

This same letter was sent to all State AGs with independent producers who sell hogs to Smithfield or Premium Standard Farms.

November 16, 2006

The Honorable Tom Miller
Iowa State Office of the
Attorney General
Hoover State Office Building
1305 East Walnut
Des Moines IA 50319

Dear Mr. Attorney General:

Smithfield Foods, Inc.'s recently announced intention to acquire Premium Standard Farms promises to substantially reduce competition in markets for pork products, thereby threatening the livelihood of many independent farmers and the pocketbooks of many consumers in your state. Although the U.S. Department of Justice, Antitrust Division is investigating the proposed acquisition, your office also has jurisdiction to conduct its own investigation. As Attorney General, we ask that you conduct an investigation to protect the interests of farmers and consumers in your state who are potentially affected by this acquisition.

Smithfield is the nation's largest producer of live hogs and pork products. Premium Standard is one of Smithfield's largest competitors in an already concentrated industry.

The proposed acquisition would adversely affect competition in several important markets:

1. The pork production and procurement markets: Live hogs are produced by independent farmers and by corporate farmers, such as Smithfield and Premium Standard. The purchasers of live hogs are firms that operate pork slaughter facilities.

Pork slaughter operations are generally located in the region in which the live hogs are raised. A primary reason for this is that live hogs are sold by weight, and hogs lose substantial weight when transported over long distances. Accordingly, pork production and procurement markets are generally regional in character.

To the extent the acquisition reduces competition among pork slaughter firms, independent farmers will face less competition for the purchase of their hogs, and thus will obtain lower prices for their hogs.

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The acquisition also will have severe anti-competitive effects in the market for contracted hog facilities, in which farmers rent their facilities and management to firms such as Smithfield or Premium Standard Farms, rather than sell market hogs. Many hog farmers will have only Smithfield as a potential contractor after the acquisition. The hog production facilities are single-purpose facilities, and cannot be used for any other purpose without tremendous conversion costs. Smithfield's market power over these farmers will increase dramatically because of the acquisition.

2. The fresh and processed pork markets: Firms that operate pork slaughter facilities procure live hogs from independent farmers or on their own farms, or both, and convert the live hogs to fresh pork products. The conversion process is referred to as "slaughtering," and is performed in "kill and cut" facilities. The result of the slaughtering operation is "fresh pork," which is sold to food retailers (supermarkets), restaurants and institutions, and to firms (called "further processors") that process the fresh pork into bacon, hot dogs, hams, and other "processed pork" products. Of course, consumers are the ultimate domestic purchasers of all fresh or processed pork products.

Firms in this industry employ various degrees of vertical integration. Some, like Smithfield, produce live hogs for their slaughter operations, sell fresh pork, and also further-process fresh pork into a variety of processed pork products. Other firms slaughter only hogs purchased from independent farmers or other meatpacking firms. And still other firms engage only in further processing of fresh pork produced by other packers.

Firms producing fresh and further-processed pork products can and do sell those products nationwide and for export, although some firms choose to confine sales to particular regions. Accordingly, the markets for these products are national in character.

Because of federal regulation of meatpacking facilities, imports of fresh and processed pork products are competitively not significant.

To the extent that the acquisition substantially lessens competition in the markets for fresh and processed pork products, consumers in your state will pay higher prices at the supermarket and at restaurants for pork products.

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Because of the acquisition's potential for serious adverse impact on farmers and consumers in your state, we believe an in-depth investigation and analysis are warranted to determine its legality under antitrust laws. We ask that your office undertake such an endeavor at the earliest opportunity.

Sincerely,

Joseph T. Hansen, International President
United Food and Commercial Workers International Union

Christopher Waldrop, Deputy Director
Food Policy Institute, Consumer Federation of America

Mark Smith, Campaign Director
FARM AID

Wenonah Hauter, Executive Director
Food and Water Watch

Michael Stumo, General Counsel
Organization for Competitive Markets

Tom Buis, President
National Farmers Union

Kathy Ozer, Executive Director
National Family Farm Coalition

Bill Bullard, CEO
R-CALF United Stockgrowers of America

Ferd Hoefner, Policy Director
Sustainable Agriculture Coalition