

107TH CONGRESS
1ST SESSION

S. 1076

To provide for the review of agriculture mergers and acquisitions by the Department of Agriculture and to outlaw unfair practices in the agriculture industry, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 21, 2001

Mr. GRASSLEY introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide for the review of agriculture mergers and acquisitions by the Department of Agriculture and to outlaw unfair practices in the agriculture industry, 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”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) AGRICULTURAL COMMODITY.—The term
2 “agricultural commodity” has the meaning given the
3 term in section 102 of the Agricultural Trade Act of
4 1978 (7 U.S.C. 5602).

5 (2) AGRICULTURAL COOPERATIVE.—The term
6 “agricultural cooperative” means an association of
7 persons that meets the requirements of the Capper-
8 Volstead Act (7 U.S.C. 291 et seq.; 42 Stat. 388).

9 (3) AGRICULTURAL INPUT SUPPLIER.—The
10 term “agricultural input supplier” means any person
11 (excluding agricultural cooperatives) engaged in the
12 business of selling in commerce, any product to be
13 used as an input (including seed, germ plasm, hor-
14 mones, antibiotics, fertilizer, and chemicals, but ex-
15 cluding farm machinery) for the production of any
16 agricultural commodity.

17 (4) ASSISTANT ATTORNEY GENERAL.—The
18 term “Assistant Attorney General” means the As-
19 sistant Attorney General in charge of the Antitrust
20 Division of the Department of Justice.

21 (5) BROKER.—The term “broker” means any
22 person (excluding agricultural cooperatives) engaged
23 in the business of negotiating sales and purchases of
24 any agricultural commodity in commerce for or on
25 behalf of the vendor or the purchaser.

1 (6) COMMISSION MERCHANT.—The term “com-
2 mission merchant” means any person (excluding ag-
3 ricultural cooperatives) engaged in the business of
4 receiving in commerce any agricultural commodity
5 for sale, on commission, or for or on behalf of an-
6 other.

7 (7) DEALER.—The term “dealer” means any
8 person (excluding agricultural cooperatives) engaged
9 in the business of buying, selling, or marketing agri-
10 cultural commodities in commerce, except that no
11 person shall be considered a dealer with respect to
12 sales or marketing of any agricultural commodity of
13 that person’s own raising.

14 (8) PROCESSOR.—The term “processor” means
15 any person (excluding agricultural cooperatives) en-
16 gaged in the business of handling, preparing, or
17 manufacturing (including slaughtering) of an agri-
18 cultural commodity, or the products of such agricul-
19 tural commodity, for sale or marketing in commerce
20 for human consumption but not with respect to sale
21 or marketing at the retail level.

22 (9) SECRETARY.—The term “Secretary” means
23 the Secretary of Agriculture.

1 (10) SPECIAL COUNSEL.—The term “Special
2 Counsel” means the Special Counsel for Competition
3 Matters at the Department of Agriculture.

4 **SEC. 3. SPECIAL COUNSEL FOR COMPETITION MATTERS.**

5 (a) IN GENERAL.—There shall be established within
6 the Department of Agriculture a Special Counsel for Com-
7 petition Matters whose primary responsibilities shall be
8 to—

9 (1) analyze mergers within the food and agri-
10 cultural sectors, in consultation with the Chief Econ-
11 omist of the Department of Agriculture, as required
12 by section 4; and

13 (2) assure that section 5, and the Packers and
14 Stockyards Act and related authorities, are enforced
15 appropriately.

16 (b) APPOINTMENT.—The Special Counsel for Com-
17 petition Matters shall be appointed by the President sub-
18 ject to the advice and consent of the Senate.

19 (c) PROSECUTORIAL AUTHORITY.—The Special
20 Counsel for Competition Matters shall have the authority
21 to bring any civil action authorized pursuant to this Act
22 on behalf of the United States.

1 **SEC. 4. AGRIBUSINESS MERGER REVIEW AND ENFORCE-**
2 **MENT BY THE DEPARTMENT OF AGRICULTURE.**
3

4 (a) NOTICE OF FILING.—The Assistant Attorney
5 General or the Federal Trade Commission, as appropriate,
6 shall notify the Secretary of Agriculture of any filing pur-
7 suant to section 7A of the Clayton Act (15 U.S.C. 18a)
8 involving a merger or acquisition described in subsection
9 (b)(1), and shall give the Secretary of Agriculture the op-
10 portunity to participate in the review proceedings.

