



## CENTER *for* RURAL AFFAIRS



### Joint USDA Justice Department workshop on Competition in the Livestock Sector

Attorney General Holder, Secretary Vilsack, my name is Chris Petersen. I was elected President of the Iowa Farmers Union in August 2004 and re-elected every two years since. Previously I had served for four years as Vice President of the 1,300 member family farm advocacy organization, which is affiliated with the National Farmers Union, representing 250,000 independent farmer and rancher members across the United States.

I've been involved in farming for 40 of my 51 years on this planet. My wife Kristi and I maintain a 30 sow Berkshire herd on our farm near Clear Lake, Iowa. We produce 400 pigs per year, all of which are sold locally or to niche pork companies (no major packing companies). We also raise vegetables for area restaurants as well as baling and selling hay commercially.

I began work as a hired man at age 16. I finished high school while beginning a hog operation. All I ever wanted was to make a decent living farming, raise my pigs, and raise my kids.

I grew up in the 1960s – I know you have to raise hell if you want change. But when I tried to stand up for what I believe in during the 1980's farm crisis and the 1998-1999 8-cent hog crisis my voice wasn't being heard in the commodity groups and other farm organizations I belonged to then.

I broke away from those groups in the late 1990s and started speaking out for myself. I became affiliated with more progressive organizations like the Center for Rural Affairs and Iowa Farmers Union. That's why, today, I'm speaking for myself and those two organizations.

What is being done to farming and ranching, and really, all of rural America today, is inexcusable and unacceptable. I intend to stand up and fight for family farmers and ranchers every waking moment.

Well, I'm awake right now, my eyes are open, and I want to spend a few minutes sharing thoughts with you Attorney General Holder and with you Secretary Vilsack, about what you can and should do to breathe some life, some competition, some fairness back into our livestock markets and in the process give hope to family farm and ranch livestock producers. Some thoughts that you won't hear from the packers or their commodity group allies, I daresay.

### **USDA... Unreasonable Preference Rule (GIPSA)**

On June 22, 2010, USDA published a new draft rule regarding how meatpacking corporations must deal with farmers and ranchers in the procurement of livestock and poultry. The administrative rule covers a number of livestock and poultry market reforms, including establishing a definition for what constitutes and "undue or unreasonable preference."

The Packers and Stockyards Act specifically prohibits price discrimination by meatpackers against smaller volume, family farm and ranch livestock producers. Specifically, the Act makes it unlawful for packers to “make or give any undue or unreasonable preference or advantage to any particular person or locality in any respect whatsoever.”

Thirteen years ago, the National Commission on Small Farms recommended that USDA undertake rulemaking to define an “undue or unreasonable preference,” and that recommendation has been reiterated many times by the Center for Rural Affairs and the Iowa Farmers Union. As a matter of fact, John Crabtree of the Center for Rural Affairs who is with me here today and assisted me in preparing for this listening session... he has been, arguably, the most outspoken proponent of this rulemaking in the country. Because of the close friendship between John and myself, as well as our two organizations, I’ve heard him speak many times about the importance of making, and strengthening, this rule.

For example, our experience demonstrates that packers routinely pay five or six cents more per pound, more in some cases, in purely volume-based premiums to the largest hog producers simply because they are large. Six cents may not sound like much of a discount but, for an independent family farmer with 150 sows in a farrow-to-finish operation, it amounts to \$56,000 less annually for marketing hogs of the same quality, simply because he markets fewer hogs.

That’s what this rule needs to put an end to. That’s what we set out to do when we worked so diligently to include the “unreasonable preference” rulemaking provision in the 2008 Farm Bill.

You are likely to hear industry folks talk about vertical integration and captive supplies in the context of so-called “risk management.” Vertical integration and captive livestock supplies do allow for packers to manage their risk, but often by shunting that risk onto producers. Contract growers have the capital risk of debt financing confinement buildings and other related costs foisted on them by their integrators. Independent producers, likewise, have had increasing market risk forced on them as increasing vertical integration and captive supplies have turned them into residual suppliers.

Moreover, since many marketing contracts and other similar agreements with packers are priced in relationship to the cash market, the “captive” producers who hold such contracts are also forced to accept increasing market risk. In other words, they get the screws put to them as well.

To strengthen the rule, USDA should, simply and clearly, disallow purely volume-based premiums. The packers and their allies have made a lot of noise about “value-based marketing.” But “value-based” is not the same as “volume-based,” and USDA would do well to make that point as clearly as possible. My written testimony contains several other more detailed comments about this set of draft rules, but for my testimony it will suffice to say the following:

USDA’s draft rule is not perfect. But it is the most aggressive livestock market reform to come out of Washington since the passage of the Packers and Stockyards Act itself. It is a strong rule. It should be strengthened, not weakened, and moved forward.

Giving credit where credit is due... Secretary Vilsack and GIPSA Director Dudley Butler had the courage to take that Farm Bill provision and run with it, resulting in a strong step in the right direction on “unreasonable preferences.” Also, their draft rule correctly establishes that the occurrence of competitive injury is not necessary for a violation of the Act to occur. The proposed Packers and Stockyards Act rule, by establishing that independent hog farmers as well as cattle ranchers and independent cattle feeders do not have to show harm to competition in order to stop the anticompetitive practices aimed directly at them, provides a rock-solid foundation for correcting the serious anticompetitive practices that are driving independent farmers, ranchers and feeders out of business. USDA should stand their ground on this point.

