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Organization for Competitive Markets

Member Newsletter

Fighting for Economic Justice for America's Family Farmers and Ranchers

International Spotlight

Seamus Maye Takes on the Irish Beef Cartel

By Katherine Un

In this issue we bring you a profile of a valued ally who works to defend independent agriculture in Ireland: Seamus Maye. We met Seamus in 2019 when he traveled to OCM's 21st Annual Food and Agriculture Conference. Seamus is the founder of an organization called the International Small Business Alliance (ISBA). ISBA was set up to create one powerful voice for small business through the creation of media and political awareness in order to combat the abusive practices of cartels and dominant firms. ISBA has worked on competition issues throughout Ireland, U.K, mainland Europe, Australasia and the U.S.

Seamus Maye, left, with Jane Gibson, Don Stull, and John Ikerd

Seamus' passion for independent business and competitive markets emanates from personal experience. At the young age of 24, Seamus took over his father's concrete business. He was met by a wall of corruption and criminality. In the farming and ranching sector, we are suffocated by the outsized power of corporations like JBS, Tyson, and Smithfield. The equivalent behemoth in the concrete sector is CRH plc. CRH plc is Ireland's largest company across all sectors. It's the United

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INSIDE

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States' largest construction materials company and the 3rd largest construction materials company worldwide. In a 2012 article, Seamus wrote that "the CRH plc story is essentially a tale of how a small group of businessmen hijacked the democratic process, enslaved the body politic, forged massive influence over the banking sector and for decades engaged in an unprecedented campaign of corporate bullying, aided and abetted by a captive State."

It started with the all too familiar revolving door back in 1969, when recently retired Irish Premier, Sean Lemass became the first Chairperson of the new Cement Roadstone Holdings, through a merger that ran counter to the Irish Constitution, and which gave CRH plc a vice like grip on the Irish construction materials market. The rest, as they say is history.

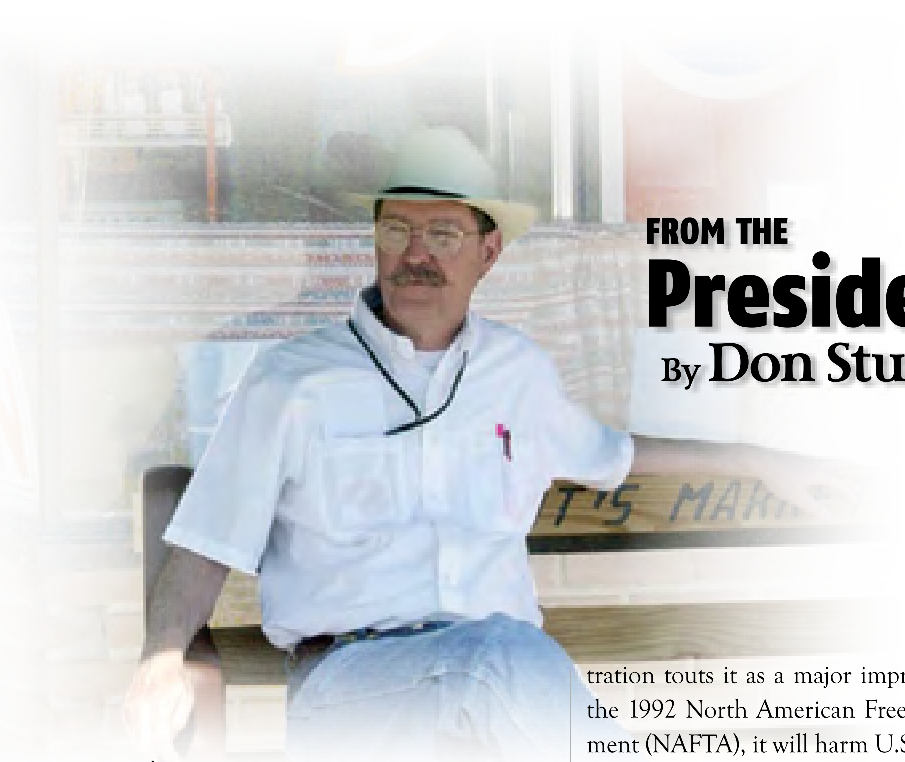
CRH used its political power to gain a policy-protected monopoly position in the cement and industrial explosives sectors. These monopolies allowed it to reap super-normal profits that could be used to subsidize price wars in other sectors, namely in concrete block, readymix and asphalt production. This anti-competitive behavior eliminated all independent concrete producers. From the beginning of his business experience, Seamus was engaged, in spite of himself, in an uphill struggle against undue corporate power. He is now in the 24th year of a titanic legal battle against CRH plc and its associates under Irish Competition Law.

