UNITED STATES DEPARTMENT OF JUSTICE
UNITED STATES DEPARTMENT OF AGRICULTURE

Public Workshops Exploring Competition Issues in Agriculture

A Dialogue on Competition Issues Facing Farmers in Today's Agricultural Marketplace

Des Moines Area Community College
FFA Enrichment Center
Ankeny, Iowa

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Reported by: SueAnn Jones, CSR, RPR
PROCEDINGS

SECRETARY TOM VILSACK: Well, I want
to first of all welcome all to this meeting and
workshop this morning. I want to thank Rob Denson
and the folks at DMACC for giving us this
tremendous facility to operate in, and Rob, it's
good to see you, and thanks for all that DMACC is
doing for the young people who are in the community
college.

I want to thank all who are here
today. It's a great turnout. I also want to thank
the over 15,000 people who have already commented
as a result of the announcement of these workshops.
We will have a total of five workshops throughout
the country.

May 21 we will be meeting in Normal,
Alabama, to talk about poultry. On June 7 we'll be
in Madison, Wisconsin, to talk about the dairy
industry. On August 26 we'll be in Ft. Collins,
Colorado, to talk about livestock, and December 8
we will be in Washington, D.C. to talk about
margins.

We are certainly pleased and
appreciative of the fact that Senator Grassley and
Congressman Boswell, Lieutenant Governor Judge,
Secretary Northey are here and Attorney General Miller for their time, but we are very, very appreciative of the fact that the attorney general of the United States is here, and I'll have more to say about him in a few minutes.

And I also want to welcome Christine Varney who is an Assistant Attorney General for the Antitrust Division.

Let me start off by saying how deeply concerned I am about rural America. When I was born in 1950, 15 percent of the population of this country were in the farming business, and today less than 1 percent of our population is in the farming business.

Our farmers in this country are the most productive in the world. In 1950 a single farmer would be responsible for feeding 20 people. Today that number is a single farmer is responsible for feeding 150 people. These are the individuals who are responsible for our food, our water, an ever increasing amount of energy, an export surplus, and one out of every twelve jobs in America.

Despite that extraordinary productivity, only 11 percent of family farm income
comes from farming operations. We have seen a significant reduction in the number of farmers in the middle. Our last ag census indicated 108,000 new farming operations in the category of less than $10,000 in sales, an increase in the number of farms with over $500,000 in sales of about 40,000, but a loss of 80,000 farms in the middle in the last five years.

And when we lose farms in the middle, it also impacts directly the entire rural economy. Today's rural America has a higher poverty rate than the rest of the country, a higher unemployment rate than the rest of the country, significantly less per capita income than the rest of the country, an aging population, a workforce that is less educated, and well over 50 percent of our rural counties have lost population since the last census.

The President has instructed the Department of Agriculture to establish a framework for a new rural economy, and we're making investments in broadband, in new energy opportunities, creating new markets here and abroad, developing ecosystem markets, and expanding conservation and forest restoration, all designed
to provide us additional income for our farm families.

But it's obvious that more needs to be done, and that's what brings us here today. I think we have to recognize that great efficiencies have led to consolidation. They've also resulted in less expensive food for consumers in this country. So the central question is, are farmers and ranchers in this country currently getting a fair shake? Is the marketplace providing a fair deal to all who are in the farming and ranching business? Is there sufficient transparency in the process?

We know that seed companies control in some cases the lion's share of certain commodities. Does that help or does that hinder farmers and ranchers? We know that the top four cattle packers control roughly 80 percent of procurement. The spot market in cattle was 68 percent in 1999. Today it's roughly 52 percent.

We know the top four hog packers control 65 percent of procurement. Today's spot market is only 8 percent where just 15 years ago it was 62 percent. We know the top four retailers control 37 percent of the market, two times what it
So the purpose of these workshops is to explore, to determine whether or not the system is fair. I would say that these are workshops that have been long overdue. I know that there have been many in this room who have expressed to me the need for this kind of conversation and discussion. Our hope is that they help us to inform and develop better policy.

As you know, the Department of Agriculture is responsible for the enforcement of the Packers and Stockyards Act. We recently have made improvements in poultry contracting. We're in the process of completing work on defining undue preferences and unfair practices pursuant to the farm bill. We're adding additional enforcement mechanisms within the Packers and Stockyards Act.

We're looking at new credit tools to ensure that poultry and pork producers are treated fairly. We've established a dairy advisory committee to look at dairy pricing, and we're preparing for the farm bill discussions of 2012. All of those actions can be informed by what we hear today and over the course of the next several meetings.
I want to take this opportunity to introduce to my friends from Iowa my friend from Washington, D.C., the Attorney General of the United States. I think it's fair to say that the Attorney General is no stranger to Iowa, having spent a good deal of time campaigning on behalf of President Obama in this state. He is a key confidant of the President's. He is and has been a U.S. Attorney, a Superior Court Judge, a Deputy Attorney General, and now the Attorney General of the United States.

It's my honor and privilege to welcome you, General, to my great state and to the people who are obviously very interested in what we're going to do here today. Ladies and gentlemen, the Attorney General of the United States.

ATTORNEY GENERAL ERIC HOLDER: Thank you very much, Secretary Vilsack. It's good to be with you, and it's great to be back in this beautiful state, your beautiful home state.

As the Secretary indicated, I had a chance to spend quite a time -- quite a good deal of time here during the President's campaign, and I think that's when the people of this great state taught me and proved to me and proved to our entire
nation that no matter how improbable the goal or how difficult the task, there's simply no better place to begin than right here in Iowa.

I have to tell you that when I was here during the campaign, I was drawing crowds as large as three. Things have changed a little bit. But today I've returned for what I know will be another learning opportunity, and I really want to stress that, a learning opportunity.

As I stand here, as I sit here, I'm reminded of President Eisenhower's observation -- I think this is a great quote: "Farming looks mighty easy when your plow is a pencil and you're a thousand miles away from the cornfield." Dwight Eisenhower, great words. Those words, I think, remain true today.

And in the decades since he spoke them, the challenges that face farmers and other leaders across our agriculture industry have become even more difficult. And that's why we have gathered here for this historic discussion, and it really is historic. I'm glad to see that so many of you are here, and I want to thank the people of Ankeny for hosting this milestone event.

Now, I don't use the word milestone
lightly. I mean I really don't. It's been more
than a century since the Sherman Antitrust Act
became law and nearly 90 years since the Packers
and Stockyard Act entered the books. In that time,
not once -- not once -- have our nation's
Departments of Justice and Agriculture come
together for a public discussion on competition and
regulatory issues in your industry.

Not once have farmers, ranchers,
processors, consumer groups, economists, and
antitrust attorneys joined to share their
perspectives on issues of competition and
regulation, issues that you all understand best.
But today, in this room, that is exactly what is
happening and what is going to happen. And it's
what will happen in similar rooms across the
country in the coming months, as the Secretary
indicated.

These workshops, I think, are an
opportunity for all of us. And I believe they will
provide each of us with a more complete
understanding of an industry that has been at the
core of the American economy ever since there was
an American economy. The workshops, I think, also
reflect the Justice Department's renewed commitment
to collaboration, to transparency, and to results.

Now, while our top protection -- our

top priority must remain the protection of our

national security, we cannot and we will not

neglect our responsibility to safeguard and to

strengthen the American economy. If we fail to

defend America's position in the global

marketplace, if we neglect our duty to fight for

prosperity, growth, and opportunity of return, we

risk in a different way the security of our country

and the safety of our people. We recognize this,

and that, quite simply, is not an option.

Now, we all know that one of the

greatest threats to our economy is the erosion of

free competition in our markets. We have a great

Assistant Attorney General, a person who runs the

Antitrust Division in the United States Department

of Justice sitting to my right, Christine Varney.

She's as tough as they come. She's as aggressive

as they come. She's as knowledgeable as they come.

She has done a great job so far, and I think we can

expect even greater things from her. The President

chose well in making her the Assistant Attorney

General.

We've learned the hard way that
recessions and long periods of reckless
deregulation can foster practices that are
anticompetitive and even illegal. So we have to
ask, is today's agriculture industry suffering from
a lack of free and fair competition in the
marketplace? That's the central question.

And to answer this question, we must
begin by examining what we know for sure. We know
that a growing number of American farmers find it
increasingly difficult to survive by doing what
they have been doing for decades, and we've learned
that some of them believe that the competitive
environment may be, at least in part, to blame.

The Justice Department as well as the
USDA and this entire administration is committed to
protecting competition very, very vigorously. But
I also recognize that the enforcement of the
antitrust laws, while critical, does not really
fully address the concerns of many agricultural
industry leaders and stakeholders. That's why
we're partnering with the USDA to benefit from its
deep expertise in your industry and hopefully to
share ours on the order of regulatory issues that
are potentially at play.

That's also why we're engaging
directly with all of you, to listen, to learn, and
to determine the best ways to ensure fairness and
courage success. Now, as we evaluate and as we
develop policy, we want to hear from you. In fact,
when we announced these workshops late last year,
we also listed -- or also issued a call for your
comments and for your recommendations, and so far
the response has really been tremendous. To date,
we have received more than 15,000 comments, and I'm
grateful that so many of you have contributed to
this extraordinary example of government, public
engagement, at its best.

Not only must we keep up this work, we
must expand this work. Together I believe we can
address the 21st century challenges in the
agriculture industry and challenges that you face.
Now, I'm certain that we can honor and preserve
your industry's essential role in our economy as
well as our culture, our livelihood, and our global
standing. Those are the goals that we have.

Your participation here gives me great
hope that we can accomplish together a great deal
for the days and months ahead. Secretary Vilsack
and I look forward to hearing from you and to
working with you. Thank you very much.
SECRETARY TOM VILSACK: So the process for the next 50 minutes of this first session is an opportunity for the panel who is assembled here to comment, and the way we're going to essentially approach this is we'll start with the Attorney General and a few comments specifically, and then I'm going to turn it to Senator Grassley and just work down through the list asking each of the panel members at least one question. Hopefully we'll get through the first round.

When I appear before the Senate, Senator Grassley has a little red light that tells me that I've got to stop after a couple minutes. I can't go on and on. So Senator, this is my time to put the red light on you. So I'm going to take advantage of that, although I'll probably pay for it later.

So let me start the process with the Attorney General, and again, thank you for being here today. And I guess the first question obviously is, as we begin this process and you look at the priorities that your department has as it relates to agriculture competition, maybe you could give us a sense of what those priorities are specifically and how we're going to move forward.
ATTORNEY GENERAL ERIC HOLDER: Sure.

Just before I begin, just as a point of accuracy, the person who's most likely to pay for this is me. Senator Grassley is one of the more active members of the Senate Judiciary Committee. I'll be appearing before him in about ten days or so. So I'm going to be extraordinarily nice to him over the course of the next hour or so. Remember that, Senator, how nice I was, okay?

But the question that Secretary Vilsack asked is a serious one, and one of our first priorities was simply to work cooperatively with the United States Department of Agriculture on this series of agricultural workshops.

We want to express our commitment to enforcing the antitrust laws in the agricultural sector, and we wanted to work with and take advantage of the deep expertise that exists within USDA. We want to learn more about agricultural markets and the agricultural sector generally.

In order to do our work well, that is to be good antitrust lawyers and other lawyers in the Department of Justice who might be involved in this work, we have to understand the nature of the industry that we are going to engage in. And who
better to learn from than the United States Department of Agriculture? We also hope to learn from other government officials and I think most importantly from farmers and others who are working firsthand in agricultural markets. There are things that you all know on a day-to-day basis, that you live that we need to hear, that we need to understand if we're going to do our jobs as effectively as we can.

I think we come here as friends. We come here as government officials who are not afraid to hear from you, whatever is on your minds. For this dialogue to make sense, for this dialogue to really work, you have to be as frank as you can be, understanding that we are going to be receptive to that kind of interaction, to that kind of dialogue.

My primary goal is to protect both farmers and consumers from anticompetitive activity. Antitrust enforcement provides increased opportunities for farmers when it is done right. And this woman will do it right. I promise you that.

And we can also bring lower prices,
better quality, and greater choice for consumers.

There's not necessarily a tension between that, between those two goals.

Maybe I can just mention a couple of the Department's recent enforcement actions in the agricultural sector to give you a sense of what it is that we are here doing. In January we filed a lawsuit that challenged Dean Foods' acquisition of two dairy processing plants from Foremost Farms that inflicted higher milk prices on consumers.

In late 2008 we filed a lawsuit to block JBS S.A.'s acquisition of National Beef Company -- National Beef Packing Company. We concluded that the acquisition would lessen competition among packers for the purchase of feed cattle and thereby harm farmers who would get less for their cattle. This was going to be felt by consumers and bad for farmers as well.

Now, another major goal we have is to enhance competition by working cooperatively with other agencies. It's not only the Department of Agriculture and the Department of Justice that are engaged in this endeavor. We look at the CFTC, the FTC, and we also have a great cooperation with our state counterparts. Tom Miller is such an...
important person in this effort.

We're working closely -- I really want to emphasize -- with the Department of Agriculture, with my good partner, Secretary Vilsack. We are working on regulatory initiatives and ongoing litigation to ensure that USDA's efforts to protect farmers are successful.

We want to be good partners with USDA, but we also want to be good partners with all of you. We draw on the knowledge that USDA has in the agricultural markets so that we can do our jobs and do our enforcement, do our advocacy better, but we will enhance our ability to do the job that you expect of your Justice Department if, as I said, we have a very meaningful, frank exchange of views, ideas, thoughts, and concerns this morning.

I'm very glad to be here, and I look forward to interacting with all of you.

SECRETARY TOM VILSACK: Senator Grassley, I don't think I have to necessarily introduce you to this audience, but it is important for folks to know your long-standing service to this country beginning in 1958, your service in the Iowa legislature to '74, and then you were elected to Congress in 1974 and then in 1980 elected to the
Senate where you serve as the ranking member on the Senate Finance Committee, on Judiciary, Budget, Agriculture, and Joint Tax Committees, a farmer, someone who visits all 99 counties.

And I think the question is, Senator, as you listen to Iowa farmers, as you travel around the state, let us know what your thoughts are about how competitive this market is and what concerns, if any, you have.

SENATOR CHARLES GRASSLEY: I'm prepared to do it. And I would ask for a point of personal privilege before my five minutes because I think it's very important that people understand a process as much as substance because I've been in Congress a long time, but I've not seen this sort of cooperation between the U.S. Department of Agriculture and the Justice Department, and I've saw it as badly needed in the past, so I think I want to compliment you, Secretary Vilsack, and you, General Holder, and your Assistant Attorney General Varney for doing this.

It's badly needed, and the cooperation continued is very important as well, so I thank you for doing it. It fills a big void as far as I'm concerned in the issue of concentration and lack of
competition within agriculture. And now can my
five minutes start?

SECRETARY TOM VILSACK: Absolutely.

Just remember that when I'm testifying.

SENATOR CHARLES GRASSLEY: Okay.

Well, it's obvious to me because I've talked about
it so long, so Iowans would not be surprised if I
said that there's not enough competition, too much
concentration, and I see it not only as a problem
for today but as a problem for young farmers
getting started, getting into agriculture, keeping
the next generation of family farmers strong, and I
say all of this in the enhancement of the
institution of the family farm.

We use the term family farm often
loosely, but I consider it a very important
institution that's a basic of American agriculture
and that that needs to be preserved. Bigger isn't
per se bad, but it can lead to predatory business
practices and behavior. And that's what we've got
to be concerned about and the legitimacy of
government not being a partner but for sure being a
referee.

More specifically, packer ownership of
livestock is a problem, and I've been working on
that a long time, but when you're up against the
American Meat Institute and a lot of the other
strong people in Washington, D.C., it's difficult
to get around that, so we haven't made much
progress in that area.

Secretary Vilsack already spoke about
the statistics on the diminishing of the spot
market. We need to take legislative action and/or
regulatory action to do that. We should not have
very much, if any, mandatory arbitration. There
ought to be alternatives.

I think we have to have -- what goes
on here at this meeting between the U.S. Department
of Agriculture and the Department of Justice ought
to be formalized in some way, and so I bring to
your attention my Agricultural Competitive
Enhancement Act, ACE for short. Our bill would
formalize this sort of dialogue because U.S.
Department of Agriculture being involved with the
Department of Justice -- and I don't say this to
denigrate anything that the Justice Department
today is doing, but I think I can say under both
Republican and Democratic presidents in the past
that there has not been enough dialogue like you
see today.
And I hope that it leads to what I would call competition guidelines. I think these must be issued by the Department of Justice as it applies strictly to agriculture. And the ACE legislation would beef up antitrust enforcement.

In the process of what you're doing, and we won't know down the road for several months until you get your hearings done, but I don't want anything to be done that stifles innovation, and I want to promote not only for agricultural competition, but this also applies to what we need to be doing through regulatory reform on Capitol Hill in regard to Wall Street and our financial institutions. We need more transparency. We need more openness in the market, and with transparency, I think you get accountability, and you get a lot more self-regulation and consequently then less requirement for people in USDA with Packers and Stockyard or with the Justice Department, what they have to do through enforcement of law. Thank you very much.

SECRETARY TOM VILSACK: Thanks, Senator. Senator is reserving his time.

I want to turn the podium now and the direction to Congressman Boswell, also someone who
has served our country in the military with
distinction, first elected to the U.S. House of
Representatives in 1996. Prior to that he was the
president of the Iowa Senate where I served with
him and had the pleasure and privilege of doing so.

He's been named the Chair of the
Agricultural Subcommittee on General Farm
Commodities and Risk Management focused on crop
insurance. He previously served as Chair of the
Agricultural Subcommittee on Livestock, Dairy, and
Poultry. He knows quite a bit about farming. He's
traveled throughout this state and throughout the
country.

Congressman, let me basically direct
the same kind of question as I did to the Senator.
Your thoughts and attitudes about the competitive
circumstances that farmers have today and how fair
and balanced the process is.

REPRESENTATIVE LEONARD BOSWELL: Well,
thank you, Mr. Secretary, and I'd like to have my
personal point too, follow the Senator, you know.
We've got to work together, so hope you think about
First off, I talked to the Attorney
General from Missouri a little while ago, and he
said something about the fact that he was here, and
we chatted a minute. And I said, well, I started
there in Missouri, just barely, south of Lamoni or
Davis City, Decatur County, on the first ridge into
Missouri. I was born in a farmhouse which stood
until just last year. But anyway, I do have a few
roots, if you will.

But move on from that, I've known
Secretary Vilsack as counselor, as Senator, as
Governor, and candidate, if you will, and as
Secretary. I have to applaud the effort he's put
forth in every category that I've known him in for
all those years, and I just want to say that.

And General Holder, we've not had this
personal contact I've had with Secretary Vilsack,
but I've followed you for a long time. Thank you
for stepping up to the plate and doing what you do.
I appreciate it very much. We all do.

Back to the situation here, it's very
challenging. We know that. It's a challenging
time. It's a historical time. And I look around
the audience, which I have for a few moments, and
recognize a lot of faces, people I have engaged in
conversation with over the production of
agriculture and how we feed this hungry world
that's growing by 90 million, they tell me, every
year. This is a big factor. It's a big thing.

I personally think there's room for
all the different avenues of production
agriculture to participate, and we're still going
to have to really scramble in our research and all
the things we got to do to be able to do that, and
I think we can. I believe we can do that. I'm an
eternal optimist because I come from the farm, and
I believe that. And I think we can.

And so what you're doing here today as
holding this together, to sit down and to listen to
each other and to talk about it and work it out,
and I'm very proud to look out here and see these
yellow shirts, the Commercial Food Workers. Yeah.
We can grow it. We can produce it. We can go
through all this, but somebody has to, you know,
take it through the processing and the packaging
and put it out there on the shelf, and these are
the men and women that do that, and we ought to be
very appreciative of the efforts that they do.

And look out here at President Denson
and realize what this fine institution does for us
and many things to do with agriculture and
opportunity and the FFA. I talked to one of those
young lads a little while ago. I said "I had a
jacket like that. I don't know where it's at right
now but probably wouldn't fit me anyway."

But you know, there's so much
opportunity, but there's a big, big challenge, and
we've just got to have the dialogue and be willing
to talk together, and we can do this. We can.

And so, Mr. Secretary, there's a need.

I concur with many of the things that have been
said already, with my colleague Senator Grassley.
I've talked to Chairman Peterson of the full ag
committee from Minnesota. He understands what goes
on out here as well as you do.

And we're going to start the hearings
next month, the field hearings, on the next farm
bill, and we're still adjusting to the current one,
as you well know, but you know, we did some things
in the last farm bill that a lot of you, I think,
are interested in. Senator Grassley mentioned, you
know, the mandatory arbitration and the dealing
with contracts and different things, to get
daylight on it, to get it out there where people
can see what's going on and have fairness and
opportunities for the producers, you know, to deal
with this contract agent or whoever and have
fairness.

And I think if we keep that in mind that fairness and transparency, that we can do these things, and I am so pleased that, you know, we've got two major research companies that work very hard to try to be able to get us the opportunity to increase production and meet this hunger that's around this world, and it's going to grow. We've got to have fairness and openness, and we can do this.

So I'm hearing out there from the farmers that I have a lot of contact with and many others that stay on focus and make sure that we can do this to the best we possibly can do it, whether it's the education process, the research process, the working together, on the fairness, the openness, and so on so this country of ours can continue to lead in this world the food production and doing the things we have been known for doing for a long, long time.

We can still do it, but we've got a big challenge right now, and you know it, and I could spend another five minutes talking about that, but I want to go back. I want to hear -- I'm here to listen today. I want to learn. I want to go back to my committee. I want to go back to my
chairman, and I want us to sit down and deal with
the Senate and the House and those of you that meet
all the different aspects of this and do the very
best we can possibly do, and I think that's a good
thing.

   Thank you very much. I'm glad to be
   here.

SECRETARY TOM VILSACK: I first met
Lieutenant Governor Judge in her capacity as a
mediator during the farm crisis of the '80s when I
was representing farmers who were being foreclosed
on, and she was trying to keep farmers on the farm.

   We then served together in the Iowa
Senate for a period of time. She was then elected
as the first woman Secretary of Agriculture for
this great state. Then in 2006 she was elected as
our Lieutenant Governor. So in addition to having
all those elected offices and providing service as
the mediator, she also, along with her husband,
Senator Judge, have been in the farming business, so
she knows a good deal about agriculture.

   So Governor, let me ask you this
question: As you deal with issues starting in 1980
all the way through the process, talk to me a
little bit about the smaller producers and the
challenges that you see smaller producers might have in this competition situation.

LIEUTENANT GOVERNOR PATTY JUDGE:

Thank you very much, Secretary. I'm not going to -- since I'm not in Congress or the U.S. Senate, I don't know that I have to have such tight rules about my time. I'm a farmer from southern Iowa, and we talk pretty slow.

I did have a couple of great colleagues with the time I spent in the Iowa Senate, and two of them are here with me today, Congressman Boswell and Secretary Vilsack, great friends, and it's good to see them again, and also to General Holder, it's good to have you back in Iowa. Come any time. We like to have you here.

I'm going to use the time to address the question that the secretary asked me in two specific areas because I believe that they are areas that need to be addressed, must be addressed if independent farmers are to have any opportunity for success in the future, and those two areas are first of all mandatory price reporting, and the second area is the availability of both short- and long-term financing for independent farmers.

Five years ago when I was in Secretary
Northey's seat, Iowa made a great push to make some significant changes in the federal mandatory pricing laws. The changes that we were seeking were to bring fairness and transparency to the marketplace, to give independent producers valuable information that they have to have in order to make marketing decisions. Unfortunately, at that time we were only able to make four modest changes that were incorporated into the new law, and I want to state that Iowa Pork Producers and Iowa Cattlemen's Association both worked very hard with many of us to make more significant changes than we were able to accomplish.

The changes that were accomplished five years ago were the addition of a schedule for net price distribution, expanded sow and boar price reporting, and requirements that USDA ensure producers' confidentiality when they make an inquiry about packer reporting.

Having said that, if independent producers are to have the transparency and access to markets, we know that mandatory price reporting law needs to include the addition of reporting of wholesale pork products just as it is done with boxed beef and boxed lamb today. In addition, the
law should require greater scrutiny and disclosure of potential formula prices that may be being used to avoid reporting negotiated prices.

It is my understanding that USDA recently began a quarterly compliance report, and that report is to include at a minimum the total number of audits that have been conducted, the total number of violations that have been found, examples and descriptions of violations, and the number of packers required to report under law by species, and notation of any unresolved violations or pending violations.

Now, it is very important that that report is accurate, and it's very important that that report is readily accessible to livestock producers. It's also my understanding that in the ten-year life of the present reporting law, not one firm as of yet has been fined for a violation. With closer scrutiny and more timely reporting, violations must be identified and fines imposed as was intended.

Mandatory price reporting is a critical part for an independent producer today just as it was five years ago, and the next livestock reporting law that's passed and
implemented by USDA should begin immediately for
greater independence and authority to your audit
and compliance branch from the market use and
livestock and seed branch because there is a
feeling that that is perhaps too heavily influenced
by industry groups.

Finally, closer scrutiny of the
formula -- and I think Senator Grassley made
reference to this -- of the formula and forward
contracts in sales is needed to ensure that firms
are not skirting the reporting of their negotiated
sales.

The second issue that I'd like to
mention briefly is availability of financing for
independent or small family farmers. With the
tightening of credit requirements and consolidation
of banks, which results in the loss of locally
owned and community-invested banks, and changes
also in the Farm Service Administration lending
policies. That all of those things have happened
over a period of years since the farm crisis, and
that sets up for us really a perfect storm that
allows large vertical integrators to step into a
void, and they literally then assume the role of
banker to family farmers across this country.
The integrator today is supplying feed, livestock, and in many cases loans for construction of facilities for family farmers. And the farmers are, in fact, today supplying skilled labor.

Although many find this system to be objectionable and believe that vertical integration is, in fact, the leading cause of our concentration problems, few farmers have the financial capacity to farm on their own and find themselves in a catch-22 situation. This situation will not change without a change in thinking on a national level regarding agricultural financing today.

And I would suggest respectfully a review by USDA regarding your lending programs, both your direct and indirect loan programs, to see if there isn't some way that we can help bring some more stable financing for independent producers. And thank you very much.

SECRETARY TOM VILSACK: Thank you. I do want to say in response to the last comment that we actually have engaged in a recent review of the credit policies, and we have made some changes as it relates to poultry and pork producers and the relationship that they have with integrators to
make sure that we're not undercutting the smaller independent producers, making it more difficult for them to access.

In fact, we just in December issued rules on poultry and just recently applied those rules to pork, so we are cognizant of that, and we've also continued to focus on additional guaranty and direct loan opportunities in a more aggressive effort on beginning farmers.

Let me turn the attention now to Attorney General Miller, if I might. General, you've established a farm division in your office which I think has undertaken many cases to represent farmers who have been engaged in and subject to certain circumstances that might constitute fraud or illegal activity, and what I'm interested in from your perspective and what you've seen from that farm division is what the most problematic aspect in marketing is relative to competition within this state from your perspective.

ATTORNEY GENERAL TOM MILLER: Thank you, Secretary Vilsack, and thank you to Secretary Vilsack and Attorney General Holder for developing this relationship to deal with consolidation, and
concentration, and antitrust in the agriculture area. Like to all the other speakers, I think it's great in the public interest for a lot of reasons, but let me just mention one that's practical and that is important, and that is that the antitrust law is fairly limited. And the current judiciary interprets it even more limited than many of us, Chris and I and others, think should be the case.

So to combine antitrust and the authority of the USDA which includes unfair practices, and I think deceptive practices, is a very important combination and complement. It's a little bit like we do in the Attorney General's office in Iowa that if we have a set of troublesome practices, we will look at the antitrust law, but if we can also develop a theory on the consumer protection law, we can have a much, much stronger case, so you know, what you guys are doing is just great.

And while this relationship is very important, Attorney General Holder mentioned another one that's very, very important in my view, and that is the relationship between the state attorney generals and the Department of Justice and the other federal government, and let me tell you,
this relationship today is the best that it's been
in the history of the country. The relationship
that we have with Chris Varney working in
antitrust, we've never had that kind of
relationship before.

We're working with many parts of the
Justice Department in mortgage fraud, Lanny Breuer
who's head of the Criminal Division; Tony West
who's head of the Civil Division. We're developing
a partnership to work on these cases and work
together to protect the public as never before.
People like Tom Corelli and David Ogden before he
left, we worked with very closely.

I've been around -- still a relatively
young man, but I've been around quite a while, and
I've seen many administrations, Democrat and
Republican, and we've never had this kind of
relationship of cooperation, openness, trust, and
respect as we have today, so General Holder, thank
you very much for your working with the states in
this really unique way but, more importantly, a way
that's just so much in the public interest.

In terms of concentration and
competition in agriculture, we've had sort of a
preoccupation, some would say an obsession, in our
office in dealing with the contract producers and
contract companies, particularly in pork but in
seed as well. We've worked over a decade in this
area. We started by developing a model contract in
seed and livestock. Neil Harl was very important
in that effort, and you'll hear from Neil, I think,
this afternoon. I'm looking forward to his
comments.

Then we developed a grower's or
contractor's bill of rights that we went to the
legislature with to establish certain rights. We
got close to passing that but only got one part of
it passed, and that was the priority, a lead
priority for the contract growers, contract
producers, in terms of the proceeds.

But we don't give up. We had some
settlements with Smithfield and others, and we
incorporated many of those bill of rights into
those agreements, such things as the contracts have
to be in plain language. You can't retaliate
against a grower or producer if he or she is a
whistle-blower or engages in collective activity.
You can't terminate the contract over a period of
time if a significant investment has been made.
The agreement with Smithfield provided that they
had to buy 25 percent of their pigs on the open market, so you know, we've worked in that area, and it's a very important area.

We were concerned initially that in long-term production it would be like chicken in other parts of the country. I don't think that's happened. There is a certain amount of rights and ability to deal with these kinds of issues because of our efforts and the efforts of many others, but we continue to think that that's an important relationship, one that has to have some balance and some respect and authority for the farmer.

With some of the other AGs, we've filed some comments. We were among those -- did you say 15,000 comments that have been made? We've joined those comments, and you'll hear from three of my colleagues this afternoon, including Attorney General Steve Bullock of Montana. He's the principal author of these comments that we joined in and worked with him, and he'll talk more about them, but it covers the range of issues dealing with concentration and competition in agriculture, including seed, grain transportation, cattle, hogs, chicken, and dairy. So Steve is here with Chris Koster who's the Attorney General of Missouri. The
Attorney General of Ohio, Rich Cordray, will join him this afternoon. You'll hear more about our statement here from them and particularly Steve, who's taken a lead here.

But finally, you know, I would mention competition in regard to seeds. This is an issue that's before the agriculture community and before all of us. There was a recent AP story that I thought was very comprehensive that indicated that in soy, in soybeans, Monsanto seeds, their wonderful trait that's Roundup Ready resistant, was in 95 percent of the seed in soybean; about 80 percent or maybe 82 percent in corn.

Additionally, we've heard reports of price increases in seed this year, initially as much as 40 percent. That didn't seem to bear out, but perhaps 25 to 30 percent has been the price increase, although a little more research has to be made there.

So Monsanto's place in seed is something that's a competitive issue that's before all of us and that we've acknowledged, that we're working on. Monsanto has acknowledged that the Justice Department is working on it, so you know, I certainly would mention to Secretary Vilsack and
Attorney General Holder that issue.

And finally, you know, Tom, welcome back. We're proud that you're in this cabinet.

We're proud that you're the Ag Secretary, and we're proud of the things that you do in that office.

SECRETARY TOM VILSACK: Thank you.

It's hard to believe that Tom Miller was first elected as our Attorney General in 1978, and I can tell you I travel around the country and visit with a lot of Attorney Generals and a lot of officials. Believe me when I say this. He is considered to be one of the foremost attorney generals in this country, so we are fortunate to have him serve us for as long as he has served us. General, thank you.

Someone who has also, I think, received a lot of attention nationally is our Secretary of Agriculture. I want to turn to him now. I think folks know that Secretary Northey is a fourth generation Iowa farmer, grows corn and soybeans in a farm near Spirit Lake. He started with his grandfather, Sid, after graduating from Iowa State.

I've had an opportunity to spend a good deal of time with the Secretary in Washington,
D.C. on a variety of issues, and I think we have a very good and positive relationship.

And so Mr. Secretary, let me ask you, as you really focus on your day-to-day activities, I know that you're concerned about this issue of competition and consolidation and people getting a fair shake in the countryside. Your thoughts about the current competitive circumstance in Iowa and what you think we ought to be focused on.

SECRETARY BILL NORTHEY: Well, thank you. Thank you for having this hearing here. I appreciate it very much. Great to have a room full of Iowans and others here as well. It certainly is an important issue and something that needs to be talked about.

As I get around the state, talk to a lot of folks about what's going on in ag, and one thing consistent about agriculture is it changes. But certainly changes in the last ten years have been fairly dramatic. Iowa is still No. 1 in corn and soybean production. It's a very logical place to have these conversations, spend some time talking about those inputs and what the impact has been in the last few years on inputs and the impact on producers.
One of those things that I hear from producers out there as a concern, as General Miller mentioned, was concerns about price increases in seeds. We've seen those price increases. In fact, about ten years ago, roughing out the numbers, we probably spent a little less than a billion dollars a year as Iowa farmers on seed. We plant about 13 million acres of corn, 10 million acres of soybeans. That number is probably closer to $2 billion a year right now.

Now, in that same time, we've actually seen a dramatic increase in the value of what we produce as well, prices and yields, and so we went from about 5 or $6 billion a year, maybe $7 billion a year, crop production valued in the state to now we sell about $10 billion worth of crop. We probably produce about $12 billion worth of crop, so we've nearly doubled the amount, in part because of prices, in part because of yields. Certainly that new technology has been a part of that. That's really helped.

The demand that we've had overseas and certainly in our ethanol plants have increased the value, and that has been part of the reason that higher technologies that bring better yields have
increased in value to the producer. If you're getting $2 a bushel and you get 20 extra bushels by doing something, that's worth $40 an acre. If you're getting $5 a bushel for that corn, then that's worth $100 to you, so splitting that difference or sharing that makes some sense.

Now, we've also seen the price of that drop, that crop drop a little bit. We haven't necessarily seen the price of those inputs drop, and I think that's the concern that I hear of producers out there.

There's always this tension certainly in not wanting to lose the encouragement of developing new technologies. Certainly corn and soybean producers have seen a lot of new technologies as we compare our industries to wheat and some of the other products out there that haven't been a way for investment to happen and get a return on investment in those other industries.

We do see benefits here. But as you compare and contrast, we kind of talk about three sets of inputs. We talk about as far as crop production, we talk about our seed; we talk about our weed control, our herbicides, and we talk about fertilizer. They each have different personalities.
Seed certainly has increased in value, and we've seen that technology, and we're certainly increasing in price as well.

Herbicide has been more flat. It actually has gotten some additional competition from seed, Roundup Ready and other kinds of things, and so that cost of controlling those weeds has been fairly flat and probably generated less investment in part because of that as time has gone on as well.

And then you contrast that with fertilizer. We've seen some big movements in prices of fertilizer the last few years. Two years ago we had record high fertilizer prices. Certainly there's always this concern of how narrow is that production capacity to that fertilizer. Are there folks out there that can set prices? It sure felt like it at the time. Two years ago, as we saw thousand dollar anhydrous ammonia and high costs of P&K as well.

And yet fertilizer is very -- what we sometimes call fungible. It can move around, and there's an international market for it, and although it may not quickly come back down in price, it certainly has come back down in price.
And so each of these have their own characteristics in how they act, and we've seen fertilizer have a competition that has brought that price down to some extent. There's still concerns both at the local level, how many folks do you have to buy the stuff from, as well as the national or international level of how many producers are there out there. But we've certainly seen, because of an international impact, that prices have come back down again from the peak as well.

