

GAO

Report to the Chairman, Committee on  
Agriculture, House of Representatives

October 1991

PACKERS AND  
STOCKYARDS  
ADMINISTRATION

Oversight of  
Livestock Market  
Competitiveness Needs  
to Be Enhanced



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United States  
General Accounting Office  
Washington, D.C. 20548

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**Resources, Community, and  
Economic Development Division**

B-245531

October 16, 1991

The Honorable E (Kika) de la Garza  
Chairman, Committee on Agriculture  
House of Representatives

Dear Mr. Chairman:

In response to your request, this report discusses the role of the U.S. Department of Agriculture's Packers and Stockyards Administration in monitoring and regulating the livestock and meat-packing industries. The report recommends that the Secretary of Agriculture determine a feasible and practical approach for monitoring the activity in regional livestock markets.

We are sending copies of this report to the appropriate congressional committees and subcommittees; interested Members of Congress; the Secretary of Agriculture; the Director, Office of Management and Budget; and other interested parties. Copies are available to others upon request.

This work was performed under the direction of John W. Harman, Director, Food and Agriculture Issues, who can be reached at (202) 275-5138. Other major contributors to this report are listed in appendix II.

Sincerely yours,

A handwritten signature in cursive script, appearing to read 'J. Dexter Peach'.

J. Dexter Peach  
Assistant Comptroller General

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# Executive Summary

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## Purpose

To prevent anticompetitive and other unfair business practices that were occurring when just a handful of firms dominated the U.S. meat-packing industry early in this century, the Congress enacted the Packers and Stockyards Act of 1921. The act resulted in the creation of the Packers and Stockyards Administration (P&SA) to oversee the industry's operations. In recent years, a small number of meat-packers have again acquired a large share of the livestock slaughter, raising concerns that competition could again be threatened.

Concerned about ensuring competition, the Chairman, House Committee on Agriculture, requested that GAO evaluate P&SA's oversight of the livestock and meat-packing industries. Specifically, GAO

- analyzed how the livestock and meat-packing industries have changed since the act's passage, particularly in recent decades, and
- evaluated what role P&SA plays in monitoring for anticompetitive practices by meat-packing firms in their procurement of livestock.

GAO also obtained information on P&SA's role in ensuring prompt and accurate payment to livestock sellers, as well as industry views on the adequacy of P&SA trade practice regulations.

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## Background

An agency within the U.S. Department of Agriculture (USDA), P&SA has authority over individuals and firms that buy and sell livestock and live poultry and that market meat and meat products. P&SA's authority generally does not extend to retailers or to firms that market poultry products. The Federal Trade Commission has regulatory authority over these businesses.

Under the Packers and Stockyards Act, P&SA is responsible for monitoring for anticompetitive practices, such as colluding to manipulate prices or apportion territory in order to force sellers to accept prices that are less than those resulting from free competition. The agency is also responsible for protecting industry members from other unfair business practices. As distinguished from anticompetitive practices, unfair business practices are those that undermine the integrity of a transaction. To protect sellers' right to payment, for example, the act specifies a time limit for making payments to sellers. Additionally, the agency has established regulations that require, among other things, most livestock buyers to be bonded and that establish standards for the proper weighing of livestock.

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## Results in Brief

The structure of the livestock and meat-packing industries has changed significantly since the 1921 act was passed, particularly in recent decades. The meat-packing industry became less concentrated after the act's passage but, because of a number of mergers and acquisitions in recent decades, is now more concentrated than it was in 1921. Today, four firms account for approximately 70 percent of the steer and heifer slaughter.

The rise in concentration may increase the opportunities for buyers to use anticompetitive practices that could lower the prices paid to producers to below the level that would be set in a competitive market. Thus, effective monitoring of livestock markets is important. However, P&SA has not adequately modified its monitoring practices to keep pace with the change in the industries. P&SA has not defined regional livestock procurement markets, which hinders its ability to monitor those markets for anticompetitive behavior. Monitoring by P&SA includes responding to complaints and initiating its own investigations. It also collects data on individual firms to develop national concentration statistics and to conduct special studies and investigations. Such an approach is no longer sufficient for monitoring competitiveness. Given that livestock procurement is a regional activity, and not a national one, local concentration could be higher than P&SA's national concentration data indicate.

Ensuring prompt and accurate payment to livestock sellers has been a high priority for P&SA, accounting for most of the agency's investigations in fiscal year 1990. Additionally, as part of its efforts to prevent unfair or discriminatory practices in the marketing of livestock, P&SA enforces certain trade practice regulations. Industry representatives believe the regulations have become outdated because of changes in livestock marketing. The P&SA Administrator agrees that the agency needs to evaluate the adequacy of all of its implementing regulations, and he plans to initiate such a project.

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## Principal Findings

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### The Livestock and Meat-packing Industries Have Changed

When the Packers and Stockyards Act was passed, the meat-packing industry was dominated by five firms that engaged in anticompetitive practices such as allocating purchase and sales territories. Following the passage of the act, concentration in the industry fell for several decades,

but in the last 20 years, concentration has increased significantly—especially for firms engaged in steer and heifer slaughter. According to P&SA's most recent data, in 1989 the four largest beef-packing firms accounted for about 70 percent of their segment of the industry, and the four largest lamb-packing firms accounted for over 70 percent of theirs. Since the 1970s, meat-packing firms have followed a trend toward fewer, yet larger, plants.

In recent decades, the number of livestock producers has also declined, but the livestock industry is still characterized by a large number of small-scale operations. According to the Department of Commerce's most recent agricultural census, between 1974 and 1987, the number of breeding operations decreased—for beef, by 18 percent to about 842,000; hogs, by 48 percent to about 243,000; and sheep and lambs, by 15 percent to about 92,000.

The marketing practices used within these industries have also changed significantly. Livestock sellers and meat-packers increasingly have negotiated terms of sale with one another without the services of a centralized terminal market.

### **P&SA's Monitoring for Anticompetitive Practices Has Not Kept Pace With Industry Changes**

Because the meat-packing industry is now highly concentrated, packers are more able to engage in anticompetitive behavior to depress prices paid to livestock producers. When the meat-packing industry was less concentrated, the need for P&SA to define regional livestock markets and monitor them for anticompetitive practices was not as critical as it is in today's highly concentrated industry.

Because livestock procurement markets are regional, P&SA's current monitoring and analysis are not sufficient to identify on an ongoing basis anticompetitive practices such as price manipulation or the apportionment of territory. P&SA does not regularly collect and analyze the data necessary to define and monitor these markets. Rather, the agency has relied to a large extent on producers' complaints, inside intelligence, or special studies to detect anticompetitive behavior.

The Administrator of P&SA agrees that given the structure of today's livestock and meat-packing industries, effective monitoring requires an expanded effort that includes monitoring regional markets. While he has already shifted personnel to enhance monitoring, he is awaiting the issuance of this report before defining specific financial resources that may be needed to update the agency's monitoring efforts.

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**P&SA Has Emphasized Ensuring Prompt and Accurate Payment to Livestock Sellers**

Placing a priority on ensuring compliance with regulations and requirements under the Packers and Stockyards Act that relate to prompt and accurate payment to livestock sellers, P&SA devoted the majority of its investigations in fiscal year 1990 to this activity. In addition, P&SA enforces trade practice regulations. Representatives from industry groups we spoke with believe that the trade practice regulations have not kept pace with changes in livestock marketing. In light of the changing nature of livestock marketing, the Administrator of P&SA stated that the trade practice regulations as well as all other P&SA regulations will be reevaluated.

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**Recommendation to the Secretary of Agriculture**

In view of increased concentration in the meat-packing industry, GAO recommends that the Secretary of Agriculture determine a feasible and practical approach for monitoring the activity in regional livestock markets. In defining the relevant markets, P&SA must determine the types of data and analysis it needs and the cost-effectiveness of obtaining and analyzing these data.

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**Agency Comments**

USDA did not express an opinion on the report's recommendation but generally agreed with GAO's conclusion concerning the need for better monitoring of industry competitiveness. Recognizing the high level of concentration in the meat-packing industry today, USDA agreed that its current monitoring efforts need to be enhanced. Also, USDA emphasized P&SA's current role in monitoring the industry and provided additional detail on the agency's monitoring efforts.

