

**Written Testimony of  
Shane Miller  
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before the  
U.S. Senate Committee on the Judiciary  
July 28, 2021**

Chairman Durbin, Ranking Member Grassley, members of the Judiciary Committee, thank you for inviting me here today.

I proudly represent Tyson Foods, a company based in Springdale, Arkansas, and founded nearly a century ago by John W. Tyson, who started this business trucking chickens to markets across the Midwest.

I'd like to start by telling you a little about who we are today.

**Tyson Provides Opportunity to Many**

Today, Tyson employs more than 120,000 team members in 32 states. The business I lead, Tyson Fresh Meats, the beef and pork segments, comprises 35,000 Tyson team members across 18 plants. This includes 12 harvest plants and six portioning and case-ready plants, with two additional facilities under construction. Fresh Meats' largest footprint is in Iowa and Nebraska.

We are not just a food company. As an important employer in many communities, we provide an entry point, for many Americans, recent immigrants and others, to opportunity. Our team members come from diverse backgrounds, speak more than 50 languages, and reflect the makeup of America itself.

Many have attained citizenship, life skills, high school equivalency, and English as a second language education through Upward Academy, our onsite education program. We also offer career development opportunities – like providing training for highly-skilled jobs – through our Upward Pathways on-site training and education program. We do this because Tyson understands that we all want to create a better life for ourselves and our families.

When our team members need a little extra help for unexpected events and challenges, we support them through our Helping Hands program. We also have rehabilitation programs across our business, which give team members a second chance as they transition from prison or overcome substance abuse.

And, at an average compensation of \$22 per hour, which includes medical and other benefits, Tyson team members can take advantage of a competitive wage and benefit package.

Our impact on people's lives extends to the communities so many of us call home – from anti-hunger drives to support for public schools. Last year alone, Tyson and our team members donated 120 million meals and countless volunteer hours to feed the hungry. And our economic impact extends to farmers, ranchers, and suppliers across America, many of whom have also worked with Tyson for generations.

Since our founding, Tyson has considered itself a steward of natural resources vital to feeding the nation. We have always taken seriously our obligation to responsibly use, protect, and preserve these resources for future generations.

Accordingly, we recently announced our ambition to achieve net-zero greenhouse gas emissions by 2050 across our global operations and supply chain. This makes Tyson the first U.S.-based protein company to have an emissions reduction target – approved by the Science Based Targets initiative – to help combat the growing challenge of climate change.

In addition, earlier this year, one of our beef facilities was certified under the Alliance for Water Stewardship (AWS) standard by international third-party certification body SCS Global Services, making it the first and only meat processing plant in the country certified under the AWS standard. Implementation of the standard is intended to achieve five main outcomes of good water stewardship at the site: good water governance; sustainable water balance; good water quality status; important water related areas; and safe water, sanitation, and hygiene.

## **We Continue to Navigate the Impact of COVID-19**

Perhaps there is no way to fully prepare for a once-in-a-lifetime pandemic, but I can say that at Tyson, we have been absolutely determined to do everything we can to help keep team members safe. For example, early in the pandemic, when personal protective equipment (PPE) was scarce, we chartered transportation ourselves, so that we could source the PPE more quickly, and better protect team members and their families.

To date, we have spent more than \$700 million related to COVID-19, including on efforts to combat its spread, such as buying masks, face shields and temperature scanners, installing protective barriers and providing on-site testing and vaccinations. We also partnered with an independent medical provider to bring medical services on site, hired an additional 200 nurses and our first Chief Medical Officer.

This year, so far, we have invested countless hours educating our team members, in dozens of languages, about the benefits of COVID-19 vaccination. We have also

conducted more than 100 on-site vaccination events at our facilities and partnered with community leaders. To further encourage vaccinations, our team members who accessed their vaccination offsite received four hours of paid leave per dose. In April this year, we also expanded our on-site vaccination efforts to make the families of team members eligible. Today, more than 56,000 of our U.S. team members are vaccinated; our efforts to reach, educate and vaccinate the remainder continue.

In sum, I would want this Committee to know that Tyson is a company committed to caring for our team members, supporting our communities, protecting our natural resources, and creating value for our customers and consumers.

This is who we are, and this is why thousands of people look to Tyson for opportunity and partnership.

