Packer Concentration
in the
Beef Industry

A report on the concentration of agricultural markets
and the impact on producer prices
and retail food prices

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> *Jurgis. . .would get glimpses of the Beef Trust from all sorts of aspects, and he would find it everywhere the same; it was the incarnation of blind and insensate Greed. It was a monster devouring with a thousand mouths, trampling with a thousand hooves; it was the Great Butcher. . .It wiped out thousands of businesses every year, it drove men to madness and suicide. It had forced the price of cattle so low as to destroy the stock-raising industry, an occupation upon which whole states existed; it had ruined thousands of butchers who had refused to handle its products. It divided the country into districts, and fixed the price of meat in all of them. . .With millions of dollars a week that poured in upon it, it was reaching out for the control of other interests--it already owned the leather and the grain business of the country.*[1]
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> --The Jungle, by Upton Sinclair

This winter USDA concluded the fourth red meat market concentration study in U.S. history at the request of several major agricultural organizations. At the release of the report the "Advisory Committee on Agricultural Market Concentration" was appointed by Secretary Glickman.

The History

Three other government studies have been conducted in our history, showing the agricultural industry as a particular target for concentration and monopoly. The first was a US Senate investigation in 1888-90 concluding price fixing in beef, contract monopoly, and transportation of food products. The second was generated by an outcry of western cattlemen in 1904 when cattle prices tumbled. Called the "Garfield Investigation" it indicated the large packers handled 45% beef slaughtered in U.S. No price fixing was concluded in this study. But public outcry against the "Beef Trust" became so strong after the release of Upton Sinclair's novel The Jungle, the landmark Federal Meat Inspection Act of 1906 was passed.[2] In 1918, a Federal Trade Commission investigation was generated again by complaints from producers. They concluded five major packers slaughtered 70% of all livestock. They were Armour, Swift, Morris, Wilson and Cudahy. The packers claimed in Congressional hearings they controlled only 30% of

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[1]Upton Sinclair, The Jungle, Doubleday, Page and Company, (New York, 1906)

[2]Knute Bjorka, and Austin Allyn Dowell, Livestock Marketing, (New York, 1941)

the respective market. The study, however, exposed serious control of meat, substitute products such as eggs, cheese, and vegetable oil and over 50% of the export-meat production in South America by the packers. The Department of Justice concluded monopolistic conditions warranted prosecution under the Sherman Anti-Trust Act. To avoid prosecution the packers appealed for conferences with the Attorney General. An agreement called the Packer's Consent Decree was struck requiring packers to: 1.) sell all holdings in stockyards, railroads, market newspapers and public warehouses; 2.) abandon all retail meat business, wholesale grocery and other "unrelated items"; 3.) abandon control of transportation facilities, rail, trucking, etc., and; 4.) submit to US District Court injunction making it necessary to dissolve any conspiracies with other packers. The Packers and Stockyards Act of 1921 was passed to help implement the agreement and keep concentration from occurring again. It began a complex regulation of dairy, livestock and poultry products.[3]

Many economists see diversity in our economic structure as one of the most potent strengths of our democracy and our free enterprise system, and as a result, the United States has traditionally been aggressive in its pursuit of anti-trust. Fervent in the belief that unchecked monopolies could lead to dangerously choked economies and stifled democratic development, at the end of World War II the U.S. dismantled the massive business cartels of Germany and the *zaibatsu* of Japan.[4] It was the power of individual thought, creativity and self expression we valued and helped cultivate in others. Both Germany and Japan are now leading world economic powers.[5]

Current Red Meat Situation

In the last fifteen years we have abandoned these principles, choosing instead to celebrate what many market researchers and economists call "efficiency" through consolidation. In a *Drovers Journal* article, John Nalivka wrote, "While the number of packers may be significantly less, the process of slaughtering and fabricating beef has changed dramatically, leaving the industry in a much better position to compete."[6] In the same article, Nalivka contradicts his

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[3]Report of the Federal Trade Commission on the Meat Packing Industry, Parts I and III (Washington, 1919)

[4]Richard J. Barnet and John Cavanagh, *Global Dreams: Imperial Corporations and the New World Order*, Simon and Schuster, New York 1994, P. 231.

[5]Perhaps the best statistical indicator of how powerful Japan and Germany have become in economic terms since the U.S. directed their initial post-war development is to take a glimpse at *The American Banker's* annual ranking of the world's largest banking companies. 21 of the top 50 banks are Japanese. 13 of the top 14 are all Japanese. Germany holds 9 of the top 50 banks. Of the top 50 the United States has only four banks in the listing.

[6]*Drovers Journal,* October 1995, Business Commentary, "Concentration: a fact-of-business", by John Navlika, p. 26.

statement with these statistics: "While a 43% decline in beef packing plants over the last 15 years is substantial, there was also a 52% decline in feedlots and a 31% reduction in cow-calf operations."[7] Many cattle producers believe this has only placed the packing industry in a much better position rather than to compete, to connive.[8]

Recent Legal Action

The latest study on concentration in the beef industry, begun in 1995 and concluded in 1996 follows two law suits filed by the Justice Department-USDA in the last 8 months. The first is against Archer-Daniels-Midland for price fixing on a livestock feed additive/nutrient called lysine. The suit was settled in late April, 1996. ADM was required to pay damages but no breakup of the monopoly was required. ADM remains the only supplier of feed lysine. The second is against Iowa Beef Processors (IBP) for feedlot contract preference. IBP set up a special marketing preference agreement with a small group of central Kansas feedlots called the Beef Marketing Group. When others attempted to strike the same marketing deal as the Beef Marketing Group, IBP turned them down. IBP was given until August of 1996 to respond to the USDA complaint. If USDA succeeds in making its case, IBP would be placed under a permanent cease-and-desist order that would require it to give up the marketing agreements.[9]

One class action lawsuit has been filed in the private sector. A group of Texas, Oklahoma, Kansas and Nebraska feeders started legal action against Iowa Beef Products, Inc. on July 10, 1996 in Montgomery, Alabama federal district court siting authority under Section 202 Packers and Stockyards Act. Plaintiffs in the class action have formed a group called "The Cattlemens Legal Fund" and are currently raising funds to support the action.[10]

The Latest Market Concentration Study

The USDA study concluded the following in regard to the control of the slaughter market in beef: Iowa Beef controls 38%; Cargill (Excel) 22%; ConAgra (purchased E.A. Miller Boxed Beef and Monfort in 1987) 21%; National Beef 6%; all others 13%.

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[7]Ibid.

[8]Olive Valdez, a rancher from the San Luis Valley, made this point in a field hearing in 19~~8~~95 conducted by Secretary of Agriculture Glickman and attended by President Clinton, when she said, "We get awful tired of seeing the same three buyers sitting next to each other at an auction discussing what price they're going to give us."

[9]Bill Miller, Beef Today, September 1995, Feedlot-10.

[10]Information from Sam Britt, one of the leading plaintiffs in the class action.

87% is controlled by four major packers, far greater concentration than any time in our history.[11]

The Concentration issue has superseded public lands as the number one concern of livestock producers in the west.[12]

The Surge in Mergers

The 1980's mark the most significant decade in U.S. history in dollar value corporate mergers and acquisitions.[13]

The largest single take-over of a company in U. S. history was of a food company.. In 1985 the New York investment firm of Kohlberg, Kravis and Roberts (KKR) whet their appetite for food companies by reeling in Beatrice Foods. In 1989, they launched an aggressive bid to acquire RJR Nabisco amassing $30.6 billion in capitol for the transaction.[14]

KKR made a fortune by spinning off many of their acquisitions. Unlike some investors, they had no plan for the future of the companies they owned except immediate profits. ConAgra later emerged the new owner of Beatrice Foods.[15]

According to economist John M. Connor, in the U. S. retail food industry there were 387 mergers between 1982 and 1988. Beatrice Foods alone had acquired over 400 companies prior to its hostile takeover by Kohlberg, Kravis, and Roberts.[16] Foreign investment soared 790% between

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[11]USDA 1996 Report on Concentration in the Red Meat Industry, (Washington, Government Printing Office, 1996)

[12]Several resolutions have come out of local stock grower associations calling for action against market concentration. A survey conducted by *Beef Today* and published September 1995, showed 75% of cattle feeders registering concerns over captive supply to the extent they believed legislative action was necessary. A Rio Blanco County 4-H club conducted a survey (April, 1996) of local ranchers with the resultsdelivered to their congressman. In a May 2, 1996 interview of U.S. Senate candidate Gene Nichol, the Rocky Mountain Farmers Union unanimously endorsed "Market Concentration" as the most critical issue facing agriculture.

[13]Securities Data Co., Oct. 1995.

[14]Ibid. See also Bryan Burrough & John Helyar, Barbarians at the Gate: The Fall of RJR Nabisco. Harper Perennial, (New York, 1991)

[15]Ibid.

[16]John M. Connor, "Research Puzzles Arising from the Internationalization of U. S. Food Processors," in *Transnational Structure in Food Processing and Marketing,* Project NC-194 (Columbus: Ohio State University, September 1989) p. 31.

1977 and 1987 in the U. S. food industry with 90% occurring through mergers.[17]

ConAgra is a particularly important player in the issue of market concentration in agriculture. With sales more than twice as large as the entire annual budget of the United States Department of Agriculture ($11 billion) of $25 billion a year, they control a major share of the future of production agriculture. ConAgra, Latin for "in partnership with the land", started its climb to multi-billion dollar status when it bought United Agri Products (chemicals) in 1978. In 1980 it purchased Banquet. By 1981 they owned Singleton Seafood and Sea-Alaska products and hit their first billion in sales. They purchased Peavy (milling), Country Pride (chicken) and by 1983 owned Armour Food Company as well. In 1986 they bought all of RJR Nabisco's frozen food business (Chun King, Morton, and Patio) and in 1987 they emerged as a major factor in the red meat business with purchases of two powerhouses in the beef packing industry--E. A. Miller (boxed beef) and Monfort (beef and lamb). In 1990 they acquired Beatrice. In 1991 Golden Valley Microwave Foods, Chilewich and in 1992 food producers Arrow Industries. In only a few short years, ConAgra has vaulted to #2 in the American food industry behind Phillip Morris.[18] Third in their market share of the red meat industry, ConAgra is one of the top three in the grain industry as well.

