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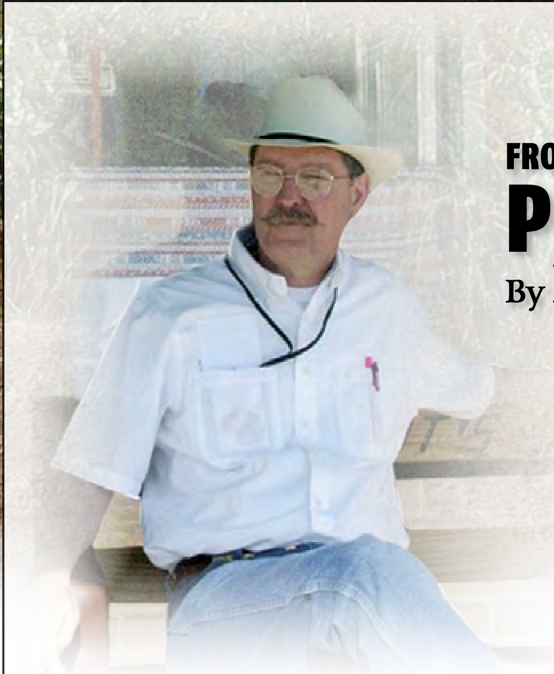
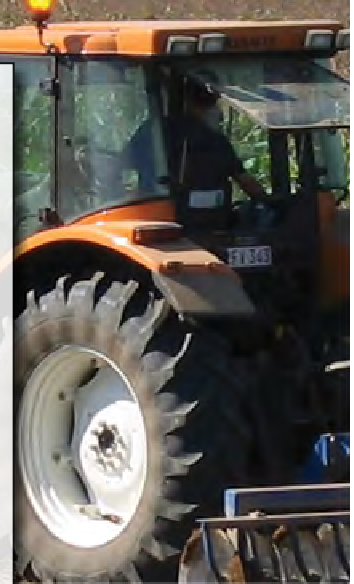
Organization for Competitive Markets

Member Newsletter

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





FROM THE PRESIDENT

By Don Stull

Where to begin? As I write this letter, I am under a shelter-in-place order for my county in Kansas. No doubt by the time you read this letter, it will be the same for many, if not most, of you. While the rates of infection and death from the COVID-19 pandemic have yet to spike in farm country, as they have in some coastal states and major metropolitan areas, farmers, ranchers, and rural communities are already suffering badly.

Agricultural futures have been steadily falling since late February, when the stock market began reacting to the coronavirus. Cattle prices have dropped like a stone, and the live cattle-boxed beef spread has widened, even as shoppers have emptied grocery meat counters as fears of COVID-19 escalate. Milk prices are projected to collapse as school and restaurant closures reduce demand. Ethanol plants are shutting down as the spread of the virus combines with the collapse in oil prices to reduce the price at the pump.

According to USDA, at the end of February cold storage supplies of meat and poultry are higher than last year, and there should be ample supplies for the rest of the year. Disruptions in the food supply chain have yet to materialize (knock on wood), but they are a distinct possibility. For example, border closures to all but essential traffic will affect access to immigrant labor, so essential to some agricultural sectors and food processing. And the first packinghouse workers, one at a Sanderson Farms plant in Mississippi and another at a Smithfield Foods plant in South Dakota, have tested positive for the virus. Many more are sure to follow. What this will do to the supply chain remains to be seen.

On March 25, the Senate unanimously passed the largest relief and stimulus package in U.S. history, worth about $2 trillion. By the time you read this it should have passed the House of Representatives and been signed into law by President Trump. In addition to direct payments to individuals and $130 billion for hospitals, it includes $150 billion for local and state governments and $300 billion in financial aid for small businesses. It contains $14 billion to support family farmers and ranchers through the USDA's Commodity Credit Corporation. And funding is provided for nutrition assistance programs, rural broadband, rural health resources, specialty crop growers, local food producers, livestock and dairy producers.

