



TESTIMONY OF SCOTT BLUBAUGH
President, Oklahoma Farmers Union
National Farmers Union

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Chairman Scott, Ranking Member Thompson, and members of the House Agriculture Committee, thank you for the opportunity to testify today. My name is Scott Blubaugh. I'm a fifth-generation farmer and rancher from north-central Oklahoma. On our family operation, my father, my son and I grow milo and soybeans and raise purebred and commercial Angus cattle. I'm also the president of Oklahoma Farmers Union, a farm organization representing farmers, ranchers and rural citizens. We are 60,000 members strong and represent a broad cross section of Oklahomans from across the state. In today's proceedings, I represent both Oklahoma Farmers Union and National Farmers Union (NFU).

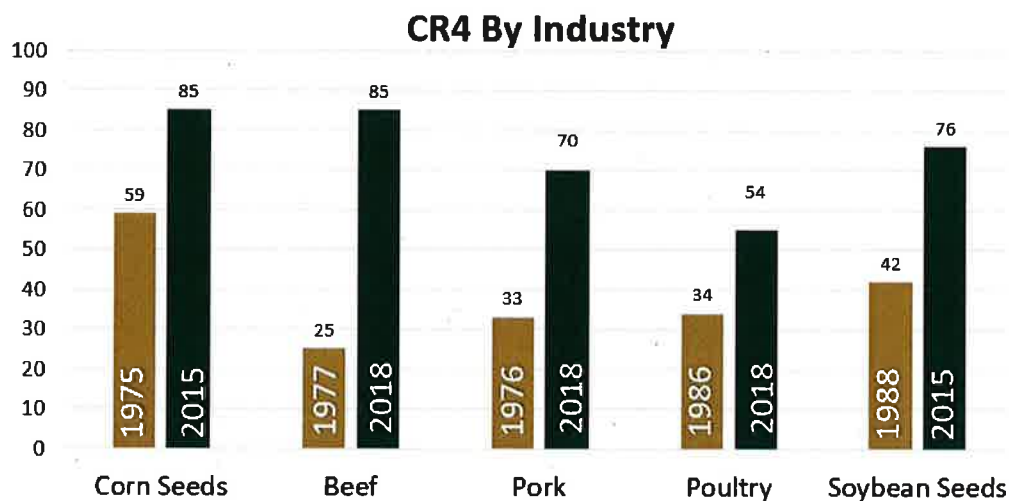
Last month, NFU launched the "Fairness for Farmers" campaign, an endeavor with clear goals: to promote competitive markets and address rampant corporate consolidation in the food and agriculture sectors and in rural economies. Promoting competition has been and continues to be a top priority for NFU because of the detrimental effects of consolidation on farmers, ranchers, and consumers. Today, most sectors in America's farm and food system are heavily consolidated and dominated by a small handful of multinational corporations, but even more so in the livestock industry. In fact, the four largest multinational meatpackers control 54 percent of U.S. poultry processing, 70 percent of U.S. pork processing, and 85 percent of beef packing. Waves of mergers, acquisitions, and insufficient antitrust enforcement followed a shift in public policy attitudes towards antitrust law in the 1970s. As a result, farmers and ranchers have been deprived choices, innovation, fair prices, and fair treatment.

In late July 2021, NFU President Rob Larew testified at a Senate Judiciary Committee hearing focused on competition in the beef industry. Discussion during the hearing showed there is growing bipartisan support for measures seeking to strengthen competition in the nation's heavily concentrated meatpacking industry. We are encouraged by these developments as well as the Biden Administration's recent Executive Order 14036 "Promoting Competition in the American Economy", which is an important commitment to restore fairness to our economy.

There are several ways to ensure a more resilient food supply for consumers and a competitive marketplace for family farmers and ranchers. Across the economy, there must be more scrutiny of buyer power, and regulators must consider the need for robust competition at all links of the supply chain. In the meat and poultry sector, rules must be implemented that reinvigorate the Packers and Stockyards Act (PSA), clearly delineate prohibitions on packers under the PSA, and create needed protections for farmers under contract. Market participants must be provided with reliable information through mandatory price reporting and accurate labeling. Congress must pass a long-term reauthorization of Livestock Mandatory Reporting (LMR), while also instituting reforms to the program to increase transparency and true price discovery. Furthermore, federal and state governments should invest in supporting more market competition in marketing and processing to build a more resilient livestock sector and to ensure greater value accrues to local and regional food systems.

The state of competition in America's farm and food supply chain

Today, a small handful of firms control the market for most farm inputs (such as seed, crop protection, fertilizer, and in equipment manufacturing), processing (including livestock slaughter and processing), food manufacturing, wholesale distribution, food service, and retail grocery. Family farmers and consumers sit on either end of this supply chain and are numerous and decentralized while a small set of large, consolidated firms in the middle of the supply chain wield immense market power. The incentives for firms to merge or acquire rivals are strong, which can increase their bargaining power relative to customers and suppliers. Consolidation, both horizontal and vertical, can help firms exclude smaller rivals from accessing markets, increase barriers to enter markets and compete, allows large rivals to collectively manipulate markets to their shared advantage. The four-firm concentration ratio (CR4), a commonly used metric for measuring the market share of the top four firms in a sector, has risen precipitously among meat packers and poultry processors. Between 1977 and 2018, the CR4 for beef packers slaughtering steers and heifers rose from 25 to 85 percent¹; for pork, the CR4 rose from 33 percent in 1976 to 70 percent in 2018²; for broiler chickens, the CR4 rose from 34 percent in 1986 to 54 percent in 2018.^{3 4} While national-level industry consolidation may be lower for broilers, concentration is higher in localized markets.⁵



