

Support the Senate's Packer Ownership Prohibition

The Senate version of the 2007 Farm Bill contains a prohibition on packers owning, feeding, or controlling livestock. This “Packer Ownership Prohibition” would affect only the largest U.S. packing plants that, because of their size and dominant market power, are positioned to use packer-owned livestock to control producers’ access to the market and depress livestock prices.

The Packer Ownership Prohibition would increase marketing opportunities for livestock producers by eliminating the anti-competitive practice of using packer-owned livestock to artificially create over-supply, thus limiting producers’ access to the market and depressing prices. The prohibition would increase market transparency and reduce market distortion, creating more competition.

Marketing options for producers are preserved by prohibiting the largest packers from having legal title to (owning) and day-to-day management control over (ownership-like control) livestock for more than 14 days prior to slaughter. Producers who own, and materially participate in the management of their livestock, will continue to enjoy forward-contracting options.

All but the largest packers are excluded from the Packer Ownership Prohibition. Packers that own only one livestock processing plant are excluded. About 11 of the approximately 800 meat-slaughter packers registered with the U.S. Department of Agriculture (USDA) own more than one plant.¹ These 11 packers own about 85 slaughter plants.² Approximately 92% of cattle and hog plants are excluded also because they are not subject to price reporting³ – there are only 52 cattle and 53 hog plants that would not meet this exemption,⁴ most of which would be owned by the 11 packers with multiple plants. The effect of these exemptions is that only the largest packers, representing a very small number of packers, would be subject to the prohibition. Thus, the prohibition is carefully crafted to eliminate the specific harm at its specific source.

The harm to U.S. livestock producers due to packer-owned livestock is significant – amounting to hundreds of millions of dollars annually. The comprehensive econometric analysis documented in *Pickett v. Tyson Fresh Meats, Inc.*, which covered the period 1994-2004, showed that for each 1% increase in captive supply cattle (of which packer-owned cattle is a subset), cattle prices decreased 0.155%.⁵ Assuming that 5% of cattle are packer-owned,⁶ cattle prices are lowered by \$0.70 per cwt., or \$8.72 per animal. A USDA-funded study found that each 1% increase in packer-owned hogs causes a 0.24% decline in price.⁷ Assuming 20% of hogs marketed are packer-owned,⁸ the negative price impact is \$2.16 per cwt., or \$6.05 per hog.

The Packer Ownership Prohibition is needed to reverse the unfavorable trends from 1980 to 2005 identified by the USDA regarding the erosion of the U.S. livestock industry:

- U.S. sheep and lamb operations declined from 120,000 to 68,000.
- U.S. hog and pig operations declined from 667,000 to 67,000.
- U.S. cattle operations declined from 1.6 million to 983,000.⁹

The Packer Ownership Prohibition would help restore market integrity for livestock producers by preventing the largest packers from controlling market access and depressing market prices.

¹ See Meat, Poultry, and Egg Product Inspection Directory, U.S. Department of Agriculture Food Safety Inspection Service, December 7, 2007, available at http://www.fsis.usda.gov/regulations_&_policies/Meat_Poultry_Egg_Inspection_Directory/index.asp (R-CALF USA has condensed the directory to include only packing firms that slaughter meat (as opposed to poultry), and that slaughter animals (as opposed to only processing animals). The condensed list contains approximately 800 firms and is available by contacting R-CALF USA at 406-252-2515 or e-mail: r-calfusa@r-calfusa.com, also available is a summary of the 11 U.S. meat-slaughter packers that own more than one packing plant.).

² *Ibid.*

³ See 72 Federal Register, August 8, 2007, at 44,688.

⁴ See Livestock Slaughter 2006 Summary, U.S. Department of Agriculture National Agricultural Statistics Service, March 2007, at 56 (Numbers cited are for cattle slaughtering plants that slaughter over 125,000 cattle and hog slaughtering plants that slaughter over 100,000 hogs.).

⁵ See Trial Transcript in *Pickett et al. v. Tyson Fresh Meats, Inc. (IBP, Inc.)* Civil No. 96-A-1103 N, U.S. District Court for the Middle District of Alabama, Northern Division.

⁶ See GIPSA Livestock and Meat Marketing Study, January 2007, Volume 3, at ES-4.

⁷ See GIPSA Livestock and Meat Marketing Study, January 2007, Volume 4, at 2-41.

⁸ See *id.*, at 2-13.

⁹ See 72 Federal Register, August 8, 2007, at 44,681.