Will this bill provide enough relief to stop the bleeding in rural America? No. Will more help be on the way? Let's hope so. And hopefully some of that help will come in the form of legislative and policy reforms to address long-term and egregious flaws in American agriculture, flaws that threaten the continued viability of independent family farmers and ranchers.

When I say grace, I always thank those who have produced, processed, and prepared the food that is about to nourish my body. From now on, I will also wish them health and safety.

INSIDE

Dairy Giant: DFA and the Danger of an American Milk Monopoly

By Ben Gotschall

At a time when grocery store dairy shelves are empty due to disruption from the COVID-19 outbreak, farmers in some areas are being asked to dump milk.

On March 31, 2020, Dean Foods, the nation's largest milk processing company, announced that Dairy Farmers of America (DFA), the nation's largest milk handler, was the winning bidder on a majority of the bankrupt Dean's assets. The $433 million deal included 44 dairy processing facilities. Four other dairy companies bought much smaller portions of the remaining Dean assets.

In the face of opposition to the deal, which has been condemned as bad for dairy farmers, news of the winning bid came just a week after DFA announced that it was mutually terminating its agreement to buy the assets of bankrupt Dean Foods for $425 million. This perplexing turn of events underscores the turmoil and uncertainty currently facing family farmers in the dairy industry. At a time when grocery store dairy shelves are empty due to disruption from the COVID-19 outbreak, farmers in some areas are being asked to dump milk. While consumer demand for milk is increasing, milk prices, already below the cost of production for many producers, are projected to fall by as much as another 20%.

The DFA/Dean merger is not yet a done deal. According to Monica Massey, DFA's senior vice president and chief of staff, "The bid is contingent upon approval by the Bankruptcy Court and Department of Justice, as well as finalization of collective bargaining agreements with multiple unions." Indeed, the merger is currently under investigation by the Department of Justice, and has faced objections from other dairy cooperatives and even some of DFA's own member farmers. In our comments on vertical mergers to the Federal Trade Commission submitted earlier in March, OCM pointed to the DFA/Dean merger as an example of a vertical merger that should not be allowed to happen, especially due to DFA's proven track record of antitrust abuse.

According to Open Markets Institute DFA handles 30 percent of the national raw milk supply. DFA controls a far higher share in many regions, leaving many dairy farmers unable to get their milk to market without accepting DFA's terms. DFA also has vested interests across the entire dairy supply chain, owning or working closely with milk processors and marketers. These entities make more money when they pay DFA farmers less for their milk, creating a clear conflict of interest. In 2012, farmers in the Southeast received a $140 million settlement after a class-action lawsuit alleged that DFA and Dean Foods colluded to lower prices for dairy farmers. In 2014, DFA paid $50 million to around 10,000 dairy farmers to settle a class-action lawsuit that alleged DFA and its marketing arm, Dairy Marketing Services LLC, had conspired to monopolize the raw milk market in the Northeast. And in the Southeast, DFA has refused to allow dairy farmers to sell to the co-op to address regional supply shortages. Instead DFA has forced grocery stores to import milk from the group's members in the Midwest. In light of this history, the potential of a DFA merger with Dean Foods is particularly troubling. OCM has long argued that mergers of this type should not be allowed.

The vertical integration of Walmart into the dairy processing arena has had substantial effects on its upstream supply chain, and was a major precursor to the bankruptcy of Dean Foods. When Walmart built its own dairy processing plant in Fort Wayne, Indiana, it significantly impacted the business of Dean Foods, which until that point had been the main supplier for Walmart's Great Value private-label milk. Dean then cancelled over 100 contracts with its farmer-suppliers, forcing many out of business. When Dean declared bankruptcy, the loss of Walmart's volume milk sales emerged as a significant factor in that decision. Walmart's involvement in the Dean bankruptcy is even more significant now that the world's largest retailer has taken steps toward vertical integration in the beef industry.