*Data compiled by the National Farmers Union from multiple sources

¹ Cai, X., K. W. Stiegert, and S. R. Koontz, "Oligopsony Fed Cattle Pricing: Did Mandatory Price Reporting Increase Meatpacker Market Power?" Proceedings of the NCCC-134 Conference on Applied Commodity Price Analysis, Forecasting and Market Risk Management. St. Louis, MO. https://legacy.farmdoc.illinois.edu/nccc134/conf_2011/pdf/confp24-11.pdf

² Clement E. Ward, "Economics of Competition in the U.S. Livestock Industry," January 2010. <https://www.justice.gov/sites/default/files/atr/legacy/2011/09/09/AGW-15639-a.pdf>

³ Joel Greene, "USDA's GIPSA Rule on Livestock & Poultry Marketing Practices." Congressional Research Service, 2016.

https://www.everycrsreport.com/files/20160107_R41673_e1d67b445c928f46a6b23a04c38d116fdb819c93.pdf

⁴ USDA, Agricultural Marketing Service (AMS), Packers and Stockyards Division, "Annual Report 2019." <https://www.ams.usda.gov/sites/default/files/media/PSDAnnualReport2019.pdf>

⁵ James M. MacDonald, "Technology, Organization, and Financial Performance in U.S. Broiler Production" (U.S. Department of Agriculture Economic Research Service, 2014), https://www.ers.usda.gov/webdocs/publications/43869/48159_eib126.pdf?v=0

The rise in consolidation and decline in competition we see today in America's food supply chain has several explanations. In part, the issue has been the result of a shift in thinking regarding the interpretation of our existing antitrust laws.⁶ This, in turn, has led to anemic merger enforcement across the supply chain. As companies have gotten larger and competition has declined, anticompetitive conduct by dominant firms has received insufficient scrutiny.⁷ Additionally, with respect to livestock and poultry, the PSA has seen significant failures in enforcement.⁸ Despite direction from Congress in the 2008 Farm Bill to develop new rules to clarify the PSA, the more robust regulations that were promulgated – the “Farmer Fair Practices” rules – were either not finalized or shelved,⁹ and a subsequent rule that was finalized provides no meaningful protections for farmers.¹⁰

Lastly, the lack of competition in the livestock sector has a profound impact on consumers. Grocery prices are rising, and meat prices are rising higher than other retail food items. For the past 12 months, overall food prices increased 3.7%, led by increases in beef.¹¹ Despite the seemingly bounty of choices in food products and brands available to consumers at supermarkets, this is generally an illusion. For instance, Tyson's sells products under 38 separate retail brands.¹²

Examining competition in the livestock sector

While there are some important differences between the structure of the industries that produce cattle, hogs, and poultry, farmers and ranchers raising these livestock all face a shared challenge: slaughter and processing sectors that are more concentrated today than they were several decades ago. In addition to the consolidation among the major packers and processors, the number of cattle feeding operations in the top 13 cattle feeding states declined approximately 40 percent between the 1970s and the 1990s, despite a relatively stable number of fed cattle marketed during this period.¹³ There has also been a shift toward greater alternative marketing arrangements (AMAs) and a thinning cash or spot market which gives packers greater control over the cattle supply. AMAs in the form of formula pricing averaged nearly 65 percent of total fed cattle procurement, compared to about 45 percent a decade earlier. By

⁶ Tim Wu, *The Curse of Bigness: Antitrust in the New Gilded Age*, 2018.

⁷ Diana L. Moss and Laura Alexander, “When COVID-19 is the Symptom and Not the Disease: Consolidation, Competition, and Breakdowns in Food Supply Chains,” *American Antitrust Institute*, May 7, 2020.

⁸ United States Government Accountability Office (GAO), Testimony before the Committee on Agriculture, Nutrition, and Forestry, United States Senate, “Packers and Stockyards Programs: Continuing Problems with GIPSA Investigations of Competitive Practices,” March 9, 2006. <https://www.gao.gov/assets/gao-06-532t.pdf>

⁹ National Farmers Union, “NFU Deeply Disappointed by USDA Decision to Terminate Farmer Fair Practices Rules,” October 17, 2017. <https://nfu.org/2017/10/17/nfu-deeply-disappointed-by-usda-decision-to-terminate-farmer-fair-practices-rules-2/>

¹⁰ National Farmers Union, “Rule Fails to Protect Farmers from Discriminatory Practices, According to Farmers Union,” December 10, 2020. <https://nfu.org/2020/12/10/rule-fails-to-protect-farmers-from-discriminatory-practices-according-to-farmers-union/>

¹¹ U.S. Bureau of Labor Statistics, Consumer Price Index Summary of September 14, 2021. <https://www.bls.gov/news.release/cpi.nr0.htm>

¹² www.tysonfoods.com/our-brands

¹³ United States General Accounting Office, “Beef Industry: Packer Market Concentration and Cattle Prices,” December 1990, GAO/RCED-91-29. <https://www.gao.gov/assets/rced-91-28.pdf>

comparison, the negotiated grid and cash market for fed cattle declined to an average of about 24 percent nationally in 2019, compared to over 45 percent in 2009.¹⁴