In parallel with his legal battle, Seamus turned his energy towards the defense of truly competitive markets worldwide. His research and advocacy cover many areas, including agriculture, banking, and the Irish beef sector. The specific policy mechanisms might differ, but the story of the Irish beef farmer will sound eerily familiar to our American farm families. Ireland is the 5th largest exporter of beef and yet, the Irish beef farmer is faced with an economically unsustainable situation. They are squeezed between, on the one hand, high input and investment prices and, on the other, predatory practices from meatpackers and retailers. Small and medium operations are particularly vulnerable. If that wasn't enough of a struggle, the farmer - not the input producer, the meatpacker, or the retailer - is made to shoulder the vast majority of agriculture's externalities. On their own, the Irish farmer must ensure the cleanliness of water, the welfare of livestock, and the conservation of Irish grasslands, while being blamed and penalized for climate change.

While farm families struggle to uphold the Irish beef tradition, Ireland's meatpackers indulge in anti-competitive practices and abuses of power. Ireland's major meatpacking corporation is called ABP. Not unlike the practices exposed during JBS' rotten meat scandal, ABP has been found to arrange lesser-than-usual custom inspections for its plants. When Secretary Sonny Perdue refused to acknowledge JBS' wrongdoings and funneled $100 million+ in U.S. taxpayer monies meant for struggling American farmers to the Brazilian corporate giant, the Irish Prime Minister ignored customs investigations warnings that ABP's operation were strongly suspected of involvement in fraud and endorsed ABP for millions in Irish and European grants and State aid.

The Irish beef sector is worth two billion dollars, of which, because of unfair markets, the Irish beef farmer does not see a single dime. About the same time in the fall of 2019 when OCM brought together 500 American farmers and ranchers in Omaha, NE to demand #FairCattleMarkets, Irish beef farmers held an eight-week protest at the gates of meat processing plants to demand fair cattle prices. Seamus is now at the forefront in efforts to redress the balance of power in the Irish beef sector in the wake of the protests.

OCM looks forward to working with Seamus and continuing to connect with other leaders around the world to expose and break the stranglehold of corporate greed on our farm and food systems. Learn more about Seamus and his work with the following resources: Ireland – Democracy or Corpocracy | TEDxLongford, Banking, Building and Beef: The cozy cabal in Ireland with Seamus Maye | Grand Torino



FROM THE
President
By **Don Stull**

As we kick off a new year and a brand new decade, OCM is fully staffed and raring to go. *Angela Huffman* became OCM's executive director on January 1. Not long thereafter we selected *Ben Gotschall* as our director of policy and research. Ben was 10 years old when he started his own cattle herd on his family's ranch in Nebraska's Sandhills. Since then, he has worked as a herdsman, manager, and owner of beef and dairy cattle herds in Nebraska and Missouri. Ben's academic training is in creative writing, and he has worked as a researcher for several nonprofit organizations. Ben's skills and experience complement those of OCM's other staff: Angela Huffman, executive director; *Katherine Un*, outreach and engagement manager; and *Pat Craycraft*, office manager. Together our team will carry forward OCM's fight for fair and competitive agricultural and food markets.

And a long and difficult struggle it will be.

As I was writing this letter, the U.S.-Mexico-Canada Agreement (USMCA), already approved by Mexico and passed by the U.S. Senate, was signed by President Trump. It still must be ratified by Canada before taking effect, however. Although the administration touts it as a major improvement over the 1992 North American Free Trade Agreement (NAFTA), it will harm U.S. farmers and ranchers as it fuels the steady march of industrial agriculture toward vertical integration and consolidation. Take dairy, for example. USMCA is projected to increase U.S. dairy exports to Canada from 1% to 3.6%. But dairy consumption is in decline in Canada (as it is in the U.S.), and USMCA will only disrupt Canada's dairy management policy and drive Canadian dairy producers out of business.

