About the Tenant Farmers Association

The Tenant Farmers Association (TFA) was formed in 1981 by a group of farmers who felt that their interests were not being forcefully represented by existing bodies. The TFA is the only organisation dedicated to the agricultural tenanted sector in England and Wales and is the authentic voice on behalf of tenant farmers. It has a sister organisation in Scotland, the Tenant Farmers Association of Scotland (STFA). The TFA lobbies at all levels of Government and gives professional advice to its members.

The TFA seeks to support and enhance the landlord-tenant system in England and Wales. It represents and advises members on all aspects of agricultural tenancy and ancillary matters. It also aims to improve the professional and technical knowledge of its members, to increase the flow of new tenancies onto the market and to help the farming industry best apply existing agricultural tenancy legislation.

Members of the TFA are drawn from right across the spectrum of the farming industry. Their farms range from the smallest County Council holdings to units of several thousand acres.

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Deliberately, this paper employs the clichéd use of the term “2020 vision” to mean both clarity of view and to set a policy agenda for the next 10 years (2010 to 2020) for agriculture and specifically its tenanted sector. Whilst the Tenant Farmers Association (TFA) has been representing the needs of tenant farmers in England and Wales and acting as a committed advocate for the landlord tenant system in agriculture for almost 30 years, there continues to be a disappointing lack of understanding about the tenanted sector in agriculture amongst policymakers both at home and in Europe. This paper seeks to provide a wide ranging and clear view of the issues the tenanted sector in agriculture is facing and provides practical solutions which take into consideration both the unique position of tenant farmers and the public interest.

The days when the main concerns of the tenant farmer were dominated by rent are long gone. With the rapid development of land use, agricultural and environmental policies there is now a plethora of issues for tenant farmers to consider which their owner occupied neighbours can happily ignore. The TFA itself has had to move from an association dealing only with the technicalities of tenancy agreements to one which needs to have an influence over a very wide range of issues given the differential impact of policy on tenants as compared to owner occupiers.

This paper, whilst being unashamedly written from the perspective of the tenant farmer, sets out a vision for the next 10 years and a policy agenda which should make that vision a reality.

Greg Bliss
TFA National Chairman
August 2010

“He who works his land will have abundant food, but he who chases fantasies lacks judgment.”

Proverbs 12 v 11
The Vision for 2020

By 2020:

- All associated with the development and implementation of agricultural, land use and environmental policies should understand the unique framework within which tenant farmers operate and respond to policy.

- The importance of the tenanted sector in agriculture to the public interest is both appreciated and fully taken into consideration in policy development for agriculture.

- Agricultural landlords should be looking to develop lasting relationships with their tenants through long-term, flexible tenancy agreements.

- Agricultural tenancies should be the preferred way to manage land owned by one party and farmed by another.

- Agri-environment and rural development schemes should be tailored to ensure that participation is only by those who are actively managing the land on a day-to-day basis.

- County Council smallholding estates should be valued by individual local authorities and the nation as a whole as vital to the sustainability of providing a viable entry point and ongoing development for those seeking a career in agriculture.

- Farm diversification should not be a barrier to succession of tenancy within traditional tenancies of holdings let under the Agricultural Holdings Act 1986.

- Food security considerations should be at least as important as those for climate change in the development of new policy.

- There should be a fair balance of power between producers, processors and retailers in the food chain to ensure that no sector is dominated by others.

- There should no longer be any bar on public money being used for applied research and development within agriculture, food technology and land management.

- The Common Agricultural Policy should retain a focus for ensuring that it is supporting the livelihoods of working farmers whilst providing a framework for food and environmental security.

- There should be a new framework for ensuring sustainable development of upland areas with support focused on re-establishing ruminant livestock production as the cornerstone of land management for these fragile areas.

- Animal health policy should be conducted within a true partnership framework between Government and industry without the Government seeking to pass its legitimate cost obligations onto the industry which already has its own costs to bear.

- Adequate attention needs to be given to ensure that the farming ladder is operating effectively with opportunities for entry, development and retirement with dignity.
1. Introduction

By 2020 all associated with the development and implementation of agricultural, land use and environmental policies should understand the unique framework within which tenant farmers operate and respond to policy.

1.1 The Tenant Farmers Association (TFA) is dedicated to representing the needs of the tenanted sector in agriculture in England and Wales. It has the dual role of being an advocate on behalf of those who rent agricultural land and of the system within which that activity takes place.

1.2 The TFA is concerned that those who develop Government policy for agriculture unconsciously assume that all farmers are owner-occupiers and are able to make their own decisions about how to respond to Government schemes and initiatives. However, for those farming as tenants, decisions have to be made within a more complex set of circumstances. How the tenant farmer responds to policy will have much to do with the impact of tenancy legislation, the framework of the tenancy agreement in place and the ongoing relationship with the owner of the land being farmed.

1.3 From the last Government there are clear examples of policy developments within the Department for Environment Food and Rural Affairs (DEFRA) where it has been obvious that these landlord/tenant considerations have not been accounted for by the architects of the policies introduced. These include the development of agri-environment schemes, including the Higher Level Stewardship Scheme and Uplands ELS, the requirements for fixed equipment within the new Nitrate Vulnerable Zone regulations, rural development grants for farm diversification and the move to flat rate payments under the Single Payment Scheme.
2. Why is it important to address the needs of the tenanted sector in agriculture?

By 2020 the importance of the tenanted sector in agriculture to the public interest is both appreciated and fully taken into consideration in policy development for agriculture.

2.1 There are four reasons why it is essential for domestic and EU Government to pay close attention to the tenanted sector when developing policy for agriculture.

2.2 Firstly, the tenanted sector is responsible for farming at least one third of the agricultural area of England and Wales. Sector by sector, the proportion is slightly higher in the livestock and dairy sectors and slightly lower in the arable sector. In addition, the TFA is aware of a significant amount of informal letting arrangements where rent changes hands on the basis of little more than a hand shake. Adding this together with the formally recorded tenanted sector could bring the total amount of land farmed by non-owners under some form of tenancy agreement to around 40% of the total agricultural area of England and Wales. It is therefore a very significant constituency of interest in its own account.

