

January 18, 2007

The Honorable Tom Harkin
Chairman, Senate Committee on Agriculture, Forestry and Nutrition

The Honorable Saxby Chambliss
Ranking Member, Senate Committee on Agriculture, Forestry and Nutrition

The Honorable Collin Peterson
Chairman, House Committee on Agriculture

The Honorable Bob Goodlatte
Ranking Member, House Committee on Agriculture

The Honorable Patrick Leahy
Chairman, Senate Committee on the Judiciary

The Honorable Arlen Specter
Ranking Member, Senate Committee on the Judiciary

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

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

Dear Chairmen and Ranking Members:

The over 200 undersigned organizations strongly urge you to make the issues of agricultural competition and market concentration a top priority as Congress considers the crafting of agricultural legislation and the next Farm Bill. During the 2002 Farm Bill debates, public testimony provided clear and compelling evidence of the need for free market competition and fairness for the nation's farmers and ranchers. Since that time these concerns have become even more urgent and prominent in the public eye.

Today, a small handful of corporations overwhelmingly dominate our food supply. The concentration of market control in the top four firms in U.S. food retailing, grain processing, red meat processing, poultry processing, milk processing, and nearly every category of food manufacturing is at an all time high. Corporate mergers and buyouts have concentrated the power of these firms and increased their ability to unfairly manipulate market conditions in their favor. This unprecedented level of horizontal market consolidation effectively eliminates free market competition to the detriment of independent family farmers and consumers.

Compounding the problem associated with horizontal consolidation is the rapid trend toward vertical integration. Manufacturers, processors, and packers increasingly control all stages of production and inventory through commodity ownership and one-sided contracts. This corporate control of production unnecessarily eliminates market transparency, creating an environment ripe for price manipulation and discrimination. It replaces farm-level decision making with centralized corporate planning and leaves farmers trapped in long-term debts tied to short-term, non-negotiable production contracts. In addition, top retailers and packers increasingly engage in relationships with dominant suppliers that exclude smaller competitors and minimize price competition. Because both supply and demand are controlled by the same few players in the market, the basic principles of supply and demand cannot function.

A critical role of government is to ensure fairness by facilitating properly operating markets and balance in the economic relationships among farmers/ranchers, consumers and food companies. Currently, inadequate federal legislation and the lack of enforcement of anti-trust policies allow a handful of corporations to continue to consolidate market power, manipulate prices, and create anti-competitive market structures. Federal government inaction has a dramatic, negative impact on not only farmers and ranchers, but also on rural communities, the environment, food quality, food safety, and consumer prices. It undermines sustainable production practices and state and local laws that support family-scale, sustainable farm and ranch operations.

Policy makers often voice the laudable policy goals of maintaining a diverse, farm-and-ranch-based production sector and providing consumers with a nutritious, affordable food supply. However, government failure to redress industry concentration--both vertical and horizontal--is thwarting these policy goals and driving the earnings of farmers and ranchers down and consumer prices up.

To address these problems, we urge you to champion a strong, comprehensive Competition Title in the 2007 Farm Bill. We also ask that you co-sponsor and support any of the following measures of this comprehensive package if they are introduced as separate or combined bills and to work for speedy congressional consideration of these proposals.

LIMIT PACKER CONTROL/MANIPULATION OF LIVESTOCK MARKETS

1. *Captive Supply 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 Captive Supply Reform Act would restore competition by making packers (and livestock producers) bid against each other to win contracts. 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. The Captive Supply Reform Act would require such contracts to be traded in open, public markets to which all buyers and sellers have access.

2. *Prohibition on Packer-Owned Livestock:* Meat packers 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-owned livestock has been proven to artificially lower farm gate prices to

farmers and ranchers while consumer food prices continue to rise. By prohibiting direct ownership of livestock by major meatpackers, a packer ban 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.

_ INCREASE FAIRNESS IN AGRICULTURAL CONTRACTS AND 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) prohibition of the use of forced, mandatory arbitration clauses, which have been used by some packers or integrators to force growers to give up their access to the courts, even in the case of fraud, breach of contract, misrepresentation or other blatant contract abuses by the integrator or packer firm;
- (b) clear disclosure of producer risks;
- (c) full prohibition on confidentiality clauses;
- (d) recapture of capital investment so that contracts that require a significant capital investment by the producer cannot be capriciously canceled without compensation; and
- (e) a ban on unfair or deceptive trade practices, including "tournament" or "ranking system" payment.