An important distinction here is that DFA is a farmer-owned cooperative, not a shareholder corporation. The regulation of cooperatives is governed by the Capper-Volstead Act (CVA), which was passed in 1922 to level the playing field for farmers and ranchers in their struggles to compete with the emerging agribusiness companies. The CVA gives certain antitrust exemptions to farmers and ranchers to form cooperatives, which can harness the collective production and bargaining power of many smaller independent producers.

As consolidation in the dairy industry has continued, DFA has been able to take advantage of such exemptions. This raises a lot of questions, such as: Should corporations or non-farmers receive the same legal benefits of cooperative members? Does a cooperative such as DFA really represent its members through fair representation on its board of directors? Are these boards transparent with the members about how and why decisions are made? Many of the decisions, practices, and policies of DFA's leadership have been criticized as not working in the best interest of its farmer owners. Much like administrative abuses of commodity checkoff programs, the actions of cooperatives such as DFA are not public or even transparent to its own membership, which is clearly a conflict of interest.

Past experience shows that DFA has been able to monopolize regional dairy markets not by actually owning processing plants, but by controlling supply contracts, hauling companies, and marketing relationships with retailers. It remains to be seen what little competition exists for DFA. The biggest question is whether the dissolution of Dean Foods and the resulting consolidation into the hands of America's already-largest dairy cooperative will have any positive effects on an already-struggling dairy industry.

As in our work on checkoff issues, OCM remains vigilant in pointing out monopolistic practices wherever they may occur, even in farmer-owned cooperatives that have traditionally enabled smaller producers to compete with large corporations. We will continue to monitor the situation with DFA and work with our organizational partners to hold the biggest players in the dairy industry accountable for their actions.

Our Packers & Stockyards Comments

On Friday March 13, the comment period for the 2020 proposed Packers & Stockyards Act rule closed. OCM has been a lead organization in the fight to reform the PSA for over 12 years. You can read more about the issue here.

Over 2,300 comments were submitted, including those of 8 state attorneys general. Comments lamented the USDA's choice, through this rule, to conspire with transnational corporations to extract wealth from rural communities through abusive practices. The rule was written to protect industrial agriculture interests and does virtually nothing to protect producers from deceptive and unfair practices that are currently widespread in the industry.

Here are some extracts from your comments:

"I write to outline my opposition to the [...] proposed rule. The proposal runs contrary to the objectives of the law under which it is authorized. Congress enacted the Packers and Stockyards Act in order to promote competition by protecting America's farmers and ranchers from abuse. The proposed rules, a bare-minimum effort to meet this mandate, fail both in spirit and in letter. Instead of making it easier for farmers, ranchers, and producers to take action against preferential treatment that threatens their livelihoods, the proposal makes it nearly impossible. [...] The need for strong rules is urgent. [...] Rural poverty is up. Family farmers are disappearing. [...] Rather than being independent businesses charting their own destiny and contributing to their communities, many [farms & ranches] find their fortunes dictated by foreign-owned companies. Our nation's health and security depend on a flourishing family farming economy. The proposed rule would contribute to further decline in family farms, making our country and our communities less secure, especially in a time of conflict."

Rohit Chopra, United States Federal Trade Commissioner

[Find the full, insightful version here]

"It is well past time [AMS] and the USDA stopped protecting the meatpackers in their theft of our nation's livestock"

Mike Callicrate, OCM Board Member

"I am a Wyoming rancher who is still living 40 miles from the nearest town and grocery store in God's country where my grandfather homesteaded in 1908. As long as I can recall, my parents talked about how important the enforcement of the Packers and Stockyards Act is to keep our markets competitive and healthy. The new changes must include STRICT and ENFORCEABLE safeguards against collusion and price fixing, with CLARITY OF LANGUAGE for all involved, making offenses indefensible."

Carolyn M. Johnson

The original Packers and Stockyards Act should be kept in place and even strengthened. As an owner of a family run dairy farm, we also are impacted by the price of beef which has been dismal for several years now. We watch year after year as the laws put into place to give us a fair playing field are diminished. [...] It's in the best interest [of our country] to keep rural communities equally viable. The empty and vast areas of this country used to be humming with tax payers, jobs and infrastructure.

