



## **Restructuring America's Meat Industry for Worker and Consumer Safety and Farmer Prosperity**

President Donald Trump on Tuesday used the Defense Production Act to declare meatpacking plants to be essential facilities and allowed the Department of Agriculture (USDA) to reopen plants shuttered due to outbreaks of COVID-19 among workers. The Open Markets Institute, Food & Water Action, and Family Farm Action Alliance, joined by the undersigned, share the president's desire to ensure a robust supply of food to every American family. Unfortunately, we believe this order is the wrong way to do so. Most immediately, it does not provide sufficient protection for the workers risking their lives to keep plants operating. More fundamentally, it does nothing to address the underlying structure of the meat industry that created this public health and food security crisis in the first place. Decades of industry consolidation created a meat production system that was built to break. To truly protect consumers, workers, farmers, and the public, we call for the administration and law enforcement agencies to use existing anti-monopoly authority to restructure this industry in ways that radically and greatly reduce the concentration of risk in any one facility.

COVID-19 has revealed the dangers of our consolidated meat supply chain, in which a handful of powerful, vertically integrated corporations control entire markets, shape government policy, and exploit workers and farmers. Close quarters in meatpacking plants have driven major coronavirus outbreaks among workers, prompting 21 plants to close and sickening more than 4,300 workers and killing at least 20.<sup>1</sup> These closures, in turn, have disrupted the supply of beef, pork, and poultry in various parts of the United States. Despite these risks and these disruptions, meatpacker corporations have chosen to pursue the same failed policies. They have failed to promptly notify workers of confirmed cases, turned away workers' petitions for safety protections, and even requested waivers from the USDA to operate plants at faster speeds with fewer federal inspectors than now.<sup>2</sup>

Giant meatpackers have also effectively captured the very federal agencies that are supposed to regulate them. In recent decades, USDA food safety officials with industry ties have allowed meat plants to speed up processing lines and to cut the number of federal inspectors. The USDA

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<sup>1</sup> Leah Douglas, "Mapping Covid-19 in meat and food processing plants," *The Food & Environment Reporting Network*, April 22, 2020 <https://thefern.org/2020/04/mapping-covid-19-in-meat-and-food-processing-plants/>

<sup>2</sup> Christopher Collins, "Workers at Tyson Poultry Plant in East Texas Say the Company Put Them at Risk of COVID-19," *Texas Observer*, April 27, 2020 <https://www.texasobserver.org/covid-19-tyson-east-texas-follow-up/>; Olivia Paschal and Rolando Zenteno, "Workers say Arkansas' poultry giants aren't protecting them from COVID-19," *Facing South*, April 28, 2020 <https://www.facingsouth.org/2020/04/workers-say-arkansas-poultry-giants-arent-protecting-them-covid-19>; Claire Kelloway, "USDA Continues to Lift Meat Processing Line Speed Limits During Pandemic, Threatening Frontline Workers and Consumers," *Food & Power*, April 9, 2020 <http://www.foodandpower.net/2020/04/09/usda-continues-to-lift-meat-processing-line-speed-limits-during-pandemic-threatening-frontline-workers-and-consumers/>

has done so despite health studies showing that these conditions increase the risk of worker injury and despite accounts from whistleblowers that these systems make food less safe to eat.<sup>3</sup>

Concentration has also been bad for farmers and ranchers. With just four corporations in charge of 85% of beef processing, three controlling 63% of hog processing, and half of all poultry farmers reporting they have just one or two buyers for their birds, there is simply not sufficient competition among livestock processors to ensure fair prices for farmers.<sup>4</sup> Most farmers are trapped in take-it-or-leave-it contracts that hold down the prices they receive and that dictate many aspects of their operations.

Excessive concentration in this sector also brings the danger of collusion and market manipulation. Before the pandemic, every major meat industry faced allegations of price-fixing, including a federal probe into alleged collusion in the poultry industry that may have cost the average family of four an extra \$330 per year.<sup>5</sup>

The shock of COVID-19 has only exacerbated the economic, political, and social dysfunction in an industry that for a generation – under both Republican and Democratic administrations – has been left free to exploit farmers and workers and to deliver unsafe and overly expensive food to consumers.