4. *Clarification of "Undue Preferences" in the Packers & Stockyards Act (PSA):* Packers commonly make unjustified, preferential deals that provide unfair economic advantages to large-scale agriculture production over smaller family owned and sustainable farms. Courts have found current undue preference legal standards virtually impossible to enforce. Additional legislative language is needed in the PSA to strengthen the law and clarify that preferential pricing structures (those that provide different prices to different producers) are justified only for real differences in product value or actual and quantifiable differences in acquisition and transaction costs. Specifically, we are asking to:

- (a) Make clear that farmers damaged by packer/processor unfair and deceptive practices need not prove "harm to competition" to receive a remedy.
- (b) Make clear that "pro-competitive effects" or "legitimate business justifications" are not recognized packer defendant defenses, and not necessary for farmer-plaintiffs to prove the absence of, in a court case under the PSA.
- (c) Require courts to award attorneys fees to successful producer plaintiffs under the PSA.

5. *Closing Poultry Loopholes in the Packers & Stockyards Act (PSA):* USDA does not currently have the authority under the PSA to bring enforcement actions against poultry dealers. Poultry producers should have the same basic enforcement protection that is offered to livestock producers when packers and livestock dealers violate the PSA. We seek legislation to clarify that USDA has authority over PSA violations involving poultry dealers in their relations with all poultry growers, including those who raise pullets or breeder hens as well as broiler producers. The PSA enforcement loophole for poultry dealers should be closed.

6. *Bargaining Rights for Contract Farmers:* Loopholes should be closed in the Agricultural Fair Practices Act of 1967 (AFPA) and processors should be required to bargain in good faith with producer organizations. The AFPA was enacted to ensure that livestock and poultry producers could join associations and market their products collectively without fear of retribution by processors. These goals have not been attained due to loopholes in that Act. Retaliation by processors is commonplace in some sectors. Legislation should be enacted that promotes bargaining rights and prevents processor retaliation.

ASSURE ADEQUATE MARKET INFORMATION AND TRANSPARENCY FOR PRODUCERS AND CONSUMERS

7. *Livestock Mandatory Price Reporting:* The Livestock Mandatory Price Reporting Act of 1999 (LMPRA) requires packers, processors, and importers to provide price, contracting, supply and demand information to USDA, which then uses the information to create price reports for livestock producers. Since its implementation, bureaucratic inertia has blocked effective enforcement of the LMPRA and prevented the Act from operating to benefit independent livestock producers. The Government Accountability Office, at the request of Senators Harkin (D-IA) and Grassley (R-IA), has reviewed USDA implementation of the Act. In December 2005, the GAO issued a report documenting lengthy lag times for USDA corrections to missing or incorrect information from packers, and the failure of USDA to inform the public about violations of the Act revealed in USDA audits. The LMPRA was reauthorized in September 2006 without including GAO recommendations to improve the Act. If USDA does not implement these recommendations, Congress should amend the Livestock Mandatory Price Reporting Act in 2007 by incorporating the GAO report recommendations as legislative directives to USDA in implementing the Act.

8. *Mandatory Country of Origin Labeling:* Country of origin labeling (COOL) for beef, lamb, fresh fruits, fish and shellfish was passed as a provision of the 2002 Farm Bill. Mandatory COOL for the fish and shellfish commodities was implemented by USDA in April of 2005, but COOL implementation for all other commodities has been successfully stymied by the meatpackers and retailers. Country of origin labeling is a popular measure that allows consumers to determine where their food is produced and also enables U.S. producers to showcase their products for quality and safety. It also limits the ability of global food companies to source farm products from other countries and pass them off as U.S. in origin. Congress should reauthorize COOL to reiterate its benefits to producers and consumers and should provide funding to ensure that USDA undertakes immediate implementation of COOL.

In conclusion, farmers, ranchers, and consumers across the country are asking for these legislative reforms to ensure fair markets and a competitive share for family farmers and ranchers of the \$900 billion dollars that consumers pay into the food and agriculture economy annually. Market reforms remain a key ingredient for rural revitalization and meaningful consumer choice. The legislative 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.