Squires Dairy

When maximized corporate profits are the only consideration in food production, animal welfare, our environment, and food quality are at risk. Farmers understand stewardship of the land and care and feeding of livestock and crops in a safe, sustainable manner. Farmers, the land, and our food need to be protected from the corporate greed of the likes of Monsanto.

Susan Barton-Venner

Consolidation of our ranching, livestock, and poultry supply into the hands of a tiny handful of corporations actually endangers the sovereignty and security of the U.S's food supply. This is a danger we can't afford, especially now when every one of our societal systems is so fragile.

Joe Smith

I am a young farmer who has returned to the family farm and have slowly built a small beef, hog and goat herd in southwest Wisconsin. Unfortunately, even though food prices have not substantially moved at the retail end, prices for the producer who is taking the most risk over the longest time have been well below production costs. [...] Currently the only option for profit is in the direct sales area which is difficult especially as local butchers have closed or consolidated.

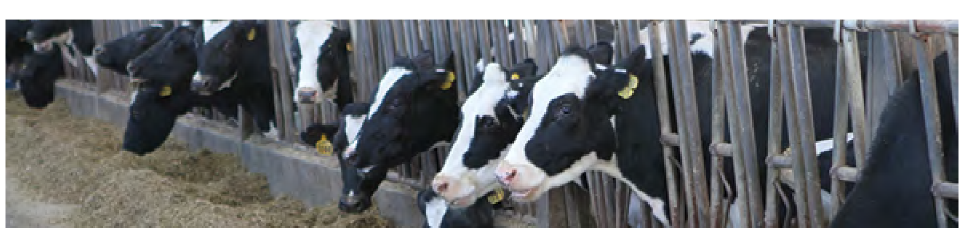
Peter Kinsman

I am a small livestock producer in Nebraska raising cattle and chickens. Currently most of my production is direct to consumers. It is very difficult for us to realize a true cost of production return while trying to compete with an overall animal agriculture that is not competitive. The proposed changes to the Packers and Stockyards act need to better facilitate a competitive and fair ag animal market. [...] "Customary" does not mean it should be acceptable.

Doug Garrison

I do not understand how, Mr. Perdue, one person, can undo a years' old law just to bow down to pressure from JBS. We as independent producers cannot even rely on our elected officials to represent us. [...] A few people are getting really rich while we are disappearing at an alarming rate.