11 (b) SPECIAL COUNSEL REVIEW.—

12 (1) IN GENERAL.—In addition to the antitrust
13 review conducted by the Federal Trade Commission
14 or Assistant Attorney General pursuant to section
15 7A of the Clayton Act (15 U.S.C. 18a), and notwith-
16 standing any participation in those antitrust review
17 proceedings, the Special Counsel for Competition
18 Matters, in consultation with the Chief Economist of
19 the Department of Agriculture, shall, contempora-
20 neously, observing the time period limitations pro-
21 vided under the antitrust laws and the Department
22 of Justice merger guidelines, and utilizing the fac-
23 tors set forth in subsection (d), review, to determine
24 whether the proposed transaction would cause sub-
25 stantial harm to the ability of independent producers

1 and family farmers to compete in the marketplace,
2 any merger or acquisition involving—

3 (A) a dealer, processor, commission mer-
4 chant, agricultural input supplier, broker, or
5 operator of a warehouse of agricultural com-
6 modities with annual net sales or total assets of
7 more than \$100,000,000 merging or acquiring,
8 directly or indirectly, any voting securities or
9 assets of any other dealer, processor, commis-
10 sion merchant, agricultural input supplier,
11 broker, or operator of a warehouse of agricul-
12 tural commodities with annual net sales or total
13 assets of more than \$10,000,000; or

14 (B) a dealer, processor, commission mer-
15 chant, agricultural input supplier, broker, or
16 operator of a warehouse of agricultural com-
17 modities with annual net sales or total assets of
18 more than \$10,000,000 merging or acquiring,
19 directly or indirectly, any voting securities or
20 assets of any other dealer, processor, commis-
21 sion merchant, agricultural input supplier,
22 broker, or operator of a warehouse of agricul-
23 tural commodities with annual net sales or total
24 assets of more than \$100,000,000 if the acquir-
25 ing person would hold—

- 1 (i) 15 percent or more of the voting
2 securities or assets of the acquired person;
3 or
4 (ii) an aggregate total amount of the
5 voting securities and assets of the acquired
6 person in excess of \$15,000,000.

7 (2) EXCEPTION.—The Special Counsel for
8 Competition Matters, at his or her discretion, may
9 also request that the Assistant Attorney General or
10 the Federal Trade Commission require section 7A of
11 the Clayton Act (15 U.S.C. 18a) notification of an
12 agriculture merger or acquisition of a size smaller
13 than is required under paragraph (1), if the Special
14 Counsel for Competition Matters believes that such
15 transaction will cause substantial harm to the ability
16 of independent producers and family farmers to
17 compete in the market.

18 (c) NOTIFICATION ON FAILURE TO PROCEED.—If
19 the Assistant Attorney General or the Federal Trade Com-
20 mission determines not to proceed against the parties of
21 an agriculture merger or acquisition under the antitrust
22 laws, the Assistant Attorney General or the Federal Trade
23 Commission immediately shall notify the Special Counsel
24 for Competition Matters of such decision.

25 (d) STANDARD OF REVIEW.—

1 (1) IN GENERAL.—The Special Counsel for
2 Competition Matters, in consultation with the Chief
3 Economist of the Department of Agriculture, shall
4 review, and may challenge, a merger or acquisition
5 described in subsection (b) based on whether the
6 merger or acquisition would cause substantial harm
7 to the ability of independent producers and family
8 farmers to compete in the marketplace.

9 (2) FACTORS.—The review shall consider,
10 among other factors—

11 (A) the effect of the acquisition or merger
12 on prices paid to producers who sell to, buy
13 from, or bargain with, one or more of the par-
14 ties involved in the merger or acquisition;

15 (B) the likelihood that the acquisition or
16 merger will result in significantly increased
17 market power for the new or surviving entity;

18 (C) the likelihood that the acquisition or
19 merger will increase the potential for anti-
20 competitive or predatory conduct by the new or
21 surviving entity; and

22 (D) whether the acquisition or merger will
23 adversely affect producers in a particular re-
24 gional area, including an area as small as a sin-
25 gle State.

