

March 29, 2012

ATTN: Agriculture Leg. Staff

The Honorable Debbie Stabenow
Chairwoman, Senate Committee on Agriculture, Forestry and Nutrition

The Honorable Pat Roberts
Ranking Member, Senate Committee on Agriculture, Forestry and Nutrition

The Honorable Frank Lucas
Chairman, House Committee on Agriculture

The Honorable Collin Peterson
Ranking Member, House Committee on Agriculture

The Honorable Patrick Leahy
Chairman, Senate Committee on the Judiciary

The Honorable Chuck Grassley
Ranking Member, Senate Committee on the Judiciary

The Honorable Lamar S. Smith
Chairman, House Committee on the Judiciary

The Honorable John Conyers, Jr.
Ranking Member, House Committee on the Judiciary

Dear Chairmen and Ranking Members:

The undersigned 164 organizations strongly urge you to make the issues of increased market transparency, fairness, and access for farmers and ranchers a top priority as Congress crafts agricultural competition legislation and the next Farm Bill. We believe that agricultural market competition issues are a shared responsibility between the Committees on Agriculture and the Committees on the Judiciary.

Two years ago, in 2010, U.S. Department of Agriculture joined with the Department of Justice to sponsor workshops across the nation on *Agriculture and Antitrust Enforcement Issues in Our 21st Century Economy*. Thousands of farmers and ranchers testified or submitted comments about the harm arising from market concentration, which results in few buyers in the markets for their products and few sellers for inputs they need for agricultural production. They also raised concerns about:

- vertical integration and lack of bargaining in production contracts;
- growing margins between prices paid to farmers and ranchers and prices paid by consumers for agricultural products; and
- the loss of market transparency and market information, including adequate price discovery.

Their testimony highlighted an unprecedented level of market consolidation in agriculture that has effectively eliminated free market competition to the detriment of independent family farmers and ranchers, as well as consumers. This market consolidation and the lack of free market competition also harms consumers by giving a small handful of corporations the power to limit consumer choice and, ultimately, to reduce product quality and raise prices.

Fair, accessible, and competitive markets are essential for free enterprise. Congress must ensure that the next Farm Bill renews an emphasis on fairness, real competition, small business viability, and equity in the food and farm system. Currently, inadequate federal legislation and the lack of enforcement of antitrust measures already in place allow a handful of corporations to continue to consolidate market power, manipulate prices, and create anti-competitive market structures.

We urge you to champion a strong, comprehensive and improved Livestock Title in the next Farm Bill by taking the following actions:

PROTECT AND IMPROVE GAINS ALREADY MADE, INCLUDING:

1. *Mandatory Country-of-Origin Labeling (COOL):* Consumers want to know where their food is from and U.S. farmers want consumers to have the ability to buy food produced in the United States. The 2008 Farm Bill included country-of-origin labeling requirements for meat, poultry, fruits, vegetables, and nuts. A World Trade Organization panel has ruled that some of these commonsense labels are not compliant with WTO rules. The panel found that the legitimate interest of U.S. citizens in knowing where their food is produced does not justify providing accurate labels regarding the origin of agricultural products imported into the U.S. Congress should stand up for these popular country-of-origin labels and should extend them to cover dairy products.

2. *Stronger Packer & Stockyard Act Safeguards:* The 2008 Farm Bill directed the USDA to implement regulations to clarify and strengthen the protections provided to farmers and ranchers by the Packers & Stockyards Act. In the next Farm Bill, Congress should specifically direct USDA to define and clarify unfair actions and undue preferences that violate the Packers & Stockyards Act. USDA has failed to provide clarity to these terms since enactment of the Act in 1921.

3. *Livestock Mandatory Price Reporting:* The 2008 Farm Bill directed USDA to improve market transparency by enhancing the present system of electronic Livestock Mandatory Price Reporting. In the next Farm Bill, Congress should continue to improve the real-time reporting of livestock price information, including the capture of additional price information on livestock procured through methods that currently evade or distort actual market value of the livestock.