This crisis presents a once-in-a-generation opportunity to build a better system. Resilience requires a diversity of organizational forms and scales, which means a healthy mix of businesses operating at the national, regional, and local levels. Consider how the effects of the COVID-19 crisis on the food system would have differed if, instead of concentrating 15% of pork

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<sup>3</sup> Quandt, Sara A., Joseph G. Grzywacz, Antonio Marín, Lourdes Carrillo, Michael L. Coates, Bless Burke, and Thomas A. Arcury. "Illnesses and Injuries Reported by Latino Poultry Workers in Western North Carolina." *American Journal of Industrial Medicine* 49, no. 5 (2006): 343–51. <https://doi.org/10.1002/ajim.20299>; Lipscomb, Hester, Kristen Kucera, Carol Epling, and John Dement. "Upper Extremity Musculoskeletal Symptoms and Disorders among a Cohort of Women Employed in Poultry Processing." *American Journal of Industrial Medicine* 51, no. 1 (2007): 24–36. <https://doi.org/10.1002/ajim.20527>; Comment from Melissa Perry on the Food Safety and Inspection Service (FSIS) Proposed Rule: Modernization of Swine Slaughter Inspection, FSIS-2016-0017-83467, May 8, 2018 <https://www.regulations.gov/document?D=FSIS-2016-0017-83467>; Comment from Rebecca Patlan-Garcia on Comment on the Food Safety and Inspection Service (FSIS) Proposed Rule: Modernization of Poultry Slaughter Inspection, FSIS-2011-0012-0215, April 5, 2012. <https://www.regulations.gov/document?D=FSIS-2011-0012-0215>

<sup>4</sup> Grain Inspection, Packers and Stockyards Administration, "2016 Annual Report: Packers and Stockyards Program (U.S. Department of Agriculture, 2016); Philip H. Howard, "Corporate Concentration in Global Meat Processing: The Role of Feed and Finance Subsidies," in *Global Meat: Social and Environmental Consequences of the Expanding Meat Industry* (2019), at 31. ; 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/publications/pub-details/?pubid=43872>.

<sup>5</sup> Victoria Graham, "Turkey Remains Rare Meat Not Embroiled in Antitrust Probes," *Bloomberg Law*, November 26, 2019 <https://news.bloomberglaw.com/mergers-and-antitrust/turkey-remains-rare-meat-not-embroiled-in-antitrust-probes>; Leah Douglas, "Lawsuit alleges turkey companies conspired to keep prices high," *The Food & Environment Reporting Network*, December 19, 2019 [https://thefern.org/ag\\_insider/lawsuit-alleges-turkey-companies-conspired-to-keep-prices-high/](https://thefern.org/ag_insider/lawsuit-alleges-turkey-companies-conspired-to-keep-prices-high/); David Yaffe-Bellany, "Why Chicken Producers Are Under Investigation for Price Fixing," *The New York Times*, June 25, 2019 <https://www.nytimes.com/2019/06/25/business/chicken-price-fixing.html>; Ben Popken, "You're Getting Skinned on Chicken Prices, Suit Says," *NBC*, February 17, 2017 <https://www.nbcnews.com/business/consumer/you-re-getting-skinned-chicken-prices-suit-says-n721821>

production in three plants, the United States still had a robust network of small- and mid-sized regional processors to increase processing if any one plant went offline. And consider how decisions around line speeds and safety measures within plants would differ if workers had a real voice in decision-making. We believe that a combination of revived antitrust, fair food safety regulation, and promoting farmer- and worker-owned firms will go a long way toward ensuring the safety, health, and prosperity for every American, including every individual who works to feed us and clothe us.