1 (e) EVIDENTIARY POWERS.—The Special Counsel for
2 Competition Matters shall have the same powers as pos-
3 sessed by the Assistant Attorney General and the Federal
4 Trade Commission under the antitrust laws, to obtain evi-
5 dence necessary to make determinations for the review de-
6 scribed in subsection (b).

7 (f) ACCESS TO ATTORNEY GENERAL AND FEDERAL
8 TRADE COMMISSION INFORMATION.—The Assistant At-
9 torney General or the Federal Trade Commission, as ap-
10 propriate, shall make available to the Special Counsel for
11 Competition Matters any information, including any testi-
12 mony, documentary material, or related information rel-
13 evant to the review conducted by the Special Counsel
14 under this section which is under the control of the Assist-
15 ant Attorney General or the Federal Trade Commission.
16 Each agency will share information, consistent with appli-
17 cable confidentiality restrictions, in order to provide the
18 others with information believed to be potentially relevant
19 and useful to the others' enforcement responsibilities.
20 Such information may include legal, economic, and tech-
21 nical assistance.

22 (g) TRANSMITTAL OF FINDINGS OF SPECIAL COUN-
23 SEL FOR COMPETITION MATTERS.—After receiving notice
24 pursuant to subsection (a) and conducting the review re-
25 quired in subsection (b), the Secretary of Agriculture shall

1 report to the Assistant Attorney General or the Federal
2 Trade Commission, as appropriate, and the parties, the
3 findings of the review, including any recommended condi-
4 tions on the merger or suggested remedies.

5 (h) RESPONSE TO SPECIAL COUNSEL FINDINGS.—

6 (1) ANTITRUST AGENCY RESPONSE TO FIND-
7 INGS.—The Assistant Attorney General or the Fed-
8 eral Trade Commission, as appropriate, shall provide
9 the Special Counsel for Competition Matters a re-
10 sponse, including the rationale as to why such find-
11 ings and recommendations are accepted or rejected.

12 (2) PARTY OPPORTUNITY TO ADDRESS FIND-
13 INGS.—The parties to the merger or acquisition af-
14 fected by such findings shall have the opportunity to
15 make changes to their operations or structure, and
16 to negotiate with the Special Counsel for Competi-
17 tion Matters an acceptable resolution to any con-
18 cerns raised in the findings.

19 (i) ENFORCEMENT.—

20 (1) JUDICIAL ACTION.—Not later than 30 days
21 after notification by the Assistant Attorney General
22 or the Federal Trade Commission of their deter-
23 mination not to proceed against the parties, the Spe-
24 cial Counsel for Competition Matters, if he or she is
25 not satisfied with the review of, or the conditions

1 placed on, the merger or acquisition by the Assistant
2 Attorney General or the Federal Trade Commission,
3 may challenge the transaction in Federal court
4 based on the findings conducted in the review under
5 this section.

6 (2) ENFORCEMENT AND DAMAGES.—The en-
7 forcement and damage provisions of the antitrust
8 laws shall apply with respect to a violation of the
9 substantial harm to producers and family farmers
10 standard of subsection (d) in the same manner as
11 such sections apply with respect to a violation of the
12 antitrust laws.

13 (j) CONFORMING AMENDMENTS TO ANTITRUST
14 LAWS.—Section 7A of the Clayton Act (15 U.S.C. 18a)
15 is amended by inserting at the end the following:

16 “(k)(1) Notwithstanding the threshold requirements
17 of sections 1, 2, and 3, the Federal Trade Commission
18 and the Assistant Attorney General may require, at the
19 request of the Secretary of Agriculture, notification pursu-
20 ant to the rules under subsection (d)(1) from the parties
21 to a proposed merger or acquisition in the agriculture in-
22 dustry.

23 “(2) The Assistant Attorney General or the Federal
24 Trade Commission, as appropriate, shall give the Sec-
25 retary of Agriculture the opportunity to participate in the

1 review under the antitrust laws of any proposed merger
2 or acquisition involving the agriculture industry.”.