So there's a tension in all these areas. They each have their own personalities. I think we have to look at them each differently. They certainly impact producers, and for producers that 10 years ago, 15 years ago were producing 250 or $300 an acre and now are producing 700 or $800 an acre, inherently there's some increases in cost there, but that doesn't necessarily answer the question of whether we have competition.

I guess one last point would be on the selling side. It's been an interesting time as we've added -- certainly during your tenure, Secretary, as Governor, we've added ethanol plants. We've actually added market to the corn demand out there.
We've maybe reduced and consolidated some of the grain buyers that are out there. Some of the co-ops have gone together, and so in some areas we see less, but at the same token we have 39 ethanol plants in Iowa; we produce more ethanol in this state than anybody else does. Those are new markets that didn't used to be there, and that competition has in some cases created a stronger market, a market that's closer to the Chicago price. We talk about the difference between the local price and Chicago price as the basis. That has tightened up as we've gotten more competition, so certainly competition works.

But we have a lot of concerns in the livestock industry from folks, and that always balances tension between competition and efficiency, and that's one of the challenges that you all have is to listen to the folks as folks outline specifics in those areas. So thank you for being here and the chance to say a few words.

SECRETARY TOM VILSACK: We have six minutes left, so this is the same question to all the panelists, and obviously, Christine, I'm going to give you a chance to close. I'm going to give the panelists an opportunity.
If there was one issue or one improvement that you would want us to focus on specifically as part of this conversation, what would it be? Senator?

SENATOR CHARLES GRASSLEY: I think to make sure that the arrangement that this meeting and your series of hearings exemplify that we formalize the arrangements between U.S. Department of Agriculture and the Department of Justice to work together, and from my standpoint, that means -- I've been critical of past Departments of Justice maybe not paying enough attention to agriculture, not enough institutional knowledge in agriculture to help that -- and to formalize it some way so that when we have questions of the antitrust laws being enforced that there's input from the Department of Agriculture on that point.

And then even though it might not be a part of this discussion but more vigorous enforcement of the Packers and Stockyards Act.

SECRETARY TOM VILSACK: Congressman?

REPRESENTATIVE LEONARD BOSWELL: Well, let me concur with Senator Grassley. Market transparency. I just mentioned this. Very important to be able to know what you're dealing
with as you're trying to make the sale and so on and the market transparency. And it's quick. It's up to date.

And then as we go into this next farm bill, which will start right away, as I mentioned, that we take advantage of the input from everybody that's doing the hands-on, regardless of what part that you're playing in agriculture. For example, fruits and vegetables, before this last farm bill, they said "Leave us alone." But in this farm bill, they came to the table, which was their right to do so, and it was reasonable.

And so I'm concerned about what's happening to our base line in production agriculture as we go in this next farm bill for what we had produced the last time and what we're looking that we may have to do now because of risk management and so on. So I guess I've added two or three other things.

SECRETARY TOM VILSACK: Okay. Very good. Governor?

LIEUTENANT GOVERNOR PATTY JUDGE: I think it's been said. I hate to make this, you know, just keep being unanimous here, but market transparency is critical as we go forward, and I
would also say, as Senator Grassley said, that it is also critically important that the Packers and Stockyards Act is enforced and that cooperation between your agency and General Holder's agency will be critical in that.

SECRETARY TOM VILSACK: General?

ATTORNEY GENERAL TOM MILLER: Well, I'm a lawyer for better or for worse, so this is a little technical, but I'll try and make it as understandable as possible.

There's two parts of dealing with these concentration issues as we've discussed. There's the antitrust law, and there's the other provisions, including under Packers and Stockyards, the unfair practices.

I think on that side, we need to -- you need to and we need to work with you to more develop the non-antitrust laws to deal with concentration. And obviously you're talking about that, but there's more that can be done there, and that law can be explored.

On the antitrust side of it, it goes back to a breakfast meeting that we had with Chris Varney, the Attorney General, Steve Bullock, Chris Koster, myself, and probably 25 other AGs about
antitrust law generally, that the interpretation of
the antitrust law swings, and in the '60s and '70s it
swung to a point where enforcement, it's very
broad, and it swung back to a very narrow
interpretation currently.

And what we talked about is how we can
bring cases and how we can do things to try and
bring the antitrust law back more to the middle.
The interpretation by the judiciary is a big
challenge, but I think that's a very important part
of any kind of antitrust enforcement that Chris and
the attorney generals, and Jon Leibowitz, the Chair
of the Federal Trade Commission, was also an
important layer here, we've talked about and
hopefully we can work on.

SECRETARY TOM VILSACK: Secretary?

SECRETARY BILL NORTHEY: Let me just
add one issue to the mix here, and I think most of
these issues, we're looking back on. We're looking
at what has happened, but we actually have an issue
that's coming at us that we have a chance to kind
of set the stage for, and that is some of these
biotechnology traits will come off patent and the
understanding of how to put those -- how we treat
those as they come off patent that's fair to the
companies, fair to the industry, and fair to producers.

I think we actually have an opportunity to be able to set the stage and the arrangements for that in a way that's proactive before that happens that could be very constructive to producers and companies decades into the future.

SECRETARY TOM VILSACK: Well, I'm going to finish this segment by asking the Assistant Attorney General, Christine Varney, to make a few comments in her role as she looks at antitrust laws, protecting farmers, smaller operators and consumers.

Christine, be interested in your thoughts about next steps.

ASSISTANT ATTORNEY GENERAL CHRISTINE VARNEY: Thank you very much, Secretary. If I can start by addressing what the panelists asked they would like to see, and I can absolutely commit on behalf of myself and my boss, the Attorney General, Senator Grassley, that you will continue to see the unprecedented cooperation and collaboration between our office and the USDA.

As a matter of fact, I have hired someone formerly from the state attorney general's
office in Texas, Mark Tobey who's here today, who specializes in agriculture. I have a Deputy Assistant also here today, Phil Weiser, who specializes in agriculture. Bill Stallings who's the lead of our agriculture enforcement team, a long-time career lawyer, is here in the back. So you have our commitment to work with all the folks that are here from USDA in an unrelenting quest to find the right balance for farmers, producers, consumers across the whole agriculture chain. We're going to do that in this administration.

To Congressman Boswell, market transparency. We care deeply about transparency -- and Lieutenant Governor, we understand that transparency helps maintain a competitive marketplace. So you can be sure that we're going to be working closely with USDA to figure out where our law, our jurisdiction, and their law and their jurisdiction overlap so that we can get as much transparency as is possible into the system.

Packer and Stockyard Act enforcement. USDA has tremendous expertise here, but we got a lot of lawyers at DOJ that can back you up. So we're looking forward to and have started the conversation at the staff level of how we can work
collaboratively to ensure the federal government is
taking full advantage of the authority that's
delegated to us in the Packer and Stockyard Act.

Biotech, things coming off patent.

You know, patents have in the past been used to
maintain or extend monopolies, and that's illegal,
and you can be sure, Secretary, that we are going
to be looking very closely at any attempt to
maintain or extend a monopoly through an abuse of
patent laws.

So that's generally -- I think I can
assure each member of the panel -- I've been
working with Attorney General Miller for not quite
30 years but for a long time, and he knows that he
can continue to count on the offices of the
Department of Justice in the Antitrust Division to
work across the board on issues as they confront
the state attorneys general, not only in
agriculture, but really, you know, you folks are on
the front lines, and your attorneys general are the
people that we look to to understand what is
affecting you in your life every day and what's our
appropriate role to support the attorneys general
or to collaborate with them, and we will continue
to do that.
You know, I got here a few minutes early, so I was able to talk with a lot of folks that are here today. I got to talk with the Food and Commercial Workers for a while. I got to talk with a lot of farmers who are here. My friends from the co-ops are here.

And there's a couple of things that I would say. You know, you touched on it a little bit. The first question was, you know, what can antitrust really do? Well, there's a number of things. When we see mergers, we look closely at the resulting concentration from a merger. As the Attorney General referenced, we recently sued Dean Foods because we think it resulted in too much concentration in milk in Wisconsin, Illinois, and Michigan, and we were joined by the attorneys general in those states in suing to break up that merger to try and get competition back in to get a better price to farmers and lower prices to consumers.

We did JBS last year, same thing. We will continue to carefully and closely scrutinize every single merger that comes before us, look at it on its facts, and make a decision on the facts of the merger. If it doesn't result in undue
concentration and in lessening of competition and
provides efficiency and helps farmers and growers
get better prices and get more efficiency in what
can get to consumers, that will be okay with us,
but those that don't, we will stop. They will not
go through during this Department of Justice.

The other thing that we look at, and a
lot of you have talked to me about this this
morning as I moved around, big companies in the
chain, wherever they are, and your views about how
much power they have.

Well, as one of my panelists said,
look, in the United States -- I think it was
Senator Grassley said big is not bad. But with big
comes an awful lot of responsibility. When you
have a tremendous amount of market share, you have
the responsibility to behave in ways that keep the
competitive playing field open. You cannot engage
in acts that are designed to protect or extend your
monopoly. So we look very, very closely across all
sectors wherever you see an enterprise that has
enormous market power.

And you know, America is a great
country because we have not only great farmers and
great small entrepreneurs, but we've grown some of
the best companies in the world that are worldwide
leaders, and for the most part I believe those
companies take their obligations under the
antitrust laws very, very seriously. But we take
very seriously our obligation to enforce those
laws, so we look very carefully.

The final thing I would say is
something I think a lot of you in Iowa are familiar
with. We have criminal authority in the antitrust
division, and it is illegal for competitors to sit
down together and fix prices. That's what you
saw -- I don't know if you all out here have seen
the movie that just came out called The Informant,
and it's a movie about the lysine cartel, and we
will, wherever we find -- particularly in the
international sphere, wherever we find price fixing
like that, we will prosecute that criminally.

So you have my commitment that we're
going to do everything we can to make sure that
it's a competitive agriculture economy, that
farmers, growers, packers, processors, are all
making a decent wage, and we're getting American
consumers food on their table that's safe and
healthy and a decent price.

SECRETARY TOM VILSACK: General,
before we break for a short break, do you want any concluding comments?

ATTORNEY GENERAL ERIC HOLDER: Well, you can see why I have such confidence in this woman, right? I mean I would say that what we're looking for is, like everybody has indicated, transparency so that everybody has a fair look into what's actually going on.

But the overriding concern we have in the Justice Department is maintaining fairness. Doesn't mean we're going to put our thumb on the scale. We want everybody to have a fair shot. I think Senator Grassley is right. As Christine indicated, you know, big is not necessarily bad, but big can be bad if the power that comes from being big is misused, and that is simply not something that this Department of Justice is going to stand for. We will use every tool that we have to ensure fairness in the marketplace.

It is important because at the end of the day, this is a national security matter. We talk about national security things in ways that -- terrorism and all that. If we do not have a strong economy, a strong agricultural sector, this country is not as strong as it can be, as strong as it
needs to be. And for us, this is a priority in this Justice Department.

We're going to use all the tools that we have, the attention that we can generate in cooperation with our partners at USDA to make sure that we are as effective as we can, that we are as responsive as we can be in dealing with the issues that you confront on a day-to-day basis.

At the end of the day and as we look back on our time in this administration, I hope we'll be able to say that we had a measurable impact on the lives of people in this state and other places, that their day-to-day lives -- that because of what we did that their lives have improved, and we don't lose sight of that.

You know, we talk about big and lofty ideals, and projects, and programs, but we never lose sight of the fact that what we're talking about are our fellow citizens and how they live on a day-to-day basis, and so those are our guides. We are, as I said, bound and determined to do the right thing as we learn what the right thing is, and we want your input as we are trying to develop the policies that we will implement.

SECRETARY TOM VILSACK: Okay. I want
to thank the panelists. We're going to reset the
panel to invite a number of farmers from this state
and from other states to comment in the next panel
discussion. It will take us about 15 minutes or so
to do that, so we'll be back in about 15 minutes.
Again, thanks to all for a very good discussion
this morning.

(Short recess.)

SECRETARY TOM VILSACK: If folks could
have a seat, please, we're going to get started.
So if you can find a seat. If I could get
everybody's attention, please. If folks could find
a seat, I'd like to get started. Apologize for the
late start.

Let me first of all make an
announcement in terms of a slight change in the
schedule. Given the interest and the size of the
crowd, as I understand it, when folks came in, they
were given a number or folks who are interested in
making a presentation were given a number. We
wanted to extend a little bit the comment period
for folks in the audience, so following this panel,
we're going to have sandwiches available. We're
going to encourage you to get your sandwiches
within a 20-minute time period and then come back.
I will still be here, and there will be several folks from the USDA and Department of Justice up here, and by lottery we'll simply call on people based on the numbers you've got.

Hopefully folks will limit their comments to a couple minutes so we can get another 40 minutes of interaction with the folks in the audience in addition to what will happen at the end of the day. So that will come after this panel discussion.

This morning we're going to -- our second panel is going to be folks who are actually on the ground, so to speak, and in the field, farmers and ranchers who are dealing with the circumstances of agriculture today. I'm just going to briefly introduce all the panel members, and then we'll direct questions to them, so we'll move this along.

With us today is Eric Nelson who's a fourth generation farmer and cattle feeder from Iowa. Mr. Nelson has been a certified crop advisor since 1995. He's worked in the seed industry on sales and product management, and since 2004, he's worked as a farmer, cattle feeder, seed salesman, and crop advisor.
Pam Johnson also joins us today. She and her family raise corn and soybeans in Floyd, Iowa. They've farmed for -- Do you really want me to say how long you've farmed? For a while. Let me just put it that way. And represents the fifth generation in the farming business, so we're happy to have Pam with us.

Ken Fawcett is an independent crop farmer who was raised on his family farm in West Branch. He attended Iowa State University, received a Bachelor of Science in farm operations, returned to his family farm in 1972. He raises corn and soybeans including non-GMO specialty soybeans and white corn.

Eddie Wise raises tilapia, sweet potatoes, and hogs in Whitaker, North Carolina. A former Green Beret, he's also taught at Georgetown University and other institutions. He's active in the Black Farmers Agricultural Association and the Twin Rivers Swine Co-op.

Todd Wiley is a hog farm from Walker, Iowa. After graduating from Iowa State, he began work for a genetics company. In 1993 he went to work for his father with his father's diversified farming operation. Shortly thereafter he founded
Interstate Swine, LLC to handle the hog portion of his father's farm. He's got a farrow-to-finish operation.

And Jim Foster is a hog producer from Montgomery City, Missouri. He's farmed for over 54 years, raises pure Hampshires and has raised a variety of crops including corn, soy, wheat, barley, and rye, so we have a good cross-section of folks from the Midwest and from the Southeast to discuss a variety of issues.

And I'm going to start just in the order that I read the names and start with Eric Nelson. Eric, I think you probably appreciate and understand the risks associated with both sides of this operation as your involvement with the seed business and your involvement on the farm.

So I'm interested in knowing from your perspective whether risks are higher or lower as a result of consolidation, or does the market essentially contribute to those risks, or does it mitigate them? So comments about that and the competition issue.

ERIC NELSON: Well, the risks are higher due to competition. And I guess is this just a straight question portion or --
SECRETARY TOM VILSACK: It's a question and you can amplify on it.

ERIC NELSON: Okay. The fewer competitors, particularly in my cattle operation, it's not unusual in a week's time that we're down to 15 and 20 minutes cash market per week compared to a grain producer maybe has 1,500 minutes a week in order to make grain sales, and it's because there are only a handful of end users in the cattle market versus -- especially in this part of the world with the coming of the ethanol industry and all the ethanol plants that there are. There are many more end users for grain, but on the cattle side, it's become very constricted and on the seed side of things as well.

Sure, there are still many choices, but many times those choices are much more limited than they once were, and what's bothersome to me is customers will think that they're making choices from different companies when, in fact, they've purchased the same product in a different bag from different companies, but it's identical product.

SECRETARY TOM VILSACK: Pam, you also have interest in a seed business, and so you've seen it from both sides. There was discussion
earlier today about the increase in input costs not
necessarily being associated or connected to prices
that midsized operations are receiving.

Is that just simply a fact of life, or
do you think that there need to be some adjustments
to the market?

PAM JOHNSON: Well, I have prepared
remarks about that but --

SECRETARY TOM VILSACK: Feel free. I
mean you all just amplify on the question and run
with it.

PAM JOHNSON: Okay. I'll address that
in this, and then if you have further questions,
I'd be glad to answer them.

As you said, I farm in partnership
with my husband and two sons. Our farm looks very
different from those of my parents' generation.
We've made progress in many areas and improved
production. Today we raise three times as much
corn on one acre of land as we did back in the
1950s.

We've taken advantage of tremendous
advances in science and technology. These include
improvements in genetics with corn breeding, the
advent of genetically modified crops, and the rapid
The adoption of biotechnology. We use precise placements of seeds and fertilizers and follow best management practices.

The use of GMO seeds makes economic and agronomic sense and provides efficacy with less trips across the field, less fuel, and a safer environment for us farmers, our families, and the environment.

We have adopted biotechnology in soybean and corn production. We're not required to plant biotech seeds but rather have looked at the value that the seed technology provides, and I guess that would be my answer to your question. And we consider the price of that value.

Like other farmers, we speak with our checkbooks. If it's overpriced, we do not buy it. We have a choice in the seeds and traits that we plant. I have seen charts showing a very robust pipeline of new traits that will be available to farmers in 2010 and beyond. These traits are not coming from one source but from multiple companies. And it will take significant industry investment in research and intellectual property protections by all companies so farmers like me have innovation, choice, and competition in the marketplace.
The world is a very different place than it was for my parents. In today's complex global marketplace, we are all interconnected. If there's a financial meltdown in Dubai or Greece or a trade issue with South Korea or Japan, there are ripple effects that seriously impact my farm and our business in Floyd, Iowa.

For example, we experienced this domino effect back in 1998 as pork producers. The U.S. instituted a steel embargo which led the Russians to institute a poultry embargo which caused a glut of poultry on the world market which depressed hog prices to historic lows.

Challenging as it is to compete in this global marketplace, I would not choose to live in the past. The challenges are balanced by the opportunities. Life on the farm is better for me and my children. We have access to technologies, tools, and markets our parents could only dream about.

The U.S. is a maturing and aging economy with 98 percent of the world's population living outside our borders. There will be an additional 3 billion people by 2050. Agriculture is a core strength of the United States, ensuring
food and fuel security for both domestic and
international needs. And our farmers want the
opportunity to be an answer to those enormous
needs.

We want to live in a more stable world
where people are not fighting over food and oil.
Science and governmental policy have a huge role to
play in getting us there. The competition issue
for me is in giving the American farmer the chance
to compete on a level playing field, to supply
food, meat, and energy for the world's needs. This
means my government is involved in investments in
ag research, biofuels policy, setting a more
balanced tone in the food and fuel debate, and is
increasing trade for all ag products.

We need more public and private
investments in ag research. I've been privileged
to serve as the corn farmer on a team that's
providing direction and to advocate for the funding
to sequence the corn genome. This has been a strong
partnership with the USDA, the National Science
Foundation, and private industry. It's important
because it opens the genetic potential of corn,
puts all that information into the public domain so
all researchers have access.
Robust support of ag research needs to answer the fundamental scientific questions and get that research out to end users. I'm asking for supportive dollars but maybe, more importantly, support of a philosophy. Farmers are in a daily battle to defend what we do. We live in a culture where public opinion and policy is driven by media frenzy, and the affluent are disconnected from the hand that feeds them.

We are all engaged in this battle to tell our story, and we need our leaders, our legislators, and especially our Secretary of Agriculture to do more to set the tone to get to the truth. The tone has been very divisive. Production ag is being discounted. People are talking about food versus fuel, not food and fuel. There is anticorporate sentiment, anti-big sentiment, drawing lines between corporate factory farms and family farms, whatever those definitions mean. I don't know.

The media says big is bad. Corn is bad. Meat is bad. Farmers do not want to be pitted against each other. We all have a role to play, and the world needs all of us. Trend lines for corn production on constant numbers of acres
continue to climb. Farmers have the ability to produce more than enough grain for our customers. There has been good government support for corn grain to ethanol in the past, but it is waning at a time when there are great needs for biofuels and biobase materials.

The issue at hand is the policy of indirect land use under the renewal of fuel standard. Corn to ethanol is not allowed to compete with gasoline on a level playing field and is penalized by rules while gas is given a bye. This means that I as a farmer in Iowa am held accountable for actions in farming practices of a farmer in Brazil.

This is based on assumptions and economic modeling that even the economist makers have admitted are measuring the unmeasurable. This is simply not right and fair to the American farmer or the consumer.

I would ask that my government adopt laws and rules that are grounded in reality and issue you an invitation to come out to the country and see and talk with us. I believe that the future of ag is very bright, but it will take all of us working together to make it so.
Thank you for the opportunity to speak and tell my story, and I'd be happy to answer any questions.

SECRETARY TOM VILSACK: Thank you, Pam. What I'm trying to do with this process is to make sure that we have an opportunity for dialogue, so as we do these statements, if you want to respond to a question and then read the statement, that's great, but hopefully we can keep it within an appropriate time frame.

Ken, I notice that you are involved in niche markets, and I'm interested in whether or not in the niche market area you see a competitive issue at all and, if so, what the nature of that is.

KEN FAWCETT: Thank you, Secretary. I'd like to just briefly explain I'm part of a group that grows specialty crops, and some of those specialty crops are not genetically modified. And I'm also part of a group that became ISO certified. About 30 farmers in 2001 became ISO certified to verify our production practices and how we grow our crops, how we store our crops, and how we maintain the purity of those crops. We did this because of the food scare, and we felt that our organization
could provide quality products to the consumer.

As a result of this, we had very little interest from the food industry, and in 2004 we learned of a soybean that was developed at Iowa State University that had traits that were very specific to the oil content and produced a quality oil, and I guess if I would, I'd like to share with you the history of Asoya and what it did in the last five years and what maybe we learned from it.

But this group of farmers thought we would grow seed, low linolenic soybean seed, and that the whole world would want this seed when the food labeling law came. Well, we had the seed in the ground, 10,000 acres, and we looked around, and there was nobody that wanted the seed. There was absolutely no demand for this new seed. So this group of farmers decided, well, we better start a company and process the soybeans into oil.

And that's exactly what Asoya did. They raised money within the group, and they took the beans from that production. 90 percent of that 10,000 acres went into soybean oil. And we brought that soybean oil to the market, and Asoya accomplished many things there. The soybean oil we brought was a very high quality and purity.
Dr. Fehr at Iowa State that developed the soybean said "This is even higher quality than I can maintain in the laboratory."

We brought an oil to the market that had no transfats, high stability, lower saturated fat, and a cleaner, lighter taste. After months and months of testing, because these food companies would test the product for months and months and months to see if it met their quality, they found many advantages for it in chips and baby food, in snack crackers and many more. There were high reviews by restaurants that gave it superior performance in fryers, and of course it was transfat free.

It was also accepted by the soybean producers that began to grow this soybean. They liked the fact that it was non-GMO, there were no technology fees, and they almost as time went on stood in line to grow the soybeans.

Farm Industry News gave it an innovation award in 2008. And we felt that we'd defied the odds, and we'd brought a product to market which everyone said we couldn't do. But in the last few months, Asoya has been dramatically downsized. It's no longer contracting soybeans, and I'd like
to share a few things, I think, that created the
difficulties.

There were wild swings in the
marketplace, unprecedented high commodity prices,
and it led to a dramatic decline in soybean acres
in 2008. Nobody even wanted to plant soybeans when
corn was $6 an acre. We couldn't get acres in.

It also needed large amounts of
capital, and that resulted in several injections of
capital by the original members as well as outside
venture capital. The corporate structure of the
marketplace and the processors made the access to
that market extremely difficult.

Then the time lag between the time
when they finally decided they wanted the product
and we could supply it was as much as 18 months.
We had to get growers. We had to plant the crop.
We had to process the crop. We had to supply the
oil.

But most of all what happened to the
economy in 2009 led the users to reassess what they
could pay for soybean oils. They were interested
in the cost and not the value of our product. They
could blend lower quality oil such as canola or
3 percent linolenic soybeans to achieve their food
labeling laws.

And we feel the government wrongly allowed companies to label food as trans-fat free when you turn the bag around and it says it contains hydrogenated vegetable oil. And that's a contradiction.

They've lowered serving sizes to unrealistic low levels so that they can get through the labeling law and say it has no transfat because the amount is so insignificant, and that's true if you have three chips. Most people don't eat three chips.

But millions were spent to bring a new company, a healthy environmentally friendly company, and a cooking oil to the marketplace. Farmers have accepted the benefits of the seed and the procedure and the production for the storage and processing of those beans. There was thousands of hours put into this company plus all the investments.

And I guess the lessons learned, if I could just maybe sum those up -- or maybe you want to ask a question because I see my time is up. But the summary, I guess, is it's very, very hard for a small independent company to bring a food
ingredient into the market. We thought we maybe
had done it, and we failed. The specialty crop
market is becoming concentrated just like other
parts of the agricultural industry. Many specialty
crops might exist, but often one company controls
the contracting, the procedures for production, the
marketing, and the payment.

The food industry is not overly
interested in maintaining high-quality products or
traceability when our group of ISO producers found
practically no interest in food companies
contacting us.

And I think my time is up, but I
appreciate your time to talk about this.

SECRETARY TOM VILSACK: Thank you.

Eddie, as you talk about your operation, I'd
certainly appreciate your views on your experiences
in a diversified operation in terms of the
challenges that you face in terms of input costs
and markets.

EDDIE WISE: I am a member -- there's
26 of us -- independent raising all natural pork,
and it's been a battle to get there, but some of
the biggest problems we've encountered, for
instance, Whole Foods came in and offered all of us
a contract. I'm the only one that didn't survive.

I chose not to take the contract because once you take a contract, it's over with. Whenever they decide to shut you down, they shut you down. That's what it's basically all about.

So my partners and I have opened up a meat market and only to find out that in order to keep that meat market open, I'm going to have to put a processing facility on my farm because without being able to process it, I can't say I'm raising all natural pork.

So I've designed a processing facility, and you run into that same problem again when you need $200,000 for this facility, and the banks look at you and kind of smile, and you still own that lien. And I encountered the same problem.

I did nine years of commercial aquaculture research at the University of Maryland-Eastern Shore. In '97 I moved 5,000 tilapia to my farm. When I went to market on tilapia, because I stripped out a hog house and put tanks in it, they refused to let me market my fish. But you got fish rushing in out of China by the tons, and we don't know what they're grown in.

I haven't given up. I have got my
facility designed, but all of it hinges on where the dollars are going to come from, and when you're already in debt, you don't need to get in more debt in order to operate. So basically what we're looking for is some grant money, some independent money, that will allow us to go to the next phase, but no matter what happens, I'm going to continue to be an independent hog grower. I love it. My father did this. He had one of the largest hog operations in North Carolina as a sharecropper when I was five years old.

And he left the farm when I was six and told my mother he was not going to work himself to death for someone else. But I couldn't wait to find a farm, so I spent 27 years running around as a Green Beret, and I would raise a few hogs, and every time I'd get about a hundred hogs, they'd send me somewhere. So I had about 200 head of hogs, all purebred Duroc, and they sent me out to Howard University to teach, so I taught at Howard for a year, Georgetown for a year, and all that time all I could think about is I got to get back home to North Carolina and get back to raising hogs.

And so I finally got back, and the wife loves it. She was born and raised in
Washington, D.C., but she loves the farm. So we're having a good time. But we're not making that much money right now. But it's in the makings. You just have to be tough, and you have to stick it out.

SECRETARY TOM VILSACK: Todd, you're a hog farmer, and so you're obviously involved in the marketing of your hogs. As you talk about your operation and give your statement, I'm interested in your views about what you think the proper balance is between a spot market and contracts in fixing prices.

TODD WILEY: Thank you, Mr. Secretary. I'll be happy to answer that question, actually, through the course of my presentation.

I came back -- as the introduction indicated, I came back to the farm in 1993 to a farm that was very diversified, corn, soybeans, we fed cattle, and had a 160 sow farrow-to-finish operation.

Five years later in 1998, anybody who was in here remembers what happened in '98 in the hog business. It wasn't real friendly, similar to what we've been through in the last couple of years. I got in the hog business in 1998 with my
father. We're equal partners in Interstate Swine, LLC, farrow-to-finish operation. I'm the managing partner.

We've grown the business to 1,150 sows, and we market about 26,000 market pigs a year, which by most industry standards is considered a fairly small operation. But I'll explain a little bit as to how we got to that point.

The trends in agriculture is one of the things that we were asked to discuss, and as you know that there are less and less pork producers and less and less farmers in the industry as we've gone along. In part that has been required because of the management techniques and the economies of scale that needed to be acquired just in order to compete competitively.

And so our operation is probably bigger now than what I would have envisioned 15 years ago, but in order to capture the economies of scale, in order to utilize the management techniques and embrace the production standards that were set in our industry, in order for us to compete, we didn't have a whole lot of choice. It was either to grow our business, to capture those
economies, or to exit. And so as a managing partner, I chose to grow our business.

I firmly believe that independent operators have every opportunity to succeed, but we do need to be able to utilize and capture the economies. We need to utilize the technology and management strategies that the best people in our industry use.

There are more -- there are less packers, rather, now that are more efficient in terms of harvesting and processing product, and for those of you who aren't close to the hog business, this is the way we are wired. We are wired least cost.

The industry is based upon producing a high quality, safe protein for the world consumption at least cost, and so that is part of the reason agriculture and pork production in particular looks the way that it does at the moment.

You talked about the spot market, and currently as low as 5 to 6 percent of the pigs are negotiated spot market. That sets a price formula for about 50 percent of the pigs in production. I am one of those people who's on a formula price
with two different packers.

I do that for a couple of reasons.
The primary reason, though, is because I fear not being able to market my pigs in a timely manner.
For example, I have a barn that needs to be empty on Monday. I've got one load of pigs left in that barn. On Tuesday the power washer shows up to wash, disinfect, and clean that barn. On Wednesday and Thursday I reload it. I do not have the benefit of time because if you know anything about biology, biology doesn't wait on anybody.

I've got pigs coming from the nurseries. I've got pigs coming from the sow farms that need to move through my production system, and so I've been reluctant to engage in spot price marketing or negotiated sales. I think it's necessary. I'm glad somebody does it. But in my operation at this time, we do not.

I think it's also important to know that the packers need accurate price discovery as well. While I'm trying to get as much money from my pigs as I can, I acknowledge and understand the fact that they're trying to buy my pigs for the least amount that they can. And that's part of the capitalism formula that we -- price discovery is
important.

Intuitively, I believe that 5 to 6 percent of those pigs, basically pricing the -- another 50 percent, intuitively I struggle with that. Is that enough? But that's all. I can't find an economist that can give me the number. Is it 8 percent? Is it 12 percent? So that's an ongoing challenge philosophically in my mind.

We choose to sell our pigs to packers who don't maintain much ownership of pigs. I need to have a relationship long term with somebody who needs me. And so it's got to be a mutual beneficial relationship.

We do have marketing arrangements with both of the packers. One is a very rigid written contract, and the other one is a verbal agreement. My bank, my lender, has never required me to have that sort of relationship with packers. However, I am aware and know of lenders who do.

Challenges in our industry, especially currently, are huge, profitability being the biggest challenge. We suffered through a worldwide economic downturn, and on the heels of that came the H1N1 flu virus that unfortunately was misnamed the swine flu.
You know, the other challenge that we deal with are legislators who have minimal knowledge of modern production systems in agriculture, and so that's a challenge that we need to deal with.

And finally, the one that probably has the longest-term effects for our business is a substantially higher input cost that we have to deal with, in part because of an ethanol policy that creates more competition for our primary feed grain in corn, and so we're concerned about what opportunities there are for that.

And finally, probably the challenge that we're going to see coming forward is a higher cost in food, simply because our business is going to dictate that we have to receive more money for our product. Consequently, the consumer will have to pay more as well.

I see my time is up. I still have more to say if you want to --

SECRETARY TOM VILSACK: Another minute there.

TODD WILEY: All right. There are no more -- I'm going to finish. When the Secretary of Agriculture tells you you can finish, I believe
I will.

There is no magic wand to return farming and agriculture and pork production to the way it was 20 years ago. I fear that it's impractical at this point. I think we're too far down the road to structurally change our business to disallow packer ownership. There have been hundreds and probably thousands of pork producers in our state and the upper Midwest who have changed their production capacities to fit into the modern contemporary system. And to disrupt the modern contemporary system from a legislative standpoint will cause significant challenges for a lot of farm families.

I guess in closing, if there was one more solution that I would pose and the one that has some long-term challenges for us, while I am not opposed to renewable fuels, I am not opposed to energy independence, I think that at this point in the ethanol industry, it's time to eliminate or at least minimize the import tariff, and I think that it's time that we allow the blenders' tax credit to expire.

We're not opposed to competing for corn as long as we can compete for it on a level
SECRETARY TOM VILSACK: Well, let's finish this first round in hearing from Jim. And Jim, you've heard Todd discuss his challenges in the livestock business and his views about formula marketing and spot market. I'd be curious, as you give your statement, your feelings about that.

JIM FOSTER: Okay. And I'd like to say, too, I imagine Eric probably has a little more time.

SECRETARY TOM VILSACK: Yeah, he does. We'll come back to him.

JIM FOSTER: Okay. Thank you. I'm humbled and proud to serve with people that seem so dedicated.

I started being excited about this problem eleven years ago and went to two of these things. They fell on deaf ears. I want to tell you, Mr. Secretary, I'm convinced this is not a dog and pony show. You folks mean business and I appreciate it.

I won't bore you with history of my 55 years nonstop in hogs, but I'll tell you for sure I've seen it about all unfold in front of my eyes. I plan to speak from the heart but shoot
from the hip today about the serious trend we're
in. My concern is not for me but for my kids and
grandkids, making sure they can pursue the American
dream as my wife and I have.

Believe me, hog production is real
close to the poultry model whereby they would have
to participate by invitation only. As I drove up
yesterday, I remembered back to what I saw
traveling the same highway in the '60s as I went to
Austin, Minnesota, to a hog show. I saw home-built
hog shelters on lots of rolling hills of Missouri
and southern Iowa having sows with new litters. I
saw barns across Iowa with concrete pads out front
with 50 to 100 calves on feed. I saw veterinarians
at work with their catch chute, feed trucks
delivering feed, implement dealers delivering a new
manure spreader or a feed grinder. I saw real
economic growth all over north Missouri and
southern Iowa.

Fast forward to today and what did I
see? I saw where weeds grew up through the
concrete cracks last winter because there was no
cattle on feed. I see silos torn down or having
been empty for decades. Remains of those portable
hog houses are seen stacked rotting in the corner
of the field. Very little human activity around
what was once a thriving economic model can be
seen.

What happened? Perhaps the biggest
thing, we were taken back by the Chicago School of
Economics where the biggest, toughest boar hog at
the trough deserved to be the last one standing, no
matter who got rooted out or even killed or
economically killed by its tusks. He deserved to
win because he would be the most efficient, and
that efficiency would be transferred to the
consumer. That Chicago school is hogwash.

The recent economic global meltdown is
the most vivid costly disaster caused by that
thinking. Too big to let fail became the buzz
word. Will the biggest of our packers and food
retailers finally reach that level? We're probably
close. If so, our food security is at risk.

What is the true real cost of
so-called cheap food? I'm glad to read the
Illinois Agri-News that a leading proponent of that
who's a civil court judge has turned 180 degrees
after he saw the economic meltdown. I'm here today
to tell you our current price discovery system for
finished cattle and hogs is absolutely broken. Not
cracked or weakened. It's broke.

90 percent of all market-ready hogs are on the packers' doors with very little competitive bidding. They're hogs owned and raised by him, are promised months ahead, unpriced, with the promise the producer will get 5 or $10 a head over the corn belt average, but that is determined by the other 10 percent. Why would he bid competitively on the 10 percent? He'd rather slow down his kill speed.