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**Abbreviations**

AMS	Agricultural Marketing Service
FTC	Federal Trade Commission
GAO	General Accounting Office
P&SA	Packers and Stockyards Administration
USDA	United States Department of Agriculture

# Introduction

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The livestock, meat-packing, and poultry industries in the United States produce and slaughter cattle, hogs, sheep, and poultry, the wholesale value of which, according to the Department of Commerce's estimates, was \$88 billion in 1990. In the late 1800s and early 1900s, anticompetitive practices by meat-packers were of concern to producers and to the federal government. To address these concerns early in this century, the Congress passed the Packers and Stockyards Act in 1921, which resulted in the establishment of the Packers and Stockyards Administration (P&SA) within the United States Department of Agriculture (USDA). P&SA has authority over persons engaged in buying and selling livestock and live poultry in commerce, as well as those processing or marketing meat or meat products. The Federal Trade Commission (FTC) normally has jurisdiction over transactions involving the marketing of poultry products and retail sales of meat products, although retailers may also come under P&SA's authority to the extent that they also manufacture or market meat or meat products. P&SA has an annual budget of about \$10 million and a staff of approximately 180.

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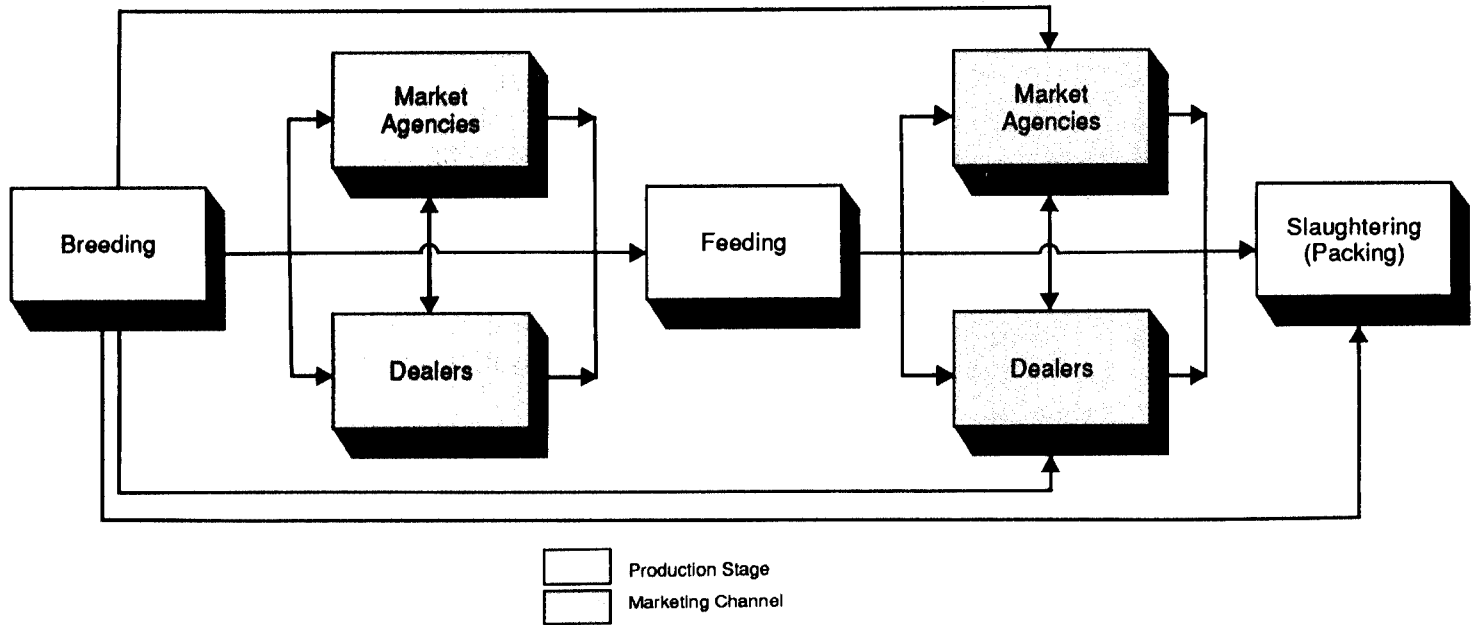
## The Livestock, Meat-packing, and Poultry Industries

Within the livestock industry—which includes segments producing cattle, hogs, and sheep—the cattle segment is the largest in terms of the pounds of meat produced, while the hog segment is the largest in terms of the number of animals slaughtered. Livestock production is characterized by three principal stages: breeding, feeding (or fattening) and slaughtering (packing). In the cattle and sheep segments, all three stages typically are handled by distinct operations. After calves and lambs reach a certain size, breeders/producers transfer them to feeding operations, which continue to fatten the animals. The hog segment differs from the other segments in that, generally, a single operation both breeds and fattens the animals. At the end of the feeding stage, the “fed” animals in all segments of the livestock industry typically are sold to packing firms for slaughtering and processing.

There are a variety of channels through which livestock may be marketed before slaughter. Breeders/producers may sell to feeding operations, which in turn may sell directly to packers; breeders who fatten their livestock may also sell their animals directly to meat-packers. In addition, individuals referred to as market agencies and livestock dealers may serve as intermediaries in the marketing of livestock between the breeding, feeding, and slaughtering stages. Market agencies, which chiefly include public auction facilities that buy and sell livestock on a commission basis, and livestock dealers may purchase animals from either breeders or feeding operations. Market agencies and dealers may

also buy and sell livestock among themselves prior to the eventual sale to a packing firm. Livestock production stages and marketing channels are illustrated in figure 1.1.

Figure 1.1: Livestock Production Stages and Marketing Channels



The poultry industry, producing mainly broilers (chickens), is structured differently from the livestock and meat-packing industries. Typically, an individual firm handles all stages of production, from breeding to slaughtering and processing. As a result, there is less marketing of live poultry.

## Historical Anticompetitive Practices by Meat-packers

As early as 1888, the federal government authorized an investigation into the business practices of the largest meat-packing firms, and subsequently the government accused them of colluding to (1) fix beef prices to consumers and (2) apportion territories for livestock purchases and meat sales. The results of this investigation were partly responsible for the enactment of the Sherman Antitrust Act of 1890 (15 U.S.C. 1 et seq. (1988)), which made any such agreement or combination in restraint of trade illegal.

By the early 1900s, however, there was continued concern that the major meat-packing firms were still engaging in anticompetitive practices. In 1917, as public criticism and evidence of collusion by certain meat-packers accumulated, President Wilson ordered an investigation by the FTC. Subsequently, the FTC reported that it found conclusive evidence of anticompetitive business practices in the industry, such as the packers' use of "livestock pools," in which they agreed to uniformly divide into shares the livestock purchased at different markets. The "Big Five"<sup>1</sup> packers, the FTC concluded, dominated the packing industry by (1) owning and controlling public stockyards, (2) owning transportation and distribution networks, (3) slaughtering approximately two-thirds of all livestock, and (4) possessing financial interests in market outlets and retail stores.

Soon after the publication of the FTC report, the United States filed an antitrust suit against the Big Five meat-packing firms. The litigation resulted in the Packers' Consent Decree of 1920, which enjoined the Big Five from engaging in the retailing of meat, groceries, and livestock by-products and directed the firms to divest their financial interests in public stockyards, railroad terminals, and market outlets. However, the consent decree permitted the Big Five to retain their warehouse and distribution systems to support their primary business—meat-packing.

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## The Packers and Stockyards Act

Primarily as a result of activities disclosed by the FTC's inquiry, in 1921 the Congress passed the Packers and Stockyards Act (7 U.S.C. 181 *et seq.* (1988)). The purpose of the act was to ensure fairness and competitiveness in the livestock, meat-packing, and poultry industries by preventing fraudulent, discriminatory, or monopolistic practices. Although antitrust laws including the Sherman Antitrust Act already prohibited monopolistic practices, the Congress provided the Secretary of Agriculture with the authority to more closely regulate the livestock and meat-packing industries. The Packers and Stockyards Act has been amended several times since 1921 in an effort to enhance P&SA's ability to regulate the changing structure and nature of these industries. For example, amendments have increased the agency's authority to financially protect livestock producers by requiring that buyers pay promptly and that they be adequately bonded.