### **The Meat Processing Industry: Rural America's Economic Engine**

Across our business, the vast majority of our team members live in rural America – places like Perry, Iowa, population 7,600, or Lexington, Nebraska, population 10,000. And in fact, I speak to you today first and foremost as the grandson of Iowa farmers: I was born and raised in northwest Iowa – in a small town called Ruthven. Today, I live with my family in Sioux City, Iowa, where many of our friends and family members continue to work in the livestock business.

I joined this industry three decades ago, when, in northwest Iowa, there were few other opportunities for someone like me. I am proud today to help lead a business that gives this same opportunity to others – people like me and my family. In Iowa today, we employ 11,000 people, paying them a collective \$487 million per year. We pay our cattle suppliers in Iowa \$1.3 billion, and our hog suppliers in the state \$1.4 billion. Overall, our statewide economic impact in Iowa is \$3.3 billion.

In rural communities across America, every year, we invest more than \$15 billion with 11,000 independent farms supplying us with cattle, pigs and chickens. We rely on these independent farmers, and want them to succeed, because without a steady pipeline of livestock, we're unable to run our business. And so, when the market experiences significant, unexpected shocks, we are there to support our partners. For example, as the impact of the pandemic took hold, we supported producers by providing lump sum premiums – above the market price – for cattle harvested. We offered our cattle and hog producers relief for animals that did not meet pre-agreed specifications, and also gave hog producers that had cash market pricing agreements the option to transition to a cash-cutout blended price arrangement.

Another example: a few years ago, one of our more significant specialty beef customers experienced an extended business disruption that created a large

devaluation in the premium market for cattle. This meant that independent producers had no alternative buyers for their niche, premium category cattle. We understand from our partners that other companies walked away from their commitment to take delivery, leaving these independent producers to absorb the losses. Tyson chose not to do that. Though we had no buyers, we continued to pay, and pay a premium, for their specialty cattle. We absorbed the losses, rather than pushing them on to our independent producer partners.

For animal feed, we are reliant on grain farmers, with whom we invest millions, to provide us with essential commodities, such as corn and soybeans for livestock feed. We also produce thousands of products that use ingredients sourced from farmers across America. For example, our breakfast sandwiches use products from dairy and egg farmers, grain and baked good suppliers, and seasoning suppliers. And in turn, we supply products to a variety of other industries, including pet, pharmaceuticals and clothing.

Importantly, we also help make states like Arkansas, Iowa, and Nebraska competitive overseas: exporting specialty products *not* in high demand here in America (for example, hides and leather, organ meats or chicken paws), which strengthens the profitability of American farmers and ranchers by making the entire animal more valuable.

At Tyson, our intention is to create as much value as possible, which means making use of every part of the animal. And this benefits every player in the supply chain, not just Tyson: without the export market, these portions would, at best, go into animal feed meal or biofuel at a reduced value, or, at worst, go to waste.

I would also note that more demand for such products overseas leads to higher demand for cattle here in America to harvest these products, which also benefits American farmers and ranchers, by increasing the demand (and price paid) for their livestock.<sup>1</sup>

Finally, we also support growth in rural America by sourcing critical materials and employing infrastructure services that help produce and distribute food – from ingredients and packaging to transportation and warehousing. For example, Tyson has one of the largest private fleet of trucks, at over 1,000 strong, and a cold storage distribution chain that employs thousands of skilled workers, including thousands of truckers, forklift operators and mechanics.

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<sup>1</sup> Industry experts “expect U.S. beef exports to accelerate in 2021, as evidence by the USDA projecting a 6% increase in U.S. beef exports...” BMO Capital report on Tyson Foods, May 10, 2021.

## Higher-Quality Meat and Great Value: Evidence the Market is Working

The quality, variety, safety, and affordability of the food produced here in America, by American companies like Tyson, is something I know everyone here today wants to protect.

Questions have been raised about whether the beef processing industry is consolidated in a way that harms cattle producers, customers, and consumers. At Tyson, we are committed to ensuring fair compensation for farmers and ranchers, and that safe, high-quality meat, across the product offerings Americans are demanding, remains reasonably priced in all the places we call home. We believe market forces are working as they should.