Cargill, #2 in the red meat market through their ownership of **Excel** is also the nation's largest grain company--and it's largest private company with annual sales five times as large as the USDA annual budget at over $50 billion dollars. Cargill is well known for its market aggression. In the late 1800's they controlled the railroads and monopolized grain and coal transport. During the 1930's Cargill's broker was expelled from the floor of the Chicago Board of Trade for buying all the corn futures. In 1954 when the U.S. began lending money to Third World nations to buy American grain, Cargill became a major beneficiary of the policy. Not only are they the largest grain trader in Europe but a powerful force in brokerage and world trade, steel, waste disposal, coal, metals processing, beef and salt production. Their newest venture is into packaged foods, selling "branded beef" products and other processed foods. The annual growth rate for the agri-giant has averaged 8.6%.[19]

The #1 beef packer in the nation, **Iowa Beef Processors** was owned by Occidental Petroleum. The Armand Hammer empire purchased Iowa Beef Processors in 1981 for $760 million, spun off 49% of the company in public stock offerings in 1988 generating nearly a billion dollars from the sale.[20] Asked why the oil giant wanted to purchase a packing company, the then president of Occidental, A. Robert Abboud said, "Our strategy for the 1990's is to be prominent in the food area. We're going to be running into a food scarcity situation in the 1990's in the same

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[17]John M. Connor and Frederick E. Geithmen, "Mergers in the Food Industries: Trends, Motives, and Policies," *Agribusiness,* July 1988.

[18]Hoover's Handbook of American Business 1993, p 212.

[19]Ibid. p. 177.

[20]Ibid, p. 362.

way that we have an energy shortage in the 1980's. We will continue to build in this area."[21]

Cargill, Continental Grain and four other grain companies have in recent years controlled 96% of all American wheat exports and 95% of all corn exports. The same companies handled 90% of wheat and corn trade in the common market, 90% of Canada's barley exports and 80% of Argentina's wheat exports. In 1921 there were thirty-six firms that handled almost all U.S. wheat exports.[22]

Other Major Agribusiness Concerns

Phillip Morris acquired Kraft in 1988 for $13.4 billion, General Foods in 1985 for $5.7 billion and began the climb to battle for the #1 food distributing company in the World against the Swiss held Nestle.[23]

Continental Grain is the second largest grain company in the world. With estimated sales just under $20 billion they are the third largest privately held company in the nation. Continental Grain maneuvers primarily in grain commodities buying and selling in 58 countries throughout the world. Recently they moved into a petroleum marketing partnership with Tosco. Their World Meat Industries Group includes their Cattle Feeding Division (Chicago), Dutch Quality House (Georgia), Loveland Foods (Colorado), Southern Foods (Georgia), and Wayne Poultry (Georgia).[24]

Archer-Daniels-Midland under the guidance of Dwayne O. Andreas (a former Cargill executive) is a rapidly growing agribusiness with oilseed, corn, wheat flour and other processing and milling operations. They are the only supplier for the feed additive lysine, hold 68% of the market share of ethanol, 31% market share of fructose, and with the collapse of the Soviet empire, now handle 45% of western commodities flowing to the eastern block.[25] In a surprising move in 1995, The American Farmland Trust, a conservation/protection organization moved to support specific provisions of the new Farm Bill which removed conservation controls from subsidized crop land -- a move seen by many as anti-conservation. Dwayne Andreas sits on their

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[21]Jack Doyle, Altered Harvest, Viking (New York, New York, 1985)

[22]A. V. Krebs, The Corporate Reapers: The Book of Agribusiness (Washington, D. C.: Essential Books, 1992) p. 303.

[23]Securities Data Co. Oct. 1995.

[24]Hoover's Handbook. p. 219.

[25]Ibid. p.127.

board of directors.[26]

Tyson Foods, Inc. is one of the fastest growing companies in the United States with a nine year growth rate of 24.2%. They are the world's largest producer, processor, and marketer of poultry-based food products. Tyson has been aggressive in poultry and pork company purchases. They own: Chicken-IQ*F, Harker's, Henry House, Holly Farms, Mexican Original Products, Quik-to-Fix, Sara Lee, Tastybird, all Tyson labeled products, Weaver and Wilson. They are also #2 in pork production.[27]

Market Concentration Effects

Many economists continue to stubbornly insist market concentration leads to efficiency and better competitive positions in the world market.[28] However, bits and pieces of market surveys are beginning to yield evidence suggesting the opposite may be true.

Gary Smith and Brad Morgan of Colorado State University along with Keith Belk of USDA's Agricultural Marketing Service found serious customer service issues after interviewing buyers from 19 foreign countries. Not only was the quality of U.S. beef questioned (too much fat), but poor packaging and poor labeling were also cited as concerns. "For instance, they say U. S. packers produce boxes of beef that average 70 pounds or more, while some countries have labor laws that limit the size of boxes employees can handle to less than half that figure."[29]

One could assume in a more competitive market, these buyer issues would have been addressed.

Even more serious are the differences between producer return and the consumer's retail price. Since the massive mergers of the 1980's, the price spread between consumer retail and the raw commodity has grown dramatically. In 1979 a beef producer's share of the consumer dollar

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[26]*The American Farmland Trust*, Making Sense of the Farm Bill, Spring 1995, p. A-1 and inside cover page, board of directors listing.

[27]Hoover's Handbook, p. 548.

[28]In the December 1994 issue of Beef, Steve Cornett sites research from Jim Robb and David Anderson of the Western Livestock Marketing Project in Denver, Colorado which suggested the producer to retail price spread is justifiable in economic terms. They say, "During many market periods they (the packers) have a hard time squeezing that much margin from their deal--and they lose money for months on end. So when their turn comes they milk it hard." Cornett, an associate editor for the magazine writes in support of them, "so the fact is that farm-consumer price spreads will probably remain high for the next few years. Like it or not, beef producers will probably find they have to absorb an oversized share of the price burden as the beef cycle seeks the price levels at which profits return over the next few years."

[29]Steve Cornett, *Beef*, "Why U. S. Beef Lags Behind Foreign Competition," December 1994, p.19.

was 64%. The producer's share has declined since then to an all time low of 49%.[30] At the same time IBP, ConAgra and Excel (Cargill) have all reported record profits. In July of 1994, IBP showed quarterly profits of $85.8 million, up 149% from $34 million they recorded the quarter before.[31]

While market analysts suggest much of the price decline in beef is related to a surplus glut in the market, USDA statistics show we are still producing nearly a billion pounds of beef *under* domestic consumption. Only once in the last fifty years (1950) did we produce more than we consumed.[32] Beef imports into the United States have climbed dramatically since the passage of the Canadian Free Trade Agreement, the North American Free Trade Agreement and the General Agreement on Tariffs and Trade. There is considerable evidence to suggest the trade agreements have had a marked effect on price. But to understand this is to also understand that the same companies who control the markets in the U. S. control the world market.

ConAgra of Canada has been behind much of the recent flow of livestock into the U.S. from the north and according to Brad Anderson of the Colorado Cattle Feeders Association, almost all imported beef is what the CCFA terms "captive supply" and under contract to one of the major packers. IBP and Cargill have recently launched major beef production facilities in Alberta, Canada. Both facilities will process over a million head a year each. Barb Isman, Cargill's assistant vice-president said, "There are new opportunities, relating to trade barriers coming down. . ." Isman went on to say beef processed at the Cargill plant will be marketed in the U. S. and Asia.[33]

How significant is the flow of imported beef into the United States? Leo R. McDonnell Jr., owner of the Midland Bull Test (largest in North America) in Columbus, Montana compiled data which indicated our export figures on cattle have gone from .03% to 7% in 20 years. However, more significant are his *import* figures. "In 1994 alone we imported 2.371 billion pounds of beef or the equivalent of 3.95 million cows. We also imported more than 2 million live cattle from Mexico and Canada. That's a total 5.95 million equivalent cattle in a year when we slaughtered 34 million--that's **18 percent** of our beef supply that is imported."[34] In other words, we import twice our export volume.

Even more direct evidence that market concentration influences price was illustrated in the recent roll back in cereal prices. In 1990 an extensive investigation of the "Cereal Cartel" was

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[30]USDA, Stat Service, Table 10--*Estimated historical series for Beef, Choice Yield Grade 3.* April 30, 1996.

[31]Bill Miller, *Beef Today,* September, 1995.

[32]Economic Research Service, United States Department of Agriculture end of fiscal 1994.

[33]Donald Campbell, *Beef,* December 1994, p. 18.

[34]Leo K. McDonnell, Jr., *AgWeek,* "Cattle Numbers Don't Add Up", March 18, 1996. (McDonnell's figures are drawn from USDA's Economic Research Service Data.)

launched by consumer groups and later by Congress. In the course of the media attention on the cartel, the *Washington Post* conducted a survey of cereal processors.

Here's how they broke down the cost of a box of Kellogg's Corn Flakes:

Farmer	10 cents.
Processing	52 cents.
Advertising	52 cents.
Warehousing, overhead	55 cents.
Wholesale price	$1.73
Markup	$2.25
Competitors brand retail	$1.69

Kellogg sells 40% of all cereals in the United States and has dominated the industry through the power of consumer habit and advertising.[35]

<u>The Political Power of Concentration</u>

Political influence can, at times, be gaged by the amount of money flowing through the political network. While former Secretary of Agriculture Mike Espy remains under investigation for allegedly accepting illegal special favors from Tyson Foods, Inc. there are millions of legal dollars donated to Senate and Congressional campaign coffers.

Because of the 1980's corporate mergers, many contributions and their related influence are difficult to accurately assess. Only the recipient and the giver may know for sure. For example, in a Center For Responsive Politics publication, *The Coming Budget Battle*, by Stephanie Baker, Sheila Krumholz and Nancy Watzman, the researchers make the assumption that Occidental Petroleum's political contributions were made to influence pesticide regulation.[36] But lack of knowledge of the industry fails to place Occidental in any livestock or food processing category, even though IBP controls 38% of the slaughter market. Cargill is listed only as an exporter in the data and not as a processor and as a result, major blocks of contributions are not listed in the Center's data of food processors.

However, the Center's data does provide a basic surface knowledge of the Political Action Committee Contributions and individual or "soft" contributions of the food processing industry.