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<sup>1</sup>Swift & Co., Armour & Co., Morris & Co., Wilson & Co., and Cudahy Packing Co.

As amended, the Packers and Stockyards Act now consists of four titles. Titles I and IV provide general definitions and administrative requirements for all firms subject to the act, while Titles II and III specifically address the business practices of packers and stockyard facilities, respectively. Title II states in part that it shall be unlawful for packers to engage in activities with the intent or effect of apportioning territory for carrying on business, apportioning purchases or sales of any article, manipulating or controlling prices, or engaging in any other course of business for the purpose of creating a monopoly. As of 1989, there were 508 meat-packers—annually slaughtering livestock worth more than \$500,000—that were subject to Title II's requirements.

Title III describes the requirements for the proper posting of schedules of rates and charges by stockyards and prohibits market agencies and dealers from engaging in unfair, discriminatory, or deceptive practices in the buying and selling of livestock. According to P&SA officials, as of September 1990, there were 7,181 total registrants under Title III: 1,821 market agencies and 5,360 dealers.

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## P&SA's Responsibilities

P&SA is responsible for fostering fair and competitive practices by industry members in the marketing of livestock, live poultry, and meat by ensuring financial protection and fair trade practices. P&SA is also responsible for protecting industry members from anticompetitive practices that are monopolistic or predatory.

To financially protect industry members and ensure fair trade practices, P&SA regulates livestock buyers' business practices to ensure, among other things, that livestock sellers receive payment and that livestock are weighed accurately. To meet these objectives, P&SA checks for compliance with requirements for prompt payment to sellers, the bonding of livestock buyers (packers, market agencies, and dealers), and the maintenance of market agencies' custodial accounts (bank accounts out of which payment is made to livestock sellers). P&SA also periodically reviews the financial statements of market agencies, livestock dealers, packers, and live poultry dealers to identify indications that these buyers may become insolvent. In addition, P&SA monitors the accuracy of livestock scales and conducts investigations to detect inaccurate or fraudulent weighing practices.

To protect industry members from anticompetitive practices in livestock marketing, P&SA investigates industry members' complaints and collects

data on the structure of the livestock, meat-packing and poultry industries. The agency also conducts limited studies of issues related to livestock marketing.

P&SA secures compliance with the requirements of the Packers and Stockyards Act and the agency's regulations through both informal and formal means. In the majority of P&SA's investigations that uncover violations, compliance is obtained informally through a phone call or a warning letter issued to the violator. The remaining investigations uncovering violations are resolved through the agency's administrative complaint process or referred to the Department of Justice.

Under P&SA's administrative process, firms or individuals found in violation of either the act's provisions or implementing regulations are subject to orders imposing monetary civil penalties or directing the violators to cease and desist from continuing the violation. Such orders may be appealed to a U.S. Court of Appeals. Criminal violations of the act, such as cases involving fraud or a violation of a previous ruling by P&SA, may be forwarded to the Department of Justice for possible litigation.

The Packers and Stockyards Act, as amended, provides the Secretary of Agriculture with broad authority to collect whatever information is necessary to detect monopolistic or other unfair trade practices in the livestock, meat-packing, and poultry industries and take action against individual firms committing these violations. Under the legislation, the Secretary is empowered to request such information from packers, stockyards, market agencies, livestock dealers, and live poultry dealers.

While P&SA is responsible for monitoring behavior in the livestock and meat-packing industries, the Department of Justice's Antitrust Division reviews all proposed mergers and acquisitions in the meat-packing industry. Justice may request that P&SA provide information and assistance to aid in these reviews. In the past, communication between Justice and P&SA regarding proposed mergers and acquisitions took place informally. More recently, the two agencies have been meeting on a regular basis to exchange information.

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## Objectives, Scope, and Methodology

We performed this review at the request of the Chairman, House Committee on Agriculture, who asked us to evaluate P&SA's role in monitoring and regulating the livestock and meat-packing industries. As

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agreed with the Chairman's office, we (1) ascertained how these industries have changed since the passage of the Packers and Stockyards Act, particularly in recent decades, and (2) evaluated what role P&SA plays in monitoring for anticompetitive practices by meat-packing firms in their procurement of fattened livestock. In addition, we were asked to evaluate P&SA's role in ensuring prompt and accurate payment to livestock sellers. However, because P&SA plans to review the adequacy of all of its regulations, we decided not to perform an independent evaluation. As agreed, we have described P&SA's efforts to ensure prompt and accurate payment for livestock sellers.

Because the requester's concerns were centered on the livestock and meat-packing industries, we evaluated P&SA's monitoring and regulation of these industries but not of the poultry industry.

To ascertain how the livestock and meat-packing industries have changed, we reviewed records and publications from P&SA, USDA's Economic Research Service, and the National Agricultural Statistics Service. We also reviewed the Department of Commerce's Census of Agriculture and selected industry literature.

To evaluate P&SA's role in monitoring for anticompetitive behavior, we supplemented knowledge gained from work done for an earlier GAO report<sup>2</sup>—which provided information on existing and ongoing empirical studies of the relationship between concentration in the meat-packing industry and cattle prices—with a review of general literature on anticompetitive behavior. We also reviewed Justice's Merger Guidelines and discussed with Justice officials how they deal with the definition of markets and the exercise of market power. To understand P&SA's current monitoring, we reviewed selected agency case files on complaints of anticompetitive practices and interviewed agency officials. We also met with officials from USDA's Office of General Counsel to discuss P&SA's administrative complaint process.

Because of the literature's acknowledgement of the importance of defining geographical markets in assessing competitiveness, we evaluated the extent to which P&SA focuses on regional markets. To do so, we reviewed P&SA's data collection and reporting system and the agency's computer model that analyzes the cattle industry. In addition, we met

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<sup>2</sup>Beef Industry: Packer Market Concentration and Cattle Prices (GAO/RCED-91-28, Dec. 6, 1990).

with officials from USDA's Agricultural Marketing Service (AMS) to discuss aggregate price and other trade data they collect on the livestock industry, and technical assistance they provide to P&SA.

To obtain information on the role P&SA plays in ensuring prompt and accurate payment to livestock sellers, we talked with P&SA officials in headquarters and three regional offices and reviewed individual cases and summary records. We also reviewed the agency's fiscal year 1990 data for the number of investigations completed and violations disclosed. However, we did not independently verify the accuracy of these data. In addition, we discussed this issue with representatives of livestock producers; packers; an auction market; and various livestock and marketing associations, including the National Cattlemen's Association, the American Sheep Industry Association, the Livestock Marketing Association, the American Farm Bureau Federation, and the National Pork Producers Council.

We were assisted in our review by Dr. Wayne Purcell, Professor and Director, Research Institute on Livestock Pricing, Department of Agricultural Economics, Virginia Polytechnic Institute and State University.

We conducted our review between July 1990 and August 1991, in accordance with generally accepted government auditing standards.



# The Livestock and Meat-packing Industries Have Changed

The structural composition and marketing practices of the livestock and meat-packing industries have changed significantly since the passage of the Packers and Stockyards Act in 1921. The majority of these changes have occurred in recent decades. Since the 1970s, the percentage of the total number of livestock slaughtered by the largest meat-packing firms has increased, and meat-packing plants are fewer, but larger. Also, the number of livestock producers (breeders and feeding operations) has decreased over the same period. Additionally, packers now purchase the majority of their livestock directly from sellers without the services of large centralized stockyards that were widely utilized in the past. These changes have resulted in industries that are different from the ones that existed in the years immediately after the passage of the act.