In reality 90 percent is in possession or he could say he owns 90 percent every day without bidding. Would a city administrator who owns a paving business be allowed to contract his own company to do 90 percent of the city's streets? Heavens no. He'd be history.

Let's read Section 202 Part B of the Packers and Stockyards Act. "It shall be unlawful for any packer with any respect to livestock meats, meat products, or livestock products to give any undue or unreasonable preference or advantage to any person or locality in any respect whatsoever or subject any person or locality to unreasonable prejudice or disadvantage in any respect whatsoever."
How do packers on a daily basis who purchase 90 percent of their kill from themselves -- from themselves -- not violate? This is unrealistic. Market manipulation by packer-fed cattle was confirmed in '94 when a large packer addressed the Kansas Livestock Association telling them that companies use their own cattle to fill their needs when prices are up and stay out of the market when cattle are down. To me this is antitrust, the whole nine yards.

When I was a kid, Sunday evenings my neighbor would have five or six trucks loaded -- loading his fat cattle to go to the city. National Stockyards Illinois, he had fifteen commission firms to choose from, six packers in St. Louis alone to bid on them. We truly had competition, and our cities and rural areas thrived. I can't say we can go back and open those stockyards. I don't mean that. But I think perhaps an electronic marketing system or something could be arranged.

Back then packers agreed not to own cattle or hogs more than 14 days. I'm sorry. I'm up? Do I have to quit or can I continue?

SECRETARY TOM VILSACK: Give you a couple more minutes.
JIM FOSTER: So we didn't have captive supply hanging over our head. Then in '79 they kind of dropped that agreement. Packers built massive pork houses and feedlots, and farmers exited hogs in the '80s by the masses, and it's still going on.

Since 1980, we've lost 91 percent of our hog operations, 41 percent of all cattle operations, 80 percent of our dairy. Since '96, we lost 30,000 of our feedlots under a thousand head. Those are family farm feedlots. We are a net importer of beef.

Instead of identifying the real causes, we're advised to kill a pig, sell it at the farmer's market off the back of your pickup. Promote agritourism. Let the city people help you feed the pigs and milk the cow. Offer bed and breakfast. These are all noble ideas and I have super friends. This will not pay for a farm and buy health insurance.

Pay more check-off dollars so we can promote more exports. We've had exports of pork through the roof for the last two years and hogs in the 30s and 40s. There's some interesting things on exports and imports. I'll show you those.
Cattle prices reached an all-time high in '03 when nearly all of our export stock -- here's the chart. USDA. The red line is exports. You see they dropped, almost zero. The purple line is prices. Prices went through the roof when exports were almost zero. Why? Because imports also stopped. We stopped the Canadian cattle. Folks, that's a pretty big item.

Here's the other one. That's from competitive destruction. The packer had that competitive advantage when he could get those cattle out of Canada. You can see that from the graph. When he lost that ability, we once again had price discovery.

Here's the other one. U.S. beef cattle and trade with our 17 FDA countries that we have a free trade agreement with. The red marks mean we have a deficit with them. You see anything that doesn't have a red mark? The total over 20 years, cumulative is $37.6 billion. The brown line is imports to this country. The blue one is exports. We're losing. We have got to have a place at the table to get beef on the front burner for these things.

Ron Plain, economist, University of
Missouri studied trends for years, and he said we may have to return to the previous model of pork production whereby hogs are raised on the farm, where the corn was raised and attended by the family on that farm. That's a super idea. I'm not interested in going to 1,100 sows. My kids -- Ron Plain also said you got to be big. You got to be good. And you must have deep pockets. I think Glen Grimes told me that.

My grandkids can have one of those. They can be good. They can't be big. They've got to start somewhere. They have to have market access. This is America, folks. They have to have market access.

If Ron Plain's idea of the previous model of pork production is a reality, we've got to have price discovery, folks. There's no way my grandkids can fill all three. They can be good. We should not ask them to wait until they're 21, borrow a million dollars, put up barns for Cargill or Tyson to be in this industry. Again, this is America.

In closing, I know our stockyards won't reopen. Everyone need not have chickens, pigs, and a milk cow, but it's time we reinvented...
competitive markets whereby my grandsons and
granddaughters can sell their products.

And I want to say a great big thank
you to our Secretary and our Justice Department.
Thanks for standing firm, Mr. Secretary, on COOL.
With Canada's 18th case of mad cow day before
yesterday, this is important. We appreciate it.
We appreciate the progress made on Packers and
Stockyards.

This is a new book. We appreciate
that and I know it's not done. There's language in
here that helps us. We've got to have it. Time is
running out.

Again, I applaud your efforts. Thank
you for this opportunity. And I have my speech
right here for press so they don't get anything
messed up.

Even more so, there's a yellow piece
of paper I really wish somebody would take the time
to read to this whole crowd. Is that too lengthy?
It's a poem. Let's get Eric first.

SECRETARY TOM VILSACK: Let's give
Eric a chance.

ERIC NELSON: Thank you,
Mr. Secretary. I responded earlier to what I
thought was just a specific question, but I had
prepared a more complete statement.

    You know, in sitting here and
listening to the comments, it really strikes me
how, you know, one of the main reasons that I
wanted to be here today is the next generation, and
I want to thank my oldest son and my third oldest
son for being home today out in some mud, not very
pleasant conditions, working so that I'm able to be
here today.

    But I believe bringing young people
into the production of agriculture is the most
important thing there is to the future of our food
supply and that bringing young people back is as
simple as ensuring them a fair fighting chance at a
profit.

    I believe our government has an
obligation written in law not to pick winners and
losers but to act as a referee and ensure the laws
and regulations dealing with anticompetitive
practices are enforced. Henry Thoreau once wrote
"The corporation has no conscience and thus is
singly driven for profit." That has become a
problem for numerous industries but specifically
for the seed and the cattle industry.
Hybrid seed corn provides a vehicle for increase like no other crop and has been key to the U.S. becoming the breadbasket of the world. But the U.S. seed industry, I believe, has been taken advantage of. I've seen technology fees to seed partners raised mid-contract in violation of the very contracts that the parties had. I've seen companies signing nonexclusive marketing agreements with one company only to have another company discontinue in retaliation another marketing agreement.

I've seen misuse of confidential biotech seed stewardship agreements. I've seen pricing schemes using free seed that generally benefit the very large farmer at the expense of the small farmer. I've seen a reduction in conventional corn research in favor of biotech research. Not that biotech research has been bad, but the dollars spent on conventional research has gone through the floor, and that's put future risks -- future yields at risk for all farmers.

I recently compared corn yield on the same farm that I farmed for 25 years and compared the years 1987 and this last year, 2009. Bushel yield increased 25 percent, which is good. But the
price of the seed and the chemical and the chemical
weed control together had increased 153 percent in
that same time.

I think we all agree that output is
greater, but a large part of that is price. And if
prices were half of what they are, I think there
would be a lot more grumbling about the price of
seed today.

I've also seen seed technology being
sold with little or no consideration for the
ill-effects caused by the products. I have copies
of studies by Dr. Huber from Purdue and one by
Kramer & Means that was published in the European
Journal of Agronomy that show increased fusarium
and mycotoxins caused by increased Roundup use.
I've seen the effectiveness of new technology be
overstated at the expense of the farmer. Monsanto's
Genuity Roundup Ready 2 Yield Soybeans are an
example.

And then finally, due to budget
constraints, land-grant institutions are no longer
able to conduct the introspective research on seed
that they once did. And the research they
currently do is funded primarily by the seed
companies themselves. Some will say that's
efficient, but I believe that the research that's purchased by the seed companies tends to be rather self-serving.

So how do we fix the industry? I say we disallow any monopolies and the anticompetitive activities that come with them. Somehow require that all germplasm be made available to the public through land-grants or other public entities.

In the beginning -- you know, these inbreds, B73, Missouri 17, Ohio 43 were all generated publicly. And somehow, you know, my alma mater let -- Dr. Hallauer let some of those inbreds go without getting a license fee because he wanted them to stay in the public realm, and in the public realm, I believe they should stay to spur competition.

I say that we should enforce the Robinson-Patman Act of 1936 which prevents predatory pricing of like products. I've seen across a section the difference in the price of seed can make as much as -- in the same bag of seed can make a $70 an acre difference in advantage to the large grower versus the small grower. If that large grower is farming 12,000 acres, that's a million dollars more to the bottom line that he can
buy a new farm with every year. And so there's no
surprise that the larger continue to get large with
advantages such as that.

I'd like to require technology to be
proven safe and effective which could be
accomplished by properly funding experiment
stations in the land-grant university system, and
also, I think we have to re-examine the safety and
wisdom of granting long-term patents on living
things.

I also believe the statement the
corporation has no conscience is very relevant to
the U.S. cattle industry. It's been stated earlier
that four beef packers currently have 80 percent of
the slaughter capacity. Captive supply agreements
reduce competition, and we need transparency.
Also, the geographic center of cattle feeding and
meat packing is illogically located far away from
the feed resources that we have right here.

Unlike grain, cattle are perishable
and can't be stored until markets rebound. Due to
that fact, domestic prices are very susceptible to
changes in foreign demand.

And finally, retail margins are
excessive. When I sell a beef animal, it's worth
around $1,200 at market. After having invested
time and feed for 18 months, within three or four
days the wholesale, packing, and retail segments of
the industry parlay that 1,200 into 2,400 or more
dollars. I don't believe that would happen in a
truly competitive environment.

So how do we help the cattle industry?
Break up the beef packing monopoly. The Packers
and Stockyards has the auspices to do that, I
believe. Require foreign contracts to be
transparent. And there's been a lot of talk about
transparency, but I mean really transparent. From
the day that a forward contract is entered into
that it's made public, not the day the cattle are
harvested, because the users of the forward
contracts will fill holes for months at a time
which end up meaning that there may not be a cash
market for weeks or months at a time.

We need to revisit free trade
agreements to slow imports in times of weak foreign
demand, enforce country of origin labeling the way
it was written, and spur retail competition and
thus beef demand.

Now in closing, I want to quote one of
the famous speeches that's ever been given in this
country. President Lincoln at Gettysburg referred to government of the people, by the people, and for the people. He didn't refer to government of the corporation, by the corporation, and for the corporation.

I've asked myself, would all of those who have died before Gettysburg and since preserving this republic want only a handful of companies completely controlling our country, its economy, and its food supply? I don't believe they would, and I further believe laws exist to prevent that thing from happening so long as they're enforced. Thank you.

SECRETARY TOM VILSACK: Let me to all the panel members ask somewhat the same question I asked of the first panel, which is if you had to focus on one aspect of this, whether it's the pricing, marketing, the input costs, enforcement, what one suggestion would you make to improve the circumstances and situations for farm families in the country? What's the one thing you would want us to focus on first? Start --

JIM FOSTER: Start here?

SECRETARY TOM VILSACK: Yeah.

JIM FOSTER: I think we've got to get
this captive ownership of packers to where they
dwindle down, and I realize this is a problem with
a lot of family farmers or contract growers. You
can't just bring the hammer down tomorrow.

This thing of having 90 percent of
their needs covered with very little bidding is
destroying our market for eternity. To me that's
No. 1.

SECRETARY TOM VILSACK: Just keep
going down the line.

TODD WILEY: Yeah. I'm sorry. I'm
still thinking. The question was posed to me by
the DOJ when they first made contact with me about
the concerns I would have in my operation and what
solutions could be provided. And I think that, you
know, that lends itself to your question.

The biggest thing that could happen as
far as I'm concerned -- I've told you before that
the pork industry is wired least cost. The biggest
thing that could happen for me in my business is to
expand and grow our exports.

EDDIE WISE: I think one of the
biggest things that would help right now this
country is with the small independent farmers'
niche marketing. This is the thing that can take
them the top, and without niche marketing, it doesn't matter what you're producing. Nobody is going to buy it.

KEN FAWCETT: Yeah. I agree, and I would expand on that. I think what farmers need is opportunity. They need the opportunity to make choices of what they're going to grow and how they're going to grow it in the best way possible, and that's going to -- needs to be free of the corporations that control so much of the industry.

And the other side of that is the consumer needs the opportunity to buy what they want to without the corporations putting up what they want to sell to them, which I think is what we have today. Corporations decide what people want too much.

PAM JOHNSON: I think I'll go back to my statement about philosophy, and I've enjoyed listening to everybody speak on the panel. We all come from a different place. We all farm differently, and once again, I think that there's room for all of us.

I started out very small too with ten sows, and my parents, my dad had to go to work in town to support our family. So we've all come from
different places, and we've ended up in different places, and we have different philosophies.

    But I really would ask that not only of the -- what the government can do for me because that was a question that was asked but that agriculture needs to start pulling together and quit being so divisive about "Only the way I do things is right." There's room for many, many kinds of agriculture.

    I see that in my community. I have small truck farmers working to supply local groceries. I see people that have a small number of pigs. I see a lot of farmers like Todd. And instead of fighting each other, I think we need each other because one of our segment cannot fill what the growing population needs.

    ERIC NELSON: Obviously the seed industry is a keen interest of mine having spent so many years, and the seed purchase, there's nothing more important each year, obviously, for the income side of a crop farmer, and obviously it's important on the expense side as well, but I think there has to be a vehicle in which the worthiness of these new products are proven before they can be sold because I've seen it time and time again where new
products are rushed to the market as quickly as television ads can be put on television promoting how good they are, but with the science behind them is transparent as far as whether they actually have benefits to the people that are buying them.

And I think that that's critical because there's an assumption that's being made by many farmers that, well, you know, they're told that they're really good, but I think that they are assuming that there's somebody that's checking up on the worthiness of these products, and I think the land-grant universities at one time carried out that mission, but because of funding constraints, I don't really see them being able to do that anymore.

SECRETARY TOM VILSACK: As I look at the statistics in rural America, I must confess I have some very deep concerns about the future of this country because of the future of rural America. When I see that 900,000 of America's farmers, now about 2.2 million in number, have themselves to work 200 days off the farm, essentially a full-time job off the farm, to be able to keep the farm and I see a net loss of 40,000 operations in the last five years in the
mid- to larger size activities and farming
operations and I see the substantial decrease in the
number of farms totally in this country, I just
have some genuine concerns about whether or not
we've got the right mix in terms of providing
opportunities.

So the question I have for the panel
is this: If we take the steps that you've just
outlined, are we going to be able -- five years
from now, ten years from now, a generation from
now, are we going to be talking about fewer and
fewer farmers, or are we going to be talking about
reversing a trend that's been in place for a number
of decades now?

Can we actually provide real
opportunity for young people to get into this
business? Because you've got an aging nature of
farmers. Farmers have aged on average two years in
the last five years, now 57 years of age, average
age of farmers. 30 percent increase in the number
of farmers over the age of 75; 20 percent decrease
in the number of farmers under the age of 25.

And part of what I want to hear and
what I want to learn is, what are we going to be
able to do differently, or what do we have to do
more of to be able to reverse these trends?
Because I think this country has got to get very
serious about the future of rural communities
because we're losing population, and that
population is aging.

And so that you understand what I'm
talking about, one-sixth of America's population
now lives in rural communities, but 45 percent of
the people who serve us in uniform in the military
come from our rural communities. It is the core of
this country. And if it continues to shrink and
continues to age and it continues to be less
opportunity, then I think our country will be far
worse off for it.

So I'm interested in hearing from this
panel, what specifically do we need to do to
increase the number of farmer families? You know,
you can talk about all of the usual responses, and
I've heard some of them here today. But we're doing
a lot of what you all have asked us to do. We're,
you know, expanding exports. Exports have doubled
in the last ten years. Doubled.

We continue to -- we're the third
largest year in history of exports in agriculture
this year is projected. Two years ago it was the
highest level of exports, so we are doing a lot of that. What else do we need to do in order to make sure that there is, in fact, a future for young people in this business? Start with you.

ERIC NELSON: Well, again, I'm tickled to have a chance to respond because I think this is what this is all about. I look at the USDA payments and the caps. I don't see any justification for payments to the largest operators. In fact, I'm aware of numerous ones that they have so many different farm setups and entities that they've certainly invented the rules as they're written and are capturing huge, huge amounts of subsidies. That is one way to bring some young folks back.

Being an operator of what I would like to call a more holistic livestock operation where I buy very little commercial fertilizer, and my livestock operation really is my fertilizer manufacturing plant, that's a good way to do things, I believe, and it was the way that it was done years ago everywhere, and if there are any ways to promote that and have, you know, more local agriculture and more holistic ag to better utilize the manure resources that we have in livestock.
SECRETARY TOM VILSACK: Pam?
PAM JOHNSON: This is a great question. I think all of us could talk for an hour about it. I think for one thing, our kids have to have great educations from land-grant universities. I have two sons. One came back full-time to the farm. That didn't just happen. You have to add so much income to your business to bring them back, and we expanded in a lot of areas, a seed business for him to operate. Just look for every single opportunity that's out there. He does some trucking.

Second son is teaching school, ag ed, and works the farm on the weekends. I come from a great community. We've had a lot of people in our county, in Floyd County, that have worked on rural ag development for a long time. I was lucky to be in on one of those panels.

We've looked at a lot of things, and I think as we look into the future, you didn't let me tell how old I am, but I'm the same age that you are and --

ATTORNEY GENERAL MILLER: We're pretty young then.

SECRETARY TOM VILSACK: You look pretty
PAM JOHNSON: I think there's one thing we have to realize, that agriculture is not going to look like it did back when I was a kid and you were a kid, but that being said, there are opportunities out there.

In my community we've seen a lot of young people come back. My kids went to Iowa State. We've seen their colleagues come back, and maybe they can't do production agriculture full-time, but there are jobs in ethanol plants. There are grain buyers.

So maybe we can't create a place where everybody can be in production agriculture or what it used to be, but there is potential for a lot of jobs in the rural community, whether it's in biofuels, biorenewables, just a whole bunch of auxiliary businesses that can happen. It doesn't just happen. It depends on the leadership that you have in your county. And I've been lucky.

KEN FAWCETT: I think of a friend that visited the farm years ago and commented to us that "Boy, a farmer has to do everything. He has to be an accountant, a mechanic, an electrician, a bookkeeper," you know, just on and on and on, and I
guess add to that now maybe a marketer, and that's asking farmers to do a lot, and I think it's almost asking them too much.

But I agree with some of the things mentioned. I do think it's time to tie, you know, payments to farmers more to their conservation practices, to the way they produce crops more than just the volume of crops that are produced. I know that's not popular, but I think that trend needs to continue.

And I think we do need to look at specialty crops. There's no reason Iowa should be just growing corn and soybeans or a particular kind of corn and soybeans. I think the potential to grow a variety of different kinds of crops in the future is going to be much greater.

I think we need to look at who is going to be offering those, and how are they going to offer them, and does it present opportunity to the farmer, or are they offered to the farmer just as we'll pay X dollars per acre if you grow this crop for us? I think the farmer needs to take ownership in those new kinds of crops in order to help the health of agriculture.

EDDIE WISE: Mr. Secretary, I think
the solution lies in our 4-H program, extended 4-H
program, from the standpoint that kid that takes
the animal and raises it and competes and he sells
it, but the problem with that is how does that
child take it to the next level, and he looks at
his parents, and we are doing nonfarm income, and
so what's nonfarm income? It's that income that
your father has to make in order to stay on the
farm.

So my kids went out and got jobs and
are working. My grandkids break their neck to get
to the farm. They want to learn how to raise the
hogs and all the things that I'm doing. So I have
a generation of kids that's coming on that's going
to take it up and run it, but most kids once they
leave the
farm and start making money, they say, "Well,
what's the use of going back? Pop is still
struggling, and I'm having to loan him money."

So we need to extend those programs to
where those kids can come out of high school, and
if he wants to go into farming, he can go into
farming. If he wants to go into college, he can go
to college. All of our kids are not college
material, but they are farming. They have the
potential to be outstanding farmers if afforded the opportunity. If that kid knows he can make some money, he'll work.

SECRETARY TOM VILSACK: Todd.

TODD WILEY: I've got a number of answers, I guess, to that question. I had a brother that was involved in our farming operation up until '98, and this was actually early in '98 before the thing really hit the fan, and he chose to leave our operation, and it had nothing to do with economics or finances, and so I think we got to be a little careful equating the decrease in the number of farmers in our country being all finance driven. There are other reasons people have left the farm.

There is one thing that I think that could happen in terms of a revenue assurance program. We have a product available to us called a Livestock Gross Margin product, and I've never engaged in it, but I'm told that it's cost prohibitive, and so it might be worth investigating that product where if there was some sort of revenue assurance available to us that was affordable and practical to use, we might be able to engage in it and manage our margins some better.
Mr. Secretary, I want to thank you for the exports that we have and the work that you have done in light of your comment here just a few minutes ago. And I guess to answer your question, how do we get more people involved in production in agriculture, people will go where the money is, and if the margins are higher, we'll get more people involved in the businesses.

And so in order for margins to be higher, costs have to be lower or revenue has to improve, and revenue doesn't improve until we have an increase in domestic consumption or we improve and increase our exports.

China is an enormous opportunity for us in the pork business, and I think as time goes on that as their economy continues to improve -- and one of the solutions that actually I identified in my presentation was is as their economy continues to improve and their middle class becomes bigger and wealthier, we have enormous opportunities in the livestock business in this country to export there. Thank you.

JIM FOSTER: I have several ideas. I think we've got to work on entry to the business. That's the big item. I totally agree 100 percent
with Eric that we need some logical limits on farm payments. I think it should be per acres, and I know a bunch of people will beat me up on this. I'm not interested in my tax dollars paying for somebody to farm 10,000 acres and eat me. There should be a limit somewhere that you farm so many acres. After that, buddy, you're on your own.

If that were the case, there would be more medium to even big-size tractors with kids on them farming.

Another thing, these government guaranteed loans, and I hope to heavens they've quit. A USDA government guaranteed loan, if you don't have any equity, you can get out there and plant a million dollar building on ten acres. If you've got a good enough contract, the government will back that loan through the bank. Now, who would give you a good contract? Cargill, Tyson. This just eats us, my grandkids getting started, because the government guaranteed loan, would they get a government guaranteed loan to build ten piddly hog houses? No. That's got to stop.

This EQIP money has to be brought back down. I'm not interested in helping clean up somebody's mega-mess. I'm interested in my kids
maybe having a chance. We've got to scale this whole thing down to where it benefits beginners instead of eating beginners' lunch, which it's doing right now.

One thing I want to add. Christine Varney, I want to thank you personally for the efforts you made on the JBS. Our adjoining county, Audrain County, Missouri, now has three fat cattle buyers because you stopped JBS from buying National Beef. Three ain't enough. We'd have had two. And I appreciate it from my heart.

SECRETARY TOM VILSACK: I'm going to let Christine and General Miller, if he's interested in making any concluding comments, and then we will wrap it up for lunch, and then we'll take 20 minutes and come back and listen to more farming activity.

ASSISTANT ATTORNEY GENERAL CHRISTINE VARNEY: Thank you very much, Secretary, and thank you for your kind words for the work that all the Division does.

One of the things that occurs to me, Secretary, listening to this panel is that, you know, we've got a lot of our people here, and you guys have such long history and expertise in the Packers
and Stockyard Act and we have such strong
enforcement on the antitrust side, I'm thinking
maybe we need a little joint task force so that
maybe I detail some lawyers over to you guys if
you'll take them, and we'll really go through on
the Packers and Stockyard Act and think about what
we might do --

SECRETARY TOM VILSACK: Let's see.

Dudley Butler, you want to stand up? There's our
Packer and Stockyard guy. Dudley, would you take
more lawyers over, helping you out?

DUDLEY BUTLER: Absolutely, take all
you want to send.

ASSISTANT ATTORNEY GENERAL CHRISTINE
VARNEY: Alright, that clearly is one of the things
that comes out listening to this group right here.
Way out of my bailiwick, but I said to Tom Miller I
think we've got to figure out how to get Eddie's
200,000. That's on my list. So I don't know what
I can do.

SECRETARY TOM VILSACK: I'll talk to
Eddie afterwards.

ASSISTANT ATTORNEY GENERAL CHRISTINE
VARNEY: Okay. This has been very informative for
me. I'm going to continue to be here at the lunch
and through the afternoon. My staff is here too. Looking for the places where what I can do intersects with what the USDA can do is a new area for us, and I would like any of you to feel free to come up and talk to me about where you see as opportunities that we may be able to effectively address some of these problems, and thanks for having me. Iowa is really a great place. I've been delighted to be here.

ATTORNEY GENERAL MILLER: Just following up on Chris's in a way, Mr. Secretary, if we could get a group of state attorney generals or assistant attorney generals who know a lot more of the substance than we do, frankly, that are working in the ag area, antitrust, and consumers to work with Packers and Stockyards to brainstorm, to work together, to think about ideas, to try and get the results that people want here today.

SECRETARY TOM VILSACK: Great. Let me just take just two more minutes to talk about what USDA is doing because as I listen to the comments today, it occurs to me that we need to do an even better job of getting the word out about what we are trying to do to try to rebuild this rural economy.

The President has been very clear to
me that he is very concerned about the status of the rural economy and wants a new framework. So some of the things that we've done recently is to take a look at ways in which we can help farmers get access to additional information.

We've talked and heard a lot about the need for transparency, and we have more work to do in that area, but the expansion of broadband access and resources to rural and remote areas is one of the priorities for this USDA.

We're in the process now of awarding well over $2 1/2 million of grants and loans to expand broadband access so the farmers and ranchers have access to real-time information. It will also help small businesses in rural communities potentially expand their markets from local to global.

We are also very aggressively promoting renewable energy and biofuel efforts. The RFS2 that recently was announced basically gives us a very specific green light to go ahead with both corn-based ethanol as well as other feed stocks. We're going to make this a national effort to increase our fuel efforts.

If we reach the 36 billion gallon
threshold set by Congress, there will over the next
decade or so be $95 billion invested in new
facilities. It will generate, either directly or
indirectly, 807,000 new jobs, so this is a very
important part of what we are trying to do, and we
are in the process of accelerating implementation
of farm bill regulations that will provide
resources under the BCAP program for farmers and
folks who are providing alternative feedstocks,
providing additional resources for the construction
of biorefineries as well as retrofitting existing
biorefineries to become efficient, so there's a
major effort in this regard.

We continue to advocate to the EPA for
an increase in the blend rate, which I believe
eventually they will come to the conclusion there
are indeed a number of engines capable of taking
E15, and then we'll set up a distribution system,
so that's a second strategy.

The third strategy has to do with
local production and local consumption, and to
Eric's concerns and Eddie's concerns, rather,
about the opportunity to have a processing facility
on your farm, there are resources available, and
we'll talk afterwards, to try to create a greater
link between local production and local consumption
so that we can provide more opportunities,
additional market opportunities. Schools, hospitals,
prisons, colleges that are located in rural
communities have to purchase their food from
someplace. We'd like to be able to at least give
them the opportunity to do more local purchasing in
the region.

So there's an aggressive effort under
Know Your Farmer, Know Your Food effort to reconnect
people with their food source, so there is a greater
appreciation for what farmers and ranchers do in
this country.

I think there's a lack of understanding
and appreciation not only as far as food but also
water resources as well as fuel and the job
opportunities it creates.

We're working very hard on conservation
and forest restoration to create new opportunities
from that and to expand significantly the tourism
opportunities associated with hunting and fishing as
a strategy.

And finally, we're looking at
ecosystem markets, whether it's water or carbon or
habitat protections, to funnel additional resources
to encourage land owners to use their land as efficiently and as effectively as possible to generate as much income. The whole point of this is to try to diversify income opportunities.

And part of what we're doing here is to try to determine whether or not there are additional steps that we need to take in more traditional processes to make sure that there is a level playing field for farmers and ranchers.

And finally, we have a major export initiative that is focused on really distinguishing between markets. Not all markets are the same. There's been reference to China, which is certainly a potential market, but there are other markets that maybe in the short term have even greater potential for us if we establish relationships and break down barriers that exist.

And we're also focusing, obviously, on biotechnology strategy because candidly, the country has not done as good a job promoting biotechnology opportunities as perhaps it should, and that's all part of the President's national export initiative.

So on all these fronts, there is activity working at USDA and because we are very
concerned -- and I'll end where I started -- very concerned about the future of rural America and very concerned about the value system that is so centered in rural America.

With that we're going to take 20 minutes to get your sandwiches, come on back. We'll listen to farmers for a little bit, and then we'll have our next panel.

(Short recess.)

PHIL WEISER: My name is Phil Weiser. I would start by underscoring this is a process, and we are looking forward not only to the comments today but more importantly the ongoing dialogue that this kicks off in our ensuing workshops, the comment period which continues to be open for those -- we have 15,000, but we are hoping we will get additional and continuing comments that are now available on our website.

For those who go to the relevant website, all 15,000 comments are available, so you can also comment on other people's comments.

With me here is John Ferrell from the USDA, and together we're going to moderate the public session, inviting people up for two-minute statements, and we will have it at this point and
then again at the end of the day. John.

JOHN FERRELL: So we'll go ahead and get started now, and I'll start -- I'll read off ten numbers, and can you hear me?

UNIDENTIFIED MALE: Can't hear you.

JOHN FERRELL: Okay. Well, I'm going to read off ten numbers, and so what you'll want to do is line up, as Phil said, and you'll just have two minutes, and we're going to work through as many people as we can because we want to hear from as many as we can from everybody that's attending today, so I'm going to go ahead and start doing that.

We have 383, 522, 390, 396, 485, 391, 386.

PHIL WEISER: So I'm going to read these again, and if none of these individuals are here at this point in time, we'll give them a chance at the end of the day. We know some people may have had to go or in some cases felt like their comments were said. Let's try again. 383.


PHIL WEISER: And I think we have one of that group. What's your number, sir?
UNIDENTIFIED MALE: Yeah. 396.

PHIL WEISER: 396. We've got you, and we have six compatriots who are not here. Let's take another six and see if we can maybe find another person who's intent on speaking with us.


PHIL WEISER: I'll read those again. 385, 409, 392, 465, 411, 441. All right. So we are now one for twelve in our list. Let's go for another six, and then we'll have a chance to confirm that these others are here.

What I'll say is we'll have to ask -- we'll read these other -- I guess they will be 16. If people will have to confirm that they're actually going to want to speak, you know, in the other slots, so we'll see. All right. Six more.


PHIL WEISER: All right. I will read this last six, and we'll see if we can get some company here for you. 406, 434, 533, 479, 407, 462. I see we have attracted two other individuals.

All right. So we have three
individuals out of eighteen. What we'll do with the other fifteen is we will give them another chance to approach some of the folks with us, and if they're able to confirm that they'll want to speak, we'll give them a chance at the end of the day. We're going to do one more round now just to see if we can find some others.

JOHN FERRELL: 424, 427, 449, 408, 505, 388.

PHIL WEISER: Let me just read that again. It's 424, 427, 449, 408, 505, 388.

UNIDENTIFIED MALE: 408.

PHIL WEISER: We have 408. All right. So we have four individuals who we've selected. We have about 12 minutes before the first session starts. Why don't we give you each two minutes or so to offer -- I think sort of the high level. The question the Secretary asked is kind of the question in all of our minds. What are the core challenges, concerns, and what are some solutions and strategies that you all would recommend? If you would please introduce yourselves, that would be great.

FRED KIRSCHENMANN: Thank you. My name is Fred Kirschenmann. I operate a 3,500-acre
poultry and livestock farm, organic farm, in North Dakota, and I first of all want to thank the Secretary and everybody else for this rich conversation this morning.

I think one of my concerns that the Secretary touched on but I think perhaps did not articulate quite as clearly as it needs to be articulated and that is that there are two sources of seed stock that we absolutely have to pay attention to now as we think about the future of agriculture, and one of those which he alluded to is the seed stock of farmers.

But if you really look at the 2007 census data, the problem is much worse than he alluded to because we now only have 192,000 farms that are producing 75 percent of our total agriculture commodities, and 30 percent of our farmers now are over age 65, and only 5 percent are under age 35.

And if we don't address that problem, then we have to begin to figure out how we're going to have any kind of food security without farmers because that's -- if these trends continue, that's what we're going to be faced with.

The second seed stock is the seed
itself which farmers are using and producing or
feeding, and the problem is that we have lost about
three-fourths of our crop seed stock -- that is the
varieties of seeds that farmers have had
available -- and about 30 percent of our livestock
breeds, and as we move into a more uncertain future
with more uncertain climates, et cetera, we're
going to need more diversity, not less, that are
going to be locally adapted to these local
conditions, so we have to reverse that trend. The
farmers and their seeds, I think, are going to be
critical factors that we have to address.

PHIL WEISER: Thank you very much.

TODD LEAK: My name is Todd Leak. I
farm 2,000 acres with my brother in central Grand
Forks County, North Dakota. I'm a wheat and
soybean farmer. I'd like to thank the Secretary
today for allowing us to have this opportunity to
speak.

I'm a soybean farmer for 30 years, and
maybe about a decade ago, I was free to choose from
about a hundred different varieties of nongenome
soybeans. We didn't get genomes in our part of the
farming belt until about 2000. Today there's about
123 varieties of GMO soybeans that I have to choose
from and about 12 non-GMO. Of those 12 non-GMO
varieties, 6 of those are for the specialty food
grade total foods sprouting market. I'm not
involved in that anymore.

While six of those varieties were --
that remained to me were developed in the 1980s and
1990s and their disease packages, their host
resistance are far less than the GMO varieties, and
their yield is only about 70 percent of the GMO
varieties, and that is not because of the GMOs.
GMOs do not increase yield. There is no yield gene
trait.

The issue is that all of the research,
all of the breeding, is going into proprietary
genetically modified varieties of these. I am
therefore forced as a farmer to have to go to the
seed companies, these few seed companies that are
left, to purchase my seed.

So it's a combination of the utility
patents and the consolidation of the seed industry
which has entrapped me as a farmer into having to
utilize the GMO seed varieties. And that is what I
think is a problem.

The solution, I think, is to return to
the Plant Variety Protection Act as the sole
authority under which the regulation of the seed industry and of variety protection is granted by the government. Thank you very much.

PHIL WEISER: Thank you.

PAUL REDDICKER: Paul Reddicker. I raise about 400 acres of corn in Iowa, northeast Iowa, and I have about 1,200 cattle we feed out.

The last ten years or so, the packers have really consolidated, JBS being the last one, and I send a lot of my cattle to JBS right now. I guess my biggest concern is I do a lot of forward contracting, and on those contracts, when the markets are, say, lower than what my contracts are, they seem to be fussier on the grade of the cattle, and we rely on USDA graders to keep the packers in line when they're grading.

I think there should be electronically -- the carcass grades should be electronically monitored. I think some packers are starting to do that. I think we should do more of that because I've had certain loads of cattle where I've had up to $2,500 worth of deducts, and then if the market seems to be a little better than what my contracts are, all of a sudden, I don't have those deducts on those cattle. And we take the cattle
out of the same pen, so there's some discrepancy there.

As far as farm size, we all are farming more acres or more heads of livestock to make a living. The margins are slimmer as time goes on. So I guess my biggest thing would be probably -- since I do feed a fair amount of cattle, would be to monitor what's actually going on with those cattle when they get to the slaughtering as far as keeping the records straight, whose loads are whose, and that kind of thing.

PHIL WEISER: Have you submitted a comment, by the way, developing this point? I encourage you to do that as well.

PAUL REDDICKER: No, I haven't.

PHIL WEISER: If you could. For everyone, you know, we're reading all the comments and particularly where in this case, you know, I anticipate somebody talking in Colorado, it's great to get that on the record. So thank you for raising it now, and I encourage you all to think about doing that as well. Thank you very much.

PAUL REDDICKER: Okay. How do I do that comment again?
PHIL WEISER: So for people, the website is www.usdoj.gov/atr/ -- Sorry. If you Google USDA/DOJ workshops or any other search engine, it will be the first thing that comes up, so just search for USDA/DOJ or DOJ and USDA workshops, and you'll find it. There's a way to give comments.

TIM ENNIS: My name is Tim Ennis. I'm an employee of National Farmers Organization. We sell organic grain for farmers, primarily five upper Midwest states. My comments are my own.