[35]*The Washington Post,* July 17,1991.

[36]Baker, Krumholz, and Watzman, *The Coming Budget Battle--Will Big Contributors Keep their Perks?,* <u>Center for Responsive Politics</u>, p. 11.

PAC Contributions from Agribusiness[37]

Rank	Total	Company PAC	Dem Pct	Repub Pct
1	$905,200	RJR Nabisco	47%	53%
2	$693,941	Phillip Morris	76%	23%
3	$279,674	ConAgra	38%	62%
4	$230,170	ADM	68%	31%
5	$163,400	Tyson Foods	46%	54%
6	$131,550	Occidental Petroleum	58%	42%
7	$ 87,800	Cargill	20%	80%
8	$ 17,497	Continental Grain	40%	60%

While PACS are often targets of political controversy, "soft money" contributions are equally significant--and a huge loop-hole in federal election laws. Not subject to any contribution limits at all, soft money has placed agribusiness giants in the forefront of campaign contributors. Technically, soft money is an in-kind contribution which is supposed to be used only for state and local political activities such as voter registration, get-out-the-vote drives and bumper stickers and generic party building activities. It was not intended to benefit specific candidates. In the 1992 presidential campaign, Democrats raised an estimated $34 million and Republicans $48 million in soft money contributions.[38]

Archer-Daniels-Midland Co. and its top corporate officers were the largest soft money donor in the 1992 elections with a combined total of nearly $1.4 million, most going to the Republican Party. Of the top five soft money contributors in 1992, four were agribusiness companies. RJR Nabisco was second with $875,305, Philip Morris was third with $816,580 and Seagram and Sons came in fifth with $731,637. Occidental Petroleum was ranked 15th with $336,030 and Goldman, Sachs & Co. (a major investor in industrial hog operations) was 20th with $293,520.[39]

These figures presented here are cursory at best providing only a limited picture of the political influence of agribusiness. Contributions to specific candidates are more intriguing.

Do these political contributions make a difference?

Alan Bergman, President of the North Dakota Farmers Union expressed it best in a recent May 9 editorial in the NDFU Union Farmer when he described USDA advisory committee on market concentration. "In mid-February, Glickman appointed the committee to further study the issue after USDA released its long-awaited study on the meat packing industry which was commissioned in 1992. That study concluded that concentration in the red meat packing industry exists, but said there was no definitive evidence that concentration had an effect on cattle prices.

"Unfortunately, Glickman's advisory committee is out of balance with producers making up the minority. The committee did not hold a single meeting in cattle country and voted to halt

[37]Ibid. (Data taken from several tables for easy condensation here.)

[38]Larry Makinson, *Follow the Money Handbook,* Center for Responsive Politics, p. 29.

[39]Ibid. p. 30.

verbal testimony from the public after its second meeting."[40]

Solution

Just as bio-diversity is crucial in the environment, so is market diversity critical to a healthy free enterprise. Market concentration hurts producers and consumers through inflexible pricing and narrow supply options.

With wide-open trade agreements, and tight captive contracts in both red meat and poultry supplies it is extremely difficult for producers and new investors to survive against billion dollar companies by creating alternative market options. Movement of foreign beef and grain into the U.S. can devastate the markets over-night. The vertical integration of many of these controlling companies is so intense they have a hold on the commodity from pre-production through seed stock control to final sale.

Major steps must be taken to stabilize the market and open it to free enterprise correction.

The first and most critical step is the vigorous pursuit of anti-trust.

A comprehensive study of current producer to consumer market conditions is critical modeled upon the lines of the 1918 Packer and Stockyards study by the Federal Trade Commission with similar recommendations for change. The 1918 study prompted market diversification and a positive growth period in the American meat industry.

Critical to the study is the time frame for completion. A lingering study could destroy much of the cow-calf and feeder production base in this country if action to stabilize the market, and delay or stop foreclosures is not taken soon.

New political and legislative action needs to be taken in several key areas.

1.) "Illinois Brick" has prohibited producers from pursuing anti-trust action because they have not been the direct sellers to the packers. Legislative action must be taken to allow producers to file their own legal action.

2.) Anti-trust laws must be changed to allow significant damages to be collected from those who fix prices and those damages should be paid directly to those harmed by price fixing actions. Taxpayers should not be asked to repair the cattle industry when the companies which helped destroy it are fully capable of doing so. Nor should cattle producers and consumers be considered shock absorbers so packers can exercise their so-called "economic rights" and reap record profits.

3.) Packers and Stockyards needs to be altered for producers who are captive under contract to packers and processors. It must allow them to pursue collective bargaining agreements or halt contract sales altogether.

4.) Corporate welfare packages must be stopped! With the recent passage of the 1996 Farm Bill, producers in Colorado will be severed from $60 million dollars in annual payments, yet the Colorado Agricultural Development Authority is preparing to issue $25 million dollars in bonds to build a waste treatment facility for two hog operations. Tax breaks and

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[40]Alan Bergman, "Market Manipulation Trims Beef Producers' Profits" NDFU Union Farmer, May 9, 1996, p. 2.

incentives to companies already reaping record profits is obscene. If these corporations truly believe in the free market, they should have to live in it.

5.) CEO's, stockholders, and company representatives who potentially are under investigation for anti-trust must be barred from sitting on the investigative body. In the course of any study involving anti-trust, CEO's, stockholders and owners of companies under investigation must be barred from sitting on related task forces and study groups. (The current USDA study group includes several executives and major share holders from investigated companies.)[41]

<u>Changing the market</u>

Change seldom happens on the merits and ethical values of the issue alone. It must be driven by those who care, nurtured and continually pushed until it is understood as the most viable and reasonable solution. This study was created in anticipation of the release of USDA's final report June 1996. From preliminary findings, solutions of a comprehensive and productive nature will NOT be forthcoming from the Department of Agriculture. When the initial results were released, USDA concluded there was significant market concentration but no negative, discernable effect resulting from it--even with massive data showing a widening spread between retail and commodity prices in beef.

USDA be held accountable and responsible to the producers it serves and that its economists be held to a more realistic and accurate analysis of their own data.

The*Justice Department of the United States must readjust their criteria for investigation of and legal action against price fixing.* In a meeting with Anti-Trust Division lawyers over a year ago, it was the understanding of National Farmers Union Legal Council Dave Velde that it took a merger in the industry to trigger a major investigation by the Justice Department. What is left to merge?

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USDA appointment list.

SECTION TWO[42]

AN ANALYSIS OF THE FEBRUARY 1996 USDA REPORT
"CONCENTRATION IN THE RED MEAT PACKING INDUSTRY"
and
THE SUBSEQUENT ADVISORY COMMITTEE RECOMMENDATIONS

The question at the crux of the current free enterprise debate in the American cattle production sector today is: "Does the concentration of the packing industry effect price?"

A decade and a half of change

Several key developments have made this a critical question. In 1980, the four largest packers accounted for 36% of the steer and heifer slaughter, their market share rose to 72% in 1990 and by 1994 they held 82% of the market share. In 1996, they hold 87% of the steer and heifer slaughter market.[43]

As market concentration has become more dramatic, producers' prices have fallen, but consumer prices have failed to decline. In 1980 the producers' share of the beef retail dollar was 64%. Today it's less than 45%, showing a significant, widening gap between producer and consumer prices.[44]

In addition to the consumer/producer price spread a dramatic decline in core elements of the beef industry began to occur. In the same period of time there has been a 43% decline in beef packing plants, a 52% decline in feedlots and a 31% reduction in cow-calf operations.[45]

The final, most significant development which signaled the belief in many that market concentration had become a serious problem was while many beef producers were experiencing an average -2% return on their investment, IBP, Cargill, and ConAgra began to post record

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[42]Section Two could only be written after a thorough examination of USDA's Advisory Committee recommendations were released in June 1996 report and an econometric analysis of the February "Red Meat Study" was completed.

[43]"Concentration in the Red Meat Packing Industry" *Executive Summary*, p. iii. United States Department of Agriculture, February 1996.

[44]USDA Economic Research Service, "Estimated Historical Series for Beef"

[45]*Drovers Journal,* October 1995, Business Commentary, "Concentration: a fact-of-business", by John Navlika, p. 26.

profits.[46]

The Congressional Response

In 1992, before the dramatic decline in beef prices, pressure began to mount from concerned constituencies, and Congress allocated $500,000 to USDA to study market concentration in Agriculture. Seven projects were selected to address areas identified in a House Committee report and six were conducted by researchers from various universities. The seventh was completed by USDA. The study only covered a limited period of time from April 1992 to March 1993, while an average marketing cycle in the cattle industry is 10 years.[47]

Universities tapped for the study included Oklahoma State University, Iowa State University, Kansas State University, Texas A&M University, Virginia Polytechnic Institute, University of Missouri, and the University of Nebraska.[48]

The USDA Study

Many producers watched eagerly for the release of the USDA study hoping their belief that market concentration had become an overwhelming problem would be verified. When the report was finally released in February 1996, the conclusions were disappointing and confusing.

In particular, the most critical question concerning whether or not captive-supplies impacted price, was summarized in the final sentence of Chapter 3 of the study with this analysis: "The study provides an overall description of the role of captive supply in the industry that suggests, at most, rather modest net effects."[49]

But are the net effects as modest as the researchers claim? And, equally critical, was their research credible?

With all this data showing the potential for serious market control, why did the USDA report find only "modest net effects"? Is it really *all* that the data showed? Was the data broad enough? Was it deep enough? Was the analysis sound?

There are two key statements which hint the researchers in Chapter 3 failed in both data collection and data analysis. The first is when Dr. Wayne Purcell concluded, "more knowledge was gained about data requirements and analytical models than about packers' use of market power."[50] The second came with the June 1996 USDA *Advisory Committee Report on Agricultural Concentration* when at least one person on the committee noted, "Moreover, the crucial section of the report addressing the central issue of whether concentration affects prices

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[46]USDA Economic Research Service estimates, 1994-1995

[47]"Concentration," USDA, February 1996, p. iv.

[48]Ibid. pp.5, 15, 24, 32, 38, 45, 49.

[49]Ibid. p.31.