2.3 Secondly, in its intrinsic separation of the functions of land ownership and land management it allows individuals to focus on their specific expertise. Land owners concerned about long-term capital values and sustainable land use can articulate those aspirations through the terms of the tenancy agreements they seek to agree with farm tenants, and tenants can use their business acumen and farming skills to invest in and use the land to create an annual profit from which they are able to pay a sustainable rent. Tenancy arrangements have worked well for major institutional land owners such as the National Trust, Crown Estate, Duchy of Cornwall and Duchy of Lancaster.

2.4 Thirdly, the landlord/tenant system provides liquidity to the most fixed factor of production in agriculture – land. Farm businesses looking to expand or contract can use the flexibility of the landlord/tenant system to meet their objectives without having to be concerned about issues of land ownership. There are many individuals who wish to retain a long-term interest in owning land without wanting to have the responsibility to farm and manage it on a day to day basis. There are also many who lack the necessary capitalisation to acquire land outright in order to allow their businesses to expand. The landlord/tenant system provides the fluidity for the best economic outcomes to be achieved.

2.5 Fourthly, for the vast majority of individuals who would seek to enter the industry from outside of agriculture, agricultural tenancies remain the only viable route available to them. There has been much talk in recent years about the need to ensure that viable opportunities exist for new entrants. Whilst share farming, share partnership and contract farming arrangements are all helpful at the margin, it is only within the security of an agricultural tenancy that farm businesses without access to owned land can become established, remain sustainable and improve.
3. The current condition of the tenanted sector in agriculture

3.1 Against the background of the importance of the tenanted sector in agriculture, it is essential to consider the current condition of the sector and its future prospects. The conclusions of the TFA’s analysis of the current position of the tenanted sector is that it has been adversely affected by short-term thinking from policy makers, land owners and those who seek to advise land owners. This conclusion is explained in more detail below.

3.2 1995 was a clear turning point for the tenanted sector in agriculture. The introduction of the Agricultural Tenancies Act 1995 (ATA 1995) represented a major deregulation of the legislative framework within which agricultural tenancies were governed. A key change was to lengths of term. Prior to the ATA 1995 new tenancies could only be let for the lifetime of the tenant whereas the new legislation provided that there should be no minimum term. A major problem before 1995 was that landlords were reluctant to let farms knowing that they would be let for a generation and as a result, the size of the tenanted sector was in decline. This decline was occurring despite an earlier legislative change in 1984 which removed the rule that made all new agricultural tenancies last for a potential of three generations of tenant from the same family.

3.3 However the ATA 1995 has allowed the pendulum to swing too far in the opposite direction with the average length of term on new tenancies now consistently under four years according to the most authoritative source[1]. Whilst the average length of term for equipped holdings is quoted at a little over ten years, there is no information about where there might be break clauses inserted in tenancy agreements which could potentially bring those tenancies to an end earlier than their stated length of term without any fault or breach of the tenant farmer. Typically break clauses are inserted by landlords into agreements at five or ten year intervals. Although not based on any formal analysis, the TFA’s view is that taking into consideration break clauses, the average length of term on tenancies for equipped holdings would tend to be closer to five or six years as opposed to the ten year headline quoted.

3.4 Whilst it was clear that change was necessary in 1995 because of the continued predicted decline in the tenanted sector, the TFA would argue that the new system has not provided any greater sustainability to the tenanted sector. With such short lengths of term tenants lack the ability to plan for the long term either in relation to their agricultural activities or in relation to their desire to take part in diversification activities and agri-environment schemes. It is essential that this issue is addressed. The TFA believes that the best way of doing so is through manipulation of the taxation environment within which landlords make decisions about land use.

3.5 A raft of alternative mechanisms for splitting the ownership and use of land has come to the fore over the past quarter of a century. The list includes share partnerships, share farming arrangements, contract farming arrangements, profit of pasturage arrangements and farm management agreements. These have been developed not only to circumvent the legislative provisions surrounding tenancies but to construct an environment within which the land owner is able to access the same tax benefits as working farmers.

3.6 The TFA’s concern is that whilst these arrangements have clearly been put together to create the appearance that the owner of the land is actively involved in land management decisions and taking risk, the reality can be and is often very different. The TFA believes that it is unfair that land owners should have the benefit of the more favourable taxation environment that applies to trading entities where they are neither taking risk nor actively involved in the practical management of the holding.

3.7 The development of the policy framework for agriculture and rural development is also undermining landlord/tenant relationships by providing an increasing level of opportunity for land owners to enter agri-environment and other schemes even where the land is being farmed by a tenant. This has been possible through the development of the concept of “management control” which has increasingly led to a situation where more than one individual can potentially claim to be in “management control” for the purposes of meeting scheme requirements. The TFA believes that this concept needs a fundamental review. In this respect the TFA has welcomed the initiative of the Welsh Assembly Government (WAG) to address, head-on, this issue in the context of the development of its new agri-environment scheme (Glastrir) by ensuring that for every parcel of land only one individual qualifies for funding from all available land based schemes. It will be important, however, to ensure that in implementing this policy that WAG correctly identifies the working farmer as the qualifying recipient in every case.

3.8 County Council smallholding estates have, for a significant period of time, been a significantly important component part of the landlord/tenant system in England and Wales. However, it has been alarming to view the extent to which the size of the sector has diminished over the past 25 years. Over that period of time we have lost around half the number of holdings and a third of the land area. Whilst some of the decline in the number of holdings can be accounted for through farm amalgamations, much land has been lost through local authority decisions to sell land and buildings from their estates either to sitting tenants or to third parties in the open market when vacant possession for farms has been obtained. The TFA believes that more needs to be done to protect county farms for the future of our industry and to that extent the TFA has been pleased to see that a number of local authorities have been taking a longer term view of their estates and making the decision to retain them and manage them more effectively.
3.9 For some tenancies let under the Agricultural Holdings Act 1986 (AHA 1986) there are rights of tenancy succession to two further generations subject to the potential successors meeting a number of statutory requirements. One of those statutory requirements is that potential successors must show that they have gained their principal source of livelihood from agricultural work on the holding to which they wish to succeed or a bigger unit of which the holding forms part for a period of five out of the last seven years. Effectively, this means that the farm business has to be able to support the livelihoods of both the existing tenant and the potential future tenant. As farm margins have become tighter over time and potential successors have become more reliant upon external sources of income or income from diversified activities on the holding, it has proved more difficult for them to meet this criterion.