3 **SEC. 5. PROHIBITIONS AGAINST UNFAIR PRACTICES IN**
4 **TRANSACTIONS INVOLVING AGRICULTURAL**
5 **COMMODITIES AND ENFORCEMENT.**

6 (a) UNLAWFUL PRACTICES.—It shall be unlawful for
7 any dealer, processor, commission merchant, or broker of
8 any agricultural commodity to—

9 (1) engage in or use any unfair, unjustly dis-
10 criminatory, or deceptive practice or device;

11 (2) make or give any undue or unreasonable
12 preference or advantage to any particular person or
13 locality in any respect whatsoever, or subject any
14 particular person or locality to any undue or unrea-
15 sonable prejudice or disadvantage;

16 (3) sell or otherwise transfer to or for any other
17 dealer, processor, commission merchant, or broker,
18 or buy or otherwise receive from or for any other
19 dealer, processor, commission merchant, or broker,
20 any article for the purpose or with the effect of ap-
21 portioning the supply between any such persons, if
22 such apportionment has the tendency or effect of re-
23 straining commerce or of creating a monopoly;

24 (4) sell or otherwise transfer to or for any other
25 person, or buy or otherwise receive from or for any

1 other person, any article for the purpose or with the
 2 effect of manipulating or controlling prices, or of
 3 creating a monopoly in the acquisition of, buying,
 4 selling, or dealing in, any article, or of restraining
 5 commerce;

6 (5) engage in any course of business or do any
 7 act for the purpose or with the effect of manipu-
 8 lating or controlling prices, or of creating a monop-
 9 oly in the acquisition of, buying, selling, or dealing
 10 in, any article, or of restraining commerce;

11 (6) conspire, combine, agree, or arrange with
 12 any other person—

13 (A) to apportion territory for carrying on
 14 business;

15 (B) to apportion purchases or sales of any
 16 article; or

17 (C) to manipulate or control prices; or

18 (7) conspire, combine, agree, or arrange with
 19 any other person to do, or aid or abet the doing of,
 20 any act made unlawful by paragraph (1), (2), (3),
 21 (4), or (5).

22 (b) PROCEDURE BEFORE SECRETARY FOR VIOLA-
 23 TIONS.—

24 (1) COMPLAINT; HEARING; INTERVENTION.—If
 25 the Secretary has reason to believe that any dealer,

1 processor, commission merchant, or broker, has vio-
2 lated or is violating any provision of this section, the
3 Secretary shall cause a complaint in writing to be
4 served upon the dealer, processor, commission mer-
5 chant, or broker, stating the charges in that respect,
6 and requiring the dealer, processor, commission mer-
7 chant, or broker, to attend and testify at a hearing
8 at a time and place designated therein, at least 30
9 days after the service of such complaint; and at such
10 time and place there shall be afforded the dealer,
11 processor, commission merchant, or broker, a rea-
12 sonable opportunity to be informed as to the evi-
13 dence introduced against him (including the right of
14 cross-examination), and to be heard in person or by
15 counsel and through witnesses, under such regula-
16 tions as the Secretary may prescribe. Any person for
17 good cause shown may on application be allowed by
18 the Secretary to intervene in such proceeding, and
19 appear in person or by counsel. At any time prior
20 to the close of the hearing the Secretary may amend
21 the complaint; but in case of any amendment adding
22 new charges the hearing shall, on the request of the
23 dealer, processor, commission merchant, or broker,
24 be adjourned for a period not exceeding 15 days.

1 (2) REPORT AND ORDER; PENALTY.—If, after
2 such hearing, the Secretary finds that the dealer,
3 processor, commission merchant, or broker, has vio-
4 lated or is violating any provisions of this section
5 covered by the charges, the Secretary shall make a
6 report in writing in which the Secretary shall state
7 his findings as to the facts, and shall issue and
8 cause to be served on the dealer, processor, commis-
9 sion merchant, or broker, an order requiring such
10 dealer, processor, commission merchant, or broker,
11 to cease and desist from continuing such violation.
12 The testimony taken at the hearing shall be reduced
13 to writing and filed in the records of the Depart-
14 ment of Agriculture. The Secretary may also assess
15 a civil penalty of not more than \$10,000 for each
16 such violation. In determining the amount of the
17 civil penalty to be assessed under this section, the
18 Secretary shall consider the gravity of the offense,
19 the size of the business involved, and the effect of
20 the penalty on the person's ability to continue in
21 business. If, after the lapse of the period allowed for
22 appeal or after the affirmance of such penalty, the
23 person against whom the civil penalty is assessed
24 fails to pay such penalty, the Secretary may proceed

1 to recover such penalty by an action in the appro-
2 priate district court of the United States.