Heavy corporate consolidation in beef packing, and the shift toward fewer, very large plants, makes the industry more vulnerable to shocks. This puts producers at greater risk of experiencing lower prices and consumers are more likely to see high prices at retail. In the weeks and months following the fire that shut down the Tyson beef packing plant in Holcomb, Kansas, in August 2019, the spread between Choice boxed beef cutout values and fed cattle prices reached record levels.¹⁵ The plant at the time ranked as one of the eight largest plants in the United States in terms of daily harvest capacity; the fire eliminated approximately 30,000 head per week of capacity. While the company was ultimately able to shift some production to other plants, the event precipitated market reactions that lowered prices paid to ranchers, and increased prices for consumers, for several months.^{16 17} Additionally, in July 2020, following disruptions caused by the COVID-19 pandemic, the price received for steers and heifers dropped below \$100 per cwt., which had not happened at any other time since 2012.¹⁸

While many variables influence the prices for farm products and the retail cost of food, the large price swings caused by recent disruptions are in large part a function of disrupted supply chains. The vulnerability of these supply chains to shocks is a feature of the extreme concentration in the middle of the supply chain between farmers and consumers. The rapid consolidation of packing and processing, driven by mergers and acquisitions by the Big Four, made the supply chain prone to breakdowns and bottlenecks. This, in turn, put more pressure on farmers and ranchers, who often operate on razor-thin margins. Significant price declines and volatile markets can threaten their livelihoods.

Packers and Stockyards Act (PSA) reform

The PSA is meant to assure fair competition, safeguard farmers and ranchers, and protect consumers, from unfair, deceptive, and unjustly discriminatory and monopolistic practices of the meat and poultry industries. Unfortunately, the PSA has been underenforced.¹⁹ NFU is heartened that President Biden's executive order on competition both reaffirms the government's commitment to the principles that led

¹⁴ USDA, Agricultural Marketing Service (AMS), Packers and Stockyards Division, "Annual Report 2019." <https://www.ams.usda.gov/sites/default/files/media/PSDAnnualReport2019.pdf>

¹⁵ USDA Agricultural Marketing Service (AMS), "Boxed beef and fed cattle price spread investigation report," July 22, 2020. <https://www.ams.usda.gov/sites/default/files/media/CattleandBeefPriceMarginReport.pdf>

¹⁶ "The smoldering impact of Tyson's Holcomb fire," *Meat+Poultry*, October 14, 2019. <https://www.meatpoultry.com/articles/22036-the-smoldering-impact-of-tyson-holcomb-fire>

¹⁷ Elliott Dennis, "A historical perspective on the Holcomb fire: Differences and similarities to the COVID-19 situation and other significant market events," September 11, 2020. <https://farm.unl.edu/historical-perspective-holcomb-fire-differences-and-similarities-covid-19-situation-and-other>

¹⁸ USDA, NASS, "Prices Received: Cattle Prices Received by Month, US," September 30, 2021. https://www.nass.usda.gov/Charts_and_Maps/Agricultural_Prices/priceca.php

¹⁹ United States Government Accountability Office (GAO), Testimony before the Committee on Agriculture, Nutrition, and Forestry, United States Senate, "Packers and Stockyards Programs: Continuing Problems with GIPSA Investigations of Competitive Practices," March 9, 2006. <https://www.gao.gov/assets/gao-06-532t.pdf>

to the passage of the PSA and specifically mentions the need for the Secretary of Agriculture to initiate rulemakings under the PSA “to address the unfair treatment of farmers and improve conditions of competition in markets for their products.”²⁰ Furthermore, USDA has signaled that it will take action to strengthen the PSA.²¹

USDA should establish and clearly state through the rulemaking process that it is not necessary to show a competitive injury broadly to find an action of a packer, swine contractor, or live poultry dealer to be unlawful under the PSA. As USDA has repeatedly argued in court cases, the unambiguous language of section 202(a) and (b) of the PSA does not require any proof of an adverse effect on competition or of restraint of commerce or trade. The legislative history of the PSA shows that Congress intended to prohibit actions that give undue and unreasonable preferences without regard to whether they restrain trade, create a monopoly or control prices.

Additionally, we were encouraged to see USDA released a recent FAQ Sheet on the steps they plan to take in revisiting the final rule with respect to “undue or unreasonable preference or advantage,” which failed to provide meaningful protections for producers, instead enshrining unfair, anti-competitive behavior already employed by the industry.²² Specifically, USDA should clarify that a “reasonable business decision” cannot justify an undue preference or advantage.

More generally, the update to the PSA should provide greater clarity about what practices in the meat and poultry industries constitute unfair, unjustly discriminatory, or deceptive practices, and thus violate the PSA. Especially close attention should be paid to prohibiting unfair practices regarding grower ranking systems or “tournaments.” PSA rulemaking should also institute anti-retaliation protections that help ensure farmers’ right to association and so that farmers can speak up about unfair treatment without fear of retribution.

Price-fixing in the livestock and poultry industries

Concentrated market structures also increase opportunities for market manipulation and coordinated behavior. There has been a spate of price fixing litigation brought against major livestock industry companies since 2016, with multiple indictments and guilty pleas. Allegations have touched all three major meat sectors – beef cattle, pork, and broiler chickens.