3.10 This was recognised by the Tenancy Reform Industry Group (TRIG) in 2003 which argued that potential successors should be able to include within their beneficial livelihood income earned from diversified activities carried out on the holding with the consent of the landlord. However, having been taken forward by the last Government in its Regulatory Reform Order of 2006, the new arrangements only applied to situations where landlords had consented to non-agricultural use on the holding after October 2006. This has left a considerable number of situations where tenants and their potential successors, operating under landlords’ consents provided before that date, are struggling to meet the statutory succession test.

3.11 With the introduction of the ATA 1995, the protection of existing farm tenancies governed by the AHA 1986 was assured. Any fundamental alteration in the statute underpinning landlord tenant relationships in the context of the AHA 1986 would have been disastrous for the tenanted sector, the agricultural industry and the wider public interest. The same remains true today. After 15 years of Farm Business Tenancies offered under the terms of the ATA 1995, it is clear that the market alone is failing to deliver a sustainable framework for agricultural tenancies. The TFA believes it is essential that the Government resists any calls for a fundamental review of the AHA 1986. Except in cases of owner occupied units, with the dearth of new opportunities for viable progression holdings in the tenanted sector, it is only succession tenancies under the AHA 1986 which are sustaining a workable farming ladder. The landlord is fully protected by the statutory tests with which a successor tenant has to comply to ensure that only those suitable and eligible to farm are given the opportunity to do so.

3.12 At the same time as advocating the continued protection of tenants with agreements under the AHA 1986, the TFA continues to believe that landlords with tenants on agreements governed by the AHA 1986 (and long term agreements under the ATA 1995) should be treated fairly in relation to taxation of both the rental income and the capital value of their land holdings. In return for providing a long-term basis for farm businesses to develop and produce important public goods such as landscape management, biodiversity and food security, landlords should not be penalised by punitive taxation.

3.13 A further issue which needs to be recognised is the increasing tendency for landlords to use Assured Shorthold Tenancies to let farmhouses and Farm Business Tenancies for the land. This maximises landlords’ rental returns but, again in the view of the TFA, does not create a sustainable, long-term landlord/tenant relationship for the benefit of agriculture and the nation.

4. 2020 Vision for Farm Tenancies

By 2020 agricultural landlords should be looking to develop lasting relationships with their tenants through long-term, flexible tenancy agreements.

By 2020 agricultural tenancies should be the preferred way to manage land owned by one party and farmed by another.

By 2020 agri-environment and rural development schemes should be tailored to ensure that participation is only by those who are actively managing the land on a day-to-day basis.

By 2020 farm diversification should not be a barrier to succession of tenancy within traditional tenancies of holdings let under the Agricultural Holdings Act 1986.

4.1 As argued in Section 3, the freedom of contract introduced by the ATA 1995 has created a tendency for the typical agricultural tenancy to be of short duration. In order to rectify this position the TFA does not argue for new legislation to establish a minimum term but believes that through addressing the way in which landlords are taxed, a more sustainable, long-term framework for agricultural tenancies could be developed. For many landlords the taxation framework within which they operate has a major influence in deciding how they will manage their land.

4.2 This was recognized by TRIG which identified in its 2003 report a number of potential changes to the taxation framework which, in all bar one case, have been ignored by the Treasury. The TFA believes that these proposals should be considered again. TRIG’s unimplemented recommendations, which are explained in more detail in its report, are as follows:

- Land (including buildings) let under the AHA 1986 or the ATA 1995 should be added directly to the definition of agricultural property for the purposes of determining Agricultural Property Relief to the extent that it is used for business purposes (that is excluding, for example, ordinary residential sub-lettings) under consent from the landlord.

- An agricultural landlord should be able to defer payment of Capital Gains Tax on any gains to the extent that they are used to make improvements that increase the economic value of land subject to a tenancy under the AHA 1986 or the ATA 1995 and used for the purposes of the tenant’s business.

- For the purposes of assessing liability to Stamp Duty Land Tax, all farm business tenancies that are let for terms in excess of 10 years should be deemed to be ten-year tenancies.

- A review of the complications arising from the Schedular system of taxation should be conducted with a view to reforms that would remove obstacles to letting and diversification.

4.3 A review of the VAT position should be undertaken so that where the purpose of a letting is for agricultural use and the dwelling is ancillary to that, the whole of the letting should be liable for VAT with VAT due on the whole rent and reclaimable on all relevant costs.

- The periods of ownership required for landlords and occupiers to have access to full Agricultural Property Relief from Inheritance Tax should be aligned at two years.

4.4 The TFA believes it is time to consider a radical reform of the Inheritance Tax framework for agricultural land which, whilst ensuring that bona fide farmers receive Inheritance Tax relief through a properly functioning scheme of Business Property Relief, removes Agricultural Property Relief apart from for those landlords who let their holdings for long terms (10 years or more without a landlord’s break clause) to include all new lettings which continue to be governed by the AHA 1986 by virtue of the exemptions listed in Section 4 of the ATA 1995.

4.5 At the same time the TFA would encourage the Government to take a stronger line to restrict land owners from claiming Business Property Relief from Inheritance Tax when using arrangements which on paper appear to be contract farming arrangements, share farming agreements, partnerships and grazing and cropping licences but hide what in practical terms in their out-working are tenancies given the negligible risk to which the land owner is exposed and the lack of his active management of the holdings.
4.6 The TFA believes that this would encourage a longer term approach which will be beneficial not only to the tenanted sector but also in the wider public interest as it will allow a greater degree of stability for investment which will contribute to our food security and long term environmental performance.

4.7 The TFA also understands that a major disincentive for landlords looking to let land is the income tax treatment of the rent received. The TFA believes that it would be unfair for a landlord who had decided to let on a long term basis to have to treat the rental income as investment income as opposed to earned income from which he could off-set costs and losses from his wider business interests. The TFA believes that landlords letting for longer terms as defined above, should be able to declare their income under Case 1 Schedule D (earned income) rather than under Schedule A (income from investment assets). We would also see this change coupled with new restrictions on access to Case 1 Schedule D where land owners have entered into arrangements such as contract farming, share farming partnerships and grazing and cropping licences but hide what in practical terms in their out-working are tenancies given the negligible risk to which the land owner is exposed and the lack of his active management in the holding.

4.8 Of course, taxation is not the only driver in the agricultural tenancies market place above all since there are many institutional landlords for whom taxation, particularly Inheritance Tax, is not an issue. In the TFA’s regular meetings with the largest institutional landlords it has detected a distinct and unwelcome shift away from long term thinking and long term planning towards dangerous short-termism. The TFA will continue to address these concerns directly with those institutional landlords concerned.