According to the U.S. Department of Agriculture (USDA), “The share of disposable personal income spent on total food has trended downward since 1960, which has been driven by a shrinking share of income spent on food at home.” The USDA also notes that, “In 2020, U.S. consumers spent an average of 8.6 percent of their disposable personal income on food.”<sup>2</sup>

When I was a kid, beef used to be a special treat mom and dad served on Sundays and for special events. Today, thanks to companies like Tyson and supportive government policies over the years, we are fortunate that beef is affordable, available, and accessible for so many more Americans.

I am equally pleased to say that with advancements in technology and improvements in modern cattle production, the beef we consume today is consistently of a higher quality than what my family used to eat, back in Ruthven. Higher quality and great value – a good example of how the market is working as it is supposed to, for everyday Americans.

To be clear, at Tyson, we welcome competition. Healthy competition not only makes us better – it also helps put affordable, higher-quality food on the tables of more Americans.

And the competition is intense. Customers have multiple meat suppliers from which to choose and they subject suppliers to competitive bidding processes based on terms the customers specify. Customers often work with several meat suppliers to ensure orders are filled according to their product specifications, volume requirements, and pricing terms, which adds to the constant pressure to outperform the competition.

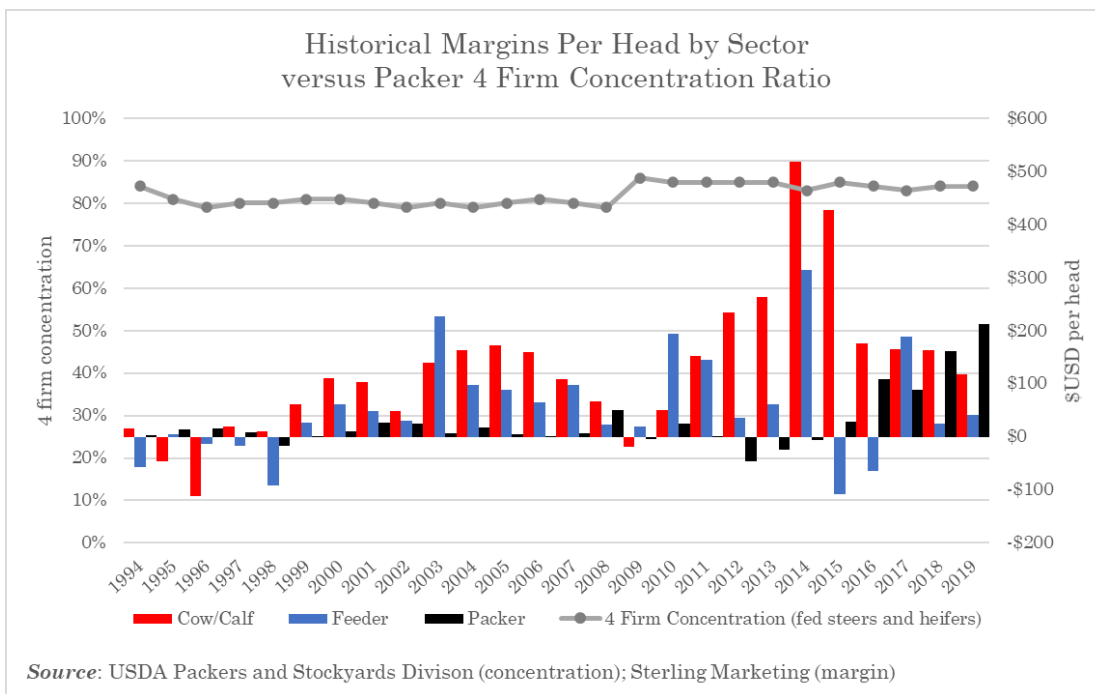
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<sup>2</sup> <https://www.ers.usda.gov/data-products/ag-and-food-statistics-charting-the-essentials/food-prices-and-spending/> (last visited July 26, 2021).

Evidence of healthy competition can also be found by looking at historical outcomes. For example, we have seen a rise in availability and quality of beef, while the price has become more affordable over the past quarter-century: data shows that while the concentration of the industry has remained relatively constant for close to 30 years, quality has significantly improved.

If we look at the historical ratios of margins of cow and calf producers and feeders (please see Table 1) versus processors, we can see that cow and calf and feeder margins outpace processor margins in almost every year except the most recent, a point I address in more detail later in my testimony.

**Table 1: Historical Margins per Head of Cattle**



**Cattle Producers Market Their Own Products, and Often Prefer AMAs**

Tyson does not and cannot control market forces, and our success depends on the entire beef supply chain being properly incentivized to meet America’s continued demand for higher-quality beef.