Sincerely,

A Little Taste of Everything	Catholic Charities Diocese of	Crowley-Kiowa-Lincoln
A Taste of the North Fork	Sioux City, IA	Cattlemen's Association
(NY)	Catholic Charities of	(CO)
Adams County Farmers Union	Chemung /Schuyler Counties	Cumberland Counties for
(ND)	(NY)	Peace & Justice (TN)
Agricultural Missions, Inc.	Catholic Charities of Kansas	Dakota Resource Council
(NY)	City - St. Joseph, Inc.	Dakota Rural Action of SD
Agriculture and Land Based	Catholic Charities of	Delmarva Poultry Justice
Training Association (CA)	Louisville, Parish Social	Alliance
Agriculture of the Middle	Ministry Dept. (KY)	Delta Land and Community,
Alabama Contract Poultry	Catholic Rural Life,	Inc.
Growers Association	Archdiocese of Dubuque, IA	Eagle County Cattlemen's
Alabama Sustainable	Cattle Producers of	Association (CO)
Agriculture Network	Washington	Endangered Habitats League
Alliance for a Sustainable	Center for Food Safety	(CA)
Future (PA)	Center for Earth Spirituality	Environmental Action
Alliance for Sustainable	and Rural Ministry (MN)	Committee of West Marin
Communities (MD)	Center for Popular Research,	(CA)
Alternative Energy Resources	Education and Policy (NY)	Environmental Coalition of
Organization (AERO) -MT	Center for Rural Affairs	Mississippi
American Corn Growers	Central Colorado Cattlemen's	Family Farm Defenders
Association	Association	Family Farms for the Future
American Society of	Chemung County Church	(MO)
Agronomy	Women United (NY)	Farm Aid
Appalachian Crafts (KY)	Chemung County Council of	Farm Fresh Rhode Island
Art & Nature Project (NY)	Churches (NY)	FH King Students of
Beartooth Stock Association	Church Women United of	Sustainable Agriculture at
(MT)	NYS	UW Madison
Berkshire Co-op Market	CitySeed (CT)	First Nations Development
Bird Conservation Network	Community Action Resource	Institute
Blessed Kateri Tekakwitha	Enterprises (OR)	Florida Organic Growers
Region, Secular Franciscan	Community Food Security	Food Alliance (OR)
Order, NYS	Coalition	Food and Water Watch
Bronx Greens	Concerned Citizens of Central	FoodRoutes Network
California Dairy Campaign	Ohio	Foodshed Alliance of the
California Farmers Union	The Cornucopia Institute (WI)	Ridge and Valley (NJ)
California Institute for Rural	Corson County Farmers Union	Friends of Rural Alabama
Studies	(SD)	Georgia Organics
Californians for GE-Free	Court St Joseph #139,	Georgia Poultry Justice
Agriculture	Catholic Daughters of the	Alliance
Campaign for Contract	Americas, Corning (NY)	Global Exchange
Agriculture Reform	Court St Joseph #139,	Government Accountability
Campaign for Family Farms	Corning/Elmira, Catholic	Project
and the Environment	Daughters of the Americas	GRACE/Sustainable Table
Caney Fork Headwaters	(NY)	Grassroots International
Association (TN)	Crop Science Society of	Hahn Natural Foods (PA)
	America	