I think the issue of concentration, that people in general public have a concept of what's wrong with a monopoly, a John D. Rockefeller type of monopoly where one person has sway over the whole market because of it being monopoly.

On the other hand, I think that our issues all concern a few numbers of buyers in our monopoly, and I think we need to take a look at models that others are out there. If someone has a certain share of the market, they should be treated as a monopolist because I think that our agricultural markets are really dominated by the situations that have been mentioned here on the percentage.
My other comment would be if we take 1998 as an example of the last time there were a lot of independent hog farmers, the prices in 1998 flushed out the last wave of truly independent hog farmers.

And there have been some comments made today that that was caused by foreign or exporting forces. My reading of history is -- and it can be checked -- that farmers in Denmark at the same time were receiving $38 100 weight when $10 was causing farmers in the U.S. to be forced out of business, and I believe that all of those -- most of those factors were related directly to the issue here today of concentration, shackle space, and too many companies that are in the too big to fail category and not enough choices. Thank you.

PHIL WEISER: Thank you. So I'm just going to read through the numbers you called, and if people are here and we can't get you now, we'll get to you later, but if you're not here, then we'll go to others later. 424, 427, 449, 408, 505, 388, 406, 434, 533, 479, 407, 462, 383, 390, 396, 485, 391, 386, 385, 409, 392, 465, 411, and 441. We have one other individual here.

Anyone else from that group who wants
to speak, please come forward, at least a signal
that you're still interested. If not, we'll start
the end of the day with a new group of folks. Yes.
I take it we have one more individual here. Great.

FRED BOWER: I'm Fred Bower, and I
farm in Minnesota. I'm also a seed dealer. I've
been a seed dealer for 18 years. I sell seed for
Garst Seed Company.

What I was going to mention is when I
started farming thirty-four years ago, there were
fifty seed companies. At the present time there
are four. We are not being treated properly as far
as price. When the -- when the amount of seed
dealers goes down, the competition decreases, and
they kind of run of show of what they want to say
is the price. It was way better to have more seed
companies involved than to have fewer seed
companies at the present time and pay through the
nose for a seed.

PHIL WEISER: Thank you. You are
anticipating our panel to follow which will discuss
the issue around seeds, but before that, we have
one more individual?

ELDON McAFEE: Yes.

PHIL WEISER: Great.
ELDON McAFFEE: Or do you want me to go now?

PHIL WEISER: No, no. Go ahead now, and we'll start the new batch at 4:30.

ELDON McAFFEE: All right. My name is Eldon McAfee. I'm an attorney here in Des Moines, and I represent the Iowa Pork Producers Association and other commodities organizations, and just I think one of the major points that we believe is being missed here in this discussion mainly regarding contracts, livestock contracts specifically, is there's a critical issue as to what do we mean by contracts? And it's missed by a lot of people.

We have marketing agreements that are used by those who own the livestock and enter into agreements for the marketing of that livestock with packers, processors, et cetera, and then we have the production contracts. Those are the contracts -- and to many people this is elementary, but we think it gets lost in the shuffle. The production contracts are those where one party owns the livestock and puts it in someone else's care to take care of it. And the ownership of the livestock does not transfer.
And there's a lot of discussion about contracts, and then sometimes marketing agreements get included in that, but the question is, are they helpful to producers? Is that something that our producers should be using?

And I think the critical issue here is choices. One of the speakers this morning talked about choices. And here we need choices for these producers. All of our farmers need choices. Some farmers for financial reasons, financial management, the production contract is the vehicle to use, and we've seen a lot of farmers benefit from production contracts. Others who want to own the livestock themselves may choose to use marketing agreements or they may choose to market their livestock without agreements.

Again, the key is for financial management tools to have those choices, and we urge the USDA, the DOJ, to be careful on how we look at these tools and make sure any regulation recognizes the value of these tools to everyone and, again, the choice whether they use them or not.

And I guess I'd like to just end up with a couple of key points. One, I've seen a lot of the producers I represent, a lot of individual
producers here in the state of Iowa, and I've seen them when they're done with the production contract, they originally got the loan to build the hog building, the cattle yard, et cetera. When they got that loan, they got the loan because they are using a production contract.

When that contract is over, I see many of the clients I work with, they stick with production contract because it has worked for them as a financial management tool. Other producers choose differently.

I'd like to just conclude my comments with a point about the recent contracting requirements that went into effect under the federal farm bill, and the point I want to make here is please, let's be careful how we enforce and implement some of this because right now, as I understand it, there is -- I understand what was in the farm bill, and there's a requirement that a disclosure be made if you have a production contract and if there are large capital investments required.

I represent a number of individual producers, and some of them are being subjected to Packers and Stockyards enforcement actions for not
having that disclosure in the contract with the contract grower, but the contract doesn't require large capital investments, but the law is being interpreted to require the disclosure even if you don't require the large capital investments. I think that's absurd, and it's leading to a lot of confusion out there for producers. Thank you.

PHIL WEISER: Thank you for your comments. So just to remind people our next panel, please come up. Jim McDonald from USDA is going to be --

DAVID RUNYON: I have 388.

PHIL WEISER: 388? All right. Like I said, we've got time for one more individual before our next panel.

DAVID RUNYON: Thank you. I'm David Runyon. I farm in Indiana. I want to thank you for having this opportunity to speak here.

I raise corn, wheat, and soybeans along with two children on my farm. Monsanto pursued me back in '04 because I had 1 1/2 percent contamination of their soybean product in my seed.

In July of 2004, two investigators came to my home, and I assumed they were magazine sales or magazine surveys. Excuse me.
They did not present themselves as being investigators from Monsanto or subcontracted by same.

I gave them some of my information before I realized they wanted copies of my food grade contracts. They wanted to know who I was doing business with. Then I realized something was going on. I turned around and walked inside my house.

Four days before Thanksgiving of '04, they came and sent me a Fed Ex letter from St. Louis giving me seven days to turn over all my production records. The only problem is I've never signed a technology agreement nor do I use their products.

Contacted an attorney. I knew I had to go -- within Indiana we have a farmer protection law, so I had to go to Ft. Wayne, Indiana, to the courthouse, and it was best -- federal courthouse -- it was cheapest for me to find a criminal attorney within walking distance, so that's what I did.

And he advised me to turn over my seed receipts, my herbicide receipts, and where I purchased my seed. We did that. That wasn't
enough. They wanted to search my farm.

Comes along in February of '05 they send me a letter stating that they have an agreement with the Indiana Department of Agriculture to search my farm. Me being on top of politics realized that was not voted in. We did not have an Indiana Department of Agriculture until April of that year.

So my attorney and I decided we'd go on the offensive side. We asked them three questions. One is, on what basis were they doing this investigation. Okay? The next question was I wanted a copy of that agreement. And also I wanted to see a procedure manual for sampling my farm of which they've never responded. They ended whatever they were doing to me and quit. Okay?

And what I'm saying now is the liability needs to be placed on the patent holder. Ms. Johnson was up there, and she was stating that don't pit farmer against farmer. In my case whom do I sue but my neighboring farmers? Because they are taking the liability when they sign that contract. And that's wrong. That's why it should go back to patent holder.

We need to revoke these utility
patents because they're just not a good thing for what we're doing here. The future is just unbelievable. We need -- I need a choice of seed. I'm down to planting three varieties of public soybeans. Most of them are coming out of the state of Ohio. There's no new varieties coming out. There's no new funding from the federal government for public variety of beans, yet in Ohio this last year, the top yielding soybean was a public -- was a conventional soybean, beat out all of Monsanto's technology.

People back home -- I have some people back home that are farmers, seed dealers, and breeders for companies that are unwilling to testify because of a fear of intimidation. Right now as I'm speaking today, Monsanto is out collecting checks from farmers' kitchen tables. Okay? And they are signing gag orders, making farmers sign gag orders, nondisclosure agreements about these contracts that they're having to settle out of court for patent infringements or being accused of it.

PHIL WEISER: Sir, thank you for your testimony. Like I said, it's timely because this next panel we're going to have is going to be on
seeds.

And then we're going to have another panel on broad trends, picking up some of the other things we've talked about, a short break, and then we'll go to our enforcer panel, and then at 4:30 we'll pick up with more testimony.

Probably, Jim, if you want to introduce the panel and turn it over to you.

JAMES MacDONALD: Thank you, Phil.

(Off-the-record discussion.)

JAMES MacDONALD: Good afternoon.

Welcome to the panel on dynamics in the seed sector. My name is James MacDonald. I'm from the Economic Research Service of the USDA. We have a panel of very well-informed speakers. I'm going to introduce them shortly.

The goals of this panel are to have a discussion. What I'm going to do is introduce some initial questions to specific speakers to aim the draw of the discussion towards the set of policy issues that we're concerned about.

Our goal is to identify those major issues, to identify areas of disagreement to help us for further fact-finding. One point I need to make is we will attempt to take questions from the
audience as well. The way we're going to do that is you can see kids in the FFA jackets down the hall passing out cards. If you fill out some questions, pass them back over as we go on, they're eventually going to get moved up to me, and we'll aim to fit those in, if we can, in this fairly short period of time that we have to work with.

Let me just walk through some brief introductions. The gentleman sitting to my left is Ray Gaesser. Ray is a farmer from Corning, Iowa, where he produces approximately 6,000 acres of corn and soybeans. He's been active as a leader on the Iowa Soybean Promotion Board and the Iowa Soybean Association and the American Soybean Association.

To Ray's left is Neil Harl, the Curtiss Distinguished Professor in Agriculture at Iowa State University. Dr. Harl's main areas of interest include organization of the farm firm, taxation, estate planning, and legal and economic aspects of farm finance. What I think I found most impressive is that Neil has had over 3,300 speaking appearances in 43 states. Yes, 3,300. I might bet that puts him ahead of the Secretary.

Next, Dermot Hayes is Professor of Economics and Finance at Iowa State, leads the
policy task force at the Plant and Science Institute at Iowa State. Neil (sic) and his wife farm 900 acres of corn, soybeans, and cattle.

Next is Diana Moss. Diana is the vice president and senior fellow of the American Antitrust Institute. An economist, Diana has managed projects for AAI including antitrust mergers and acquisitions, regulatory reform, network access across a wide range of industries including transgenic seeds.

At the end of the table, Jim Tobin is Vice President for Industry Affairs at Monsanto where he served in various agricultural marketing and commercial development positions since joining the firm in 1983. Prior to joining Monsanto, Jim was a member of the agricultural extension service in Iowa. He's a member of the board of delegates in the U.S. Grain Council, has served on the National 4-H Council and is the past chairman of the American Seed Trade Association.

Okay. What I'm going to try to do is cover three broad areas. We're going to start with a discussion focused on how we got where we are today. What are the driving forces that has driven the seed industry to its current structure?
Second broad area of questions are going to involve current status of competition in the industry. And the third set of questions for which we hope to hold the most time, the last half hour of the session, is going to focus on the future and future -- and emerging policy issues as we enter a world into which some seeds are going off patent.

Let me start with historic development. My quick summary of how we would think about the seed industry today, which many people have touched on already, is we have a small number of major firms that develop traits, sell those traits through their own seeds, and also license those traits to independent seed companies. We have a declining number of those independent seed companies.

In addition, we've had substantial increases in private research and development spending but decline certainly in real terms in public research and development spending on the crop science.

I'd like to direct my first question to Neil Harl and let him take a shot at summarizing why we've seen that type of major shift in the last
20 years to the type of structure we see today.

NEIL HARL: Thank you very much. Are we on?

JAMES MacDONALD: We're on.

NEIL HARL: We're on. Actually, it's going to require more than 20 years. As I pondered this over the last several days, I concluded that really we needed to divide our past into three eras, and focus on A, technology and B, control and how those have changed over the time period, and I'm going to emphasize the control side more than I am the technology side because most of you are fully aware of that.

So I'm going to have just a few comments about the open pollinated era, partly through nostalgia, and secondly, the area of hybrids from conventional breeding and third, the biotech era. There were three major legal developments during that time frame. And I can say with some confidence I don't believe we handled the third one very well as a matter of public policy. And it didn't come through Congress. It came from the Supreme Court.

Now, as we ponder this task, the open pollinated era continued until the '30s, and I can
tell you that as it came to its end, it was an interesting experience. At age three in February of 1937, I was assigned the task by my father of budding and tipping ears, shelling the irregular kernels off because they didn't go through the planter plates well, and I had the whole month of February to do it, and I used the whole month of February. That was my dad's seed for the 1937 year in the last year he planted open pollinated because he noticed that two of his neighbors had some hybrid seed, and while he had been preaching to me for quite some time, you can't afford to pay the price, the outrageous price they pay and require for hybrid seed, which was a few dollars a bag, but after he saw the yields, he was convinced that that was a good idea.

And so moved into the next era. But that era, the technology was simple, although labor intensive. The farmer had total control over the ears, the seed, and the crop, but that was balanced against, of course, the fact that the yields were not as great as the hybrids were.

The era of hybrids was assisted by the land-grant universities, and many of you know the land-grant universities essentially provided the
inbred lines throughout the period from the onset
of the hybrid period until at least the mid- to
late 1970s, and we'll talk about that transition in
just a moment.

Now, neither the land-grant
universities nor the seed companies retained any
control or ownership over the seed or its genetic
makeup until at least 1970. There had been a piece
of legislation passed in 1930, the Plant Patent
Act, but the Plant Patent Act was very narrow. It
only applied to asexually reproduced plants. So it
was really horticulture, and most of our farm-type
seeds did not qualify for protection, intellectual
property protection, under the Plant Variety
Protection Act.

But we need to watch this because as
we get to the end of the patent period, we're
concerned about the existence of patent rights, but
we're also concerned about the existence of PVPA
rights as well, and those can lurk where you don't
necessarily have a patent right. So we want to
emphasize that point.

The producers still had complete
control over the seed and over the crop through
this period of conventional crop breeding. The
universities, generally the land-grants generally
provided at little cost, in some cases at no cost,
to the seed companies, and then they would complete
the hybridization process.

During this period the attitude was
fairly widespread that seed was considered to be in
the public domain. As a matter of fact, I remember
in some degree of involvement and a couple of
instances where veteran seedsmen -- they called
themselves seedsmen. There were women involved,
but they never did get around to calling it
seedswomen, but the seedsmen believed, many of
them, that seed was in the public domain, and in
one case one seedsman grabbed a fist full of seed
from the wagon of a competitor. In another case a
seedsman went on a midnight foray into the fields
of a competitor and harvested a few ears. Didn't
think anything was wrong with that. That was the
attitude, the attitude until we got to the end of
that period, the beginning of the biotech era.

Now, coincident with the beginning of
laboratory manipulations, rather than field -- the
type of conventional crop breeding that had been
going on, there was a scramble for germplasm
because the Supreme Court, the Supreme Court in
1980, decided a key case that allowed the patenting of life forms for the first time.

Now, just a little bit of detail here because the literature is not exactly clear on this point. Some think the Supreme Court reversed the patent examiner. Actually, the patent examiner had said no, you can’t patent life-forms. And the Board of Patent Appeals agreed. The next level up, the third level up, said "Well, we think that we have to reverse that because times are changing," and it was that opinion that was affirmed by the U.S. Supreme Court by a five-to-four decision. Congress was not involved.

And moving into the patenting of life forms was a new area for patenting, and we continued to have problems because at no point did Congress exercise any kind of oversight over that patenting process.

So that was followed in the 1990s by an almost frenetic move to acquire firms, and the number of seed producers dropped from about 300 plus to the handful that we have today, those that were large enough to muster capital for genetic manipulation through laboratory operations and to buy out competitors without much fear of a
challenge from Washington, DOJ or FTC.

Now, the discovery and development of Roundup Ready, which was patented, coupled with the use of restrictive licensing gave the company unprecedented influence over even seeds sold by competitors through the use of restrictive licensing arrangements and incentives, economic incentives.

The high demand for seeds containing that technology assured the competitors would agree to the terms of the licensing agreements. The terms and the use of incentives permitted the patentee to extend the span of control.

So what we have is the transformation of the seed business in that 80-year period, almost unbelievable in nature and in scope. No one in 1930 would have been able to forecast what happened and then been terribly surprised if they'd seen it.

But I think our problems as we look backward is that there was not sufficient oversight over the various key developments during that period, notably the decision to move toward patenting of life forms.

And it isn't just agriculture that's having problems. Medical research is also having
problems with respect to the patenting of
life forms because you can stake out a segment of
germplasm and keep others from being involved with
it.

So in very short order -- I think
that's more than my three minutes -- there are a
couple of other issues that I want to talk about
later on if we have the opportunity.

The big problem today, in my view, is
what happens at the expiration of patents? What is
it going to take to have a generic market? And
we'll, I think, be addressing that later on. I see
this as the next big obstacle.

I hope when we deal with this one, it
will be with a greater degree of insight and
possibly the Congress involved so that like the
1970 act, it represents a refereed conclusion based
on the various interests that have a stake in this
process. Now, I think that's --

JAMES MacDONALD: Neil, if you want to
speak about that, we'll bring you back in that last
session. You're using up all of your time.

NEIL HARL: Alright. Fine. Thank you.

Thank you.

JAMES MacDONALD: Let me -- key thing
we've identified and that people have spoken about so far has been introduction of intellectual property protection, particularly starting in the famous 1980 Supreme Court decision.

Let's talk a little bit about the outcomes from that up 'til now, and what I want to do is ask Jim Tobin and then from him get some discussion about how was that expanded patent protection affected investment decisions in the seed industry?

JIM TOBIN: Jim, thank you. It's a pleasure to be here. I grew up on a farm in southwest Iowa not far from here. My parents are here. They're still farming near New Market. I used to wear one of the blue jackets for New Market. It's now consolidated into Villisca and Bedford and Clarinda, so I'm appreciative of them being here tonight or this afternoon.

What has intellectual property meant to the industry? Let's start with it's attracted a great deal of innovation, new investors, new dollars, new opportunities for farmers to choose to use products that help them make money.

The Roundup ready trait, which I'm sure Ray can talk to, for our family farm, it took
away the need to walk the beans every summer, saved
a couple weeks of time. It helped my dad who does no
till farming grow soybeans in a sustainable way and
save the soil and made a tremendous difference for
farmers.

I'm sure many of you remember you
could drive down the road and see which farms were
using the Roundup Ready technology because they had
the cleanest fields. That's just the first step.

Today there are 23 different biotech
traits that are available to farmers in corn,
cotton, and soybeans, and more importantly, because
companies have seen this work, the opportunity to
get paid for these new innovations, as farmers have
chosen to use them, the pipeline is really full.
If you look at the corn and soy opportunities that
are coming, not just from one company but from many
companies, there are 50 different traits in that
pipeline that are listed as being worked on for the
next ten years.

Those traits get broadly licensed to
over 200 seed companies that let farmers decide
what they want to use. It was very important that
early on we recognized that you have to put the
very best germplasm with these traits or farmers
won't buy them, and that's why there's such a connection to the seed industry because that's the delivery vehicle.

It's an exciting time. There's a lot of choice today. There's going to be a lot more choice in the future, and there's tremendous competition for the farmers' business.

JAMES MacDONALD: Thanks, Jim. We're going to get a little bit of -- seek the panel for a little bit of reaction in a moment, but I want to get one more point in on this introductory topic, and I'd like to get Ray Gaesser to speak about, from his experience, how has farming changed on his operation as a result of having these seeds?

RAY GAESSER: Thank you. And it's really an honor to be here, as everyone else has mentioned. Thank you, Mr. Secretary and others, for allowing this to happen.

I'm a farmer with a family business. My wife and I have been farming in Iowa for 32 years, and now I'm proud to say that our son has joined our operation, and we're really happy for that. And we've used technology over the years to do a better job of farming, to help our friends and our neighbors.
We partner with our neighbors actually in helping them and us to pull together our resources and maybe buy seeds in a volume, and that gives us the discounts and allows us to be competitive in the rural market.

I can't tell you how nervous I was the first time I sprayed Roundup on my soybeans about 1996. I think a lot of you out here had that same feeling. We planted the soybeans, a month or so later, you know, they were about this high. And they looked beautiful.

And here I'm putting Roundup in a tank that I'm used to not doing and spraying it over the top of my soybeans, and I'll tell you that I watched that crop every day for a week. It was right by the road, of course, and so were my neighbors, but you know what? The technology worked, and it transformed me, and it transformed the agriculture in the United States, and so technology has been very helpful for us.

And we need to be careful what we do that we have the use of technology and that we don't -- don't stifle innovation, but at the same time with that innovation and with that market share, we have responsibilities. We have
responsibilities that at the end of the patent that
farmers and consumers can benefit from that patent
and that we have the generic market that we can
save money on our seeds that we plant, that we need
to know that those seeds are registered around the
world, and I think that's one of the big concerns
that we have, is the registration process. It's
the process of moving through patent expiration,
and I hope that's an important subject here today.

JAMES MacDONALD: Thanks. I have to
be the tough guy on time, which is why I'm cutting
people off and driving them. We got about two
minutes left on this initial issue of how the policy
changes, particularly regarding patenting, have
affected investment and farming decisions in the
industry. Have any other reactions from the panel
on what's been said so far?

Okay. Let me move on. Let's talk a
little bit about current state of the competition
in seeds. I'll direct it straight to Diana Moss.
How should I think about structure? Is this a
highly concentrated industry?

DIANA MOSS: Am I on?

JAMES MacDONALD: You're on.

DIANA MOSS: Yes. So first of all,
thank you very much for the opportunity to be here. It's an honor, and I've learned so much so far today listening to these different perspectives.

Jim has asked me to talk a little bit about the structure of the markets that are important here, and I think one thing to put out there initially is to think about what these seed platforms look like, and a platform or a system as we think of them in antitrust economics and law consists of multiple markets, so you have upstream markets, in this case the market for traits, and you have a market below that, or downstream market, for traited seed.

There's obviously -- there are levels in between. Germplasm could be considered separately, depends who you talk to, but the point is these markets form platforms, and we have an increasing degree a vertical integration between trait developers and seed companies, and the number of independent seed companies which have heretofore been a very important channel in getting to the farmer have decreased dramatically in size over time, and that's an important thing.

So when we look at these seed platforms, we look at traits markets. We look at
traited seeds. Really the question for us is, what are the alternatives? So good antitrust analysis always pursues the questions from the consumer's perspective. What are the alternatives? So what alternatives are there amongst traits for herbicide tolerance and insect resistance? What alternatives are there for seeds, for traited seeds?

So if you ask the question in that way, I think it gets you to a very important place, and that is if you look upstream at traits markets, they are very, very highly concentrated. There is in effect a monopolist in the market for traits, and that is Monsanto. It's an inescapable fact.

What I am saying says nothing about the value of innovation. We think innovation is important. We think the patent laws in the United States are important in promoting innovation. If we didn't have them, we probably wouldn't have the type of risk-taking behavior that we do that provides new products, so innovation is important. The question moving forward is, how concentrated are those markets? Well, they're very concentrated. And are there alternatives available in those markets? And I think the answer is -- and
this has been the source of much of the
controversy -- there aren't many alternatives
upstream. Alright?

Now, if we look downstream, what we
see are markets for traited seed, so Monsanto has
broadly licensed its technology. I think that's
probably at its core a very good thing. We will
get into questions about how that technology has
been licensed and whether it actually promotes or
frustrates competition.

But I think what's deceptive about the
downstream traited seed markets is they give the
illusion of choice. There are lots of brands.
There are lots of varieties. And that's all good.
But if you connect the two markets, that's where we
start asking some really hard questions.

And the good analogy is looking at
your computer. If you look at your computer, what
do you see? You see one operating system. You can
buy a Dell. You can buy an IBM. You can buy a
Compaq. You can buy a Sony. But when you turn the
thing on, there's one operating system. And the
analogy is very good on the seed side.

Similarly, you can turn on your
computer and see what makes it work, and that's a
microprocessor chip. Well, who's out there
providing microprocessor chips? There's Intel who
has about an 80 percent market share, and then
there's AMD which has fought very hard for many
years to get a foothold in that market.

So the point here is that we have two
markets. The upstream market for traits is very
highly concentrated. It's essentially monopolized
by a single firm. The downstream market has more
competition, but it's still very highly
concentrated.

Some of the cause of concentration
obviously are mergers over time, both vertical
mergers which link together these two markets, but
also the acquisition of successive seed companies
over time has created concentration downstream.
Alright?

There are incentives once you have a
monopoly to extend your monopoly or to maintain
your monopoly, and I think that very question is
what we're trying to get at today in some of this
public discussion.

Effects of concentration? Obviously
less choice. Less choice for seed companies
seeking to create new products, less choice for
farmers who want to shop around and access other products.

Another result of less competition, or concentration, are higher prices. We've seen -- Dermot is going to talk about higher prices here in just a moment. That's a grave concern, really grave concern, I think.

And we have to separate the high price argument, I think, from the argument that, well, higher prices are okay because farmers have so much more productivity. I think the two have to be separated to have a really frank discussion about the effects of concentration and price.

The effects of concentration also affect innovation. There’s a connection between competition and innovation. We generally get more innovation if there’s competition as opposed to having one firm dominate and control the process.

And finally, later on we'll talk about what to do. And I think that will enter into the discussion about generics. Thank you.

JAMES MacDONALD: Let me just remind our panelists that we need to speak into the microphones so they can hear us a little bit better in the back, so pull the microphone closer to
yourself.

Any reactions off the panel on Diana's discussion of concentration?

JIM TOBIN: If I could, Jim, I'd like to --

JAMES MacDONALD: Go ahead.

JIM TOBIN: I've read your paper, and I appreciate that people feel very strongly about this. I'd like to start by saying that the operating system model is not a good analogy for the seed business, and let me tell you why.

If you want to grow soybeans, you don't need Roundup Ready to make the soybeans grow. They grow just fine. There are people who grow conventional soybeans -- and Ray can speak to this -- who do just fine.

It's because farmers choose to use a herbicide-tolerant trait that they ask the seed company to have that for them, and they decide every year what they're going to plant.

Let's go back to the early days of '96 when Roundup Ready first came to the market. There was another trait called STS that was developed by DuPont, was available at the same time, both -- some of you probably planted that.
Every year farmers get to decide, for example, do you want to use Roundup Ready, do you want to use STS, or would you like to use conventional? There are weed control systems to handle each one of those. There are a number of choices. Farmers decide.

Yes, we broadly license our Roundup Ready trait, but that's a good thing. We allowed a broad group of companies in the industry -- and I helped in the early works on that. People really liked the idea that they could get these traits in any brand of seed that they wanted. It's worked well for farmers. It's worked well for Monsanto.

Today there's another new trait called Liberty Link that's just been launched by Bayer, so innovation continues. I told you earlier that there's 50 new traits in the pipeline for corn, soy, and cotton, and that, I think, is really good evidence that others look at this market and say "There is an opportunity, and I want to invest in it."

So there is value. Farmers make decisions. They're very, very good at making those decisions, and that's why we have high market share with Roundup Ready in soybeans. It's not because
you have to have Roundup Ready as an operating
system to make the soybean variety yield and grow
on the farm.

JAMES MacDONALD: Let me quickly bring
in one point Jim touched on and several members of
the audience touched on. Access to conventional
seeds. About 85 percent of corn acres is biotech
varieties now; 91, 92 percent of soybean acreage
according to USDA statistics.

I want to direct a quick focus
question to Ray and ask him to address the question
of do we have sufficient access and sufficient
plant breeding programs for non-GMO seeds?

RAY GAESSER: Well, I guess I would
have to admit that the plant breeding to
conventional seeds has gone down as a percent, but
everyone I've talked to, especially in soybeans
around the country, there is access to conventional
seeds in our local -- used to be a co-op, and now
it's another company owns that but that we have a
really good market for conventional soybeans there
with a $2 premium per bushel for farmers who choose
to grow them.

We have the Asoya group that we talked
about this morning that had their own conventional
varieties and were successful for a while but found that consumers weren't willing to pay, and I guess we don't understand that exactly. We're trying to offer things that the consumer wants, but maybe they're not always willing to pay the premium.

At Iowa State University here, Dr. Walt Fehr, the check-off, the Iowa check-off and the national check-off, funds that program greatly, and I'll tell you that Dr. Fehr is almost a god in Japan because of the food grade soybeans that he grows there.

So there is opportunities. It is somewhat limited, but in relation to the 8 percent or so of the total demand for soybeans, it's probably not too far out of line. There is availability.

JAMES MacDONALD: Any reactions on that anybody else on the panel want to offer on that? Let me get to pricing. Spend a little time on this.

I'm going to direct a question to Dermot Hayes. Again, according to other USDA statistics, average prices for biotech soybean seeds rose by a little over 60 percent between 2004 and 2009, according to our numbers. Average prices
for biotech corn rose by about 93 percent in that same period.

Dermot, do you have some analysis of why we might have been seeing those increases? What do you think is going on?

DERMOT HAYES: Sure. I better apologize to everybody. I've got a funny accent. I grew up in Ireland, and I moved here in '81.

Still haven't managed to get rid of the accent.

I farm a little bit with my wife, and last spring we went into Sam's Club and saw corn, non-GMO corn, for 100 bucks a unit or about 40 bucks an acre, but we chose to spend about a hundred dollars an acre or 250 for the seed we bought, and that's because the seed companies are packing in so much more into that bag, and apparently a lot of other farmers made the same decision we did because the average price of seed is closer to the high end rather than the low end that was available to us, and that's because they could -- it cuts our herbicide bill and our pesticide bill, and we get a yield boost relative to the seed we could have bought for 100 bucks that was -- that was five or six years old. So that's the answer.
But there's a more interesting question, and that is the U.S. has been running a great natural experiment. We have strong IP for corn, and we have a very weak IP for wheat. The strong IP has attracted innovation, and corn yields are going up, and despite a bad summer last year, we had record corn yields.

Wheat yields are flat and have been flat for quite a while. I went back to the year I came to this country, '81, and we had more wheat acres than corn acres. There's been a net transfer now from wheat to corn with 10 million more acres of corn than wheat. Used to be corn produced about three times more volume than wheat. Now corn produces six times more volume than wheat because it attracted acres, and the yields have grown so much faster.

So let's think about that Kansas wheat farmer. Former Kansas wheat farmer is now growing corn. Are they getting ripped off by the corn companies? Well, why did they grow corn? Why did they switch out of wheat? Are we in the public sector doing a good job of getting new products to market? We probably are but not as good as the private sector.
So I would argue that the natural experiment would favor what's going on with corn, and the benefits that have grown. Higher yields benefit the consumers and producers.

JAMES MacDONALD: Anybody else want to give us a reaction on prices?

RAY GAESSER: One other comment. I just read an article a couple of days ago, the University of Missouri's yield trials. In 2000 about 30 percent was conventional varieties. 2006 it was only 1 percent. But last year it was back up to 15 percent, so we are seeing some -- maybe some demand or some more interest in conventional varieties, and I think there's a place for every one of us in this market.

JAMES MacDONALD: This gives us -- we've got a fair amount of time left. That's good for talking about the stuff that's really emerging powerfully now and where we have a series of major policy issues emerging facing several departments of the government as well as industry.

The Roundup soybean trait goes off patent in the crop year for 2015. In the years after that, several other traits are going to go off patent. We have what in essence is going to be
another brave new world of how we handle policy for these things. We have a set of issues we want to cover.

I want to start off by directing a question back to Ray and asking about in this world, it appears I keep hearing from farmers that things are highly uncertain, and they don't like uncertainty, making long runs of planning planting decisions, and I'd like Ray to address the issue of where this uncertainty arises and what he and his colleagues feel are needed for better clarity and transparency in the process, so Ray is going to start us off.

RAY GAESSER: Thanks a lot, and our groups at the Iowa Soybean Association and American Soybean Association, we've spent a lot of time talking to everyone in the industry from large tech providers to small seed companies to universities, and we find that at the top of the pile, it really comes to be the uncertainty in the market, the uncertainty in license agreements, the uncertainty in the breeder's ability to continue to use Roundup Ready One particularly but also, you know, how they will be able to use the Roundup Ready Two patent.

We're also concerned about future
traits in registrations, whether it's registrations for the Roundup Ready 1. Will it continue around the world? Who will be in charge of that? I think that's the really big issue there but future traits. And can small companies actually register a product? Costs $100 million to register a product around the world, and that's part of our competitive issue here. Small companies aren't able to access that market, and we need to find a way to help them through the system.

JAMES MacDONALD: Ray, let me just bring us a little bit further along. Ray has identified a big issue is registration. What I want to do is take a little bit of time, a significant amount of time, to talk about that.

I want to ask Jim Tobin to tell us just a little bit about what exactly has been involved in registration since it's a major function of what Monsanto's been doing and something we need to think about when we go to generic seeds.

JIM TOBIN: Yes. For the registration people in the crowd, I'm going to really summarize quickly, but when we register a product like the Roundup Ready trait that Ray is talking about, we received approval from the USDA, from FDA, and from
EPA, and each of them have a separate role to play in the United States.

In the case of Roundup Ready, you get deregulation in that process, and so there's no new regulation work that has to be done for Roundup Ready in soybeans. That's done. And when you go around the world, Ray and his colleagues exported a big part of their crop. It's a really important part of their business. And so we register with more than 40 countries around the world where soybean or soybean products are sent.

About 27 of those countries represent the European Union, and they're supposed to work all together, but that doesn't always work quite that way. We have to do a lot of things to make sure that we have that in place.

There's seven countries that will require either a renewal or a new registration over a period of time, maybe three years, five years, ten years.

What's in a registration package?

Well, if you stacked up the reports, there's about 50 reports that are about a foot and a half high. The work is done by company scientists who are developing the product, and we also hire
third-party experts to come in and help do regulatory work.

You're looking at safety for food and human consumption -- for food consumption and feed use. You're also looking to ensure that the product is effective. You're looking to ensure that the soybean plant isn't changed in any way if that's a claim that you're making, which is the case here.

That work is very involved. It doesn't cost $100 million. What Ray was quoting is the cost of bringing a new trait all the way from the beginning step through regulatory approval. It is expensive but it's not quite that expensive. But that is what we invest in the whole process of eight to ten years.

So the question then is, with these regulatory approvals, what do you do when something goes off patent? Let me just address that quickly. Monsanto's patent will end with the planting of the 2014 crop, so in 2015, we'll no longer have a patent on the Roundup Ready trait.

If someone licenses from us, a seed company or you as a farmer, we won't collect anything. We won't be owed any royalty. Our work
will be done relative to the licensing and getting
paid a royalty. However, because when a farmer
produces a crop, you want to make sure it has a
market, we've worked closely with Ray and others at
the American Soybean Association. We've committed
that we'll maintain this regulatory package, the
renewals that are needed in these countries around
the world, for a period of at least three years
after the patent goes off, so until the end of
2017.

Now, of course, Ray is concerned
because he's going to possibly be using some of
this material on patent, and he wants to make sure
there's a market. What we're proposing, and we're
willing to have a lot of people at the table for
this, we think that whoever wants to use it,
whatever seed company or developer that wants to
use the Roundup Ready trait off patent, we've put a
proposal together and provided it to the
bioindustry organization where trait developers
work on stewardship policies and said "If you want
to use this, we'll make it available. If you can
pay the cost of the registration, share that cost,
we'll continue that as long as you want us to do
it." Our data packages would be available. It's
about 1 to $2 million a year to maintain this, so we would welcome anybody in the industry that wants to get involved in helping find a solution.

We think an industry approach is an appropriate way to go, but we're open to a lot of ideas and approaches to make sure that if farmers want to use this, if breeders want to breed with it, it will be available, and there won't be any challenges with regulatory. And Ray, you have my commitment and the commitment of my company that we'll make sure that these regulatory approvals are in place so that you can export your soybeans.

JAMES MacDONALD: Let me move this discussion of the registration process along a little bit. And I want to ask Diana for her view on whether we need new rules or agreements aimed at improving that process.

DIANA MOSS: Great. Thanks for that. If I could just back up for 30 seconds and maybe put a different -- a slightly different perspective on this with Roundup Ready 1 going off patent, this will be the first opportunity to have competition in biotechnology seed, and that's a big thing.