Accordingly, we are committed to ensuring fair compensation for farmers and ranchers. And we’re proud that we have relationships with producers of all sizes that stretch back for decades.

At Tyson, we buy cattle on the open, cash market and through contract sales. At times we hear that contract sales – such as alternative marketing agreements

(AMAs) – are responsible for the current spread between live cattle and processed beef prices. This is not the case.

Cattle producers decide how they market and sell their products. With respect to the beef market, producers have a variety of options available to sell their livestock – whether that be on the transactional, open negotiated market, forward contracting or through tailored AMAs. Many producers, including those we work with, prefer tailored agreements because they provide a stable, reliable market for their cattle and they ensure easier access to capital. The agreements also help meet expectations for consistently higher-quality beef as well as demand for customer-specific programs.

As, Professor Glynn Tonsor of the Department of Agricultural Economics at Kansas State University recently said in his testimony before the U.S. Senate Agriculture Committee, “AMAs have grown in use in recent decades” because they “...present a multitude of well-documented economic benefits to the industry,” including providing “efficiencies” such as “...coordinating logistics, lowering marketing and procurement expenses” and “...enhance[ing] demand” for specific attribute cattle, which “...increase the economic pie for industry participants.”<sup>3</sup>

This perspective – which is shared by other agricultural economists – is supported by the USDA itself, which in its study of AMAs, concluded that: “...provid[ing] livestock buyers and sellers with improved risk management options that lower costs or allow for the creation and capture of greater value.”<sup>4</sup>

I’d like to expand a bit on the real benefits of such AMAs.

Growing cattle is a capital and time intensive process because of the length of time it takes before the animals are ready to harvest. The cycle begins with cow and calf operators – ranchers and farmers who breed cows and produce calves.

To give the committee some detail: a cow’s gestation period is approximately 283 days; calves are weaned at 6-10 months. After reaching a weight of 300-600 pounds, calves are sold to stocker operators or directly to the feedlot operator. Stocker operators put additional weight on the calves to bring them to 600-800 pounds before they go into feedlots at an age of 8-14 months. At this point, the animals, called feeder cattle, are purchased by feedlot operators and raised to a harvest weight of 1,100-1,400 pounds. When the cattle reach harvesting weight at

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<sup>3</sup> See June 23, 2021, Testimony of Glynn T. Tonsor, Ph.D., before the United States Senate Committee on Agriculture, Nutrition, & Forestry Hearing on “Examining Markets, Transparency, and Prices from Cattle Producer to Consumer.”

<sup>4</sup> *Assessment of the Livestock and Poultry Industries* Fiscal Year 2007 Report, United States Department of Agriculture Grain Inspection, Packers and Stockyards Administration May 2008, p. 28-29.

12-22 months, they are sold as fed cattle to meat processors for harvesting. This timeline is summarized in Table 2, below.

**Table 2: Growing Cattle is a Time-Intensive Process**



Because of the time and investment required to raise cattle, certainty of income is important for producers and their lenders. AMAs give cattle feeders a consistent, reliable market for their cattle. This in turn provides other benefits: for example, just the way retail banks like to lend to people who have a stable, reliable income, banks offering agricultural loans also prefer to lend to producers with AMAs in place because they are contractual proof of the feeders’ consistent, reliable income – and guaranteed customers.

In addition, AMAs have helped producers align their cattle to meet consumer expectations for more consistent high quality beef products. Consumers today are demanding a more consistent quality experience in beef, including a preference for certain breeds and upper two-thirds “Choice” steaks, more “Prime” or “No Antibiotics Ever (NAE)” beef. AMAs have contributed to satisfying this increasing demand trend over the past 20 years, during which time the percent of beef grading at the top two levels, “Choice” and “Prime,” has increased from 60 percent in 2000 to 85 percent in 2020.<sup>5</sup>

Many progressive producers and feeders are meeting such specialized demand, thereby creating greater value for their operations. We often partner with such producers. But our ability to meet the increased demand from customers to offer these products would not be possible in a transactional commodity environment. AMAs guarantee a market for these specialized cattle and ensure the producers are compensated for the value they add to the market.