On Wednesday, Sen. Tammy Baldwin (D-WI) and Sen. Josh Hawley (R-MO) called on federal antitrust enforcers to investigate meatpacking concentration in response to massive plant closures.<sup>6</sup> This follows calls from a group of Republican senators, including Chuck Grassley (R-IA) and Steve Daines (R-MT), who urged the Justice Department last month to investigate potential market manipulation, as beef packers reaped record profits from skyrocketing wholesale prices and plummeting cattle futures.<sup>7</sup> These are excellent starts. The Open Markets Institute, Food & Water Action, and Family Farm Action Alliance believe that the administration and law enforcement agencies can move much faster – using existing authority – to address the immediate crisis and to prepare for the next.

The Open Markets Institute, Food & Water Action, and Family Farm Action Alliance, along with the 16 undersigned organizations, call for the government to embrace the following policy solutions now:

#### *Anti-Monopoly, Fair Dealing, and Regional Food Systems*

- Antitrust enforcers should deploy bright-line rules to block mergers and undo past mergers that allowed any one corporation to control more than 10% of the U.S. national market in either livestock purchasing or meat sales.<sup>8</sup> Meatpackers that exceed such a market share must divest assets or lines of business to fall under the threshold. The USDA should also move swiftly to ensure that no one plant concentrates more than 2% of the capacity to slaughter the nation's supply of beef, pork, or poultry.
- The USDA should issue new rules to improve enforcement of the Packers and Stockyards Act, building upon rulemaking proposed in 2010. These reforms include, but are not limited to, banning packers from owning livestock, abolishing abusive tournament payment systems, requiring packers to demonstrate that the prices they pay to farmers are based on fair market value, explicitly protecting farmers from retaliation and discrimination for speaking in public about the actions of packers, and granting farmers greater legal standing to sue meatpackers without proving harm to industry-wide competition.

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<sup>6</sup> Kelsi Anderson, "Sen. Hawley pushes for antitrust investigation into meatpacking industry," NBC-KSDK, April 29, 2020 <https://www.ksdk.com/article/news/local/sen-hawley-pushes-for-antitrust-investigation-into-meatpacking-industry/63-9cb995e8-3fd8-4269-9b74-47d30aa83b0b>;

<sup>7</sup> Claire Kelloway, "Meat prices spike, cattle prices fall, and ranchers and lawmakers see market manipulation," *The Food & Environment Reporting Network*, March 25, 2020 [https://thefern.org/ag\\_insider/meat-prices-spike-cattle-prices-fall-and-ranchers-and-lawmakers-see-market-manipulation/](https://thefern.org/ag_insider/meat-prices-spike-cattle-prices-fall-and-ranchers-and-lawmakers-see-market-manipulation/)

<sup>8</sup> Open Markets Institute, "Restoring Anti-Monopoly Through Bright-Line Rules," *ProMarket*, April 26, 2019, <https://promarket.org/restoring-antimonopoly-through-bright-line-rules/>.

- Enforcement of the Packers and Stockyards Act must include rebuilding America’s system of open and competitive livestock markets, to ensure that farmers and ranchers earn a fair market price for their livestock. At present, far too great a proportion of America’s farm animals are sold through closed and opaque contract systems, leaving cash auctions dangerously thin and creating too much room for price manipulation.
- The USDA should immediately ban foreign-owned or foreign-controlled corporations from operating slaughterhouses in the United States, and Congress should reinstate mandatory country of origin labeling.
- The USDA should reinstate the Grain Inspection, Packers and Stockyards Administration as a stand-alone agency with independent authority and additional resources.
- The federal government should dramatically increase support and grants for small- to mid-sized meat processing facilities to build local and regional slaughter capacity, to make up for decades of industry consolidation and foul play.

