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**Statement by
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Chairwoman Stabenow and Ranking Member Boozman, and members of the Committee, thank you for the opportunity to discuss the serious challenges facing our producers as the Senate Committee on Agriculture, Nutrition, and Forestry considers the Cattle Price Discovery and Transparency Act of 2022 (S. 4030) and the Meat and Poultry Special Investigator Act of 2022 (S. 3870). Ensuring that producers, feeders, and local and regional meat processors alike have access to fair and competitive markets is a top priority for the Department of Agriculture, and we are exploring both existing and new authorities to tackle this critical issue. We are committed to using our existing authorities to the full extent possible, and we are very pleased that there is bipartisan interest in Congress in tackling these pressing problems. The Department of Agriculture is fully committed to the goals underpinning these bills—making livestock and poultry markets fairer and more transparent.

Livestock and poultry are some of American agriculture’s most important markets, with cattle contributing more than \$66 billion in cash receipts in 2021,¹ and the combined value of production from broilers, eggs, turkeys, and the sales from chickens at \$48.1 billion in 2021.² These industries are undoubtedly economic drivers and job creators in rural areas; they are also part of the fabric of rural life—cow-calf operators, auctioneers, and meat and poultry processors have been in rural areas for hundreds of years and have defined parts of rural American culture. Yet, an increasingly rigid and consolidated industry structure has lowered farmer and rancher earning power and given rise to serious concerns about anticompetitive practices that harm independent producers. Four meat packing companies capture nearly 85 percent of beef sales nationally, and small and very small meat packing plants find it too difficult to compete. Concentration at the local level—where cattle procurement takes place—is, in most cases, even higher.³

¹ <https://www.ers.usda.gov/topics/animal-products/cattle-beef/sector-at-a-glance/>

² <https://data.ers.usda.gov/reports.aspx?ID=17832>

³ Using data on cattle purchases collected by AMS under Mandatory Prices Reporting (MPR), the HHI (Herfindahl–Hirschman Index) are calculated for beef cattle purchases based on their regional origin. The regions are based on the 5-areas of the AMS 5-Area Weekly Weighted Average Fed Cattle reports. These regional HHI values are then compared to the nationally calculated HHI.

The result is a limited set of markets for cow-calf operators and feeders, who are left with fewer options for selling their cattle and greater risks of an unfair playing field. Fifty years ago, ranchers got over 60 cents of every dollar a consumer spent on beef, compared to about 39 cents today.⁴

Limited competition also creates serious supply chain risks. This fragile market structure was exposed when plant closures due to the Holcomb fire and the beginning of COVID-19 further widened the gap between consumer prices and the price of fed cattle. Meat packing companies have brought home extraordinary profits, while producer earnings decline.⁵ Since the beginning of the pandemic, the “Big Four” packing companies increased gross profit shares by 120 percent and net income has surged by 500 percent.⁶ While input costs are rising, that does not explain those skyrocketing profits. Profit margins—the amount packers are making over and above their costs—have skyrocketed too, with gross margins up 50 percent and net margins up 300 percent.⁷ The poultry industry faces equally troubling market conditions. As of the last available data, roughly 20 percent of growers had just one integrator in their area, another 30 percent had only two, and another 20 percent had only three.⁸ Hog markets are nearly entirely vertically integrated

Table 1: Adjusted HHI for Purchases from Different Regions (All Purchase Types) Feb. 2020-2021.

	CO	IA, MN	KS	NE	Other	TX, OK, NM	All States
Purchase Shares	8.1%	11.6%	23.9%	20.6%	15.0%	20.9%	100.0%
Head	3,841	1,703	3,026	2,060	2,702	2,296	1,882
Purchases	3,831	1,697	3,063	2,049	2,616	2,277	1,864
Adjusted to account for the purchase by packers that are in P&S data but not MPR data due to MPR excluding packers with less than 125,000 from reporting. This difference represents 6.33 percent in unreported sales.							

Table 2. Adjusted HHI for Purchases from Different Origins (Negotiated Sales) Feb. 2020-21

	CO	IA, MN	KS	NE	Other States	TX, OK, NM	All States
Head	3,484	1,743	2,218	2,412	2,124	3,317	1,776
Purchases	3,488	1,734	2,221	2,377	2,106	3,262	1,758

Iowa & Minnesota register HHI levels only slightly below the national level of approximately 1800.

Note, AMS cannot release *weekly* regional HHI because of confidentiality concerns.

Source: USDA-AMS Market News, Feb. 2022.