4.9 In order to assist with the passage of farm tenancies within families by succession the TFA calls on the Government to find time for primary legislation to allow potential successors to include in the definition of beneficial livelihood for the succession tests in the AHA 1986, the income from diversified activities carried out on the holding under consents provided by landlords regardless of when those consents have been obtained.

5. 2020 Vision for County Council Smallholdings

By 2020 County Council smallholding estates should be valued by individual local authorities and the nation as a whole as vital to the sustainability of providing a viable entry point and ongoing development for those seeking a career in agriculture.

5.1 In England, in 2009, 50 county councils and unitary authorities owned and managed 92,140 hectares (227,678 acres) of agricultural land as statutory smallholdings[31]. This land was let to 2706 tenants under tenancies governed by both the AHA 1986 and ATA 1995. This compares with a total area of 137,664 hectares (340,167 acres) let to 6753 tenants[4] in 1984. Over that 25 year period the amount of land on smallholdings estates has therefore fallen by a third and the number of tenants has more than halved.

5.2 The rules for administration of statutory smallholdings are set out within Part III of the Agriculture Act 1970. Section 39 of that Act provides that:

“Having regard to the general interests of agriculture and of good estate management, [smallholding authorities] shall make in their general aim to provide opportunities for persons to be farmers on their own account by letting holdings to them”.

5.3 In order to meet this objective the TFA believes that where a local authority provides a smallholdings service, it has both to offer opportunities to new entrants and to work to sustain existing tenants in their farming career into the long term, be that on their own estate or in the private sector. It is not sufficient to merely oversee a conveyor belt approach where new entrants come on at one end and fall off at the other when they cannot make the transition to the private sector. Either smallholdings authorities need to put resources into ensuring that its tenants can make the transition to the private sector or, if this is not possible, to look at extending existing tenancies and providing longer term tenancies for the security of and investment by those granted initial opportunities.

5.4 The TFA understands the financial pressures faced by local authorities in managing their various commitments which has led to a number of them becoming actively involved in or considering an accelerated programme of farm disposals. However this move to disposal threatens to undermine the objective of county farms as stated above. Research has shown that county farms are the principal route into farming for new entrants[5]. The long term decline in the number and area of county farms is a major blow to the agricultural industry and the nation’s long term interests.

5.5 In responding to the 2003 TRIG[6] report the then Government said that local authorities should continue to follow the provisions of the Agriculture Act 1970 and that it shared the concerns of TRIG about the potential adverse, long term impact that continuing sales of County Council Smallholdings will have on farming and the rural economy and agreed further sales should be discouraged.

5.6 However, the TFA recognises that local authorities can realise significant sums through the sale of individual farms or pieces of land with development potential. The TFA does not oppose such sales as it recognises the benefit of the income to local authorities whilst maintaining (and possibility enhancing) the bulk of the agricultural estate.

5.7 A good example of where this has occurred has been the Gloucestershire County Council Estate. In the 36 years since Local Government Reorganisation in 1974, Gloucestershire County Council has raised around £50 million through careful, patient, planned disposals of land for development. The bulk of this has been raised over the last 20 years. It has also secured a roughly similar sum by way of Section 106 (planning gain) benefits from these sales from essential infrastructural investment such as new roads and schools which would otherwise have secured a commensurate additional capital receipt sum. At the same time the Council has invested about £10 million back into its smallholding estate by way of modernisation and purchase of additional land to the extent that its total land holding on its smallholding estate has hardly changed at all over the same 36 year period.

5.8 Once farms are sold they are gone forever. There have been numerous occasions where the development benefit of land and farms sold by local authorities has been taken by the purchasers of the farms. The TFA would advocate that all local authorities look to take a more long term, strategic and patient approach to disposals which will enable maximum benefit with minimum disruption.

5.9 Local authorities must consider decisions about disposal or retention of assets in the context of “best value” for council tax payers. It has been increasingly demonstrated that measured against a policy of selling to sitting tenants or disposal to third parties as and when vacant possession is obtained, that best value is more often obtained through county farms being managed in accordance with a sound, asset management plan which allows for major profit taking from future disposals of land for significant development uplift.

5.10 In this respect it has been encouraging to see the conclusions of a number of recent county farms reviews (including in Staffordshire, Herefordshire, Norfolk, Hampshire and Devon) which have favoured a policy of retention in view of the “best value” analysis which has been conducted as part of those reviews. The TFA would encourage other local authorities considering a review to look carefully at the work carried out by those local authorities listed above.
5.11 The TFA believes that County Council smallholding estates should be viewed as national rather than local assets and as such there should be a greater degree of national co-ordination in their management. The TFA is greatly concerned about the ad hoc nature of policy towards county farms up and down the country. Some local authorities run their estates extremely well and others perform not so well. As noted above, some local authorities have decided to follow a policy of disposal and others one of retention. For such an important asset in the landlord/tenant system a more co-ordinated approach is necessary.

5.12 The vision should be to create a stable, long-term framework for the profitable management of local authority farms. The TFA believes that the following objectives are essential components in that process:

- To ensure that local authority farms continue to provide their principal function of providing opportunities for individuals to be farmers on their own account.
- To provide a more integrated management system for all County Council Smallholding estates.
- To reduce global costs of administration.
- To provide flexibility to local authorities in managing their asset portfolio.

5.13 As well as the financial benefits, the ownership of country farms also assists local authorities directly in meeting wider objectives in relation to countryside and environmental issues, access to the countryside, learning outside the classroom, planning policies, greenbelt management and assisting in the management of flood risk. Without the retention of the land bank, these benefits will be lost. These issues were recognised by Sir Donald Curry, the Chair of the previous Government’s Sustainable Farming and Food Delivery Group in his influential report[7] on county farms which the TFA would encourage all involved with county farms to read and follow.

6. 2020 Vision for the Role of Farmers in the Food Chain

By 2020 food security considerations should be at least as important as those for climate change in the development of new policy.

By 2020 there should be a fair balance of power between producers, processors and retailers in the food chain to ensure that no sector is dominated by others.

By 2020 there should no longer be any bar on public money being used for applied research and development within agriculture, food technology and land management.

6.1 The TFA has a strong belief that there is a need for the UK Government and the EU authorities to develop specific policies in relation to food security taking into consideration both domestic and international concerns. The previous Government’s attempt to address this through its Food: 2030 Report[8] was completely inadequate as it fell a long way short of setting out any sort of clear plan to deliver future food security.

