

Senate Farm Bill –

PSA Competitive Harm Amendment



- For 85 years, the Packers and Stockyards Act (PSA) has protected individual farmers from unfair and deceptive trade practices. However, some judges have recently required producers to show not only individual harm, but also “competitive harm” to the entire industry. The “competitive harm” language is not in the PSA. An amendment introduced by Harkin will return PSA interpretation to its original intent, and is supported by the USDA.
 - The PSA was passed nearly 90 years ago, in response to meat packers controlling **41%** of the cattle market.
 - Today, the top 4 packers control over **80%** of the cattle market and USDA’s hands are tied from enforcing this vital competition law.
- The original intent of the PSA does NOT require that competitive harm be proven in order to show a violation of the law.
 - Recent court decisions have ruled that for a producer to prove a premature contract termination was unfair, they must prove how it adversely affected industry competition. That sets a bar so extremely high no producer will ever succeed in an unfair practice case.
 - It’s like saying that you had an unfair practice done only to you, such as false weighing of livestock, but now you must prove how that economically effected all of your neighbors and your entire marketing region. That was not Congress’ intent under the 1921 Packers and Stockyards Act.
- **USDA supports this amendment, helped craft the language and does not agree with the appeals decision.** USDA filed an amicus brief stating that the *“Department of Agriculture interprets [the law] to prohibit all unfair or deceptive practices regardless of whether they cause an anti-competitive injury. That interpretation fully comports with the text, history and purpose of the statute and warrants judicial deference.”*
- Producer protections must be strengthened to ease the process in proving unfair actions by packers or firms, without having the additional burden of proving adverse affects on competition.
- **If Congress does not act, the USDA cannot enforce the Packers and Stockyards Act.**

Support the Harkin Amendment to Clarify the Packers & Stockyards Act!