

Congress of the United States
Washington, DC 20510

July 30, 2019

The Honorable Greg Ibach
Under Secretary, Marketing and Regulatory Programs
United States Department of Agriculture
1400 Independence Ave., SW
Washington, D.C. 20228

Under Secretary Ibach:

We write regarding the Administration's recently announced rulemaking process to address the undue preferences provision of the Packers and Stockyards Act. Under the Packers and Stockyards Act, meatpackers, swine contractors and poultry companies are prohibited from providing "undue or unreasonable preferences or advantages" to any grower. It is our understanding that your rulemaking will provide clarification about how the Secretary intends to enforce this provision. We urge you to ensure that any draft rule prioritizes the rights of America's small independent cattlemen, hog producers, and contract poultry growers.

Family farmers and ranchers are vital to the strength of rural America. They provide the food security that America needs to thrive and create jobs in small towns across the country. Unfortunately, the economic trend for small family farmers and ranchers is lower prices for their goods, higher costs for inputs and fewer choices. The profits from production agriculture are flowing to large multi-national meat and poultry processing corporations and away from rural America. This will only get worse as these large corporations continue to consolidate and put the survival of family farms and ranches behind profits and share prices.

That's why it's critically important for USDA to limit the control and influence of meatpackers and poultry companies and provide recourse for small producers facing predatory practices. As you begin to draft the proposed rule, we strongly encourage you to address the following:

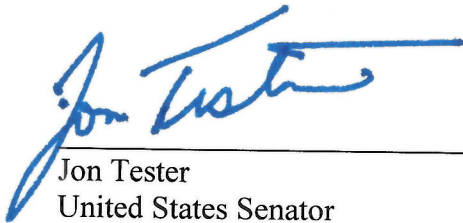
- Currently, producers who publicly express concerns about meat and poultry industry contracting practices often suffer economically devastating retaliation. As a result, growers and ranchers are not in a position to advocate for themselves and are vulnerable if they express their concerns to USDA or Congress. We urge you to protect the rights of farmers to join together in producer associations to advocate for themselves, free from retribution.
- Under the Packers and Stockyard Act, some courts have ruled that livestock and poultry farmers who have been harmed by meat or poultry company practices cannot bring a case in court unless they also show harm to the entire sector. Other courts have agreed with USDA in ruling that a demonstration of harm to competition across the sector is not

required by the law. Your rulemaking should clarify the long-standing USDA position, that the Packers and Stockyards Act does not require a demonstration of harm to competition across the entire sector.

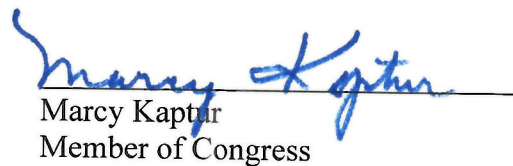
- Large meatpackers disadvantage smaller, independent livestock feeders by offering more lucrative marketing arrangements to larger, select livestock feeders. Small independent farmers and ranchers are unable to participate in such deals and often see their profit margins slashed. USDA should ensure packers are not providing such preferential marketing arrangements to only a select group of large livestock feeders while excluding opportunities for smaller, independent feeders to remain profitable.
- The tournament system, which is used to pay contract growers based on inputs, is tightly regulated by poultry companies and is not straightforward for producers. Grower payment systems should be objective and transparent and reward growers for their management skills, not penalize them for factors outside of their control.

We look forward to working with you on these issues to ensure we can level the playing field for rural producers. Thank you for your consideration.

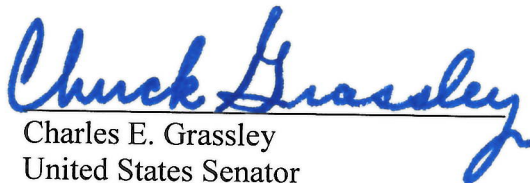
Sincerely,



Jon Tester
United States Senator



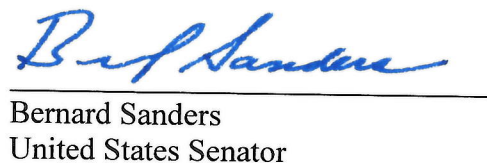
Marcy Kaptur
Member of Congress



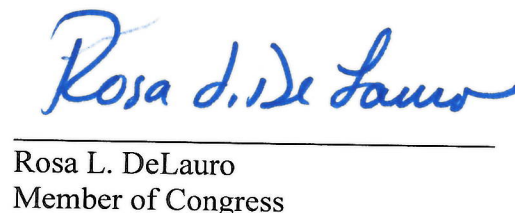
Charles E. Grassley
United States Senator



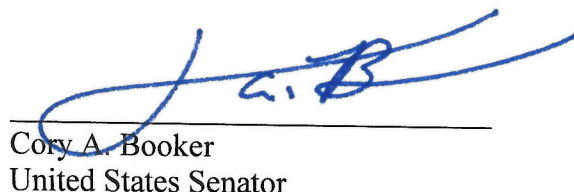
Tim Ryan
Member of Congress



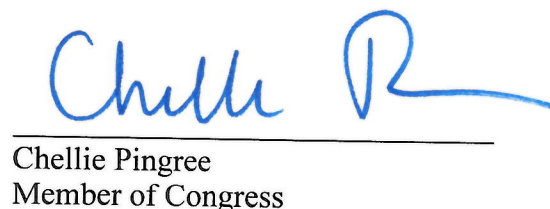
Bernard Sanders
United States Senator



Rosa L. DeLauro
Member of Congress



Cory A. Booker
United States Senator



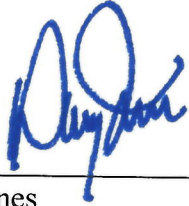
Chellie Pingree
Member of Congress



Joe Manchin III
United States Senator



Ro Khanna
Member of Congress



Doug Jones
United States Senator



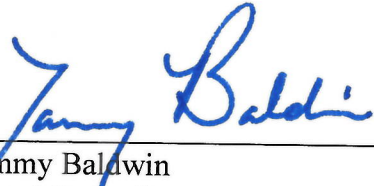
Mark Pocan
Member of Congress



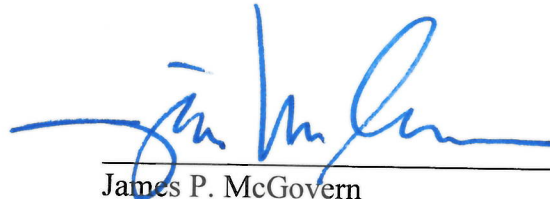
Sherrod Brown
United States Senator



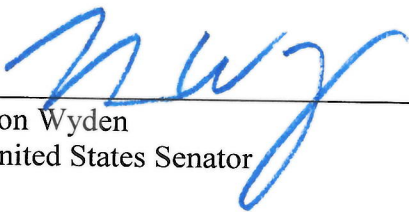
Earl Blumenauer
Member of Congress



Tammy Baldwin
United States Senator



James P. McGovern
Member of Congress



Ron Wyden
United States Senator