Blaine Kemna



Considering Local vs. Global and National Supply Chains

By Mike Callicrate

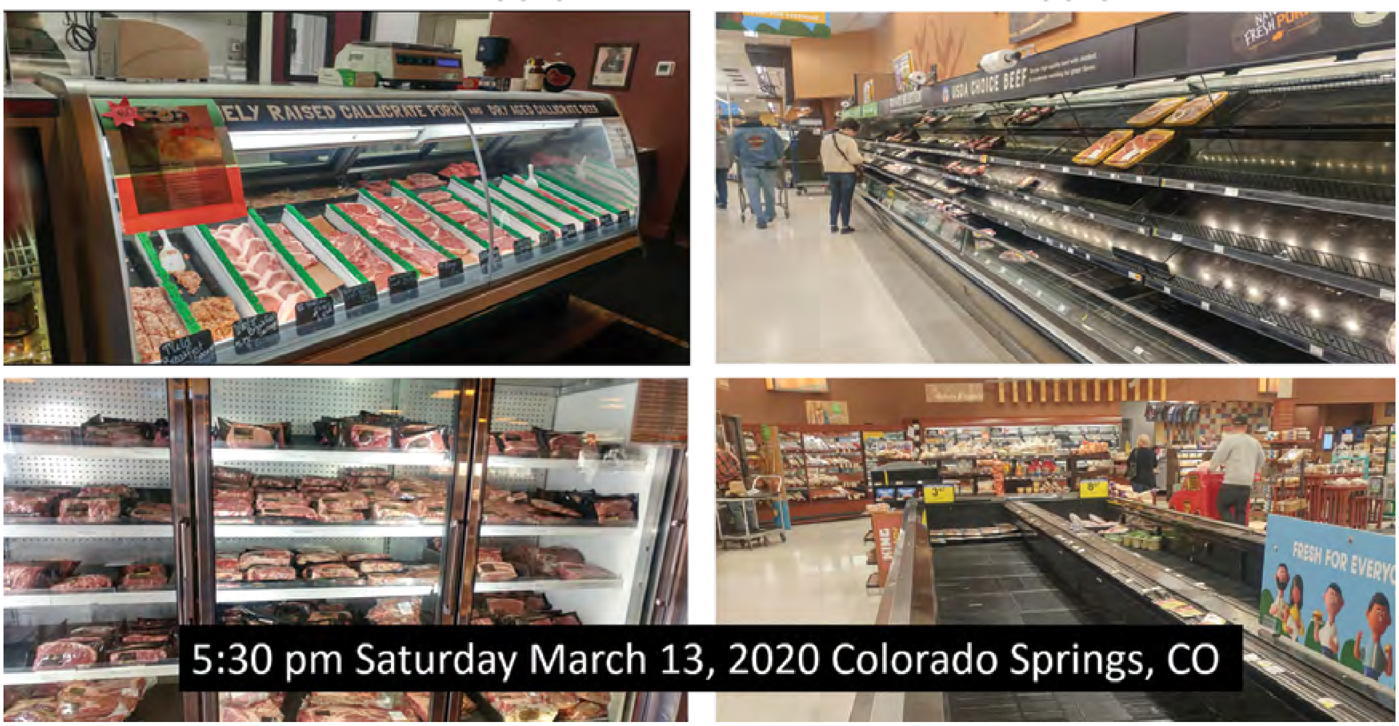
What kind of food system serves people best? Local or Global?

Worried shoppers from all across the country left shelves bare at grocery stores last week. Volume was up two and a half times a normal week at Ranch Foods Direct. Our great staff met the challenge. The Big-Box stores didn't.

Our local/regional supply chain is just under 200 miles long, from Callicrate Cattle Co. at St. Francis, Kansas to our cut plant and retail stores in Colorado Springs. The predatory big meatpackers and big retailers sourcing from highly vulnerable and dangerous supply chains for the cheapest of everything from around the globe will leave farmers and ranchers bankrupt and consumers hungry.

What we support prospers, what we feed grows!

Ranch Foods Direct Local Supply Chain | **Global Supply Chain**



USDA to Initiate Rulemaking on "Product of U.S.A." Meat Labels in Response to Our Petition

By Angela Huffman

On March 27, 2020, the U.S. Department of Agriculture's (USDA) Food Safety and Inspection Service (FSIS) responded to a petition filed by the Organization for Competitive Markets (OCM) and American Grassfed Association (AGA) regarding truth in labeling of imported meat.

The OCM and AGA petition, filed in June 2018, called for FSIS to ensure only domestic meat products can be labeled "Product of U.S.A." The current policy allows imported meat to bear the voluntary "Product of U.S.A." label if it simply passes through a USDA-inspected plant, allowing global profiteers to mislabel meat products and plunder the profits of U.S. farmers and ranchers at the expense of U.S. consumers.

In response, FSIS indicated it "has decided to initiate rulemaking to define the conditions under which the labeling of meat products would be permitted to bear voluntary statements that indicate that the product is of U.S. origin, such as 'Product of USA' or 'Made in the USA.'"

We will all have to be ready to fight for America's farmers and ranchers, and transparency for consumers through this rulemaking process.

