

EMBARGOED UNTIL THURSDAY, JAN. 18, 9AM

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 undersigned 211 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) 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
 A Taste of the North Fork (NY)
 Adams County Farmers Union (ND)
 Agricultural Missions, Inc. (NY)
 Agriculture and Land Based Training Association (CA)
 Agriculture of the Middle
 Alabama Contract Poultry Growers Association
 Alabama Sustainable Agriculture Network
 Alliance for a Sustainable Future (PA)
 Alliance for Sustainable Communities (MD)
 Alternative Energy Resources Organization (AERO) -MT
 American Corn Growers Association
 American Society of Agronomy
 Appalachian Crafts (KY)
 Art & Nature Project (NY)
 Beartooth Stock Association (MT)
 Berkshire Co-op Market
 Bird Conservation Network
 Blessed Kateri Tekakwitha Region, Secular Franciscan Order, NYS
 Bronx Greens
 California Dairy Campaign
 California Farmers Union
 California Institute for Rural Studies
 Californians for GE-Free Agriculture
 Campaign for Contract Agriculture Reform
 Campaign for Family Farms and the Environment
 Caney Fork Headwaters Association (TN)
 Catholic Charities Diocese of Sioux City, IA
 Catholic Charities of Chemung /Schuyler Counties (NY)
 Catholic Charities of Kansas City - St. Joseph, Inc.
 Catholic Charities of Louisville, Parish Social Ministry Dept. (KY)
 Catholic Rural Life, Archdiocese of Dubuque, IA
 Cattle Producers of Washington
 Center for Food Safety
 Center for Earth Spirituality and Rural Ministry (MN)
 Center for Popular Research, Education and Policy (NY)
 Center for Rural Affairs
 Central Colorado Cattlemen's Association
 Chemung County Church Women United (NY)
 Chemung County Council of Churches (NY)
 Church Women United of NYS
 CitySeed (CT)
 Community Action Resource Enterprises (OR)
 Community Food Security Coalition
 Concerned Citizens of Central Ohio
 The Cornucopia Institute (WI)
 Corson County Farmers Union (SD)
 Court St Joseph #139, Catholic Daughters of the Americas, Corning (NY)
 Court St Joseph #139, Corning/Elmira, Catholic Daughters of the Americas (NY)
 Crop Science Society of America
 Crowley-Kiowa-Lincoln Cattlemen's Association (CO)
 Cumberland Countians for Peace & Justice (TN)
 Dakota Resource Council
 Dakota Rural Action of SD
 Delmarva Poultry Justice Alliance
 Eagle County Cattlemen's Association (CO)
 Endangered Habitats League (CA)
 Environmental Action Committee of West Marin (CA)
 Environmental Coalition of Mississippi
 Family Farm Defenders
 Family Farms for the Future (MO)
 Farm Aid
 Farm Fresh Rhode Island
 FH King Students of Sustainable Agriculture at UW Madison
 First Nations Development Institute
 Florida Organic Growers
 Food Alliance (OR)
 Food and Water Watch
 FoodRoutes Network
 Foodshed Alliance of the Ridge and Valley (NJ)
 Friends of Rural Alabama
 Georgia Organics
 Georgia Poultry Justice Alliance
 Global Exchange
 Government Accountability Project
 GRACE/Sustainable Table
 Grassroots International
 Hahn Natural Foods (PA)
 Harding County Stockgrowers Association (SD)
 Harvest Co-op Market (MA)
 Heartland Center / Office of Peace and Justice for the Diocese of Gary, Indiana
 Hispanic Farmers and Ranchers of America Inc.
 Hispanic Organizations Leadership Alliance
 Horseheads Grange #1118, Chemung Cty (NY)
 Humane Society of the United States
 Idaho Rural Council
 Illinois Farmers Union
 Illinois Stewardship Alliance
 Independent Beef Association of North Dakota
 Independent Cattlemen of Iowa
 Independent Cattlemen of Nebraska
 Independent Cattlemen's Association of Texas, Inc.
 Indiana Campaign for Economic Justice
 Indiana Farmers Union
 Institute for Agriculture & Trade Policy
 Institute for Responsible Technology
 Iowa Citizens for Community Improvement
 Iowa Farmers Union
 Just Food (NY)
 Just Harvest, Pittsburgh
 Kansas Cattlemen's Association
 Kansas City Food Circle
 Kansas Farmers Union
 Kansas Rural Center
 Kerr Center for Sustainable Ag (OK)
 Kit Carson County Cattlemen's Association (CO)
 La C.A.S.A. de Llano (TX)
 Ladies of Charity of Chemung County (NY)
 Land Stewardship Project (MN)
 Little Seed CSA (NY)
 Madera County Cattlemen's Assoc (CA)
 McKenzie Cty Energies & Taxation Association (ND)
 Merced-Mariposa Cattlemen's Association, (CA)
 Mesa County Cattlemen's Association (CO)
 Michigan Farmers Union
 Midwest Organic and Sustainable Education Service
 Minnesota Farmers Union
 The Minnesota Project
 Mississippi Contract Poultry Growers Association
 Mississippi Livestock Markets Association
 Missouri Farmers Union
 Missouri Rural Crisis Center
 Montana Cattlemen's Association
 Montana Farmers Union