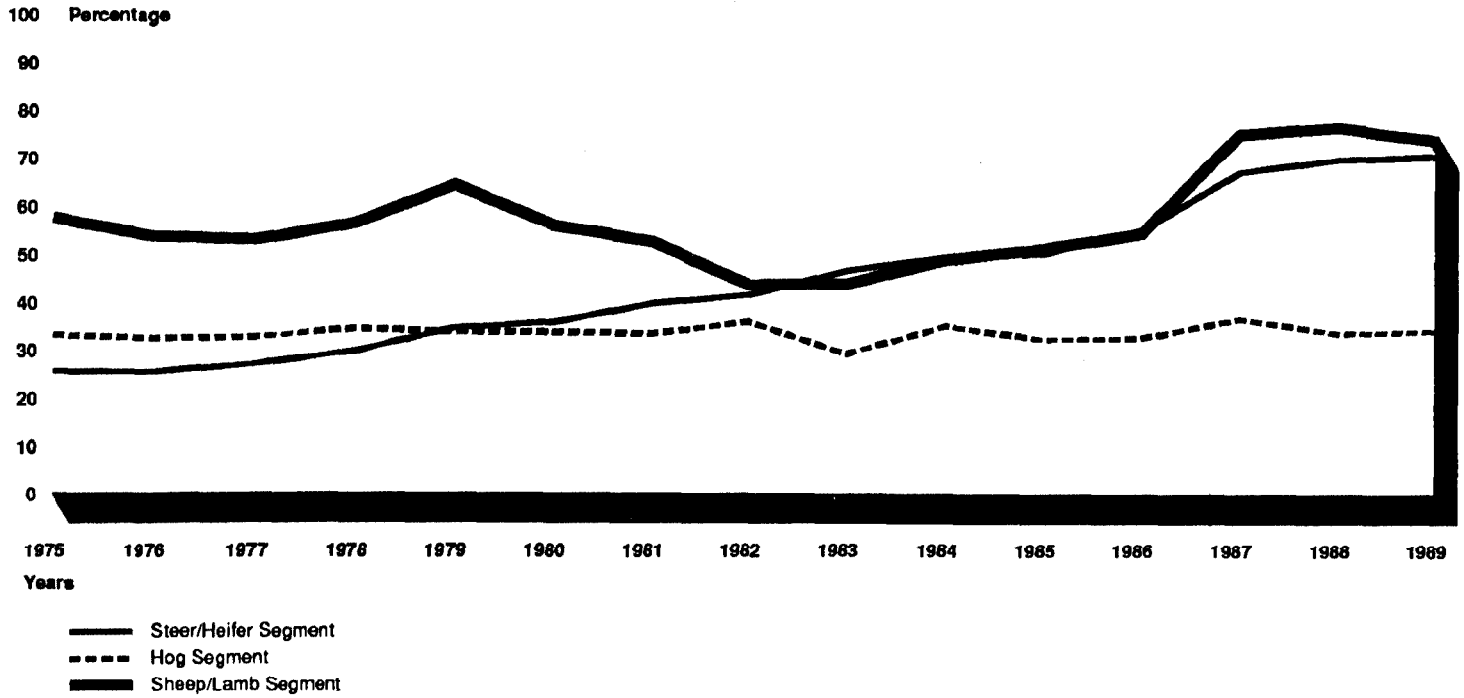
## Meat-packing Industry Has Become More Concentrated

Nationally, the meat-packing industry became less concentrated after the passage of the Packers and Stockyards Act in 1921, with more firms handling the available business than was the case previously. But because of a number of mergers and acquisitions, over recent decades the industry has become more concentrated than it was in 1921. Since 1975, concentration in the steer/heifer and sheep/lamb segments has increased while concentration in the hog segment has remained relatively stable.

To monitor concentration, P&SA commonly uses a national four-firm concentration ratio, which measures the proportion of the slaughter that is accounted for by the four largest meat-packing firms. P&SA typically calculates a four-firm ratio for the steer and heifer slaughter because that category represents the majority of the cattle slaughter. In 1975, the four largest beef-packing firms slaughtered 25 percent of all of the steers and heifers slaughtered. According to P&SA's most recent data, by 1989 that figure had increased steadily to 70 percent. Over that same period, the four largest firms' percentage of the sheep and lamb slaughter fluctuated, but from the beginning of the period to the end increased from 58 to 74 percent. The hog segment has not become similarly concentrated—the four-firm ratio has remained relatively constant, ranging from 29 to 37 percent; in 1989, the ratio was 34 percent. However, some industry analysts believe that this segment may also follow the trends of the other two segments toward increased concentration. These changes in concentration for all three livestock segments are depicted in figure 2.1.

Chapter 2  
 The Livestock and Meat-packing Industries  
 Have Changed

Figure 2.1: Four-Firm Concentration Ratio for Livestock Slaughter, 1975 to 1989

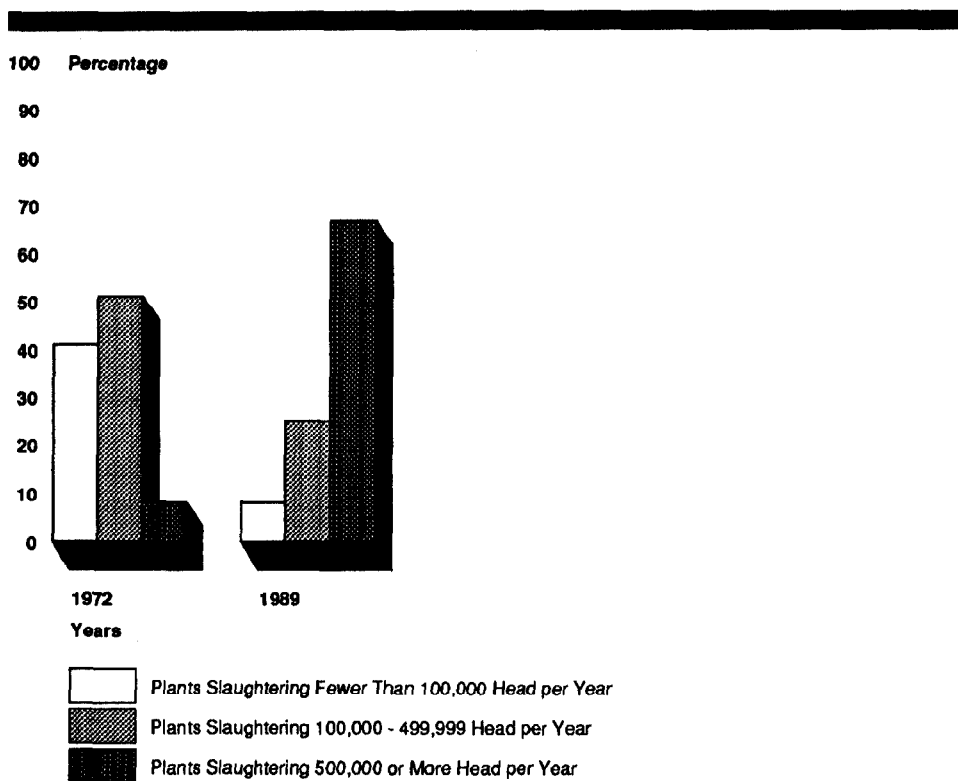


Source: P&SA.

Accompanying the increase in concentration in the meat-packing industry is a trend toward fewer, yet larger, meat-packing plants. In the 1970s and 1980s, meat-packing firms built larger-capacity, more cost-efficient plants, which allowed the firms to take advantage of economies of scale. Between 1972 and 1989, the number of plants slaughtering steers and heifers decreased by 60 percent (from 807 to 319); those slaughtering hogs, by 46 percent (from 594 to 319); and those slaughtering sheep and lambs, by 42 percent (from 229 to 132). Yet the total number of head slaughtered declined by only 3 percent over this period, indicating that some plants slaughter a larger number of livestock than they did previously. For example, in 1972, 739 meat-packing plants for steers and heifers slaughtered fewer than 100,000 head per year, 65 plants slaughtered 100,000 to 499,999 head per year, and 3 plants slaughtered 500,000 or more head per year. By 1989, these statistics had changed to 274, 26, and 19, respectively, indicating fewer small and medium-sized plants and more large plants. In addition, in 1972, plants in the smallest size category handled 41 percent of the steer and heifer

slaughter, while the largest plants handled 8 percent. By 1989, the smallest plants' share of the slaughter had decreased to 8 percent, while the largest plants' had increased to 67 percent. This change is illustrated in figure 2.2.