²⁰ Executive order 14036 of July 9, 2021, “Promoting Competition in the American Economy,” Federal Register Vol. 86, No. 132, July 14, 2021.

²¹ “USDA to Begin Work to Strengthen Enforcement of the Packers and Stockyards Act,” *USDA*, June 11, 2021. <https://www.usda.gov/media/press-releases/2021/06/11/usda-begin-work-strengthen-enforcement-packers-and-stockyards-act>

²² USDA Agricultural Marketing Service, “Frequently Asked Questions on the Enforcement of Undue and Unreasonable Preferences Under the Packers and Stockyards Act.” <https://www.ams.usda.gov/rules-regulations/packers-and-stockyards-act/faq>

Accusations of collusion began to shadow the broiler chicken industry in late 2016 with the filing of the Maplevale lawsuit.²³ The suit alleged that large poultry companies coordinated prices between 2008 and 2016, resulting in a 50 percent price increase for broiler chickens, despite a roughly 20 to 23 percent decrease in input costs over the same period.²⁴ There have been several follow-on suits from other companies that purchase poultry making the same allegations.

The Department of Justice (DOJ) later intervened in the Maplevale case, and in June 2020 the first indictments of chicken-industry executives related to the case were announced.²⁵ In October 2020, Pilgrim's Pride, which is majority owned by JBS, plead guilty to one count of conspiracy in restraint of competition, and agreed to pay a fine of \$110.5 million.²⁶ Additional settlements by chicken companies about price-fixing claims followed,²⁷ and an indictment, of Claxton Poultry Farms, followed in May 2021.²⁸ Multiple lawsuits were also brought against beef packers²⁹ and the pork industry³⁰ in August 2019. In the case of pork, multiple settlements were subsequently announced, including \$24.5 million from JBS in December 2020, another \$20 million in March 2021, and \$12.75 million in April 2021. It was announced in June 2021 that Smithfield Foods would pay \$83 million to settle its case.³¹ Most recently, Tyson Foods agreed to pay \$221.5 million to settle several private lawsuits brought forward by poultry farmers.

These instances of market manipulation are a symptom of concentrated markets. While the pursuit of these cases by federal regulators is a welcome development, the need for these actions is a product of the existing lax antitrust laws and their underenforcement. In addition to buttressing the PSA, ensuring more transparency in markets, and promoting competition and new market opportunities, federal regulators must vigorously enforce existing antitrust laws. We support legislative efforts to address these issues as well, most notably the Competition and Antitrust Law Enforcement Reform Act of 2021, authored by Sen. Amy Klobuchar of Minnesota, which would increase enforcement resources, strengthen prohibitions on mergers, and commission studies into past and future mergers.

²³ Maplevale Farms, Inc. vs. defendants; case: 1:16-cv-08637, United States District Court for the Northern District of Illinois, <https://www.locklaw.com/wp-content/uploads/assets/090216-complaint-maplevale-farms.pdf>

²⁴ Leah Douglas, "Justice Dept. intervenes in major poultry price-fixing case," *FERN*, June 24, 2019.

²⁵ Brent Kendall and Jacob Bunge, "Chicken Industry Executives, Including Pilgrim's Pride CEO, Indicted on Price-Fixing Charges," *Wall Street Journal*, June 3, 2020. <https://www.wsj.com/articles/chicken-industry-executives-including-pilgrim-s-pride-ceo-indicted-for-price-fixing-11591202113>

²⁶ Pilgrim's Pride Corporation, Quarterly Report Pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934, for the period ended September 27, 2020. <https://ir.pilgrims.com/static-files/4f802b29-38d5-4474-8581-6a12d0b545b1?source=email>

²⁷ Lillianna Byington, "Pilgrim's Pride pleads guilty to price fixing with DOJ and agrees to pay \$108M fine," *FoodDive*, January 11, 2021, updated February 24, 2021. <https://www.fooddive.com/news/pilgrims-pride-to-pay-75m-price-fixing-settlement-to-chicken-buyers/593154/>

²⁸ Department of Justice, "Broiler chicken producer indicted for price fixing and big rigging," May 20, 2021. <https://www.justice.gov/opa/pr/broiler-chicken-producer-indicted-price-fixing-and-bid-rigging>

²⁹ Leah Douglas, "Multiple lawsuits allege price-fixing by big beef companies," *FERN*, October 28, 2019. https://thefern.org/ag_insider/multiple-lawsuits-allege-price-fixing-by-big-beef-companies/

³⁰ Leah Douglas, "More antitrust lawsuits hit the meat industry. This time, it's pork," *FERN*, November 7, 2019. https://thefern.org/ag_insider/more-antitrust-lawsuits-hit-the-meat-industry-this-time-its-pork/

³¹ Jessi Devenyns, "Smithfield Foods will pay \$83M to settle pork price-fixing claims," *FoodDive*, Nov 6, 2020, updated June 30, 2021. <https://www.fooddive.com/news/jbs-settles-a-portion-of-pork-price-fixing-lawsuit/588514/>

Supply chain disruptions

Livestock slaughter and processing is heavily consolidated. Today, there are approximately 835 federally inspected slaughter facilities and 1,938 other slaughter facilities in the United States.³² In 1968, there were nearly 10,000 total slaughtering establishments across the country.³³ As the number of plants decreased, many remaining plants have become bigger; for example, just 50 plants slaughter and process 98 percent of all cattle in the United States.³⁴ While these larger plants may create certain efficiencies, they also create serious supply chain vulnerabilities.