3 (3) AMENDMENT OF REPORT OR ORDER.—Until
4 the record in such hearing has been filed in a court
5 of appeals of the United States, as provided in sub-
6 section (c), the Secretary at any time, upon such no-
7 tice and in such manner as the Secretary deems
8 proper, but only after reasonable opportunity to the
9 dealer, processor, commission merchant, or broker,
10 to be heard, may amend or set aside the report or
11 order, in whole or in part.

12 (4) SERVICE OF PROCESS.—Complaints, orders,
13 and other processes of the Secretary under this sec-
14 tion may be served in the same manner as provided
15 in section 5 of the Federal Trade Commission Act
16 (15 U.S.C. 45).

17 (c) CONCLUSIVENESS OF ORDER; APPEAL AND RE-
18 VIEW.—

19 (1) FILING OF PETITION; BOND.—An order
20 made under subsection (b) shall be final and conclu-
21 sive unless within 30 days after service the dealer,
22 processor, commission merchant, or broker, appeals
23 to the court of appeals for the circuit in which he
24 has his principal place of business, by filing with the
25 clerk of such court a written petition praying that

1 the Secretary's order be set aside or modified in the
2 manner stated in the petition, together with a bond
3 in such sum as the court may determine, conditioned
4 that such dealer, processor, commission merchant, or
5 broker, will pay the costs of the proceedings if the
6 court so directs.

7 (2) FILING OF RECORD BY SECRETARY.—The
8 clerk of the court shall immediately cause a copy of
9 the petition to be delivered to the Secretary, and the
10 Secretary shall thereupon file in the court the record
11 in such proceedings, as provided in section 2112 of
12 title 28, United States Code. If before such record
13 is filed the Secretary amends or sets aside his report
14 or order, in whole or in part, the petitioner may
15 amend the petition within such time as the court
16 may determine, on notice to the Secretary.

17 (3) TEMPORARY INJUNCTION.—At any time
18 after such petition is filed, the court, on application
19 of the Secretary, may issue a temporary injunction,
20 restraining, to the extent it deems proper, the deal-
21 er, processor, commission merchant, or broker, and
22 his officers, directors, agents, and employees, from
23 violating any of the provisions of the order pending
24 the final determination of the appeal.

1 (4) EVIDENCE.—The evidence so taken or ad-
2 mitted, and filed as aforesaid as a part of the
3 record, shall be considered by the court as the evi-
4 dence in the case.

5 (5) ACTION BY THE COURT.—The court may
6 affirm, modify, or set aside the order of the Sec-
7 retary.

8 (6) ADDITIONAL EVIDENCE.—If the court de-
9 termines that the just and proper disposition of the
10 case requires the taking of additional evidence, the
11 court shall order the hearing to be reopened for the
12 taking of such evidence, in such manner and upon
13 such terms and conditions as the court may deem
14 proper. The Secretary may modify his findings as to
15 the facts, or make new findings, by reason of the ad-
16 ditional evidence so taken, and the Secretary shall
17 file such modified or new findings and his rec-
18 ommendations, if any, for the modifications or set-
19 ting aside of his order, with the return of such addi-
20 tional evidence.

21 (7) INJUNCTION.—If the court of appeals af-
22 firms or modifies the order of the Secretary, its de-
23 cree shall operate as an injunction to restrain the
24 dealer, processor, commission merchant, or broker,
25 and his officers, directors, agents, and employees

1 from violating the provisions of such order or such
2 order as modified.