[50]Ibid. p. 37.

was inconclusive for methodological reasons."[51]

These two statements are crucial. Not only do they point to a research failure, they alert those relying on the study for sound conclusions--that there are none obtainable from this data, none from the methodology used to derive results, and subsequently, the conclusions drawn by the researchers in Chapter 3 are highly suspect.

Where did the researchers fail?

> **First,** researchers failed in the kind of model they used to analyze the data. Model 2, p. 27 is a simple regression model--one of the oldest and most reliable kinds of models used for economic analysis--but in this form, inadequate for analyzing the effects of captive supplies.
>
> **Second**, researchers failed in the data they drew on for analysis by ignoring the similarities of the data characteristics.[52] Ignoring these similarities is like a bartender watering down whiskey. It may look like more, but its effect has been diluted. As a result, the researchers could show *some* impact from captive supplies, but not a significant impact.
>
> **Third**, researchers failed to recognize the growing disparity between producer price and boxed beef price.[53] This failure was, again, another watering down of the analysis. They chose only to focus on and attempt to explain the downward pressure on producer price, ignoring the potential for upward pressure on consumer price. As a result, they ignored what may have been even more definitive evidence that market concentration can and does affect prices. For example, if the downward trend in producer prices is a normal market phenomenon, then why haven't consumer prices also experienced the same "normal market phenomenon?"[54]
>
> **Fourth**, researchers failed to assess the bargaining power of the packers in a concentrated market. For example, how much bargaining

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[51]USDA Committee "Report on Market Concentration", June 1996. p. 11.

[52]For the hard-core economist, ignoring the high degree of multicollinearity among the explanatory variables ABBCV *boxed beef cut-out value,* and LCEM *nearby cattle futures* alone results in extremely biased and inconsistent estimates of the remaining coefficients (I had help).

[53]"Concentration in the Red Meat Packing Industry" February 1996, USDA. See pages 26 and 27, models one, two, and three. The particular variables at question here are TRPRC and ABBCV.

[54]Many producers have contended the issue isn't just the prices they're receiving for their beef, but the retail price to consumers is also at issue. If supply is the only price depressant in the current cattle market, then why hasn't it also depressed consumer prices with a similar degree of downward pressure? These concerns were ignored in the study.

power over producers has IBP gained by holding a 38% market share? And, how much additional bargaining power have they gained by a judicious use of captive supply? There are modeling applications which can determine bargaining power. Why did the researchers failed to use them?[55]

Fifth, researchers used a narrow window of data in a narrow time frame, knowing they would not have significant, conclusive results. "Follow-up research is needed to resolve significant modeling and data issues to address the effects of concentration on prices paid for cattle."[56]

The USDA *Concentration in the Red Meat Packing Industry* study was a failure, not just in data collection and analysis, but in its contract with Congress and the American producer.

What is unfortunate about the USDA study, and ultimately tragic, is its deadening effect on an appropriate national policy response to market concentration. We as Americans pride ourselves on our free market system, yet if an outsider were to examine our diligence in its protection using this study, they would question our sincerity and integrity. This study is fatally flawed and as a result, any action based upon it is also flawed.

The USDA Advisory Committee on Agricultural Concentration

When USDA should have sent the study back and called for more conclusive results, Secretary Glickman instead proceeded February 14,1996 to appoint the Advisory Committee on Agricultural Concentration using the study as a foundation for committee action, even though at least one member of the committee knew the study was flawed.

One of the earliest criticisms of committee structure was it's lack of producers and lack of consumer representation. Of the 21 members named, only six derived their primary income from agricultural production. Not one single member of the committee was a member of any consumer advocacy group or associated directly with consumer interests. Seven members were from agribusiness, transportation, and other service interests. Three were state government representatives and three were economists. One a research analyst, and two members were presidents or directors of industry organizations.[57]

Several observers of the process indicated results of the Concentration Committee report

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[55]One of the earliest oligopsony theorists was Joan Robinson: "The Economics of Imperfect Competition".

[56]"Concentration," Feb. 1996. p. X.

[57]USDA News release, February 25, 1996 and final signature list on the June 1996 Concentration Report. Mark Drabenstott, V.P. for the Federal Reserve Bank in Kansas City, MO, did not sign the final Concentration Report.

were predetermined by the bias of committee selection.[58] Indeed, several committee recommendations point to a bias toward the packing industry, including taking care, "not to overreact to the normal functioning of the cattle cycle already entering the adjustment phase, leading to lower supplies and higher prices," and to refrain "from making recommendations that would slow or prevent the industry's need to adapt to a changing marketplace."[59]

The results of the committee report are as flawed and suspect as the February '96 research study. An example of the committee's ignorance or perhaps distortion of available data was most obvious when in the "Background" section of the report, the committee wrote, "No new or unusual patterns in inflation-adjusted price spreads have been identified in recent months. According to ERS, the relationship between net farm value and Choice retail price since October 1994 does not appear to be statistically different than the relationship that existed from 1979 to the fall of 1994 (based on available data)."[60]

The same ERS data they cite as showing no significant difference in price, does in fact show a significant price spread. In 1979 the data shows a producer's share of the retail beef dollar was 62%. By the fall of 1994 the producer's share had fallen to 51%, in 1995 it was down to 49% and in 1996 it is projected to finish at 45%.[61]

The USDA concentration advisory committee is ethically and substantively flawed and never should have been created in its final form. A policy maker, whose constituency shows a great deal of distrust, does not neutralize the distrust by appointing a policy committee consisting of individuals who are the target of the distrust. The problem is only exacerbated.[62]

A Demand for Change

Every agricultural organization, every university, and every person who cares passionately for our democracy should be calling for a retraction of the *Concentration in the Red Meat Packing Industry* study. It is imperative that a General Accounting Office and Justice Department investigation be launched into the conduct of this study. There is no question more critical to cattle producers today than whether or not their price is effected by packer concentration. In the study's failure to use sound research methods, USDA may have very well cost the livelihoods of thousands American Cattle producers. Perhaps they can live with the results, but cattlemen can't.

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[58]National Farmers Union protested committee selection and Lois Wales, a feeder from Texas was appointed to represent NFU's concerns.

[59]*Advisory Committee Report on Agricultural Concentration*, USDA, June 1996.

[60]Ibid. "Background" p. 4.

[61]*Red Meats Yearbook, 1995* Table 88. Choice beef values and spreads at retail, wholesale and farm level.

[62]You don't need an expert to understand this point.

A new study must be commissioned. The researchers must be free of bias that corporate research grants most certainly create. The study must be comprehensive, examining, comparing and contrasting data from several different time frames until final, definitive answers to the most critical questions concerning market concentration are provided.

USDA must be held accountable for the lack of appropriate response to this issue. The fact Secretary Glickman attempted to pass off this study as a conclusive document without demanding more definitive results is a profound example of the lack of leadership producers sense from USDA and find contemptible. The fact USDA developed a committee process with very few producers appointed, held sessions in the middle of calving season when few producers could attend, never held a meeting in the heart of cattle country and cut off public testimony after only two days of hearings shows a deliberate, hostile bias against producers.

While this may be the politics of this modern age, it is not the politics of integrity, nor is it the kind of politics which will ensure the survival of this democracy.

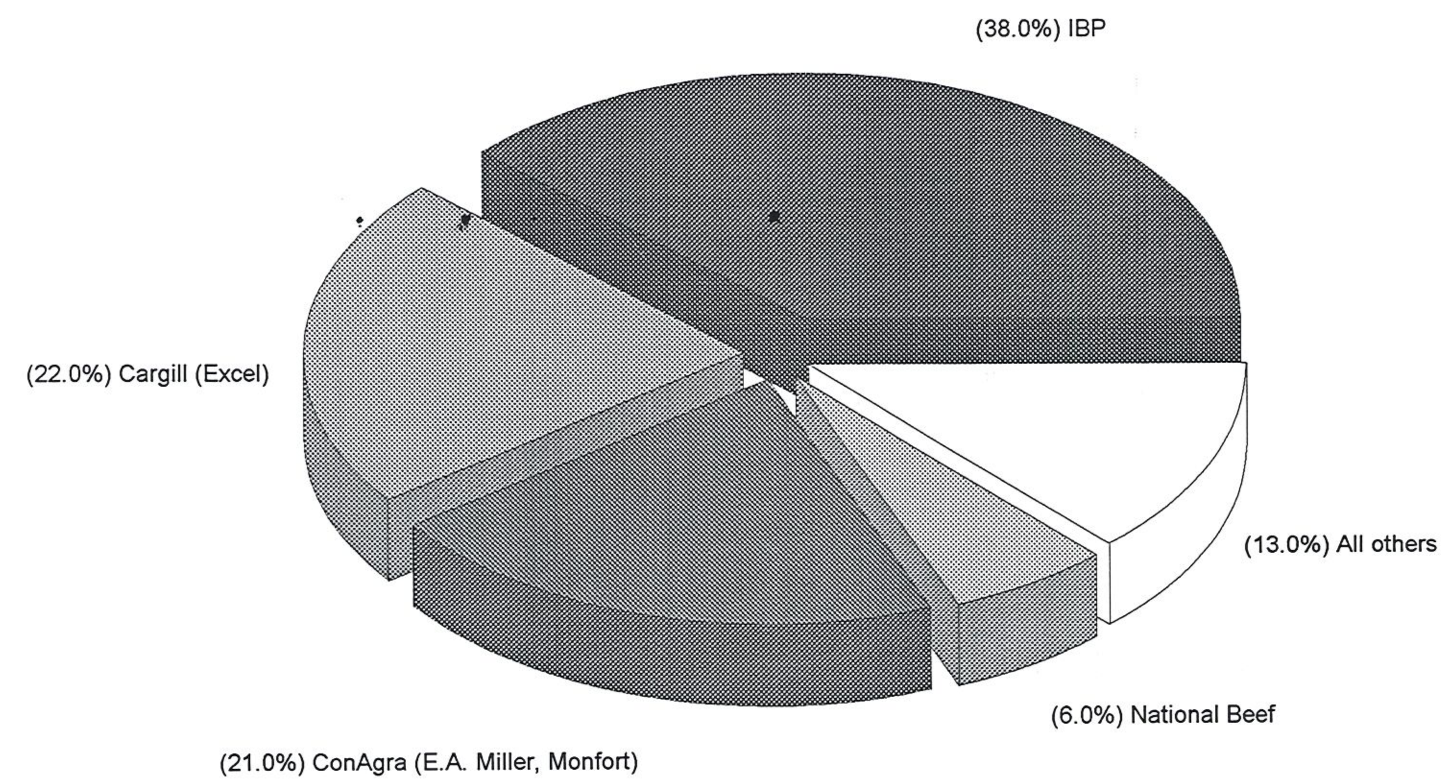
At the turn of the century, invigorated by a strong, vocal outcry from producers, labor and consumers, Upton Sinclair created a fantasy world with reality as it's foundation. It was this "Packingtown" world he formed that finally tore away the cloud of illusion built by the Beef Trust. With this novel he laid a foundation for changes in laws for decades following which helped to create an unprecedented growth rate in the meat industry. It is with this memory of history, our faith in democracy, and our faith in our culture that we build our hope for the future.