National Campaign for Sustainable Agriculture	The Partnership for Earth Spirituality (NM)	Soil Association
National Catholic Rural Life Conference	Past Regents Club, Diocese of Rochester (NY)	Soil Science Society of America
National Center for Appropriate Technology (NCAT)	PCC Natural Markets (WA)	South Dakota District IV Farmers Union
National Family Farm Coalition	PCC Farmland Trust (WA)	South Dakota Farmers Union
National Farmers Organization	Pennsylvania Association for Sustainable Agriculture	South Dakota Stockgrowers Association
National Farmers Union	Pennsylvania Farmers Union	Southern Colorado Livestock Association
National Hmong American Farmers, Inc.	Perkins County Farmers Union (South Dakota)	Southern Research & Development Corp. (LA)
National Latino Farmers & Ranchers Trade Association	Platte County Farm Bureau (NE)	Southern Sustainable Ag Working Group
National Organic Coalition	Powder River Basin Resource Council (WY)	Spokane County Cattlemen's Association (WA)
National Poultry Justice Alliance	Producers Livestock	St John the Baptist Fraternity, Secular Franciscan Order, Elmira NY
Nebraska Farmers Union	Provender Alliance (OR)	Stevens County Cattlemen's Association (WA)
Network for Environmental & Economic Responsibility	Putting Down Roots (PA)	Sustainable Agriculture Coalition
Nevada Live Stock Association	Rainbow Natural Grocery (MS)	Temple Beth El of Flint, Michigan
New England Small Farm Institute (NESFI)	R-CALF United Stockgrowers of America	Texas Mexico Border Coalition Community Based Organization
New York Beef Producers Association Southern Tier Region	Red Tomato (MA)	Tilth Producers of Washington
NY Sustainable Agriculture Working Group	Regional Farm and Food Project (NY)	United Hmong Association
Nojoqui Ranch Produce (CA)	Rochester Farm Connection (NY)	The Urban Nutrition Initiative (PA)
North Carolina Contract Poultry Growers Association	Rochester Roots (NY)	Utah Farmers Union
North Dakota Farmers Union	Rocky Mountain Farmers Union	Valley Stewardship Network (WI)
Northeast Organic Dairy Producers Alliance	Rural Advancement Foundation International-USA (RAFI-USA)	Virginia Association for Biological Farming
Northeast Organic Farming Assoc -MA	Rural Coalition/Coalición Rural	Washington Cattlemen's Association
Northeast Organic Farming Assoc -NY	Rural Life Committee of the North Dakota Conference of Churches	Washington County Stockmen's Assoc (CO)
Northeast Organic Farming Assoc-CT	Selene Whole Foods Co-op (PA)	WA Sustainable Food & Farming Network
Northeast Organic Farming Assoc-VT	Sevananda Natural Foods Market	West Carroll Cattleman Assoc. (LA)
Northern Plains Sustainable Agriculture Society	Sierra Club Agriculture Committee	Western Organizations of Resource Councils
Northern Plains Resource Coun (MT)	Social Concerns Office, Diocese of Jefferson City	Wisconsin Farmers Union
NYS Safe Food Coalition	Social Concerns/Rural Life Department, Catholic Charities, Diocese of Sioux City, IA	
Ohio Environmental Council		
Ohio Farmers Union		
Oregon Livestock Producer Association		
Oregon Tilth		
Organic Consumers Association		
Organic Seed Alliance (WA)		
Organization for Competitive Markets		

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>.