#### *Greater Worker and Food Safety*

- The administration should immediately repeal the executive order allowing the secretary of agriculture to invoke the Defense Production Act to keep meat plants open. The guidelines issued by the Occupational Safety and Health Administration (OSHA) and the Centers for Disease Control and Prevention (CDC) are not sufficient for plants to continue operating during this pandemic. OSHA should enact and enforce emergency standards for worker safety for all plants. These standards must be mandatory and monitored by federal inspectors, and workers must be protected from retaliation for reporting any violations.
- In addition, plants must provide the highest quality in personal protective equipment, ensure that daily testing is available for workers, restructure breaks to allow employees to remain physically distanced at all times, and reconfigure plants to ensure a minimum of six feet of physical distancing, including slowing processing lines to accommodate these changes.
- All meatpackers must provide premium pay for workers risking exposure to COVID-19 by continuing to work as well as fully paid sick time for workers with COVID-19 symptoms or a confirmed case.
- Revoke all line speed increases implemented under the New Poultry and Pork Inspection Programs and related waivers. Return critical inspection and spot-check duties back to federal inspectors, not plant employees.
- The National Institute for Occupational Safety and Health should conduct a comprehensive study of all working conditions in plants, including workplace hazards associated with the use of knives, repetitive motion injuries, handling of live animals, hazards during the evisceration of carcasses, and chemicals used in meat and poultry processing. Based on the

results of those studies, OSHA needs to establish safety standards for the industry to follow, including line speed limits.

- Double the funding for federal food safety inspectors and expand the federal inspector workforce. Raise the salaries for the positions of Food Inspector and Consumer Safety Inspector to reduce the vacancy rates.
- Require the Food Safety and Inspection Service (FSIS) to follow its own policies on occupational health and safety, which include providing inspectors with adequate training, proper protective equipment, and the latitude to report unsafe working conditions without fear of retribution; and require the agency to withdraw inspection in situations where there are unsafe working conditions.
- Institute a pay premium when inspectors are expected to work in unsafe workplaces, including plants where contagious disease is found among plant workers and/or other inspectors.
- Institute a lifetime ban on secretaries and administrators of FSIS from working for dominant meatpackers, to close the revolving door at the USDA.
- The USDA should provide more funding and technical assistance for small- to mid-sized operations to come into food safety compliance, while increasing food safety enforcement at the largest producers, which pose the largest threats. Too often, dominant corporations are able to influence government to write food safety regulations that only they can comply with. In order to build local and regional slaughter capacity, food safety regulations need to be made relevant to operations of all sizes.

#### *Alternative Business Forms and Workplace Democracy*

- The USDA should restore its Cooperative Programs to a fully independent division, as it was until 1994. The department should also provide significantly more resources to support critical cooperative research, education, and technical assistance. This includes supporting the growth of farmer- and worker-owned meat processing plants and promoting democratic governance at existing co-ops. The cooperative agency had more than 100 employees in the 1960s. Today, the Rural Business-Cooperative Service directory lists only five staff members dedicated to cooperative education and research, and a 2018 letter from the agriculture secretary proposed transfers that would further shrink the branch.<sup>9</sup>
- Congress should appropriate capital to support the creation of new co-ops.
- The USDA should require all meatpackers to have one worker representative on each executive board.

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<sup>9</sup> Sonny Perdue, "USDA Letter to Congressman Robert Aderholt," November 30, 2018, [http://www.ruralhome.org/storage/documents/rd\\_obligations/rd\\_docs/rdreorgletter2018nov30.pdf](http://www.ruralhome.org/storage/documents/rd_obligations/rd_docs/rdreorgletter2018nov30.pdf).

The proposal has been co-signed by the following organizations:

American Economic Liberties Project  
Climate Crisis Policy  
Dakota Rural Action  
Food Animal Concerns Trust  
Friends of the Earth  
Illinois Stewardship Alliance  
Institute for Agriculture and Trade Policy  
Johns Hopkins Center for a Livable Future  
Muegge Family Trust  
National Family Farm Coalition  
Northeast Organic Farming Association – Interstate Council  
Northeast Organic Farming Association of New Hampshire  
Organic Consumers Association  
Organic Seed Alliance  
Organization for Competitive Markets  
Rural Advancement Foundation International-USA