BACKGROUND

Following the 2015 repeal of mandatory Country of Origin Labeling (COOL) for beef and pork, U.S. cattle producers saw as much as a 50 percent decline in the price of their calves. OCM recognized it was the repeal of COOL coupled with FSIS's misguided voluntary meat labeling standards that caused the cattle market losses. Following the repeal of mandatory Country of Origin Labeling, global meatpacking corporations began abusing the voluntary "Product of U.S.A." label by misbranding meat and meat products from foreign countries as "Product of U.S.A." after moving them through USDA-inspected processing plants.

While OCM continues to call on Congress and the Administration to reinstate mandatory Country of Origin Labeling, OCM and American Grassfed Association were able to secure a meeting with FSIS officials in the Spring of 2018 to discuss the misuse of the voluntary "Product of U.S.A." label.

During the meeting, FSIS officials did not disagree with OCM and AGA's concerns and indicated they would be open to having our evidence of harm to the cattle producers and the U.S. consumers presented in a petition requesting a change in the Labeling Standards Guideline, a FSIS internal document.

OCM's legal research found that the previous language used by FSIS for labeling only allowed "Product of the USA" to be placed on packages of meat or meat products that were from domestic origin. Based on our conversations with FSIS, it was determined the best course of action to stop the hemorrhaging in the market at the time was to file a petition with FSIS demanding they return to their prior definition.

NEXT STEPS

In its March 27, 2020 response, FISIS acknowledged, "After careful consideration of your petition and the 2,593 public comments submitted to regulations.gov in response to your petition, FSIS has concluded that its current labeling policy, which permits meat and poultry products that were derived from animals that may have been born, raised and slaughtered in another country but processed in the United States to be labeled as "Product of USA," may be causing confusion in the marketplace, particularly with respect to certain imported meat products."

We are encouraged that FSIS agrees with our concerns that the current "Product of U.S.A." labeling system causes confusion for consumers and takes money out of the pockets of the farmer. The devil will be in the details when FSIS releases the language of its proposed rule defining the conditions under which the labeling of meat products would be permitted to bear voluntary statements that indicate that the product is of U.S. origin. We will all have to be ready to fight for America's farmers and ranchers, and transparency for consumers through this rulemaking process.

Self-Help, a CDFI Credit Union and Lender

In today's member highlight, we share with you the expertise from an OCM associate member who wants to hear your thoughts on the Farm Credit System.

Self-Help is a CDFI (Community Development Financial Institution) headquartered in North Carolina that includes two credit unions serving over 175,000 members, a non-profit loan fund, and the Center for Responsible Lending, a policy advocacy organization focused on curtailing predatory lending. Self-Help has been involved in the farm and food system since their very start in 1980, most particularly through their support for North Carolina food cooperatives that regularly source from local farmers. Today Self-Help supports projects like the farmer-owned food hub Eastern Carolina Organics, a wholesale distributor of organic produce that returns 80% of every retail dollar to family farms in the region.

I recently spoke with Self-Help Policy Director David Beck about Ag's Government Sponsored Enterprise (GSE) the Farm Credit System. Self-Help Credit Union is a longtime member of the Federal Home Loan Bank (FHLB) system, a GSE mainly serving home lenders and somewhat analogous to Farm Credit. As Self-Help has increasingly engaged in supporting sustainable ag and local food systems, they've worked to better understand and explore how CDFIs and Farm Credit Associations - both mission driven lending networks - might partner and better serve local and sustainable ag and food initiatives. On the public policy side, there is also a growing question of whether Farm Credit, as Ag's GSE, could and should be doing more to help support a more diverse and sustainable ag system, given the amount of public subsidy that GSE status provides. Below is a summary of David's expertise on the issue.