6.2 The document also failed to address a number of key areas where, in the past, the Government’s actions (or in some cases lack of them) have worked against the achievement of food security goals. These include the continued inactivity on eradicating bovine TB, the sustained threat of the reintroduction of set-aside for arable producers, the lack of grant aid for new slurry stores required by enhanced Nitrate Vulnerable Zone (NZV) requirements, the desire to pass Exchequer costs for animal health on to the industry, the removal of Hill Farm Allowance and the heavy and unsustainable burden of cross compliance and regulatory inspections.

6.3 Being more positive, it is good news that there is now a political consensus for the creation of a retail, food industry ombudsman. Throughout the past decade, and as a result of the experiences of TFA members, the TFA has been calling consistently for the creation of a food industry regulator to oversee a statutory code of practice. The voluntary code, in place up to now and supported until recently by some farming organisations, has not been sufficient to deal with the size of the problem that exists. Whilst the previous Government prevaricated over the past 10 years on this issue we have seen the strength and profitability of food retailers grow substantially.

6.4 The most important role of Government in terms of the operation of markets is to ensure that the trading environment is as fair to all parties as possible. It is clear within the food industry that this is not the case. Major retailers dominate the market to the extent that they squeeze out alternative routes to market and hold too much power in the relationships they have with suppliers. The ombudsman should be charged with ensuring that retailers are operating within the public interest for the long-term which is more than about price and availability in the short-term. It should work to achieve equal access to markets and to penalise those retailers which do not adhere to a new statutory Code of Practice.

6.5 All recent research carried out into the demands and wants of domestic consumers indicate that they are looking for high quality, fresh, seasonal food with local provenance. With an increasing number of farm businesses unable to survive at the levels of farm gate prices being offered to them, domestic consumers are becoming increasingly forced to accept lower quality alternatives which have travelled many miles around the globe.

6.6 Although it is clear that farm gate prices need to improve this should not be at the expense of consumer prices. Retail margins have burgeoned over recent years as have levels of food waste by supermarkets. There is sufficient in the current system for farmers to be more fairly rewarded without consumers having to pay substantially more.

6.7 The TFA believes that much will need to be done to repair the damage caused by thirty years of Government policy which has sought to undermine production agriculture due to an inability on the part of UK authorities to see past the problems of the Common Agricultural Policy. We have developed a policy framework which seems to value the environment at all costs and food production hardly at all. It is important that we urgently find a new balance between the production of environmental goods and services and food production.

6.8 The TFA believes that tackling and addressing issues of food security is at least as important as climate change. However, in comparison, issues of food security barely get a look-in whereas climate change policy seems to permeate every aspect of the policy environment. This is beginning to change but it will need to change faster if we are going to be able to contribute to the increasing global food need. Despite the resilience of the agricultural industry, we have seen, in recent times, how quickly capacity can be lost with the dairy industry, pig sector and suckler beef industries as cases in point.

6.9 It is important that the right balance is struck between ensuring that we are efficient agricultural producers and also managing and enhancing the environment. The previous Government’s approach was wedded to restrictive cross compliance and agri-environment schemes whereas more flexible approaches should be sought in consultation with bodies like Linking Environment and Farming (LEAF) and the Farming and Wildlife Advisory Group (FWAG).
6.10 The TFA believes that food security should be placed firmly in the basket of public goods that the Government has a legitimate interest in securing. To date, that basket of public goods in relation to agriculture has been too much skewed towards environmental outputs and the TFA believes that it is time that food security issues featured more significantly within the bundle. In this respect, just as the Government prepares regulatory impact assessments for policy change, it should also consider the food security impact of changes in regulation and policy.

6.11 In order to ensure that food security maintains its importance, the Government should be required to produce an annual report to parliament detailing what it is doing to ensure future food security both through trade and domestic production. Targets should be set in which the Government seeks firstly to stop the decline in UK self-sufficiency in temperate products and seeks also to encourage exports from the UK.

6.12 Since the 1980’s, we have seen Governments retreat from applied research and development which is deemed to be “near market”. The TFA believes that if we are to address our future food needs then there is a legitimate place for Government involvement in funding medium to long term applied research and development which assists in improving our technical efficiency in producing food. This should include, but not be limited to, research into emerging technologies.

6.13 The current EU rules on country of origin labelling are complex, difficult to follow and allow for broad interpretation which can and does lead to confusion. The guidance issued by the Food Standards Agency goes some way to producing a common sense interpretation of the country of origin labelling rules but these guidelines are also not always adhered to and leave too much scope for wide interpretation. The Government must commit itself to action to improve the country of origin labelling rules so that it is not confusing for consumers. British producers should not have to compete against imported products which are misleadingly labelled.

6.14 Connected with the issue of country of origin labelling, is the use of own label brands within supermarkets particularly for fresh produce. The use of such branding enables retailers to source products without concern for origin to fulfill their commitments to their own brands. For example, a supermarket may have a brand of own label Aberdeen Angus beef, but that beef could be sourced from England, Brazil, Argentina, Ireland or elsewhere. In that particular case, the use of the words “Aberdeen Angus” immediately presents confusion in the minds of consumers about what they are buying as many will believe that it must come from Scotland whereas it merely denotes the breed of cattle from which the meat has been sourced. The TFA believes that there should be rules surrounding the use of own brand labels to ensure that consumers are not deliberately or inadvertently confused by the labelling.

7. 2020 Vision for the Common Agricultural Policy

By 2020 the Common Agricultural Policy should retain a focus for ensuring that it is supporting the livelihoods of working farmers whilst providing a framework for food and environmental security.

7.1 The TFA believes that the fundamental justification for any agricultural policy which supports primary producers should be to correct apparent market failures. In this respect the TFA does not believe that the debate on agricultural policy can be starkly defined on the basis of CAP or no CAP. The issues are far more complex than that. The TFA believes, with all its failings, that the CAP is essentially attempting to address market failures. The question ought to be how the CAP should change to adequately address those failures rather than taking the line that the CAP should be abolished because of its inefficiencies.

