



NATIONAL MEAT ASSOCIATION®

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August 14, 2001

John E. VanDyke, Chief
Livestock & Grain Market News Branch
Agricultural Marketing Service
United States Department of Agriculture
Washington, DC 20250

Dear Mr. Van Dyke:

The National Meat Association represents many of the firms that are mandated to report the price of livestock they purchase and the price of boxed beef that they sell pursuant to the Livestock Mandatory Price Reporting Act of 1999 and the regulations issued thereto. The following comments are made on behalf of these firms with respect to the intended implementation of a 3/70/20 rule on August 20, 2001. 3/70/20 fails to protect the confidential and proprietary data that packers are required to submit when they are the only source or one of two sources in a single cell block in published information. NMA considers this breach of confidentiality, in violation of the statute, as a very serious abrogation of the Secretary's responsibilities.

The new 3/70/20 guideline fails to protect packers who may find on occasion that their data alone is reported in a single cell for the rest of the world to see. Such publication, either of one packer's information, or even an average of two packers' information, is a gross violation of the intended confidentiality. No explanation of how USDA will protect this single or two packers reporting is provided in the Notice published in the *Federal Register* on August 7, 2001. In a marketplace where there are only about forty packers reporting, there is a very real possibility that individual packer data will be exposed through the mandated requirements of the USDA, and that confidential and proprietary information will be published. While USDA does not intend to publish individual company names, in such a small market, company identities will most surely be transparent to astute competitors. The business survival of small and medium-sized companies is in jeopardy when their competitors, in a fast-moving and highly competitive marketplace, can deduce the specific prices others are paying for livestock, charging for boxed beef, or both, and then proceed to use this information in a predatory way.

Those who sought this legislation wanted a more transparent marketplace, but with protection for confidentiality. They will surely derive greater transparency with the implementation of the 3/70/20 rule, and they may think that they have nothing to lose with the reduction in confidentiality. However when industry

consolidation is measured over the next few years, USDA will have to explain to producers that the government itself assisted in reducing the number of slaughterhouses and slaughterhouse companies by its failure to protect the identity of data sources in this program.

Throughout the development of this program, National Meat Association has consistently argued for:

The need to *beta* test any new computerized system to ensure that it functioned as designed;

The need to maintain a parallel voluntary system while *beta* testing was in process;

The need to maintain confidentiality of data submitted by those mandated by law to send their most sensitive, proprietary information to the government.

It should be noted, for the record, that USDA failed to *beta* test its new system. A major consequence of this failure was identified about six weeks into the new system when serious errors were discovered in the computed cut out value of various classes of beef. This error in program design has reportedly cost millions of dollars, both to producers and to beef processors.

USDA is abandoning its capability of collecting voluntary information day-by-day, and will soon have lost its capability to gather and publish information in the traditional manner. Had it maintained this ability, the cutout value error might well have been identified much more quickly, because there would have been the capability to compare the new data with traditional data. Further, the traditional system tapped into sources of data information not included in the mandated system. The value of distributive trade information continues to be of interest to many in the market place, but is rapidly being replaced by carlot volume-based trade. This is a grievous disservice to the industry and likely to lower the pricing level for all livestock and meat reported.

NMA is opposed to the implementation of 3/70/20 until USDA can give assurances that it will not publish data in single cells of published data from one and/or from only two sources and thereby protect the confidentiality of highly proprietary and sensitive information

Sincerely,

Rosemary Mucklow
Executive Director