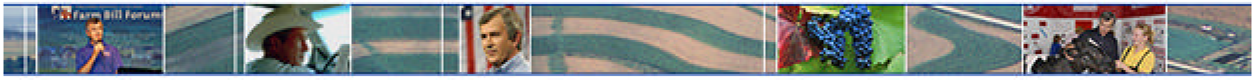

AGRICULTURAL CONCENTRATION

Background

USDA monitors trends in concentration in livestock production and meat processing and considers its implications for agriculture and rural America. The Packers and Stockyards Act of 1921 (P&S Act) prohibits anticompetitive behavior and unfair trade practices in the marketing and procurement of livestock and poultry and provides for financial protection for livestock sellers. Although evidence of high levels of concentration is not a violation of the P&S Act, high concentration indicates a high level of market power in a few firms, and indicates that monitoring for anticompetitive behavior is warranted. USDA's Grain Inspection, Packers and Stockyards Administration (GIPSA) administers the P&S Act.

Although concentration among the industries that procure slaughter livestock has increased in the last 25 years, it has remained relatively stable in recent years. Four-firm concentration in steer and heifer procurement rose from 36 percent in 1980 to 81 percent in 1993, but since 1993 has remained fairly constant. Four-firm concentration in hog procurement rose from 34 percent in 1980 to 55 percent in 1996, remaining at about that level until moving to 64 percent in 2003 and 2004. Four-firm concentration in sheep and lamb procurement rose from 56 percent in 1980 to 77 percent in 1988, but decreased to 57 percent in 2004.

Four-Firm Concentration Ratio for Select Years.

Industry	**1995 (%)**	**2003 (%)**	**2004 (%)**
Steer and heifer slaughter	81	80	80
Hog slaughter	46	64	64
Sheep and lamb slaughter	72	65	57

Concentration may increase because of mergers among independent firms, or because plants become larger. Over the last 25 years, large plants have become vastly more important in slaughter industries, as evidenced by two different measurement bases. GIPSA data sort cattle slaughter plants by size; the largest plants slaughter more than half a million cattle in a year, while large hog plants slaughter more than a million. The definition of "large" can change over time; the agency did not separately report cattle plants that slaughtered more than a million animals until 1987; by 1997, 14 plants were in that newly established category.

The increase in large slaughter plants is significant. In 1977, approximately 84 percent of all steer and heifer slaughter occurred in plants that slaughtered less than half a million a year. By 1997, plants in that category saw their share drop to 20 percent, while 63 percent of slaughter occurred in plants that slaughtered more than a million steers and heifers. In hog slaughter, large plants handled 38 percent of all slaughter in 1977, but 88 percent by 1997.

GIPSA's enforcement of the P&S Act addresses concerns related to concentration fostering fair and competitive marketing in livestock and in meat and poultry as well as guarding against deceptive and fraudulent practices affecting the movement and price of meat animals and their products. The agency's work aims to protect consumers and members of the livestock, meat, and poultry industries from unfair business practices that can unduly affect meat and poultry distribution and prices.

The Department of Justice (DOJ) and the Federal Trade Commission (FTC) have primary responsibility for enforcing the antitrust statutes that directly address concentration, including the Sherman Act and the Clayton Act. USDA works with DOJ and FTC in their investigations of proposed mergers affecting agriculture.

USDA also establishes programs that enhance the competitiveness of markets for agricultural products. For example, the Department has a large market news reporting program to provide producers with current prices and other current market conditions. USDA also establishes grades and standards and provides grading and inspection services that enhance market effectiveness.

General Opinions Expressed

- Many thought that factory farms should not be subsidized (or subsidies to these firms should be reduced), and that they should be taxed heavily. These commenters also stated that maximum payment limits to corporate farms should be enforced. These participants also expressed the belief that current policies encourage corporate growth.
- Many people stated that factory farms should be eliminated (or more strictly regulated) and small farms should be promoted. These respondents stated that factory farms degrade the environment, end in serious health consequences, and treat animals poorly.
- Participants generally expressed the view that corporate farms are growing too rapidly and farm consolidation is a challenge to new farmers and ranchers. These commenters want the Government to help put small farms on a level playing field with corporate farms.
- Participants generally stated that too many young farmers and farmers with small farms are being forced to work for these larger conglomerates. These commenters suggested that young farmers cannot compete against big business. Some of these participants also stressed that large corporate farms are acquiring large amounts of land, which drives up land rental rates and land values.
- Many commenters asserted that USDA should promote small farms in the belief that they can operate more efficiently than factory farms.
- Others suggested that USDA should not discriminate against large corporate farms. Family farms are now commonly also corporate farms. These commenters asked that the Government not penalize farmers for growing.
- Many discussed concentration of market power by major agribusiness firms in meats, poultry, grain, feedstuffs, and food processing—leading to a loss of transparency in the market, manipulation of prices, and concentrated political power.