I'll say something else that you won't hear from the packing industry representatives or their allies. They don't want to see more efficient and effective enforcement of the "unreasonable preference" provision of the Act because they want the freedom to put the screws to individual producers wherever and whenever they damn well please. They don't want USDA to fix the misapplied "competitive injury" standard for the same reason. They don't care about "value-based" marketing. They don't care about farmers and ranchers getting a fair price or a fair contract. They don't even care about the so-called "livestock industry," not outside the portion of it they control anyway. The only thing they do care about is their own bottom line.

## **USDA – Industrialization, Consolidation, Vertical Integration & Captive Supplies**

The environmental nightmare resulting from the consolidation and industrialization of livestock production is a direct result of the dramatic vertical integration of livestock ownership in the hands of a small number of very large meatpacking corporations. USDA and Congress must find ways to reduce the level of vertical integration by packers (packer ownership of livestock) and their captive supplies (livestock held "captive" through forward contracting) that create such distortion and provide so many opportunities for market manipulation. Iowa State University Economist Neil Harl has frequently warned us all about the deadly combination of horizontal concentration and vertical integration in agricultural markets, including meatpacking and poultry processing.

Both USDA and the Justice Department need to more fully consider vertical integration when evaluating mergers and acquisitions in the meatpacking sector. It is no longer sufficient to consider only horizontal concentration in the red meat packing sector. When a top packing firm purchases another packing firm, or a large producer, for that matter, the impact of the increased level of vertical integration on competition needs to be considered alongside the analysis of horizontal concentration.

I would add that the proliferation of non-farmer owned, massive cattle feedlots, hog CAFOs, and dairy CAFOs has also resulted from bureaucrats and elected officials at USDA, GIPSA, EPA, FDA – not to mention several Presidential administrations – being asleep at the wheel, or worse, bending over backwards for the sake of corporate interests.

A lot of talk here today is focused on hope for a future with fair, open and transparent livestock markets. It is crucial to remember, however, that supply and demand economics do not function appropriately today, nor do current, so-called "markets" react in a timely manner as a result of the anticompetitive behavior of the packers. This discourages independent and beginning farmers from raising livestock. In short, the packers own and control livestock markets, not farmers and ranchers. And the packers use that control to internalize profit and externalize any costs they can get away with.

Of course, the farmer loses his independence and his fair share of the consumer's dollar, the environment suffers, rural communities die, rural mainstreets crumble and farmer's livestock husbandry standards suffer, compromising food safety and quality. As an example, in the current, vertically integrated, industrialized, commodity pork system the hog producer is financially responsible for excessively expensive buildings, building upkeep, forced remodeling to meet new industry specifications, property taxes, care of the animals, manure and the dead hogs, while the packers continue to monopolize the system to their benefit.

Meanwhile, the livestock industry continues to benefit from guaranteed loans, lax or un-enforceable environmental laws, environmental subsidies, and farm bill policy on the one hand. And on the other hand, when dysfunctional livestock markets fail, the same industry pleads for bailouts and begs government entities to further weaken already weakened regulations and to buy their excess product and get it off the market.

The CAFO industry is not about the farmer, the animals or the market. It's about their corporate bottom line and servicing the system they have developed. I know that our food security, food safety and human health are being compromised by these monopolies, while family farmers, ranchers and rural communities are marginalized.

## **Justice Department – Mergers and Acquisitions**

The time has come, with regards to horizontal concentration in meatpacking and poultry processing, to say enough is enough. With the top four beef packing firms controlling nearly 88% of the daily U.S. beef slaughter and the top four pork packing firms controlling approximately 60% of the daily U.S. pork slaughter, additional mergers among these firms, particularly those involving significant increases in vertical integration, should not be allowed.

Attorney General Holder, I've made fewer comments above directed specifically to the Justice Department. But I think, in many ways, my suggestions to you may be a longer row to hoe. Certainly the commodity groups and the packers are focusing their fight to retain the right to put the screws to producers in any manner they deem appropriate on the USDA and GIPSA rulemaking process right now. But stopping the headlong rush toward concentration and vertical integration that agriculture, and specifically meatpacking, has been in for the last few decades is a very tall order indeed. It is also the single, most effective thing that you could do to revitalize family farming and ranching, and thereby help revitalize much of rural America while feeding American consumers responsibly.

The answer to the question that so many people are asking – whether these listening sessions mark a time when government will begin to stem the tide of destruction visited on our family farms, ranches and rural communities... or, whether this is just another in a long line of “dog and pony” shows – will largely be determined by whether you, Attorney General Holder, are successful in taking up the challenge that so many family farmers and ranchers are laying on the table here today, the challenge of making our livestock markets function again. If you do continue to take up that challenge, Attorney General Holder and Secretary Vilsack, then the Iowa Farmers Union, the Center for Rural Affairs and scores of other organizations as well as me, John Crabtree and tens of thousands of other farmers, ranchers and concerned rural Americans will stand with you.

Chris Petersen  
President  
Iowa Farmers Union