3 (8) FINALITY.—The court of appeals shall have
4 jurisdiction, which upon the filing of the record with
5 it shall be exclusive, to review, and to affirm, set
6 aside, or modify, such orders of the Secretary, and
7 the decree of such court shall be final except that it
8 shall be subject to review by the Supreme Court of
9 the United States upon certiorari, as provided in
10 section 1254 of title 28, United States Code, if such
11 writ is duly applied for within 60 days after entry
12 of the decree. The issue of such writ shall not oper-
13 ate as a stay of the decree of the court of appeals,
14 insofar as such decree operates as an injunction un-
15 less so ordered by the Supreme Court.

16 (d) PUNISHMENT FOR VIOLATION OF ORDER.—Any
17 dealer, processor, commission merchant, or broker, or any
18 officer, director, agent, or employee of a dealer, processor,
19 commission merchant, or broker, who fails to obey any
20 order of the Secretary issued under the provisions of sub-
21 section (b), or such order as modified—

22 (1) after the expiration of the time allowed for
23 filing a petition in the court of appeals to set aside
24 or modify such order, if no such petition has been
25 filed within such time;

1 (2) after the expiration of the time allowed for
2 applying for a writ of certiorari, if such order, or
3 such order as modified, has been sustained by the
4 court of appeals and no such writ has been applied
5 for within such time; or

6 (3) after such order, or such order as modified,
7 has been sustained by the courts as provided in sub-
8 section (c);

9 shall on conviction be fined not less than \$500 nor more
10 than \$10,000, or imprisoned for not less than 6 months
11 nor more than 5 years, or both. Each day during which
12 such failure continues shall be deemed a separate offense.

13 **SEC. 6. REPORT ON CORPORATE STRUCTURE.**

14 A dealer, processor, commission merchant, or broker
15 with annual sales in excess of \$100,000,000 shall annually
16 file with the Secretary a report which describes, with re-
17 spect to both domestic and foreign activities, the strategic
18 alliances, ownership in other agribusiness firms or agri-
19 business-related firms, joint ventures, subsidiaries, and
20 brand names, interlocking boards of directors with other
21 corporations, representatives, and agents that lobby Con-
22 gress on behalf of such dealer, processor, commission mer-
23 chant, or broker, as determined by the Secretary.

1 **SEC. 7. PROHIBITION ON CONFIDENTIALITY CLAUSES IN**
2 **LIVESTOCK AND POULTRY PRODUCTION**
3 **CONTRACTS.**

4 Confidentiality clauses barring a party to a contract
5 from sharing terms of such contract for the purposes of
6 obtaining legal or financial advice, are prohibited in live-
7 stock production contracts and grain production contracts
8 (except to the extent a legitimate trade secret (as applied
9 in the Freedom of Information Act, 5 U.S.C. 552 et seq.)
10 is being protected).

11 **SEC. 8. PROTECTIONS FOR CONTRACT POULTRY GROWERS.**

12 (a) REMOVAL OF POULTRY SLAUGHTER REQUIRE-
13 MENT FROM DEFINITIONS.—Section 2(a) of the Packers
14 and Stockyards Act, 1921 (7 U.S.C. 182) is amended—

15 (1) by striking paragraph (8) and inserting the
16 following new paragraph:

17 “(8) the term ‘poultry grower’ means any per-
18 son engaged in the business of raising or caring for
19 live poultry under a poultry growing arrangement,
20 whether the poultry is owned by such person or by
21 another person;”;

22 (2) in paragraph (9), by striking “and cares for
23 live poultry for delivery, in accord with another’s in-
24 structions, for slaughter” and inserting “or cares for
25 live poultry in accord with another person’s instruc-
26 tions”; and

1 (3) in paragraph (10), by striking “for the pur-
 2 pose of either slaughtering it or selling it for slaugh-
 3 ter by another”.

4 (b) ADMINISTRATIVE ENFORCEMENT AUTHORITY
 5 OVER LIVE POULTRY DEALERS.—Sections 203, 204, and
 6 205 of such Act (7 U.S.C. 193, 194, 195) are amended
 7 by inserting “or live poultry dealer” after “packer” each
 8 place it appears.

9 (c) AUTHORITY TO REQUEST TEMPORARY INJUNC-
 10 TION OR RESTRAINING ORDER.—Section 408 of such Act
 11 (7 U.S.C. 229) is amended by striking “on account of
 12 poultry” and inserting “on account of poultry or poultry
 13 care”.

