

Farm and Ranch Freedom Alliance  
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March 13, 2020

Submitted via regulations.gov

Re: Docket No. AMS-FTTP-18-0101, RIN 0581-AD81: Undue or Unreasonable Preferences or Advantages under the Packers and Stockyards Act

Dear Mr. Offutt:

Thank you for the opportunity to provide comments on the proposed rule regarding the criteria to be used in determining when an undue or unreasonable preference or advantage has taken place in violation of the Packers and Stockyards Act.

The Farm and Ranch Freedom Alliance (FARFA) is a nonprofit advocacy organization that supports independent family farmers and protects a healthy and productive food supply for American consumers. FARFA promotes common sense policies for local, diversified agricultural systems.

FARFA supports the comments submitted by the Campaign for Contract Agriculture Reform (CCAR), including CCAR's recommendations for changes to the proposed rule.

In addition, FARFA submits the following comments.

The lack of effective enforcement of the Packers and Stockyards Act (P&SA) has allowed the livestock and poultry markets in this country to become oligopolies, with widespread abuses and market manipulation. There are many "common" practices in the market that *should* be violations under the P&SA – but under the proposed rule, they would not be.

The proposed rule is thus not consistent with either the P&SA or the 2008 Farm Bill. Instead, the proposed rule sets dangerous precedents and dilutes the current statutory protections, both by what it does and what it does not do.

Under the P&SA, the packers, live poultry dealers and swine contractors are the regulated entities. Livestock and poultry farmers are the intended beneficiaries of the limitations placed on packers, dealers, and contractors. Yet the proposed rule flips this on its head by setting out criteria that provide the regulated entities with clear justifications for their current business practices, rather than recognizing any meaningful limitations on their actions.

The agency's own cost-benefit analysis shows that the rule will have no meaningful impact on the anti-competitive and improper practices that are already in place. The agency's statement that it "does not expect the proposed rule to result in a decrease in the use of alternative marketing agreements (AMAs), poultry tournament systems, or other incentive payment systems, or decreased economic efficiencies in the cattle, hog, and poultry industries" reveals that the

proposed rule is essentially toothless. The P&SA was not intended to maximize economic efficiencies, but to provide for a fair, competitive marketplace.

FARFA particularly objects to the provisions that appear to encourage collusion and conspiracy between competitors in the livestock and poultry sector by allowing companies to justify their practices on the basis that their competitors are using similar pricing and/or contract terms. Criteria such as these that encourage collusion and conspiracy between regulated entities are in direct conflict with the overall intent of the statute, as well as the specific price manipulation and control prohibitions in Section 202(d) through 202(g).

We strongly urge the agency to adopt all of the changes proposed by CCAR in its comments. We also support CCAR's recommendation that the agency re-draft the rule and issue a new proposed rule, or at a minimum, issue it as an interim final rule after substantial changes and additions, to allow further stakeholder comments and possible revisions in the future.

Respectfully,

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