⁴ <https://www.whitehouse.gov/briefing-room/statements-releases/2022/01/03/fact-sheet-the-biden-harris-action-plan-for-a-fairer-more-competitive-and-more-resilient-meat-and-poultry-supply-chain/>

⁵ <https://www.whitehouse.gov/briefing-room/blog/2021/12/10/recent-data-show-dominant-meat-processing-companies-are-taking-advantage-of-market-power-to-raise-prices-and-grow-profit-margins/>

⁶ <https://www.whitehouse.gov/briefing-room/blog/2021/12/10/recent-data-show-dominant-meat-processing-companies-are-taking-advantage-of-market-power-to-raise-prices-and-grow-profit-margins/>

⁷ <https://www.whitehouse.gov/briefing-room/blog/2021/12/10/recent-data-show-dominant-meat-processing-companies-are-taking-advantage-of-market-power-to-raise-prices-and-grow-profit-margins/>

⁸ https://www.ers.usda.gov/webdocs/publications/43869/48159_eib126.pdf?v=0

as well, with cash markets below 2 percent nationally and packer ownership also giving rise to significant concerns about fairness and preferences.

The Biden-Harris Administration and the Department of Agriculture know how important competition in the meat and poultry processing industry are to all of America. Fair and competitive markets directly impact American families' affordable and equitable access to food, the ability of farmers and ranchers who feed the country to secure a fair price for their product, and the availability of economic opportunity that is vital for rural America to thrive. In many cases, competition concerns also raises national security concerns about the resiliency of our food supply chain.⁹

Today's competition challenge was many decades in the making. Turning the tide will require short, medium, and long-term solutions, all with the goals of helping producers remain profitable enough to stay on the farm and ensuring that consumers feel the pocketbook benefits of meaningful competition. Under President Biden's Executive Order on Promoting Competition in America's Economy,¹⁰ USDA is deploying every tool available to deliver choice, competition, and resiliency to producers, consumers, and rural economies alike.

Pandemic Assistance for Producers

In the short term, in the midst of COVID, President Biden and the Department of Agriculture took immediate action to support producers during the pandemic, so that producers could stay afloat and stay on their land.

USDA has made available \$270 million in payments to contract producers of eligible livestock and poultry, \$350 million in additional dairy assistance related to market volatility, and more than \$43 million in assistance for those who had to depopulate livestock and poultry due to insufficient processing access related to COVID backups. We also made available millions to lower inspection fees and support small processors better compete in the very immediate term.

Ensuring short-term viability of farmers and ranchers through COVID-19 was and remains critical to supporting long-term sustainable markets.

Fairer, More Competitive, and More Resilient Markets

The Biden-Harris Administration is also committed to medium- and long-term actions to improve the resiliency and competitiveness of our meat and poultry supply chain. USDA is strengthening America's food system with a greater focus on more resilient local and regional food production, building new markets and streams of income for farmer and ranchers, and supporting local and regional meat and poultry processing infrastructure that promotes competition and gives farmers and ranchers more and better options. In February 2021, President Biden signed Executive Order 14017, America's Supply Chains, which directed USDA to

⁹ <https://www.ams.usda.gov/supply-chain>

¹⁰ <https://www.federalregister.gov/documents/2021/07/14/2021-15069/promoting-competition-in-the-american-economy>

produce a first-of-its-kind industrial base review of agricultural and food supply chains, the results of which were published in February 2022.¹¹

The review identified and highlighted vulnerabilities and weaknesses exacerbated by the COVID-19 pandemic and resulting supply chain disruptions that, in many cases, have existed for decades. Meat and poultry processing supply chains highlight a fragile, rigid supply chain that leaves our food supply vulnerable to economic shocks, consumers vulnerable to price hikes, and producers vulnerable to unfair market practices. USDA is working to fundamentally change and improve America's food system to create more, better and fairer markets for producers and consumers alike.

The Biden-Harris Administration is addressing supply chain disruptions the agricultural sector experienced during the pandemic and identified a wide range of improvements that will produce a more diversified food system that more fairly serves farmers, ranchers and consumers. We are grateful for Congress' investment in the American Rescue Plan Act to support resilient supply chains and new and better markets. In January 2022, President Biden, Secretary Vilsack, and Attorney General Garland announced the Biden-Harris Action Plan for a Fairer, More Competitive, and More Resilient Meat and Poultry Supply Chain,¹² a multibillion-dollar, coordinated, and multifaceted plan that will boost competition in food processing by expanding capacity and creating more market options for producers.¹³ This plan includes gap financing grants to bring new capacity online quickly, enhanced access to capital, workforce training, technical assistance, inspection and food safety support, and research and innovation funding. USDA recently announced the launch of two programs to help increase processing capacity—the Meat and Poultry Inspection Readiness Grant program and the Meat and Poultry Processing Expansion Program. These programs will help existing plants prepare to apply for federal inspection status and will create or expand local and regional meat and poultry processing plants, respectively. The Department also announced the Meat and Poultry Processing Capacity Technical Assistance Program, which will provide technical assistance to meat and poultry grant applicants and grant-funded projects.

In December, USDA also launched a program to make more than \$1 billion in loan guarantees available to help businesses in the food supply chain process their products and get them to market. The new Food Supply Chain Guaranteed Loan Program will help local and regional meat and poultry processors and other food businesses that are active in the middle of the food supply chain, like manufacturing, storage, transportation, and distribution.

