



Office of the Secretary
Washington, DC 20250

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HON. BRIDGET HILL
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HON. TOM MILLER
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HON. MARK VARGO
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HON. SEAN D. REYES
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Dear State Attorneys General Ellison, Hill, and Colleagues:

Thank you for your letter “Strengthening Enforcement under the Packers and Stockyards Act” dated December 21, 2021, wherein you provided information and insight into various issues you have identified in the agricultural sector. We share your concerns and are eager to strengthen the enforcement of the Packers & Stockyards Act and other relevant Federal and state laws that promote fair and competitive food and agricultural markets. These laws are critical to our nation’s farmers, ranchers, consumers, small businesses, workers, and, indeed, all participants in these vital supply chains.

President Biden’s historic Executive Order No. 14036 “Promoting Competition in America’s Economy” charged USDA and other Federal agencies with launching a Whole-of-Government effort to promote competition. The Executive Order underscored the Biden Administration’s commitment to safeguarding the freedom of farmers, ranchers, and other industries from unfair practices and anticompetitive conduct in concentrated, consolidated markets. The Executive Order directed USDA to bring to bear its full suite of tools and resources to promote competition and fair markets.

As announced this May, USDA’s broad and aggressive strategy to promote fair and competitive markets includes:

- More than \$1 billion of investments in new and expanded meat and poultry processing capacity, to create more local and regional options for producers and consumers;
- \$500 million investments in new American-made, sustainable fertilizer capacity, to address the problems of concentration and of supply chain fragility revealed by the war in Ukraine;
- New rulemakings under the Packers & Stockyards Act and bringing transparency, market access, and fairness to livestock and poultry producers and growers;
- A new enforcement partnership between USDA and the Department of Justice through farmerfairness.gov, a joint tips and complaints portal;
- A partnership with the Federal Trade Commission to promote retail market competition and market access;
- In collaboration with the U.S. Patent and Trademark Office, an examination into competition and intellectual property in seeds and other input markets;
- And more.¹

As state attorneys general, you are on the front lines of fighting for fair and competitive markets. In your letter, you asked whether USDA can do more to partner with state attorneys general to leverage and extend our shared capacities. We say yes.

Building on the Biden-Harris Executive Order’s “Whole-of-Government” approach, we challenge the state attorneys general to partner with USDA on competition issues in the food and agriculture space, using up to \$15 million in funds from the Consolidated Appropriations Act (CAA). Under this new Agricultural Competition Challenge, we will make available a series of federal-state cooperative agreements that enable us to combine our state and federal authorities, expertise, and market insights; leverage funds to support complex cases; and jointly support research and academic work that can undergird future cases.

¹ U.S. Department of Agriculture, Agricultural Marketing Service, “Agricultural Competition: A Plan in Support of Fair and Competitive Markets, May 2022, available at <https://www.ams.usda.gov/reports/agricultural-competition-plan-support-fair-and-competitive-markets>.

The urgency to promote fair and competitive markets across all food and agriculture sectors is greater than ever. As you indicated in your letter—

Competition in meat processing is critical to ensure producers have access to fair and competitive markets, but corporate consolidation has led to fewer competitors and less competition for producers' livestock and poultry. The trend toward concentration has been substantial.

Indeed, the COVID-19 pandemic revealed the fragility of supply chains where bottlenecks created by concentration can leave everyone from producers to working family consumers facing empty store shelves, unfair prices, and collapsed market access.² Nowhere was that experienced more sharply than in meat and poultry. Today, tackling the continuing challenge of unfair prices demands all levels of government bring to bear the full force of relevant antitrust, fair market, business practice, and consumer protection laws, among other tools. This challenge is designed to support producers by responding to the lack of competition which the pandemic exposed as a vulnerability which created disruptions in America's food supply chain.

Accordingly, our areas of focus under our Agricultural Competition Challenge will include:

- Anticompetitive market structures and practices and price gouging in food, agriculture, and related industries which are contributing to heightened inflationary pressures;
- Lack of choices for consumers and producers; and
- Conflicts of interest, misuse of intellectual property, and anticompetitive barriers across the food and agriculture supply chains.

We are open to working with individual or groups of states, together with academic partners as appropriate, in flexible structures. We also want to hear your ideas on how to address the most pressing needs and look forward to working with you to develop the specific details around this new challenge.

Through our new Agricultural Competition Challenge, we believe that USDA and the state attorneys general can tackle some of the toughest obstacles standing in the way of fair and competitive food and agricultural markets. We hope you will accept our challenge and look forward to partnering with you in continuing to strengthen our nation's food and agricultural sector.

Sincerely,

THOMAS J. VILSACK
Secretary

² U.S. Department of Agriculture, "Agri-Food Supply Chain Assessment: Program and Policy Options for Strengthening Resilience," February 2022, available at <https://www.ams.usda.gov/supply-chain>.