Figure 2.2: Percentage of Total Steer and Heifer Slaughter by Plant Size, 1972 and 1989



Source: P&SA.

## Number of Livestock Producers Has Decreased

While the number of livestock producers has decreased in recent decades, livestock production is still characterized by a large number of small-scale operations. The size of livestock breeding operations has not shifted dramatically toward large operations. Livestock feeding operations, however, are following a trend toward fewer, and larger, operations.

According to the Department of Commerce's Census of Agriculture, between 1974 and 1987, the number of breeders of beef cattle decreased by 18 percent (from 1,024,935 to 841,778); of hogs, by 48 percent (from 470,258 to 243,398); and of sheep and lambs, by 15 percent (from

108,646 to 92,489). Further, the size of breeding operations for beef cattle has remained stable over that same period. In 1974 and again in 1987, 92 percent of the operations produced fewer than 100 head per year, 7 percent produced 100 to 499 head per year, and 1 percent produced 500 or more head per year. In contrast, hog breeding operations have become larger. In 1974, 74 percent of the operations produced fewer than 100 head per year, 23 percent produced 100 to 499 head per year, and 3 percent produced at least 500 head per year. By 1987, these statistics had changed to 59 percent, 30 percent, and 11 percent, respectively. Comparable data are not available for sheep and lamb breeding operations.

Some feeding operations are handling a larger percentage of the cattle. From 1975 to 1989, the number of cattle feedlots in the top 13 cattle-feeding states decreased by nearly 50 percent (from 91,600 to 46,883) while the number of cattle marketed through feedlots increased by 26 percent. Though USDA does not collect statistics on lamb feedlots, an official of the American Sheep Industry Association told us that the number of lamb feedlots is generally decreasing while, on the average, the number of lambs produced by each feedlot is increasing. As mentioned in chapter 1, hogs are generally not fattened by separate feeding operations.

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## Direct Sales Now the Major Form of Meat-packing Firms' Purchases

Direct sales (decentralized marketing), which are transactions conducted between producers and packers without the services of central terminal markets, have not always been the major means by which packers have purchased livestock. In the early 1920s, packers bought the vast majority of livestock for slaughter through 78 central public markets called "terminals" that were located by major railroad centers, such as Cincinnati, Chicago, St. Louis, and Omaha. Beginning in the late 1920s, an improved transportation infrastructure encouraged meat-packers to relocate plants away from terminal markets and closer to areas of livestock production. This relocation led to an increase in the use of direct sales between producers and packers. During the 1960s, the percentage of livestock that packers bought through direct sales surpassed that bought through terminal markets. Today, the vast majority of livestock are marketed through direct sales and, according to the Administrator of P&SA, there are 18 terminals in operation.

Employing a technique related to direct sales, packers increasingly are exercising some control over the flow of livestock into their plants by

purchasing from sellers prior to the time the livestock are needed or contracting with sellers in advance to purchase the livestock as needed. Under such an arrangement, called vertical coordination, a packer may, for example, control its future supply of livestock through agreements with feeding operations. From 1988 to 1989, the percentage of cattle owned or partially controlled by the four largest packing firms prior to slaughter increased 4.4 percentage points, from 20.5 percent of the total slaughter to 24.9 percent. Similar data are not available for the hog and lamb segments.

# Monitoring for Anticompetitive Behavior Has Not Kept Pace With Industry Changes

P&SA has not sufficiently adjusted to the changing structure and marketing practices of the livestock and meat-packing industries. Specifically, P&SA's current monitoring does not provide the agency with sufficient information to effectively determine the existence or extent of anticompetitive behavior by packers in procuring livestock. In the past, competition in livestock marketing was relatively more ensured because of the lower level of concentration in the packing industry. However, the recent changes in the livestock and meat-packing industries may have resulted in increased opportunities for anticompetitive behavior by large meat-packing firms. Anticompetitive behavior by packers in buying livestock could result in an exercise of market power that may be directed at forcing livestock prices lower than the competitive market level.

P&SA monitors the industry by responding to complaints, initiating special investigations and studies, and collecting data from individual packing firms through annual reports. P&SA has recently initiated efforts to improve its monitoring, including observing published weekly cattle prices and analyzing the effects of meat-packers' use of vertical coordination on cattle prices. Still, P&SA does not have sufficient data to define regional livestock procurement markets for animals sold to packers, an important step for enhancing monitoring of the livestock and meat-packing industries for evidence of anticompetitive behavior. The Administrator of P&SA agrees that additional data and analysis are needed to enable the agency to define the relevant regional livestock procurement markets.

## Industry Changes Point to a Need for Increased Monitoring

Until the relatively recent increase in concentration in the meat-packing industry, there was less need for P&SA to undertake a major effort to monitor the behavior of individual buyers and sellers for evidence of anticompetitive behavior. In the past, competitive behavior in livestock marketing was relatively more ensured because the meat-packing industry was less concentrated and a larger number of buyers were competing for the available livestock. P&SA staff focused their regulatory activities on overseeing the business practices of the public terminal and auction markets and packers. The agency investigated allegations of anticompetitive behavior on a case-by-case basis, chiefly in response to complaints received from industry members.

Economic theory suggests that if the buying side of the market for livestock is concentrated, the packer-buyers are more likely to possess market power. In such a case, buyers recognize that their buying decisions affect the market price. Moreover, a high degree of concentration

among buyers may increase the large packing firms' ability to engage in anticompetitive behavior with the purpose of reducing the prices paid to livestock sellers below a competitive level. For example, in markets characterized by multiple livestock sellers and a few large packing firms that buy large volumes of the available livestock, the packers could agree not to compete against one another on the same day in one market or to geographically apportion the markets among themselves. Under such circumstances, sellers could potentially be harmed if prices are reduced because buyers have engaged in anticompetitive practices. While the high level of concentration in the meat-packing industry may result in increased opportunities for anticompetitive practices by meat-packers, P&SA's customary monitoring efforts may no longer enable the agency to fully meet its legislative charge of ensuring a fair and competitive livestock marketplace.

### **Monitoring Efforts Are Evolving, but Still Do Not Meet the Needs of Today's Industry**

Despite increased concentration in the packing industry, P&SA has not significantly altered its approach to gathering and analyzing market information. To detect anticompetitive behavior, P&SA initiates investigations but relies to a large degree on responding to producers' complaints or information from other industry sources. Efforts to analyze the structure of the meat-packing industry have relied mainly on an annual tabulation of national statistical data. However, livestock procurement markets are regional, not national. The agency has recently initiated some activities that provide limited information about the impact of the structure and marketing practices that characterize today's industry. However, these efforts still fall short of enabling P&SA to define the relevant regional procurement markets and monitor them.

### **Traditional Monitoring**

On the basis of information provided by meat-packing firms in annual reports filed with P&SA each year, the agency compiles and publishes statistical information describing patterns in buyers' purchases of livestock ready for slaughter. Information includes, for example, the volume of the slaughter broken down by species, region, and state; the number of packing firms and plants; the portion of packing firms' purchases of livestock through private and public channels; and the extent to which packers also engage in feeding livestock prior to slaughter. P&SA uses this information to calculate national statistics on concentration such as the four-firm ratio. In the past, P&SA also has conducted studies of issues related to lamb and hog marketing. While going beyond the usual statistical summary in assessing livestock procurement patterns, these studies

were onetime efforts, according to P&SA's Packer and Poultry Division Director.

Although P&SA traditionally has calculated concentration statistics for the meat-packing industry on a national basis, industry experts, Justice, and the Director of P&SA's Industry Analysis Staff all agree that the relevant geographical procurement markets for animals to be slaughtered are regional and not national. P&SA officials also noted that the boundaries of these markets are not fixed; relevant boundaries shift as packers alter their procurement in response to changing conditions, such as in the weather or transportation costs. P&SA officials also agree that effective monitoring for anticompetitive behavior depends upon knowing the relative boundaries for geographical livestock procurement markets. However, P&SA has not developed and analyzed the data necessary to define procurement markets for any livestock segment as a part of the agency's monitoring.