This suite of programs will help get at some of the root issues hindering the creation and expansion of competitive, midsized meat and poultry processing capacity—including access to

¹¹ <https://www.ams.usda.gov/supply-chain>

¹² <https://www.whitehouse.gov/briefing-room/statements-releases/2022/01/03/fact-sheet-the-biden-harris-action-plan-for-a-fairer-more-competitive-and-more-resilient-meat-and-poultry-supply-chain/>

¹³ <https://www.whitehouse.gov/briefing-room/statements-releases/2022/01/03/fact-sheet-the-biden-harris-action-plan-for-a-fairer-more-competitive-and-more-resilient-meat-and-poultry-supply-chain/>

capital and technical assistance to apply for programming. By supporting these programs, USDA aims to promote more and better markets and contribute toward a more competitive, resilient industry. Collectively, these efforts will also support the strong Administration and Congressional interest in Made in America policies by increasing domestic production and creating good-paying jobs in underserved rural communities.

Strengthening Rules and Oversight to Protect Farmers, Ranchers, and Consumers

Together with our partners at the Department of Justice, the Federal Trade Commission, and other member agencies of the White House Competition Council and across the Federal government, USDA is also pursuing initiatives to adopt and enforce rules and enhance analysis and oversight to ensure fair and competitive markets in livestock and poultry, seeds and other agricultural inputs, retail grocery and distribution, and more.

To date, USDA has launched efforts including:

- A review now underway of important consumer-facing labels such as “Product of USA” for meat.¹⁴
- The development of new rules under the Packers and Stockyards Act, USDA’s century-old fair and competitive markets law, to establish a modern regime that counters unfair and anti-competitive practices and protects the rights of farmers and ranchers.¹⁵
- An enhanced partnership with the Department of Justice to enforce antitrust laws vigorously and fairly, including standing up a new one-stop shop at FarmerFairness.gov to make it easier to report complaints of potential violations.¹⁶
- Public inquiries into new competition challenges, including—
 - Food retail and distribution concentration and access to those markets for farmers and smaller food processors;
 - Whether patents, concentration, and anticompetitive practices inhibit farmers’ access to affordable seeds and other inputs; and
 - Concentration and anticompetitive practices in fertilizer markets.¹⁷
- New initiatives to address supply chain constraints and promote competition in transportation networks that producers depend on.¹⁸

Legislative Review

The Department of Agriculture has provided more than forty hours of technical assistance to the Committee and the sponsors of S. 4030 and S. 3871 on these proposals. Importantly, the bills

¹⁴ <https://www.usda.gov/media/press-releases/2021/07/01/usda-announces-efforts-promote-transparency-product-usa-labeling>

¹⁵ <https://www.usda.gov/media/press-releases/2021/06/11/usda-begin-work-strengthen-enforcement-packers-and-stockyards-act>.

¹⁶ <https://www.usda.gov/media/press-releases/2022/01/03/agriculture-department-and-justice-department-issue-shared>.

¹⁷ <https://www.ams.usda.gov/about-ams/fair-competitive/rfi>.

¹⁸ <https://www.fns.usda.gov/news-room/usda-0209.21>.

under consideration today seek to add tools to the USDA toolkit for addressing markets that lack fairness, transparency, and competition.

The Meat Packing Special Investigator Act would establish a new position and office at USDA with enhanced authorities to enforce the Packers and Stockyards Act. Appropriately resourced, the new position would be a focal point for accountability and enhance enforcement.

The Cattle Transparency and Price Discovery Act aims to enhance the Livestock Mandatory Reporting Act framework to promote transparency, price discovery, and competitive leverage for cattle producers.

The rapid rate of decline of cash markets and the rise of opaque private agreements raises serious concerns about the erosion of price discovery and transparency. It also underscores imbalances in the marketplace. At a practical level, producers feel unable to obtain prices that are the product of free and fair negotiation—especially when one considers the high level of concentration in meatpacking often experienced at the local procurement level.

The proposal would:

- Establish a new cattle contract library to provide producers new insights into the range of alternative marketing arrangements.
- Establish a framework of “approved pricing mechanisms” through which a minimum number of trades would be required to flow. Approved pricing mechanisms would offer packers and producers a set of choices for open, transparent markets to price cattle, including cash negotiation, negotiated grids, exchange platforms, and stockyards. The Secretary of Agriculture would have the flexibility to set these levels.

These bills importantly aim to provide new tools to help level the playing field for American’s producers and make our cattle and poultry markets more competitive, transparent, and fair. If these bills become law, USDA will implement them carefully, effectively, and transparently in partnership with Congress.

Conclusion

USDA is committed to transforming the food system and strengthening rural communities fairly, equitably, and transparently. As the Senate Agriculture Committee considers proposals to address these important issues, the Department of Agriculture stands ready to provide technical assistance and work with Congress to support a level playing field for producers, feeders, local and regional meat processors, and consumers. Thank you for your time, and we look forward to answering any questions you may have.