Between 1970 and 2011, the number of dairy farms in the United States plummeted by 88 percent. Most of the farms that went out of business were in traditional dairy states like Wisconsin, Vermont, and New York, and were small, milking fewer than 200 cows. Replacing these small farms are megadairies in the places like southwest Kansas, northeast New Mexico, and North Texas. Between 2000 and 2006, dairies milking more than 2,000 cows doubled.

> **Most disappointing to OCM, is USMCA's failure to include any provision for mandatory country of origin labeling (COOL) of beef and pork.**

Retailers are rapidly moving toward complete vertical integration in dairy. Texas-based grocer H-E-B has long operated its own dairy processing facilities, and Kroger now supplies 100 percent of its own fluid milk to all its stores. Its plant in Denver, Colorado, which opened in 2014, is fully automated and runs 24 hours a day. Albertson's opened its own milk-bottling facility in Pennsylvania in 2017, and now that Walmart has opened its own milk plant in Indiana, the die is clearly cast. As a result large U.S. dairy processors, such as Dean Foods and Borden's, have declared bankruptcy.

USMCA does improve on NAFTA, by creating new labor and environmental standards and giving American farmers greater access to Canadian markets, for example. But it will not reverse the decades-long trend of U.S.-based multinational corporations lowering their costs by shifting production, processing, and manufacturing to other countries. Most disappointing to OCM, is USMCA's failure to include any provision for mandatory country of origin labeling (COOL) of beef and pork. U.S. trade representatives could have—and should have—made COOL a central provision in any new trade deal.

In renegotiating a new trade agreement with Mexico and Canada, the Trump Administration had the opportunity to recalibrate the structural imbalances in the U.S. agricultural system: concentration and consolidation in agricultural and food markets; overproduction in milk and other agricultural commodities; disparities in grain pricing. Instead it sided with agriculture's multinational giants and their lobbying arms, including the National Pork Producers Council and the National Cattlemen's Beef Association whose presidents attended the signing ceremony. USMCA will do little to help America's independent farmers and ranchers. But it will line the pockets of the oligopolies that run the global industrial-agricultural complex.

Packers and Stockyards Update: USDA Draft Rule Fails to Protect Producers, Allows "Customary" Abuses to Continue

By **Ben Gotschall**

12 years after the Congressional mandate to reform the Packers and Stockyards Act (PSA) was passed as part of the 2008 Farm Bill, farmers and ranchers are still the victims of price-fixing, predatory contracts, and collusion. More dairy, beef, poultry and pork producers have gone out of business, while corporations like JBS, Walmart, Costco and Smithfield extract record profits from producers and consumers alike. Farmers and ranchers are forced to sell off land and livestock (sometimes to foreign investors), and life in the countryside, where small town businesses and rural schools once thrived due to the ag economy, is growing bleaker by the day.

Where will all this end? Unfortunately, the answer to that question is uncertain, as United States Department of Agriculture (USDA) repeatedly kicks the can down the road and fails to revise the PSA with meaningful rules relevant to the industry-wide, commonplace violations of fairness and transparency farmers and ranchers continually suffer.

On January 13, 2020 the USDA Agricultural Marketing Service (AMS) released a new proposed rule outlining the criteria that the Secretary of Agriculture would use to determine whether or not a practice violates the PSA. While instructive in illustrating the current administration's position relative to enforcement of the PSA, these criteria would do little to serve the intent and purpose of the PSA itself. Further, these criteria would subvert the USDA's own long-standing interpretation regarding proof of competitive harm and strip basic producer protections included in the prior version of the draft rule released in 2016.

The PSA, in addition to being an antitrust law, is also a producer protection act,