7.2 The TFA believes that there are five principal areas of market failure that any agricultural policy should seek to address:

- As economies grow and individuals become more prosperous, they will tend to spend a diminishing proportion of their disposable income on food. This means that those who are responsible for producing food (i.e. farmers) will see a decreasing proportion of national income spent on the products which they make. This is why farmers as a group find it difficult to reap the benefits of economic growth enjoyed by others in society. As incomes rise consumers are also noted to trade up to consume more processed, pre prepared and restaurant food where the value added goes to parties beyond the farm gate.

- The structure of food marketing, particularly in the UK, has become such that processors face an unfair and wholly unbalanced platform upon which to do business with processors and retailers. For example, in the sugar sector there is one, single, monopoly processor in the UK which has, in the past, used its monopoly position to the disadvantage of sugar growers throughout the whole of England. In the milk sector, there are only a handful of processors and a handful of large retailers purchasing milk from those processors. Evidence produced by the Dairy Co\(^9\) shows that both processors and retailers have maintained or increase their margins over recent years while producers have seen reductions in their margins. Across the whole range of agricultural products, producers face a very small number of large, retail outlets. This unbalanced structure leaves most producers in a very vulnerable position and even with the introduction of a food industry ombudsman these problems are likely to carry on for some time into the future.

- The market cannot deal effectively with issues of long-term food security. The UK is already in a position of only being able to satisfy 70% of its temperate food needs from domestic sources. There has never been any indication provided by previous Governments as to when we should begin to get worried about the level of food security nationally. The TFA is concerned that the current structure of food marketing takes too much of a short-term approach to this issue and feels that there needs to be a more adequate expression of the Government policy towards food security in the long term.

- It is inherently difficult for the market to factor in increased animal welfare and environmental benefits into the pricing structure for food. UK farmers, as noted above, are facing a large degree of regulation in these areas and they are unable to pass the costs of this up the food chain. Many farmers are working hard to meet environmental and animal welfare standards and yet they have to compete for retail space with producers from elsewhere on the globe who often do not have to meet the same standards.

- Connected with the fourth point above, there is a general lack of awareness amongst consumers about the differences in quality of the products which they are purchasing when comparing UK sourced and internationally sourced products. Whilst they might see beef from Ireland, Brazil or Argentina as beef with a different label, it is the case that products from those countries are not perfect substitutes because they have been grown under different conditions and different regulations. More effort needs to be put into making sure that consumers are aware of these differences when purchasing their food.

7.3 The TFA offers the following seven principles for future reform of the CAP.

- Direct payments through Pillar one must continue to form the principal basis of support through the CAP. Direct payments through Pillar one continue to be essential to ensure that farmers receive a fair standard of living. It is clear that the marketplace is unable to deliver sufficient profit to the farming community in order to provide for sufficient drawings and reinvestment. Whilst the introduction of a food industry ombudsman in the UK and potentially across the EU will assist, it cannot be seen as a “silver bullet”. Recent history has shown clearly that there is a built-in resistance to food price inflation to the extent that it is impossible to ever see a situation where prices in the market place will be sufficient to provide an adequate, sustainable return to primary producers.

- The support available through Pillar one also recognizes the higher environmental and animal welfare standards to which food is produced within the EU in comparison to those countries outside the EU. These come at a cost to the farming industry. We cannot expect to have these standards maintained and at the same time withdraw the support available through Pillar one. The extra costs faced by the...
domestic, farming industry are not recoverable from the market place and therefore must be recoverable through the public purse.

- Measures must be put in place to ensure that support payments do not become capitalised into land values. A major concern for the tenant sector is the extent to which support payments available through Pillar one are becoming capitalised into land values through rent. It is also of concern that land owners, even where they have tenant farmers, are increasingly able to access funding through Pillar one by passing on scheme conditions through contracts of tenancy. We do not believe that this is in the spirit of the CAP nor is it in keeping with the principles of the CAP to provide support to working farmers. The TFA believes that European rules should make it clear that support payments through Pillar one can only be paid to active farmers. Whilst these rules exist to some extent they are open to significant abuse particularly where large land owners actively farm a small proportion of their land holding in hand and rent the remainder out. In this way they are able to acquire and control entitlements over a larger area of land than they are actively farming. Support payments should not be available to individuals owning land which is being farmed by another individual either as a result of direct claims or through contractual clauses in tenancy agreements requiring tenants to forgo payments which are reserved and claimed by the landlord. Rules must also be put in place to prevent landlords from using clauses in tenancy agreements to claim ownership of single payment scheme (or equivalent) entitlements at the end of the tenant’s period of occupation.

- Rates of modulation should be uniform across the European Union. The TFA is concerned that farmers in other Member States have a competitive advantage in comparison to farmers in the UK given that they face significantly lower levels of modulation. The TFA appreciates that this is as a result of the UK’s low budget share of funding for agri-environment/Pillar two schemes. However, it is unfair that there should be differing levels of modulation across the EU and they should be standardised at one rate so that there is no competitive distortion between Member States.

- All Member States should be required to have the same level of decoupling. As with rates of modulation, it is unfair that some Member States of the European Union are allowed to continue to provide direct, production related support in certain sectors whereas in other Member States, like the UK, the support has been decoupled. This provides an unfair competitive advantage for producers in those Member States continuing to provide coupled support and must be brought to an end at the next reform.

- Domestic producers should be protected from imports from non-EU countries using lower environmental and animal welfare standards. It is wrong that domestic producers should be required to farm to high animal welfare and environmental standards when imports from other countries are allowed access to the domestic market even though they are produced with lower standards. It is of significant concern that domestic producers are priced out of the market by lower quality products and as a result we simply move to overseas the environmental and animal welfare practices which would not be tolerated at home. We must be allowed to protect our high standards through the use of trade restrictions to block products produced using lower standards. The EU should argue for globally recognised standards for production of food on the basis of health, welfare and environment. These should be the standards by which every country should be required to produce and those standards need to be audited at national level. Where countries are unable to reach those globally agreed standards, other nations should have the ability to restrict trade from those nations. Once those international standards have been achieved, if the EU or national governments wish to apply higher standards domestically, then producers should have access to direct funding from the state to help them meet those higher standards.

- Market management instruments should be introduced to assist the industry in managing volatility. A consequence of the move away from coupled support has been a major increase in the volatility of returns to primary producers. The TFA is concerned that the considerable increase in volatility is having a negative impact on our long term food security. Despite its many shortcomings, the Common Agricultural Policy of the past did at least provide a degree of domestic stability to producers which we are now seeing reverse as the market protection the CAP afforded is removed. Whilst the volatility that is now being experienced is leading to the development of ideas for new hedge funds and futures markets, the TFA does not believe that this is a stable framework within which primary producers and their landlords can be expected to invest. The TFA believes that policy solutions need to be developed to minimise the impact of volatility on long term decision making. The TFA believes that the CAP should create a risk management system which provides an element of insurance against both commodity and input price shocks to smooth out the peaks and troughs in both. We believe that this could be delivered through Pillar one.

