



MISSISSIPPI FARM BUREAU® FEDERATION
The Voice of Agriculture®

Mike McCormick
President

March 13, 2020

U.S. Department of Agriculture
Agricultural Marketing Service
1400 Independence Ave., S.W.
Washington, DC 20250

Re: Docket No.: AMS-FTPP-18-0101-0001, Undue and Unreasonable Preferences and Advantages Under the Packers and Stockyards Act

Mississippi Farm Bureau Federation (MFBF) appreciates the opportunity to provide comments on the proposed rule "*Undue and Unreasonable Preferences and Advantages Under the Packers and Stockyards Act.*" 85 Fed. Reg. 1771 (Jan. 13, 2020).

MFBF is the state's largest general farm organization with approximately 182,000 member families in 82 county Farm Bureaus. With approximately 1,200 poultry farms in the state, poultry is Mississippi's number one commodity boasting an estimated \$2.7 billion dollars to the state's economy. Our policies are set forth by our grassroots members who make up the families raising the livestock and poultry covered by this rule. The diversity of species, ownership, and marketing arrangements across our membership prompts Farm Bureau to cautiously evaluate the benefits and risks, which may result from implementation of the proposed rule.

Farm Bureau has clear policy supporting amendments to the Packers and Stockyards Act (the Act) to strengthen the ability of the Agricultural Marketing Service (AMS) to stop predatory practices in the industry. We support competitive markets in which farmers and ranchers utilize varying marketing arrangements and structures. With these principles in mind, Farm Bureau applauds the efforts made in this rule to identify qualitative actions defining "undue and unreasonable preference."

The 2008 Farm Bill required USDA to establish criteria to determine what conduct would be considered an undue or unreasonable preference or advantage, and address flagrant and deceptive practices between livestock and poultry growers and their packing houses or live poultry dealers.

Proposed § 201.211 is a positive step in the right direction, and with additional changes, will provide a fair and reasonable definition of the types of conduct resulting in Packers and Stockyards Act violations.

First, Farm Bureau supports the proposal's identifying specific criteria that are considered an "undue or unreasonable preference or advantage." Farmers and ranchers have long been at a disadvantage due to the uncertainty in identifying what criteria violates the Act, and enumerating these criteria will go a long way in providing much needed clarity.

Second, Farm Bureau supports the proposal not foreclosing the possibility other activities might constitute an "undue or unreasonable preference or advantage." While the listed criteria identify the most familiar indicia of unfair practices, it is possible (1) other non-competitive conduct may escape scope of the identified criteria, or (2) other criteria may be found to better capture predatory practices.

Third, AMS should further define what would be considered a "reasonable business decision that would be customary in the industry." 85 Fed. Reg. 1771, 1783 (Jan. 13, 2020) (§ 201.211(d)).

We recommend the final rule include, both in general and in detail, lists of the types of AMAs and other marketing arrangements and/or other business practices commonly expected to constitute a "legitimate business justification" across a sector or market structure. We want to avoid a situation where some unfair practices that should be considered an undue or unreasonable preference would be considered legitimate just because an unfair practice has become customary in the industry over time.

We thank you for the opportunity to comment on the proposed rule "*Undue and Unreasonable Preferences and Advantages Under the Packers and Stockyards Act.*"

Sincerely,

A handwritten signature in cursive script that reads "Mike McCormick".

Mike McCormick
President

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