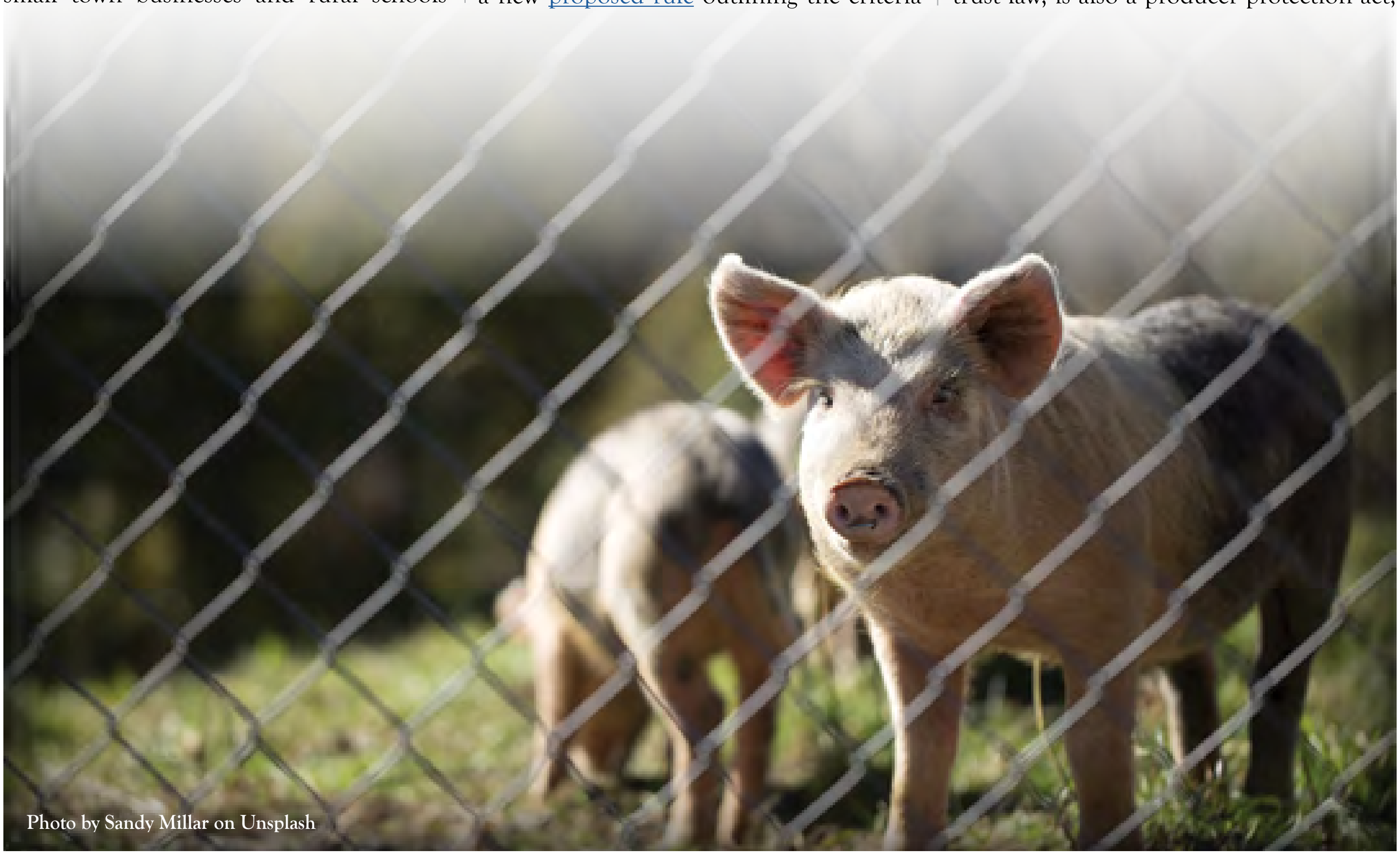


Photo by Sandy Millar on Unsplash

with “safeguarding farmers and ranchers” as a stated purpose. The PSA is not intended to protect harmful industry practices, which is exactly what the AMS’s proposed rule does in establishing its four main criteria for determining what constitutes an action that is not “honest competition,” which is when the action:

(a) Cannot be justified on the basis of a cost savings related to dealing with different producers, sellers, or growers;
(b) Cannot be justified on the basis of meeting a competitor’s prices;
(c) Cannot be justified on the basis of meeting other terms offered by a competitor; and
(d) Cannot be justified as a reasonable business decision that would be customary in the industry.

All four criteria are illustrated in the proposed rule mainly as functions of prices and payment, and mostly ignore producer protection. By focusing solely on cost and/or price analysis, these criteria once again fail to fulfill the purpose and intent of the PSA.