> *What the hog thought of it, and what he suffered, were not considered; and no more was it with labor, and no more with the purchaser of meat. That was true everywhere in the world, but it was especially true in Packingtown; there seemed to be something about the work of slaughtering that tended to ruthlessness and ferocity -- it was literally the fact that in the methods of the packers a hundred human lives did not balance a penny of profit.*[63]
>
> The Jungle, Upton Sinclair

[63]Sinclair, The Jungle, p.376-77.

USDA Market Concentration Study Results

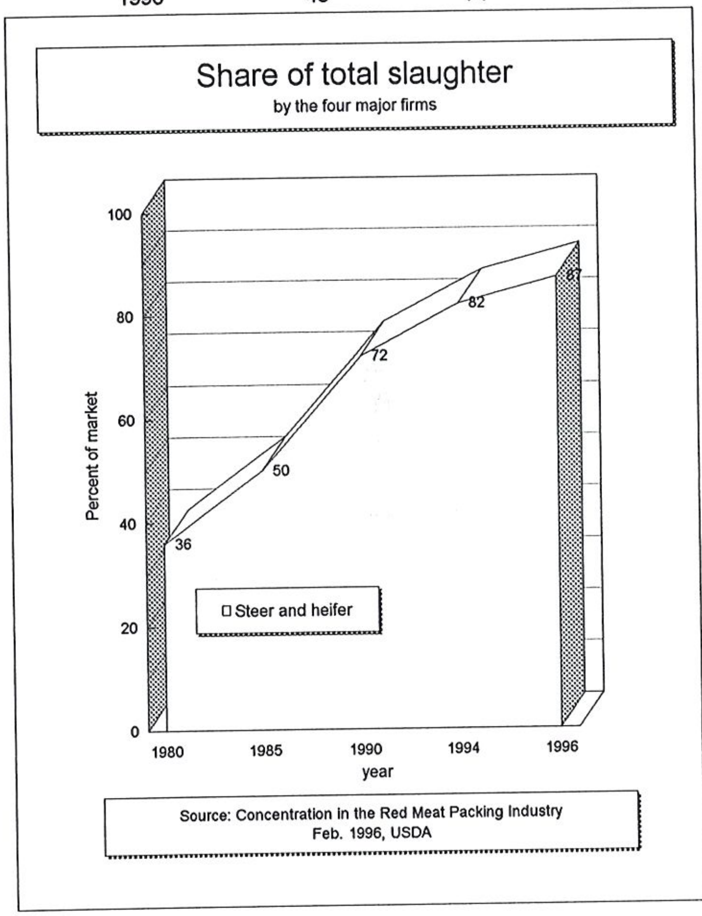
Red Meat Market--Steer and Heifer

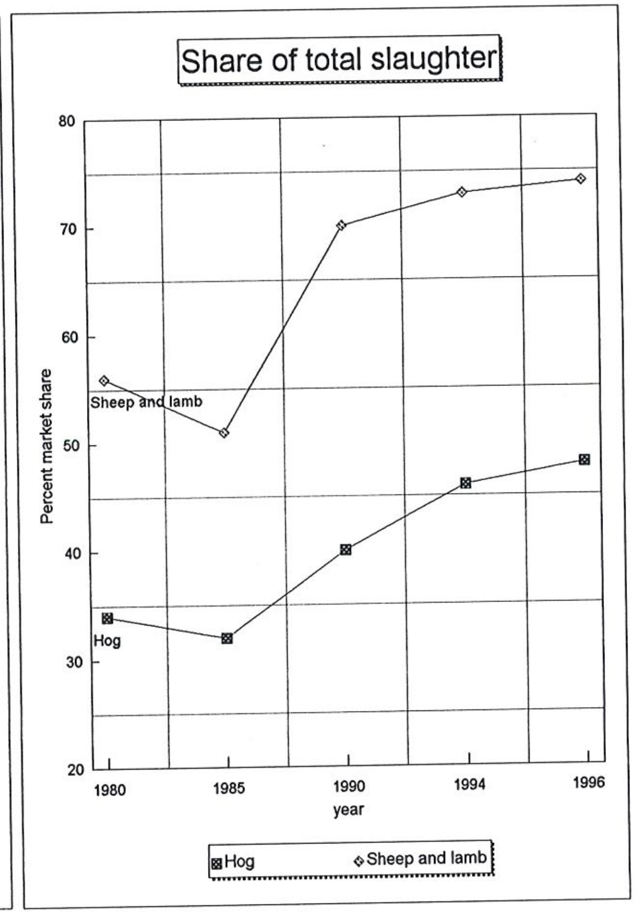


Source: USDA Market Concentration Study, 1996

Share of total slaughter

year	Hog	Slaughter Sheep and lamb	Steer and heifer
1980	34	56	36
1985	32	51	50
1990	40	70	72
1994	46	73	82
1996	48	74	87





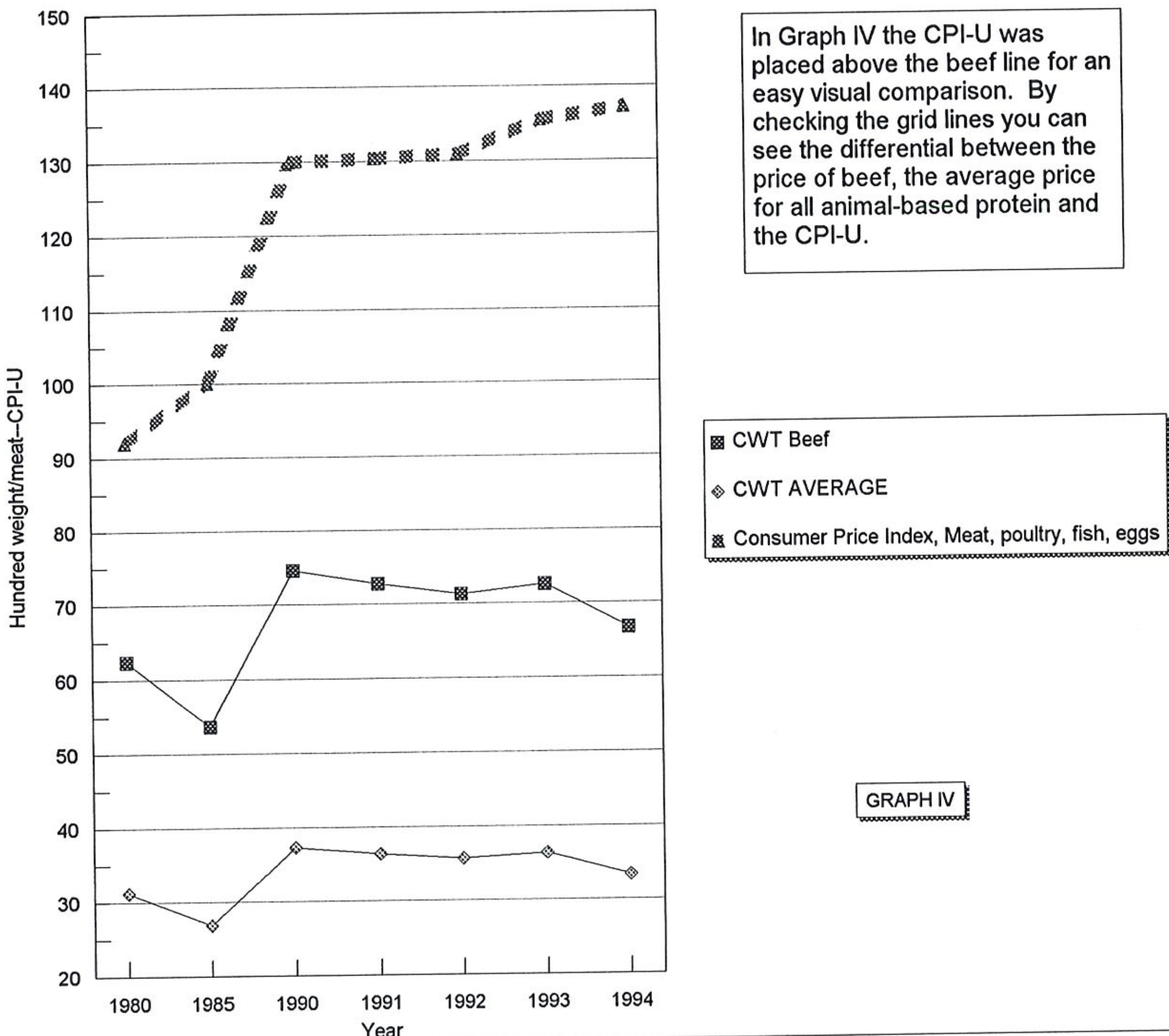
Meat Prices

USDA Agri. Statistics Service

	1980	1985	1990	1991	1992	1993	1994
CWT Beef	$62.40	$53.70	$74.60	$72.70	$71.30	$72.60	$66.70
CWT Pork	$38.00	$44.00	$53.70	$49.10	$41.60	$45.20	$39.90
CWT Lamb	$63.60	$67.70	$55.50	$52.20	$59.50	$64.40	$65.60
CWT Broilers	$27.70	$30.10	$32.60	$30.80	$31.80	$34.00	$35.00
CWT AVERAGE	$47.93	$48.88	$54.10	$51.20	$51.05	$54.05	$51.80
Consumer Price Index,	92	100.1	130	130.4	130.9	135.5	137.2