There has been proprietary technology. Again, that's attributable to our patent laws in
the U.S. That's good. It promotes innovation. But once the patent expires, that is the -- that's when the window starts to open.

I would argue the window opens long before that, in part because the pipelines take a number of years to populate with potential new products. That means that rivals, rival biotech developers in this world of stacked trait products, need to get access long before the patent expires to be able to seamlessly transition and have those products ready for market by the time Roundup Ready is off patent.

So there's potentially a gap here where if we do not construct the right set of policies and conditions and to smooth this transition, all of this generic competition is in jeopardy, and the people who suffer from that are not only rivals in the industry but the seed companies and the ultimate consumers.

We all deserve to benefit from generic competition just like we have in pharmaceuticals, and you all remember paying really big prices for some of these branded pharmaceuticals that now you pay literally pennies for.

So I would view this process as really
a two-part process. One is to work with the patent
holder, and Monsanto has stepped forward in a very
positive, constructive way. I do not think that
those commitments go far enough. I think there has
to be more work done on making data available. I
think there needs to be an extension of the
registration process in excess of three years.
There have to be commitments not to sue for patent
infringement if rival biotech developers want to
get R&D programs going. Alright?

Antistacking provisions have been
problematic to date and could easily, easily gut
the whole transition to generic biotech seed. And
I think it's really important to note that unless
this whole process is constructed smoothly and in a
way that promotes efficiency, what is sold outside
the United States will have a direct impact on
sales in the U.S., we all know that. Unless
you get your registrations, unless the process is
nicely dovetailed, what you expect to sell overseas
can impact what you sell inside the United States.

I don't think a legislative solution
is going to work fast enough. A Hatch-Waxman type
of approach that we saw on the generic
pharmaceutical side, I think, is unwieldy. It may
be a longer-term solution.

JAMES MacDONALD: Let me break in right on that, not to stop you --

DIANA MOSS: Sorry.

JAMES MacDONALD: -- but to ask you if you'll expand a little and tell people what you mean by a Hatch-Waxman process.

DIANA MOSS: The Hatch-Waxman Act -- I'm no expert on Hatch-Waxman, but the point to make is that Hatch-Waxman put into place certain rules and regulations that enabled the promotion of generic pharmaceuticals before they went off patent. It enabled generic drug manufacturers to work within some windows to bring these new products to market by engaging in the research and development.

And there are obviously many details to be worked out. I think the devil is in the details, but it really consists of a two-part process: working with Monsanto and developing the institutions to promote this. I would even suggest a generic biotech seed organization, much like the Generic Pharmaceutical Association. You get on their website. They've got a whole set of policy issues that can be nicely juxtaposed on what's
going on in biotech seed. So I think it's really a
two-pronged issue.

JAMES MacDONALD: I think Diana has
touched on the entire -- well, not the entire.
Diana has touched on the set of issues that we want
to cover. I'm going to ask first Neil and then
Dermot what their views are on the proper mix of IP
protection going forward as we look at this issue.

NEIL HARL: On this issue, I think the
important point is -- it's already been noted that
farmers don't want the biolawsuit, and so when
you're going generic, you want to be sure there is
total purity.

We've been through this with StarLink.
We know there's mechanical contamination. We know
there's pollen drift, all kinds of reasons why
patented material do get into other germplasms.
But there's more than that. There's also the PVPA,
the Plant Variety Protection Act. There could be
that kind of intellectual property protection
existing within a bag of generic seed, and that may
not be at all clear because you've thought, well,
this is just a Roundup Ready problem. There may be
other patented or PVPA protected rights within that
bag.
So we have purity issues, and this is why I've concluded that I think it's necessary for this to be a matter of regulatory action, not -- I think industry should be involved. I think there should be a process by which the best minds pull together the limitations and conditions, and restrictions that should be part of a generic seed regimen, but I think it really has to come eventually to the point of where we have the enforcement power of government and the objectivity and fairness that comes the same way.

JAMES MacDONALD: Dermot, do you have anything to add?

DERMOT HAYES: Just to say that there is an urgency about this. If we fail to maintain our registration in China, then we will -- and the year comes when that becomes an issue, we will definitely have Roundup Ready 2 in our system. Therefore we can't separate that back out of the commodity system, so therefore we lose the Chinese market, so what everybody has said here is we need a third-party institution to accept an offer from Monsanto to take that data and start that five-year registration process and make sure it's finished in time, and if anything good comes out of this whole
conference, it would be that third-party institution.

   My preference would be for the soybean association or ASTA, but if Neil is suggesting a regulatory approval, it's six of one and half dozen of the other, but we definitely need to get that going. Monsanto has made a pretty generous offer. Most companies would actually sell that data, so I think it's time to move, and I hope that the people who are in that kind of authority in the room are listening.

   NEIL HARL: There has to be unquestioned objectivity and standing in the world economic community for it to really work, and that's why I think a third-party presence makes a lot of sense also.

   JAMES MacDONALD: Ray, anything to that?

   RAY GAESSER: Yeah, at ASA we have been talking about this issue a lot, and it is really important to us, and we do -- everything that Diana and everyone down the line said is actually true. It's so important that we solve the issue with Roundup Ready 1, but there's many other traits coming on that will expire soon, and we have
to be -- acknowledge those needs also, but you
know, time is of the essence here.

We don't have a lot of time with
Roundup Ready 1 if we want to have the ability to
use it generically in the United States and around
the world.

JAMES MacDONALD: Jim, do you have
anything?

JIM TOBIN: Yeah, just a couple
things. As I said earlier, we welcome industry
involvement. We think there should be a lot of
people at the table when this is sorted out because
it is the first major trait coming off patent, and
we welcome insight and support in doing that.

I'd like to make just a few points so
people know what the generic picture will look
like. First of all, there are over 150 seed
companies that are licensed today to use the
Roundup Ready trait in soybeans. Every one of them
will have the ability to sell in 2015 Roundup Ready
in soybeans without any new regulatory work,
without any new legislation. That's already
possible because the soybeans reproduce; as they're
producing a seed, reproduce that trait.

There are also a number of stacks that
are already -- have already been enabled. The STS stack that I mentioned earlier was planted on, we estimate, about three million acres, so Roundup Ready with STS is available and can be available in the future.

We've enabled a number of other stacks, a stack with Plenish, a new oil quality trait that DuPont has. We made our data package available to them so they could do that. There's a new 2,4-D stack, 2,4-D trait, that's coming out that there would be the ability for someone in the industry to stack that, and we would provide regulatory support for that.

So it's possible without new regulation for quite a bit of this to occur already, but we're very open to having discussions about additional things in that area, and also the regulatory support for the international approvals, we think, is a good approach, and like I say, we've made that offer to the industry, so just a few things to clarify the discussion.

JAMES MacDONALD: Let me bring up a related question and throw it out to the panel, which is, is there a role for continued public investment in plant breeding? What's that role? And what
should we be doing in the public sector that we're not doing now in terms of supportive plant breeding? Anybody want to take that?

NEIL HARL: I would like to address that briefly. I was on the ACAB, the Advisory Committee on Agricultural Biotechnology, in 2000 and 2002. It was really created to deal with the Terminator. Some of you may recall the Terminator controversy.

But we also dealt with the question of how to cope with this very issue we're dealing with here today, and the conclusion was that one of the steps should be an increased amount of spending in the public sector to encourage conventional crop breeding, and we sent that, I think, to everyone in positions of responsibility.

Unfortunately, since then we've had a period of difficulty with respect to budgets, and so the amounts have actually been declining over time. So if there's enough public interest in this to support it at Congress, support it at the state level, I think this is a good thing to do.

It also adds another element to the concentration issue because they can feed germplasm into the system as they did back in the '70s, a
different kind of germplasm of course, but I think it was an essential part of the total solution today is to encourage that. It's just as I looked ahead, I don't see much chance for that because of the shortage of funds.

JAMES MacDONALD: Any reactions?

Anyone else?

RAY GAESSER: I'd speak to that a little bit, and thank you. You're exactly right, and the Iowa Soybean Association and American Soybean Association has really been trying to push that idea. At the check-off level, the state and national do invest in soybean research, you know, at our universities and small businesses.

But at the national level, there's really a limited amount, and our associations have been pushing for a long time for increased funding for particularly soybean research because that's our charge but for more research in production agriculture and continuing the conventional traits and giving a generic market to farmers and having that option.

JAMES MacDONALD: Dermot.

DERMOT HAYES: One of my colleagues at the university, Pat Schnable, is responsible for the
big project to examine the corn genome, and that's fantastic research and something I'm very proud to be associated with.

However, and there's a lot of other good basic research on disease and in agronomy, and that's all legitimate public sector/taxpayer-funded basic research. We haven't -- if you look at the wheat example, there is public sector research on wheat, but I think university professors are not real good at making cold sale calls and meeting deadlines and forming teams, and so probably we're not as good as we could be, as the private sector is, at taking that basic research and turning it into a sales product.

And therefore, I think there's a natural break-even point, and that is the public sector does a lot of basic research and should get funding for that, but when it gets to the point where a private sector company can do it more efficiently, then I think we need to turn it back over.

JAMES MacDONALD: Any other reactions on the panel? Diana?

DIANA MOSS: Can I just make one comment? Just listening to what's been said here,
I think perhaps with generic Roundup Ready 1, we will get more public sector funding because of the lack of restrictions on how the traits can be used and combined with other traits to potentially produce new products.

But I think the whole catch phrase here is certainty. If we want a successful experience with the development of generic Roundup Ready, then there has been to be certainty, and the certainty should have started about five years ago, not today. I would argue that we're even behind the curve even starting with this today.

It's really a very urgent situation because of the lead times involved. Because of the production of very complex stacked traitsed products, certainty is the name of the game. If we want to get new products to market, there has to be clear -- clarity, there has to be certainty, there has to be a clear set of rules that are enforced and preferably that have all the stakeholders involved and are pursued not only at the federal level but hopefully at a regional or a state level as well.

JAMES MacDONALD: I think looking at the clock that we'll give Diana the last word on
that.

One point I want to make, I notice our stenographer here. DOJ typically publishes the results of these workshops. They publish the transcripts on their website some -- I don't know when that will be, but for those of you who want to stay on top of it, review what's been said here, that information is going to be available.

Our panel members will be around after the panel for those of you who want to ask them a little bit more about positions they've taken, and right now I hope you'll join me in thanking the panel members for their time and insights.

PHIL WEISER: We will be putting the transcripts up online, and for those who can't be physically here, we'll invite everyone's engagement and discussion of the issues. The folks who joined us here have come from different parts of the country and some not so far within the great state of Iowa.

Let me start by introducing them, and then we'll start with a moderated discussion like the one we just had.

Sitting right next to me here, Brian Buhr from the economics department in Minnesota
where he also has earned the outstanding policy
collection from the American Agriculture
Economics Association. Thank you for joining us.

Rachel Goodhue. I believe you're
native Iowan, is that right?

RACHEL GOODHUE: Yes.

PHIL WEISER: Good to have you back
home now, a professor at the University of
California Davis where she's in the resource
economic department.

Mary Hendrickson is someone known to
many of those here. She's not too far at the
University of Missouri. She's also a part-time
farmer on her family's farm, I understand.

MARY HENDRICKSON: No. Only
occasionally.

PHIL WEISER: Occasional farmer, I
guess. Sitting next to her is John Lawrence. John
is an agricultural economist at Iowa State and has
been named one of the top five most influential
people -- top twenty-five. Not top five. I just
promoted you a little bit. Seeing if you were
paying attention. Top twenty-five most influential
in the top -- in the past twenty-five years.

Chuck Wirtz comes to us as an
independent hog producer from here in Iowa and 
finally Patrick Woodall who's the research director 
at Food and Water Watch, a nonprofit consumer 
organization.

So you should notice like the last 
time, there will be folks with the jackets who are 
going to be asking you to submit your comments. 
You can see them in the back of the room there. 
They will walk through. Take an index card. Feel 
free to give them your comments so I can work them 
into the questions.

I've got some questions that will get 
us started. A number of them feed off of some of 
the earlier discussions. The first is that farmers 
are increasingly concerned that they are squeezed 
in terms of the supply chain, and one of the 
related concerns there that we'll hit more at the 
end of the workshop in Washington is the 
differential between what's pay for at retail 
versus wholesale raises real concerns, and most 
particularly from the antitrust perspective, there 
has been discussions that buyer power, often called 
monopsony, is part of this equation.

And I guess I'd like to ask folks to 
explain a little bit about the dynamics of the
supply chain and where concerns arise. Patrick, if
you might be able to start off on this.

PATRICK WOODALL: Sure. It's great to
be here. We're very happy that this workshop is
being held and that DOJ and USDA are having these
important and, we think, long overdue discussions
on these issues.

I think for us what we see is that the
decline in real farm gate prices and a steady
increase in retail consumer prices for groceries
shows that there's big carveout in the middle where
the biggest companies, the consolidated companies,
are able to capture more and more of the value
chain in the marketplace.

This happens, I think, in part because
larger companies are able to exert more buyer
power, both over farmers, which has been shown in,
I think, all the livestock sectors pretty well but
also in other areas like the retail sector which
exerts tremendous pressure on food manufacturers,
on produce marketers, and even on consumers, so
what we see is that even when grocery mergers occur
that increase the kind of efficiencies, those
efficiencies aren't really passed on to the
consumers. They're captured by the companies and
not delivered to the beneficiaries of the people
buying food in the supermarket.

Obviously, on the farm gate side, we
see the opposite trend which is the pressures by
the meat packers and the shippers and the grocery
chains are pushing down and down on farmers, so the
real farm gate prices for almost everything have
been coming down for the past several decades while
the real cost to produce these goods has been going
up. And this puts kind of a double squeeze on the
situation. Farmers get a little less every year,
consumers pay more every year, and the companies in
the middle, the fewer and fewer companies in the
middle, are taking a bigger bite.

And that, I think, for consumers and
for farmers is an extremely problematic situation.

PHIL WEISER: Chuck, you are obviously
on the front lines raising hogs. Have you
experienced similar concerns? What's your
perspective on this issue?

CHUCK WIRTZ: I'm an independent pork
producer, and I'm -- Todd Wiley happened to make
mention of those of us that try and negotiate pigs
and try and set the marketplace. I'm one of the
people that are selling 5 percent of the hogs in
this country that is trying to set the price.

It gets extremely difficult at times; in fact, almost to the point where you want to give up and join the ranks of others. We're courted a number of times to sign shackle space agreements with packers, and we try and resist doing that for the pure point that we believe that market transparency and market discovery is ultimately important for a free market to flourish.

We have always been, in this marketplace, price-takers. We have never been able to be price-makers, and quite honestly, I don't have -- I think the power has even shifted out of the packers' hands. Some people want to try and take aim at the packers, but the retail sector, in my opinion, has become so strong that when I talk to them, when I sit in circles, sit around tables and visit with them about challenges that they face in their industry, they pretty much echo the sentiment that we have felt for years in that they're starting to be told "This is what we'll pay for this particular cut of meat. If you want to sell it to us, fine, and if you don't, that's fine too."

And so I think the U.S. consumer needs
to understand that it's a very difficult situation out here continuing to try and produce food not only for the people in this country but for people around the world. It's challenging.

PHIL WEISER: John, what's your perspective on the market structure and where the competitive concerns are?

JOHN LAWRENCE: Well, I think as both previous speakers said, there's concerns kind of both ends. I think one of the things as you mentioned as you started the discussion on the farm, the wholesale spread has widened over time. I think a part of that is we track prices, and we don't necessarily track costs. There's research that does that.

But part of it is we're buying a different product than we did a few years ago. There's more further processing, more convenience, more packaging, more advertising, and so on that comes out of those margins.

Certainly in the hog side, as Chuck just said, with the small number in the spot market, I think that's a genuine concern. Where is price discovery going to occur? What are the functions of price discovery? What do we need it
to do? Is it possible to go further downstream for
that price discovery? Is it possible to have other
types of price discovery?

And I think those are questions that
the industry is needing to wrestle with in some
regards, whether it be the convenience or, as Chuck
said, the people who want to join the contracting,
its success is going to kill it because many that
were so successfully using somebody else
discovering price to use in my formula, now there's
nobody left to discover price, and so I think
that's a challenge.

PHIL WEISER: I'm going to come back
to this question with Mary. Before I do, Rachel, I
know you've thought about this margins you see that
people talked about. Any thoughts you want to
share on that topic?

RACHEL GOODHUE: Sure, and I'll go
back to what John said. You see me checking
something off here on my list. And in terms of
thinking about margins, as John said, it doesn't
talk about the other costs. And I was thinking
about out in California talking to some lettuce
grower/shippers, and what these folks have done,
is they've integrated up the chain. Instead of
building an ethanol plant, they started -- they
built a bag salad plant, have a lot of specialty
products.

They are still negotiating with
retailers. They still have this issue mentioned
by Chuck of having people tell them what price they
are willing to pay.

And then the other thing that's
happening is they have more value added, but
there's also a more stable market for them. The
price of their product isn't nearly as highly
correlated with the price of bulk lettuce,
commodity lettuce, as you think it would be, and
it's because of those other costs.

So you see this more stable price for
them, a more stable retail price for bag lettuce,
but it's being driven in part because that
commodity lettuce is a less important share of
their product.

So when we look at those margins, it's
not just who's capturing them but it's also about
is it an input cost, or is it about some sort of
market power?

PHIL WEISER: Brian?

BRIAN BUHR: Thank you. Thanks for
being -- it's a pleasure to be here today. I always like being the fifth one. There's little left to say.

I think the important part of this, though, it's interesting how today listening to this, I think all of you -- you go from one end of the table to the other and the difference in perspectives that happen for the same thing. It's like the blind man is trying to tell if it's an elephant or not. People feel different things.

But I think in this case it's important to keep in mind that these business organizations and market structures are a spectrum of alternatives, so John was talking about open markets and how important those are. I didn't share his views on where he thinks those issues of competition there and another person saying that clearly these margin issues show there's a lack of competition in markets, and that's kind of where economists are at this. There's a spectrum of competition here from open markets to complete vertical integration and monopoly that we're concerned about.

But in that context, I guess it's kind of a challenge to think about is that competition
is not only about that open market that we fixate on, but if you look at contracts, you look at vertical integration, you look at emergence of local foods, organic foods, and so on, all of those in an economists' view are responses to competition. They promote competition in markets. They develop new products, and they come out of trying to find ways to move through the market.

So we have had concerns about pricing at farm levels. We've had concerns about pricing at wholesale levels. Retail certainly is there. For the most part the research on that is fairly suggestive that there is some sign of market pressure but that it's not enough to offset the competitive advantages of scale and integration and the types of innovations.

You know, the other challenge to think about in business processes is as an innovation process in itself. So maybe jumping ahead to some of your questions, but from a policy perspective, limiting business organization structures and limiting those opportunities is sort of a suppression of innovation in the sense of how is the market structure organizes. So to think broadly about those issues and the importance
becomes really defining is there an issue of competition, which is the difficult question.

PHIL WEISER: So two things. One is I encourage all the speakers to speak into the microphones so folks in the back can hear. That's the first thing.

The second thing is just to ask a question that is notable. It underscores the iterative nature of this process. So at the last event in Washington, this issue, which is one of the big issues on people's minds, is one we will have to grapple with more intensely. Call it the wholesale/retail differential or whatever. From farm gate to retail, I think, is what Patrick called it.

Here's the question, and I encourage everyone here and everyone who's watching and going to follow later: commodity prices for farmers go up and down, but retail prices tend to stay higher once they go up -- the consumer and the farmer both lose -- where is this margin all going?

We've had some discussion on this point. For others who have experience research, please share with us so we can help grapple with this question.
Let me go to another point that was raised inherent and let Mary start on this, which is the nature of the contracting. So one form of the market structure that has evolved over time is having more spot market-driven price discovery to a greater reliance on forward contracting with more limited spot markets.

I think the statistics offered by Todd Wiley earlier was that there's only 5 to 6 percent of hog sales are driven by spot market with a lot of contracts that are going to be pegged with an open term.

And I guess, Mary, I'd ask you, having sort of thought some about this dynamic is whether it's effective or whether there are concerns that you want to raise with respect to it.

MARY HENDRICKSON: Well, I have to say that I'm no expert on price, and I'm sitting here around a bunch of economists as a sociologist, so I'm not going to address the price issue because that's not something I'm going to model and think about the price.

I think the important thing about contracts and the way that we've seen consolidation happen is that there are other issues, and there's
other social/community/environmental issues that are really important in this, and at the farm level, I think one of the big issues is impacts on choice and autonomy, and we've heard some of those discussions today, but as you start to think about what happens with contracting, there becomes -- there's a lot more specifications, particularly as you move from marketing contracts into production contracts about, you know, what can be grown, how can it be grown, what kinds of -- in the livestock arena, what kinds of medicine and veterinary health can be given to it.

And so really, you're moving decision-making away from the farmer and into the hands of absent management, and as you do that, that is also a way to move profit away from the farmer and into the hands of other people who control the contracts.

And so I think that that's really important in terms of thinking about choices and autonomy and just that natural idea that farmers are really interested, I believe, having grown up on a farm and hearing the farmers talk today -- are very interested in thinking through themselves how they want to care for animals, what kinds of crops
they want to plant, how they want to manage their
soil and manage their water and all these kinds of
different things, and I think that's the question
we start to face as we see this consolidated market
happening.

And so I don't really want to -- for
me it's not so much a question of price even though
I think in jurisprudence you have to -- you know,
it's been kind of defined down to that, that
question, but I think that there are these other
questions that are at play.

And the other thing I want to say too
from our work on this, you know, there are quite a
bit of stories about packers in particular talking
about consolidating to be large enough to provide the
protein counter, for instance, for large retailers.

And so that is actually given as a
reason to consolidate, and so the retail sector
does seem -- I mean we didn't have a national
retail sector, right, for a long, long time, and
we've got one now at the national level, and we're
now forming global retail sectors.

So the question is as we patent -- if
a national retail sector starts to force
consolidation, what will happen as we get to a
global retail sector, and what does that mean for any kind of smaller independent players anywhere along the chain, be it farmers or small processors or small retailers? And I think that there are a number of questions about that in terms of how the food chain is organized.

PHIL WEISER: Chuck, I want to turn to you. Eddie Wise said, which Mary has echoed, and I'd like you to maybe explain, if you could, if it is indeed what you were suggesting, if you do sign these contracts, his word is you're dead. What's that sentiment? Is that what Mary is saying? Your autonomy is limited?

Why is there such a concern about these contracts? Obviously a lot of people have done it. Could you give a little more explanation on -- from the farmer perspective how these contracts are viewed?

CHUCK WIRTZ: Well, my -- I try and negotiate my pigs, and my typical day starts out, I will -- I happen to have the luxury of living in north central Iowa, so I have -- from a livestock pork producer, I happen to have the luxury of having access to almost every large packer that there is. So it's a little bit easier for me to
negotiate a price than it is maybe someone who only
has one or two major packers in their backyard.

But my typical day starts out, I will
make the rounds, and I always tell the packer I'm
making the rounds, and I will call up to six
different packers. And the question I will ask
them is if they need any pigs.

As an example today, I called them up
and said "Are you going -- I'm trying to negotiate
pigs for next week. Do you need any pigs next
week?" Well, when you call six packers and you're
to the fourth one and no one needs any pigs, you
start to get a little nervous that you might not be
able to get your pigs sold.

And you're in such a time-sensitive
system. As Todd Wiley said, you know, you have
pigs. I've got pigs coming on Monday, and I have
to empty a barn, and so you're struggling to try
and figure out, oh my God, where am I going to
move these pigs?

So that's the reason you would sign
those contract shackle space agreements because
they always afford you an opportunity to sell your
pigs because if I call one particular packer -- and
I won't name who it is -- their comment to me, the
buyer's comment is, you know, "We're 94 percent bought."

I said "So what? You're 94 percent bought for June. You have enough committed pigs on shackle space agreements that 94 percent bought does not scare me." 100 percent bought scares me because now I can't sell pigs.

So it becomes very nerve-racking when I'm trying to negotiate pigs that I'm the only one out there trying to do it, and that's facetious because I'm not the only one, but I'm one of the few that's trying to do it, and I'm going to influence the market of probably 50 percent of the hogs that are out there that are on shackle space agreements but are on pricing formulas that are driven off of what I negotiate.

Now, when the DOJ called me, they said "Well, couldn't you actually have access to inside information?" And that's true. There's market reports that come out, and we talked about market transparency. I think it's very, very important that there be accurate information available to the marketplace so that we understand what the market is.

So at -- in the morning at about
11 o'clock, there's a morning report that comes out, and I'm always looking at that to see what is being offered, and at 3 o'clock another report comes out, and you're trying to figure out what's being offered. And there's cutoffs for those time periods, and packers will oftentimes bring you a bid at 9:31 because 9:30 is the cutoff. And so if they're going to bring you a higher bid, they bring it to you at 9:31 because then it won't make the morning report.

Or if they're going to sell you something -- buy something from you in the afternoon, they'll come at 1:31 because 1:30 is the cutoff for the afternoon report. Or in most cases recently, most of the negotiated pigs have happened in the live market because most of the contracts that are shackle space agreements that are signed with packers are available and are driven off of what we call the western corn belt, which is a lean-based market, and so the live market doesn't influence that.

So when they need pigs, they know how to buy them so as not to influence the cost of all their pigs. Now, is that bad? It's legal. They can do it. What I do, I'd probably do the same
thing if somebody made the rules that way.

But it is -- it is a challenge. I mean we're all human, and the tendency will be to
game the system and work the system to your advantage.

PHIL WEISER: John, Chuck touched on a
number of aspects of the dynamics of how prices are
set and how these contract relations work. Do you
have a concern on this transparency issue, or how
would you suggest we think about it?

JOHN LAWRENCE: Well, the
transparency, the mandatory price reporting was
mentioned this morning, and it's -- it has been a
significant change, I think, in the way the hog
market is priced. Pork is not included in the
mandatory price reporting at this time. There is
the data available, but as Chuck said, there are
rules there. It comes out -- has to be in by 9:30.
It gets reported at some point after that.

Previous to that, there were people
that knew the phone number of the market reporter
that was collecting the information over the phone,
and so, for example, they would call. This would be
a farmer who would call Des Moines's office, find
out what that individual was hearing. Well, the
individual was not hearing anything because the
data is transferred electronically in at a certain
time, and so there's been some changes.
So yes, there's transparency in that
the prices are all reported according to the law, and
they get passed out at certain times, but you don't
see a lot of the formation. And I don't know if
Chuck does this. I know on the cattle side there
are -- private sector, there are clubs that they
join that they get messages to their text -- their
phone as soon as a trade occurs, so packer, you
know, offers me a bid at 10:30. At 10:31 it's
punched into the phone, and it gets sent to
everybody who's in the system.
And so they found that the public
sector is not providing them enough information
through -- to make the kind of decisions that you
need to make. They want to hear it from other
people.

PHIL WEISER: Brian, you studied this
closely as well. Do you have some thoughts you want to
share on this?

BRIAN BUHR: Well, I think I agree
pretty much. The transparency is that given in markets,
that ability to be able to make decisions based off
reasonable prices.

My concern, I guess the concern I'll voice, is usually transparency comes on to me let's have a policy about a requirement for 25 or 30 percent of hogs or in the open market or something like that. And that creates a dilemma for, you know, is that reducing producers' options who are choosing to take contracts or purchase versus negotiated prices the same way? So transparency is sort of that, you know, you can either regulate these markets or you can look at how do we facilitate that transparency, and John's example is a good example.

With Web-based systems, you know, text messaging and so on, the information system dimension of this, I think, is a huge part of market formation that's just starting to get in place in agriculture. And it's one of those elements again where, I mean, I'm cautious about policy and regulation issues in this. That the market finds a way, that there are ways to get that information out there. That information is important for decisions, and we ought to focus carefully on trying to achieve that point where we make that open market as efficient as possible, as
transparent as possible, so that it becomes a choice that makes those decisions that packers and producers want to make to achieve profitability to be able to make those decisions, whichever way that goes.

And so, you know, it's kind of that free market. Somebody mentioned the Chicago economy before, kind of the open market version. The part they miss usually is that there is a need for -- open markets do fail, and you need to have mechanisms to try to correct those, and a lot of it is transparency, information flow, is exchange of information is absolutely critical to that, and that information includes -- one other important point here, I think, is quality information, that a lot of what drives incentives for contracts is the quality and the timing issues and shackle space.

An open market price is hard over the phone to say "I've got hogs that are 51, 52 percent lean," you know, such and such down to the grade of that hog and convince that packer that's what they are, and so you start to contract.

We have the mechanisms now to trace animals, traceability protocols and so on, identify genetics, pass that through the supply chain, and
let the open market work better. And I think
that's a place where policywise we really ought to
look at how do we facilitate that information
structure rather than regulating that information
structure, so really facilitation rather than
regulation becoming part of that.

PHIL WEISER: John?

JOHN LAWRENCE: Phil, just to
follow up on one thing I don't want lost here, and
that was what Chuck went through as starting his
day and calling six people and sorting this out.
How much time does that take, and is that a daily
event, or is that once a week or once a month when
you have hogs to sell?

CHUCK WIRTZ: It takes a long time.
In fact, my wife wonders why it takes me so long to
do chores in the morning, and I tell her, well,
'it's because I spent two hours in the hog building,
and one hour was on the phone trying to deal with
packers.

But you kind of get -- it doesn't have
to be a real long conversation with packers. You
can pretty much run through, and they'll tell you
whether they're sitting pretty good for next week.
They really don't need anything or they'll say "I
got to wait until Thursday because Thursday at noon
all my committed suppliers turn in what they have
for loads, and then I'll kind of know if I have a
need or I don't have a need."

So you wait until Thursday noon, and
then you call in. I think the -- I always worry.
I don't ever raise cattle, but I always hear about
the show list, and then I always hear about cattle
being traded in about a 30-minute time window on
Friday afternoon, and I'm always worried if the hog
industry ever gets to that point, I'm going to be
toast because my barns are so time-sensitive that
if I miss the boat and don't get my pigs sold, I'm
not exactly sure what I'm going to do.

JOHN LAWRENCE: And I guess my point
is is one of the reasons I think people have gone to
contracting is a convenience issue because that's a
lot of work and particularly if you're studying the
markets and the time.

CHUCK WIRTZ: It is. It is, but my
encouragement to all producers and specifically as
producers get larger is I'm not asking them to
negotiate all the pigs. I'm just saying for God
sakes, take one load a week and negotiate it
because if all of us would just do a little bit, if
all of us would recognize the importance of negotiating the market and everybody would do a little bit, it wouldn't depend on all of us to do all of it.

PHIL WEISER: So I want to go to Patrick and Rachel in a second, but I would want to note that a lot of discussion about the role of public policies, there are three concepts that have highfalutin economic jargon, but they've been nicely illustrated.

One is concerns about information asymmetry and how to facilitate information that can enable people to make decisions better. That's true for end consumers and for producers. Second, the prior panel talked a lot about what gets called public goods. And intellectual property protection is one response to this concern. So is funding of research, which is something that was called for in the prior panel.

And then also I think this point about a market failure being able to stay in the market. One thing that the Secretary mentioned that's quite interesting is getting broadband to all rural producers so they can participate effectively in the ecosystem, I thought, was an important point.
Let me go to Patrick and Rachel on the following points worth noting. The level of contracting differs in different commodities between poultry, hogs, and cattle. Is there anything you learned from that comparison that bears on this discussion, Patrick, you might be able to share?

PATRICK WOODALL: Well, I think the kind of question that producers ask is the surety of being able to market their goods through a contract and may make up for the kind of price volatility. That is, producers make a trade-off. They get -- what they get from a contract is they eliminate some price risk, and they eliminate some marketing risk.

But I think what's underdiscussed is that in exchange, they pick up a giant amount of contract risk, and this contract risk is in many fold. Mary talked about some of these things, but I think generally one of the things that's not talked about enough is this investment risk, right? Because producers, especially in the hog and broiler industry, have to invest between half a million or a million dollars into a facility to produce livestock at spec to send to the packer.
This is a burden that is placed on the grower/producer, but yet the liability is not on the buyer at all, and this is a significant overhang, a debt overhang on farmers, that is tied to a contract. This becomes especially perilous when integrators or packers fail.

Now, this year a whole bunch of hog -- pork processors failed in the Southeast, and Pilgrims Pride has been under bankruptcy, and many, many growers and producers that have this overhang of debt that was required upon them for their contracts, 60 percent of hog producers that are under contract are required to make giant capital investments just to secure their contract. Either through upgrades on their new buildings. This risk on the debt side combined with the risk of contractor failure presents a significant risk to producers that I think is downplayed on the efficiency and benefits and convenience of marketing at a consistent price.

I think this kind of balance is not really discussed hardly at all in real terms for producers because it is a significant risk, and that's on top of the risk of the liability, the environmental liability for dealing with manure
management and then the other risks that producers might have.

I mean I think the real understanding, when you think about what's going on in the broiler industry, 99 percent of birds are produced under contract. It's virtually 100 percent integrated. Growers don't own the birds. They just produce the birds on to service, but the reality is that 50 percent of poultry producers only have one or two integrators that serve them, so there's really no market at all, and more -- about 60 percent of them don't -- feel they have no alternative to the integrator they're dealing with now.

So this contractor risk can lock producers in, and they can lock them into some very significant cost problems, both on the debt side, on the contractor failure side, and on the liability side, and many of them have nowhere else to go.

So there is a difficulty with the negotiated price marketing, and it's a real difficulty, but the reality is on the hog sector, you're talking about 10 percent of the trades that are on the open market, and they are influencing the prices on the formula side that could be half
or more of the marketplace, so that also creates some kind of situations where a tiny number of buyers on the spot market can really manipulate a thin market like hogs pretty easily here actually, so we're concerned about all of these things.

The contract risk is significant. It needs to be talked about in alignment with this overall benefit of the contract.

PHIL WEISER: You want to jump back in on that, Mary?

MARY HENDRICKSON: Yeah. I just wanted to say that I think one of the big things about contracts is that as Patrick was mentioning, if you have options on where you want to contract, and Bill Heffernan has done some studies in Union Parish, Louisiana, over 30 years, and as options from integrators went down from four in 1969 to two in 1981 and then one in 1999, farmers were much less satisfied with the contracts, felt much more locked into arrangements that they didn't really want to choose, and felt like they had no power in negotiating the contract.

So I think it's really important -- I mean contracts in and of themselves can be really wonderful things for reducing risk but only if
there is a -- there's no power asymmetry there. You've got to have equal -- some sort of equal positions of power to negotiate a good contract, and that has to do with if you have options, where you're going to sell things and where is your market.

And you know, we've seen this in the poultry industry, to some extent in the hog industry, I think. It's, you know, that there just aren't -- if you have a poultry plant one place, there's a circle around there, and that's the only place you can get a contract. And we're starting to see that a little bit in hogs, maybe not as much, but that's what's happened in poultry, and I think that that's a serious concern a lot of people have about contracts.

PHIL WEISER: Rachel, you want to add anything to this?

RACHEL GOODHUE: Sure. A couple of things here. I guess the first thing I will do is speak directly to Mary and Patrick for a moment. And in terms of contract choice and so on, I will come back to one of our earlier speakers previously who pointed out that he chose a contract, and certainly a contract is a question of what you get
out of it, and I think to some extent what you're both talking about is there can be a big difference in negotiating power when you initially enter the contract whereas what happens five years later, ten years later when the initial contract is up, and I just kind of wanted to draw that out.

Then the next thing I would say about this is two more comments. One about as the number of integrators goes down, and what I was thinking about is the California sugar beet industry, or maybe I should say the former California sugar beet industry, and it's true that we lost all the processors, but that's because they weren't making any money either, and so it's always a question of watching in a specific area if it's something about long-term trend in the industry versus decisions made by individual processors for their own reasons.