During the COVID-19 pandemic, extreme concentration in agricultural supply chains was most evident in the disruption in the meat and poultry industries, where the closures or slowdowns at several massive meatpacking plants resulted in lost markets for farmers, constrained supplies, and higher prices for consumers. As of September 2, 2021, nearly 60,000 meatpacking plant workers at 581 meatpacking plants tested positive for COVID-19.³⁵ Many of these cases were part of outbreaks that led to temporary closures, greatly reducing processing capacity. At the peak of closures, beef and pork facilities were operating at 25 percent³⁶ and 40 percent³⁷ below average, respectively. This bottleneck stranded farmers with animals that were market-ready but had nowhere to go, leading to euthanized animals and depressed prices.

As noted earlier in this testimony, a telling example of the potential consequences of supply chain vulnerabilities, even before the COVID-19 pandemic, was the at Tyson Foods' Holcomb, Kansas, beef processing plant for months. A more recent demonstration of supply chain vulnerabilities was the cyberattack in late May and early June of 2021 that shuttered plants operated by the world's largest meat processor. JBS, which controls approximately one fifth of U.S. cattle slaughter, was hacked by a Russian-based ransomware group, forcing all nine of its beef plants in the U.S. offline.³⁸ JBS's poultry and

³² "Livestock Slaughter: 2019 Summary," *USDA National Agricultural Statistics Service (NASS)*, April 2020, <https://downloads.usda.library.cornell.edu/usda-esmis/files/r207tp32d/34850245n/5712mr72x/lsan0420.pdf>

³³ "Livestock Slaughter: 1969," *USDA Statistical Reporting Service*, April 1970. <https://downloads.usda.library.cornell.edu/usda-esmis/files/r207tp32d/ht24wp48q/9k41zj37t/LiveSlauSu-04-00-1970.pdf>

³⁴ Michael Corkery and David Yaffe-Bellany, "The Food Chain's Weakest Link: Slaughterhouses," *The New York Times*, April 18, 2020, <https://www.nytimes.com/2020/04/18/business/coronavirus-meat-slaughterhouses.html>

³⁵ Leah Douglas, "Mapping COVID-19 outbreaks in the food system," *Food and Environment Reporting Network*, April 22, 2020, accessed October 1, 2021, <https://thefern.org/2020/04/mapping-covid-19-in-meat-and-food-processing-plants/>

³⁶ Laura Reiley, "Meat processing plants are closing due to COVID-19 outbreaks. Beef shortfalls may follow." *The Washington Post*, April 16, 2020, <https://www.washingtonpost.com/business/2020/04/16/meat-processing-plants-are-closing-due-covid-19-outbreaks-beef-shortfalls-may-follow/>

³⁷ Laura Reiley, "Tyson says nation's pork production is down 50%, despite Trump's order to keep meat plants open," *The Washington Post*, May 4, 2020, <https://www.washingtonpost.com/business/2020/05/04/tyson-says-nations-pork-production-is-down-50-despite-trumps-order-keep-meat-plants-open/>

³⁸ Rebecca Robbins, "Meat processor JBS paid \$11 million in ransom to hackers," *New York Times*, June 9, 2021. <https://www.nytimes.com/2021/06/09/business/jbs-cyberattack-ransom.html>

pork plants were disrupted as well.³⁹ Once again, we could see the effects of this break in the supply chain reflected by the higher consumer prices and backlogs that ultimately impact ranchers.⁴⁰

Facilitating competition and more diverse market opportunities

The COVID-19 pandemic highlighted how large, seemingly efficient systems of production can falter when there are shocks to those systems. Local and regional food systems also faced disruptions but were often better positioned to adapt rapidly to new conditions and protect against shocks, given their shorter supply chains and more direct connection to consumers.⁴¹ Thus, there is a need to strengthen infrastructure and grow linkages within local and regional food systems, which would promote greater competition in farm and food supply chains. In today's market, many livestock producers are forced to schedule access to slaughter facilities years in advance and have no choice but to transport their livestock hundreds of miles to the nearest facility. Farmers Union members and state divisions, including Oklahoma, have worked to achieve greater access to state and local funds for new marketing options.⁴²

Thankfully, action is being taken on this front. Recently, USDA announced an investment of more than \$150 million to help existing small and very small processing facilities weather the challenges they have faced because of the COVID-19 pandemic as well as expand capacity.⁴³ USDA also announced its intention to invest \$500 million in American Rescue Plan funds to expand meat and poultry processing capacity. Additionally, we salute Congress for the passage of legislation that includes the concepts of the RAMP-UP Act, shepherded in part by Oklahoma Congressman Frank Lucas, that will help fund the construction of new small-scale processing plants and the retrofitting of existing plants already online to required federal inspection standards.

In Oklahoma, we have had a front-row view of how this type of targeted financial assistance can impact small processing plant capacity. With funds provided by the first Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Oklahoma Governor Kevin Stitt dedicated \$10 million towards this very

³⁹ Julie Creswell, Nicole Perlroth and Noam Scheiber, "Ransomware disrupts meat plants in latest attack on critical U.S. business," *New York Times*, June 1, 2021.