<sup>5</sup> See June 23, 2021, Testimony of Julie Anna Potts, President and Chief Executive Officer, North American Meat Institute, before the United States Senate Committee on Agriculture, Nutrition, & Forestry Hearing on “Examining Markets, Transparency, and Prices from Cattle Producer to Consumer.”



Forcing cattle feeders to trade on the transactional, open negotiated market subjects them to a volatile commodity market, placing financial risk with those who may be least equipped to meet it. As I noted earlier in my testimony, however, a look at historical margin ratios of cow and calf, and feeders, versus processors like Tyson, shows that cow and calf and feeder margins have outpaced processor margins *almost every year*. (Please see Table 1, above.)

And, today, more of our customers and consumers are demanding traceability of their products. They want to know – and be able to verify – where their beef was raised, what it was fed, and how it was cared for at every stage of the cycle. We agree that transparency is important, and recently announced our support of a traceability program called U.S. Cattle Trace. To support this, we are collaborating with others that use DNA technology to trace beef back to the individual animal of origin. This traceability is also a critical food safety tool in the case of an outbreak of a food-borne illness or foreign animal disease.

However, providing this information requires significant investment and effort from every link along the cattle supply chain, a process that would frankly be impossible without agreements in place.

I have also heard the suggestion that AMAs lock producers into selling their cattle to a single processor for an extended period of time, thus depriving the producer of free access to the market. I can't speak for the entire industry, but I can say that none of our AMAs lock a producer into selling only to Tyson. In fact, at every step of the process, producers have a choice. First, producers are free to decide how many of their cattle they want to sell to us and how many they want to sell to other processors. Second, they can also choose whether they want to use market-based, forward contracting or negotiated pricing. So, in order for AMAs to last, they must consistently benefit both suppliers and Tyson.

To make that point another way: if producers do consistently sell to Tyson over other processors, it is by choice – not due to contractual mandates – and a testament to the competitive prices and premiums we are willing to pay for their cattle. This is why some of our relationships with our partners stretch back decades. Again, we feel this is further evidence of a healthy, competitive market working as it should.

To those concerned about price transparency, I will note that Tyson, by law, must electronically report the prices we pay for all cattle, and all prices at which we sell our beef, to the U.S. Department of Agriculture twice per day. Mandatory price reporting (MPR) – industry-wide pricing data – is publicly available at the USDA website.

## **Why Then is the Current Price Spread Between Live Cattle and Beef Cutout So Wide?**

The present divide between live cattle and boxed beef prices is not the result of a consolidated industry, lack of competition or the cash markets. Industry consolidation has remained constant for decades. As someone who has worked in this industry for three decades, allow me to suggest that the present spread has everything to do with the law of supply and demand and the unprecedented and massive – but we believe, temporary – system shock brought on by the COVID-19 pandemic.

As the pandemic took hold, and concern rose around the country, and the world, we saw (and continue to see) significant absenteeism in our workforce, resulting in the idling of beef processing facilities. This resulted in a dramatic drop in processors' ability to operate at capacity, which in turn led to an oversupply of live cattle and an undersupply of beef while demand for beef products surged to an all-time high.

It should not surprise any of us that, as a result, the price for cattle fell, while the price for finished beef rose. And, as I noted earlier, raising cattle is a lengthy process – taking some three years per head – and when there is a shock to the system, like COVID-19, producers can't simply turn off the supply because the market demands less.

I'll also add that the cattle industry is susceptible to cycles the way other commodities are – from grain to aluminum. In this case, when COVID-19 hit, we were at the top of the cattle supply cycle, meaning that the country already had an ample supply of live cattle, and that any significant disruption in existing harvest capacity would have created a backlog of live cattle. But COVID-19 was, in fact – and still is – an enormous disruption. We are not yet back to normal.

As with everything from houses to cars, when supply outpaces demand, prices fall. And of course, when demand outpaces supply, prices rise.

And to reiterate, this is precisely what happened in 2020 and into 2021 – the supply of live cattle outpaced processors' ability to process those cattle. At the same time, idled and slower production – again, the result of labor shortages – dramatically reduced the ability to produce finished beef (and other meat products).

So, consumer demand for finished beef outpaced our ability to supply it, and there were more live cattle than the market could harvest resulting in lower live prices.

And on the consumer end, limited ability to supply finished product to meet strong demand drove prices higher.<sup>6</sup>

This anomalous market behavior is not due to insufficient industry capacity or industry concentration. Rather, as I noted earlier, it is due to COVID-19-related labor shortages creating shorter-term, unexpected capacity constraints.