By focusing on calculating national statistics on concentration in the meat-packing industry and not defining regional livestock procurement markets, P&SA may in its data be understating the potential risks associated with concentration in some areas. For example, while P&SA has calculated the national four-firm concentration ratio for steer and heifer slaughter currently to be approximately 70 percent, studies by industry analysts indicate that concentration in some regions is even higher. This implies that some regional markets have a few buyers who, because of the high volume of cattle they buy, may have an even greater potential for influencing prices in their region than is reflected by the national four-firm ratio.

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### Recently Initiated Efforts

In recent years, P&SA initiated some limited additional monitoring activities, including monitoring movements in the prices of fed steers and heifers and analyzing the effects of increased vertical coordination on the price of fed cattle. While these recent initiatives provide some information on final transaction prices in the cattle industry, they still do not enable P&SA to define the relevant regional procurement markets, nor do they provide information on the lamb and hog segments of the livestock industry.

According to P&SA's Industry Analysis Staff Director, in 1989 the agency began monitoring the prices paid for fed steers and heifers at various locations in order to detect potential changes in competitive conditions. Significant week-to-week deviations from historic relationships among



the prices paid at these locations were considered to be possible indicators of such changes. Drawing on expertise provided by USDA's Agricultural Marketing Service (AMS), P&SA implemented a statistical model that uses historical trends to forecast, on a weekly basis, the relationships among the prices reported in 13 locations.<sup>1</sup> The model identifies those current price relationships that deviate significantly from a predicted range. When this occurs, P&SA staff follow up on each occurrence to determine the reason for the deviation in relative prices. As of May 1991, the model had identified 31 instances in which significant deviations between predicted and reported price relationships had occurred. P&SA officials did not attribute any of these deviations to anticompetitive behavior by packers, but rather to causes such as a local packer's closing a plant.

While this model draws on information reported from locations around the country, P&SA has not determined if the locations reflect the conditions in relevant regional procurement markets, which remain undefined. P&SA is relying on price information reported by AMS officials at 13 historical price-reporting locations. AMS gathers price data that in the aggregate reflect a large total volume of livestock purchased. Although P&SA officials point out that geographical boundaries of livestock procurement markets are not static, but shift in response to factors such as weather conditions or availability of a supply of livestock ready for slaughter, AMS' reporting locations are relatively fixed. Five of the 13 locations for which P&SA uses AMS' data to track the relationships among prices for fed cattle are terminal markets; however, according to AMS' Livestock & Grain Market News Branch Chief, only one of these terminal markets remains a significant, viable market today. Until P&SA defines relevant markets for monitoring purposes, it is not possible to determine the extent to which each of AMS' price-reporting locations reflects a point within the boundaries of a relevant, functioning regional cattle procurement market.

P&SA's recent initiatives to improve monitoring also include collecting and studying data on the extent of packers' use of vertical coordination arrangements in procuring steers and heifers. In 1988, the agency began regularly collecting data on the volume of cattle that the largest packing firms procured this way. P&SA followed this effort with a more in-depth

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<sup>1</sup>For transactions involving fed cattle and other livestock, AMS collects and reports prices and other terms of trade for selected locations across the country. AMS releases this information in daily and weekly price reports. Reported price information includes information on direct sales that is voluntarily supplied by packer-buyers and sellers, and information on fed cattle sales that is publicly available from terminal markets.

study in 1990 to determine the extent to which packers' procurement of cattle through these arrangements affects prices paid to producers in the cash market. Although P&SA has completed the data collection phase of this subsequent study, the agency has not yet completed its final analysis and has not released the results. While this type of analysis may provide useful information to P&SA on how different livestock procurement practices impact changes in market price levels, this study is based on a limited set of data obtained over a specific time period from a selected number of packing plants in selected geographical areas.

## **More Data and Analysis Are Needed to Effectively Monitor for Anticompetitive Behavior**

Without the ability to define geographical livestock procurement markets, P&SA cannot adequately fulfill its mandate of ensuring a fair and competitive marketplace in the livestock and meat-packing industries. To effectively monitor for evidence of anticompetitive behavior, it is necessary for P&SA to collect and analyze data that will assist it in defining livestock procurement markets for all livestock segments. Needed data might include information on prices paid; quantities bought and sold; transportation patterns and costs; the locations of buying plants and sellers; and vertical arrangements, by location of buyer and seller. As market boundaries shift, the continued collection and analysis of such data would enable the agency to redefine livestock markets when appropriate. We have not attempted to define the specific types of data or analyses needed because we believe P&SA is in the best position to make this determination.

The Secretary of Agriculture has broad authority under the Packers and Stockyards Act to collect whatever type of information is necessary from market participants to ensure that all buyers and sellers are protected from monopolistic or any other unfair practices. By collecting and analyzing data necessary to define relevant markets, P&SA would be better able to identify procurement patterns and behavior indicative of anticompetitive practices. The P&SA Administrator agrees that given the structure of today's livestock and meat-packing industries, effective monitoring of livestock marketing requires a new and expanded approach. He agrees that defining relevant livestock procurement markets is an essential step in the detection of anticompetitive behavior. He stated that the agency has already shifted some of its resources to improve its monitoring. However, the Administrator of P&SA also told us that while P&SA recognizes the importance of collecting and analyzing additional data to improve its monitoring capability, the agency's ability to do so depends on obtaining additional financial resources. He stated that P&SA is awaiting the issuance of our final report before proceeding

further with defining its priorities and specific financial requirements for achieving them.

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## Conclusion

To adequately fulfill its mandate, P&SA needs to have an effective means of monitoring competitiveness. This has become more critical as overall concentration in the meat-packing industry has recently exceeded the level that existed when the Packers and Stockyards Act was passed. The high level of concentration may present increased opportunities for anticompetitive practices by large meat-packing firms. In recent years, P&SA has initiated activities to improve its monitoring, but more needs to be done. Since livestock procurement markets are regional and not national, more information and analysis are needed to effectively define the relevant markets and monitor overall competitiveness in them.

We recognize that collecting and analyzing the necessary data may not be accomplished overnight, and we further recognize that such an effort may involve the need for additional resources or some reallocation of existing resources. However, we also believe that by collecting additional market data and routinely monitoring buying and selling behavior in relevant markets, P&SA would be better able to carry out its mandate of ensuring fair and competitive marketing in the livestock and meat-packing industries.

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## Recommendation

To enable P&SA to adequately fulfill its responsibilities under the Packers and Stockyards Act, we recommend that the Secretary of Agriculture determine a feasible and practical approach for monitoring the activity in regional livestock markets. In defining the relevant markets, P&SA must determine the types of data and analysis it needs and the cost-effectiveness of obtaining and analyzing these data. Additional industry data required may include actual transaction prices relative to the quantity and quality of livestock and location of buying plant; transportation costs associated with transactions; and information on vertical coordination arrangements, by the type of transaction, and location of buyer and seller.

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## Agency Comments and Our Evaluation

USDA did not express an opinion on the report's recommendation but generally agreed with our conclusion concerning the need for better monitoring of industry competitiveness. Recognizing the high level of concentration in the meat-packing industry today, USDA agreed that an effective means of monitoring competitiveness is critical and that its

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**Chapter 3**  
**Monitoring for Anticompetitive Behavior Has**  
**Not Kept Pace With Industry Changes**

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current monitoring efforts need to be enhanced. Also, to emphasize P&SA's current role in monitoring the industry, USDA provided, in greater detail than we have in this chapter, a summary of P&SA's recent monitoring activities. These efforts include special investigations, updated data bases, periodic studies, and the use of computer models. (See app. I.)

# P&SA Has Emphasized Ensuring Prompt and Accurate Payment to Livestock Sellers

Ensuring prompt and accurate payment to livestock sellers has been a high priority for P&SA. P&SA works to ensure payment to livestock sellers by enforcing regulations and requirements under the Packers and Stockyards Act. These regulations and requirements establish standards such as prompt payment for livestock purchases, bonding of buyers, and proper maintenance and operation of livestock scales. Investigations devoted to ensuring payment are conducted primarily as the result of routine surveillance by P&SA.