And then the other thing which is a bigger thought question for folks in the audience really, and some people may be on contracts that are like this, but I was just thinking about there's a lot of ways to peg price that don't involve spot price.

If you think about broilers, all the
chickens are contracted or owned by the processors, so the question is, how do they set that contract price? They've got a different mechanism. And so maybe one thing we might be seeing -- whether we want to see it or not, of course, depends on the specific contract terms but price determination mechanisms that are based on something other than a spot price that's perhaps increasingly unrepresentative of the price that producers and the industry as a whole are obtaining.

So that's -- that might be something to think about for the future. If the spot market is unreliable, if there's not enough of a market for the transparency to be effective, then maybe other mechanisms need to be explored.

PHIL WEISER: So I just want to underscore sort of in the call for further information and thoughts. Rachel's two great points, the first one involving what you might call the renewal contract situation and how to avoid what the comments called ex-post, after-the-fact, opportunism. Once someone is locked into a particular purchaser, how do you ensure that they are not taken full advantage of? If you maybe had the right arrangement at the front end of the
contract that gave you some protection, that could help.

Other industries -- electric power comes to mind -- has regulations that deal with these sorts of situations.

The other point you made about other price setting other than relying on spot market. For those who have experienced knowledge as to those sorts of case studies, we really welcome them. That's valuable information for us.

Let me ask a question that came up to Chuck, and you can maybe respond. Others can respond. The feeling of a lack of power by producers begs the question: are there cooperatives that provide a mechanism to enable producers to come together as a way of essentially countervailing market power that can ensure a fair price for sellers?

The Congress has passed a law -- people here are probably well familiar with it -- the Capper-Volstead Act which provides an important and constructive role for cooperatives in the chain that we've been talking about.

Is that a part of this picture, Chuck, that you've thought about? Does it work in your
sector? I know other sectors may be more or less susceptible to cooperatives playing a role than others.

CHUCK WIRTZ: There are. There's a marketing organization called Producers Livestock Marketing Association out of -- I believe it's Sioux City. They work with smaller producers trying to help them market their hogs.

For the most part, if you can deliver a semi load of pigs, you can negotiate pigs because you pretty much have the ability to deliver a scale of pigs that a packer is willing to negotiate with.

I will tell you, though, that it is -- it is true that the more loads you have to negotiate, the more willing they are to negotiate. I've had instances where I've offered two loads at a price or four loads at a higher price, and they'll take the four loads at a higher price versus if you didn't have the four loads you wouldn't have got the higher price, so there is some of that going on.

PHIL WEISER: That's the case for cooperatives, in other words.

CHUCK WIRTZ: Right.
PHIL WEISER: If you can aggregate the amount that you're selling.

CHUCK WIRTZ: You can negotiate those. The problem is, though, it's like I had a conversation with one of the buyers there this morning. Right now it's extremely difficult to market pigs because we had a fire at Logansport, Indiana, and there's such a delicate balance between supply and demand of hogs that that plant being down, every day that it's down, those pigs have to be killed somewhere else.

So there's a push of those pigs to the west, and currently, we're having to deliver pigs from north central Iowa to Crete, Nebraska, to try and find -- we have to go west -- to find a packer that will kill our pigs because going east is getting inundated with these pigs coming from the east because of that slaughterhouse, so it is a very delicate balance.

PHIL WEISER: Rachel, you want to jump in on that point?

RACHEL GOODHUE: I did because again, California has some instances of different cases like that as well in wine grapes, and this is an interesting case not just because of the product, but
because the industry is very differentiated, but there's a producers' negotiating group called Allied Wine Grape Growers, and it will come in and help members negotiate for their grapes, and more importantly, given some of the things we talked about with contract risk earlier, they insure. They insure each other as a group.

So if your buyer goes broke and you don't get your payments, then everybody has contributed into a pool so that you don't realize zero return on that year's crop.

And another interesting case is processing tomatoes. There's no real spot market there. This is one of the industries that motivated my earlier comment, and what we have instead is an industry producer negotiation group, the California Tomato Growers Association, and they negotiate with the processors. Now, these are contract prices, but it's a very transparent negotiation process in terms of how the prices are settled and what the processors are paying for base price.

PHIL WEISER: So I want to go to another question that emerges from what Chuck just said, which is the amount of distance you have to
ship because of the changing market structure. For some people -- and in Colorado we'll have a local producer of cattle who's related such a story -- it's maddening that they can actually produce cattle, let's say in this case in Colorado Springs. They want to ship it to Whole Foods, say, or other outlets that might be in Denver or Boulder, but in order to do that, they've got to ship their cattle down to Texas where the, you know, distribution facility is.

And so that makes it a lot harder to have locally grown food, and it also makes it harder for people when they're buying food to know what truly is local. So we've referred to it before, and people have raised this issue about consumer awareness, and I think I heard Secretary Vilsack say that there's a real push to know your food, know your farmer.

To what extent is there local awareness about where their food is coming from? Is it an advantage to be local? Do those markets exist? I think, Mary, said you want to start on that one?

MARY HENDRICKSON: Yeah. Thank you.

I think one of the issues you just raised about
Colorado Springs to Texas is one of, again, Whole Foods is a very dominant player in the natural grocery sector, right? So there's very little competition in some sense with Whole Foods.

So what happened is we see these more national scale players create more national scale infrastructure, and so we have eliminated a lot of the infrastructure that used to exist for local -- either it's processing facilities; it is local warehousing; it's packing and sorting facilities, all of these kinds of things that that infrastructure no longer exists.

And you know, the argument is, how come it disappeared? Just simply because it was inefficient, or are there other reasons? And I think that's something to tease out. But that makes it very, very difficult as we start to see these local markets.

So there's a very vibrant market, for instance, in farmer's markets. What have we got? Somewhere over 5,000 farmer's markets across the country. They're very competitive normally. The producers there are -- it's a very competitive market. Farmers really have to be on the top of their game to do it. They're providing a lot of
information to consumers and so on.

But once you move out of that particular direct relationship between farmer and consumer, then the infrastructure issues become really, really important. And it's particularly difficult for meat vendors of any sort at the local level because of the costs. A local farmer at the market in Columbia, Missouri, for instance, says it's $400 to slaughter his beef cattle at a small -- very small scale but actually medium scale for a USDA-inspected locker plant in Missouri versus, you know, some of the industry averages are, you know, probably closer to a quarter of that.

And so that -- you know, part of that is because rendering is consolidated, so nobody can sell their by-products anymore. I mean there's a lot of issues that all play into that.

So I think that those are some of the issues that we have to start thinking about at the local level, but that infrastructure, it becomes really apparent too as we go to a global scale, a lot of global players in the food system are at the global scale where there was a global retail sector. You know, there's a global trading sector
in grains, and so that raises the question of what happens at the -- you know, if we've seen these changes from local to national scale, what happens when we go to global scale?

And finally I would say something that doesn't have anything to do with price and efficiency whatsoever but questions about redundancy and resiliency in the food system, and that's what I think a lot of folks in the local arena, it's not just a matter of trying to differentiate their price and -- or their products and get into new markets because they're frustrated with other markets or they see these as a marketing opportunity, but there are some questions about societal goods, about, you know, if we have redundancy, that allows us to absorb more shocks.

You have a highly concentrated system. It's much more difficult to absorb shocks, be they financial shocks or environmental shocks or what they are. So I think that redundancy and resilience is another important thing to think about in terms of local markets and what kind of societal goods that they actually provide for people.

PHIL WEISER: John, I want to segue
back to something that a couple farmers said on the earlier panel, the role of, and the importance of niche players or specialty offerings. Local food could be in that category.

Broadly speaking, how significant do you think this idea is of niche development, and is local, sort of, food good example of that? How does it overcome the obstacles that Mary has talked about and what sorts, if any, policy responses are appropriate?

JOHN LAWRENCE: Well, and I've often used this quote, and I probably ought to look to see if it's factual or not, but I think one of Webster's definitions of niche is a small crevice in an environment in which to hide.

Oftentimes that -- from a niche market standpoint, that's what you're trying to do, is find someplace so you don't have to compete on a commodity scale, that you're doing something unique, you somehow differentiate that product, and whether it is by distance or how the animal is produced or the genetics of it or whatever it is, there's some distinguishing factor.

And then you have to have a market infrastructure or system that allows you to prove
that differentiation because the flip side of it is protecting the consumer. Alright? If suddenly there's a huge increase in interest in natural -- and there's no strong definition of natural. By golly, mine are natural too, pay me more money. Then you get into consumer fraud issues. And so how do you protect that?

I read, and this is maybe popular in the trade industry, that local is the fastest growing or the hottest item in restaurants this year. But it's starting from a very small base, so back to your question. Is this a significant outlet? I think you will find some individuals that can do very well. The Whole Foods and the natural beef or cow, whatever specs they had started out as a niche that some producers got into, but as a business, I'm assuming here, how do we get this national distribution? How do we do it cost effectively? It's having centralized packing plants and distribution systems, and so now suddenly we're back into transportation logistics.

Our commodity systems, that's one of the things they did very, very well is efficiency and logistics. You can run into some of the same pricing issues as you get into local and these
niche markets. Oftentimes they're based off of the commodity price, so it's a premium to the commodity.

Farmer's markets, they may be more of a direct negotiation, but some of those same issues will follow you into those niches.

PHIL WEISER: Patrick, if I recall correctly, your comments talk a little bit about the experience in the organic sector which was developed off of certain regulations and what could constitute organic.

What did we learn from that, and more generally, what do you think of the promise of niche development, niches?

PATRICK WOODALL: I think this question really reflects the consolidation in the marketplace. And I think as you saw the number of cattle slaughter companies decline and the number of facilities decline, this kind of creates a barrier to entry. There's a classic consolidation impact on the marketplace. It creates a barrier to entry.

The capital cost of building a new slaughter facility and the barrier of finding supplies in a marketplace that's locked up by
captive supply agreements creates a real difficulty and an impact and prevents -- effectively prevents a lot of reconstruction of these local marketplaces.

In organic, I think what we saw was the promise of a niche market that grew very, very quickly, and many small producers took advantage of that. They were quickly swamped in many respects by the giant food companies. Of the 30 biggest food companies, a third bought up organic brands within the first ten years, and half launched their own organic brands.

And in organic milk producers, the organic dairy farms thought that they could kind of outrun the system, I think, for a long time and made a premium, but when the milk prices collapsed in 2007, the dairy milk prices came down faster and harder, and suddenly there was a very consolidated market where a very few buyers are buying organic milk from dairy farms, and they were especially squeezed and faced the dairy crisis harder and earlier than I think other dairy farmers did, which was quite terrible for all of them but earlier and worse for organics.

PHIL WEISER: That note leads into my
last question which I'll go through the panel for a minute or so. The question is twofold. One is, is it a marketplace today where farmers can start up and compete on the merits and have a shot to make it? And to the extent there are barriers or impediments, what are they, and what, if anything, can policy do about that?

Brian, how do you size that up?

BRIAN BUHR: Well, we do know this conversation about niche markets is part of that. You know, it's from John's comment about the crevices is kind of enlightening because the larger commercial food chain which produces highly -- high quality, cost-effective food that feeds the nine billion people we've heard about is sort of that piece that helps maintain that -- one producer earlier talked about they're cost driven. It maintains that cost-driven food system where you're trying to provide that which opens up those crevices. I mean it's literally that piece where when people make a choice to go to local, organic, or producers, those opportunities arise.

The ability to do that, I think one of the biggest issues is capital, which came up earlier which we haven't talked much about is
capital formation in these markets.

And to that extent competing on the merits make up the ability to enter -- you know, the barriers to entry issues, and the challenge today is even for relatively modest farm operations with land values what they are in Iowa now, 5, 6,000 bucks you're at down here. We don't know that in Minnesota yet.

But if you look at those types of barriers to entry, it's just difficult to get in, and the fact in agriculture is there are large economies to scale. So one of the issues that did come up earlier is, how do we finance agriculture?

And what's happening -- and we can talk about integrators being part of that financial model and of course, you know, linking with larger production firms to gaining access to capital. We look at the farm credit systems that exists to provide access to capital. And all of those things help foster competition without putting necessarily market restrictions on. They're sort of facilitating aspects of this.

So that capital size is really important, and a piece of this that, I know, in Iowa and other places, it's very controversial, but
you might as well say it is the only access to capital in agriculture is primarily debt capital. And no other industry in the country, folks, is primarily on debt capital. There's very little equity that can come into this industry from outside. And we get upset because it goes to the large producers and the large integrated production companies, but for example, if you start a small organic company and look at cooperatives as an example of this, offering shares for people to buy into community situations, you're providing facilitation with capital in innovative ways, micro-lending of those aspects. Are there ways to create innovation into that market that does open up these channels?

And rather than blaming the big person for closing markets, we're not allowing the opening of people to get into these markets in many cases. So I keep saying facilitation, but I think that's where we need to look at. How do we form those necessary conditions to get capital in the markets?

PHIL WEISER: Rachel.

RACHEL GOODHUE: So certainly Brian made a lot of key points here, so I will just throw out a couple other things going back to John's
earlier comments about niche markets. Finding a market and finding a market you can grow and keep from scratch isn't easy whether you're starting a farm, business, or you're trying to redirect the one you have.

Certainly something like community-supported agriculture where you get customers to subscribe, this works in the produce industry, apparently it can also work in meats on a very small scale. That's one way of getting money into your business.

At the same time where you're cultivating a direct market, we had an earlier comment about -- on an earlier panel about how much of the small scale stuff can really work, and that's a good question. By definition a niche is a niche. I don't know how many little crevices folks have to hide in in total.

The other thing that I will mention certainly that hasn't come up in this panel or actually that much except for the gentleman from North Carolina earlier, which is certainly last night when I got here, my dad and my friend were at a pesticide training session, which I bet a lot of other people went to too, and regulatory compliance
is a big cost.

California, I guess you could say we're the leader or in last place, depending on how you feel, in terms of regulation of agriculture, and it's a huge concern. People spend a lot of time on it, and people spend a lot of money on it, and if you're starting from scratch, that's another big challenge that certainly hasn't been discussed a lot today, but it matters.

Mary mentioned about environmental compliance. That's just one small piece of regulation of agriculture.

MARY HENDRICKSON: If I could just build on what Rachel was just saying, I think that there are a couple of policy levers that aren't working very well for small scale growers, and this has to do with compliance issues around a regulatory infrastructure does not work very well for small scale. And often this regulatory infrastructure is really built for the larger scale that we've seen emerge in agriculture, and it doesn't work very well for small scale.

And I would say this is particularly true around food safety governance, and you know, there's new rumblings about what's going to happen
with food safety regulations. We're already seeing produce auctions in Missouri run primarily by, you know, Amish/Mennonite farmers and other farmers who these are real open auctions for produce.

We've seen those be impacted -- perhaps this summer there's some fear about it because of good agriculture practices which is a voluntary regulation which seems to be now compulsory for a lot of produce growers, so the way food safety governance happens, it's not very well thought out, and food safety governance is not going to be appropriate.

The same kind of things is not going to be appropriate at all scales of production and consumption, and I think it's really important to think hard about how that happens so that we don't end up with some of the same issues we've had in terms of pesticide regulation or safety regulation and so on. And this is not to say regulation isn't useful and necessary. It's just to say that we have to think about what are the appropriate scales and how that works. And I think that's really important.

And the last thing I would say too is that I think it's really important to think about these larger goals of, I mean, we're talking about
issues of concern to farmers, but these are issues of concern to larger society as well and how our landscape looks, and I think somebody on an earlier panel mentioned something about Iowa being kind of known for corn. Basically driving through, all you see is corn; when this was a cornucopia of a number of different products, a number of different landscapes, you know, just maybe 40 years ago, 40, 50 years ago. And so, you know, that has biological diversity complications. That has implications for wildlife, for water quality, for water quantity, all of these kinds of things.

And I think that those things become very important to the issues we're addressing in consolidation and competition because those larger societal goals that we can incur, that are tightly linked to the industry structure.

JOHN LAWRENCE: I think the question was in getting started, and I think it's always been difficult to get started in agriculture. I think back to when I was growing up and people I knew that worked the night shift someplace but farmed during the daytime. That continues today.

We talked about part-time farmers. To me they've been farming full-time, and they've gone
back to a job, so I understand the difficulty.

The capital it takes -- and Brian talked about this. We often talked about the way you get capital is either you're born into it or you marry into it. The interest is a little higher on one of those than the other.

The other role that was mentioned earlier is the role that contracts have played or integrators have played in helping to secure some of those loans. If I don't have a section of Grandpa's land behind me but I have a contract, am I able to access the loan?

The contract risk that was mentioned is quite real. So they're going to investigate what's the integrity or the stayability of the company behind it?

But beyond conventional agriculture, doing what we've done or what Dad did, we see a lot of interest. We hear it. It's in the press a lot. We have meetings, and there's a lot of interest. It's featured in the newspapers. How many numbers it actually is, I'm not sure. Of the smaller farmers, whether it's the welfare-friendly pork like Neiman Ranch has 400-plus growers and the welfare-friendly situation that's much lower capital than conventional
production. Some of the farmer's markets are high
labor produce-type things, I think is providing some
opportunities that were maybe there 50 years ago,
weren't there 10 years ago, and are beginning to
evolve some today.

PHIL WEISER: Chuck, the question for
you is, would you encourage your kids to go into
this, and if there are impediments there, what are
they?

CHUCK WIRTZ: I wish -- I have two
boys in college, and I don't think either one of
them are going to come back to farm, and that's
unfortunate. I mean I knew when I was in high
school, that that's what I wanted to do when I wore
a blue coat. I knew I was not going to go to
college, and I was a good student. I got straight
A's in school, but I just knew I wanted to farm. I
lived, breathed, eat, sleep, drove on the tractor,
sat on the fender. I'm sure it wasn't safe, but I
never fell off and got ran over.

I mean, you know, it was just a
different world back then. And you grew up, it
was just a love affair with farming. You just
loved to do it. And it's challenging, and you
know, that's why I'm so passionate about trying to
preserve a marketplace, and I think as an industry, as a pork industry, we recognize that we don't have enough pigs being openly negotiated, and we're going to try and address that. We get a little concerned when the government is going to come in and mandate that.

I have -- one of the first confinement barns I built was built with a contract. I was able to walk into the bank, and the bank would lend me the money because of the strength of the contract, and that enabled me to expand my hog operation, to take it to the next level, so there's a place for that.

But if we want to preserve the marketplace, we have to preserve a negotiated -- you know, you talk about having price set on something else, and different people have talked about, well, let's set the price based on the carcass cutout. Farmers don't operate in that market. We don't negotiate it. We don't produce a carcass. We produce a pig, so we have to have price discovery in a live pig arena in order for us to negotiate in that.

If we lose that market, I'll even have a harder time convincing my sons to come back on
the farm. But I do have a seventh grader that
likes to ride the tractor with me and likes to be
out there, and he's my exit strategy.

PHIL WEISER: Patrick, you started the
discussion off, but do you want the last word,
anything else to add?

PATRICK WOODALL: I think that
question is the question that all farmers have
heard today asked, which is, is this something I
would recommend my kids do? And I think many of
them say that, in a very concentrated marketplace,
it's really difficult, and that's why USDA is so
interested in figuring out how to leverage more tools
for rural development because it's harder now, I
think, for farmers to make it in a marketplace where
there are very few buyers, and it's difficult to make
ends meet.

And that question that you see today,
and I think you'll see it at the end of the day is,
what is the role of consolidation and that question
on an intergenerational challenge for farming in
America, and that's important.

PHIL WEISER: We will take a break until
3:30. We'll hear from the enforcers and come back
from anyone else here who wants to be heard. Thank
you all for a great discussion.

(Short recess.)

MARK TOBEY: Alright. I think we're going to get started now. If we could get your attention, we're going to start the enforcers' panel, and since we're enforcers, you'd better pay attention.

Well, thank you all for coming today. We have this last panel, the enforcers' panel, which it is my pleasure to be the moderator of. My name is Mark Tobey. I am the relatively new agriculture counsel at the Department of Justice Antitrust Division.

Actually, there are two pieces to my job. One is state relations, and one is agriculture, so with this panel of state attorneys general and my federal counterparts who do agriculture work, I mean it doesn't get any better than that for me, and so we're very pleased today to be able to talk about the enforcement landscape in agriculture and antitrust and add into that commodities regulation.

And we have today with us three attorneys general that I'm very pleased to have gotten to know a little bit. Two of these fine
gentlemen are part of the antitrust committee that interfaces with the U.S. Department of Justice and the Federal Trade Commission, and then General Bullock from Montana has been very involved in the agriculture aspects of the attorney general -- attorneys general's work.

So we have the Attorney General of Montana, Steve Bullock, and we will go through one by one -- this panel is a little bit different from the ones that you just heard. This will be more of a statement talking about work in the agriculture and enforcement area. We'll go one by one through the panel.

Then after everyone has made their statements, we'll have a little bit of a discussion, and then we will take questions in the same manner in which we've done it before, which is that please write your questions, and we'll have the FFA volunteers come and get your questions, and toward the end of the panel, we'll see -- I'll look through them and see if there's anything that we can address with this panel.

I'm going to say off the bat, because maybe these folks would not want to say it, we're all enforcers. We all have investigations or cases
that we can't talk about. That's one reason why we have to do the presentations the way that we're doing it. And I apologize in advance. Maybe some of the questions will actually go to matters that we can't talk about. It isn't that we're trying to hide the ball. It's just that that is the way that these investigations have to be conducted.

So let me start by introducing with great pleasure Steve Bullock, the Attorney General of Montana. Steve was elected as Montana's 20th attorney general in November of 2008. His career in public service began as chief counsel to the Montana Secretary of State. He went on to serve for four years with the Montana Department of Justice, first as an Executive Assistant Attorney General and then as the acting chief deputy in Montana.

He also served as the attorney general's legislative director from 2001 to 2004, and he practiced law in Washington, D.C. at Steptoe & Johnson, and he served as an adjunct professor at my alma mater, George Washington University School of Law.

Prior to his election in Montana, he worked in private practice in Helena, and he was
born in Montana and graduated from high school in the public schools in Montana and got his degree from Claremont McKenna and his law degree from Columbia Law School. So Steve.

ATTORNEY GENERAL STEVE BULLOCK:

Thanks, Mark. And on my -- behalf of myself and the other panelists, I'd like to thank the Department of Justice and USDA and their dedicated staff for pulling this together today. I think we've all learned a lot, and it wouldn't have been possible without the hard work from folks like you, Mark.

In 1999 I was an Assistant Attorney General with the Montana Department of Justice, and I had the opportunity to provide testimony to the Senate Commerce Committee. At that time the committee was grappling with the issues of how mergers in the agriculture industry had affected consumers.

The following year in Colorado, the USDA convened a summit to discuss livestock and grain issues. State and federal governmental regulators came together to discuss the vexing issues surrounding market concentration and its impact on consumers and producers.
In many respects it's déjà vu all over again. Everything I testified about a decade ago -- highly concentrated markets, potential abuse of market power, to harm both producers and consumers, the need for greater market transparency, and a plea for greater coordination effort in regulation enforcement it's as true today, if not more so.

So on the one hand, I think that there's reason for skepticism and indeed pessimism. Yet fast-forwarding a decade plus later, there are bright spots on the horizon. Within two months from my coming into office last year, JBS National called off its proposed merger. The merger threatened to combine the world's largest beef packer with the nation's fourth largest, concentrating over 80 percent of the nation's capacity in just three firms, threatening to both reduce demand for ranchers and output for consumers.

And when you think about it, it's unlikely that their decision to walk away from that proposed transaction was attributable just to a change of heart. It was the result of the United States Department of Justice and 16 states joining hand-in-hand to stop it, having filed suit to block
that merger four months prior.

Another bright spot is the fact that this workshop is even being held today. As I mentioned earlier, certainly not the first time that regulators have gathered together to learn about and discuss these concerns, but I imagine it is the first time that the United States Attorney General and the United States Secretary of Agriculture and this many AGs and others have come together.

And that's as it should be because it's not just about a rural way of life or clinging to some nostalgic past. It's just practical. It's about ensuring the competitiveness of agricultural markets for all of our states. America's rural and urban economies absolutely depend on each other. The rural economy has often been the barometer of the nation's economy as a whole, and when rural America is suffering, we can expect the nation's economy to suffer as well.

Agriculture ranks as one of the top sectors in most of our state economies. And while the agriculture heritage of all of our states differs, sometimes dramatically, the concerns about market concentrations, transparency, and effective
regulation, they cross geographical boundaries and
they're shared concerns irrespective of the crops we
produce and the animals that we raise.

For example, in Montana we don't have
the significant corn, soybean, or hog production
that you find in the Midwest and here in Iowa, but
agriculture is still my state's largest industry.
In Montana our dominant ag commodities are beef
cattle and wheat and barley with a value of crop
and livestock production about $3 billion in 2008.
And the economic health of our one million
Montanans is inextricably intertwined with the
economic health of our agriculture economy.

The changes in those industries that
influence our farmers and ranchers over the past
decade, it really has changed the face of
agriculture itself. For example, in 1984 the
Montana landscape was dotted with almost 200 grain
elevators. Today there's less than 50 even as
production has risen.

Nationwide, as we heard, the top four
beef packers process about 85 percent of our beef
and the top four pork packers, around 65 percent of
the pork. And just a handful of multinationals now
dominate the seed and trait industry.
Overlaying all this, we have a rail transportation system that our grandparents could not have comprehended at this point. In 1930 there were over 130 Class I railroads. Today there are seven. Four of those seven control over 95 percent of ton miles hauled in the United States.

Yesterday the states -- 14 so far have signed on, and we submitted comments from the states' perspective, the state AGs intend to serve as the starting point to help frame this discussion as we go forward. Yeah, we also know that there's a lot more to be done. Given, there's going to be a number of workshops those comments covered more than just seeds or seeds and hogs, and I think that they squarely address many of the issues that we're grappling with today.

For seeds, the issues that the seed industry face are incredibly complex. They do require a thorough understanding of not just antitrust jurisprudence or law but also of intellectual property laws and the way that these two areas of law intersect. And the DOJ and USDA should explore the concerns that have been raised and consider whether there's basis for changes in policies in existing law.
And for dairy the Capper-Volstead Act, and the current milk pricing schemes under the Agriculture Marketing Agreement Act, need to be reviewed to ensure that they can continue to protect and benefit dairy farmers as originally intended.

And for the meat industry, the USDA and the DOJ should explore legislative or regulatory revisions that will ensure compliance with the Packers and Stockyards Act; specifically whether it would be available -- or would be valuable to adopt rules that regulate captive supply procurement matters. Further, we should explore to what extent state involvement would potentially benefit enforcement of the PSA.

And on an earlier panel, Iowa Attorney General Tom Miller made that offer to Christine Varney and the secretary, and that's an offer that we take seriously because we found that when the states and the federal government are working together, we can typically get much more done.

When it comes to rail, our comments that we submitted spell out our support of legislation that will reform the framework and functions of the Surface Transportation Board and legislation that would repeal the outdated
antitrust exemptions that railroads have reaped the benefits of for so long. The legislation would simply bring railroads under the same rules as almost every other business must follow.

Frankly, we're not going to be able to turn back the hands of time. Enforcers can't open up state-sponsored packing plants. I can't go back to Montana and start my own Class I railroad.

Rather, I think that our role is ultimately to ensure that any additional consolidation or integration in the agriculture sector does not occur without a critical and coordinated review.

Our role is that there is a regulatory framework to fill some of the gaping holes that exist and that where there are potential market failures, actual or perceived, we vigorously investigate and, when appropriate, enforce our laws.

And most critically as enforcers, our role is to work together. I for one think that these workshops are a productive first step in understanding the issues that face many of our producers every day. I've heard from farmers and ranchers in my home state that they feel like this has been a long time coming.
But I hope that we can all agree that these workshops, even if they have been a long time coming, present both the opportunity and a promise to a renewed commitment. Thanks so much.

MARK TOBEY: Thank you, Attorney General Bullock. Now we will hear from Attorney General Chris Koster of Missouri. Chris Koster was sworn in as the 41st attorney general of the State of Missouri in 2009. From 2004 to 2008 Mr. Koster represented the 31st district in the Missouri Senate and contributed to debate over a number of interesting topics like stem cell research, tort reform, and the elimination of Medicaid fraud.

Prior to his election to the Missouri Senate, Mr. Koster served as county prosecutor and prosecuting attorney in a small rural county called Cass County in Missouri. He also practiced law in a Kansas City law firm, Blackwell & Sanders, and served as an Assistant Attorney General in Missouri from 1991 to 1993.

He was born in St. Louis. He received his degree from the University of Missouri and his law degree from the University of Missouri School of Law. In addition, he has an MBA from Washington University in St. Louis. Attorney General Chris
ATTORNEY GENERAL CHRIS KOSTER: Thank you and good afternoon, everyone. It's been an extraordinary day in a lot of ways. One, it's the first antitrust conference I've ever attended where there are 800 people in the audience who aren't scrambling to file their CLE hours with the local bar.

AGs, particularly AGs in the Midwest, of course, have historically been involved in agricultural issues, although outside of the antitrust area typically. In Missouri as in Iowa, I think, CAFO production is a -- probably three of the top five cases in my office in Missouri revolve around CAFO production and the controversies that accompany those all over the country. So agriculture is always in the top of every midwestern AG's mind.

But we're also involved in the takeover of grain facilities that have been subject to Ponzi schemes in recent years, licensing of agricultural production, typical environmental cases, groundwater runoff and the like.

And then moving into the antitrust area, Missouri as in many of the states here
represented were involved in the Zeneca case recently as well as the American Cyanamid case.

I've only been on the job at Missouri for about -- coming up on a year and a half, but right as soon as we walked in the door, the antitrust issues that are symbolized by today's conference were really front and center and remain a topic of almost constant discussion between attorneys general around the country.

I come here in kind of an odd dual role. As the Attorney General from Missouri, I come from the state that houses and is home to many important companies in this area, including one that is a topic of constant discussion. Along with Rich Cordray, the Attorney General to my left, your right, I also am cochair of the National Association of Attorneys General antitrust working group. And so no matter which hat I happen to be wearing, Missouri wants to be at the table. Whether that table is set here in the Midwest or is set at the Justice Department or anywhere else in the country, Missouri wants to be at the table as these things are decided and I think has a special interest in that regard.

What do attorneys general think about
when they think about these ag issues that we have discussed today? Well, we have our historic and traditional role, which is to use the antitrust laws and, importantly, the consumer protection laws to protect against abusive contractual language and to guard against anticompetitive behavior that unnaturally extends patents.

In the antitrust working group that General Cordray and I work on, we also act as a supporting organization to one degree or another, however you want to phrase it, to the Department of Justice in their analysis of market definition and in their fact-finding efforts.

We serve as a local eyes and ears to the Department of Justice as they think through -- as Christine Varney's organization thinks through the difficult questions that have been raised here today, and then at the end of that analysis, we either have the ability to act in concert with the Department of Justice or to go in our own direction.

Speaking for myself, there's a third principle that I try to advance as we all discuss these issues, and that is the principle of bringing some finality to these issues. Again, speaking
only for myself, I don't think that these
discussions should go on endlessly. People on
either side of these complicated and complex issues
deserve answers to their questions, and so while
the antitrust working group and all of us
individually as antitrust enforcers have an ongoing
responsibility to monitor the anticompetitive
behavior that is occurring in the agricultural
sector to the extent that it is and that is an
ongoing effort, bringing finality to discreet and
individual decisions so that companies and
interested parties are simply not left for years
wondering what is going on, I think, is a principle
that to a large degree we agree among ourselves on
and try to advance.

These are complex issues that having
been said, and there's no date certain we can offer
as we think through difficult problems, but we
don't want to think through them forever.

One other aspect that strikes me as
interesting is the role that private litigation
plays in these questions. To draw an analogy to
the computer arena, you have the litigation going
on in Delaware right now between Intel and AMD, and
they are a private party-on-party litigation, piece
of litigation, that is occurring in that state.
And so I think in general terms, attorneys general
look at those questions -- look at that litigation
and wonder, are the antitrust issues in private
litigation framed correctly?
And additionally, to what extent would
regulatory involvement with the public sector
getting involved in those cases, either as an
intervening party or as someone who is bringing
separate litigation as occurred in that case in
Delaware where the State of New York actually left
New York to file their cases in the court in
Delaware. Does public -- is the public interest
advanced by a separate piece of litigation?
Those are all things that we think
about because when two major parties are privately
litigating, their interests are represented, but
who is in the process to represent the public's
interest?
One question that could arise
theoretically as we go down the line in the private
litigation that is occurring in St. Louis in Judge
Webber's court in the seed issue between Monsanto
and Pioneer is when that litigation proceeds to a
point where the antitrust questions that are at
issue there are decided in one way or another, if the antitrust issues are decided so that the questions remain and are allowed to go to trial and become live questions, then I would think that a lot of parties, both at the state level and perhaps at the federal level, are going to look at that and ask the question: are the public interests being adequately represented as that table is set? And I would think that different states and different interests would want to make their voice heard at some point were that question to go live in St. Louis, if it ever goes live in St. Louis in that litigation sometime over the next year. So those are my thoughts. Rich.

MARK TOBEY: Thank you, General Koster. Next we will have Attorney General Richard Cordray of the State of Ohio. Richard Cordray was elected Ohio's Attorney General in November of 2008. He previously served as Ohio's Treasurer and as Treasurer of Franklin County, as a State Representative, and as Ohio's first Solicitor General.

In these various positions, Attorney General Cordray has been dedicated to the value of community service. In 2003 he received the
Presidential Service Award from the Ohio Legal Assistance Foundation, and in 2000 the Human Rights Campaign named him Humanitarian of the Year for his efforts promoting tolerance and understanding in communities.

General Cordray earned his master's degree with first class honors from Oxford University and graduated from the University of Chicago Law School where he was an editor of the Law Review. He lives in Grove City in Ohio, and my favorite factoid about General Cordray is that his earliest claim to fame was as an undefeated five-time champion on Jeopardy. General Cordray.

ATTORNEY GENERAL RICHARD CORDRAY:

That's just a little something to wake you up with. I want to first of all express my appreciation -- I know of my colleagues, all three of us are relatively new state attorneys general -- to your Attorney General here, Tom Miller. He is widely respected, perhaps the most respected attorney general on both sides of the aisle in our National Association of Attorneys General, and it is due to his efforts in particular that this forum is going forth here in Iowa, and it's because of the respect and esteem in which he's held that you had such
strong participation. It didn't start out this way, but it ended up with the United States Attorney General coming today, the head of the Antitrust Division, Christine Varney who I know has impressed many of you as she impresses us, and of course, your home Secretary of Agriculture, Tom Vilsack, but Tom Miller really commands great respect. And for those of you who are Iowans, of course we say in the Big Ten Hawkeyes, I hope you appreciate what he does for the people of this state.

I also want to say that one of the things that we bring to the table as state antitrust enforcers and state attorneys general is that we bring an intimate knowledge of our states to bear. And that's both of our constituencies in the states and geographies of our states, of the economies of our states, and I think that that's the way in which we fill a role in joint federal/state antitrust enforcement. We have a tremendous amount of experience. We have networks. We have relationships of the kind that federal officials could never possibly have in the 50 states of the union.

And I wanted to talk just a little bit
about my home state of Ohio and our agricultural sector, which as Steve said, is said in Montana, we have been saying for years in Ohio that agriculture is our No. 1 industry, and that's despite the fact that Ohio is a substantially industrial state. We have a tremendous amount of auto production, steel. We've had rubber. We've had glass and the like. But agriculture is, was, and remains our No. 1 industry.

What kind of agriculture do we have? We have a real blend. We're not as specialized as some states are, so we have, you know, an interest in a great number of the issues that have been brought to bear today. We have a dairy industry in the state. We have a wine industry. Did you know that there's an Ohio wine industry? I bet you didn't know that. We have one up toward Lake Erie on the northeastern side.

In livestock we have cattle. We have substantial pork production. We have poultry and we have eggs. We also have substantial grain production, mostly corn and soybeans. Those are our leading crops, but we have wheat and other things as well.