Many processors, including Tyson, are not able to run their facilities at capacity in spite of ample cattle supply. This is not by choice: despite our average wage and benefits of \$22 per hour, there are simply not enough workers to fill our plants. When the labor shortage subsides, we are confident we will be able to increase capacity utilization and work more quickly through the backlog of market-ready live cattle.

As production stabilizes, and traditional capacity utilization returns, we expect the effects of this temporary shock to eventually evaporate – and in fact, as we approach late summer, a season when beef and cattle prices usually fall, the daily USDA cut-out report shows finished beef prices lower while the price of live cattle has begun to stabilize.

### **Feeding America Requires Operating at Scale**

Finally, let me add that feeding this growing country, while meeting consumers' evolving demands, requires operating efficiently with breadth and depth. We call that scale. And scale is important because in our case, it fosters agility.

Meat is a staple in many American diets. As this Committee may recall, in the early days of the pandemic, when many grocery stores were running extremely low on meat and other supplies, Americans were so concerned that they started stocking up on whatever they could find.

But, even at the height of the pandemic and despite labor shortages across the industry, some production facilities were idled. However, Tyson was able to quickly adjust operations – including reconfiguring production lines, diverting animals to other facilities and rerouting our transportation network. This allowed us to keep our protein products flowing to communities across the nation.

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<sup>6</sup> That these market conditions were the primary drivers of the spread between live cattle and cut out pricing was highlighted by numerous industry analysis. For example, in its May 13, 2021 report, Barclays Research stated that “in May 2020 . . . plants were forced to close . . . [and] Consumers responded by rushing to grocery stores searching for the last available cuts.” These conditions resulted in a “beef super-cycle, as the industry faces ample cattle supply and strong demand for beef.”

Beyond keeping food on American tables, including during difficult times, operating at scale has other benefits. Scale allows Tyson to operate efficiently, which keeps the cost of meat down for families around the country.

Importantly, scale also lets us invest heavily in food safety and biosecurity, including documented biosecurity plans at all our facilities, foreign animal disease preparedness, product tracking and tracing, cattle traceability, robust sanitation standards and regular and rigorous third-party audits.

Let me be clear: Tyson is pro-small businesses – after all, that’s how we began, and today, we work with thousands more – but having Americans rely only on a network of small processors would create inefficiency in the system, meaning families would pay significantly more for their meat. It would also increase the burden on retailers and national restaurant chains, as well as regulatory agencies, as the nature of these markets, involving live animals and products with a short shelf life, requires constant coordination. This in turn would also increase the price of meat and further complicate the already vast and complex supply chain.

As we look to the future, we face a growing global population: according to the United Nations, we can expect a global population of 9.7 billion in 2050. That’s two billion more people. Coupled with this population growth is increasing demand for affordable and accessible meat. Here in America, the economies of scale offered by large protein companies is a fundamental part of this country’s food security.

In addition, in times of crisis or market disruption – like this year’s severe winter storms or the pandemic – our scale allows us to act, and react, quickly. Our scale also means that we have deep and broad expertise that allow us to quickly adjust and adapt operations to efficiently meet the needs of American families.

And as I’ve said above, beyond quite literally putting meat on the table, scale helps us keep costs down – savings we pass on to families across the country.

## **We Continue to Feed a Changing World**

For nearly a century, Tyson has been proud to play an important role in our food supply. I would like to thank the Committee for the opportunity to talk about that role today.

At Tyson, we are committed to producing food more sustainably and to do so in a way that creates healthy communities in places like my home state of Iowa.

We are proud to provide jobs and opportunities for so many team members – and to offer them competitive wages and benefits. In doing so, we are also proud of the meaningful and positive impact we have on rural communities across our country.

Our relationships with farmers and ranchers – many of which extend back generations – are crucial to the work we do as part of keeping America’s food supply strong and secure.

As recent developments in other parts of the world demonstrate, America is fortunate to have a resilient food supply chain that has allowed us to weather a changing world, including unprecedented, unexpected events like COVID-19.

Our company was founded, nearly a century ago, by John W. Tyson, who wanted to find a better way to feed Americans. Tyson today is proud to honor this legacy, and help make protein accessible and affordable.

Thank you again for having me here today.