⁴⁰ Jacob Bunge, "Meat buyers scramble after cyberattack hobbles JBS," *Wall Street Journal*, June 2, 2021. <https://www.wsj.com/articles/meatpacker-jbs-hit-by-cyberattack-affecting-north-american-australian-operations-11622548864>

⁴¹ Dawn Thilmany, Elizabeth Canales, Sarah A. Low, and Kathryn Boys, "Local Food Supply Chain Dynamics and Resilience during COVID-19," *Applied Economic Perspectives and Policy*, October 26, 2020. <https://onlinelibrary.wiley.com/doi/10.1002/aep.13121>

⁴² <https://www.wisconsinfarmersunion.com/processing>

⁴³ Approximately \$55 million is dedicated to the new Meat and Poultry Inspection Readiness Grant (MPIRG) program and includes the Planning for a Federal Grant of Inspection (PFGI) project for processing facilities currently in operation and working toward Federal inspection, as well as the Cooperative Interstate Shipment (CIS) Compliance project for processing facilities located in states with a Food Safety and Inspection Service (FSIS) CIS program. Another \$100 million is dedicated to helping small and very small processing facilities deal with overtime inspection fees incurred due to increased slaughter and processing demand during the COVID-19 pandemic. More here: <https://www.usda.gov/media/press-releases/2021/06/21/usda-invests-552-million-grants-increase-capacity-and-expand-access>.

successful effort. The grant initiative received 196 applications that represented more than \$100 million in request needs.⁴⁴ Ultimately, the \$10 million was awarded to 40 separate projects—nine brand new facilities and the expansion of 31 existing facilities.⁴⁵ The overall result is an increase in total in-state processing capacity of 350 head of cattle and hogs per week, plus the addition of poultry and small food animal processing. The additional capacity created a total of 170 new jobs, most of which are in rural areas of Oklahoma.

Dialing in on the impact this program has had on rural Oklahoma communities: Last year, an Oklahoma Farmers Union family opened a new small-scale processing plant in the tiny town of Council Hill, Okla. Watson Farms Meat Processing & Market, LLC, is a farmer-owned facility that created 10 new jobs with a capacity of 128 head per month. The Watson family processes their own animals, along with the animals of their farmer neighbors, and the facility's retail counter only sells this locally-sourced beef and pork. The business has been so successful, the Watsons will soon open a secondary retail location.

Between the CARES Act funds and some additional private sector investment, it is expected—by the end of the year—there will be 19 new small and medium processing facilities online in our state.⁴⁶ It is evident the initiative was very successful—we just need more of it. Based on the number of grant requests and the success of completed projects, it is clear the interest and the need is there to decentralize processing, spread the risk, put more funds in producers' pockets and create these jobs in rural communities that help stabilize and enhance rural America.

In addition to the CARES Act processing grants, additional state efforts to create and support small-scale processing include: funding positions for more state inspectors, training of skilled processing labor through CareerTech curriculum development and a mobile processing trailer, training of prison inmates, and enhancement of junior college processing facilities for educational training. All these efforts are in response to a workforce shortage in Oklahoma's meat processing industry.

Included in these efforts, CareerTech and the Oklahoma Department of Agriculture, Food and Forestry (ODAFF) launched a statewide program to provide both online and hands-on training in meat processing. Hands-on training is now offered at 11 high schools, three technology schools and five skills centers statewide.⁴⁷

⁴⁴ Oklahoma Department of Agriculture, Food and Forestry, "195 Meat Processing Grant Applicants Received for \$10 Million." August 18, 2020. <https://ag.ok.gov/195-meat-processing-grant-applicants-received-for-10-million/>

⁴⁵ Oklahoma Farm Report, "CARES Act Money for Meat Processing Improvements Going to Forty Oklahoma Companies." September 2, 2020. http://www.oklahomafarmreport.com/wire/news/2020/09/00088_ODAFFGrantMoneyMeatProcessing09022020_044803.php#.YVdn2JrMKUI

⁴⁶ Oklahoma Farm Report, "Ag Secretary Blayne Arthur Sees Two Big Hurdles for Oklahoma Beef Producers." July 28, 2021. http://www.oklahomafarmreport.com/wire/news/2021/07/01256_BlayneArthur07282021Top_145434.php#.YVdodJrMKUI

⁴⁷ Oklahoma CareerTech, "Meat Processing Workforce Education." Accessed October 1, 2021. <https://www.okcareertech.org/educators/resource-center/meat-processing-workforce-education>

Also adding to Oklahoma's processing capacity are our tribal neighbors. The Quapaw Nation led efforts before the pandemic with the construction of a state-of-the-art processing plant.⁴⁸ The Osage Nation has recently opened a new processing facility. Larger tribes, including the Cherokee Nation, Choctaw Nation and Chickasaw Nation, are pursuing their own processing initiatives to first serve their own tribal needs, then also assisting their neighbors in animal processing.⁴⁹

Even with this increase in small-scale processing capacity, a great deal of frustration still exists with respect to lack of inspectors—both state and federal. When new plants are waiting to go online, it is often the last roadblock to completing the mission. On the surface, the lack of inspectors may seem separate from the competition issue, but it's directly tied. Small- and medium-sized plants are competing for the same inspectors as larger plants, but large plants seem to get priority. Putting jobs at the local level and building greater rural capacity can only be achieved if an adequate number of inspectors are trained and working.