OCM is asking for your help, as a supporter of transparent, fair, and truly competitive agricultural and food markets, to submit comments on the 2020 draft rules to the PSA. While you may submit comments dealing with any aspect you feel is important, we are including some talking points below, which we have identified as the most important issues relative to this version of the proposed rules:

- The PSA must include language that reinforces the USDA’s long-standing interpretation of “competitive harm,” which is that “not all violations of the P&S Act require a showing of harm or likely harm to competition.”
  - If farmers must prove that an action would cause competitive harm to the entire industry, then virtually no claim by any farmer will ever have legal standing. It will simply be too high of a hurdle to clear.
  - Making farmers prove competitive harm would actually place farmers in a disadvantaged position if they choose to speak out or file a complaint. Farmers would also be vulnerable to retaliatory actions by packers, contractors, and dealers (see item 3 below).
- AMS should strike the proposed language in subsection 201.211(d), that a practice will be deemed legal unless it “cannot be justified as a reasonable business decision that would be customary in the industry.”
  - There is a whole host of “customary practices” in the industry that are unfair, unacceptable, and harmful to competition. These practices should be outlawed, not enshrined in the rules.
  - This language is too ambiguous and allows for subjective interpretation, which is unacceptable in rules meant to protect producers and enforce antitrust laws.
- AMS should return the language from the 2016 version outlining specific violations to subsection 202(a) of the PSA, most importantly the language describing “retaliatory action” by packers, contractors and dealers.
  - The fear of retaliatory action, coupled with the burden of proving competitive harm (see item 1 above), makes it virtually impossible for producers to file complaints and speak out about the abuses of bad actors in the industry.
  - The specific practices outlined in the 2016 version of the rules addressed customary practices in the industry that need to be stopped, not allowed to continue as “business as usual” (see item 2 above).

The latest, proposed version of the rules may be the last chance for farmers and ranchers to provide input for the foreseeable future, and the time to act is now. **Comments are due by March 13, 2020.** Please take action, submit your comments, and spread the word to others who can help us on our mission to fight for transparent, fair and truly competitive agricultural and food markets.

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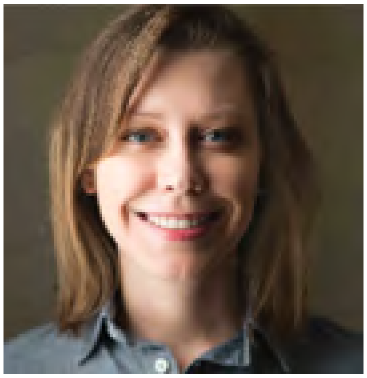

Checkoff Program Reform Legislation Filed in U.S. House of Representatives

By **Angela Huffman**

On January 9, Congresswoman Titus (D-NV) introduced the Opportunities for Fairness in Farming (OFF) Act in the U.S. House of Representatives. This legislation is the companion bill to S.935, filed in 2019 by U.S. Senators Mike Lee (R-UT), Cory Booker (D-NJ), Rand Paul (R-KY), and Elizabeth Warren (D-MA). The OFF Act would put an end to the most egregious abuses committed by the boards and contractors of the federally mandated commodity checkoff programs.

Checkoff programs have been instrumental in the history of agricultural advertising. Famous campaigns, such as "Beef. It's What's for Dinner," have been paid for with checkoff dollars. However, checkoff programs have fallen under the control of commodity trade organizations representing global agribusiness interests, and oftentimes the millions of dollars paid into checkoff programs by hard-working farmers and ranchers end up being used to lobby for policies that harm their interests.

The OFF Act would prohibit trade organizations that lobby from receiving checkoff funds; however, this restriction does not apply to universities. It would rein in conflicts of interest and stop anticompetitive activities that harm other commodities and consumers. It would also force checkoff programs to publish their budgets and undergo periodic audits so that farmers and ranchers know where their hard-earned tax dollars are going.

For over five years, OCM has waged a FOIA lawsuit challenging the United States Department of Agriculture and National Cattlemen's Beef Association's (NCBA) refusal to disclose beef checkoff spending records. OCM took action following an independent audit of the program that found gross misuse of funds by the NCBA, using checkoff funds for expenses including spousal travel, policy work, and golf tournaments.

Recent reports demonstrating executives at Dairy Management Inc. are being paid exorbitant salaries out of dairy checkoff funds while dairy farmers are being driven out of business in record numbers makes it even more urgent Congress take action to clean up these programs.

Farmers are struggling amidst increasing consolidation, low commodity prices, and excess supply. Net farm income is at a 19-year low. Along with recent trade disruptions and natural disasters, the last thing farmers want, or need, is their tax dollars working against them.