We have fish farms in the state, and
we border on Lake Erie, and we have a very substantial fishing industry that comes out of Lake Erie in particular, and we have substantial hunting for personal consumption in our state, so we really have a broad array of agriculture plus, I guess I would call it, and we're interested in many of these issues.

Among the things that have been talked about and touched on today, and they are touched on in more detail in the comments that Steve Bullock and others but Steve took the lead in putting together that we have submitted this week, we are very interested in the railroad antitrust immunity issues. We have been pressing Congress to repeal the antitrust immunity for the railroads because of the concentration that Steve mentioned which we think hurts our grain industry because they're so captive to the costs of transporting that.

We are concerned about, although -- and I would echo what Steve and Chris have said. There are certain advancements that happened, and there's no reversing them -- the vertical integration in our pork production and our poultry production. We have the so-called factory farms or mega-farms. There's different terminologies in
different places in Ohio, some of them foreign-owned, that are very substantial operations.

And we have a 15.8 million chicken facility northwest of Columbus. Those pose special problems. There may be antitrust issues there; there may not be. I mean part of the issue is that with vertical integration come great efficiencies, and if we're competing in a worldwide market, maybe we need those efficiencies, but it also can foreclose competition, can restrict choice, can affect prices.

And part of what the state attorneys general can do in antitrust enforcement is give a more intimate window, a closer, more detailed window into how those things actually are playing out in different local markets around the country, which is valuable information for our federal cohorts to have. But those also pose non-antitrust issues but very significant issues.

We have big environmental issues in our state with some of the mega-farms. And there's been battles over who should be regulating them, whether it's the Ohio EPA or the Ohio Department of Agriculture, and those are ongoing issues in our state.
I would also say that right now I think -- and this was mentioned earlier today, and I pricked up my ears because I've seen it in our state too. We have significant financing issues with respect to the agriculture sector, just as we have significant financing issues right now with respect to pretty much all of our businesses because of the credit crunch and the financial crisis that came upon us in 2008-2009. We have had that concern.

We have in the state of Ohio -- when I was the state treasurer, I operated -- there was a low interest loan interest rate reduction program for agriculture, but for our farmers to be able to continue to access loans and to be able to do it in ways that is not going to bankrupt them and at interest rates that are affordable and having access to the capital and have the collateral not be called and reassessed in ways that are in some cases unreasonable and may well be unfair is a very great concern for our farmers in Ohio right now.

Another interesting aspect of agriculture in Ohio since we are big in corn and soybeans is the increasing overlap between our agricultural industry and our alternative energy --
embryonic alternative industry in the state which
is something that we are encouraging, subsidizing,
and incentivizing very substantially, and I think
that's true of many states, certainly a lot of the
Midwestern states, and so you have issues there of
how does it affect the economics of agriculture to
have tremendous subsidization and incentives not
only for us but also in the stimulus money that's
coming down from the federal government now.

It's certainly been a boost for our
agriculture sector, but it's also affecting then
input prices for livestock and other things. You
know, there's just many different intimate
connections among markets, and these are all issues
for us.

I would close by just saying that
there's different models of federalism and how
federal and state officials can cooperate. The
least attractive model for us is where the states
are regarded as in effect field offices of the
federal government. There are areas where that is
maybe illustrative and an accurate description of
the relationship. Not really true in this sector,
I would think.

There's also the argument that states
can be laboratories of federalism where we can experiment with different approaches. That's maybe to a limited degree true here, but our markets here have become national and international, so that's really less relevant to the point.

To me the right model here is one of cooperative federalism where we and the federal government are working together, really pursuing the same ends with the same objectives. We bring some different talents and resources to the table, but if we can work arm in arm -- and that certainly has been the experience I've had. I've just been attorney general for 14 months, and it has been a great relationship between the federal enforcers at DOJ, the Federal Trade Commission, here we're with the Department of Agriculture, and the states.

I am told by those who have been around longer that it certainly wasn't always that way and wasn't even that way very recently. So I'm especially appreciative of the relationship we've forged with this administration because it does help us both do our work effectively and be of assistance to the federal officials as they try to do their work effectively. And the power to convene groups like this in a setting like this -- and I
know they're doing it across the country this year
and working with state attorneys general to do
that -- is, I think, especially helpful because try
as we might, as well as we think we know our
states, those of us who are elected attorneys
general, we drive the highways and byways. We're
in every corner of the state. We're meeting with
all kinds of constituencies. There's always more
for us to know.

I think that's why God gave us
campaigns, but in between campaigns we can have
workshops, and so we will continue to do that, and
we appreciate being here with our partners. Thank
you very much.

MARK TOBEY: Thank you very much,
General Cordray. And you mentioned and your
colleagues mentioned the comments and the comment
process. You all have filed comments. I've been
in and out of the conference over the last few
hours, and I don't know if it's been mentioned, but
every comment, all 15,660-some odd comments that
the Department of Justice and the United States
Department of Agriculture have received, are now
posted on the Department of Justice website, and
they are accessible over the Web, and we intend to
continue that process, and we will have the state attorneys general's comments up there as soon as possible.

Now we turn to the federal component of the enforcement landscape, and we're very pleased to have the fine representatives of the important constituent agencies in that enforcement landscape. We'll hear from Steve Obie, Stephen Obie, who is the director of the Division of Enforcement at the Commodity Futures Trading Commission. We'll hear from John Ferrell who is with the U.S. Department of Agriculture and oversees three very important agencies at USDA, and we'll hear from Bill Stallings who is kind of in some ways the chief agricultural enforcer in the Antitrust Division. He's shaking his head but --

WILLIAM STALLINGS: I'm the assistant chief.

MARK TOBEY: I just said in some ways. Certainly the go-to guy for me. So anyway, we'll start with Stephen Obie. Stephen Obie is the Director of the Division of Enforcement at the Commodity Futures Trading Commission.

Mr. Obie joined the CFTC in 1998 as a senior trial attorney in the New York office. And
he received his law degree cum laude in 1991 from SUNY Buffalo School of Law and his B.A. summa cum laude -- I didn't do any of those things -- from Drew University.

After law school he clerked for federal court, court of claims, and the office of staff attorneys at the Eighth Circuit. Prior to joining the CFTC, Mr. Obie was a litigator at Fried Frank, and he was also an adjunct professor and taught a course at Brooklyn Law School called trading derivatives. Stephen Obie.

STEPHEN OBIE: Thanks a lot, Mark. I really appreciate the opportunity to be here, and I appreciate that so many of you have hung in. The CFTC's mission -- we're about 600 people. We're one of the smallest of the federal agencies -- as you may know, is to protect market users and the public from fraud and manipulation and abusive practices related to the sale of commodity and financial futures and options.

And our other mission is to foster an open, competitive, and financially sound futures and options markets, and in support of that mission, we conduct active surveillance of the commodities futures markets, including the markets
in which many members of this audience participate. And when we find wrongdoing, the CFTC's enforcement division is committed to ensuring that enforcement of the commodities laws is addressed through civil, criminal, and administrative actions by federal and state agencies wherever possible, including the state attorneys general who are up here today.

The agricultural futures markets provide two vital functions. First, futures markets act as a venue for price discovery, and futures market prices can and often do act as references for pricing of cash market transactions. Second, futures markets provide a means of price risk management. For those who choose to use futures markets for risk management, contracts can be bought or sold to lock in prices or to reduce volatility. Market transparency and efficiency are therefore vital to ensuring that agricultural futures markets continue to serve these important roles.

In an effort to improve market transparency, the CFTC recently started publishing a revised Commitment of Traders Report. The Commitment of Traders Report is a weekly summary of trader positions in each market and is aggregated by
trader type. We've recently disaggregated some of
the trader types and expanded that market
transparency. The redivision of these new numbers
goes a long way to better informing the public of
the types of entities that are participating in the
commodities markets and sort of the position
leanings that they hold.

We're unique in that regard as a
market regulator in publishing one of the most
watched-upon reports that our agency puts out. Our
chairman at CFTC, Gary Gensler, has also been
leading efforts to regulate the over-the-counter
derivatives marketplace. Much of the concerns that
have been addressed today about transparency are
concerns that he has addressed going forward.

We've suffered the worst financial
crisis in the past 80 years as a nation, and our
chairman has been on the forefront of seeing that
effective reform of the over-the-counter
marketplace occurs, and he believes that three
areas need to be revised. First, we must
explicitly regulate derivatives dealers. They
should be required to have sufficient capital and
to pose collateral on transactions to protect the
public from bearing the costs if dealers fail.
Dealers should be required to meet robust standards to protect market integrity and lower risk.

Second, to promote public transparency, standard over-the-counter derivatives should be traded on exchanges or other trading platforms. The more transparent a marketplace, the more liquid it is, the more competitive it is, and lowers the cost for companies that use derivatives to hedge risk. Transparency brings better pricing and lowers for all parties the derivatives transaction costs.

During the financial crisis, Wall Street and the federal government had no price reference for particular assets, assets that we all started to begin to call toxic. Financial reform will be incomplete if we do not achieve public market transparency.

And third, to lower risk further, standard over-the-counter derivatives transactions should be brought to clearinghouses. Clearinghouses act as a middleman between two parties to a transaction, and they guarantee the obligations of both parties. Clearinghouses in the futures markets have been around since the 19th century and have functioned both in clear skies and during stormy
times, through the Great Depression, through numerous bank failures, through two world wars, and through the 2008 financial crisis to lower risk.

Another issue that is of great importance to the CFTC is the convergence of cash prices and futures prices. While this is not an issue in all markets, price convergence is crucial for those market participants who are using our nation's futures markets.

Last year the CFTC convened a convergence committee under the direction of Commissioner Michael Dunn, a resident of the great state of Iowa and the chairman of the Agricultural Advisory Committee of the CFTC. The committee was originally tasked with assessing convergence issues in wheat markets. However, the CFTC is committed to working with members of industry as well as the futures exchanges to improve convergence wherever there are deficiencies.

As a final point, I'd like to emphasize the importance of your role in this room in creating transparent and efficient markets. If you see something that doesn't look right, we want you to bring it to our attention so that we can investigate. At the CFTC we have a hot line set up
to handle calls from the public. We have a
dedicated e-mail account to receive referrals or
concerns. I encourage all of you to use these
resources if you feel that you have any information
about futures concerns, concerns of rip-offs in the
futures markets or in other markets.

There are two ways to reach us. One
is to call us at a toll free number, 1-866-FON-CFTC
phone being spelled F-O-N, which is also
1-866-366-2382. Or you can e-mail information to
us at enforcement@cftc.gov.

In closing, I'd like to thank the
Department of Justice and USDA for the leadership
in this conference. I'd like to thank you, Mark
Tobey, for moderating this panel and for all your
work on this conference and my staff who have
helped me get up to speed on the issues of this
conference, including Mark Higgins who's here
today.

I continue to look forward to
interacting with everybody in the audience and to
hearing the remarks from my fellow colleagues.

MARK TOBEY: Thank you, Steve. Before
we go on to John Ferrell, the unflappable John
Ferrell who I've had the opportunity to work with a
lot recently and will obviously work with a lot
more in the future, I think our FFA volunteers may
have left the building, so if you do have questions
and you want to hand them to that gentleman there,
that is Sam Dinning who is the main sort of
paralegal who helped plan this conference, so
please pass your questions to Sam if you have
questions for this panel.

So let's move to John Ferrell. John Ferrell is the Deputy Under Secretary for Marketing
and Regulatory Policy at USDA, and he oversees
agencies responsible for ensuring animal and plant
health, agricultural marketing, and competitive and
fair trade practices.

Prior to working at USDA, John served
as the majority professional staff on the U.S.
Senate Committee on Agriculture, Nutrition, and
Forestry. In this capacity he provided congressional
oversight of implementation of the 2002 farm bill and
contributed to the development of the 2008 farm bill.
John grew up on a hog, cattle, corn, and soybean farm
in Iowa. John Ferrell.

JOHN FERRELL: Thank you. And I just
want to say that I am not an attorney. I'm outnumbered
up here. I've never been on Jeopardy either.
But I did grow up on a hog farm. You know, I look across this room, and I recognize a lot of people. I can almost, like, go around and name almost everyone here. It's really great to be back home.

A little bit about myself, I grew up during the farm crisis. I remember what it was like to have 8 cent hogs, trying to make it through that, and I remember during that time our bank got overextended, and the FDIC came in and closed it down. We had our assets all frozen. Imagine trying to sell fat hogs during 100 degree temperatures and you can't sell your hogs. That doesn't work out so hot.

You know, during that time, you know, as in rural areas, they've got people who are moving out of the county. Our school was forced to shut down because it got too small. So when Secretary Vilsack today talked about that he was concerned about rural America, I share those concerns, and I hope that these workshops will help us create a good dialogue and have a good discussion on looking at, you know, what is working and what is not working.

At USDA we are an every day and
every way department because we truly touch the lives of so many people across the country and overseas. We help farmers produce a sufficient nutritious food supply. We preserve the environment through conservation initiatives, and we make sure our meat and poultry and eggs are wholesome and fresh, and we help those who need food to get it.

USDA also plays an important role ensuring that America's livestock and poultry markets are fair and aboveboard such as through the Packers and Stockyards Act. We also carry out other livestock and other price reporting to improve transparency such as through the Livestock Mandatory Reporting Act, and under the Perishable Agricultural Commodities Act we prevent unfair and fraudulent practices in the marketing and selling of agricultural commodities.

We also ensure producers that want to join together to improve their market opportunities are not discriminated against just because they belong to an association of producers such as through the Ag Fair Practices Act, and we also oversee the protections provided in the Capper-Volstead Act.
Today I would like to focus my remarks on the Packers and Stockyards Act. Since this law was enacted in 1921 to protect producers from unfair and deceptive practices in the marketplace, GIPSA makes sure that packers and dealers have the financial protections in place to conduct business, ensure producers are paid promptly, and stop practices that will harm producers.

Now, as you have heard today, there has been a fairly consistent consolidation in the livestock industry, and it continues to evolve. However, increased consolidation and vertical integration is not by themselves violations of the Packers and Stockyards Act, but what it does do is a consolidated market can increase potential for unfair practices. And such a market can influence the behavior of those that are dealing with producers.

Now, USDA can address unfair practices and other violations under the Packers and Stockyards Act in several ways. First, GIPSA can initiate a complaint or act on complaints from producers, Congress, or others. GIPSA has a 24/7 toll-free hot line at 1-800-998-3447 for reporting of complaints. And GIPSA will investigate all
complaints received to see if there's sufficient evidence of a violation under the Packers and Stockyards Act.

Now, if a violation is determined, GIPSA may get the firm to admit their violation and pay a fine. If not, GIPSA turns the case over to USDA's office of general counsel who can then file an administrative complaint. Ultimately, USDA can force the firm to cease and desist their activity or pay for the civil or administrative penalties.

Now, at any time USDA can also work in collaboration with the Department of Justice on these actions as well.

Now, the President's new budget for fiscal year 2011 makes an important investment for rural communities so that they're self-sustaining and can grow, and in particular the President has included additional funds for GIPSA to hire 16 investigative staff which will allow GIPSA to conduct 500 more company audits. This increase builds on increases in 2009 and 2010 to strengthen compliance and enforcement activities. These funds will also help GIPSA better integrate legal capacity in their enforcement process which is long overdue, has been called on by both USDA's

Now, in our efforts to try to get more funds into our enforcement activities, with the Department of Justice now willing to provide us their attorneys, I now realize maybe I didn't have to work so hard to try to increase our budget. So we appreciate the help of DOJ.

This funding increase also allowed GIPSA to streamline its enforcement tracking process by deploying an automated system that tracks investigations from initiation to final resolution which will allow the agency to more quickly monitor progress and more quickly move investigations to completion. All of these actions will result in increased GIPSA presence in the marketplace.

If we do want to get serious about getting producers into livestock production, they need to know that the market that they're getting into is fair and aboveboard.

We will also be undertaking new rule-making to ensure fair markets. In December GIPSA published a final rule on poultry contract fairness that would prevent companies from arbitrarily
terminating contracts without providing at least 90 days' notice. The final rule also requires that a grower be presented a contract at the same time as the building specifications so that they can make some business decisions.

For too long we have had complaints from producers where they were saying that they were being told or promised of a very long-term contract. They would go out to get financing. They would start the building of their facility and later find out when the contract would be presented, it would be in a form that was not very helpful to the producer. So we wanted to fix and level the playing field so that when the producer gets the contract, they also are seeing it at the same time as the building specifications so they're not left in a take-it-or-leave-it situation.

GIPSA is also developing a proposed rule to carry out the livestock title of the 2008 farm bill. In general the farm bill required that USDA define undue preferences under the act and develop criteria it will consider in determining if additional capital investments required of a producer is a violation under the act. It also requires that a reasonable period of time be
allowed for producers to remedy a breach of contract.

Additionally, it requires that producers be provided a meaningful, fair arbitration process should that producer choose to use arbitration to settle their dispute.

Now, we encourage those that when this rule comes out that you all comment on it. As you know, the livestock industry is very complex. It's very dynamic. And this rule will need as much input as we can get from everyone in this room and across this country.

Lastly, I would just like to comment on the great relationship that USDA has got, has had with the Department of Justice in the last year. It has been -- you know, in my previous capacity on Capitol Hill, one of my biggest complaints was that I didn't feel that USDA and the Department of Justice did work together. In fact, I don't think they did. But I can say that today that has changed completely, and it's been very good to be able to have such a good working relationship.

So I will stop now. Thank you.

MARK TOBEY: Thank you, John. Lastly
but not least, we have Bill Stallings. William Stallings is the assistant chief of the Transportation, Energy, and Agriculture Section, TEA, of the U.S. Department of Justice Antitrust Division. TEA has responsibility within the Department of Justice for the enforcement of the antitrust laws and the promotion of competition for matters involving agricultural commodities such as livestock, grain, and seeds.

Mr. Stallings is a graduate of the University of North Carolina School of Law, and I'll have to say he's been a very good sport this year with the Tar Heels having a down year in basketball. And he joined the Division in 1998 and became the assistant chief of TEA in 2005. Bill Stallings.

WILLIAM STALLINGS: Thank you, Mark. I recognize I'm the last panelist after a very long day and that we want to get to the open mic portion, so I'm going to keep my comments very short, and I just wanted to cover a couple kind of quick almost process things but I think items which are very important, and that is, what exactly does the Antitrust Division do? And what are the types of interests that -- and issues we examine?
We enforce the antitrust laws, and it's in our name. The antitrust laws, as most people here know, cover agreements in restraint of trade, monopolization, and merger review. There's a lot of conduct which affects people that do not fall into any of those buckets, and it's one frustration I think people sometimes have in thinking that something is an antitrust action, and although we understand the problem, we understand the issue, it doesn't quite fall into an antitrust framework.

That's one reason we're having these workshops, is to work with the other government agencies so that we can figure out and look at the conduct and talk to our other agencies and try to get some type of appropriate resolution.

But in just looking at the antitrust laws, something that Attorney General Bullock said, is -- I think I want to reframe my comments and tee off what he said. JBS did not simply have a change of heart. When we looked at that transaction, I spent, you know, a good year and a half of my life on it. It showed what the Antitrust Division can do, and it showed the steps we have to take to get something done.
We're not a regulatory agency. We simply can't decide that an industry is too concentrated and say it needs to change. All we can do is go to court and ask a judge for relief. And as Attorney General Miller mentioned before, that is a -- that's a big restriction on what we can do, but it's a challenge to us, but it's a challenge that we undertake when the facts are right.

And in the JBS case, which we can talk about the substance of a lot more in the Colorado workshop this fall, the issue is simply as outlined before: two of the top four beef processors were seeking to merge. We looked at it. We had an incredibly intense factual review. Started off working very closely with our colleagues at USDA to get -- as soon as the deal was announced -- to get kind of an understanding of their view of the markets since obviously they live with them day in and day out.

We worked very closely with the state AGs. All of the states represented here were on a working group we had to investigate the case. The working group conducted numerous, numerous interviews of market participants, and I personally
know we've interviewed many people in this room in connection with that case. And all that was an effort for us to develop the facts that once we decided the facts justified a challenge to the case, we could present to the court.

And we did that. We had to do it by legal timeframes, a very quick timeframe, and we challenged the case in federal district court in Chicago, and about four months into the litigation, the parties abandoned the deal.

It was a very significant case for us, both in showing that we take agricultural issues very seriously, but I think it was also significant on a substantive level, in that one of the critiques that we've heard very frequently is that the Antitrust Division does not care about farmers, does not care about producers.

If you look at that, the complaint we filed, it has -- one of the -- in describing the anticompetitive effects, it first looked at the effects the transaction would have on consumers. Obviously that's the bread and butter of what the Antitrust Division is all about, ensuring lower prices, ensuring innovation, ensuring that consumers get the benefits of competition.
But if you look at the complaint, there is another section of it, and that section was about the harm that that transaction would cause to producers. And we outlined the harm as we saw it in regional geographic markets for the ranchers, and we challenged the case on that ground, and I think it should show convincingly to everyone in the audience here that the Antitrust Division will take action to preserve competitive markets for producers.

I wanted to just kind of stress one more thing about that case and about our investigations in general is that we do need cooperation of people basically people in this room and others that when we conduct our investigations, we need to gather facts, and you know, obviously we want to hear general concerns about competition in the industry, but we also, though, want to hear specific facts that will help us to develop cases when we're doing our merger review and that, you know, if some deal gets announced down the road, don't be surprised if basically we cold-call you one day to say "We understand that you're in the industry." We are, as Attorney General Holder said this morning in his President Eisenhower quote --
you know, me and my colleagues, we are the ones with the pencils in Washington trying to figure out, you know, what's going on, and we do need your assistance to develop facts.

At the end of the day when we look at the factual record, we might find that the merger is not anticompetitive, and we may close our transaction -- close our review of it. The merger may go forward, and there may be a sense of frustration, but we need to make a call on the merits. And when we do find facts that support a reason to challenge a merger, we will do so, and as Assistant Attorney General Varney said today, you know, we just two weeks ago sued to unwind a Dean Foods milk merger.

So, and I think -- I have to qualify this a little bit, but of the litigated challenges to mergers in the past few years, JBS and Dean Foods, both agricultural ones, both -- I think there was one other one that was litigated, but you can tell that the focus is on agriculture, and we are serious about that focus.

There is a frustration on our end at times in that we do recognize we have to go to court and that the burden of proof that we bear,
it's a strenuous one. We have to convince the judge that a merger should be stopped. That sometimes frustrates us and our goal of basically advocating for a competitive market, so in addition to our enforcement activities, we do take very seriously our role as a government agency that can engage in competition advocacy.

I think as you can see from this workshop, we want to work with the other agencies, with the states to -- when we don't quite have enforcement actions that might address competitive issues, we can use a competition advocacy angle to try to make markets more effective.

MARK TOBEY: Thank you. It's been a long day, and we're going to have a little dialogue about a question. We want to get to the farmer testimony phase.

There were several good questions or comments that came forward. I want to get to two of them and then maybe just ask if any of the participants on the panel have any closing thoughts they want to give.

Steve, I'm afraid you drew one of these questions I want to ask you.

STEPHEN OBIE: That's why we're here.
MARK TOBEY: The question is what would it take to extend CFTC authority to cover cash daily trading at the Chicago Mercantile Exchange?

STEPHEN OBIE: In some ways it would take an act of Congress to extend our authority in any area, but this is one of the areas where the Division of Enforcement is looking at in terms of cases. If you take a look at the DFA case that we brought a couple years ago, that involved in some respects not only milk futures but the cheese market, and our statute is fairly broad so that if there are cash market issues that affect the futures markets, we can be involved.

And I can say that we have partnered in a number of cases with USDA and others. So if there's a specific allegation, I would definitely like to know about it so I can follow up on it.

MARK TOBEY: Thank you. The other question, I'd like to handle myself. The question is, given the power that retailers like Walmart have in the food supply chain, will the Federal Trade Commission be involved in future hearings?

And the answer to that is yes. The hearing that -- the workshop that we're planning on
December the 8th in Washington, D.C., we will ask the Federal Trade Commission, and I think they will be involved in that hearing, where we will talk about where the food dollar goes from the farm gate to the retail sale, and the FTC will be a part of that.

So let me just then turn it back to the panel and say does anybody have any parting thoughts or comments? Steve.

STEPHEN OBIE: Okay. So you know, I'm taking away three things from this workshop, and I really appreciate the dialogue that's occurred. One, to USDA and to the DOJ, the CFTC would like to participate in the task force. We've already detailed to the Criminal Division of DOJ a couple of CFTC attorneys. We certainly want to be a member of this task force with regard to the USDA.

Second, clearly pricing issues are of great concern to everyone. Dominance and transparency are the issues, and I think in the following workshops that we have that that should be something that gets addressed.

And then finally, continuing the dialogue with all aspects of not only the industry, regulators, the state's attorneys general is very
important as we go forward. And I appreciate the
opportunity that I've had to get together here and
to meet with so many people because that dialogue
is very important.

MARK TOBEY: Thank you very much.
Anybody else? Alright. Let me just say we'll
move to the farmer testimony immediately, I think,
or as quickly as we can.

Just because we're enforcers, I want
to say also that I know I'm willing, the Department
of Justice is willing, and the U.S. Department of
Agriculture is willing -- although we've been
trying to develop a very public record here, we are
willing to meet with people confidentially if that
is something that you would require, and if you
would like that kind of treatment, please give me a
card, give me something, let me know, and we'll
follow up with you. Thank you.

(Off-the-record discussion.)

PHIL WEISER: Okay. We are going to
go into the final session. The preview session we
had during lunchtime, we went ahead and went
through one set of numbers. And we will give those
numbers one more shot if any of you weren't here
but do want to speak, and then from there we'll
give a new set of numbers, the idea being that we want to give all of you who sat through today's discussions and have reflections you want to share a chance to do so before we wind up.

So let me read through the tickets we have of those who have already been picked, and then we can see if folks would like a chance to be heard. 479, 441, 388, 441, 411, 464, 392, 409, 385, 424, 485, 462. I hear Bingo to the left over there. Just checking if you're listening. 533, 434, 505, 499.

Alright. I see we have four people lined up. We will start with these four individuals, and then we'll do another round of some of the other tickets, to see if we have other people. So two minutes, first speaker. If people could please be seated so our speakers have a chance to be heard. And please introduce yourself again.

BILL BRIDGEFORD: My name is Bill Bridgeford.

PHIL WEISER: A little louder, Bill.

BILL BRIDGEFORD: My name is Bill Bridgeford, and I'm a farmer from Alabama. We grow cotton, corn, soybeans, wheat, and canola. Each
year when we decide what we're going to plant, the
most -- the biggest decision we make is what
variety and what seed we want to plant.

    We think we have plenty of choices,
and we just choose the ones that we think will give
us the best production at the best cost. And so
that's my comment and I appreciate you very much.

    PHIL WEISER: And we appreciate you
making the trip. Thank you very much, Bill.

    MAURICE PARR: My name is Maurice Parr. I go by the name of Mo Parr. I was sued by
Monsanto. I have been in business for 27 years.

    After 13 years, Monsanto got a patent,
supposedly, on their Roundup Ready soybean. At that
time I put a disclaimer on the receipt that I gave
farmers in which I said on that receipt "As of the
date this ticket was printed, the U.S. Congress
through the federal seed laws has expressly
protected the right of farmers to save seed that
they have produced to replant on ground they own,
lease, or rent. Certain seed/chemical companies
attempt to circumvent those rights by requiring
farmers to sign agreements giving up those rights
in order to purchase certain brands or types of
seeds. Custom Seed Cleaning," which is what I call
my business -- "Custom Seed Cleaning is not a party
to those agreements and will in no way hold itself
responsible for enforcement or compliance of said
agreements."

Monsanto sued me in federal court
alleging that I encouraged, abetted, aided -- aided,
abetted, encouraged, and enticed the farmer to break
the patent law. I am guilty of giving the farmer a
copy of the Supreme Court decision January the 18th
of 1996 authored by Justice Antonin Scalia in which
nine of the judges concurred -- eight of the judges
concurred with his opinion that the farmer was allowed
to save seed. They did not say that -- the justices
did not say "except for genetically modified, except
for Roundup Ready, except for anything."

As far as I'm concerned, the Supreme
Court, the American people through the Congress in
passing the law, and President Nixon in signing
that law gave the -- protected the right of farmers
to save their own seed.

Monsanto has essentially ruined my
business. When the patent runs out in 2014, I'll
be 80 years old. I probably will not be cleaning a
lot of seed after I'm 80 years old, but in the
meantime, I've lost my business. I don't know that
Henry David Thoreau was an attorney, but I kind of liked the attitude that he had in his book on civil disobedience in which he said that a person has the right and the moral obligation to disobey laws that are unjust.

I see this as an unjust law. I'm not certain that they have a right to patent on a living organism. Thank you.

PHIL WEISER: Thank you.

JOEL GREENO: I'm Joel Greeno, dairy farmer from Kendall, Wisconsin.

PHIL WEISER: Please speak up, Joel.


And I first want to thank the U.S. Justice and Agricultural Departments for hosting this historic series of workshops. I'm encouraged that the departments are taking a serious look at the consequences of concentration on farmers like myself.
However, with the magnitude of these problems, it is clear that we need an additional hearing focused on seeds with adequate time for farmers to speak.

I'm here to be the voice of the voiceless, my parents whose farm was sold at sheriff's auction and on the courthouse steps, for the New York state dairy farmer who in mid-January went into his barn and shot 51 of his cows and then himself, and for my neighbor who was 62 years old, stopped at my farm last week and asked how he could get on food stamps. He and his sister were stripped of their family's dairy farm last year, owned since 1942, and he said the $9,000 he was getting from Social Security didn't pay his bills.

My life has value. My work has value. And the products I produce have value. And corporations like Monsanto and Kraft do not have the right to dictate the value of my work.

Our nation's farmers' lives are right now in the hands of the Department of Justice and the USDA. You people have a choice to make. People first and corporations last. And the bottom line of this is simple. Farmers must receive cost of production plus a reasonable profit from the
marketplace, not from subsidies and other programs that fall horribly short and are grossly inadequate.

GMO companies are taking control of the world seed supply, aligning themselves to benefit financially from every seed sold in the world and the -- and also from the patenting of life. What better way to profit than own the source of all the food we eat?

They have reduced my options for non-GMO seed. Many of my options left have no practical use on the dairy farm, and GMOs are of no value when fed to dairy cattle.

GMOs have increased my costs to raise corn due to Monsanto's purchase of Holden Seed, taking control of much of corn's seed true base stock, nearly doubling the cost of my seed. All this at a time when milk prices are at their all-time worst. The last thing we need is increased costs with absolutely no benefit.

I'm urging the Departments of Agriculture to broaden the scope of their investigation and actions being considered to include congressional and administrative actions such as removing utility patents on seed and seed genetics, transferring liability for economic
damage resulting from protecting crop varieties to
the patent holder, and reinvigorating public hope
and broader development.

Of course, it's clear we need to
enforce antitrust law and break up monopolies.
Farmers will not benefit from simple realignment of
market shares held by three or four seed companies
dominating the industry. These actions must be
about restoring farmer choice and farmers' rights.

It is important to note that people in
my community, including farmers and small seed
dealers, breeders, and companies are unwilling to
come and testify in public due to fear and
intimidation. The culture of fear that exists
around patent seed technologies is real and
serious. Thank you for the opportunity to provide
these comments.

PHIL WEISER: Thank you.

KRISTINA HUBBARD: Hello. My name is
Kristina Hubbard, and I'm the author of this report
called "Out of Hand: Farmers Face the Consequences
of a Consolidated Seed Industry." It was provided
to the docket for public comments. First of all,
thank you for having this workshop. It's historic,
and I appreciate the agencies coming together,
bringing us together to talk about these problems.

I wanted to echo what the last
gentleman said in that concentration of the seed
industry was a pretty small part of today's
discussion, and I do think it warrants its own
hearing with an adequate amount of time for farmers
to speak. That said, again, this workshop, again,
thank you for hosting it.

We wrote this report, "Out of Hand,"
because many farmers say that the prices they're
paying are indeed out of hand for seed. We wrote
it because farmers say that their choice, their
seed options are dramatically reduced, especially
in the way of conventional corn and soybean
varieties. We're finding that farmers fear that
the best and newest genetics will only be introduced
with expensive patented traits stacked into them, and
this is a problem that needs to be part of this
discussion.

I'm encouraged that the agencies are
talking about examining the role patents play in
facilitating concentration in the seed industry,
and I hope that the focus will not be only on
competition within the trait industry but rather
the concentration of ownership over plant genetic
resources, over germplasm, the most fundamental
piece of agriculture.

Congress long argued that utility
patents should not be applied to seeds and seed
genetics, to sexually reproducing plants, such as
corn and soybeans, and I hope that legislative
actions and options are considered in this
discussion as well. I think Congress should
revisit the Plant Variety Protection Act and
clarify that that should be the sole protection for
plant developers producing these crops.

And just a reminder, a patent to
remove a farmer's right to save seed, a farmer's
ability to save seed is a form of competition.
And then lastly on that point, patents are also
locking up important genetic resources that public
and private plant breeders alike often cannot
access to further innovation.

Lastly, I wanted to speak to something
that General Holder said this morning. He said --
he was encouraging us to be frank about our
perspectives. And unfortunately, there are many
people here today -- there are many people who
aren't here today because they are unwilling to
speak. They are afraid of repercussions from the
dominant players.

My colleagues and I have spoken to at least a dozen seed companies, truly independent seed companies, who are worried about talking about the shortcomings of the seed industry. They're worried about simply sharing their story.

And so this culture of fear that the last gentleman mentioned is truly stifling voices of people who have important stories to share. These are public plant breeders. These are seed dealers, representatives of independent seed companies, and especially farmers.

So as people come up to this microphone, those who do have courage to share their perspective, please remember that their voice is a vote, and many of us are voting for a seed industry that meets the diverse needs of farmers and hopefully restores choice and rights back to our American farmers. So thank you.

MATTHEW DILLON: My name is Matthew Dillon. I'm with the Organic Seed Alliance. I'm also a plaintiff in a lawsuit against the U.S. Department of Agriculture, APHIS, for not following the National Environmental Protection Act in its deregulation of Roundup Ready attributes. I should
say victor as a plaintiff in this case. We're in the remedy phase.

I do want to also thank you for these hearings. As other people have pointed out, seed in particular, I believe we need an additional hearing that's not just focusing on concentration but that spreads out to take on some of these other issues that are inhibiting farmers' freedom to operate, freedom to operate in their markets, and those issues do include issues of contamination in the marketplace and access to seed. I think it needs to expand out to include USDA, APHIS, the patent and trade office, the EPA, the congressional oversight for those committees.

My understanding of the purpose of having a competitive marketplace, the purpose and the goal, is not to line the pockets of shareholders and overpaid CEOs. The purpose of the competitive marketplace is to serve the needs of a diverse agricultural system.

Now, that's not happening, and that's quite clear, particularly in seeds. We once had a diverse seed system that was served in a dual role by public and private plant breeders and seed systems. Public and private systems worked
together in partnership and collaboration, but they also competed. Public plant breeders released public cultivars that competed against the private industry and in particular served small and emerging markets in the public sector varieties. That hasn't happened.

And there's two things that's both inhibiting the public and private sector from being diverse. In the private sector, as many people have pointed out, and I won't belabor the point, the utility patent is the strongest tool that's creating monopolies and inhibiting the development of regional diverse seed companies that can be competitive.

In the public sector the Bayh-Dole Act needs to be examined. The Bayh-Dole Act changed funding for our federal -- our public land-grant institutions so that they are beholden to private companies for their plant breeding dollars, their research dollars, and we need to have an audit of the Bayh-Dole Act to examine whether or not it is actually doing its job or it's inhibiting innovation and research. That needs to be done. It needs to be done soon.

We need an industry that's really
going to be responsive to minor and emerging markets, and you guys mentioned niche markets and organic and local markets as niche. Well, organic is not a niche market. It's the fastest growing market in the United States. We're not hiding in the corner. We're out in front, and we're innovative and leading the charge.