For beef producers hoping to find an alternative to selling their product to a major meatpacker, the lack of inspectors is just one more hurdle to success. There continues to be a tremendous backlog for processing. During the early stages of the pandemic, Oklahoma producers were waiting up to nearly 24 months for processing dates. That wait time has been reduced, but even with increased in-state processing capacity, it can still be from six months to one year to wait for a spot to have an animal processed.

Continued investment in local processing opportunities for cattle stockmen will help rural communities and give consumers additional choices at competitive or even lower prices. USDA should continue its work to develop detailed guidance to help new or existing small meat and poultry slaughter and/or processing establishments comply with regulations, and to evaluate how current regulations or fees may create unnecessary barriers for those facilities that may seek federal inspection. Investment of financial and technical resources to expand meat processing training programs is sorely needed, and USDA should prioritize this in future efforts. The department should also facilitate the development of mobile slaughter units that can fill gaps in slaughter where appropriate. When offering financial assistance to the development of new processing facilities, particular emphasis ought to be placed on producer- or worker-owned cooperative business structures. Finally, USDA should ensure it is setting up new or expanded plants for success, including by taking steps to prevent the use of predatory practices by dominant market participants.

⁴⁸ Allison Herrera, "The Quapaw tribe hopes a cattle slaughterhouse will provide jobs in rural Oklahoma." *The World*, January 31, 2018. <https://www.pri.org/stories/2018-01-31/quapaw-tribe-hopes-cattle-slaughterhouse-will-provide-jobs-rural-oklahoma>

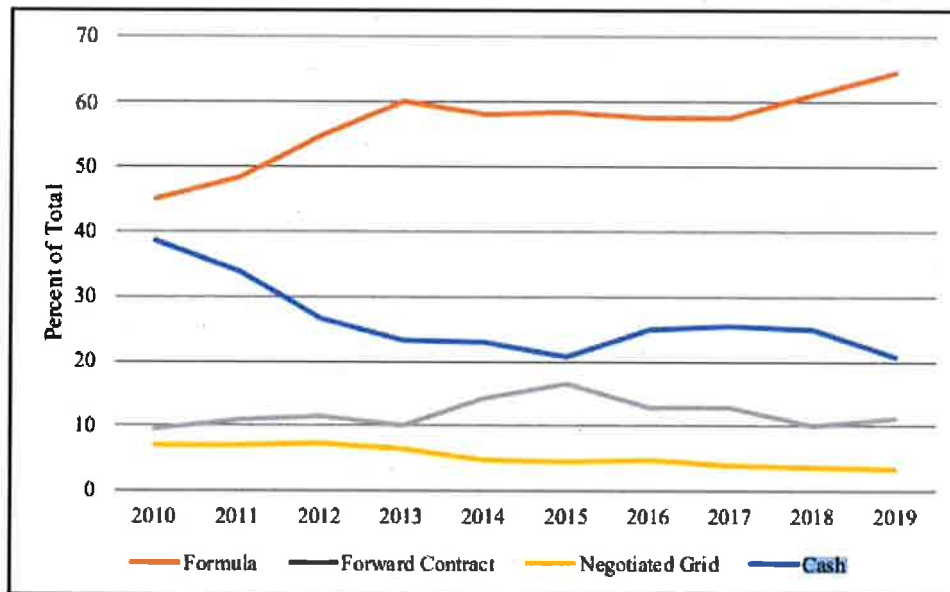
⁴⁹ Greg Henderson, "Oklahoma Tribes Will Open Meat Plants." *Drovers*, October 16, 2020. <https://www.drovers.com/news/oklahoma-tribes-will-open-meat-plants>

Reliable, accurate, and robust market information

Fair and competitive markets rely upon transparency and equitable access to reliable and accurate information. For farmers and ranchers to bargain effectively with packers and integrators, they need true price transparency in the marketplace. For consumers to make informed choices about the food they are buying, labels need to accurately represent the nature of the product. Shortcomings in price discovery and reporting must be addressed, as well as inaccurate origin labeling.

Fed cattle procurement has continued to trend toward formula pricing and other AMAs, and away from the cash market. Congress passed the Livestock Mandatory Reporting Act (LMRA) in 1999 in response to concerns about AMAs as well as rising concentration in the meat packing industry. LMRA resulted in mandatory price reporting of most transactions for livestock, and it has been renewed and amended multiple times.⁵⁰ While LMR has been beneficial for price discovery in general, the continued erosion of the cash market for cattle is undermining its benefits. There is also relatively little price transparency in hogs and poultry, where cash markets have dwindled or been eliminated altogether.

Fed Cattle by Procurement Type: 2010 - 2019



*From: USDA, Agricultural Marketing Service (AMS), Packers and Stockyards Division, "Annual Report 2019."

USDA found that on a week-to-week basis higher levels of AMA procurement is associated with lower negotiated cash prices. Ultimately, AMA prices are also negatively impacted, because many packer pricing formulas and contract prices are based on cash markets prices. This trend toward thinner and thinner cash markets is eroding cash and AMA prices alike.⁵¹

⁵⁰ Mathews, Brorsen, Hahn, Arnade, and Dohlman, "Mandatory Price Reporting, Market Efficiency, and Price Discovery in Livestock Markets," *USDA, Economic Research Service (ERS)*, LPDM-254-01, September 2015.