CO-SPONSOR AND SUPPORT ADDITIONAL MEASURES TO ENSURE FAIR AND COMPETITIVE MARKETS FOR FARMERS AND RANCHERS

LIMITS ON PACKER CONTROL/MANIPULATION OF LIVESTOCK MARKETS

1. *Livestock Marketing Reform Act:* This legislation will bring secret, long-term contracts

between packers and producers into the open and create a market for these contracts. The Act will restore competition by making packers (and livestock producers) buy and sell their marketing contracts on open, public markets to which all buyers and sellers have access. Currently, formula contracts and marketing agreements are negotiated in secret, where packers have all the information and power. These formula contracts and agreements depress prices and shut small and independent producers out of markets.

2. *Prohibition on Packer-Owned Livestock:* Mega-meatpackers such as Tyson, Cargill, and Smithfield Foods use packer-owned livestock as a major tool for exerting unfair market power over farmers and ranchers. This practice fosters industrial livestock production and freezes independent farmers out of the markets. Packer ownership of livestock has been proven to artificially lower farmgate prices to farmers and ranchers while consumer food prices continue to rise. By prohibiting direct ownership of livestock by major meatpackers, a ban on packer ownership addresses a significant percentage of the problem of captive supply which packers use to manipulate markets, and would help increase market access for America's independent producers who currently experience great restrictions in market access due in part to packer ownership of livestock.

INCREASED FAIRNESS IN AGRICULTURAL PRODUCTION CONTRACTS AND ACCESS TO MARKETS

3. *Fairness Standards for Agricultural Contracts:* In order to address the worst abuses contained in processor-drafted contracts, legislation that provides a set of minimum standards for contract fairness is urgently needed. Such standards should include at a minimum the following:

- (a) a prohibition of mandatory contract clauses that force growers to limit their access to the courts and trial by jury or other legal rights;
- (b) clear disclosure of producer risks;
- (c) recapture of capital investment so that contracts requiring significant capital investment by the producer, including both an initial investment and any subsequent investments, cannot be capriciously canceled without compensation; and
- (d) a ban on unfair or deceptive trade practices, including “tournaments” or “ranking systems,” in which growers’ pay is determined by the unequal quality of inputs provided by the integrator or packer and growers’ have no certainty about payment until after they have completed their part of the grower contract.

4. *Closing Poultry Loopholes in the Packers & Stockyards Act:* Provide USDA with authority under the PSA to bring enforcement actions against poultry dealers. Currently, the authority for poultry Packers & Stockyards Act cases is split between USDA and the Department of Justice, which has proven to be an inefficient and ineffective approach to enforcement. All poultry producers should have the same basic enforcement protection that is offered to livestock producers when packers and livestock dealers violate the Act.

5. *Bargaining Rights for Contract Farmers:* Loopholes should be closed in the Agricultural Fair Practices Act of 1967 and processors should be required to bargain in good faith with producer organizations. This Act was intended to ensure that livestock and poultry producers could join associations and market their products collectively without fear of retribution by processors. The

Act should include additional measures to promote bargaining rights and prevent processor retaliation.

6. Access to Affordable Seeds and Restrictions on the Use of Patents to Hinder Competition in the Seed Sector: Address practices in the seed industry that reduce competition and raise prices for farmers, including restrictive utility patents, cross-licensing agreements, limited access to germplasm and generic seeds, and the use of patents to undermine competition and stifle scientific innovation in the seed industry.

EFFECTIVE AND COORDINATED ANTITRUST ENFORCEMENT AND POLICY DEVELOPMENT

7. Establish a Special Agricultural Competition Counsel to coordinate and enforce antitrust action and policy in the agriculture, farm, and food sectors: Authorize this Special Competition Counsel to coordinate the patchwork of federal authorities governing anticompetitive, deceptive and manipulative practices across the spectrum of farm and food sectors. The Special Competition Counsel should address the broad landscape of competition issues including inputs, retail and grocery stores, manufactured food, livestock and poultry, contracts, and manipulation of spot and futures prices in commodity markets, as well as coordinate actions among the Department of Justice, Federal Trade Commission, Commodity Futures Trading Commission and USDA.

