

106TH CONGRESS  
2D SESSION

# H. R. 4339

To prohibit excessive concentration resulting from mergers among certain purchasers, processors, and sellers of livestock, poultry, and basic agricultural commodities; to require the Attorney General to establish an Office of Special Counsel for Agriculture, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 13, 2000

Mr. THUNE (for himself, Mr. HILL of Indiana, Mrs. EMERSON, Mr. NUSSLE, Mr. BOSWELL, Mr. PHELPS, and Mrs. CLAYTON) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To prohibit excessive concentration resulting from mergers among certain purchasers, processors, and sellers of livestock, poultry, and basic agricultural commodities; to require the Attorney General to establish an Office of Special Counsel for Agriculture, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Agriculture Competi-  
5 tion Enhancement Act of 2000”.

1 **SEC. 2. LIMITATION ON MERGERS.**

2 It shall be unlawful for a person in the business of  
3 purchasing livestock, poultry, or a basic agricultural com-  
4 modity for wholesale resale either unprocessed or proc-  
5 essed, to acquire directly or indirectly the voting securities  
6 or assets of any person if—

7 (1) the total amount of—

8 (A) voting securities, or assets relating to  
9 the purchasing, processing, or selling of live-  
10 stock, poultry, or a basic agricultural com-  
11 modity; or

12 (B) annual net sales of such livestock,  
13 poultry, or basic agricultural commodity;  
14 of each person exceeds \$1,000,000,000; and

15 (2) the acquisition of such voting securities or  
16 such assets by the acquiring person would reduce  
17 competition so as to have a negative effect on prices  
18 paid to producers of any livestock, poultry, or basic  
19 agricultural commodities.

20 **SEC. 3. PREMERGER NOTICE REQUIREMENT.**

21 (a) NOTICE.—Whenever a person in the business of  
22 purchasing livestock, poultry, or a basic agricultural com-  
23 modity for wholesale resale either unprocessed or proc-  
24 essed, files a notification under section 7A of the Clayton  
25 Act (15 U.S.C. 18a), such person shall file simultaneously  
26 with the Secretary a notice in accordance with rules issued

1 by the Secretary, that such person has filed such notifica-  
2 tion.

3 (b) PUBLIC COMMENTS.—The Secretary shall—

4 (1) publish promptly in the Federal Register a  
5 copy of each notice received under subsection (a),

6 (2) accept public comments on the proposed  
7 merger described in such notice, and

8 (3) consider as part of the review required by  
9 subsection (c), such comments timely received.

10 (c) REVIEW.—Not later than 30 days after receiving  
11 a notice filed under subsection (a), the Secretary shall—

12 (1) review the proposed acquisition described in  
13 such notice;

14 (2) determine—

15 (A) the probable effects such acquisition  
16 would have on the prices paid to producers of  
17 any livestock, poultry, or basic agricultural  
18 commodities who sell to, buy from, or bargain  
19 with 1 or more of the persons involved in the  
20 proposed acquisition; and

21 (B) whether such acquisition would—

22 (i) result in significantly increased  
23 market power for any of such persons; and

1 (ii) increase the potential for anti-  
2 competitive or predatory pricing conduct  
3 by any of such persons;

4 (3) prepare a report containing—

5 (A) the detailed findings made by the Sec-  
6 retary as a result of such review and such de-  
7 termination; and

8 (B) an economic analysis of the Secretary  
9 regarding whether such acquisition may sub-  
10 stantially lessen competition or tend to create a  
11 monopoly; and

12 (4) transmit to the Office of Special Counsel for  
13 Agriculture, and shall publish in the Federal Reg-  
14 ister, simultaneously, a copy of such report.

15 **SEC. 4. ENFORCEMENT PROVISIONS.**

16 Sections 4B, 4C, 4E, 4F, 4G, 4H, 12, 13, 15, and  
17 16 of the Clayton Act (15 U.S.C. 15b, 15c, 15e, 15f, 15g,  
18 15h, 22, 23, 25, 26a) shall apply with respect to a viola-  
19 tion of section 2 in the same manner as such sections  
20 apply with respect to a violation of the antitrust laws.

21 **SEC. 5. SPECIAL COUNSEL FOR AGRICULTURE.**

22 (a) ESTABLISHMENT OF OFFICE.—The Attorney  
23 General shall establish in the Department of Justice an  
24 Office of Special Counsel for Agriculture that shall handle

1 agricultural antitrust issues and related matters, as deter-  
2 mined by the Attorney General.

3 (b) APPOINTMENT.—The Special Counsel for Agri-  
4 culture may be appointed by the Attorney General only  
5 after the expiration of the 30-day period beginning on the  
6 date the Attorney General publishes in the Federal Reg-  
7 ister the name of the individual proposed to be appointed  
8 and requests public comment with respect to the appoint-  
9 ment of such individual.

10 **SEC. 6. GAO STUDY.**

11 (a) IN GENERAL.—The Comptroller General shall  
12 conduct a study and make findings and recommendations  
13 with respect to—

14 (1) whether the Grain Inspection, Packers and  
15 Stockyard Administration needs additional resources  
16 in order to expand its capability to monitor and in-  
17 vestigate the competitive implications of structural  
18 changes and practices in the meat packing industry;  
19 and

20 (2) whether there are disparities in the Grain  
21 Inspection, Packers and Stockyard Administration's  
22 administrative authority with regard to the poultry,  
23 beef, and pork industries.

24 (b) REPORT.—The Comptroller General shall submit  
25 a report to Congress on the study, findings, and rec-

1 ommendations required by subsection (a) not later than  
2 1 year after the date of enactment of this Act.

3 **SEC. 7. DEFINITIONS.**

4 For purposes of this Act—

5 (1) the term “antitrust laws” has the meaning  
6 given such term in subsection (a) of the 1st section  
7 of the Clayton Act (15 U.S.C. 12(a)),

8 (2) the term “basic agricultural commodity”  
9 means corn, wheat, or soybeans,

10 (3) the term “livestock” means cattle, sheep,  
11 goats, swine, or equine animals used for food or in  
12 the production of food,

13 (4) the term “person” has the meaning given  
14 such term in subsection (a) of the 1st section of the  
15 Clayton Act (15 U.S.C. 12(a)),

16 (5) the term “poultry” means chickens, turkeys,  
17 ducks, geese, or other domestic fowl used for food or  
18 in the production of food, and

19 (6) the term “Secretary” means the Secretary  
20 of Agriculture.

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