⁵¹ USDA, Grain Inspection, Packers and Stockyards Administration (GIPSA), "Investigation of Beef Packers' Use of Alternative Marketing Arrangements," July 2014.

Packers prefer AMAs because they can reduce procurement and transaction costs and allow plants to operate closer to capacity more consistently. AMAs can also help sellers lock in prices, guarantee market access, and reduce transaction costs. However, the fact that AMAs are eroding price discovery and depressing cash market prices for fed cattle (and in turn, AMA prices), is cause for concern. The near elimination of a cash market for hogs, and the complete elimination of a cash market for poultry – and the negative implications for growers – should also give cattle market participants pause.

Problems with price discovery in cattle markets and the erosion of prices due to the ascension of AMAs should be addressed, in part, by establishing a minimum level of cash transactions in the marketplace. Since AMAs are known to erode cash prices, and since base prices for AMAs are themselves typically based on the cash market, a too thinly traded cash market is susceptible to manipulation and will result in producer prices that are lower than they otherwise would be with a more robust cash market.

Furthermore, a cattle contract library should be established to help provide greater knowledge of the different contract provisions between packers and producer. This will help independent ranchers negotiate more favorable terms. Another concern in market openness is how a lack of consistency has reduced the effectiveness of LMR due to the withholding of information because of confidentiality concerns. These issues must be addressed for LMR to be an effective price discovery tool for producers.

Truth-in-labeling

Fair and competitive markets also require product labels that are truthful. A supply chain that contains false or misleading product labels puts domestic producers at a competitive disadvantage while preventing consumers from making fully informed decisions about the products they buy. Farmers and ranchers want to provide consumers with accurate information about the origins of the food they purchase and consume, and federal labeling laws should support farmers in achieving that goal. Moreover, consumers consistently express a desire to know the origin of their food. A 2017 poll demonstrates that 89 percent of a representative sample of American adults favored requiring retailers to indicate on the package label the country of origin of fresh meat they sell.⁵² More recently, a survey of a representative sample of American adults showed that 87 percent of American think that beef and pork should have a label listing its country of origin, with fairly consistent support across age groups, party identification, and areas of residence (rural, suburban, and urban).⁵³

⁵² Consumer Federation of America. “Large Majority of American Strongly Support Requiring Origin Information on Fresh Meat.” July 24, 2017. https://consumerfed.org/press_release/large-majority-of-americans-strongly-support-requiring-origin-information-on-fresh-meat/

⁵³ Lake Research Partners. “Results from a National Online Survey Around Rural and Agricultural Issues.” Designed by Lake Research Partners, administered by CARAVAN in a national online omnibus survey. Conducted July 20-31, 2020, using a demographically representative sample of Americans 18 years of age or older.

Truthful and accurate voluntary labels are important to producers and helpful for consumers, but voluntary labeling is not a replacement or substitute for mandatory COOL. The misuse of voluntary product label claims, including “Product of USA” and “Made in USA,” are highly misleading to consumers and financially harmful to family farmers and ranchers.

Currently, the U.S. Department of Agriculture (USDA) Food Safety and Inspection Service (FSIS) Food Standards and Labeling Policy Book presents standards that do not require a meat product to be born, raised, and slaughtered in the U.S. to be labeled “Product of USA.”⁵⁴ The standard allows imported animals that are processed in the U.S. at USDA-inspected slaughter facilities to be labeled as “Product of USA.” Due to the significant number of cattle imported from Canada and Mexico, many beef products of foreign origin are being represented with some variation of a “Made in USA” claim.

We urge the Federal Trade Commission to finalize and enforce this rule; FSIS should then follow suit by amending its meat labeling standards to reflect FTC’s recommendation that all or virtually all ingredients in a product must be made and sourced in the United States to carry a label that indicates it was ‘Made in the U.S.A.

Furthermore, NFU has been a stalwart proponent of mandatory country-of-origin labeling (COOL) for meat. NFU policy states that mandatory COOL “is a valuable marketing tool for producers, and it allows consumers to know where the meat products they consume are born, raised, slaughtered, and processed.”⁵⁵ We are particularly pleased to see renewed efforts to reinstate mandatory COOL, most notably represented by the American Beef Labeling Act, and look forward to working with this committee to see to it that this important policy can be brought back into force.

Conclusion

The farm and food supply chain – and the meat and poultry sector in particular – has become highly consolidated and uncompetitive, much to the detriment of family farmers, ranchers, rural communities, and consumers in Oklahoma and across the country. Strong action by this committee, other lawmakers, and the administration is needed to address these serious problems.

Thank you for the opportunity to testify at today’s hearing. I appreciate the committee’s attention to this important issue and look forward to answering any of your questions.

⁵⁴ USDA-FSIS, Office of Policy, Program and Employee Development. *Food Standards and Labeling Policy Book*. August 2005. <https://www.fsis.usda.gov/wps/wcm/connect/7c48be3e-e516-4ccf-a2d5-b95a128f04ae/Labeling-Policy-Book.pdf?MOD=AJPERES>

⁵⁵ National Farmers Union, *Policy of the National Farmers Union*, March 2021.