ADEQUATE MARKET INFORMATION AND TRANSPARENCY FOR PRODUCERS AND CONSUMERS

8. Require USDA to submit a publicly available, user friendly Annual Report to Congress with the concentration ratio - relative to 100 percent - of the top four firms in specific food industry sectors (the CR4): USDA has the resources to keep farmers, ranchers and the public informed about the degree of concentration in our nation's agricultural markets. At a minimum, the Annual Report should include the CR4 for beef packers, beef feedlots, pork packers, pork producers, broiler processors, turkey processors, dairy processors in the U.S. and Canada, animal feed plants, flour milling, soybean crushing, ethanol production, seed marketing firms, and global phosphate, nitrogen, potash and feed phosphate fertilizer companies.

In conclusion, farmers, ranchers, and consumers across the country are asking for legislative reforms to ensure fair markets and a competitive share for family farmers and ranchers of the more than \$1.2 trillion dollars that U.S. consumers spend for food annually. Market reforms remain a key ingredient for rural revitalization and meaningful consumer choice. The reforms summarized above are key to achieving the goals of promoting an economically healthy and diverse agricultural production sector and providing consumers with healthy, affordable food.

Thank you,

Alabama Contract Poultry Growers Association
Alternative Energy Resources Organization (AERO) (MT)
American Agriculture Movement
American Corn Growers Association

American Federation of Government Employees (AFL-CIO), Local 3354, USDA-St. Louis
American Grassfed Association
American Raw Milk Producers Pricing Association