14 (d) VIOLATIONS BY LIVE POULTRY DEALERS.—Sec-
 15 tion 411 of such Act (7 U.S.C. 228b–2) is amended—

16 (1) in subsection (a), by striking “any provision
 17 of section 207 or section 410 of”; and

18 (2) in subsection (b), by striking “any provi-
 19 sions of section 207 or section 410” and inserting
 20 “any provision”.

1 **SEC. 9. AUTHORITY TO MAKE BUSINESS AND INDUSTRY**
 2 **GUARANTEED LOANS FOR FARMER-OWNED**
 3 **PROJECTS THAT ADD VALUE TO OR PROCESS**
 4 **AGRICULTURAL PRODUCTS.**

5 Section 310B(a)(1) of the Consolidated Farm and
 6 Rural Development Act (7 U.S.C. 1932(a)(1)) is amended
 7 by inserting “(and in areas other than rural communities,
 8 in the case of insured loans, if a majority of the project
 9 involved is owned by individuals who reside and have farm-
 10 ing operations in rural communities, and the project adds
 11 value to or processes agricultural commodities)” after
 12 “rural communities”.

13 **SEC. 10. AUTHORIZATION FOR ADDITIONAL STAFF AND**
 14 **FUNDING FOR AGRICULTURE COMPETITION**
 15 **ENFORCEMENT.**

16 (a) **ADDITIONAL STAFF.**—The Secretary of Agri-
 17 culture shall hire sufficient staff, including antitrust and
 18 litigation attorneys, economists, and investigators, to ap-
 19 propriately carry out the agribusiness merger review and
 20 prohibition against unfair practices responsibilities, de-
 21 scribed in sections 4 and 5.

22 (b) **AUTHORIZATION.**—There are authorized to be ap-
 23 propriated such sums as are necessary to hire the staff
 24 referenced in subsection (a) to implement this Act.

1 **SEC. 11. AUTHORIZATION FOR ADDITIONAL STAFF AND**
2 **FUNDING FOR THE GRAIN INSPECTION,**
3 **PACKERS AND STOCKYARDS ADMINISTRA-**
4 **TION.**

5 There are authorized to be appropriated such sums
6 as are necessary to enhance the capability of the Grain
7 Inspection, Packers and Stockyards Administration to
8 monitor, investigate, and pursue the competitive implica-
9 tions of structural changes in the meat packing industry.
10 Sums are specifically earmarked to hire litigating attor-
11 neys to allow the Grain Inspection, Packers and Stock-
12 yards Administration to more comprehensively and effec-
13 tively pursue its enforcement activities.

14 **SEC. 12. ASSISTANT ATTORNEY GENERAL FOR AGRICUL-**
15 **TURAL ANTITRUST MATTERS.**

16 (a) IN GENERAL.—There shall be established within
17 the Antitrust Division of the Department of Justice an
18 Assistant Attorney General for Agricultural Antitrust
19 Matters, who shall be responsible for oversight and coordi-
20 nation of antitrust and related matters which affect agri-
21 culture, directly or indirectly.

22 (b) APPOINTMENT.—The Assistant Attorney General
23 for Agricultural Antitrust Matters shall be appointed by
24 the President subject to the advice and consent of the Sen-
25 ate.

1 **SEC. 13. INCREASE IN HART-SCOTT-RODINO FILING FEES.**

2 (a) IN GENERAL.—The filing fee the Federal Trade
3 Commission assesses on a person acquiring voting securi-
4 ties or assets who is required to file premerger notifica-
5 tions under section 7A of the Clayton Act (15 U.S.C. 18a)
6 for mergers and acquisitions satisfying the \$15,000,000
7 size-of-transaction requirement is increased to \$100,000
8 for those transactions valued at more than \$100,000,000.

9 (b) FEES EARMARKED.—The filing fee increase de-
10 scribed in subsection (a) is partially earmarked to pay for
11 the costs of staff increases at the Transportation, Energy
12 and Agriculture section at the Department of Justice, as
13 considered necessary by the Assistant Attorney General,
14 to enhance their review of agriculture transactions.

○