- Some mentioned that agribusiness corporations have too much influence over the farm bill process compared to producers and producer groups.
- Some asked for elimination of trade negotiations that are whittling away at U.S. competitive advantage and serving the international corporate interest.
- Some mentioned the importance of reinstating the Mandatory Price Reporting Act.
- Many asked for a national ban on packer ownership of livestock.
- Others opposed a packer ownership ban because it would limit or eliminate grid and formula pricing.
- Some suggested the farm bill needs a title to address competition and fair business practice issues in the domestic livestock market.
- Some expressed the view that captive supplies push price instability risk onto producers and hold down prices.
- Many were concerned that consolidation of processors, packers, and large retailers diminished farmers' bargaining power. These participants also thought that the government should provide for fair profits for both producer *and* processors.
- Many stated that the trend of vertical integration in animal agriculture, combined with unfair contractual relationships (especially in livestock), has resulted in financial losses for farmers.
- Others commented that contract growing in poultry had actually saved their family farm operation.
- Some asked for better enforcement of anti-trust laws and the P&S Act to reduce the influence of market concentration. Some asked for greater power and funding to be given to GIPSA to police the livestock industry. These commenters expressed the view that food distribution and marketing monopolies are the top obstacle to competitive agriculture.
- Many asked for four specific protections:
  - (a) Producer Protection Act—This legislation would include minimum standards for contract fairness including clear disclosure of producer risks, a prohibition on confidentiality clauses, a prohibition of binding mandatory arbitration in contracts of adhesion, recapture of capital investment so that contracts that require a significant capital investment by the producer cannot be capriciously canceled without compensation, and a ban on unfair trade practices including tournament or ranking system payment.
  - (b) Legislation closing poultry loopholes in the P&S Act—USDA should have authority over poultry dealers, similar to its current authority over packers and livestock dealers. This authority should cover not only broiler operations, but also growers raising pullet or breeder hens.
  - (c) Bargaining rights for contract farmers—Loopholes should be closed in the Agricultural Fair Practices Act of 1967—require processors to bargain in good faith with producers' organizations; promote bargaining rights; and prevent processor retaliation.
  - (d) Captive Supply Reform Act—This legislation would require captive supply contracts to be traded in open, public markets to which all buyers and sellers have access.

Detailed Suggestions Expressed

- Sponsor the rebuilding of processing plants and mill/elevators that have been disappearing in the last 10 years.
- By supporting local slaughterhouses in each county, local distribution issues would be helped.
- Agribusinesses should be broken up and their resources redistributed among small, family farm operations.
- Give assistance to create more cooperatives so multiple farmers can own portions of these enterprises.
- The U.S. farm economy needs a viable supply management structure, much like that in Canada.
- Eliminate the use of mandatory arbitration in contracts for the livestock industry.
- Restrict a packing entity from having more than 25 percent of its slaughter mix from captive supplies on a per plant, per day basis.
- Packers should only be able to own cattle 1 week prior to slaughter, which is enough time to secure adequate supply.
- Guarantee bargaining rights for contract farmers.
- Conduct in-depth antitrust investigations into large multinational corporations that control a larger percentage at any level of any given agricultural product, through incorporation of a Competition Title in the farm bill.
- The Competition Title of the farm bill should address prohibition of discriminatory pricing by outlawing any transaction containing an unreasonable preference or advantage in the procurement of products, when terms are offered to one producer and denied to another.
- Enact reforms to protect producers in contracts by requiring contracts be written in plain language (including producers' risks, duration, termination, renewal, and payment factors), prohibit termination of a contract if done as retribution, improve arbitration clauses, and make unenforceable any provision in a contract that would waive the rights of the producers.
- GIPSA, DOJ, and FTC need to work together to aggressively scrutinize mergers and acquisitions in the livestock industry and pursue a proactive strategy for remedying anticompetitive practices.
- GIPSA should regularly report to Congress on cases referred, pursued, and prosecuted, and on the establishment of market consolidation thresholds that trigger enforcement action.
- To strengthen the livestock sector, an initiative should be announced to federally fund pilot projects on mini-packing facilities.
- To increase competitiveness, current law should be reformed to allow for the interstate shipment of State-inspected meat.