Meat and Beef Prices Relative to the Consumer Price Index

USDA Agri. Statistics Service



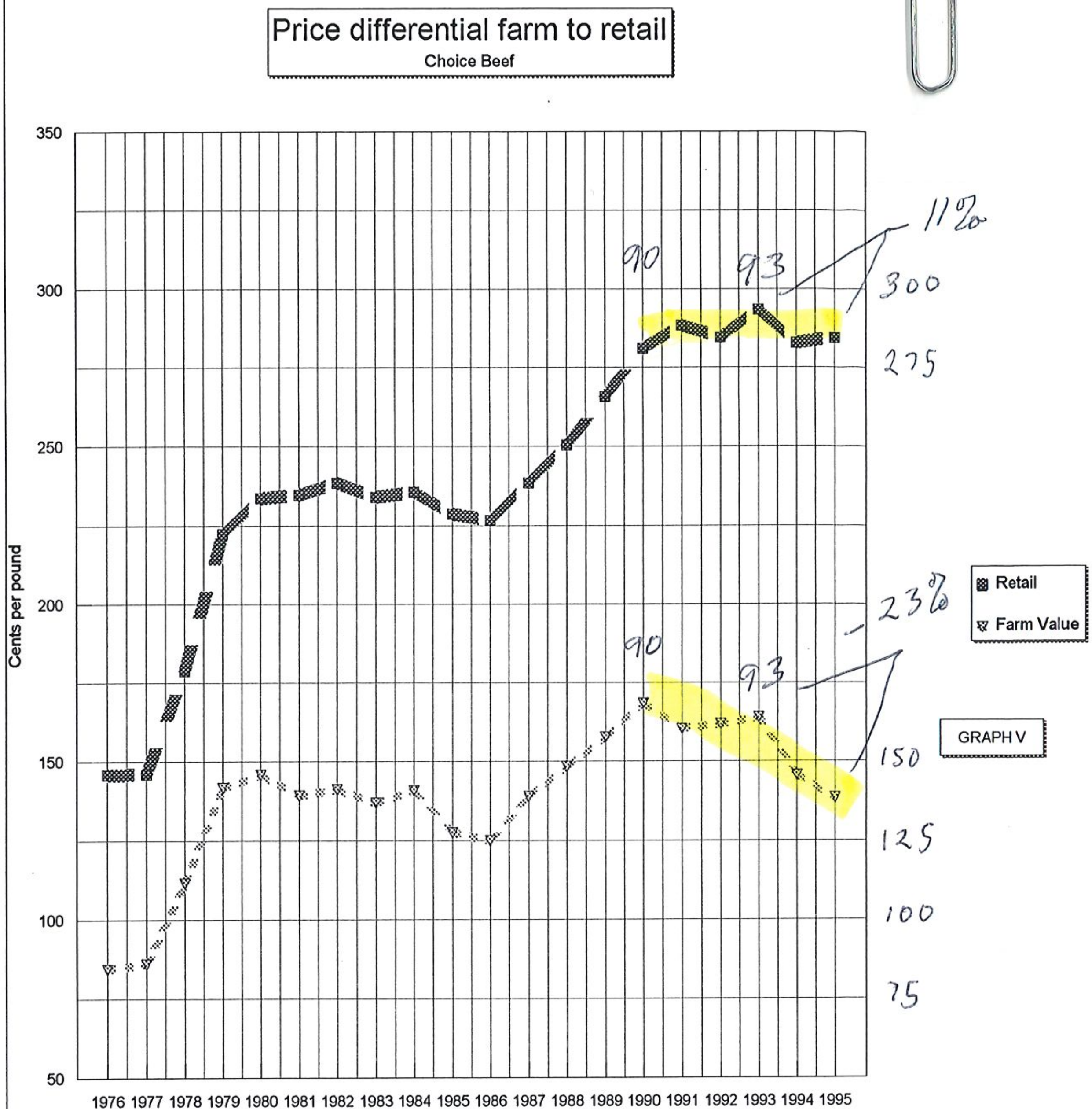
In Graph IV the CPI-U was placed above the beef line for an easy visual comparison. By checking the grid lines you can see the differential between the price of beef, the average price for all animal-based protein and the CPI-U.

GRAPH IV

The Consumer Price Index (CPI) is data collected by the Department of Labor concerning basic goods and services comsumers must purchase. It includes food, clothing, medical services and other basic necessities. Broken down into various categories, it can be used as a comparitive line between the producer price and consumer retail price. Here consumer retail price levels are compared to producer beef prices. In these tables the consumer price index is not specific dollar value, but is an increment of measurement scaled the same as dollar value.

How accurate is the CPI? It is one of the top indicators used to measure inflation and economic variables in our economy. Since January 1978, the Department of Labor has been researching two data groups. One group covers 32% of the population and the other 80%. The larger group (the CPI-U) is used in these models.

What the CPI may show us when contrasted and compared with commodity data is whether or not commodity prices have a direct bearing on the retail consumer product. Under theoretical principles of supply and demand, commodity prices should have a measurable effect on consumer prices.

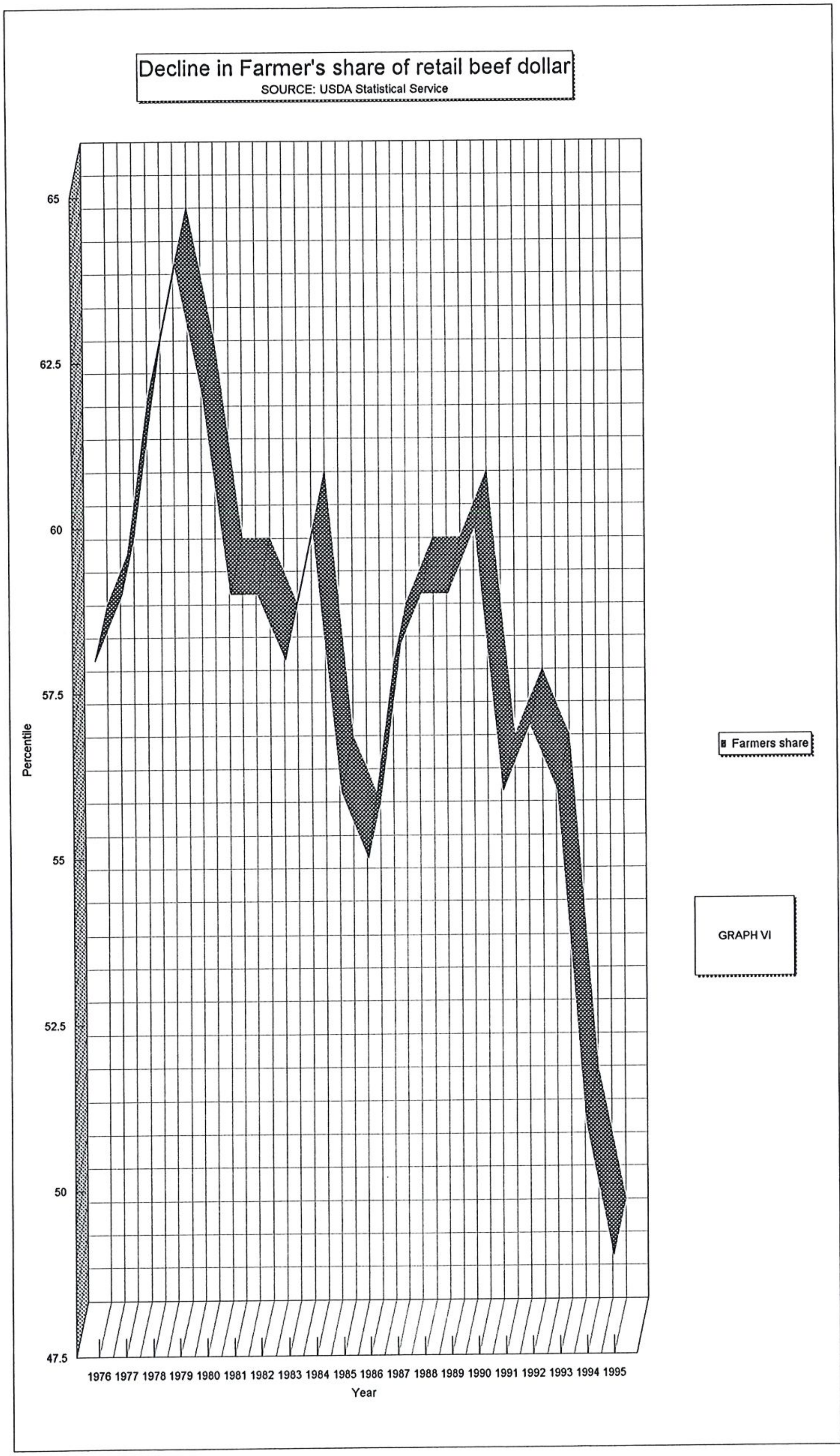


SOURCE: USDA Statistical Service

Year	Retail	Wholesale	Farm Value	Farmers sh
1976	145.7	100.7	84.4	58
1977	145.8	103.2	86	59
1978	178.8	131.4	111.7	62
1979	222.4	165.7	141.7	64
1980	233.6	171.1	145.7	62
1981	234.7	164.4	139.1	59
1982	238.4	165.9	141.1	59
1983	234.1	160.1	136.8	58
1984	235.5	162.5	140.7	60
1985	228.6	148.8	127.4	56
1986	226.8	146.5	125	55
1987	238.4	160	138.7	58
1988	250.3	169.4	148.3	59
1989	265.7	176.8	157.6	59
1990	281	189.6	168.4	60
1991	288.3	182.5	160.2	56
1992	284.6	179.6	161.8	57
1993	293.4	182.5	164.1	56
1994	282.9	166.7	145.5	51
1995	284.4	163.9	138.4	49

This data was used by the recent Advisory Committee to assess whether or not market concentration was effecting price. The committee's conclusion was "No new or unusual patterns in inflation-adjusted price spreads have been identified in recent months. According to ERS, the relationship between net farm value and Choice retail price since October 1994 does not appear to be statistically different than the relationship that existed from 1979 to the fall of 1994 based on available data." (June 1996 Report)

What is so misleading about this statement is their comparison of "net farm value" with retail dollar share. Net farm value includes the value of deeded land, farm homes and other assets. Packers are not in the business of buying land--they're buying cattle. The only appropriate data comparison is dollar share. When dollar value alone is used as a tool of measurement, the spread between the consumer and the producer is dramatic.



