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June 9, 2020

The Honorable Sonny Perdue
Secretary of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

Dear Secretary Perdue:

I write today regarding concerns about the enforcement of the Packers and Stockyards Act at the U.S. Department of Agriculture (USDA) and the ability to protect our country's independent cattle producers from unfair practices. The national pandemic of COVID-19 has shed light on the many problems within the Packers and Stockyards Division and its inability to preserve our nation's beef supply chain.

I've heard from producers across Iowa that the Coronavirus Food Assistance Program (CFAP) program will help save their family farm. Yet, we've heard overwhelmingly that cattle producers would prefer a fair and functioning marketplace over government payments.

In the 106th Congress, as the chairman of the Senate Judiciary's Subcommittee on Administrative Oversight and the Courts, I held a hearing on USDA regulatory and enforcement authority under the Packers and Stockyards Act. This hearing examined the findings of an investigation I asked the General Accounting Office (GAO) to conduct on the regulatory authority and enforcement efforts of the Grain Inspection, Packers and Stockyards Administration (GIPSA) with respect to anti-competitive activity in the livestock market. The GAO concluded in its report, "While GIPSA has broad investigative, enforcement, and rule-making powers, it has not really pursued any of these avenues to any great extent to protect producers in the cattle and hog industries."

The concern we discussed twenty years ago remains the concern we continue to discuss today. Producers are not shielded from the unfair and anti-competitive practices within the production livestock industry and the USDA does not appear to be using its authority under the law to vigorously investigate and take action against bad actors.

On March 13, 2020, I sent a letter with my colleague, Senator Tester, regarding whether an undue or unreasonable preference or advantage has occurred in violation of the Packers and Stockyards Act. In January 2019, Agricultural Marketing Services (AMS) published a proposed rule to establish such regulations. It is still my belief that the rule falls short of protecting independent producers.

The rule appears to provide legal protection for packers and integrators who can justify a practice based on the need to save costs and reduce prices, or if their practices are deemed “customary” in the industry because they align with those of their competitors.

Due to the poor record of using its authority to prohibit anti-competitive activity in the livestock industry, I am urging you to take the necessary steps in strengthening GIPSA’s enforcement efforts. Today, Iowa’s farmers and producers are questioning the price discrepancy between the high shelf price of meat products and the decreased market value of livestock.

As you know, on March 31, 2020, I called upon both USDA and the Department of Justice to investigate potential market manipulation and other illegal activity by large meatpacking companies during the COVID-19 pandemic. I join Iowa’s farmers and producers in thanking you for initiating this investigation. However, producers need the assurance now that USDA is working to preserve America’s family farms.

On August 28, 2019, you directed USDA’s Packers and Stockyards Division to launch an investigation into beef pricing margins following the fire at Tyson’s plant in Holcomb, Kansas. Nearly a year later, farmers and producers still await any reports from this investigation.

Whether it be in my office in Washington or on the farm in Iowa, I hear frustration and skepticism from farmers and producers. These feelings in farm country may be eased should USDA release insights from this investigation. I ask that you release a preliminary report as soon as possible on the Tyson’s fire to give producers across the country confidence that USDA’s administrative procedures are protecting independent producers.

If a report is not issued on the Tyson’s Holcomb, Kansas, plant by August 9, 2020, a year since the fire at Tyson’s, I will be asking GAO to conduct an investigation into the reporting processes of the Packers and Stockyards Division to see if additional authority or resources are needed to properly conduct oversight of processing facilities.

Again, I thank you for the quick action of assisting cattle producers with the CFAP and I appreciate you hearing my concerns on anticompetitive behavior in the cattle industry. I look forward to working with you to strengthen the Packers and Stockyards Division in addition to receiving the reports from the prior mentioned investigations

Sincerely,

A handwritten signature in black ink that reads "Chuck Grassley". The signature is written in a cursive, flowing style.

Charles Grassley
United States Senator