Harding County Stockgrowers Association (SD)	Kit Carson County Cattlemen's Association (CO)	National Latino Farmers & Ranchers Trade Association
Harvest Co-op Market (MA)	La C.A.S.A. de Llano (TX)	National Organic Coalition
Heartland Center / Office of Peace and Justice for the Diocese of Gary, Indiana	Ladies of Charity of Chemung County (NY)	National Poultry Justice Alliance
Hispanic Farmers and Ranchers of America Inc.	Land Stewardship Project (MN)	Nebraska Farmers Union
Hispanic Organizations Leadership Alliance	Little Seed CSA (NY)	Network for Environmental & Economic Responsibility
Horseheads Grange #1118, Chemung City (NY)	Madera County Cattlemen's Assoc (CA)	Nevada Live Stock Association
Humane Society of the United States	McKenzie City Energies & Taxation Association (ND)	New England Small Farm Institute (NESFI)
Idaho Rural Council	Merced-Mariposa Cattlemen's Association, (CA)	New York Beef Producers Association Southern Tier Region
Illinois Farmers Union	Mesa County Cattlemen's Association (CO)	NY Sustainable Agriculture Working Group
Illinois Stewardship Alliance	Michigan Farmers Union	Nojoqui Ranch Produce (CA)
Independent Beef Association of North Dakota	Midwest Organic and Sustainable Education Service	North Carolina Contract Poultry Growers Association
Independent Cattlemen of Iowa	Minnesota Farmers Union	North Dakota Farmers Union
Independent Cattlemen of Nebraska	The Minnesota Project	Northeast Organic Dairy Producers Alliance
Independent Cattlemen's Association of Texas, Inc.	Mississippi Contract Poultry Growers Association	Northeast Organic Farming Assoc -MA
Indiana Campaign for Economic Justice	Mississippi Livestock Markets Association	Northeast Organic Farming Assoc -NY
Indiana Farmers Union	Missouri Farmers Union	Northeast Organic Farming Assoc-CT
Institute for Agriculture & Trade Policy	Missouri Rural Crisis Center	Northeast Organic Farming Assoc-VT
Institute for Responsible Technology	Montana Cattlemen's Association	Northern Plains Sustainable Agriculture Society
Iowa Citizens for Community Improvement	Montana Farmers Union	Northern Plains Resource Coun (MT)
Iowa Farmers Union	National Campaign for Sustainable Agriculture	NYS Safe Food Coalition
Just Food (NY)	National Catholic Rural Life Conference	Ohio Environmental Council
Just Harvest, Pittsburgh	National Center for Appropriate Technology (NCAT)	Ohio Farmers Union
Kansas Cattlemen's Association	National Family Farm Coalition	Oregon Livestock Producer Association
Kansas City Food Circle	National Farmers Organization	Oregon Tilth Organic Consumers Association
Kansas Farmers Union	National Farmers Union	Organic Seed Alliance (WA)
Kansas Rural Center	National Hmong American Farmers, Inc.	Organization for Competitive Markets
Kerr Center for Sustainable Ag (OK)		

The Partnership for Earth Spirituality (NM)	Social Concerns Office, Diocese of Jefferson City	Washington County Stockmen's Assoc (CO)
Past Regents Club, Diocese of Rochester (NY)	Social Concerns/Rural Life Department, Catholic Charities, Diocese of Sioux City, IA	WA Sustainable Food & Farming Network
PCC Natural Markets (WA)	Soil Association	West Carroll Cattleman Assoc. (LA)
PCC Farmland Trust (WA)	Soil Science Society of America	Western Organizations of Resource Councils
Pennsylvania Association for Sustainable Agriculture	South Dakota District IV Farmers Union	Wisconsin Farmers Union
Pennsylvania Farmers Union	South Dakota Farmers Union	
Perkins County Farmers Union (South Dakota)	South Dakota Stockgrowers Association	
Platte County Farm Bureau (NE)	Southern Colorado Livestock Association	
Powder River Basin Resource Council (WY)	Southern Research & Development Corp. (LA)	
Producers Livestock	Southern Sustainable Ag Working Group	
Provender Alliance (OR)	Spokane County Cattlemen's Association (WA)	
Putting Down Roots (PA)	St John the Baptist Fraternity, Secular Franciscan Order, Elmira NY	
Rainbow Natural Grocery (MS)	Stevens County Cattlemen's Association (WA)	
R-CALF United Stockgrowers of America	Sustainable Agriculture Coalition	
Red Tomato (MA)	Temple Beth El of Flint, Michigan	
Regional Farm and Food Project (NY)	Texas Mexico Border Coalition Community Based Organization	
Rochester Farm Connection (NY)	Tilth Producers of Washington	
Rochester Roots (NY)	United Hmong Association	
Rocky Mountain Farmers Union	The Urban Nutrition Initiative (PA)	
Rural Advancement Foundation International-USA (RAFI-USA)	Utah Farmers Union	
Rural Coalition/Coalición Rural	Valley Stewardship Network (WI)	
Rural Life Committee of the North Dakota Conference of Churches	Virginia Association for Biological Farming	
Selene Whole Foods Co-op (PA)	Washington Cattlemen's Association	
Sevananda Natural Foods Market		
Sierra Club Agriculture Committee		

FOR FURTHER INFORMATION, CONTACT:

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A COPY OF THIS SIGN-ON LETTER AND BACKGROUND INFORMATION ON THE 2007 FARM BILL'S COMPETITION AND CONCENTRATION ISSUES ARE POSTED ON THE NATIONAL CAMPAIGN FOR SUSTAINABLE AGRICULTURE'S WEBSITE AT:
<http://sustainableagriculture.net/CompConc2007.php>.