During our investigation of P&SA's role in ensuring payment, industry representatives expressed concerns about P&SA regulations, in particular those regarding trade practices. The P&SA Administrator agrees that in light of the changing nature of livestock marketing, it is time to review the adequacy of all of the agency's regulations, including those related to trade practices.

## Majority of Investigatory Resources Devoted to Ensuring Payment to Sellers

According to the P&SA Administrator, the agency emphasizes activities that ensure prompt and accurate payment to livestock sellers. These activities include checking for compliance with requirements for prompt payment and solvency; bonding; the maintenance of certain bank accounts called custodial accounts; holding livestock purchases by packers in trust to protect against their failure to pay; and accurate weighing. Out of a total of 2,327 investigations conducted by P&SA in fiscal year 1990, 80 percent were in these areas.

## Prompt Payment and Solvency

P&SA analyzes annual financial statements filed by packers, market agencies, and live poultry and livestock dealers for evidence of buyers' payment practices and financial solvency. In addition, P&SA periodically requests supplemental information as necessary. Prompt payment provisions in the act require packers, market agencies, and livestock dealers to pay for livestock before the close of the next business day following the purchase and transfer of possession. If a buyer's payment history or solvency is questionable, P&SA requests additional information or initiates an investigation. In fiscal year 1990, P&SA conducted 540 investigations regarding prompt payment—71 percent of which disclosed violations. The agency also performed 62 investigations regarding insolvency—81 percent of which disclosed violations.

## Bonding

P&SA monitors for compliance with requirements for bonding imposed on packers, market agencies, and dealers. In general, packers with annual

purchases of livestock exceeding \$500,000 and all registered market agencies and dealers must provide P&SA evidence of bonds that ensure payment to livestock sellers in case of financial failure. In fiscal year 1990, P&SA conducted 295 investigations of registration and bonding practices. In 56 percent of these investigations, the agency found evidence of violation. During this period, 102 claimants were paid almost \$670,000 from bonds covering dealers and market agencies that failed financially. During the same year, 19 bonds covering packers had a value of \$7.1 million, and claims against these bonds totaled \$392,000.

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## Custodial Accounts

Market agencies that sell livestock on a commission basis are required to establish and maintain a separate bank account, called a custodial account, which must be used to disburse funds owed to consignors from sale of their livestock. P&SA reviews annual reports submitted by all market agencies, as well as additional information requested from selected market agencies, for evidence of how custodial accounts are being maintained. On the basis of this information, P&SA may decide to audit market agencies that show material shortages in their accounts. In fiscal year 1990, P&SA conducted 411 investigations into the maintenance of custodial accounts. Approximately one-third of the market agencies audited in fiscal year 1990 had shortages in their accounts totaling more than \$5 million.

According to P&SA's Livestock Marketing Division Director, prior to fiscal year 1990, P&SA audited approximately 10 percent of all custodial accounts annually. In 1989, the agency implemented a program to increase the frequency of these audits, beginning with a goal of auditing every market agency once every 5 years and working toward an ultimate goal of auditing all custodial accounts at least once every 3 years. P&SA officials believe that auditing all accounts once every 3 years is adequate to financially protect sellers. Auditing more frequently, the officials stated, would require additional resources.

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## Statutory Trust

P&SA oversees a provision of the act requiring packers to retain, or hold in trust, their livestock inventories and receivables in the event that the packers fail to pay for poultry or livestock. This trust is for the benefit of all cash sellers to whom the packers owe money. Subject to this provision, termed the statutory trust provision, are packers whose average annual purchases of livestock exceed \$500,000. P&SA regional staff may learn of a packer's potential financial problems or failure to pay through the staff's periodic examination of financial statements and through

complaints the staff receives. According to P&SA's Packer and Poultry Division Director, agency field staff then investigate and conduct an audit as soon as possible to determine the cash sellers who have not been paid, the amount of any proceeds due to them, and the amount of inventories and receivables of the packer. During fiscal year 1990, P&SA carried out 24 investigations of the statutory trust requirement and found evidence of violation in 58 percent of the investigations. Agency records disclosed that 18 packing firms paid out more than \$4.7 million under the statutory trust provision in fiscal year 1990.

P&SA noted that because of the statutory trust provision, claims against packers' bonds have been less than 1 percent of the average yearly bond coverage for packers. This is because trust inventories and receivables are exhausted before claims on bonds are made, which ultimately reduces such claims.

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## Accurate Weighing

P&SA regulations require that livestock scales be tested at least every 6 months by competent testing agencies. P&SA requires the testing agencies to submit reports for further review. In addition to conducting these tests, P&SA personnel conduct field investigations to detect fraudulent or inaccurate weighing. These investigations are generally conducted on a routine basis, but may also be conducted as the result of complaints by industry participants. During fiscal year 1990, P&SA carried out 564 investigations regarding weighing and found evidence of false weighing in 15 percent of the investigations.

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## Industry Participants Believe P&SA Trade Practice Regulations Are Outdated

During the course of our review of P&SA's role in ensuring prompt and accurate payment to livestock sellers, we interviewed representatives from several livestock industry groups. These representatives focused on a particular subset of P&SA regulations, the trade practice regulations. The majority of these regulations address the trade practices of market agencies and dealers, although some of these regulations also apply to packers. These regulations specify, for instance, that market participants cannot circulate misleading reports about market conditions or prices, market agencies cannot guarantee prices for consigned livestock, and packers cannot own or finance selling market agencies.

Representatives we spoke with from groups such as the Livestock Marketing Association, American Farm Bureau Federation, and National Cattlemen's Association believe that P&SA trade practice regulations have become outdated and have not kept up with changes in livestock

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**P&SA Has Emphasized Ensuring Prompt and**  
**Accurate Payment to Livestock Sellers**

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marketing. P&SA officials acknowledged that given the changes in livestock marketing, it is time to reevaluate the adequacy of the trade practice regulations. They told us P&SA is planning to review the adequacy of these regulations to ensure fair and consistent treatment for all competitors in the marketplace. The P&SA Administrator further emphasized that the agency plans to review the adequacy of not only trade practice regulations, but of all the agency's implementing regulations.



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# Comments From the United States Department of Agriculture



UNITED STATES DEPARTMENT OF AGRICULTURE  
PACKERS AND STOCKYARDS ADMINISTRATION  
WASHINGTON, DC 20250-2800  
202-447-7051

September 30, 1991

Mr. John W. Harman, Director  
Food and Agriculture Issues  
Resources, Community, and  
Economic Development Division  
U.S. General Accounting Office  
1825 K Street, NW, Suite 515  
Washington, D.C. 20006

Dear Mr. Harman:

Thank you for the opportunity to meet with you and other members of the GAO staff on September 26 to discuss the GAO report on the Packers and Stockyards Administration. We also appreciate the opportunity to further respond to the report by way of this letter.

Although we have concerns about some of the opinions expressed in the report and the information base on which they are founded, we are in general agreement with the conclusion as stated on page 34 of the report.

We agree that an effective means of monitoring competitiveness is critical, recognizing the high level of concentration in the meat packing industry today. To this end the Agency has undertaken several new initiatives in recent years. The following is an outline of those initiatives and they represent how the Agency's activities have changed in order to monitor competition in a concentrated industry.

In response to an ever-changing industry, the Packer and Poultry Division was significantly reorganized in 1986. This reorganization established a Procurement Branch with primary responsibility for investigating anti-competitive practices in the packing industry.

The main emphasis is to ensure that the remaining slaughtering packers are actively competing for their procurement needs. This objective is achieved by conducting regional investigations to measure the regional and local competitiveness and also to increase our knowledge of the specific markets.

For the past 7 years, the Agency has been maintaining an extensive computerized data-base of the major slaughter plants. The information in this file includes a detailed profile of history, ownership, capacity, and slaughter data on each of the

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plants. The data in this file is updated and forwarded to the Agency's Packer and Poultry Division on a quarterly basis by field personnel. If any change occurs that is determined to be significant, the information is relayed in a more expedient manner. Also, during the first quarter of the calendar year, slaughter data is obtained from National Agricultural Statistics Service for the preceding calendar year. This timely information enables the Agency to more timely analyze the structural changes and to stay abreast of the industry.