The major reform provisions of the OFF Act, which would end the glaring abuses of the program boards, are:

1. Stop federally mandated checkoff dollars from being transferred to parties that seek to influence government policies or action relating to agriculture issues.
2. Enforce the prohibition against conflicts of interest in contracting and all other decision-making operations of the checkoff program.
3. Stop federally mandated funds from being used for anticompetitive programs or from being spent to disparage another commodity in the marketplace.
4. Increase transparency of the individual boards' actions by shedding light on how federal checkoff funds are spent and the purpose of their expenditures.
5. Require audits of each program every five years to ensure their activities are in compliance with the law.

ON THE OCM Blog

[The Criminals Win Again: JBS Signs Deal to Increase Sales to China]

What makes this deal stink like the rotten meat JBS shipped around the world back in 2017? USDA Secretary Sonny Perdue helped put JBS in this lucrative position with the taxpayer-funded $100 million in the name of the U.S.-China trade war farmer bailout during the past year and a half. JBS announced in August 2019 it was profiting from the trade war by shipping pork from its Brazilian plants to meet Chinese demand.

[Walmart the Meatpacker: When the Big Save Money Do the Small Live Better?]

What do you do if you're tired of swimming in the same pool as the Big Four meatpackers? Get your own pool where you're the biggest fish. Save money and live better, right? Walmart, whose SuperCenter stores have been driving out local businesses in a town near you for over 30 years, has now decided it wants to try its hand at meatpacking.

[New Brazilian Class Action Targets Corrupt JBS in the Name of Democracy]

A new Brazilian class action lawsuit against corrupt meatpacking behemoth JBS lays out the undisputed evidence that through bribing over 1,800 Brazilian politicians, JBS was able to take over U.S. Swift Food, U.S. Smithfield beef group, and Pilgrim's Pride, launching their takeover of the U.S. meat processing industry and becoming the world's leading meat processor. The lawsuit demands JBS restore to the Brazilian public nearly a billion U.S. dollars of its ill-gotten gain.

Read more at www.competitivemarkets.com/category/blog/.

Wishes for the New Decade

"I'm hoping that as we progress through the new decade that more consumers will consciously vote with their food dollars and support food with integrity produced by family farmers using regenerative farming methods. Supporting these markets is beneficial on so many different levels. Eating is an intimate act and our choices have a huge impact on our personal health as well as the health of the planet. I hope more consumers will become advocates and demand food related policies that increase transparency, availability and safety levels in our food system."

Kevin Fulton
Fulton Farms
Litchfield, NE

"My wishes for farm and food markets in the new decade revolve around more farmers and all farmers receiving a larger share of the consumer food dollar. I'd like it to be the decade that we finally turn the tide towards an agriculture that is independent traditional family farm based. It's perhaps the last decade to make that change. Farmers, hopefully, are going to position themselves with seats at the table to be part of economically, environmentally, and sustainably rebuilding a vibrant rural America.....a rural America with huge opportunities for the next generation."

Greg Gunthorp
Gunthorp Farms
LaGrange, IN

"It is encouraging to see the antimonopoly movement in agriculture grow at both the grassroots level and on the national stage. I hope we achieve real wins over the next decade that move the locus of power from corporate headquarters to the farmgate. I hope we build diverse, regional, and equitable food markets where consumers can access quality affordable food and farmers and workers can receive a fair price for producing it."

Claire Kelloway
Open Markets Institute

"A just food system would value the environment, food access, and the labor of farmers and farm workers over the interests of multi-national corporations. We need robust antitrust enforcement, expanded conservation programs, and vigorous oversight and enforcement against discriminatory, deceptive, or predatory behavior by private and governmental entities."

Zoe Willingham
Center for American Progress

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___ $125 Voting Member: Same benefits as $50 level, plus voting rights

___ $500 Sustaining Member: Same benefits as $125 level, and one-on-one strategy and progress updates

___ Other Donation: Amount $_______

Associate Organization Membership

___ $200: Organization receives bimonthly newsletter, regular conference calls with national anti-monopoly leaders, and weekly news roundup

___ $500: Same benefits as $200 level, plus OCM staff availability and two conference registrations

___ $1,000: Same benefits as $500 level, plus a booth and recognition at annual conference

All members will receive the bi-monthly newsletter electronically, unless you mark this line for a mailed copy: ____

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