Ashtabula, Geauga, Lake County (OH) Farmers' Union
 Berks (PA) Gas Truth
 Brooklyn Food Coalition (NY)
 Buckeye Quality Beef Association (OH)
 Buy Fresh Buy Local, Greater Lehigh Valley (PA)
 California Dairy Campaign
 California Farmers Union
 Campaign for Contract Agriculture Reform
 Campaign for Family Farms and the Environment
 Carolina Farm Stewardship Association (NC)
 Catholic Charities of Central and Northern Missouri
 Cattle Producers of Louisiana
 Cattle Producers of Washington
 Center for Food Safety
 Center for Media and Democracy's Food Rights Network
 Center for Rural Affairs
 Central Co-op (WA)
 Church Women United of New York State
 Citizens for Private Property Rights (MO)
 Citizens for Sanity.Com, Inc. (FL)
 CJD Foundation
 Colorado Independent CattleGrowers Association
 Community Alliance for Global Justice (WA)
 Community Farm Alliance (KY)
 Community Food Security Coalition
 Contract Poultry Growers Association of the Virginias
 Crawford Stewardship Project (WI)
 Dakota Resource Council
 Dakota Rural Action of SD
 Delmar (NY) Farmers Market
 Delta Land & Community (AR)
 East End Food Co-op (PA)
 East Meets West Garden (OH)
 Eastern Pennsylvania Permaculture Guild
 Ecological Farming Association (CA)
 Endangered Habitats League (CA)
 Environmental Health Watch (OH)
 Fair Food Matters (OH)
 Family Farm Defenders
 Farm Aid
 Farm and Ranch Freedom Alliance
 Farmworker Association of Florida
 Federation of Southern Cooperatives
 First English Lutheran Church (Columbus, OH)
 Food & Water Watch
 Food Chain Workers Alliance
 Food Democracy Now!
 Food First
 Food for Maine's Future
 Food Systems Integrity
 Freedom 21, Inc.
 GardenShare (NY)
 Grassroots International
 Hmong National Development, Inc.
 Hunger Action Los Angeles
 Hunger Action Network of New York State
 Idaho Rural Council
 Illinois Stewardship Alliance
 Independent Beef Association of North Dakota (I-BAND)
 Independent Cattlemen of Nebraska
 Independent Cattlemen of Wyoming
 Institute for Agriculture and Trade Policy
 Institute for Responsible Technology
 International Texas Longhorn Association
 Iowa Citizens for Community Improvement
 Iowa Farmers Union
 Izaak Walton League
 Jefferson City (MO) Diocese Catholic Rural Life
 Johns Hopkins Center for a Livable Future (MD)
 Kansas Cattlemen's Association
 Kansas Rural Center
 Kellyn Foundation (PA)
 Land Stewardship Project (MN)
 Local Matters (OH)
 Maryknoll Office for Global Concerns
 Michael Fields Agricultural Institute (WI)
 Michigan Environmental Council
 Michigan Farmers Union
 Michigan Land Trustees
 Midwest Environmental Advocates (WI)
 Minnesota Farmers Union
 Mississippi Assoc. of Cooperatives
 Mississippi Livestock Markets Association
 Missouri Farmers Union
 Missouri Rural Crisis Center
 Missouri's Best Beef Cooperative
 Mvsokoke Food Sovereignty Initiative (OK)
 National Association of Farm Animal Welfare
 National Catholic Rural Life Conference
 National Family Farm Coalition
 National Farmers Organization
 National Farmers Union
 National Hmong American Farmers, Inc.
 National Latino Farmers & Ranchers Trade Association
 National Organic Coalition
 National Sustainable Agriculture Coalition
 National Young Farmers Coalition
 Nature Abounds (PA)
 Nebraska Farmers Union
 Nebraska Sustainable Agriculture Society
 Nebraska Wildlife Federation
 Nebraska Women Involved in Farm Economics (NE WIFE)
 New Agrarian Center (OH)
 New Mexico Interfaith Power and Light
 North Carolina Association of Black Lawyers
 Land Loss Prevention Project
 Non-GMO Project
 Northeast Organic Dairy Producers Alliance
 Northeast Organic Farming Assoc. - MA
 Northeast Organic Farming Association, Interstate Council
 Northern Plains Resource Council (MT)
 Northwest Atlantic Marine Alliance (MA)
 Oglala Sioux Livestock and Land Owners Association (SD)
 Ohio Conference on Fair Trade
 Ohio Ecological Food and Farm Association
 Ohio Environmental Council
 Ohio Environmental Stewardship Alliance
 Oklahoma Black Historical Research Project

Oregon Livestock Producers Association
Oregon Rural Action
Organic Consumers Association
Organic Farming Research Foundation
Organic Seed Alliance
Organizacion en California de Lideres Campesinas, Inc.
Organization for Competitive Markets
Our Kitchen Table (MI)
Partnership for Earth Spirituality
PCC Natural Markets (WA)
Peach Bottom Concerned Citizens Group (PBCCG) (PA)
People's Food Co-op (MI)
Pesticide Action Network North America
Pesticide Free Zone (CA)
Powder River Basin Resource Council (WY)
Progress Ohio
Progressive Agriculture (PA)
R-CALF United Stockgrowers of America
Rocky Mountain Farmers Union
Rural Advancement Foundation International-USA
(RAFI-USA)
Rural Advancement Fund
Rural Coalition/Coalición Rural

Rural Development Leadership Network
Rural Vermont
Simply Living (OH)
Slow Food Nebraska
Slow Food USA
Small Planet Institute
Socially Responsible Agricultural Project (ID)
South Dakota Stockgrowers Association
Sovereignty International, Inc.
Sustain LA
Sustainable Living Systems
TEDX (The Endocrine Disruption Exchange)
The Cornucopia Institute
The Second Chance Foundation
Tilth Producers of Washington
United Poultry Growers Association (GA)
United Sludge-Free Alliance (PA)
Virginia Association for Biological Farming
Washington Biotechnology Action Council
Western Organization of Resource Councils (WORC)
WhyHunger
Women, Food and Agriculture Network
Women's Environmental Institute