Year	Farmers share
1976	58
1977	59
1978	62
1979	64
1980	62
1981	59
1982	59
1983	58
1984	60
1985	56
1986	55
1987	58
1988	59
1989	59
1990	60
1991	56
1992	57
1993	56
1994	51
1995	49

While cycles are visible in many markets, a sustained downward trend in the producers share of the consumer dollar is evident from 1976 to present, One could argue that there have been upward bursts in the producers share of the consumer dollar, but a close detailed examination shows a rise in producers' income is in a shorter time period with the rise in income at 1/2 the comparative level of the price decline. An overall examination shows a continuous decline over 20 years with the sharpest decline being evident at the greatest level of concentration in our history.

US Beef Market Trends 1940-1995

Year	Production (In billions of pounds)	Consumptio
1940	7.17	7.25
1950	9.53	9.52
1960	14.7	15.46
1970	21.68	23.45
1980	21.64	23.56
1990	22.74	24.03
1991	22.91	24.11
1992	23.08	24.26
1993	23.04	24
1994	24.38	25.12
1995	24.18	25.11

One of the most critical questions producers ask today is supply out-pacing demand? In a simple comparison of pounds of beef produced versus pounds of beef consumed, demand is exceeding supply by 930 million pounds in 1995 figures. While over-all percapita consumption of beef has dropped in the U.S., total consumption has risen reflecting the rise in U.S. population. In 1970 there were 203.3 million people in the U.S. and today there are 250 million making the U.S. the most important beef market in the wealthy, industrial G7.

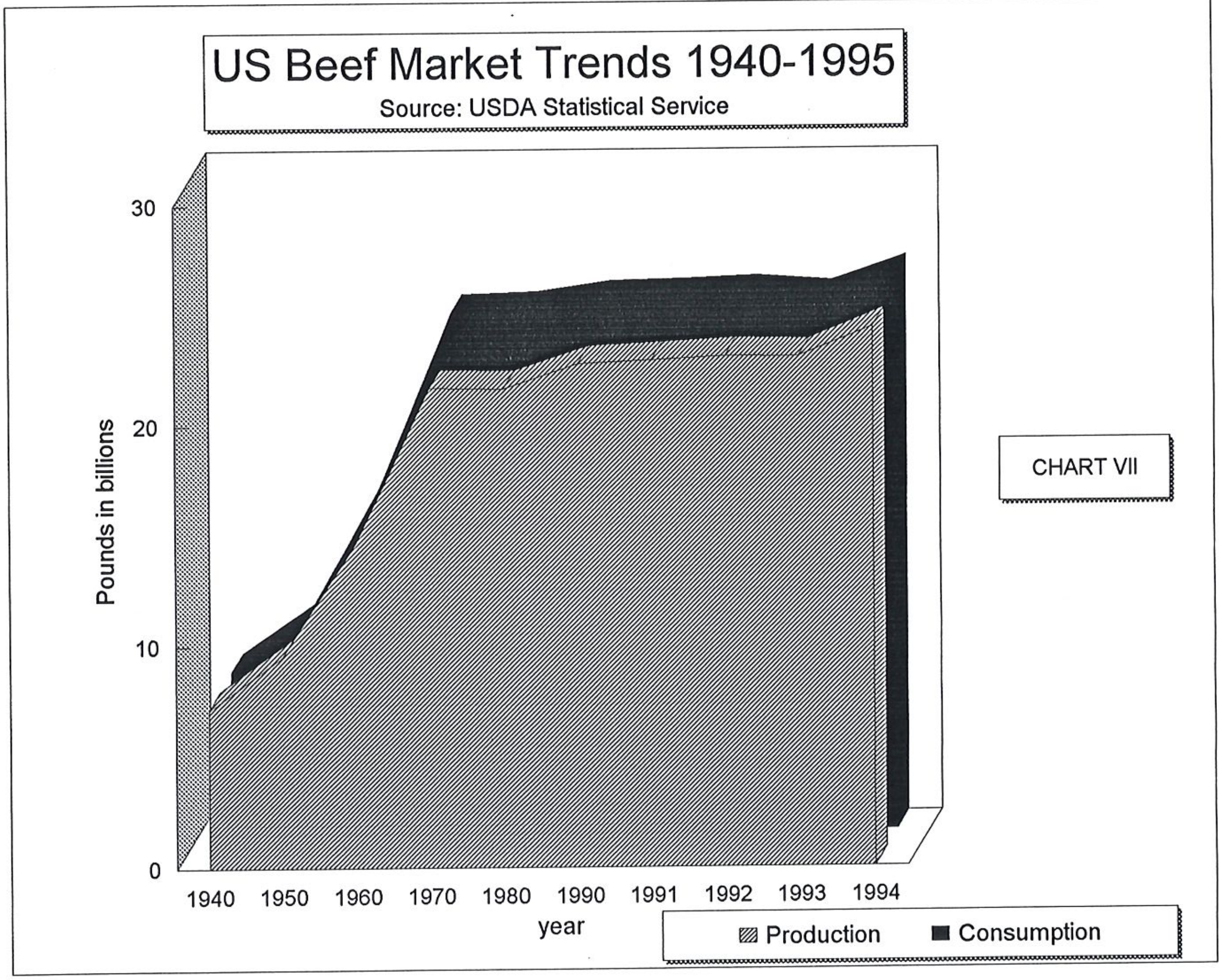


CHART VII

CANADIAN EXPORT TRADE TO UNITED STATES

in millions

	1988	1989	1990	1991	1992	1993	1994
Grain	$155,062	$229,558	$217,505	$200,134	$308,783	$525,812	$853,195
Grain Product	$219,970	$218,817	$234,085	$294,784	$370,115	$482,805	$622,417
Animal Feed	$147,085	$167,027	$184,754	$181,564	$216,251	$265,094	$348,927
Livestock	$549,230	$545,739	$572,944	$856,718	$1,283,890	$1,344,900	$1,388,354
Red meat	$670,168	$673,934	$749,156	$683,187	$807,635	$1,014,236	$1,108,938

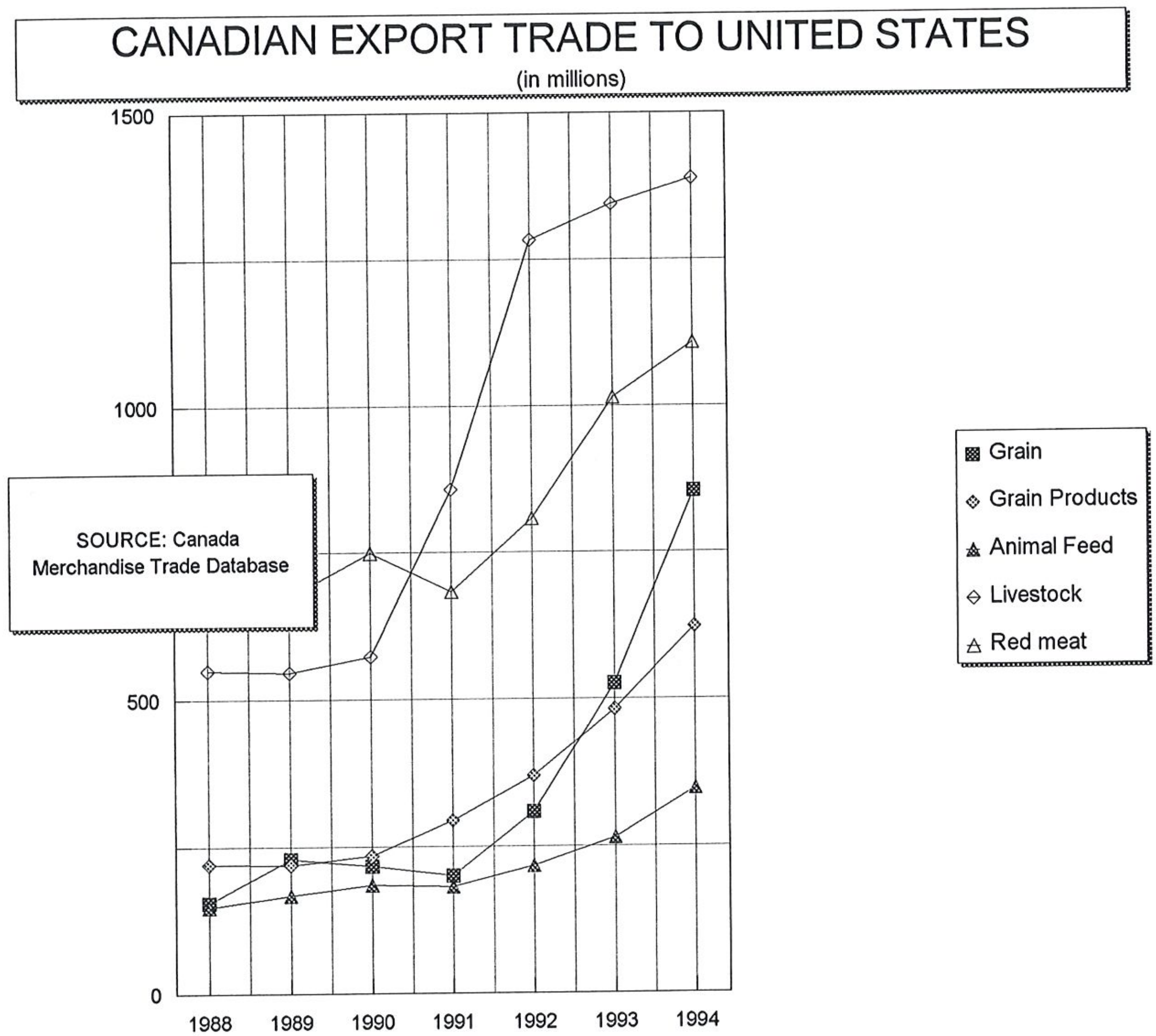
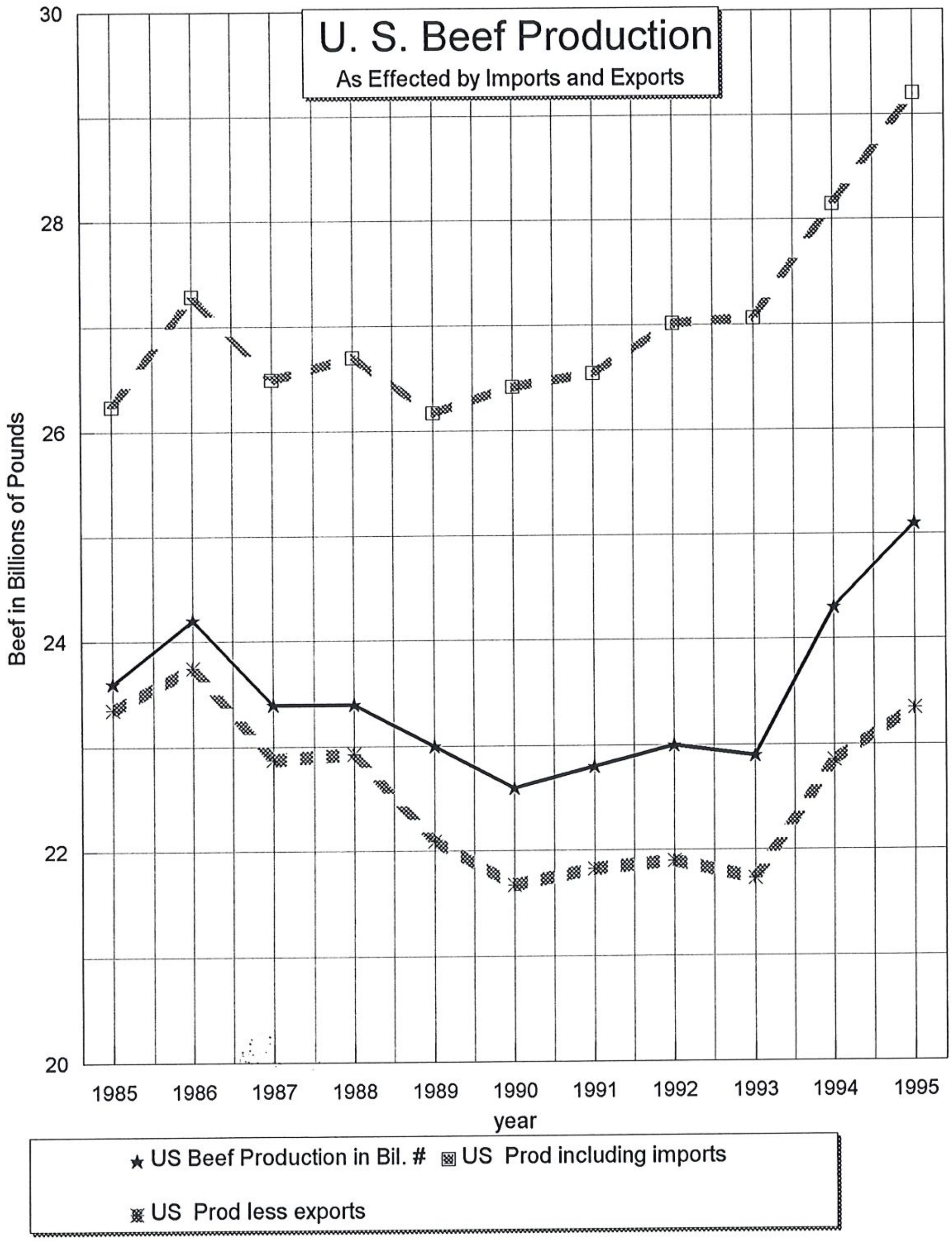