American markets are supposed to be about innovation. Organic has innovated. They've taken risk. They've made investments. They've been successful. But we need the protection and the freedom to operate. We don't have access to seed. The majority of organic farmers plant conventional seed, are reliant on biotech companies to lease our inbred lines for organic corn production, and yet we can't even test these inbred lines because of intellectual property rules to determine if these inbred lines are contaminated.

So organic seed companies are planting inbred lines that we know are contaminated with biotech traits and further contaminating our marketplace and hurting our customer base and our credibility. So this has to be a bigger issue. I applaud you for what you've done, but we need to go a step forward and expand this
dialogue out. Thank you very much.

PHIL WEISER: Thank you.

SCOTT REMINGTON: I'm Scott Remington from Winterset, Iowa. I've been a cattle producer primarily, ever since I was 12 years old. I've owned a cow before I even bought a car.

The issues I see here today, we've talked a lot about life. The ownership of life is really essentially the conflict here. And where I came from in my experience, I've also worked as a consultant for natural fertilizers and working with the natural biological way. And I do know that well.

And today I thank you for being here because this is encouragement that we are actually having dialogue, and we have a lot of points of opinion here. But you know, on the simplistic side, I won't repeat what other people have said more eloquently than I could. We have a rigged system. There's no question in my mind. And if we looked at the history, history repeats itself. We had to crush the corporations in the late 1800s. It came back around.

But today it's at the most critical time because now what we're doing in my expertise
with the soil is that we aren't even regarding the
life in the soil. We have had no talks about the
biological system that made Iowa soil as deep as it
was. It wasn't corn, beans, corn, beans, corn
beans. It was the tall grass prairie. And that's
not being just tree hugging and stuff. That is a
biological fact.

We've gotten away from the system of
agriculture, of sustainability so far, and as a
consultant and doing soil tests and working with a
lot of different clients over the years, one of the
greatest losses we're having is our top soil.

We cannot change -- we're a dog
chasing its tail with relying on biotech, and I'm
not against that. But my golly, do you have to really
be careful. And my testimony today is that we
can't even drink out of the wells safely in the
state of Iowa on our farms. We had to get rural water
because the nitrates and the pesticides and everything.

That's a fact.

And when we talk to people on the
coasts that don't know it and if we tell them that
we can't -- the majority of our wells in this state
aren't safe to drink, well, what kind of food are
we sending them?
So there's a little bit of twist, but you know, I thank you for being here. But this is life. This is all of us. Urban, rural, wherever we are, and we're supposed to be the leader in agriculture in the world? We're actually failing very miserably. But, you know, everyone that came here, I thank you very much, and thank you for letting me speak.

PHIL WEISER: Thank you.

HARVEY HOWINGTON: My name is Harvey Howington, and I own and manage a rice and soybean farm in Poinsett County, Arkansas. The time to talk is short, so I'll get right to the point.

Utility patents are a failed experiment. The seed companies told us they needed the patents to justify spending the research money needed to advance this cutting edge technology. They will tell us we need GMOs to feed a growing world. I agree we need GMO technology, but the products the companies are bringing to the marketplace are not the products needed to feed the world. They are all about company profits.

The companies will say average yields go up every year. That is because farmers who can't get the maximum yield out of the varieties
are not around next year. Hundreds of farmers go
broke every year, and rural America is drying up.

As for that promised research money, I
strongly suspect the companies are spending far
more on enforcing those patents than they do
developing varieties. The lawyers get most of the
money.

Seed costs have skyrocketed. We lost
the thing farmers and inhabitants of this planet
that is most precious to us, and that is the
intellectual property rights to our food.

As a Southern rice farmer, I would
like to comment about a practice that negatively
affects the price farmers get for their crop.
Large farmer cooperatives will swap rice with each
other and other large private rice farms to avoid
going to the marketplace to buy rice. They will in
the future pay them back in kind but for a reduced
price after the market has dropped.

This predatory market practice masks
demands for rice. It allows the companies to pay
less than market price for rice. We think it could
also be a violation of the Capper-Volstead Act for
the cooperatives to do this. I really appreciate
the opportunity to speak today.
PHIL WEISER: Thank you.

SAM CARNEY: My name is Sam Carney. I'm a farmer from Adair, Iowa, fourth generation.

PHIL WEISER: Try again.

SAM CARNEY: There we go. Fourth generation farmer. In 1998 and '99 I brought my son into the operation. As you know what happened to pig prices. My banker called me in. He says "You have to quit this bleeding bread." He says "We need to do some risk management with you."

So we've done risk management for the past 10, 11 years, and it's worked very well for us. It's made us a very successful business. I don't want to lose those options. I don't want those taken away.

I can take my pigs, I can contract with a packer, and I get along very well, and I don't necessarily use the same packer time after time. I use variation of different packers. I need those options. I have to provide my banker with cash flows and make sure I have a risk management tool.

In today's volatile markets and as we've seen last year when H1N1 hit, and nobody was going to predict that, we seen what the markets
did. We've got to have a risk management tool, so please, I ask you don't take that away so my son and I can keep operating. Thank you very much.

JOHN WEBER: John Weber, pork producer from Dysart, Iowa. Just want to make a couple of comments on what I've heard today. I've jotted down a few notes.

While significant consolidation has occurred, especially in the pork industry, I think it's fully -- it's fully important to understand the forces that brought this consolidation about. I often think about this. There's a multitude of forces that brought consolidation about. It wasn't just the bottom line of the people doing it.

I think we can be very proud in this country of the products that we're producing, the food and the quality of the food we're producing all the way through, and part of it is due to some of the efficiencies that we have gained through this consolidation process, so I don't want to jeopardize our food production system not only for us here in this country but for those abroad.

The other thing is that in my area and throughout the Midwest, there are thousands of producers that depend on these types of systems or
contractual arrangements. We happen to own the
pigs that we feed in our operation, but we are
definitely part of a production contract system,
and I've been in that system for 16 years, and it's
been very successful for me, and I know quite a few
other producers in our area, and I really, from a
producer, don't want to lose that ability. I know
several producers that would not be in business if
they hadn't had the ability to do that.

Our industry needs choices of market
systems because there are a wide variety of
independent producers as well as those
consolidated, and transparency is important to us.

I think we have to be very careful of
how we develop new programs or new regulations that
affect these systems because they will not only
affect producers, but they also affect consumers in
the price of food that they're going to pay.

One last comment I jotted down here at
the end, we talked a lot today about the age of the
agricultural producer and bringing youth into
agriculture. Just a comment I would like to make
on that. I think there's avenues that our
government could incentivize youth in agriculture.
I think it would be wise to help the 65 and older
group, whether it's through taxation or what it might be, but to give them an incentive to bring new producers into their operation rather than just stepping out, and I think it could be done through a tax structure very easily. So those are the comments I'd make. Thank you.

PHIL WEISER: Thank you.

NICKI DALLMAN: Hello. My name is Nicki Dallman, and I'm a certification specialist and inspector for MOSA, Midwest Organic Services Association. We're located -- we're an organic certification agency located in Viroqua, Wisconsin. We certify 1,400 organic farmers and producers in 11 states. And we also certify more organic dairy farmers than any other NLP accredited agency.

I would like to express concern for the potential release of GMO alfalfa and the threat it poses to our organic farmers. The concerns surrounding the release of GMO alfalfa are different from those of existing GMO corn because of the way in which alfalfa is pollinated.

As certifiers of organic products, we help to ensure the organic integrity of corn crops by determining the distance of the farmer's organic crop from a neighbor's conventional crop, which
direction the wind blows, what barriers lay between
the two fields, and what time of year their crop
pollinates versus their neighbor's crop.

Likewise, our organic corn breeders
are able to maintain the genetic integrity of their
seeds by making sure those same barriers are in
place. Alfalfa, however, is open pollinated or
cross-pollinated, as opposed to corn which is a
self-pollinator, and alfalfa relies mainly on bees
to distribute the pollen. Alfalfa is also a
perennial versus an annual crop such as corn,
allowing the genetic makeup of a given field to
change from year to year.

The National Organic Standards Board
apiculture task force devised a report in 2001 for
farmers in which to certify organic honey. The
reports sought to define the forage zone of honeybees
which is established at a 1.8 mile radius from the
bee yard with an additional surveillance of up to
2.2 miles. This means that there are to be no
genetically modified crops within a 2.2 mile radius
of the source as it is believed that anything short
of that topography or terrain poses a threat to
that organic integrity of the honey.

There is no way a certification agency
could possibly enforce or monitor these guidelines, nor do we believe we should have to. Alternatively, this means that the organic integrity of alfalfa crops will be jeopardized by genetic contamination with the degree and implications of the contamination unknown.

When a consumer purchases a product with the USDA organic seal on it, they believe they are getting a product that contains little to no GMOs and was raised without any genetically modified inputs, and they're willing to pay a premium for that product.

This premium is what helps keep our 500 family-run organic dairy farms in business as well as our farmers who sell organic feed and our seed companies who breed organic seed. It is our job as a certification agency to ensure the organic integrity of their crops and their market, and we feel that we are able to do that and to stand behind the organic seal placed on these products.

However, we cannot say that this will be the case if GMO alfalfa is introduced with nonregulated status, and that is why I'm here today to express my concerns. Thank you very much.
PHIL WEISER: Thank you.

BRAD WILSON: Brad Wilson, Iowa family farmer. You know, I feel like I've heard quite a few political speeches here on the panels, and one of the things they were saying is about how much they want to hear me. And I listened to that all day long. I don't necessarily see them here now.

You know, I'm out here in this line, and I'm in competition to speak. We have a competitive market out here but little fringe. That's a little bit that's left, a little bit of time left. But up here we have a protected market where they got to speak and just reminds me that you're treating us, you at DOJ, USDA, are treating us the same way Monsanto treats us. And so I think we need to change the process next time.

You can have debates where you put us up against your people. I think we can beat your people and have a series of debates if you get -- if you have high status, you don't get to move on just because you have high status. If you get beat because you don't have the competence, then we get to move up, and we'll be the ones that end up in Washington. If you have that debate, we'll win that debate, and you should be giving a chance for
that truth to come out.

Now, you know, we kind of had a heads-up on some of this here. When Vilsack was in Iowa, he wrote the nuisance lawsuit protection provision for House Bill 519, the hog factory bill, and so that got a lot of things going here, getting legal protection for that kind of change.

We have also as Governor -- that was as a legislator. As Governor, he pushed the Iowa 2010 Report. Well, 2010 is here. The 2010 Report in Iowa said we want Iowa to be the life sciences capital of the world by 2010. Now, they probably have copycat reports over in Missouri and Minnesota and all these places. They're saying they want to be the tough -- well, interpret it but the biggest ag complex in the world, so it's a concentration effort that came from that.

Now, you go to the Iowa 2010 Report, Volume 2, they have from the hearings all of the people from this kind of a line here, and those people said we don't want that concentrated system, but they weren't heard and didn't get in the final report, and that's what I'm kind of hearing here.

Now, you know, Lewis Mumford, he's the great writer about technology and mega-techniques,
and he taught us that mega-techniques is an authoritarian technique, and as you hear the things said out here, it's very clear that we're already in the effects of these authoritarian measures that are coming down at us, and if you don't understand -- for example, Iowa State University, the land-grant people, the economists, if they don't understand that the technology that we're talking about here is mega-techniques -- and if you don't know how that techniques works, that it is authoritarian, then you don't understand technology in agriculture today and in many other sectors of the economy, and I didn't hear anybody up here that understood that.

Now, you know, we got -- maybe we got some congressional people left. I don't know. But I'm used to speaking when everybody has gone home, including the press.

UNIDENTIFIED MALE: We're still here.

BRAD WILSON: In Congress, we have a farm bill where they on purpose have lowered the price floor down, down, down, starting in the '50s to today. And then they lowered it to zero. Now, what that did was that gave cheaper and cheaper and cheaper grain to the big corporations. They talk about farm subsidies because you're losing so much
money every year that you get a subsidy, but these corporations didn't lose any money to go get their bigger benefits. And so here we have that, and that fuels this concentration. That's all a part of the system fueling this concentration. That's not the kind of reasons that were given on the panel today. That's a political reason where they chose that.

You know, you go back to the CED report of 1962 where they said "We want to get rid of one-third of the farmers in five years." And so that's an authoritarian statement. And they said -- I heard all this, you know, talk from your panels about youth. We want our farm youth. The CED report said "We want programs to get rural youth to move away," and we've been dealing with that, with the NFO and all these groups, for decades.

Okay. I'll wind this up right now. Right here. Yeah. The ERS data shows that we lost money. I've summed up the five big crops in the farm program and then barley, oats, and grain sorghum. From 1981 to 2006, you put in the acres with the net per acre, actually, and you sum those up, and we lost money every single year except
So the policy of the United States was that we will export our grain for 25 years at below our costs, that the United States will lose money. Same thing. You know, we've got 40 percent of the market. We'll raise our price. Now, that's an authoritarian system that says the United States will lose money so that these big corporations can benefit all around the way.

You know, I really can't thank you for this process.

PHIL WEISER: Thank you.

GEORGE NAYLOR: Hi. My name is George Naylor. I'm a farmer from Churdan, Iowa, past president of the National Family Farm Coalition.

I think if I'd have been to this meeting 20 or 30 years ago, I'd start out by saying the same thing. Basically you're closing the door after the horse is out of the barn. And actually, you're closing the door after the horse thieves have stole the horse.

These horse thieves have stolen our family farm system. They've stolen the biodiversity of Iowa. Now they're stealing a decent health care for all of us. They're stealing
our -- the future of our democracy and the future
of our children.

There's grave consequences for what
these big corporations do with their economic and
technological power. Monsanto -- and this is
really the technology we're talking about here,
genetic engineering. Okay. Roundup Ready
technology is being used to destroy biodiversity in
Brazil and all around the world, and now Monsanto
is promising to create corn as resistant to drought
and resistant to salty soil so as to feed poor
people around the world.

Well, the truth of the matter is that
technology will be used to plant vast areas of corn
from horizon to horizon, destroying biodiversity on
arid land that never was used to produce crops
before.

And so the United States is giving
Monsanto the right to put this technology out
there, to let their genes go all around the world,
and to somehow certify that it's okay for the
environment when we know that there can be no such
guarantee. We can't guarantee that it's okay for
the environment here in Iowa, let alone in Mexico
and South America and Africa and whatever. So the
power that you, that we, give to Monsanto to do
what they do, like I said, has grave consequences.

Now, personally I was in a lawsuit. I
was a plaintiff in a lawsuit with the president of
the Iowa Farmers Union, Chris Peterson, 11 years
ago where we brought a suit against Monsanto.
Chris's part of the lawsuit was explicitly an
antitrust lawsuit. We said that they had bought up
many of their competitors with the intention of
monopolizing the industry. And let's see. Well,
anyway, it was an antitrust lawsuit. I'm sorry. I
forget the other part of it.

But the funny thing is that after the
judge had dismissed our antitrust lawsuit, it came
out in the New York Times that this judge had been
a lawyer for Monsanto, and he should have recused
himself, but he didn't.

Okay. This was in an article by David
Barboza in January 6th and 9th of 2004. David Barboza
also presented plenty of evidence in his articles
that the CEOs of these major corporations, Pioneer,
Syngenta, Monsanto, got together and agreed to
charge a uniform price, a price higher than any of
them had to charge. Okay? Which was against the
But since the judge said that we couldn't have a class-action lawsuit and we could proceed for just one farmer, we couldn't afford to go ahead with the lawsuit.

Now, I'm asking you, where was the federal government in trying to enforce the Sherman Antitrust Act, and is there any chance that you in your positions, this administration, can try to enforce the Sherman Antitrust Act based on their activity to monopolize the market back then?

PHIL WEISER: I would just reiterate what Bill Stallings said, and Bill, Mark Tobey, and I are here if folks want to talk afterwards. If you have allegations or information, we want to hear it.

GEORGE NAYLOR: Okay. Well, yeah. You look up the articles by David Barboza in the New York Times on January 6 and 9, and you can read about it.

PHIL WEISER: Thank you very much.

MARCIA ISHII-EITEMAN: Good afternoon. I am Marcia Ishii-Eiteman. I'm the senior scientist for the Pesticide Action Network, and I would principally like to share with you the results of a landmark International Assessment of
Agriculture that came out last year. This is the International Assessment of Agricultural Knowledge, Science, and Technology for Development for the IAASTD report, was authored by over 400 scientists and development experts from over 80 countries, two public and transparent peer-reviewed processes, and has been fully approved after an intergovernmental plenary by 58 governments. This was just published last year.

I'll give you a bit of information about this afterwards, but this landmark report already examined in detail the successes and shortcomings of our food and agricultural systems in the U.S., in North America, and around the world. And it also looked explicitly into the kinds of issues we've been talking about today around competition, the effects of corporate consolidation on our food and agricultural systems, and the impacts of that on farmers, farm workers, consumers, the environment, and so on.

So I would just like to draw out a couple -- very few of the key findings. One we've heard a lot about today about the contribution of biotechnologies to, quote, "feeding the world." And actually, this report examined biotechnologies and
a full range of agricultural technologies in great
detail, and one of the key findings is that, in
fact, the food prices and the hunger and
malnutrition you're seeing in the world today, which
is enormous, is not due to a lack of access to the
GMOs and the biotechnology that Monsanto is bringing
to us and other corporations are bringing to us but
rather to poverty and lack of access to healthy and
affordable food.

So there are money countries,
including our own, that are producing massive
amounts of food. The issue is not a need to
increase production but to see that distribution is
far more equitable.

The other thing that the report found
was that widespread adoption of and, in fact,
particularly patenting and corporate control over
the more modern and recent technologies has very
directly benefited transnational corporations and
the wealthier groups, and not so much the small scale
farmers and family farmers.

Also, some of these technologies have
yielded some significant short-term benefits, but
they have had significant and growing costs on the
environment and our ability as a community and
society to maintain clean soils, clean water,
functioning local -- vibrant local economies and
the health of our families and of future
generations.

And so the question is not so much,
you know, can, quote, unquote, "sustainable" or
"organic" or "less heavily based on inputs," can that
kind of agriculture feed the world, but can the kind
of agriculture that we're seeing based on these
corporate control technologies feed the world? And
the answer to that last question is no. The direction
we are going in is not sustainable. Business as usual
is not an option.

And finally, just to say the report
also noted that in North America in particular,
growing market concentration in multiple
agricultural sectors has now paved the way for near
total control of our region's food and agricultural
systems by the transnational corporations, and has
led to a dramatic reduction in fairness and
competition, the things that many of the farmers today
are talking about.

So the ways forward, the report really
points towards enforcement, establishment of much
stronger antitrust mechanisms and rules, things
that you are investigating, stronger competition policies including regulations that look at global and international competition, and I would encourage you to go from one of the suggestions in the report about cooperating with other governments to establish an international review mechanism that would look at the transnational effects of corporate control over inputs and over the food system.

So far just to say that, you know, I know some of these things may seem like out of the purview of the Antitrust Division or out of this particular investigation, but that is why we and all of our members would like to call on the Department of Justice and the Department of Agriculture to broaden the scope of this investigation.

This is an important beginning, but really, in order to establish the vibrant local food systems that are what will save family farmers and will bring this country back on its feet is going to require a much deeper investigation. Our agricultural science is on the line. Good governance is at stake, and human health is on the line as well, and so we put forward this request
that you work together and bring in Congress as well to really broaden the investigation in a thorough and --

PHIL WEISER: You'll be submitting your report to our website also?

MARCIA ISHII-EIDEMAN: Yes.

PHIL WEISER: That would be great.

Thank you very much.

UNIDENTIFIED MALE: Are you still using the number system?

UNIDENTIFIED MALE: People stand up --

UNIDENTIFIED MALE: Because in the interest of fairness --

PHIL WEISER: I'm guessing -- I had assumed the people that had come up had been called, but I take it people now are not the numbers we've called? Is that the observation? So why don't we go -- we'll let you speak, and why don't we go for the last numbers. Pick up five more numbers. I assume everyone took a number, so read the numbers here.

518, 484, 502, 480, 520. Those people could line up if they're here. In the meantime, we'll let you go ahead.

SIENNA CHRISMAN: Thanks. My name is
Sienna Chrisman. I'm here from Why Hunger, formerly World Hunger Year in New York City. I'm also with the U.S. working group on the food crisis.

I work with, among other people, many low-income communities in New York and around the country and around the world, and I'd really like to make a point on -- a couple of points on cheap food.

We've heard a lot about that we need a lot of these technologies, and we need this current system of agriculture that we have now to be able to produce the volume that we need to feed a hungry world.

My first point is that in the food crisis a year and a half ago, when prices for food were spiking and there were riots around the world and farmers were having a really tough time with inputs, the top three grain producers had price -- showed price increases at that point in that period of 67 to 89 percent. So they were making money at the same time that both farmers and the consumers were really hurting.

My second point is that yes, there is cheap food that's available around the country and in low-income areas, both urban and rural, but the
food that's available, I don't know if you've been
to a lot of low-income areas around the country,
rural and urban. A lot of it can really barely be
called food. It's calories, but that's not providing
health to anyone.

And that brings me to my third point
that cheap food is not really cheap. The
externalities that come with our cheap food are
very real, and we're going to have to pay them at
some point sooner or later, whether that's in our
soil quality, on which all of our food is growing,
in our rural economies, and in our health.

One in three kids, I'm sure you know,
born after 2000, it's predicted to develop
diabetes. It's unbelievable to me that we're able
to talk about health care and not be talking about
the kind of food that we have available in our
communities.

Many consumers are losing out in this
system just as much as farmers are. And as Marcia
said, as other people have said, there really are
other ways to explore to feed the world. Small and
mid-scale, locally-based, regionally-based
agriculture is not just a niche thing. It needs
the opportunity to compete. It needs the
opportunity to scale up, to have processing infrastructure, as we have heard about. It really needs the ability to have a level playing field and be able to be another real option.

And finally, I'd just like to say I really appreciate that in December we'll be having a panel looking at and hearing from consumers, and I'd like to recommend that we have another panel at some point during the year to also hear from more voices of consumers because this is about our food system and who controls our food system, and we all eat, and we all really need to be able to have the opportunity to speak out on this just as much as the producers have. Thank you.

PHIL WEISER: Thank you.

LARRY SCHRODER: I thank you for having this today. I'm Larry Schroder, diversified -- we have a diversified farm in northeast Iowa, crops, dairy, hogs, and beef.

I would like to address -- reinforce several great points I think we've heard today. We've heard a number of great ideas. I'd like to disagree a little bit with what was said before. I know the horses may be out of the barn, but we can get them back in again. We can't get in front of
the train, get run over, but maybe we can turn it a little bit.

We are a resilient people, a resilient economy, and I think if we make the system halfway fair and level playing field, as Secretary Vilsack has said, we can change this. I think most important point we've heard today is about the retail margins. I believe the retailers have too much power. We can all be concerned about the processors, and I am, but the retailers have taken an ever greater share of the retail dollar, and that has hampered our processing and especially our production sectors.

By taking those extra margins, they've taken away money for innovations and strength in our sectors. By expanding their margins in time of up markets, and by lagging down markets, they do two things. They keep their profits for a longer time, and we all know that consumers have a demand that's influenced somewhat by the prices, and so as they keep those prices higher than they should be, they tend to stifle demand, shorten the up cycles, and lengthen the down cycles by increasing inventories and keeping those inventories longer than they should have been.
Second, we do have too much consolidation of the packing industry. We're greatly affected by that in our pork sector. We are still part of the open market. We are an independent farrow-to-finish operation, so we are rare indeed.

I know there are reasons for contracting and so forth, but I agree with Chuck Wirtz that we need to make an effort to increase that. Livestock ownership of packers should be limited to 10 to 14 days prior to slaughter. The supply contracts -- and I agree with what was said several times. When they have 90 to 95 percent of their supply lined up, why would they ever bid hard for that last 5 percent? They would rather let those slots stay empty rather than increase the price on the rest of the 95.

Sustainability. We've all heard that term a lot, but I think one point that's been overlooked is that sustainability needs margins in an industry, enough profits from within to renew itself for facilities, systems, and most importantly people. Shown a reasonable chance to make a decent living, if we give them a level playing field, our young people will come back.
PHIL WEISER: If you can wind up.

LARRY SCHRODER: At present I believe
we should look at 1031 tax exchanges. They
encourage excessive investment that isn't needed
many times. As a dairy farmer, I'm grateful for my
cooperative, Dairy Farmers of America, and our
sister co-ops throughout the country that help to
represent us and strengthen our position in the
marketplace and public policy.

I wish, frankly, that a similar effort
was viable -- viable for our hog and beef enterprises,
and I urge you to help defend and strengthen
Capper-Volstead. I believe that we need more public
investment and research in seed, especially
conventional varieties, forages and sustainable
livestock in farming marketing systems. Thank you.

PHIL WEISER: Thank you.

ANGIE TAGTAL: Good afternoon. My
name is Angie Tagtal, and I'm a registered
dietitian here in Iowa working on public health and
food access issues, and I want to remind us of some
natural laws in this discussion.

Natural Law No. 1, food is a basic
human need. We're talking about food. Law No. 2,
food is our source of health and well-being. And
Law No. 3, those who control our food supply control societies, and even though Wendell Berry said that eating is an agricultural act, health is an agricultural act. Nourishing society begins with seed, soil, water, and sunlight.

Diverse seed grows diverse crops. Diverse crops cultivate diverse jobs resulting in economic vitality, especially in rural areas. Diverse crops puts diverse foods on our plates, and diverse foods are the key to not only healthy individuals but families, our farms, and communities.

The vertical and horizontal consolidation and concentration within any sector of the food system has and will continue to limit our access to foods that promote health. Having diverse foods makes eating healthful foods easier choices. This thereby can make an impact not only on the health of eaters but especially children and future generations.

Seventy years ago there were more than 34 different crops that were grown in Iowa farms, half of which were fruits and vegetables. Today there are only ten crops that are grown on Iowa farms, none of which are fruits and vegetables and
many that are not even designed for human consumption. In fact, less than .1 percent of farmland in Iowa grows foods that promote health, primarily fruits and vegetables. But a paradox exists today that 30 million acres in Iowa are devoted to agriculture. Yet 12 percent of Iowans, and even more Iowans today than a few years ago, do not have regular access to food. As a result -- and it's estimated that about 80 percent of the foods that appear on Iowans' plates are actually brought into Iowa.

As a result of this corporate control of Iowa's food system, Iowa agriculture doesn't even feed Iowans. This is a national security issue. As eaters, we all should share responsibility and ownership of the food system as this would assure that all -- we all have regular access to safe, nutritious foods that not only support our health and well-being but for future generations as well. Thank you.

PHIL WEISER: Thank you. I know we're a little past our ending time, and we're down to the really hard core, but I want to ask a couple more people if they're still here, I figure two
more. 394 and 405. And then after that, we'll
wind it up.

Reminding you all this is the
beginning of a process. We're getting a lot of
great ideas. We really appreciate you staying with
us. Thank you, sir.

LARRY GINTER: My name is Larry
Ginter. I'm a retired family farmer. I grew up in
the '40s when agriculture was truly sustainable,
not like today. Truly ethical, not like today.
Mr. Brad Wilson was right. We need a further
debate, and when we have the foxes guarding the
chicken coop, we have big problems.

Secretary of Agriculture Vilsack
carried water for the giant hog factories. Our
Lieutenant Governor, Patty Judge, carried water for
the vertical integrators. Governor Branstad who
wants to be governor again carried water for the
vertical integrators. Folks, we have a problem
with ethics.

But I'd like to talk about a Catholic
priest who once felt that breaking the Sixth
Commandment, thou shalt not steal, if you could
break that commandment and rob from your friends
and rob from other nations, you would probably
break all the other commandments, and you would
take your nation down into perdition.

    We never talked about the ethics of
our trait laws. We produce corn on the cheap.
Family farmers aren't being paid ethically at the
farm gate. Giant hog factories like Smithfield
gobbled up that cheap grain and profit with 2 to
$3 billion since 1994 to 2001.

    We send that cheap corn down into
Mexico, and we drive millions of family farmers --
we disrupt their marketplace and drive millions of
family farmers off the land. That's ethical? But
that's business as usual for Smithfield. And then
they get cheap labor. That suits them fine.

    And then the Department of Justice
allows Smithfield to buy Premium Standard Farms.
We have a problem. You ought to be ashamed of
yourselves for allowing this to happen.

    I got driven out of the hog business
along with thousands and thousands of family
farmers in the state of Iowa because of vertical
integration.

    Monsanto can now patent seeds that
through eons of evolution? They didn't create the
seed. Nature did. Well, I'm going to shut my
mouth now, but we better be damn sure what we're doing because what we're doing is wrong, mighty wrong.

Smithfield is operating in Poland, drove 60 percent of those family farmers out of business. They're operating in Romania, drove 80 percent of those family farmers out of business. They're operating in Brazil driving thousands of those family farmers out of business. And they're not a monopoly? Let's get real. I'll quit now.

VERN TIGGES: I'm Vern Tigges. I'm a small farmer from Carroll, Iowa. I'm also president of Iowa Citizens for Community Improvement, a small advocacy group here in Iowa that seeks all avenues of social justice. And social justice is what it's all about.

The corporations have gotten all the facets of our economy governed, including our politics. And they do this -- they are in control of our economy. They control our politics because they can. And all laws and all policies are created by man and those who can influence them, and that is the problem where we stand today.

We don't have social justice. We have policies and laws that are created by man and the
corporations and the people that can influence those people. So it's not a fair world as it stands right now, and that's why we are in this dilemma now. It's not only ag. It is all facets of our economy, including banking, all the financial sectors.

Last night I was at a workshop, and I asked -- and I don't know if I can do it here. I asked all those who have raised livestock prior to 1995, please stand up. Prior to 1995, all those who raised livestock. Okay. Stay standing. All those who had ag-related jobs in any -- any sector of agriculture before 1995, please stand up. Okay. Out of all these people -- and I'm sure there's many people that left. Out of all these people, who have lost their job or have gotten out of livestock production since 1995, please sit down. That doesn't leave very many standing, does it? The proportion was a lot larger last night. Last night half of the people stood up, and when I was finished, there were three people standing.

So you see, it is the corporate structure that took over the agriculture in the last 15 years that put these people out of business, caused people to lose their jobs.
And it is for that reason I'm not calling on -- I'm calling on you to go ahead with this antitrust procedure because all of us eat, and all of us have to have a job, and we all have to provide for our families. So I'm asking those all in favor of going ahead with this procedure of antitrust, please stand up. This is the picture I wanted you to see.

PHIL WEISER: Thank you. I appreciate that. We have one last person we have called and want to give a chance to speak and then give people a chance to go home. Thank you for staying with us. Yes, sir.

UNIDENTIFIED MALE: I actually do have a number.

PHIL WEISER: No. I know. You as well were called?

RANDY JASPER: Yeah.

PHIL WEISER: That's fine. Two more people. Then --

UNIDENTIFIED MALE: Thank you for this opportunity and your patience. Just a little different twist on some of this. I'm a farmer from Harlan, Iowa. I have a written statement.

Larger factors and violations of
antitrust laws play into the seed industry's assertion that biotech seeds are in the best interest of feeding the world now and in the future.

I believe that accusations that organic and conventional crop breeding cannot do so are scientifically flawed. It ignores the scientific data for many long-term agronomic studies from both private institutions such as the Rodale Research Institute and from public land-grant institutions such as Iowa State.

These studies show that natural cropping systems can produce similar yields while reducing fertilizer and pesticide usage, decrease energy usage, decreased CO2 emissions, are done with cheaper production costs and greater economic efficiencies.

Then at the same time, this bias from these companies insists that its ability to feed the world's hungry in the future can only be accomplished by the commodity large scale export model that removes farmers from their lands and communities all over the world.

I recently spent 11 days with my son who's an agricultural worker in the Peace Corps in
Honduras, and I saw firsthand that these people need access to markets and help in green farming practices. And I was appalled to learn from my son that four out of five supermarkets in this country of seven million in Honduras are controlled by Walmart.

I've been an on-farm researcher, and I'm a biologist and a farmer. I've been an on-farm researcher for 23 years now in cooperation with the Practical Farmers of Iowa and Iowa State University. I've been an organic farmer for 27 years and a certified one for 16 years. I can now grow 200 bushel corn and 65 bushel beans on a consistent basis. I couldn't do it after the first 10 years, but now after 27 years, I can do it.

I can do it because of being a diversified crop and livestock farmer in the best history and tradition of our state and our Midwest. And now I'm doing it with less expensive conventional nonbiotech seeds. We are now reaping the benefits of soil-building crop rotations, animal manure and compost for soil and plant health, and we are producing a more nutrient-dense food for better human nutrition.

The takeover of small plant breeding
companies by just three or four companies has diminished our seed genetic diversity and has greatly eroded our public institution's ability and responsibility for creating new seeds that serve the public good. Thank you.

PHIL WEISER: Thank you.

RANDY JASPER: My name is Randy Jasper. My son and I operate a dairy and grain farm in southern Wisconsin, and you were wondering -- I'll keep this short, by the way. One of the things you was talking about what you can do, the DOJ right now has an investigation against Dairy Farmers of America for price fixing. That would be one thing you could do, is proceed on that one.

Also, we're looking forward to the dairy -- I'm about 60 miles from Madison. We're looking forward to the hearing there. Thank you.

PHIL WEISER: Thank you. A few closing remarks. There is a lot of road ahead. We've got our work cut out for us, whether the metaphor is the cow is out of the barn, down the street, on the rail, whatever, we're going to try to do our best to find it, and we are going to look at this issue from a number of perspectives, and
this is the first of five workshops working
together with USDA. This is unprecedented, and
this is the sort of engagement that I think makes
good government.

Having a chance to hear from farmers,
the academics who spoke for us today, many from the
local area, businesses, and other experts as well
as enforcers is going to help us learn more about
this industry and be more effective. It's all
going to be part of this record as will further
comments that keep on coming. We really hope folks
who have commented continue to engage, look at
the transcript, share reflections, share with us
your ideas.

We're going to release the proceedings
from today, putting it on the website as well. The
video form will be available, and we want to make
sure that this can lay the groundwork for further
discussions.

Our next workshop is going to be in
Normal, Alabama, on May 21 addressing the poultry
industry. As someone just mentioned, it will then
be June in Madison.

We are so appreciative to have all the
officials join us today, many of the elected
officials here from Iowa as well as our Attorney General, Secretary of Agriculture, a number of state attorneys general joined us. This shows you the level of commitment of a lot of folks who are getting their arms around these issues.

It's also worth noting that an event like this doesn't happen without a lot of people working very hard. John, do you have a chance to maybe acknowledge some of those people?

JOHN FERRELL: Yes. I would like to thank everyone at the FFA Enrichment Center and the Des Moines Area Community College that have spent many hours helping prepare for this successful event today. I would like to thank Robert Denson who's president of DMACC for allowing us to use this facility here today. I don't think when we called him back several months ago he knew what he was getting into, but we thank him for helping us today.

Finally, we would thank you. We thank everyone who came here today, for participating in this event, by providing written comments in advance, by providing public comments today, or by simply just attending the event and engaging in conversations with us in hallways and during
breaks.

We have benefited from the variety of experience and opinions that you all have brought to this workshop. We also thank the numerous panelists who have made themselves available, who have taken the time to travel here today, and they're providing extensive involvement. And again, we thank you for all attending. Thank you.

PHIL WEISER: Have a nice weekend.

Thank you.

(Hearing concluded at 5:50 p.m.)
CERTIFICATE

I, SueAnn Jones, Certified Shorthand Reporter and Notary Public in and for the State of Iowa, do hereby certify that the foregoing is a true and accurate computer-aided transcription of the hearing as taken stenographically by and before me at the time and place indicated on the title page;

That I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am not financially interested in the action.

Dated this 16th day of March, 2010.

____________________________________

SUEANN JONES, CSR, RPR