- Measures should be put in place to protect the access of tenant farmers into Pillar two schemes. The TFA has become increasingly concerned about the extent to which land owners have been able to access agri-environment schemes even where they have tenant farmers farming their land. The rules on “management control” allow land owners to pass on scheme conditions through contracts of tenancy whilst taking the full benefit of the scheme themselves. As with access to Pillar one funding, we do not believe that this is in the spirit of the schemes created nor in keeping with the principles of the CAP which are aimed at providing compensatory payments to working farmers for the income foregone in participating in Pillar two schemes. These issues must be addressed in any future CAP reform through further European rules to protect the position of tenant farmers. The EU must ensure through an adequate audit trail that the intended beneficiaries of its policies are actually benefiting as opposed to the benefit being siphoned off by others.

8. 2020 Vision for Upland Agriculture

By 2020 there should be a new framework for ensuring sustainable development of upland areas with support focused on re-establishing ruminant livestock production as the cornerstone of land management for these fragile areas.

8.1  The hill areas of England and Wales are important national assets from a number of perspectives. By their very nature they are physically, socially and economically remote. Agriculture continues to be, and should continue to be, the mainstay of economic and environmental management for these areas despite the severe natural handicaps encountered by farmers who operate in hill areas.

8.2  Hill areas are also extremely important in the wider agricultural industry as they represent the beginning of the livestock production chain. It is the crop of lambs and calves from our breeding flocks and herds in hill areas that are finished further down the hill on lowland units before entering livestock markets and abattoirs on their way to supermarket shelves. This system of integrated production has operated in the UK for centuries and the impact of the loss of breeding flocks and herds in hill areas experienced over recent years should not be underestimated in terms of the impact on the wider economy, rural social structures and the rural environment.

8.3  Farming in hill areas provides the most reliable and coherent basis upon which the management of our most beautiful and yet fragile landscapes and ecology will be achieved. The knowledge contained within the farming community in hill areas is invaluable and must be the primary source for new policy development. It is not overstating the case to say that the skills of livestock and moor management are bred into hill people and just as the sheep are herded so are the people. Without the hill community in the uplands making money from ruminant production, the landscape will change out of all recognition in a short period of time. Once it has gone it will be nearly impossible to get back.

8.4  Given the harsh and fragile conditions experienced by farmers in the hills, land management is both costly and difficult. Without public support many of these farms would find it impossible to break even.

8.5  Hill areas have been badly affected by a number of major shifts in policy and in reward structures over the past 10 years. The TFA would argue that the most significant of these negative impacts was the introduction of the Single Payment Scheme in 2005. It provided a specific, major blow to farming in the Severely Disadvantaged Areas (SDA) and had wider ramifications through the ending of payments on breeding livestock rendering those enterprises relying upon breeding stock in difficulty and now in decline.

8.6  The Suckler Cow Premium and Ewe Premium (and their LFA supplements) provided an essential base line level of support to cattle and sheep breeders in hill areas. The rationale for removing them was that the breeder should look to the market place for his return. However, the reality of the situation is that no extra return has been gleaned from the market place following the removal of the breeding premiums which has led to the contraction of cattle and sheep numbers in the hills which has in turn led to inevitable implications for the natural environment including the incursion of bracken and other evidences of under grazing. The TFA’s view is that renewed consideration should be given to how upland livestock production should be supported for the food, environmental and social benefits it brings.

8.7  The move, in England, from hill livestock compensatory allowances (HLCA) to hill farm allowance (HFA) also caused major disruption as it moved payments from land occupiers to land owners either directly or indirectly through rents. This has been exacerbated by the previous Government’s later decision to move from HFA to an Uplands Entry Level Stewardship Scheme (UELS). Aside from some general difficulties with the scheme this will add further problems specific to the tenant sector.

8.8  Firstly, since the UELS requires participants to sign up for a five-year term, there will be many tenants either on short term agreements for less than five years, or on longer agreements which now have less than five years to run, who will not be able to access the scheme without their landlord’s consent. As a significant number of cases, landlord’s consent will not be easy to obtain. The TFA is gravely concerned that these individuals will be disenfranchised from the new scheme and will therefore experience a significant drop in their income in comparison to what they were able to achieve under HFA or HLCA.

8.9  Secondly, we are also concerned about those situations where the ELS agreement has been taken out by someone other than the farm tenant. For example, many landlords in upland areas have applied for and been accepted into ELS. In these cases it will be up to the land owner concerned to decide whether or not to take part in UELS to the exclusion of the tenant.

8.10  UELS has many drawbacks which will impact negatively upon its ability to meet its stated objectives. Along side the problems for the tenant sector identified, at its core, it fails to address the real need of finding a mechanism which will sustain ruminant grazing in upland areas for the wide range of benefits that such management brings.

8.11  The TFA believes that we need a fundamental review of the decision which led to the abandonment of payments for breeding livestock and the development of a new scheme for the long-term which will deliver an integrated upland environmental land management reward package with stock rearing at its core.
9. 2020 Vision for Animal Health

By 2020 animal health policy should be conducted within a true partnership framework between Government and industry without the Government seeking to pass its legitimate cost obligations onto the industry which already has its own costs to bear.

9.1 With tenant farmers having no equity in the land that they farm, the health and welfare of their livestock are of pre-eminent importance since its value will make up a significant proportion of their net worth. It is therefore important to the tenanted sector that Government has an adequate animal health and welfare strategy and that the TFA works positively with the Government to see it properly delivered.

9.2 A recent example of good practice in this respect is the joint working between the last Government and the industry on the control and eradication of Bluetongue. The TFA believes that this was a true partnership approach between the Government and the industry which should be replicated for other diseases, most notably bovine TB. Whilst in Wales that partnership approach is being taken forward, in England the previous Government was guilty of taking a scandalous and dangerously negligent approach.

9.3 Bovine TB is costly to both industry and Government. We believe that the last Government allowed bovine TB to rage out of control for too long. We are deeply disappointed that after years of talking, no firm action has been taken to control bovine TB within wildlife.