CHART X

Perhaps one of the most significant effects of corporate concentration is its impact on the world market. With the passage of trade agreements including the Canadian Free Trade, North American Free Trade and the new General Agreement on Tariffs and Trade, data shows a significant jump in food imports into the United States. This particular chart shows a dramatic jump in Canadian export trade shortly after the passage of the Canadian Free Trade Agreement. Data derived for this chart comes entirely from the Canadian Merchandise Trade database. While protests were most visible amoung U.S. grain producers, it was livestock producers who felt the greatest dollar value impact fro the Canadian trade.

How have imports and exports effected the total supply picture and the price to the producer? While our export markets have increased to include 7% of our total domestic production, the import market has also increased adding 18% more cattle, both killed and live to the domestic supply. The top line in the chart is where our supply is today including imported cattle. Figures here are totals of both live and killed converted to measurement in pounds. The middle line is domestic supply. The bottom line is domestic supply less exports.



Source: Clint Peck, Clyde Greer and John Marsh (Dept. of Agri. Econ. Montana State University

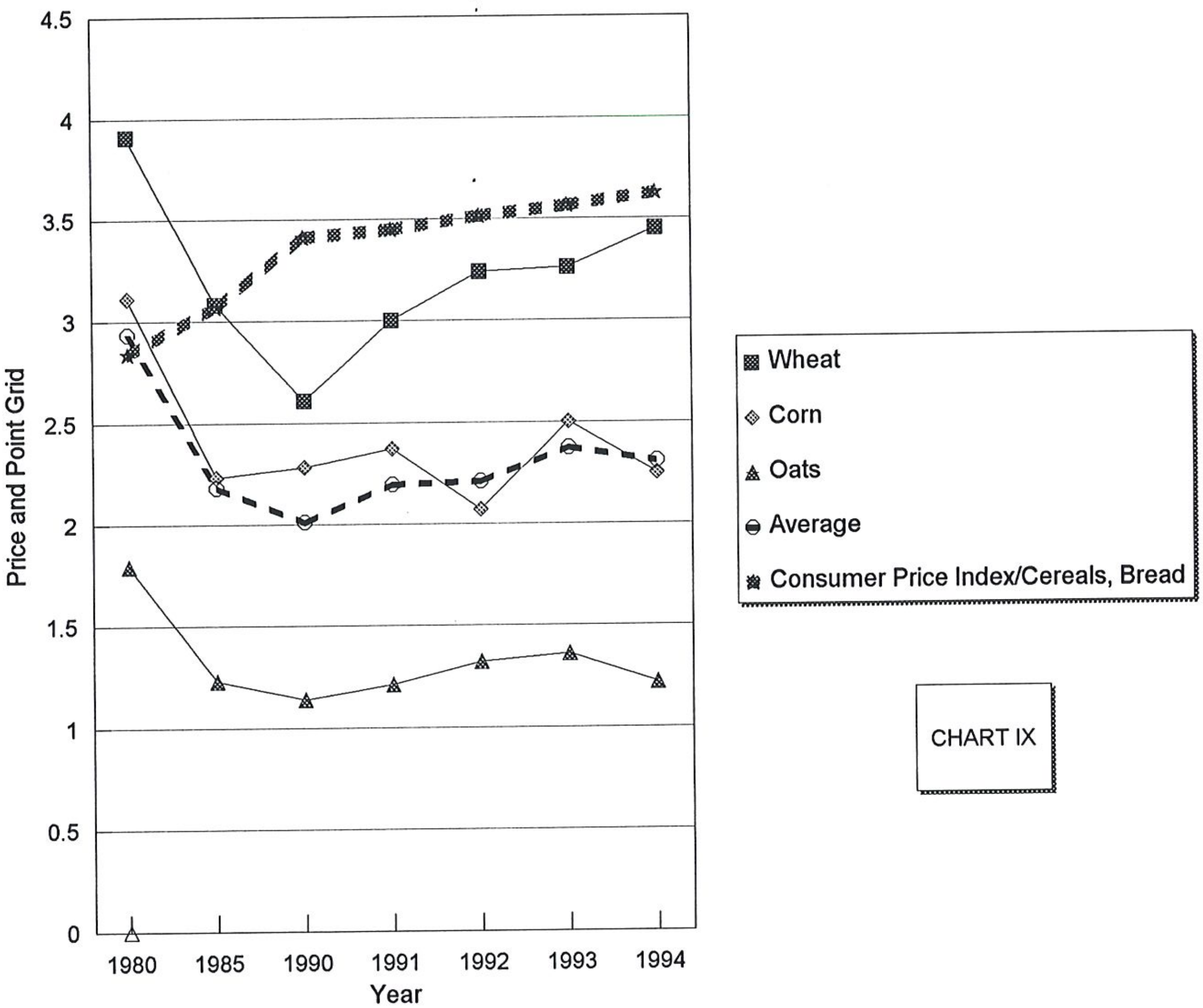
Grain Prices per Bushel 1980-94

	1980	1985	1990	1991	1992	1993	1994
Wheat	$3.91	$3.08	$2.61	$3.00	$3.24	$3.26	$3.45
Corn	$3.11	$2.23	$2.28	$2.37	$2.07	$2.50	$2.25
Oats	$1.79	$1.23	$1.14	$1.21	$1.32	$1.36	$1.22
Average	$2.94	$2.18	$2.01	$2.19	$2.21	$2.37	$2.31
Consumer	2.839	3.07	3.41	3.45	3.515	3.565	3.63

Source: Natl. Agricultural Statistics Service, USDA

Grain Prices Compared to Cereal Products CPI-U

Source: Natl. Agricultural Statistics Service, USDA and Dept. of Labor CPI-U



Grain prices and their comparison to the Consumer Price Index show a different curve ratio. Graph IX shows the CPI jumping dramatically from 1980 through 1990 while grain prices are dropping. The CPI-U does not level out and follow the commodity price line until 1990-1994 when there was a public investigation of the "Cereal Cartel". An agreement to role back cereal prices was reached in March of 1996.

Agricultural Imports for Consumption

1974	10.2
1975	9.3
1976	11
1977	13.4
1978	14.8
1979	16.7
1980	17.4
1981	16.8
1982	15.4
1983	16.6
1984	19.3
1985	20
1986	21.5
1987	20.4
1988	21
1989	21.7
1990	22.8
1991	22.7
1992	24.6
1993	25
1994	26.8

The 26.8 billion dollars in food imports in this graph represents nearly 25% of U.S. food consumption. If this trend continues, by the year 2010, the U.S. will be as dependent upon food imports as it currently is on oil imports. It is here where the most compelling moral and ethical question arises; Should the best fed, most productive agricultural nation in the world be competing for and importing food from developing nations which cannot afford to feed their own?