



### III. Market Access/Enforcement



USDA supports initiatives that give small farmers and families access to fair and open markets.

**Commission Recommendations:** The Commission’s report, *A Time to Act*, emphasized the need for active government enforcement of market competition as fundamental to the economic opportunity for farms of all sizes and scales. Access to fair and open markets for family farms is perhaps the single most influential factor in determining the future structure of the farm production sector.

*A Time to Act* recommended mandatory price reporting, a response to the the Western Organization of Resource Councils (WORC) petition for rulemaking to prohibit captive supplies, consideration of Federal regulation of contracts, and increased staff capacity and expertise to conduct investigations and enforce fair market practices.

#### AGENCY HIGHLIGHTS

#### Grain Inspection, Packers and Stockyards Administration (GIPSA)

- GIPSA reorganized its Packers and Stockyards Programs in 1998 to strengthen its capability to conduct investigations of potential anti-competitive behavior while improving effectiveness and efficiency in enforcing the trade practice and financial protection provisions of the Packers and Stockyards (P&S) Act.





- GIPSA has investigated hog procurement contracts and marketing agreements in the hog industry to assess their use and reasons for price differences among producers. The investigations focused on criteria for obtaining marketing agreements to determine, among other things, if small sellers have access to comparable sales terms as those available to large producers.
- Several pork slaughter plants closed in recent years. GIPSA investigated these plant closings to determine the justification for closing a plant, and whether there was any potential violation of the P&S Act. GIPSA also examined the financial condition of acquired and closed plants, changes in plant capacity over recent years, and changes in concentration arising from each recent plant acquisition and closure.
- GIPSA completed a major investigation of fed-cattle procurement in the Texas Panhandle. The investigation included analysis of various cattle procurement methods often known as captive supply. USDA conducted an outside peer review of the investigation. The investigation did not indicate that use of captive supplies causes spot market prices to decline. In September 2000, USDA held a forum in Denver, Colorado on “Captive Supplies in the Livestock Industry.”
- At the request of Congress, GIPSA is completing a comprehensive study on the issue of captive supplies of cattle. The study examines variations in the definitions of captive supply among organizations that provide captive supply statistics, including the definition used by GIPSA in its annual “Packers and Stockyard’s Statistical Report.”
- The 1999 Livestock Mandatory Reporting Act requires the Secretary to collect information from packers and establish a library of swine marketing contracts. GIPSA prepared a Notice of Proposed Rulemaking describing the proposed requirements of the Swine Contact Library that was published for comment in the Federal Register on September 5, 1999. Comments were reviewed and GIPSA is developing a final rule and programs to implement a library that will provide summarized information on

contract terms and monthly reports on the number of swine under contract.

- GIPSA promulgated a rule requiring that accurate feed weights be provided to contract growers when those weights are used in determining producer compensation. While this rule is aimed primarily at poultry integrators, it also affects agreements that large packers have for the production of hogs, cattle, and lambs.



**GIPSA completed a major investigation of fed-cattle procurement in the Texas Panhandle. The investigation included analysis of various cattle procurement methods often known as captive supply.**

- On August 31, 1999, USDA signed a Memorandum of Understanding (MOU) with the Department of Justice (DOJ) and Federal Trade Commission (FTC). The MOU calls for the three agencies to cooperate on issues related to monitoring competitive conditions in the agricultural marketplace. The MOU replaced USDA’s informal communications on competitive issues with a communication process that is coordinated through USDA’s Office of the General Counsel. USDA cooperates with DOJ and the FTC and has conferred with them on proposed mergers, e-commerce, investigative procedures and other issues of mutual interest. DOJ’s Antitrust Division’s Special Counsel for Agriculture, Douglas Ross, spoke at GIPSA’s Millennium Conference in May 2000 and attended three meetings USDA held with States’ Attorneys General.



- GIPSA developed rapid response teams to enable it to respond quickly to breaking developments, and quickly assess their implications under the Packers and Stockyards Act. GIPSA's rapid response teams are designed to deal with high priority investigations that require expeditious examination and analysis to prevent or minimize major competitive or financial harm caused by violations of the P&S Act. During FY 2001, GIPSA conducted 51 rapid response investigations. These investigations uncovered violations of the Packers and Stockyard (P&S) Act and resulted in returning \$6.1 million to livestock producers and poultry growers.
  - GIPSA investigated meat packers' activities in cattle and hog markets immediately after USDA's Agricultural Marketing Service (AMS) replaced its voluntary price-reporting program with a mandatory price-reporting program as required by the 1999 Livestock Mandatory Reporting Act. GIPSA did not find violations of the P&S Act in relation to packers' activities in conjunction with mandatory price reporting.
  - GIPSA investigated precipitous declines in spot-market and nearby futures prices for fed-cattle purchased for slaughter following the September 11, 2001 terrorist attacks. In cooperation with the Commodity Futures Trading Commission, GIPSA found that changes in cattle supply and beef demand conditions prior to September 11 accounted for the declines in fed-cattle prices. GIPSA did not find violations of the P&S Act in conjunction with these declines.
  - GIPSA investigations of large tare weight variations have prompted procedural changes by several poultry firms to ensure accurate tare weights for poultry live haul vehicles. Weighing practices were investigated through unannounced check weighing at 104 poultry complexes in FY 2001.
  - During FY 2001, GIPSA conducted 86 feed mill orientations and weighing investigations to examine live poultry dealers' compliance with the P&S Act after implementation of new feed weight regulations.
  - Accurate weights are necessary for buyers and sellers to receive proper payment for their livestock, meat, and poultry when sold on a weight basis. GIPSA has several programs that help ensure accurate weights. GIPSA analyzes scale tests and follows up on inaccurate scales; provides training as needed to State and private scale testing agencies; does compliance investigations to ensure that auxiliary equipment used to suspend or contain livestock or poultry on a scale is standardized in weight and that the tare weight taken for auxiliary equipment is not in excess of the average tare weight of the equipment in use; conducts investigations to ensure that weighing and associated equipment is properly used to issue correct weights; and does compliance investigations to ensure that weights are not arbitrarily altered to the detriment of the buyer.
- In FY 2001, 91 percent of the scales tested met performance requirements. Scales found not to be in compliance were adjusted, repaired, or replaced. A total of 304 weighing investigations were conducted. Approximately 5.3 percent disclosed incorrect weighing, which resulted in corrective action being taken. Administrative complaints were issued against four entities for allegedly selling livestock at more than their true and correct weight.
- GIPSA has six cooperative agreements with researchers at universities across the Nation to address issues related to concentration and other structural changes, and other issues relating to enforcement of the P&S Act.



- GIPSA maintains a toll-free number (1-800-998-3447) to allow livestock producers, poultry growers, and the public to report complaints and share concerns. During FY 2001, GIPSA received 124 hotline complaints from livestock producers, poultry growers, and the public. The majority of these complaints alleged violations of the trade practice provisions of the P&S Act. Each call was referred to the appropriate office for review. GIPSA took appropriate action on complaints reporting substantiated violations of the P&S Act.

### Natural Resources Conservation Service (NRCS)

- **Utah:** The Bonneville Resource Conservation and Development (RC&D) has been working with the Goshutes in Ibapah on several business ventures, which include a tourism industry, possible greenhouse, and other economic endeavors for the tribe.