What is a Government Sponsored Enterprise (or GSE)? GSEs are created by acts of Congress. Farm Credit is one of the first, created in 1916 to help ensure farmers could obtain longer term loans. The most well known GSEs are Fannie Mae and Freddie Mac. Both the FHLB system (created by Congress in The Great Depression) and Farm Credit are cooperative, member-owned GSEs. Farm Credit, like all GSEs, benefits from this quasi-public status through the implied guarantee of federal support and preferential tax status. This translates into cheaper bond funding and lower taxes, which provides GSEs a competitive advantage by allowing them to more cheaply fund their borrowers than competitors such as traditional banks. Part of the policy rationale is that GSEs use that public support to more fully serve its mission. GSE status implies that the taxpayers will bail them out in case of financial trouble, a substantial edge in raising funds in the financial markets. (In fact both the FHLB and FCS systems were bailed out by Congress in the 1980s.) GSEs also can benefit from dispensation from certain financial regulations, and more limited government oversight.

Who else benefits from GSE status? GSEs in addition to Farm Credit and FHLBs include Federal National Mortgage Association (Fannie Mae), Federal Home Loan Mortgage Corporation (Freddie Mac), National Veteran Business Development Corporation, Federal Agricultural Mortgage Corporation (Farmer Mac), and SLM Corporation (Sallie Mae).

What sets Farm Credit apart? Given that GSEs are highly profitable enterprises in no small part due to what is ultimately taxpayer support, Congress requires many of the housing GSEs to dedicate some of their profits to support and subsidize affordable housing initiatives. Most notably, the federal government's 1980s FHLB bailout also required FHLBs to create Affordable Housing Programs (AHPs) and grant 10% of their annual profits to help support affordable housing. Since its 1990 inception, the FHLB AHP has granted out $5.8 billion and is the public face of how FHLBs use their GSE status for the public good. Further, the Atlante FHLB has studied AHP's "multiplier effect" and found that every dollar granted results in $14 additional private dollars invested. By comparison the Farm Credit System cumulatively earns over $5 billion a year in profits but does significant fund grants that might support worthy sustainable ag and local food system initiatives that could help build a more diverse, less monopolistic and more economically sustainable ag system. At present FCS profits generally are returned to members as patronage or stay with the association. A Farm Credit System grant program similar to the FHLB AHP would generate around $500 million a year in grants (10% of FCS profits).

It's not only about expanding investment in our food system. Farm Credit has come under increasing scrutiny for straying from its mission. For example a Farm Credit bank issued a $725 million loan to telecom giant Verizon for its acquisition of a European cellular company. According to our friends at Open Markets Institute, Verizon's history of aggressive monopolization versus competitive behavior causes American telecom services to be overpriced. At the same time that they were helping Verizon, in 2017, Farm Credit's new loans to young, beginning, and small farmers dropped by 10 percent. In 2016, only 15.5% of Farm Credit loans went to small farmers. Farm Credit was formed to support rural communities and fair agricultural opportunities. Have they crept too far from that original mission?

What can we do to support a brighter future for our farm and food systems? Self-Help is creative and bold in its approach to providing financial support to our farm and food system. For instance, in 2017 Self-Help acquired South Chicago's Seaway Bank and is working to revive the Seaway Bank farmers market that connected Black rural Illinois farmers to the South Chicago urban community. In North Carolina and California, Self-Help supports a wide range of farm and food projects, and also is working with their credit union members to better understand access to fresh fruits and vegetables, financing fresh food storage spaces, and supporting a free lunch site for kids during the summer. Self-Help is a clear example that fearless leadership and a commitment to America's roots of "radical entrepreneurship" can truly help draw a brighter farm and food future. It seems reasonable to examine whether our taxpayer backed Farm Credit is really performing to our expectations.

What is your experience with Farm Credit? Are you a borrower? Do you see a brighter Farm Credit future? OCM and Self-Help want to hear from you. Please visit: bit.ly/FarmCreditQuestionnaire to share your thoughts.

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MAKING A DIFFERENCE?

MEMBER APPLICATION FORM

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OCM is a nonprofit, 501(c)(3) organization supported by membership contributions, donations, and foundation support. All donations are tax deductible.

Individual Membership

___ $50 Member: Receives bimonthly newsletter, regular conference calls with national anti-monopoly leaders, and weekly news roundup

___ $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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