For the preceding 4 years, market information has been obtained and analyzed on a weekly basis. The data includes live and carcass or cut-out values of both steers and heifers and lambs. This information is then analyzed to determine if the values fall within acceptable ranges, based on industry conditions and historical precedent. From this data, numerous calculations and observations are made to determine if the relationship or "spread" from one price series is consistent with another series or segment.

This Agency has completed several extensive investigations in recent years. Listed below is a summary of some of the more significant investigations that have been conducted:

1. An investigation in 1985 of all lamb slaughter plants in the country slaughtering in excess of 100,000 head annually. The and sales records of all 14 of these plants were analyzed to determine where, how, when, and how much was paid or received for each transaction for an 8-month period. This information was augmented with interviews with members of all segments of the industry, including producers, packers, wholesalers, and retailers.
2. In 1987, an investigation of all 11 major steer and heifer slaughter plants in the High Plains region of Kansas and Texas was conducted to determine the degree of competition within each feedlot and county in the region. Individual transaction data was collected from the plants to determine all pertinent procurement and slaughter information about each purchase lot. From this information analysis was conducted to ascertain if the individual plants and firms were actively competing on a daily basis and if they were engaging in any practice that would have the potential to lessen competition. An example of these types of trade practices would be restriction of competition, apportionment of territory, collusion, or an attempt to monopolize either their purchase or sales areas.
3. An investigation was completed in 1988 of the nine major sheep and lamb slaughter plants located west of the Mississippi River, to determine among other things, if the

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rapid industry structural changes of 1987 had an adverse effect on the degree of competition for slaughter lambs. In addition to analyzing the procurement and slaughter information of the plants, data was obtained from two of these firms concerning their purchase of feeder lambs. From this information analysis was conducted to determine if these firms were apportioning territory or exercising their market strength in their procurement of feeder and slaughter lambs.

4. During the latter portion of 1989 and the early part of 1990, an investigation was conducted relative to the procurement and marketing of formula fed veal at four Midwestern veal slaughter plants. This industry was also at the time under going radical change in the way in which business was conducted. The practice had been in the past to slaughter the calves at the source of production and to ship the carcass, hide-on, to a large metropolitan area where it was broken into primal cuts by the wholesaler or jobber. This custom was fast becoming antiquated as the slaughtering packers realized the amount of money that could be made by adding additional value at their facility. This coupled with the high urban wage rate and freight costs had changed the industry to where most of the calves are now slaughtered and boxed at the Midwestern slaughter plants. By fully investigating this industry at this stage of development, the Agency was able to better understand the method in which these firms operated. In addition to gaining important information relative to the industry, trade practice investigations were also completed to ensure that all firms were actively and fairly competing for their slaughter needs.
5. During 1991, the Agency conducted an extensive investigation into the practice of selective price reporting. This investigation was centered in the Texas and Kansas marketing areas. The records of 7 major plants in this area were reviewed and interviews were conducted with approximately 50 major feedlots in the area. The investigation revealed that some firms were involved in selective price reporting or purchasing livestock with a stipulation that the price not be reported to a market news service. The Agency has placed 3 firms on notice and the practice has been discontinued.
6. The Agency is currently involved in an extensive investigation of the 21 major hog slaughter plants that purchase hogs in the Indiana-Illinois trade area. This investigation is in response to the recent Excel-Emge merger. The purpose is to determine if the merger has in any way decreased competition in this market region. In addition to analyzing this merger, the Agency is also benefitting from this investigation by gaining invaluable information relative to the hog industry in this region of the country.

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7. The Agency is also currently involved in an investigation of two of the top three lamb slaughter firms. The procurement activities are being investigated to determine if these firms are utilizing their market strength in an attempt to procure slaughter lambs at less than fair prices.

As evidenced by the above investigations, the Agency has been responsive to change in the industry and has taken significant strides to be proactive rather than reactive. A major emphasis in allocation of resources has been to investigate those plants and firms that have the potential to affect market prices on a regional or national level. By intensifying our efforts on these larger firms, the Agency has been able to closely monitor any changes in the procurement patterns of the entire industry.

Over the past 5 years, the Agency has improved its method of data collection and ability to analyze this data by the use of portable computers. These computers were replaced with laptop portables in 1991 to further enhance this capability. The computers are carried on-site to the packing plants where data is entered and edited. This procedure allows for a more expeditious means of data collection as well as a means of verifying data while still on location. The data is then analyzed with computer assistance in either the field offices or in headquarters.

Due to limited resources in the form of funds and staff years, it is essential to prioritize our objectives in order to maximize resources and to accomplish the Agency mission. By concentrating our efforts and resources on the areas where the livestock is fed and slaughtered, we are better able to monitor and regulate the segments of the industry that have the potential to affect competition and prices on a large scale. Our efforts with regard to the cattle industry have been concentrated on the five-State region of Kansas, Nebraska, Texas, Colorado, and Iowa. This five-State region accounts for approximately 75% of the commercial steer and heifer slaughter and likewise a similar amount of feeding volume. Of the top six firms, four have 100% of their slaughter capacity in this region, with the remaining two having 90% and 80%.

For each of the past 3 years the Agency has obtained "captive supply" information on each of the top 15 steer and heifer slaughter firms. The information from these firms represents approximately 87% of commercial slaughter. Although this Agency releases general information to the public with regard to captive supplies, data is collected and analyzed on a plant-by-plant basis with subsequent analysis performed on a State and regional basis. Due to the confidentiality of this information, it is not possible for general dissemination of this or any other plant or firm specific data.

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During the past 5 years, this Agency has been attending weekly briefing sessions at the Commodity Futures Trading Commission (CFTC), when livestock issues are to be discussed. In addition, this Agency's rapport with members of CFTC has added another source of valuable information essential in staying on top of an ever-changing industry. The significance of this involvement with CFTC is that a couple of the major firms at times have taken considerable positions in the cattle futures market and with their relative size are in a position to adversely affect the live cash market.

Employees in the regional offices attend and often participate in State and regional producer meetings. These meetings enable Agency officials to establish contacts within the industry and to gain a better understanding of producer concerns. Often times it is these contacts that enable Agency officials to determine if a particular packer is involved in a practice that may be violative of the Act.

During the past 10 years emphasis has been placed on improving our working relationship with those segments of the industry which we regulate. This relationship has brought about a better atmosphere between the Packers and Stockyards Administration and the packing industry, while at the same time gaining professional respect. This increased rapport has increased the efficiency in performing investigations and gaining access to company records. During the days of old, one of the large firms would likely engage in a practice that this Agency would consider questionable without first consulting with the Agency. In many instances, in recent years, these same large firms have consulted with Agency officials prior to engaging in these questionable activities.

Although the Agency has made significant changes in step with changes in the industry, we realize there is always more that could be done to monitor the competitiveness of the packing industry.

For this reason, the Agency will continue to examine its role regarding the structural change in the meat packing industry. We believe that an expansion of the current role is necessary and will require the following in addition to its current activities.

- The establishment of an information base sufficient to provide a factual basis for analysis and/or to support action (action and no action are both responses).
- The establishment of an information base sufficient to:  
(1) predict with acceptable probability possible industry response; and (2) strengthen public confidence in Agency opinions and positions on structure and performance.

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- Conducting or coordinating investigative research relative to concentration/integration or industry structural change which may include development of interagency team and/or academia to address the issue (change that impacts competition).

In addition to expanding our role in the study and analysis of industry structure and performance as outlined above, enhancement of our current monitoring activities will be necessary. It has been the experience of this Agency, that the best deterrent to involvement in activities that are violative of the Act, including anti-competitive practices, is to be visible in the industry which we regulate.

To have a more visible position it is necessary to increase the frequency in which many regional investigations are conducted. To accomplish expansion of our role and to increase the level of regional investigations will require additional resources, both in staff years and funds.

We will continue to review priorities within the Agency's programs to assure the most effective use of resources under current funding authority; however, realizing that to accomplish what needs to be done additional funding will be necessary, we will also continue to seek the funds required to expand our role in this important area.

The review of the Packers and Stockyards Administration by the General Accounting Office and the recommendations are appreciated.

Sincerely,



VIRGIL M. ROSENDALE  
Administrator

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