9.4 Bovine TB is of immense concern to the livestock industry and tenant farmers in particular. We should not underestimate the high levels of stress, anxiety and cost that have been faced by farm businesses forced to watch their cattle slaughtered due to TB whilst being powerless to do anything about it. A recent report from Farm Crisis Network[10] provides some helpful detail on these issues which the Government would be foolish to ignore.

9.5 The TFA takes no joy in expressing the uncomfortable necessity that badgers infected with TB should be culled. Farmers struggle to do their best to keep disease away from their herds but are frankly fighting a losing battle given the extent to which disease is freely moving and increasing amongst badgers and other species of wildlife and the fact that badger numbers have been rising rapidly over the last 10 to 15 years. No-one wishes to interfere unduly with an indigenous species of wildlife, however, badgers are rapacious carnivores with no known natural predator. The TFA believes that a cull of TB infected badgers is long overdue. The TFA has for a long time questioned the validity of bio-security measures alone in controlling TB. Badgers are unfortunately extremely effective in climbing into feed and water troughs and getting into feed stores. There is also little that can be done to stop cattle coming into contact with badgers in fields or the excretions that badgers leave behind. The TFA’s ultimate goal is to have a healthy cattle population alongside a healthy badger population.

9.6 It would seem to make sense to license individual farmers to control TB infected badgers on their holdings and on neighbouring units. Of course, any licensing procedure must involve the provision of guidance to licence holders as to how culling should be conducted. The TFA believes that such an approach would be the most cost effective method of ensuring that TB infected badgers were dispatched and with proper guidance it should be possible to ensure that such activities are carried out humanely. Licence holders will need to demonstrate that they have sufficient equipment, skill and resources to carry out the necessary culling and that they have a good relationship with neighbouring farmers in their area to enable coordination to be as smooth as possible.

9.7 Looking at animal health issues more widely, the TFA is aware of the current view expressed by the last Government that the industry should bear an increased share of the costs of animal health policy and in future animal health policy should be delivered through an independent body for animal health.

9.8 The TFA has rejected the need for an independent body and sees it only as an opportunity to justify levying further costs on the industry which is already bearing its fair share of the costs associated with animal health matters.

9.9 The TFA supports the development of the current framework of core and stakeholder group partnerships and believes this is the most effective and efficient basis for the way ahead. The core and stakeholder partnership model has already proved itself to be successful in the handling of disease crises in recent times including bluetongue and in the sharing of responsibility for animal diseases and the cost burdens associated with these.

9.10 The establishment of an arms length body is not the way forward and we are convinced that working in partnership to take the animal health agenda forward will be the best option for all concerned. What is important is working closely with Ministers, the Chief Veterinary Officer and Defra officials to develop policies and practices which will deliver improved animal health and welfare within the budget constraints for both the Government and the industry.

10. 2020 Vision for the Farming Ladder

By 2020 adequate attention needs to be given to ensure that the farming ladder is operating effectively with opportunities for entry, development and retirement with dignity.

10.1 One of the biggest barriers for new entrants into farming is lack of opportunity. This has many causes but one of the most fundamental issues is the inability of many older farmers within the tenanted sector to consider retirement as an option. There are a significant number of tenant farmers near to, at or above retirement age who do not have the economic wherewithal to retire. Their only option is to remain on their let farms for as long as possible to sustain a roof over their heads. The TFA has believed for a long time that there is need for a retirement scheme (enabling provisions for which are available within the framework of the EU’s Rural Development Regulation) which would also have beneficial effects for new entrants.

10.2 Therefore, whilst it is important to provide suitable incentives to new entrants, it will also be important to ensure that viable exit opportunities are also available. The TFA believes this can best be achieved by matching a new entrants’ scheme with a farmers’ retirement scheme.

10.3 Housing provision is also a major barrier to farm tenants looking to retire since many tenants retiring from their businesses will also be required to leave the farm houses allocated to them as part of their tenancy agreements. There are a number of ways in which this housing demand could be addressed.

10.4 Firstly, tax savings could be provided to landlords whose tenants are considering retirement to encourage those landlords to provide ongoing accommodation for retiring tenant farmers. For Capital Gains Tax purposes Landlords could be offered a deduction from any capital gains (subject to a maximum level) following property disposals where they are providing affordable housing to retiring tenant farmers. To obtain the tax saving the landlord would have to satisfy Her Majesty’s Revenue and Customs (HMRC) that the retiring tenant has no alternative residence and does actually reside in the property provided by the landlord. The landlord must also commit to providing the property at two thirds of the market rent for the area and for the lifetime of the retiring tenant and/or their spouse.

10.5 Secondly, agricultural restrictions on dwellings should be strengthened in order that more accommodation was available for retiring tenants. At the moment it is too easy for owners of dwellings upon which agricultural restrictions apply, to have the restrictions removed. The TFA believes that the agricultural restrictions on these dwellings should be protected by statute so that they can no longer be removed. To go further than that, clearly there is a need for affordable housing for a range of key workers in rural areas. As part of the process of protecting the restrictions on these dwellings the TFA believes that there is scope for extending the restrictions to include key rural workers.

10.6 Thirdly, many local authorities have opted to offer part of their smallholding estates for rural exception sites to assist with meeting the demand for affordable rural housing in their locality and to retain the ability to offer suitable alternative accommodation to their retiring tenant farmers. In all cases, authorities have stipulated in the terms for the sale or lease of such sites that they wish to retain nomination rights for retiring Smallholdings tenants in the locality. Whilst some Local Housing or Planning Authorities have accepted this others have not. The reason given is that the need to house retiring tenant farmers is not recognised within the Homes and Communities Agency (HCA) guidance or Planning Policy Guidance.

10.7 The TFA therefore recommends that all future HCA and Planning Policy Guidance for rural exception sites should recognise the importance of providing accommodation to Smallholdings tenants who wish to retire to facilitate the movement of tenants within this important sector by allowing that all nomination rights are retained by the Local Authority offering its own land up for rural exception sites.

10.8 The TFA agrees with Sir Don Curry’s assessment[11] that the farming ladder is in danger of being permanently broken and supports his vision to see a pool of farms in the tenanted sector suitable for enterprising “young people” to be able to move on to, to develop a farming business. Thousands of holdings in England and Wales have disappeared in recent decades and if this trend is not reversed, we run the very significant danger of creating a closed industry with little opportunity for anyone to enter.

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