangement of another producer simply because he believes it is “unfair” that his neighbor was able to obtain a better price for a higher quality product. In any event, such a provision is virtually certain to have a chilling effect on current producer/processor relationships. Allowing a jury to disregard a company’s sound reasons for treating producers based on performance would undermine the concept of rewarding value creation and quality improvements and could eliminate producers’ ability to receive maximum returns on their livestock and poultry.

- Creates an Office of Special Counsel for Competition Matters, or similar office, at the U.S. Department of Agriculture. Processors, and even some producers, currently are subject to scrutiny by the Department of Justice (DOJ), the Federal Trade Commission (FTC), and the Grain Inspection Packers and Stockyards Administration (GIPSA). Adding a new layer of bureaucracy that is duplicative of GIPSA, DOJ, and the FTC would create confusion with regard to legal jurisdiction and likely increase the number of lawsuits filed. It seems redundant to create an additional authority with the same enforcement responsibilities that are now delegated to those entities. We also fear that a new Office of Special Counsel at USDA inevitably would be subject to political pressures from those who believe its level of enforcement activity is too great or too small.

- Prohibits packers from owning livestock. In order to meet the clear desires of consumers, the U.S. meat and poultry industry has shifted away from a commodity marketing approach and toward branding. Brands are built on consistent product quality to meet consumer demands. This objective is best accomplished through the use of consistent raw materials. In order to meet customer requirements, packers must own some or all of their livestock to ensure a steady, adequate supply of the particular type of livestock they need for their product mix, whether these livestock are fed in a particular way, raised organically, or have a certain quality profile. Many people assume that a ban on packer ownership would increase competition, but the data, and experience in the marketplace show a ban would hinder competition. For example, a ban on packer ownership would discourage small packing companies from expanding. If an owner of a single packing plant owns some of his or her livestock, that owner cannot expand that

packing operation by building or purchasing an additional packing facility, thereby limiting competition.

- Increases the administrative enforcement authority of GIPSA over U.S. poultry dealers. It is currently a violation of the Packers and Stockyards Act for a poultry dealer to engage in unfair, deceptive or discriminatory practices. Adding another layer of enforcement authority will create confusion with regard to legal jurisdictions of DOJ and USDA and subject poultry producers and processors to potentially frivolous claims.

Mr. Chairman, we urge you to resist including provisions such as these in the Chairman's mark because they would directly and adversely impact the long term profitability of the U.S. livestock, poultry, and meat industry. Adoption of these provisions would force our Coalition to strongly oppose the Senate version of the 2007 farm bill that you have worked so hard to craft and that we sincerely hope to be able to support.

Sincerely,

American Foods Group

American Meat Institute

Cargill

Christensen Farms

Hatfield Quality Meats

Hormel Foods

National Beef

National Cattlemen's Beef Association

National Chicken Council

National Meat Association

National Pork Producer's Council

National Turkey Federation

Seaboard Corporation

Smithfield Foods

Swift & Co.

Tyson Foods, Inc.

U.S. Premium Beef