



FACT SHEET _____ OCTOBER 2007

CAPTIVE SUPPLY REFORM ACT

TAKING BACK THE LIVESTOCK MARKETS

Fair and open livestock markets enable farmers, ranchers, feeders and auction yard owners to keep their independence, run their businesses, provide for their families, and build their rural communities. Unfortunately, we have a broken market that robs producers of the same opportunity enjoyed by other segments of the cattle and meat industries. Big packers are taking advantage of honest, hardworking family farmers and ranchers by price fixing.

Support the Enzi/Dorgan Captive Supply Reform Act Amendment

Its time to strengthen existing law to return fairness to the livestock markets. The Captive Supply Reform Act would return that fairness by:

- a. requiring all contracts to contain a firm base price that can be equated to a fixed dollar amount on the day the contract is signed; and
- b. requiring the forward contract be offered or bid in an open, public manner to which all buyers and sellers have access.

The Captive Supply Reform Act allows the continued use of forward contracts and coordinating supplies. It simply requires that packers must tell the feeder what they are going to pay and pay that amount upon delivery of the livestock, and offer that contract to others in a public manner.

The Captive Supply Reform Act allows for any adjustment to the base price for quality, grade or other factors relating to the value of the livestock or livestock products that are market factors outside the control of the packer.

This bill amends section 202 of the Packers and Stockyards Act of 1921, which applies exclusively to packer transactions. Therefore, this Act only applies to livestock ready to slaughter. It would not affect contracts with other sectors of the livestock economy.

How Do Packers Manipulate Markets?

Meatpackers acquire half of all cattle and hogs they slaughter through what are known as captive supplies. Captive supplies are livestock packers own or control through contracts with farmers, ranchers and feedlot owners. By calling on captive supplies to fill slaughter needs, packers do not have to

bid for cattle in an open, public manner. A false period of low demand is created and prices are driven even lower.

There are two main types of captive supplies:

- 1) Cattle packers actually own in feedlots
- 2) Cattle the packers procure through contracts

Contracting cattle for future delivery, in itself, can be a good thing. However, packers are using a contract method known as "formula pricing" in which feeders are enticed to contract their cattle when the packer bases the contract price on the cash market on a certain date, rather than a firm bid price. For example, a packer might offer the feeder 50 cents per hundred weight over the cash market price on the day of delivery. Meanwhile, packers have forward contracted enough cattle so they do not need to buy on the cash market that day, driving down the cash price more than the premium offered the seller.

A History of Packer Concentration

The Packers and Stockyards Act (P&SA) was implemented in 1921 when five companies controlled between 75 and 80% of all interstate slaughter. At this time, forward thinking congressmen saw the problems created when only a few companies controlled so much of the market share, so they implemented the most comprehensive anti-trust legislation ever enacted in the U.S.

However, current policy makers in Washington, D.C. are not interpreting the law as intended in 1921. Furthermore, the U.S. Department of Agriculture (USDA) refuses to enforce laws against the packer cartel of today.

Today trends in the packing industry virtually mirror those in 1921. Four major companies have taken control of the marketplace in beef and hogs and buy 80% of the fed cattle and half of the hogs that end up as steaks and chops on American dinner tables. The fewer packers there are to procure

cattle, the more control they have over the market and the greater their ability to drive down prices through captive supplies. In such a concentrated market, buyers (the packers) can – and do – use captive supplies to manipulate markets. In 2006, Captive supplies of livestock cost family farmers, ranchers and their communities more than \$5.7 billion. In cattle alone, captive supplies lowered prices for cattle producers by approximately \$69 per head.

Consolidation of these corporations in other foods adds to the problems of vertical integration. Vertical integration is the ability of a corporation or business to control a product from “the ranch to the dinner table”—and that is exactly what is happening in today’s markets.

Tyson Foods, Swift and Co. and Excell Corp. are the three major meat packers in the U.S. National Beef, owned by U.S. Premium Beef, trails the “Big Three” as the fourth largest beef packer in the U.S. (with 12% of the market share in 2004).

- Tyson Foods is the world’s largest meat packer after acquiring IBP in 2002. They not only process beef, but also market chicken and pork products. The company is also the second largest publicly traded food company in the United States.
- Excel Corp., ranked second, is a subsidiary of privately held Cargill Inc., which is a leading grain merchant and the leader in animal feed. In 2002, Excel bought a controlling interest of ConAgra Meats, the fresh beef and pork operations of ConAgra Foods Inc.
- Swift & Company is privately held and the third largest meat packer in the U.S. Swift was recently purchased by JBS, a Brazilian company.

Solution

Senator Mike Enzi (R-WY) and six cosponsors introduced the Captive Supply Reform Act (S. 1017) in 2007. Cosponsors are Senators Tim Johnson (D-SD), Jon Tester, (D-MT), Byron Dorgan (D-ND), Kent Conrad (D-ND), Chuck Grassley (R-IA), and Craig Thomas (R-WY.).

The Captive Supply Reform Act would restore competition by making packers (and livestock producers) bid against each other to win contracts. Forward contracts and marketing agreements allow packers and producers to coordinate supply and reduce risk, but as currently negotiated – in secret, with all bargaining power on one side – they depress prices and shut small and independent producers out of markets.

Livestock producers need this legislation now. Increasing imports of captive supplies like Canada and Australia, will further hurt independent family farmers and ranchers. We must give U.S. ranchers the tools to compete with captive supplies. Passage of the bill would give ranchers the ability to plan responsibly and make better marketing decisions knowing that prices are based on a competitive market.

Receiving a fair price in the market place will preserve the economic base of rural communities. When ranchers receive a fair market price, they have more money to spend in local businesses. We must return this profit to these rural communities.

What You Can Do

- 1) Support the Captive Supply Reform Act and vote to include this provision in the Farm Bill.
- 2) For more information contact Jeri Lynn Bakken, WORC, 701-376-7077 or jerilynn@worc.org; Travis Jordan, Senator Enzi’s Ag L.A. at 202-224-6441; or Jeff Blackwood, Senator Dorgan’s Ag L.A. at 202-224-2551.



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